*** The City of Anacortes Planning Commission is following the procedure per Section 3 of Anacortes Resolution 2082 Ratifying Proclamation of Emergency and Providing Temporary Procedures to Respond to the COVID-19 Epidemic, adopted by the Anacortes City Council on March 16, 2020:*

- *All in-person Committee meetings of the City Council are cancelled. Council and committee meetings may be held telephonically regardless of whether the City has the capability of video recording meetings.*
- *The public comment portion of Council meetings and any scheduled public hearings are temporarily suspended to discourage public in-person attendance of City Council meetings.*
- *Meetings may be viewed live or viewed after the fact on the City of Anacortes website or on Channel 10.*
- *The public may also listen to the meeting by phone: 872-240-3412, Access Code: 261-991-485*
- *The public is encouraged to comment via email or written comment addressed to: Don Measamer, PCED, P.O. Box 547, Anacortes, WA 98221. Public comments received prior to 5:00 p.m. the day of the meeting will become part of the record for the meeting, just as if presented in person.*
- ***Comments may be provided at specific times during the meeting. Call 360-293-1904 in advance of the particular subject to get in queue for comment.***

ANACORTES PLANNING COMMISSION

July 22, 2020

~~**Municipal Building Council Chambers**~~
~~**6th Street and "Q" Avenue**~~

****THIS MEETING WILL BE HELD ELECTRONICALLY ONLY****

6th Street and "Q" Avenue

AGENDA

6 P.M.

VIEW PACKET MATERIALS HERE

1. **Roll Call**

2. **Minutes of July 8, 2020 will be provided at a later date**

3. **Correspondence**

4. **New Business**
   a. Shoreline Master Program Periodic Update Introduction

The City of Anacortes encourages people with disabilities to participate in public meetings. For assistance with special needs, please contact the City Clerk at 360-299-1960 in advance of the meeting.

Planning Commission Agenda Bill

Meeting Date: 7/22/20 **Agenda Item:** 4A

Subject: Periodic Update of the Shoreline Master Program – Introduction

Staff Contact: Don Measamer, Libby Grage

Attachments: PowerPoint presentation slides (Att. A)
Gap Analysis (Att. B)
Draft proposed amendments (Att. C)

Purpose: To brief the Planning Commission on the progress of the periodic review of the Anacortes Shoreline Master Program (SMP) and to discuss and gather feedback from the Commission regarding the proposed amendments.

Background: The periodic review of the Anacortes SMP is required by the Shoreline Management Act (SMA) to occur every 8 years (RCW 90.58.080). The periodic review is focused on new laws or rules that were not in effect when the comprehensive update of the SMP was adopted in 2010, and new information or changes that warrant local amendments. This Ecology FAQ – *Summary of the Periodic Review Rule* - summarizes the review and procedural requirements for the update.

The periodic review must be accomplished through legislative action following notice and a public hearing. The City is using the optional joint review process in WAC 173-26-104, which provides for a joint state/local public comment period and public hearing. The WA Department of Ecology (Ecology) has final approval authority over amendments to the SMP.

Public Participation and Tentative Schedule: To date, a Public Participation Plan and list of Frequently Asked Questions have been prepared and are available on the project website. The PPP is currently being updated to reflect changes in the project timeline due to COVID-19. Two public open houses have been held (one in-person and one virtual).

Public Engagement Links: The public may stay involved with the project by using the following links:

- Shoreline Master Program Periodic Update project webpage: https://www.anacorteswa.gov/1095/SMP-Update
- Public Comments: Project comments may be sent to libbyb@cityofanacortes.org.

- Subscribe to project news flashes and notices at:
  https://www.anacorteswa.gov/list.aspx
  Select “Shoreline Master Program Update” under “News Flashes”.

Assessment of Required SMP Changes: The City contracted with The Watershed Company to assist with the SMP periodic review and update. A Gap Analysis has been prepared to identify mandatory, optional, and recommended amendments, and proposed updates to the SMP have been drafted. All of these documents and more can be viewed on the project website.

Timing: The statutory deadline for completing the review and update is June 30, 2020; however, Ecology issued a policy statement that clarifies the SMA periodic review deadlines are extended by one year (to June 30, 2021) to be consistent with the timelines for biennial funding provided by Ecology. COVID-19 and restrictions on in-person public meetings have caused disruptions to the original anticipated project schedule. An updated PPP and project timeline is currently being developed and will be published soon.

Attachment A

City of Anacortes Shoreline Master Program Periodic Update

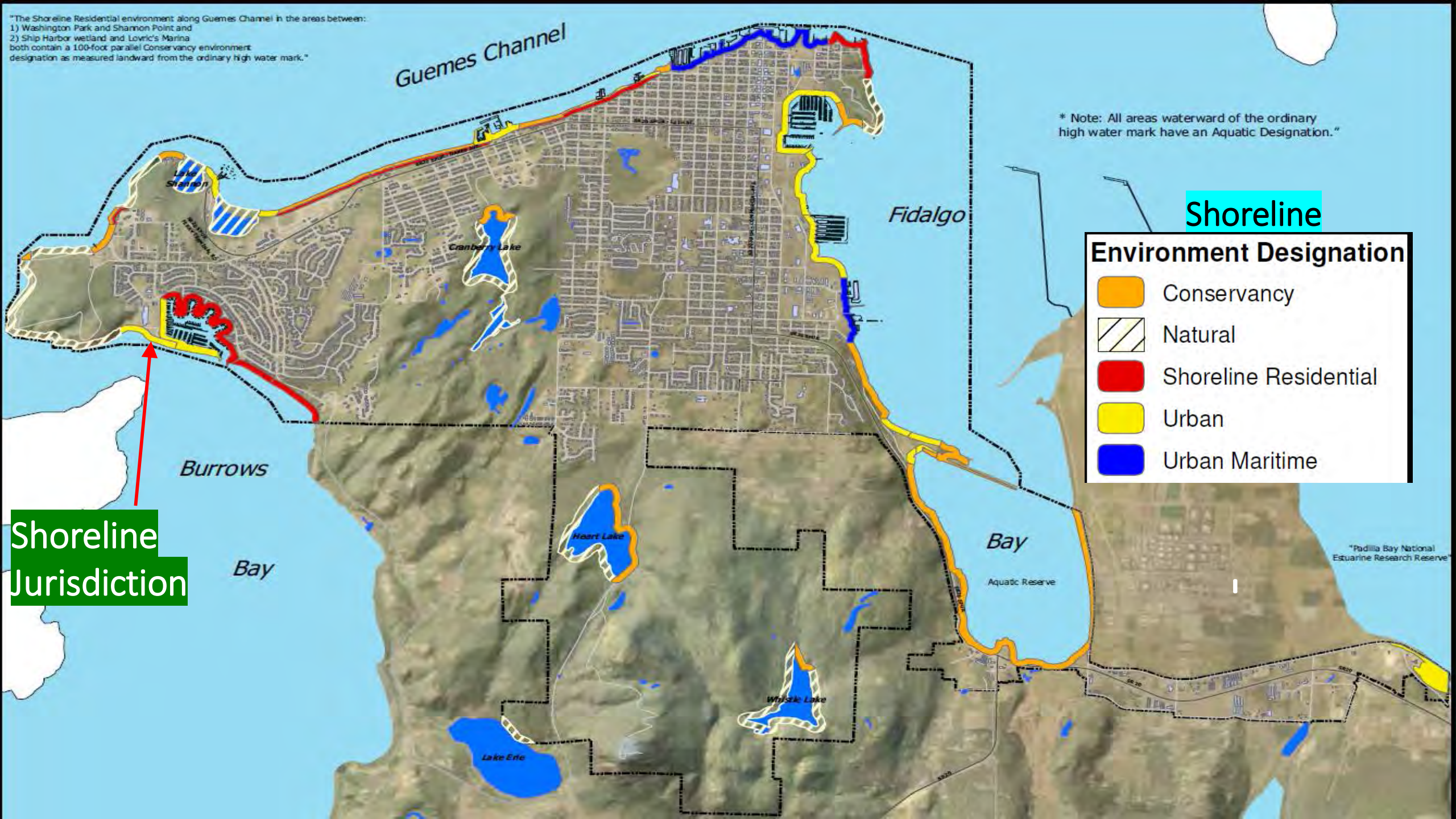
Open House & SMP Amendments Discussion

Photo credit: AMERICANEXPEDITIONERS.COM

What is a Shoreline Master Program (SMP)?

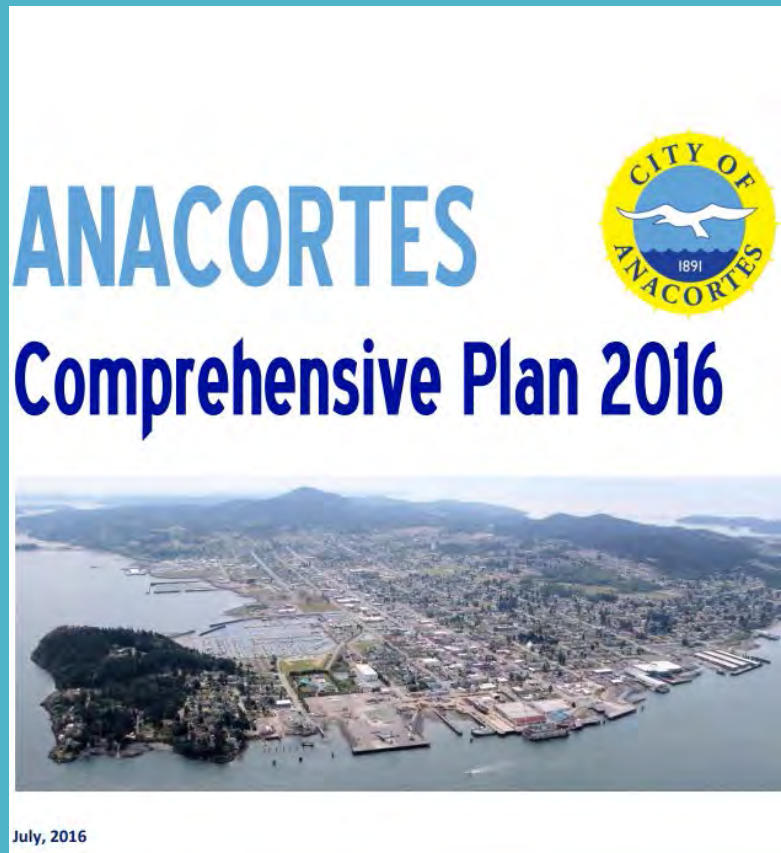
- Purpose: To Balance Shoreline Priorities
  - Environmental Resource Protection
  - Public Access
  - Water dependent uses
- The City comprehensively updated its SMP in 2010
- The SMP is referenced in Anacortes Municipal Code (AMC) 18.16

Photo credit: Ecology Shoreline Photo Viewer:
https://fortress.wa.gov/ecy/shorephotoviewer/Map/ShorelinePhotoViewer


"The Shoreline Residential environment along Guemes Channel in the areas between:
1) Washington Park and Shannon Point and
2) Ship Harbor wetland and Lovric's Marina
both contain a 100-foot parallel Conservancy environment
designation as measured landward from the ordinary high water mark."
Guemes Channel
Lake Shannon
Cranberry Lake
Fidalgo
* Note: All areas waterward of the ordinary high water mark have an Aquatic Designation."
Shoreline
Environment Designation
Conservancy
Natural
Shoreline Residential
Urban
Urban Maritime
Burrows
Bay
Shoreline Jurisdiction
Heart Lake
Whistle Lake
Lake Erie
Bay
Aquatic Reserve
"Padilla Bay National Estuarine Research Reserve"

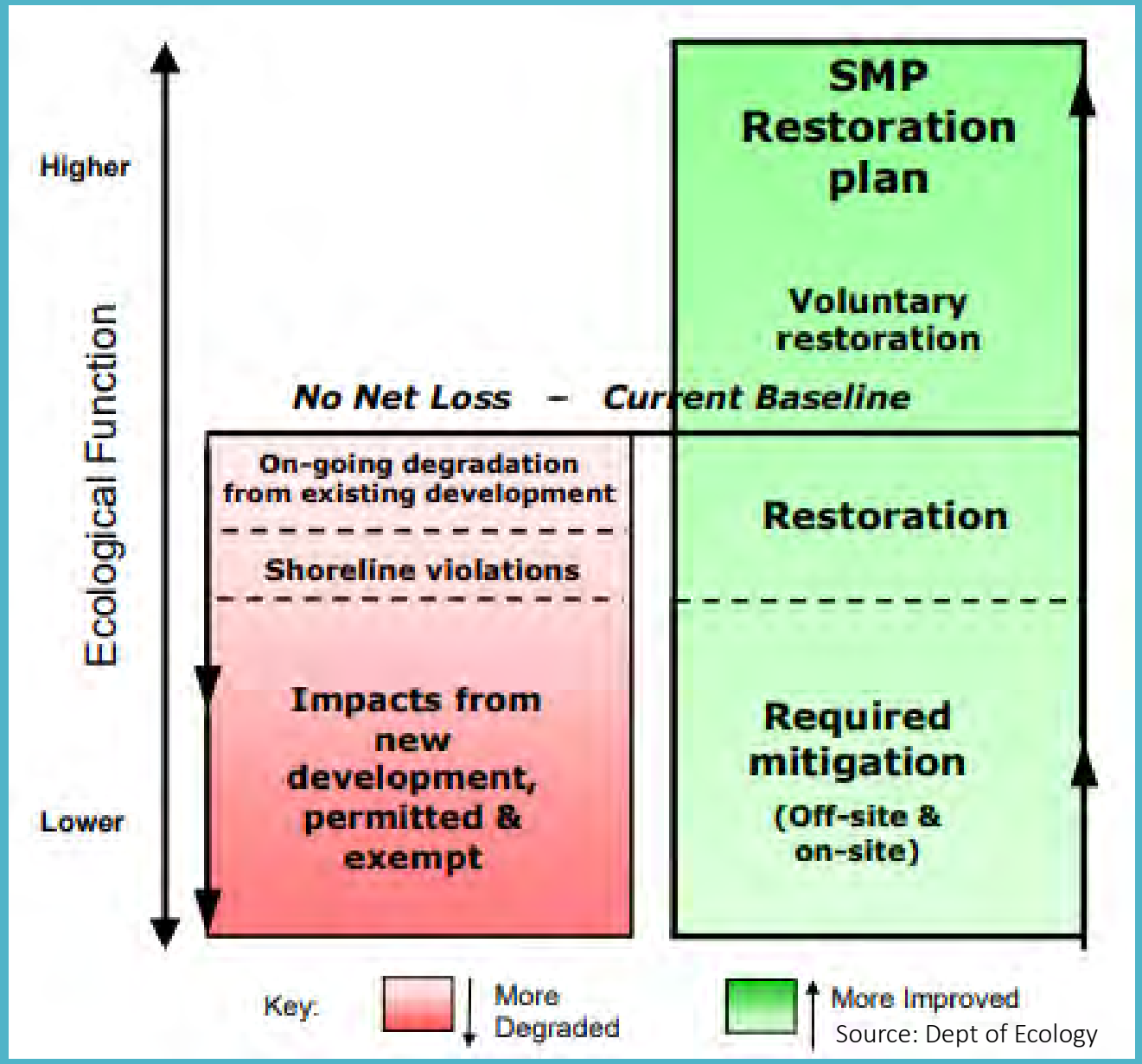
What is an SMP periodic update?

- Periodic review is intended to keep SMPs current with:
    - Amendments to state law (WAC, RCW)
    - Changes in local plans and regulations
    - New or improved data and information
- The state requires all SMPs to be reviewed every eight years



The SMP periodic update will not:

- Re-evaluate the ecological baseline
- Extensively assess no net loss criteria other than to ensure that proposed amendments do not result in degradation of the baseline condition



Gap Analysis Report Purpose

- Consistency with:
  - *State legislative amendments*
  - *Critical areas regulations*
    - City-wide regulations are currently under review
  - *Comprehensive Plan & development regulations*
  - *Additional issue(s) to consider*

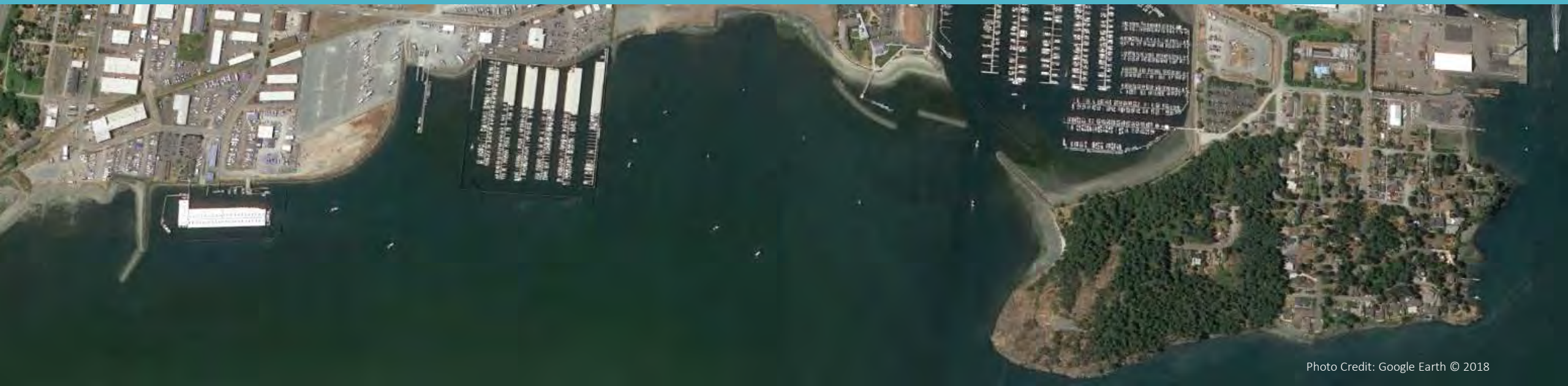


Photo Credit: Google Earth © 2018

Proposed Amendments – Legislative Amendments

- Definitions
  - Updating definitions to be consistent with those in state law
    - *Development, Nonconforming, aquaculture definitions as examples*
- Exemptions
  - Updating development & residential pier cost thresholds
- Cross-references
  - Adding cross-references with other state and local regulations to help users navigate the code

Photo credit: Waterfront Construction

Proposed SMP Amendments

Vegetation Conservation

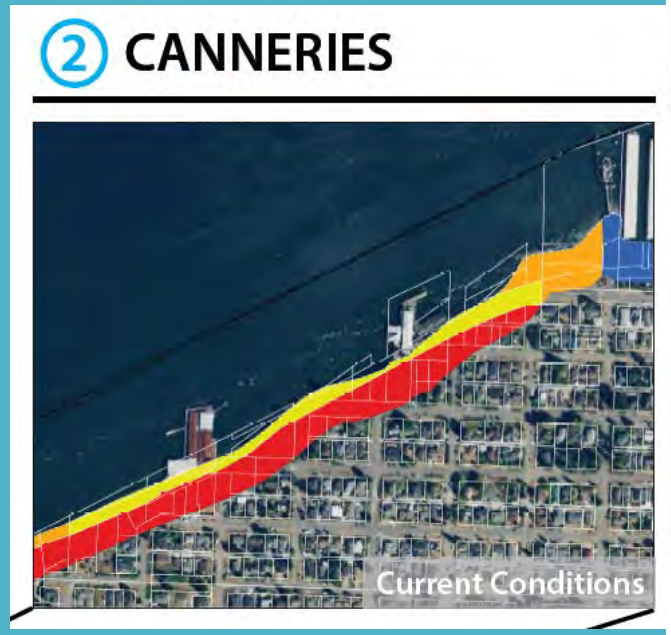
- Changes to Tree trimming
  - Only maintain existing views
  - Retain 75% of crown
  - Photo documentation before/after
- Clarity to Subdivisions
  - Impact limited to 25% of Vegetation Conservation Area
- Hand operated VS ground based motorized clearing
  - *Planting plan by applicant*

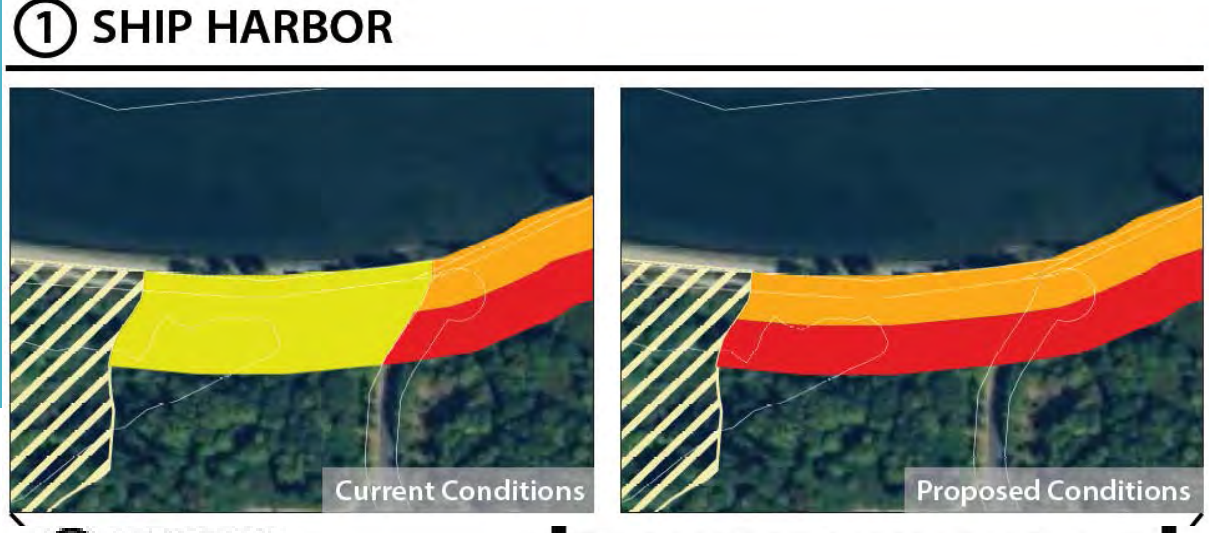
Photo Credit: Flickr.com

Proposed SMP Amendments

Shoreline Environment Designations

1. Ship Harbor – Urban to Shoreline Residential/ Conservancy designation
2. Canneries – Urban designation (no change)
3. Lake Erie –Natural to Conservancy designation
4. Aquatic designation – map correction





Proposed Amendments

Aquaculture

- A proposed Shoreline conditional use in Aquatic designation (currently prohibited)
- Refined review criteria
- Use within existing overwater structures
  - Minimizes visual impact

Photo credit: sciworthy.com

Proposed Amendments, Critical Areas

- Adopt by Ordinance critical area regulations (CAR) currently under review
- Reference CAR within SMP Section 6.6, Critical Areas - General

- To preserve shoreline ecology (no-net-loss):
    - *Critical Areas Alterations, exempt activities are not exempt in shoreline jurisdiction*

Photo credit: Alex Capron

Proposed Amendments

Building Height & Use

- Building height calculation & exemptions added to SMP 5.12 from Title 19 update
- For exceeding 35’ SMP height limit, View Corridor documentation is required.
- SMP Commercial Development standards now reference City Block Frontage Standards

Photo credit: City of Seattle
http://www.seattle.gov/dpd/AppDocs/GroupMeetings/DRProposal3015628AgendaID4843.pdf

Proposed Amendments

- SMP to be added to Title 19
  - Duplicate definitions removed
- Dock and Pier repair – define pier repair vs replacement
- Adding clarity to Shoreline Residential & Conservancy Impervious surface standards

Photo credit: City of Seattle
http://www.seattle.gov/dpd/AppDocs/GroupMeetings/DRProposal3015628AgendaID4843.pdf

Draft Restoration Plan & Cumulative Impacts Analysis

- Updated 2010 Restoration Plan (SMP Appendix B):
  - Restoration projects added
  - Prioritize future restoration activities – Ecological & Cost ranking
    - Conservation easements
    - Fidalgo Bay mill site & sediment cleanup

- To do: Review SMP Cumulative Impacts Analysis against future City projects and provide an addendum, if needed.

Photo Caption:
Ship Harbor Trail

Photo credit: The Hiker Mama
http://www.thehikermama.com/2014/09/16/guemes-channel-and-ship-harbor-trail-anacortes//

Anticipated Timeline

- Open House – October 30th 2019
- 2nd Open House March, 2020
- Planning Commission Workshop May 2020
- Joint Ecology/City public hearing & comment period – May 2020
- Submittal to Ecology for Initial Determination – Summer 2020
- Planning Commission review and recommendation – Summer 2020
- Local adoption of the SMP – late Summer 2020

Additional information

- Project website:
  - https://www.anacorteswa.gov/1095
  - Staff contact is Libby Grage, Planning Manager
    - *(360) 299-1986*
    - *libbyb@cityofanacortes.org*

Thanks for listening–questions?

Photo credit: Alex Capron

Attachment B

City of Anacortes Shoreline Master Program

Final Draft Gap Analysis Report

Prepared on behalf of:

City of Anacortes
Planning, Community and Economic Development
904 6th St
Anacortes, WA 98221

Prepared by:

THE WATERSHED COMPANY
750 Sixth Street South
Kirkland, WA 98033
p 425.822.5242
f 425.827.8136
watershedco.com

March 2020

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1. Introduction

In accordance with the Washington State Shoreline Management Act, local jurisdictions with "Shorelines of the State" are required to conduct a periodic review of their Shoreline Master Programs (SMPs) (Washington Administrative Code [WAC] 173-26-090). The periodic review is intended to keep SMPs current with amendments to state laws, changes to local plans and regulations, changes in local circumstances, and new or improved data and information.

The Shorelines of the State in the City of Anacortes (City) include Guemes Channel, Burrows Bay, Fidalgo Bay, Little Cranberry, Heart, and Whistle Lakes, in addition to a portion of both Lake Erie and Padilla Bay within City limits.

The City's most recent update of its SMP took place in 2010 under Ordinance No. 2838. The City's SMP outlines goals and policies for the shorelines of the City, and also establishes regulations for development occurring within shoreline jurisdiction. The City's current SMP establishes its own critical areas regulations within Appendix A.

Since adoption of the SMP, the City-wide critical areas regulations remain largely the same, as codified in Chapter 17.70 (Ordinance # 2702 dated April 18, 2005, #2743 dated August 7, 2006, and #2748 dated October 2, 2006), with a minor amendment to AMC 17.70.020, Statutory authorization, findings of fact, purpose and objectives, Ordinance No. 3031 (2019). The City-wide critical areas regulations are codified under AMC Chapter 17.70, Critical Areas. The City is currently undergoing a critical areas ordinance update and anticipates placing the new critical area regulations under Title 19, Unified Development Code, specifically Chapter 19.70, Critical Areas. As part of the periodic update of the SMP, the City anticipates referencing this new ordinance instead of using the critical area regulations in Appendix A. The critical areas ordinance is set to be adopted prior to the anticipated June 2020 SMP periodic update completion.

As a first step in the periodic review process, the City's current SMP was reviewed by City staff and consultants. The purpose of this Gap Analysis Report is to provide a summary of the review and inform updates to the SMP. This report is organized into the following sections:

- **Section 2** identifies gaps in consistency with state laws. This analysis is based on a list of amendments between 2007 and 2019 as summarized by the Washington State Department of Ecology (Ecology) in its Periodic Review Checklist.
- **Section 3** identifies issues with integrating the City's upcoming critical areas regulations into the updated SMP.
- **Section 4** identifies gaps in consistency and implementation between the updated SMP and the City's Comprehensive Plan and Zoning Code.
- **Section 5** identifies other issues to consider as part of the periodic update process to produce a more effective SMP.

This report includes several tables that identify potential revision actions. Where potential revision actions are identified, they are classified as follows:

- **"Mandatory"** indicates revisions that are required for consistency with state laws.
- **"Recommended"** indicates revisions that would improve consistency with state laws, but are not strictly required.
- **"Optional"** indicates legislative amendments that can be adopted at the City's preference but are not required.
- **"No action necessary"** indicates the current SMP meets the intent of or already contains listed legislative updates, changes to critical areas, comprehensive plan or zoning code.

This document attempts to minimize the use of abbreviations; however, a select few are used to keep the document concise. These abbreviations are compiled below in Table 1-1.

Table 1-1. Abbreviations used in this document.

Abbreviation	Meaning
CAO	Critical Areas Ordinance
City	City of Anacortes
Ecology	Washington State Department of Ecology
EIS	Environmental Impact Statement
AMC	Anacortes Municipal Code
RCW	Revised Code of Washington
SMP	Shoreline Master Program
SED	Shoreline Environment Designation
WAC	Washington Administrative Code

2. Consistency with State Laws

Table 2-1 summarizes potential revisions to the City's SMP based on a review of consistency with amendments to state laws identified in the Periodic Review Checklist provided by Ecology. Topics are organized chronologically by year.

Only a limited number of revisions in Table 2-1 are classified as "mandatory." Furthermore, the revisions classified as "mandatory" are anticipated to be minor in effect.

Table 2-1. Summary of consistency with amendments to state laws and potential revisions.

Row	*Summary of change*	*Review*	*Action*
2019			
a.	OFM adjusted the **cost threshold for building freshwater docks**	This cost threshold update for triggering a shoreline substantial development permit has to do with replacing freshwater docks within a rolling 5-year period. SMP 2.4.E.8.b. outlines an outdated SDP cost threshold for replacing residential freshwater docks.	**Mandatory:** The City will update the cost threshold dollar figure for when a SDP is triggered on single-family freshwater pier replacement projects: *a. In fresh waters the fair market value of the dock does not exceed twenty two thousand five hundred ($22,500) dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred ($2,500) dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of these regulations.*
b.	The Legislature removed the requirement for a shoreline permit for **disposal of dredged materials at Dredged Material Management Program sites** (applies to 9 jurisdictions)	There is not a Dredged Material Management Program site within the City's Shoreline Jurisdiction. Therefore, this legislative amendment does not apply.	No action necessary.
c.	The Legislature added **restoring native kelp, eelgrass beds and native oysters** as fish habitat enhancement projects.	Habitat enhancement is discussed under SMP 2.4.E(16) and references RCW 77.55.181 for fish habitat enhancement projects. This captures the legislative update, referencing these additional options for applicants to consider for mitigation or standalone restoration projects.	No action necessary.

Row	*Summary of change*	*Review*	*Action*
2017			
a.	Washington State Office of Financial Management (OFM) adjusted the **cost threshold for substantial development** to $7,047.	Page 5.SMP 2.4.E(1), Substantial development permit exemption, references the out of date dollar figure, as well as the RCW reference which adjusts automatically for inflation: *E. The following shall not be considered substantial development for the purpose of this Master Program.* 4. *Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand seven hundred eighteen ($5,718) dollars or as periodically adjusted per RCW 90.58.030(3)(e)*	**Mandatory:** The City will reference the updated dollar figure, in addition to leaving the existing RCW reference for future updates. The revised text is underlined as follows: *E. The following shall not be considered substantial development for the purpose of this Master Program.* 4. *Any development of which the total cost or fair market value, whichever is higher, does not exceed <u>seven thousand forty-seven ($7,047)</u> dollars or as periodically adjusted per RCW 90.58.030(3)(e)*
b.	Ecology amended rules to clarify that the **definition of "development"** does not include dismantling or removing structures.	The current SMP definition for development does not include the amended rule. SMP 12.2, Definitions, in addition to SMP 1.5, How the Shoreline Master Program is Used, includes the following definition for Development: *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 other project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any state of water level (RCW 90.58.030(3d)). See also "Substantial Development."*	**Recommended:** The City will consider adding to the definition of development to be consistent with Ecology's recommended language: *<u>"Development" does not include dismantling or removing structures if there is no other associated development or re-development.</u>*
c.	Ecology adopted rules that clarify	There is not a section dedicated to exceptions. In addition, the definition	**Mandatory:**

Row	*Summary of change*	*Review*	*Action*
	exceptions to local review under the SMA.	of Substantial Development under SMP 12.2, Definitions does not reference this requirement.	The City will update SMP 2.4, Uses Not Constituting "Development" and Exemptions from Substantial Development Permit Requirements with a subsection that refers to the activities otherwise found under WAC 173-27-044, and -045, as amended.
d.	Ecology amended rules that clarify **permit filing procedures** consistent with a 2011 statute.	Both SMP 11.4, Effective Date, and SMP Chapter 3, Administrative Provisions, do not describe the filing process.	**Recommended:** The City will consider updating SMP Chapter 3 to describe that all shoreline permits adhere to the date of filing with Ecology, pursuant to WAC 173-27-130. In addition, AMC 18.16.090(e) can reference this WAC section for SMP permitting decisions.
e.	Ecology amended **forestry use regulations** to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs.	Under SMP 5.12, Shoreline Use and Modification Matrix and Development Standards, Table 5.1, forest practices are a prohibited activity in all shoreline environments except conservancy, where a shoreline conditional use permit (SCUP) is required. An additional shoreline development permit or shoreline exemption is not required, however.	**Recommended:** The City will consider adding a footnote to the forestry use within Table 5.1 to reference additional requirements for a forestry activity, as required by WAC 222-50-020.
f.	Ecology clarified the SMA does not apply to lands under **exclusive federal jurisdiction**	No SMA lands in Anacortes are under "Exclusive federal jurisdiction."	No action necessary.
g.	Ecology clarified "default" provisions for **nonconforming uses and development**.	SMP 3.3-3.6, already provides provisions for "nonconforming development", "nonconforming uses", "nonconforming structures", and "nonconforming lots" as well as a definition for "nonconforming use and development" under SMP 12.2, Definitions. Nonconforming lot is not defined.	**Recommended:** To clarify each nonconforming type (use, development/structure, and lot), the City may consider defining each separately. Ecology sample language is available.
h.	Ecology adopted rule	This is optional and the current SMP does not address the periodic review	No action necessary.

Row	*Summary of change*	*Review*	*Action*
	amendments to clarify the scope and process for conducting **periodic reviews**.	provision. The SMP 1.2.C. already references WAC 173-26 for amendment procedures.	
i.	Ecology adopted a new rule creating an **optional SMP amendment process** that allows for a shared local/state public comment period.	The SMP 1.2.C. already references WAC 173-26 for amendment procedures.	No action necessary.
j.	**Submittal** to Ecology of proposed SMP amendments.	SMP 11.2, Amendments to Master Program already references WAC 173-26 for amendment procedures.	No action necessary.
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the **Americans with Disabilities Act**.	SMP 2.2, Applicability, references WAC 173-27-040, as it describes the threshold for substantial development. In addition, SMP 12.2, Definitions, provides a reference to this WAC section under the definition for exempt development.	No action necessary.
b.	Ecology updated **wetlands critical areas guidance** including implementation guidance for the 2014 wetlands rating system.	The draft critical areas ordinance captures the 2014 wetlands rating system under AMC 19.70.210(B). The City anticipates adopting this critical areas ordinance by reference.	**Recommended:** As discussed in further detail in Section 3 below, the City will adopt the draft CAO by reference.

Row	*Summary of change*	*Review*	*Action*
2015			
a.	The Legislature adopted a **90-day target** for local review of Washington State Department of Transportation (WSDOT) projects.	While this is optional, the WSDOT presence is significant with both ferry terminal and Highway 20 within shoreline jurisdiction. In addition, the SMP does not address the process for WSDOT projects. If implemented, this change should go under SMP Chapter 3, Administrative provisions.	**Recommended:** The City will consider adopting a slightly reduced review timeframe from 120 days for standard shoreline permits to 90 days to assist WSDOT in their permitting timelines. Language from Ecology is available.
2014			
a.	The Legislature created a new definition and policy for **floating on-water residences** legally established before 7/1/2014.	SMP Table 5.1, Shoreline Use and Modification Matrix, does not allow residential uses in aquatic shoreline designations. Therefore, this regulation does not apply. No stationary floating residences exist in Anacortes.	No action necessary.
2013 – no applicable legislative actions			
2012			
a.	The Legislature amended the SMA to clarify **SMP appeal procedures**.	The SMP does not address the appeal process of the SMP regulatory document itself, only SMP permit appeal procedures. However, it is not required to describe appeal procedures of the SMP itself and it is standard practice to not include this amendment in the SMP.	No action necessary.
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved	The draft CAO captures the federal wetlands manual WAC reference, stating under AMC 19.70.220(C) that, "Identification of wetlands and delineation of their boundaries pursuant to this chapter must be	**Recommended:** As discussed in further detail in Section 3 below, the City will adopt the draft CAO by reference.

Row	*Summary of change*	*Review*	*Action*
	federal wetland delineation manual.	done in accordance with the adopted Federal wetland delineation manual and applicable regional supplements per WAC 173-22-035."	
b.	Ecology adopted rules for new commercial **geoduck aquaculture**.	SMP Section 8.4, Aquaculture, discusses aquaculture policies and development regulations for all types of aquaculture. Ecology provides direction toward new rules for commercial geoduck aquaculture. These include clarifying the aquaculture definition to not include wild geoduck harvest, reviewing siting considerations that can support geoduck aquaculture operations without significant clearing and grading, and considering the use of a Joint Aquatic Resource Permit Application (JARPA) for project proposals at the City level to reduce redundancy between local, state and federal permit requirements.	**Recommended:** The City will consider amending the definition under SMP 12.2 for aquaculture not to include wild geoduck harvests. In addition, the City will consider referencing the review provisions under WAC 173-26-241(3)(b)(ii-iv) as a specific regulatory mechanism under SMP 8.4 for applicants to demonstrate they comply with in geoduck aquaculture proposals.
c.	The Legislature created a new definition and policy for **floating homes** permitted or legally established prior to January 1, 2011.	SMP Table 5.1, Shoreline Use and Modification Matrix, does not allow residential uses in aquatic shoreline designations. In addition, the City has no floating homes. Therefore, this new definition should not apply in the future.	No action necessary.
d.	The Legislature authorized a new **option to classify existing residential structures as conforming**.	SMP 3.5 Nonconforming Structures, establishes legally established structures that are nonconforming can be expanded, so long as they do not increase the non-conformance. The legislative option would allow existing legally established non-conforming residential structures to be treated as conforming. This legislative action does not impact future development; it merely treats existing legally permitted	No action necessary. No change, as SMP 3.5, Nonconforming Structures states structures may be maintained and are not in violation, so long as future development is in conformance with the SMP.

Row	*Summary of change*	*Review*	*Action*
		nonconforming development as conforming.	
2010			
a.	The Legislature adopted **Growth Management Act – Shoreline Management Act clarifications**.	SMP 1.2.A., Requirements of the Shoreline Management Act, already contains references to WAC 173-26, State Master Program, which therein references Approval/Amendment Procedures and Master Program Guidelines.	No action necessary.
Anacortes Shoreline Master Program Update, Ordinance No. 2838, adopted 2010.			
2009			
a.	The Legislature created new "relief" procedures for instances in which a **shoreline restoration project within a UGA** creates a shift in Ordinary High Water Mark.	The SMP 9.10, Shoreline Habitat and Natural Systems Enhancement Projects, does not address such relief procedures.	**Recommended:** The City will consider referencing relief procedures under SMP 9.10, Shoreline General Development Standards. Example language from Ecology is as follows: *The City may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215.*
b.	Ecology adopted a rule for certifying **wetland mitigation banks**.	The rule is referenced under AMC 19.70.270(B) of the draft critical areas code, referencing the wetland mitigation bank certification process under WAC 173-700.	No action necessary.
c.	The Legislature added **moratoria authority** and procedures to the SMA.	Moratoria procedures are not required to be included in SMP. The City may rely on statute: WAC 173-27-085 if they choose to include this provision at a later date.	**Recommended:** The City will consider adding a section that incorporates moratoria by using Ecology's example wording.
2007			

Row	*Summary of change*	*Review*	*Action*
a.	The Legislature clarified options for defining "**floodway**" as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	Floodway is defined under SMP 12.2, Definitions, and generally covers both Ecology-prescribed options: ***Floodway*** *as identified in a master program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward..."*	**Optional:** To improve readability under SMP 12.2 Definitions, the City will consider adding to the "Floodway" definition to reference RCW 90.50.030(2)(b)(ii) as rationale for the biological definition originally provided.
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a **list and map of streams and lakes** that are in shoreline jurisdiction.	The areas of shoreline jurisdiction are shown under SMP Map Figure 5.1 but are not provided as a list in one spot.	**Mandatory:** Provide a list of shoreline jurisdictional areas. This can be added as a separate subsection under SMP Section 2.3, Shoreline Jurisdiction. Designated and Section 5.5, Shorelines of Statewide Significance. In addition, Padilla Bay is now mentioned under the Urban Designation Legal Description (SMP 5.10(F).
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include **fish habitat enhancement projects** that conform to the provisions of RCW 77.55.181.	SMP 2.4.E(16), Exemptions from Substantial Development Permit Requirements, already references fish habitat enhancement projects under RCW 77.55.181, which lists this exemption.	No action necessary.

3. Integration of Current Critical Areas Regulations

The City's current SMP has a separate set of shoreline-specific critical areas regulations, listed under Appendix A and adopted in 2010. The City is currently in the process of updating their Critical Areas Ordinance (CAO) and relocating to AMC 19.70 from section 17.70. Accordingly, the City anticipates referencing the upcoming City-wide critical areas regulations in the updated SMP. However, as with the City's current CAO, these critical areas regulations include some regulations that are inconsistent with the Shoreline Management Act. The inconsistent regulations need to be identified and resolved as part of the periodic SMP update process.

Table 3-1 below summarizes issues to be resolved in order to properly reference the City's critical areas regulations into the updated SMP. The table is organized by critical areas regulations subject area.

Table 3-1. Summary of consistency with the SMP and Critical Areas Ordinance and potential revisions.

#	Issue	Relevant Location(s)[1]	Review & Action
1	**Linkage between CAO and SMP**	**Location**: SMP Appendix A and AMC 19.70 (not yet adopted) Critical Areas Regulations.	**Review:** The SMP regulates critical areas in shoreline jurisdiction through Appendix A, which is a modified version of the currently effective CAO. Inconsistencies were evaluated between the current SMP and the draft CAO. The result is several inconsistencies between the way critical areas are regulated inside and outside of shoreline jurisdiction. Items 2 and 3 within this table identify specific inconsistencies. **Action** ***Recommended***: The City plans to adopt the critical areas regulations by reference within the critical areas section of the SMP in order to bring the SMP into alignment with the soon to be adopted CAO. The critical areas section of the SMP will clarify the sections of the CAO that do not apply in shoreline jurisdiction and will provide the necessary alternative or supplemental regulations.
2	**Definitions**	**Location**: SMP Ch. 12; AMC 19.70 - Draft	**Review**: The definitions for the following terms are inconsistent between the SMP and AMC 19.70 – Draft Critical Areas Ordinance: • Alteration • Best management practices • Erosion

#	Issue	Relevant Location(s)[1]	Review & Action
			• Floodplain • Floodway • Mitigation • Native vegetation • Noxious weed • "Repair or maintenance" – CAO vs "normal maintenance" and "normal repair" – SMP • Restoration • Stream **<u>Action</u>** ***Recommended***: The City will use the most up-to-date definition available that is consistent with the City's use of the term in any other relevant regulations under AMC 19.70, the reserved code chapter, once the new critical areas regulations ordinance is adopted.
3	**Sections exempt from adoption into SMP**	**<u>Location:</u>** AMC 19.70 - Draft	**<u>Review:</u>** These sections from the CAO draft should not be adopted into the SMP due to inconsistencies with the SMA requirements or the current draft of the SMP. • 19.70.030 Critical Areas Review • 19.70.035 Exempt Activities • 19.70.040 Permitted Alterations • 19.70.230(B) Wetlands – General Development Standards • 19.70.340(B) Fish and wildlife habitat – Specific standards for streams • 19.70.430(B) Geologically hazardous areas – General development standards **<u>Action</u>** ***Mandatory:*** The City will exclude these sections in order to comply with the SMA and the no net loss requirement.
4	**What triggers a critical area report?**	SMP Section 2.4, Uses Not Constituting "Development" and Exemptions from Substantial	**<u>Review:</u>** Alteration or development may not meet the threshold or requirements of a SDP but may be adjacent to or within a critical area. If this was within shoreline jurisdiction, would a shoreline

#	Issue	Relevant Location(s)[1]	Review & Action
		Development Permit Requirements	permit need to be obtained or a critical areas permit? **Action:** Upon further review. the City's Shoreline Exemption permit already captures the Critical Areas report requirement, as necessary. The applicability section of SMP Section 2.4 will reference critical area-regulated activities normally exempt from permit requirements that still need to be evaluated for shoreline permit requirements. In addition, SMP section
5	**When is a habitat assessment report required?**	**Location**: SMP Section 6.7, Fish and Wildlife Habitat Conservation Areas	**Review:** There is a lack of clarity for projects adjacent to the marine environment whether projects have to provide a habitat assessment report to calculate buffers off critical saltwater habitat. **Action:** The City may consider requiring the applicant prove whether a vegetated buffer critical saltwater habitat exists and is intersected by the development proposal. Critical saltwater habitat includes a primary association to ESA "Threatened" species or specifically mapped habitat areas. The SMP has a primary association list of marine resource examples. However, only when the vegetation buffer is impacted or when in-water impacts are proposed may a habitat assessment report be required.
6	**Biologist Definition**	**Location**: SMP Section 12.2, Definitions	**Review:** The definition says qualifications but lacks specificity. **Action:** Refer to the qualified professional definition under AMC 19.70 of the current draft CAO for capturing this definition.

[1] This column attempts to capture the primary relevant location(s) of content related to the item described in the Summary of Change column; however, due to length of the SMP, all relevant locations may not be listed.

4. Consistency with Comprehensive Plan & Other Development Regulations

Based on a review of the City's Comprehensive Plan and AMC Title 19, there are several inconsistencies observed within the City's SMP. The Environment and Conservation Element of the Anacortes Comprehensive Plan references the SMP as the lead regulatory document for the City in addressing development and activities within designated shoreline areas.

Table 4-1 below summarizes changes that can improve the consistency and administration of the SMP.

Table 4-1. Summary of recommended SMP, AMC, and Comprehensive Plan revisions to improve consistency

#	Issue	Relevant Location(s)[1]	Review & Action
Administration			
1	**Organization of SMP regulations**	**AMC 18.16, Shoreline Master Plan**	**Review:** The SMP regulations are currently split between a separate regulatory document and AMC section 18.16, which provides for the shoreline permitting process for projects within shoreline jurisdiction. The current arrangement is cumbersome for both City staff and applicants to review both the document and code when administering the SMP. **Action:** The City will codify all regulatory sections of the SMP and bring them over to newly designated AMC Chapter 19.72, Shorelines. AMC 18.16 Shoreline Master Plan will be migrated to Chapter 19.20 Application Procedures to have all land use procedures in one location.
Development			
As development activities and citizen inquiries have come about, the City's SED map may benefit from minor revisions. In addition, policies and regulations may be tweaked to become more consistent with the City's development regulations and comprehensive plan. The following are issues identified by City staff to examine and determine if an SED map or text change to the SMP is warranted.			
2	**SED Designations #1**: Urban Designation near Anacortes Ferry Terminal	SMP Figure 5.1 – Official Shoreline Environment Designation Map	**Review:** Land use development patterns have shifted away from a potential resort site and marina in Ship Harbor to lower density single family residences. As such, the ecological resources

#	Issue	Relevant Location(s)[1]	Review & Action
			outlined in both the Fidalgo Bay EIS and City's Inventory and Characterization Plan combined with these land uses would make it difficult to permit and costly to construct a marina. **Action:** The City may consider changing the SED from Urban to the split of Conservancy for the first 100' to Shoreline Residential for the latter 100' from the OHWM. This will match the zoning designation of R2 (Residential Low Density) for this area.
3	**SED Designations #2:** Former canneries under Urban SED	SMP Figure 5.1 – Official Shoreline Environment Designation Map	**Review:** Two dilapidated cannery structures have Urban shoreline environment designations, potentially allowing a similar past re-use of these structures, should a development proposal come in and meeting zoning and criteria. Potential impacts to surrounding single family areas would need to be accounted for in any re-development proposal. **Action:** The City may consider changing one, both, or leaving the designations as-is to encourage future economic development of each site. The Urban SED is consistent with the Light Manufacturing historic land use of the site. However, the current zoning designation further landward of these canneries is R2A or residential. Future use and development of these sites will need to account for the neighboring upland single-family uses.
4	**SED Designations Change #3**: residential property straddling City limits on Lake Erie	SMP Figure 5.1 – Official Shoreline Environment Designation Map, SMP Table 5.2. Shoreline Development Standards Matrix	**Review:** A residential property straddles City limits and unincorporated Skagit County on a parcel that was originally left undesignated under the original SMP update process. **Action:** Any undesignated properties in City shoreline jurisdiction are designated Conservancy. Coincidentally, this designation appears to be appropriate based upon the largely undisturbed

#	Issue	Relevant Location(s)[1]	Review & Action
			character of the shoreline. Therefore, the Conservancy designation appears to be the best fit for this property.
5	**SED Designations Change #4**: Aquatic Shoreline Environment Designation is not showing	Figure 5.1 – Official Shoreline Environment Designation Map	**Review:** The Aquatic layer is not graphically represented waterward of the OHWM within the City's shorelines. **Action:** Recommend adding this layer to the legend.
Regulations			
6	**Commercial requirement for mixed use development**	SMP 5.10.E., Urban Development Regulations	**Review:** In light of the new zoning regulations, increased flexibility of residential uses exists over the current regulation under DR-5.10.4.e. which limits use to commercial only on the ground floor. This regulation undermines development proposals that may have a ground floor lobby area or other proposal that is otherwise compliant with Block Frontage Standards provided under AMC 19.61. **Action:** The City will consider removing Urban SED regulation DR-5.10.4.e. and amending the DR-5.10.4 to refer to AMC 19.61. Review of specific zoning standards is needed to ensure consistency with AMC 19.61, Block Frontage Standards.
Code references			
7	**Definitions**	AMC 19.12, Definitions & Interpretation; SMP 12.2 Definitions, 5.12 Shoreline Use and Modification Matrix and Development Standards	**Review:** Zoning Code sections AMC 19.12 and 19.70 as well as SMP section 12.2 form a complementary set of definitions that apply within shoreline jurisdiction. This relationship is not defined in either section. **Action:** Reference in the SMP that definitions not covered here may be captured under AMC code sections 19.12 and 19.70. In instances where

#	Issue	Relevant Location(s)[1]	Review & Action
			definitions need to be clearly defined in shoreline jurisdiction, such as building height or impervious surface, these have been added to the SMP. Due to the complexity of building height calculations and scenarios, its definition has been re-located to Section 5.12.
8	**Use - Advertising and Signs – incorrect reference**	SMP Chapter 8.2 Advertising and Signs, page 110 Page 110: The reference to sign standards	**Review:** The sign code reference is incorrect. **Action:** Update reference in SMP from Chapter 17 of the AMC to 19.67 for new sign code regulations.
9	**Use - Commercial Development – incorrect reference**	SMP Chapter 8.5 Commercial Development, page 114	**Review:** The design standards reference is out of date. **Action:** Update reference in SMP from Chapter 17 of the AMC to 19.66, Building Design, for new design code regulations.
10	**Title 19 update**	Entire SMP	**Review:** The entire SMP is referencing older code provisions that either have been edited or no longer exist. **Action:** Amend and correct references to all non-CAO code references. The CAO update is discussed above under Section 3 of this Gap Analysis

[1] This column attempts to capture the primary relevant location(s) of content related to the item described in the Summary of Change column; however, due to length of the SMP, all relevant locations may not be listed.

5. Other Issues to Consider

In addition to the issues discussed in the previous sections of this report, several other issues in the current SMP could be addressed as part of the periodic update process to produce a more effective SMP. These other issues are described in Table 5-1 below.

Table 5-1. Other issues that could be addressed to produce a more effective SMP.

#	Issue	Relevant Location(s)[1]	Review & Action
General			
1	**Use of plain language**	Document-wide	**Review:** The use of shall needs to be replaced with must to keep consistent with a standard use of plain language throughout SMP development regulations. **Action:** The City will consider replacing shall with must throughout the SMP document.
2	**Definitions – Act listed twice**	SMP 12.2, Definitions	**Review:** A duplicate definition of 'Act' exists with similar responses. **Action:** Use the definition response as follows: ***Act*** *means the Washington State Shoreline Management Act, Chapter 90.58 RCW.*
3	**Chapter 5: Aquaculture considerations in Aquatic environment**	Table 5.1 Shoreline Use and Modification Matrix; SMP 8.4, Aquaculture; SMP 9.9, Mooring Buoys; SMP 12.2, Definitions; Aquatic DR 5.6.1	**Review:** Aquaculture types come in many different forms and levels of impact. Sea cucumber cultivation is one example of a species that is cultured and grown in-part by using waste byproducts of other

			animals along with ocean water withdrawals. As a use, Aquaculture for commercial activity is a conditional use in the Urban and Urban Maritime SEDs and prohibited in all others. **Action:** The City may consider changing the Aquatic SEDs to conditionally permit aquaculture types that create little to no waste byproducts and do not necessarily need to occupy beaches, fish pens, or otherwise occur directly within the Aquatic environment. Adding clarity and preference to less impactful aquaculture will encourage economic development in under- utilized locations along the shoreline, without significant environmental impact.
4	**Provisions for reviewing building height above 35'.**	Chapter 5: Table 5.2 – Building height, 5.12.B.2 – Building Height	**Review:** For development projects where building height is proposed to exceed 35', more straightforward provisions are needed to provide guidance for applicants, thereby meeting state requirements. In addition, clarity on the building height measurement provisions would be helpful. **Action:** Adding provisions for a visual impact assessment will address impacts for projects where view impacts may occur. This can be achieved through view analysis showing proposed buildings in relation to impacted views, referencing RCW 90.58.320 and DR-6.4.18 in underneath Table 5.2. Building height calculation standards have been added to SMP 5.12.B.2 Building Height.
5	**Strengthening Vegetation**	SMP Section 6.5, Vegetation Conservation, specifically DR-6.5.9:	**Review:** No direct provisions exist for pruning and unauthorized vegetation removal

	Conservation provisions	*Trimming of trees and vegetation is allowed within shoreline setback areas without a landscape plan, provided:* *a. This provision is not interpreted to allow clearing of vegetation,* *b. Trimming does not include topping, stripping or imbalances; a minimum of 60% of the original crown shall be retained to maintain tree health,* *c. Trimming does not directly impact the nearshore functions and values including fish and wildlife habitat,* *d. Trimming is not within a wetland or wetland buffer, and e. Trimming in landslide and erosion hazard areas does not impact soil stability.*	activities within the shoreline environment. **Action:** The City may consider including more specific vegetation management standards, to achieve improved aesthetics while conserving habitat values, in addition to a more straight-forward permitting approach so applicants understand what is permitted when removing vegetation for view enhancement. One example includes setting maximum crown reduction of 25%, as a permitted pruning activity with a shoreline exemption permit.
6	**Dock/Pier repair regulations are difficult to understand**	SMP 9.5.14 – Docks, Piers and Floats Regulation – *DR-9.5.14 Repair proposals which replace only decking or decking substructure and less than 50 percent of the existing piles subsections shall be considered minor repairs and are permitted, consistent with all other applicable codes and regulations. If cumulative repairs of an existing pier or dock over three years would make a proposed repair exceed the threshold established above, the repair proposal shall be reviewed as a new pier or dock.*	**Review:** The terms "substructure" and "pile subsection" are not defined. This makes it difficult for both City staff and the applicant to determine what can be done to meet this regulation. **Action:** The City may consider removing reference to "substructure" and define "pile subsection" to add clarity to this regulation.
7	**Prioritize Restoration Plan**	Appendix B of existing SMP	**Review:** Amend the SMP Restoration Plan (proposed Appendix A) to (1) account

			for projects document what restoration projects have been completed since 2010 and, (2) prioritize the remaining projects based on applicable factors, such as ecological benefit, financial feasibility, and overall suitability. **Action:** The City will explore a prioritized restoration after discussion with stakeholders.
8	**Cumulative Impact Analysis Addendum**	City Cumulative Impacts Analysis (CIA)	**Review:** The City will review potential future capital facilities projects against the existing CIA for changes and impact(s) not previously accounted for. **Action:** The City will explore providing an addendum memo to the CIA to account for potential city capital projects in shoreline jurisdiction.
9	**Code updates and references**	SMP Policy 8.11.4, Table 5.2 – Dimensional Standards	**Review:** Policy documents and development regulations have changed since original SMP adoption. In addition, the zoning code does not need to be referenced in the dimensional standards table. **Action:** Update references to current ordinances for the Comprehensive Plan and Development Regulations.
10	**Impervious Surface not listed**	SMP DR-5.9.10 Shoreline Residential Design Elements, 12.2 Definitions	**Review:** No definition exists for impervious surface in the SMP. **Action:** The definition for impervious surface has been brought into SMP 12.2 Definitions from the City's Stormwater Management Program 2019.

11	**Chapter 5: Percent slope and impervious surface limits in Conservancy and Shoreline Residential Designations**	DR 5.8.6, Conservancy Design Elements; DR 5.9.10, Shoreline Residential Design Elements	**Review:** Percent slope regulations are difficult to administer as the lot and buildable land area portions are not defined clearly, making it difficult to determine what impervious surface maximums apply and on what portion of the lot. **Action:** The City may consider being explicit in what constitutes lot and replacing buildable area with remaining area in the code.
[1] This column attempts to capture the primary relevant location(s) of content related to the item described in the Summary of Change column; however, due to length of the SMP, all relevant locations may not be listed.			

6. References

Revised Final Integrated Fidalgo Bay-Wide Plan and EIS. City of Anacortes, Ordinance No. 2520. January 2000. https://www.anacorteswa.gov/DocumentCenter/View/863/Revised-Final-Integrated-Fidalgo-Bay-Wide-Plan-and-EIS-PDF

Attachment C

CITY OF ANACORTES

SHORELINE MASTER PROGRAM

~~September 2010~~

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CHAPTER 1 INTRODUCTION

1.1 Requirements of the Shoreline Management Act
1.2 The City of Anacortes' Role in Implementing the Shoreline Management Act
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1.5 How the Shoreline Master Program Is Used

1.1 Requirements of the Shoreline Management Act

In November 1972, the people of the State of Washington enacted the Shoreline Management Act (RCW 90.58). The primary purpose of the Act is to provide for the management and protection of the state's shoreline area 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:

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

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

1.2 The City of Anacortes' Role in Implementing the Shoreline Management Act

In order to protect the public interest in the preservation and reasonable use of the shorelines of the state, the Shoreline Management Act establishes a planning program coordinated between the state and local jurisdictions to address the types and effects of development occurring along the state's shorelines. By law, the City is responsible for the following:

A. Development of an inventory of the natural characteristics and land use patterns along "shorelines of the state" within the City's territorial limits This inventory provides the foundation for development of a system that classifies the shoreline into distinct "environments". These environments provide the framework for implementing shoreline policies and regulatory measures.

B. Preparation of a "Shoreline Master Program" to determine the future of the shorelines. This future is defined through the goals developed for the following land and water use elements: economic development, public access, circulation, recreation, shoreline use, conservation, historical/cultural protection, and floodplain management. Local government is encouraged to adopt goals for any

other elements, which, because of present uses or future needs, are deemed appropriate and necessary to implement the intent of the Shoreline Management Act. In addition, policy statements are developed to provide a bridge between the goals of the master program and the use activity regulations developed to address different types of development along the shoreline. Master program regulations are developed and adopted, as appropriate, for various types of shoreline development, including the following: agriculture, aquaculture, forest management, commercial development, marinas, mining, outdoor advertising and signs, residential development, utilities, ports and water related industries, bulkheads, breakwaters, jetties and groins, landfills, solid waste disposal, dredging, shoreline protection, road and railroad design, piers, and recreation.

C. Development of a permit system to further the goals and policies of both the Act and the local Master Program. (Local government has the option to adopt the administrative process as part of the SMP or as a reference document not considered part of the SMP. This allows local government to make changes without the need of a SMP amendment. See WAC 173-26-191(2)(a)(C).)

Local governments have the primary responsibility for initiating the planning program and administering the regulatory requirements. The City of Anacortes Shoreline Master Program must be consistent with the policies and requirements of the Shoreline Management Act and the State Shoreline Master Program Guidelines. The role of the Department of Ecology is to provide support and review of the Shoreline Master Program and subsequent shoreline development permits and approvals and on insuring compliance with the policies and provisions of the SMA.

1.3 Purposes of the Shoreline Master Program

The Shoreline Management Act defines a Master Program as a "comprehensive use plan for a described area." The shoreline planning process differs from the more traditional planning process in that the emphasis is on protecting the shoreline environment through management of uses.

The purposes of this Master Program are:

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

B. To promote uses and development of the Anacortes shoreline consistent with the Anacortes Comprehensive Plan while protecting and restoring environmental resources.

C. 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 Anacortes.

1.4 Legislative Findings

The legislative findings and policies of the Act, as set forth in RCW 90.58.020, are as follows: the shorelines of the state are among the most valuable and fragile of its natural resources and 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 shorelines, necessitating increased coordination in the management and development of the shorelines of the state.

The legislature further finds that much of the shoreline of the state and adjacent uplands are in private ownership and that unrestricted construction on the privately owned and publicly owned shorelines of the state is not in the best public interest. Therefore, coordinated planning is necessary in order to protect the public interest associated with the shoreline of the state. 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.

There are three basic policy areas to the Shoreline Management Act:

The SMA emphasizes accommodation of reasonable and appropriate uses, protection of shoreline environmental resources, and protection of the public's right to access and use the shorelines.

- Shoreline Use: 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 ensure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in navigable water, 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 water of the state and its aquatic life, while generally protecting public rights of navigation and its associated activities.
- Public Access: In accordance with the Act, master programs must provide for public access to publicly owned areas, and a recreational element for the preservation and enlargement of recreational opportunities. “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” (i.e., One must look at the overall “best interest” of the state and the people when considering public access opportunities. In some cases, public access goals may be superseded by the goals of environmental protection or promotion of appropriate uses).
- Environmental Protection: The Act is intended to protect shoreline natural resources, including "...the land and its vegetation and wildlife, and the waters of the state and their aquatic life..." against adverse effects. To this

end, uses shall be preferred that are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent on use of the state's shorelines. Alteration of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences, ports, parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, and to industrial and commercial developments that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state.

The second section of the Act, states, in part:

> "…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 on use of the state's shoreline. Alterations of the natural conditions of the shorelines of the state, in those limited instances where authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to the 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 people to enjoy the shorelines of the state." (RCW 90.58.020).

1.5 How the Shoreline Master Program is Used

A. Scope

The policies and regulations of this Master Program including the shoreline critical area regulations (in ~~Appendix A~~Chapter 6 of this SMP) must~~shall~~ apply to all shorelines of the state within the corporate limits of the city of Anacortes. Development within the shorelines must also comply with the City Comprehensive Plan, the Fidalgo Bay Sub-Area Plan, and the City Development Regulations. Where conflict exists, the regulations most protective of the environment must~~shall~~ be implemented.

Commented [AC1]: Table 3-1 #1

B. Planning and Regulatory Document

The Anacortes Shoreline Master Program is a planning document that outlines goals and policies for the use, development, protection, and restoration of shorelines of the City. It is also a regulatory ordinance with regulations for development intended to implement the goals and policies.

In order to preserve and enhance the shoreline of the City of Anacortes it is important that all development proposals relating to the shoreline area be evaluated in terms of the City's Shoreline Master Program, and that the City Shoreline Administrator be consulted. (In the City of Anacortes, the ~~Planning Director~~Planning, Community & Economic Development Director serves the Shoreline Administrator function.) The Shoreline Master Program provides the regulatory parameters within which development may

occur, or it states that the community considers a certain type of use, development or activity is unacceptable within the City's Shoreline jurisdiction, or it states that a use or activity may be considered (if a conditional use review is applied for), but that the community should be able to ensure that the development is carried out in such a way that the public's interest in protecting the shoreline is retained.

C. When is a Permit Required?

The Anacortes Shoreline Master Program addresses a broad range of uses and development that could be proposed within the shoreline area. This thoroughness is intended to ensure that the Anacortes shoreline area is protected from activities and uses that, if unmonitored, could be developed inappropriately and could cause damage to the ecological system of the shoreline, or cause the degradation of the aesthetic values of the shoreline that Anacortes enjoys. Some uses/development may be required to obtain a Substantial Development Permit, a Shoreline Conditional Use Permit, a Shoreline Variance, or a Letter of Exemption. **ALL** developments must comply with the policies and regulations established by the state Shoreline Management Act as expressed through this local Shoreline Master Program adopted by the City of Anacortes.

D. The Permit Process

The Shoreline Master Program regulates all "development." It also further defines what is considered "substantial development." In general, a shoreline Substantial Development Permit (SDP) is required to be obtained for development within the shoreline area. Some development may require a Shoreline Conditional Use Permit or a Shoreline Variance from the provisions of the Master Program. Review under the State Environmental Policy Act (SEPA) may also be required.

"Development," as defined under the Shoreline Management Act of 1971 is:

> *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 of the state subject to Chapter 90.58 RCW at any state of water level (RCW 90.58.030(3d)).*
> *"Development" does not include dismantling or removing structures if there is no other associated development or re-development.*

Commented [AC2]: Table 2-1 2017b

This definition indicates that the "development" regulated by the Shoreline Management Act includes not only those activities that most people recognize as "development" (for example, improving a road surface, building a structure, etc.), but also those activities that citizens may do around their own home (for example, grading a hillside to enhance their personal view of the water). While the impact of these potential "developments" may seem inconsequential at first glance, they may have unwanted and damaging effects on the shoreline ecology, the property of others, and the shoreline aesthetics.

Projects that are within the definition of "development" that are not "substantial

development" do not require a Substantial Development Permit (SDP). However they must still comply with all applicable regulations in the City's Shoreline Master Program, Shoreline Management Act and any other applicable regulations. They may be required to obtain a Letter of Exemption. Such developments may also be required to obtain a Shoreline Conditional Use Permit (CUP) or a Shoreline Variance from the Shoreline Master Program's provisions prior to building permit issuance, see Section 2.4, Uses Not Constituting "Development" and Exemptions from Substantial Development Permit Requirements.

"Substantial development" is any "development" of which the total cost or fair market value exceeds $~~5,000~~7,047, (the RCW language has been updated to reflect cost of living increases and future RCW revisions must ~~shall~~ apply[1]) or any development that materially interferes with the normal public use of the water or shorelines of the state. Under the Shoreline Management Act, some types of development are exempt from the requirement to apply for and receive a Substantial Development Permit before beginning work.[2] These exemptions are listed in Chapter 2 Scope, Jurisdictions, and Exemptions. A project that is exempt from Substantial Development Permit requirements must still comply with all applicable regulations in this Master Program, and may be required to obtain a Letter of Exemption.

Commented [AC3]: Table 2-1 2017a

The Shoreline Administrator can help classify a project as a development or a substantial development, determine if a Substantial Development Permit is necessary or if a project is exempt from permit requirements, and identify which regulations in the SMP may apply to the proposed project. The Administrator can also provide information on the permit application process and how the SMP process relates to, and can coordinate with the SEPA process.

A description of projects requiring a Letter of Exemption, and shoreline permit application procedures and criteria are discussed in more detail in *Chapter 2 Scope, Jurisdiction, and Exemptions*.

[1] The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period.

[2] Per RCW 90.58.030(3)(e), Definitions and concepts: Substantial development.

CHAPTER 2 SCOPE, JURISDICTION, AND EXEMPTIONS

2.1 Rule of Liberal Construction
2.2 Applicability
2.3 Anacortes Shoreline Jurisdiction
2.4 Uses Not Constituting "Development" and Exemptions from Substantial Development Permit Requirements
2.5 Developments not Required to Obtain Shoreline Permits or Local Reviews
2.6 Relationship to Other Plans and Regulations
2.7 Moratoria Authority

2.1 Rule of Liberal Construction

As provided under RCW 90.58.900, *the Shoreline Management Act is exempted from the rule of strict construction;* the Act and this Master Program ~~shall~~ must, therefore, be liberally construed to give full effect to the purposes, goals, policies, and standards for which the Act and this Master Program were enacted. On the other hand, exemptions from the Act or Master Program are to be narrowly construed.

2.2 Applicability

A. All proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, 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 though a permit may not be required.

B. Any person wishing to undertake activities constituting "development" within shoreline jurisdiction must~~shall~~ apply to the Shoreline Administrator for a Shoreline Permit. Based on the provisions of this Master Program, the Shoreline Administrator must~~shall~~ determine if a Letter of Exemption, a Substantial Development Permit, a Shoreline Conditional Use Permit, and/or a Shoreline Variance is required. Substantial development must~~shall~~ not be undertaken within the jurisdiction of the Act and this Master Program UNLESS a Substantial Development Permit has been obtained and the appeal period has been completed and any appeals have been resolved and/or the project proponent is allowed to proceed under the provisions of the Shoreline Management Act or by court order. "Substantial development" must~~shall~~ be defined as it is by the Act (§90.58.030 RCW) and supplementing provisions of the Washington Administrative Code (§173-27-040 WAC).

C. Developments exempt from a Substantial Development Permit, which are outlined in Section 2.4 E of this Master Program, must~~shall~~ require a Letter of

Exemption. A project that qualifies as "exempt development" may also require a Shoreline Conditional Use Permit, and/or a Shoreline Variance from Master Program provisions.

1. Exempt developments must~~shall~~ not be undertaken within the jurisdiction of the Act and this Master Program UNLESS a Letter of Exemption has been obtained documenting that the development is consistent with the policies and procedures of the Act, all applicable state regulations and this Master Program.

2. The request for the Letter of Exemption must~~shall~~ be in writing, on forms required by the Shoreline Administrator, and include the information required by the Shoreline Administrator.

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

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

F. Applicability of this Master Program to federal lands and agencies must~~shall~~ be consistent with WAC 173-27-060 as currently exists or is hereinafter amended.

2.3 Anacortes Shoreline Jurisdiction

A. This Master Program must~~shall~~ apply to all the lands and waters in the City of Anacortes that fall under the jurisdiction of the Shoreline Management Act. Shorelines include the waters within the City limits together with the lands underlying them 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. Shoreline jurisdiction includes all marine waters within the City of Anacortes and the freshwaters of Little Cranberry, Heart, and Whistle Lakes, in addition to a portion of Lake Erie, see SMP Map Figure 5.1 for details.

Commented [AC4]: Table 2-1 2007b

B. There is hereby made a part of this Master Program a map, Figure 5.1, illustrating the shoreline designations and the *approximate* location of the upland extent of the shoreline jurisdiction in Anacortes. The area of shoreline jurisdiction extends waterward to the Anacortes City Limits. The actual landward extent of shoreline jurisdiction will be determined on a case-by-case basis. Where uncertainty or conflict may occur in the exact location of boundaries designating shoreline environments (pursuant to Chapter 5), the map, designation purpose, and designation criteria must~~shall~~ be used.

C. Given that the Shoreline Designation Map is an integral part of this Master Program, no part of the map may be altered or revised unless a Master Program

amendment has been approved by the City Council and the Washington State Department of Ecology (RCW 90.58.090).

D. Associated wetlands that are included in the shoreline jurisdiction are those that influence or are influenced by the regulated waters. In general, a wetland is "associated" if all or a portion of the wetland falls within that area that is 200 feet from the ordinary high water mark. 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 a surface or groundwater connection (See Chapter 173-22 WAC).

E. Where a substantial development is proposed which would be partly within and partly without shoreline jurisdiction, a shoreline substantial development permit must~~shall~~ be required for the entire development. The regulations of this Master Program must ~~shall~~ apply only to that part of the development which occurs within shoreline jurisdiction.

2.4 Uses Not Constituting "Development" and Exemptions from Substantial Development Permit Requirements

A. **Applicability to uses not ~~requiring~~ constituting development**. All uses within shoreline jurisdiction must be consistent with the regulations of this Master Program whether or not they require a Shoreline Substantial Development Permit. If an activity does not meet the definition of "Development", it still may require a shoreline exemption. Activities in shoreline critical areas must request a letter of shoreline exemption or substantial development permit, regardless of whether they are exempt under -provisions AMC 19.70.035 Critical Areas Review or AMC 19.70.040, Permitted Alterations.~~required~~ Furthermore, Shoreline Conditional Use and/or Shoreline Variance permits may still be required of development that is not substantial development. An exemption from the Substantial Development Permit requirements does not constitute an exemption from the policies and use regulations of the Shoreline Management Act, the provisions of this Master Program, and other applicable City, state, or federal permit requirements.

Commented [AC5]: Table 3-1 #4

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.*" (Bold emphasis added.)

B. **Shoreline Exemptions**. All applications for exemptions must ~~shall~~ be made on a form provided by the Shoreline Administrator and accompanying material as required. All exemptions must~~shall~~ be construed narrowly. The Shoreline

Administrator may attach conditions to the approval of exempted developments ~~and/or~~ , uses, and/or activities as necessary to assure consistency of the project with the Shoreline Management Act and this Master Program. A Letter of Exemption must ~~shall~~ expire one year after the date of issuance unless otherwise specified in the Letter of Exemption. The same measures used to calculate time periods for Shoreline Permits as set forth in WAC 173-27-090(3) must ~~shall~~ be used for Letters of Exemptions.

C. Whenever a development falls within the exemption criteria listed in 2.4.E. below and is subject to a U.S. Army Corps of Engineers Section 10 or Section 404 Permit, the Shoreline Administrator must ~~shall~~ prepare a Statement of Exemption and send a copy of this statement to the Washington Department of Ecology.

D. Incremental exemptions – Exemptions must~~shall~~ not be issued for a series of inter-dependent activities that in sum would require a permit (i.e., a project cannot be submitted in a piece-meal fashion to avoid the requirement for a substantial development permit).

E. The following ~~shall~~ must not be considered substantial development for the purpose of this Master Program.

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed seven thousand forty-seven ($7,047) ~~five thousand seven hundred eighteen ($5,718)~~ dollars or as periodically adjusted per RCW 90.58.030(3)(e), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the *Washington State Register* at least one month before the new dollar threshold is to take effect. For purposes of determining whether or not a Substantial Development Permit is required, the total cost or fair market value must~~shall~~ be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development must~~shall~~ include the fair market value of any donated, contributed or found labor, equipment or materials;

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

Commented [AC6]: Table 2-1 2017a

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

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

4. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment, which requires immediate action within a time too short to allow full compliance with the Act or this Master Program. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Shoreline Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure must~~shall~~ be removed or any permit which would have been required, absent an emergency, obtained. As a general matter, potential flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

5. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the

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

6. Construction or modification of navigational aids such as channel markers and anchor buoys;

7. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five (35) feet above grade level and meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. 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. Local circumstances may dictate additional interpretations of normal appurtenances which must~~shall~~ be set forth and regulated within the applicable master program. Construction authorized under this exemption must~~shall~~ be located landward of the ordinary high water mark;

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

   a. In saltwaters, the fair market value of the dock does not exceed two thousand five hundred ($2,500) dollars; or

   b. In fresh waters the fair market value of the dock replacement does not exceed twenty two thousand five hundred ($22,500), and are of equal or lesser square footage than the existing dock being replaced, or

c. New docks constructed in fresh waters do not exceed ~~ten~~eleven thousand two hundred ($11~~0~~,2~~0~~00) dollars, ~~but if~~

d. However, subsequent construction having a fair market value exceeding ~~two thousand five hundred ($2,500) dollars~~the amount above occurs within five years of completion of the prior construction, the subsequent construction must~~shall~~ be considered a substantial development for the purpose of these regulations.

Commented [AC7]: Table 2-1 2019a

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

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

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

11. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on and in use since September 8, 1975, which were created, developed or utilized primarily as part of an agricultural drainage or diking system;

12. Any project with certification from the governor pursuant to Chapter 80.50 RCW;

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

    a. The activity does not interfere with the normal public use of the surface waters;

    b. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

    c. The activity does not involve the installation of any structure, and upon completion of the activity, the vegetation and land configuration of the site are restored to conditions existing before the activity;

    d. A private entity seeking development authorization under this section

first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and

e. The activity is not subject to the permit requirements of RCW 90.58.550.

14. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department of ecology jointly with other state agencies under chapter 43.21C RCW;

15. Watershed restoration projects as defined herein. Local government mustshall review the projects for consistency with the Shoreline Master Program in an expeditious manner and mustshall issue its decision along with any conditions within forty-five (45) days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration.

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

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

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

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

b. "Watershed restoration plan" means a plan, developed or sponsored by

the Department of Fish and Wildlife, the Department of Ecology, the Department of Natural Resources, the Department of Transportation, a federally recognized Indian Tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act;

16. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:

    a. The project has been approved in writing by the Department of Fish and Wildlife;

    b. The project has received hydraulic project approval by the Department of Fish and Wildlife pursuant to Chapter 77.55 RCW; and

    c. The Shoreline Administrator has determined that the project is substantially consistent with this Master Program. The Shoreline Administrator must~~shall~~ make such determination in a timely manner and provide it by letter to the project proponent.

    Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs, as follows:

        i. In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under (16)(c)(i)(1) and (2) of this subsection:

            (1) A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:

                a. Elimination of human-made fish passage barriers, including culvert repair and replacement;

                b. Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

                c. Placement of woody debris or other instream structures that benefit naturally reproducing fish

stocks.

The Washington Department of Fish and Wildlife must ~~shall~~ develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal must~~shall~~ not be reviewed under the process created in this section if the department determines that the scale of the project raises concerns regarding public health and safety; and

(2) A fish habitat enhancement project must be approved in one of the following ways:

a. By the Washington Department of Fish and Wildlife pursuant to chapter 77.95 or 77.100 RCW;

b. By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW;

c. By the Washington Department of Fish and Wildlife as a Washington Department of Fish and Wildlife-sponsored fish habitat enhancement or restoration project;

d. Through the review and approval process for the jobs for the environment program;

e. Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States Fish and Wildlife Service and the Natural Resource Conservation Service;

f. Through a formal grant program established by the legislature or the Washington Department of Fish and Wildlife for fish habitat enhancement or restoration; and

g. Through other formal review and approval processes established by the legislature.

ii. Fish habitat enhancement projects meeting the criteria of (16)(c)(i) of this subsection are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat

enhancement projects meeting the criteria of (16)(c)(i) of this subsection and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030 (2)(c).

iii. A hydraulic project approval permit is required for projects that meet the criteria of (16)(c)(i) of this subsection and are being reviewed and approved under this section. An applicant ~~shall~~must use a joint aquatic resource permit application form developed by the Office of Regulatory Assistance to apply for approval under these regulations. On the same day, the applicant ~~shall~~must provide copies of the completed application form to the Washington Department of Fish and Wildlife and to each appropriate local government. Local governments ~~shall~~must accept the application as notice of the proposed project. The Washington Department of Fish and Wildlife ~~shall~~must provide a fifteen-day comment period during which it will receive comments regarding environmental impacts. Within forty-five days, the Washington Department of Fish and Wildlife ~~shall~~must either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The Washington Department of Fish and Wildlife ~~shall~~must base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the Washington Department of Fish and Wildlife determines that the review and approval process created by this section is not appropriate for the proposed project, the Washington Department of Fish and Wildlife ~~shall~~must notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.

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

v. No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of (16)(c)(i) of this subsection and that are reviewed and approved according to the provisions of this section.

F. Before issuing a shoreline statement of exemption, the Shoreline Administrator ~~shall~~must review the Master Program to determine if the proposed development

requires a Shoreline Conditional Use Permit and/or a Variance. It may be necessary for the Shoreline Administrator to conduct a site inspection to ensure that the proposed development meets the exemption criteria. Application information ~~shall~~must include those items listed in WAC 173-27-180 and as contained within the Anacortes Municipal Code for Substantial Development Permits unless otherwise waived.

2.5 Developments not Required to Obtain Shoreline Permits or Local Reviews

A. Requirements to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to projects listed under WAC 173-27-044 and -045, as amended, including, but not limited to the following:

1. 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.

2. 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.

3. 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.

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

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

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2.~~5~~6 Relationship to Other Plans and Regulations.

A. In addition to compliance with the provisions of the Shoreline Management Act of 1971 and the state Shoreline Master Program Guidelines, the Anacortes

Shoreline Master Program must be consistent with local plans and policy documents, specifically, the Anacortes Comprehensive Plan and the City's critical areas regulations. The Master Program must be consistent with the regulations developed by the City to implement its plans, such as the zoning code and subdivision code, as well as regulations relating to building construction and safety.

B. Uses, developments and activities regulated by this Shoreline Master Program may also be subject to the provisions of the City of Anacortes Comprehensive Plan, the Washington State Environmental Policy Act ("SEPA", Chapter 43.21C RCW and Chapter 197-11 WAC), the City of Anacortes Municipal Code, and various other provisions of local, state and federal law, as may be amended. Project proponents ~~shall~~must comply with all applicable laws prior to commencing any use, development or activity.

In the event a conflict occurs between the provisions of this Master Program and the laws, regulations, codes or rules of any other authority having jurisdiction within the City, the regulations that provide more protection to the shoreline area ~~shall~~must apply, EXCEPT when constrained by federal or state law, or where specifically provided otherwise in this Master Program.

At the time of an initial inquiry or when a permit application is submitted, the Shoreline Administrator should inform an applicant of those regulations and statutes that may be also applicable to the proposed project to the best of the administrator's knowledge, provided, that the final responsibility for determining the applicability and complying with such other statutes and regulations ~~shall~~must rest with the applicant.

Other activities that could occur along the shoreline (starting bonfires, disposing or spilling/releasing of regulated or hazardous waste products, use of pesticides, activities within wetlands) may require other permits, review, or approval not identified here.

2.7 Moratoria Authority

A. The City has authority to adopt a moratorium control or other interim control on development under RCW 90.58.590.

B. To adopt a moratorium control or other interim control, the City must:

1. Hold a public hearing on the moratorium or control. The public hearing must be held within sixty days of the adoption of the moratorium or control;

2. Adopt detailed findings of fact that include, but are not limited to justifications for the proposed or adopted actions and explanations of the desired and likely outcomes;

3. Notify the department of Ecology of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing.

C. A moratorium or control adopted under this section may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review.

D. A moratorium or control may be renewed for one or more six-month period if the City complies with the requirements in subsection (B) above before each renewal.

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CHAPTER 3 ADMINISTRATIVE PROVISIONS

3.1 Conditional Use Permits
3.2 Variances
3.3 Nonconforming Development
3.4 Nonconforming Uses
3.5 Nonconforming Structures
3.6 Nonconforming Lots

3.1 Conditional Use Permits

A. Purpose

The purpose of a Shoreline Conditional Use Permit is to allow flexibility in varying the application of the use regulations of the Master Program in a manner consistent with the policies of RCW 90.58.020; provided that Shoreline Conditional Use Permits should also be granted in a circumstance where denial of the permit would result in a thwarting of State policy enumerated in RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the City of Anacortes or by the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and this Master Program. Certain alterations of wetlands as outlined in ~~Appendix A~~Chapter 6 of this Master Program may also require a Shoreline Conditional Use Permit.

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B. Classification of Uses

Uses that are classified by Table 5-1 as conditional uses ~~shall~~must obtain a Conditional Use Permit.

Uses that are not classified in Table 5-1 or in specific use and modification sections contained in *Chapters 8 and 9* may be authorized as conditional uses provided the applicant can demonstrate compliance with the criteria listed below and all other applicable policies and regulations of this Master Program.

Uses that are specifically prohibited by the Master Program may not be authorized by a Conditional Use Permit.

C. Shoreline Conditional Use Permit Process

Shoreline Conditional Use Permits will be processed subject to public notice, comment, and a public hearing pursuant to AMC. Conditional Use Permits ~~shall~~must meet the approval criteria listed in Section 3.1(D) below. The Shoreline Administrator ~~shall~~must be as provided in the Anacortes Municipal Code.

D. Criteria for Granting Shoreline Conditional Use Permits

Uses classified as conditional uses may be authorized provided that the applicant can demonstrate all of the following:

1. That the proposed use will be consistent with the policies of RCW 90.58.020 and the policies of 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 will be compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this 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 will suffer no substantial detrimental effect.

In the granting of all Conditional Use Permits, consideration ~~shall~~must be given to the cumulative impact of additional requests for like actions in the area. For example, if Conditional Use Permits were granted for other developments in the area where similar circumstances exist, the total impacts from the conditional uses ~~shall~~must also remain consistent with the policies of RCW 98.58.020 and ~~shall~~must not produce substantial adverse effects to the shoreline environment.

E. Filing Shoreline Conditional Use Permits with the Department of Ecology - Review of Conditional Use Permits

After the decision maker has made a final decision on a Conditional Use Permit application, the Administrator ~~shall~~must file the Permit with the Department of Ecology for its approval, approval with conditions, or denial. A permit data sheet in the form provided under WAC 173-27-990 ~~shall~~must be submitted to the Department of Ecology with each Conditional Use Permit. The Department of Ecology will issue its decision on a Conditional Use Permit within thirty (30) days of filing. Filing is not complete until all the required documents have been received by the Department of Ecology.

Upon receipt of the Department of Ecology's decision, the Administrator ~~shall~~must notify those interested persons who requested notification of such decision.

Development authorized by a Conditional Use Permit ~~shall~~must not begin until twenty-one (21) days from the date the Department of Ecology renders a decision on the Conditional Use Permit and transmits that decision to the Administrator (date of filing). The Department of Ecology ~~shall~~must notify the Administrator of the date of filing on an individual Conditional Use Permit. In the event of an appeal refer to the provisions of RCW 90.58.140 for when construction work may begin.

3.2 Variances

A. Purpose

The purpose of a Variance Permit is strictly limited to granting relief to specific bulk,

dimensional, or performance standards set forth in the Master Program where there are extraordinary circumstances relating to the physical property or configuration of property such that the strict implementation of the Master Program would impose unnecessary hardships on the applicant, including but not limited to denying reasonable use of a property. Shoreline uses specifically listed as "prohibited" ~~shall~~must not be eligible for consideration as a Shoreline Variance.

B. Shoreline Variance Process

Description

Variances are requests to adjust the applicable setback and/or bulk and dimensional requirements established by this Shoreline Master Program. Use variances are prohibited.

Process

Shoreline Variance Permits will be processed by the Administrator subject to public notice, comment, and a public hearing. The decision maker ~~shall~~must be as provided in the Shoreline Master Program of the Anacortes Municipal Code.

Application

1. An application for a Shoreline Variance ~~shall~~must be submitted on a form provided by the Administrator and accompanying material provided as required.

2. An applicant for a Substantial Development Permit who wishes to also request a Variance ~~shall~~must submit the Variance application and the Substantial Development Permit application simultaneously.

C. Variance Approval Criteria

The following criteria ~~shall~~must be used in evaluating Variance applications:

1. Criteria for Granting Upland Variances. Variance Permits for development that will be located landward of the ordinary high water mark, including those areas designated by the Department of Ecology as wetlands pursuant to WAC 173-22, may be authorized provided the applicant can demonstrate all of the following:

    a. That the strict requirements of the bulk, dimensional, or performance standards set forth in the Master Program preclude or significantly interfere with a reasonable use of the property not otherwise prohibited by the Master Program.

    b. That the hardship described in subsection (a) above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program, and not, for example, from deed restrictions or the applicant's own actions.

c. That the design of the project will be compatible with other authorized uses in the area and will not cause adverse effects to adjacent properties or the shoreline environment.

d. That the variance requested will not constitute a grant of special privilege not enjoyed by the other properties in the area;

e. That the variance requested is the minimum necessary to afford relief;

f. That the public interest will suffer no substantial detrimental effect.

2. Criteria for Granting Variances Waterward of Ordinary High Water. Variance Permits for development that will be located either waterward of the ordinary high water mark (OHWM) or within wetlands as designated in WAC 173-22, may be authorized provided the applicant can demonstrate the following:

a. That the public rights of navigation and use of the shorelines will not be adversely affected by granting the Variance;

b. That the strict application of the bulk, dimensional or performance standards set forth in the Shoreline Master Program precludes all reasonable use of the property;

c. That the proposal is consistent with the criteria established under subsection 1.b. through 1.f. of this section.

3. In the granting of all Variances, consideration ~~shall~~must be given to the cumulative impact of additional requests for like actions in the area. For example, if Variances were granted to other developments in the area where similar circumstances exist, the total of the Variances should also remain consistent with the policies of RCW 90.58 and should not produce substantial adverse effects to the shoreline environment.

4. Requests for varying the use to which a shoreline area is to be put are not requests for variances, but rather requests for conditional uses. Such requests ~~shall~~must be evaluated using the Conditional Use Permit criteria set forth above, but are limited to uses classified as such or for uses that are not listed.

D. Filing Variance Permits with the Department of Ecology - Review of Variance Permits

After the decision maker has made a final decision on a Variance Permit application, the Administrator ~~shall~~must file the Permit with the Department of Ecology for its approval, approval with conditions, or denial. A permit data sheet in the form provided by WAC 173-27-990 ~~shall~~must be submitted to the Department of Ecology with each Variance Permit. The Department of Ecology will issue its decision on a Variance Permit within

thirty (30) days of filing. Filing is not complete until all the required documents have been received by the Department of Ecology and the Attorney General.

Upon receipt of the Department of Ecology's decision, the Administrator ~~shall~~must notify those interested persons who requested notification of such decision.

Development authorized by a Variance Permit ~~shall~~must not begin until twenty-one (21) days from the date of filing (the date the Department of Ecology renders a decision on the Variance Permit and transmits that decision to the Administrator). The Department of Ecology ~~shall~~must notify the Administrator of the date of filing on an individual Variance Permit. In the event of an appeal refer to the provisions of RCW 90.58.140 for when construction work may begin.

3.3 Nonconforming Development

Nonconforming development includes shoreline uses and structures which were lawfully constructed, established, or created 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. In such cases, the following standards ~~shall~~must apply:

3.4 Nonconforming Uses

3.4.1 Nonconforming uses includes 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. Any nonconforming use may be continued subject to the following standards:

a. Change of ownership, tenancy, or management of a nonconforming use ~~shall~~must not affect its nonconforming status; provided, that the use does not significantly change or intensify;

b. Additional development of any property on which a nonconforming use exists ~~shall~~must 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;

d. A nonconforming use which is moved any distance must be brought into conformance with the Master Program and the Act;

e. If a nonconforming use is discontinued for a period of 365 or more consecutive calendar days, it ~~shall~~must lose its

nonconforming status, and the continued use of the property ~~shall~~must be required to conform to the provisions of this Master Program and the Act.

3.4.2 A nonconforming use which is destroyed or substantially damaged by fire or other act of nature (or accident) may be resumed provided that any structure occupied by the nonconforming use may be rebuilt to the same or smaller configuration existing immediately prior to the time the structure was destroyed.

3.4.3 The change from one nonconforming use to another use not permitted in the shoreline environment may be authorized as a Conditional Use Permit if it is determined that the new use is no more detrimental to the property in the shoreline environment and vicinity than the existing use, the existing structures are unsuited for a use permitted in the environment, and the criteria for a Conditional Use Permit are met.

3.5 Nonconforming Structures

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 environment designation in which they are located. A nonconforming structure may be maintained as follows:

3.5.1 A nonconforming structure which is destroyed by fire or other act of nature (or accident) may be rebuilt to the same or smaller configuration existing immediately prior to the time the structure was destroyed, provided that such rebuilding ~~shall~~must be completed within two years of destruction, unless an extension for just cause is granted, and the replacement structure does not warrant new shoreline armoring.

3.5.2 A nonconforming building or structure may be repaired and maintained as provided in and as limited by this section. The maintenance of such building or structure ~~shall~~must include only necessary repairs and incidental alterations, which alterations, however, ~~shall~~must not increase the nonconformity of such building or structure in any direction; provided, that necessary alterations may be made as required by other law or ordinance.

3.5.3 The Shoreline Administrator ~~shall~~must determine the replacement cost of a structure.

3.5.4 A building or structure, nonconforming as to the bulk, dimensional and density requirements of this title, may be added to or enlarged if such

addition or enlargement conforms to the regulations of the shoreline environment in which it is located. In such case, such addition or enlargement ~~shall~~must be treated as a separate building or structure in determining conformity to all of the requirements of this title.

3.5.5 A structure for which a variance has been issued ~~shall~~must be considered a legal nonconforming structure and the requirements of this section ~~shall~~must apply as they apply to preexisting nonconformities.

3.6 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 the 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:

3.6.1 **Consolidation Clause** Where two or more contiguous lots of record are under one ownership and one or more of the lots is nonconforming, they are considered to be consolidated and may not be sold or otherwise separated so as to create any resulting nonconforming lots.

3.6.2 **Exemptions** The following ~~shall~~must be exempt from the nonconforming lot consolidation requirements set forth in section 3.6:

a. Any transfer, sale or conveyance of a nonconforming lot or lots for the purpose of acquisition of property to preserve environmentally sensitive areas;

b. Any transfer, sale or conveyance of a nonconforming lot or lots to the City of Anacortes;

c. Any transaction for the sale or conveyance of a nonconforming lot or lots where the parties executed a real estate purchase and sale agreement, real estate contract or other legally valid transaction document on or before the 1994 Zoning Ordinance adoption date of April 4, 1994;

d. Any transfer, sale or conveyance of a fully developed nonconforming lot that is contiguous with another fully developed lot under the same ownership, conforming or nonconforming; provided, that both lots were fully developed prior to April 4, 1994.

3.6.3 All new structures or additions to structures on any lot ~~shall~~must meet all buffer, setback, height and other construction requirements of the

Master Program, the Act, and ~~shall~~must also comply with all applicable engineering design standards.

3.6.4 A lot line adjustment or restrictive covenant approved by the City ~~shall~~must be required prior to issuance of a building permit when a nonconforming lot or lots and a conforming lot are contiguous and owned by the same person(s)/entity.

3.6.5 Notwithstanding this section, for any lots created by platting prior to 1937 (the effective date of the State Subdivision Act, RCW 58.17), the City may require compliance with RCW 58.17 and AMC for Land Divisions prior to issuing building permits for the development of lots in common ownership. The applicant ~~shall~~must comply with the requirements of AMC Chapter 19.32~~16~~ AMC, ~~Subd~~Land Divisions.

3.7 Permit Filing Procedures

3.7.1 After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the City will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require both Conditional Use Permits and or Variances must be mailed simultaneously with any Substantial Development Permits for the project.

a. The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents.

b. Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one day appeal period starts with the date of filing, which is defined below:

i. For projects that only require a Substantial Development Permit: the date that Ecology receives the City's decision.

ii. For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City.

iii. For SDPs simultaneously mailed with a CUP or Variance to Ecology: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City.

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3.8 WSDOT Project Procedures

3.8.1 The City will conduct permit reviews for WSDOT projects on state highways within 90 days, pursuant to RCW 47.01.485.

CHAPTER 4 MASTER PROGRAM ELEMENTS: GOALS & POLICIES FOR THE ANACORTES SHORELINE MASTER PROGRAM

4.1 Introduction
4.2 Shoreline Use Element
4.3 Economic Development Element
4.4 Circulation Element
4.5 Public Access Element
4.6 Recreational Element
4.7 Conservation Element
4.8 Restoration Element
4.9 Historic, Cultural, Scientific and Educational Element

4.1 Introduction

This section contains goals that form the foundation of the Shoreline Master Program and apply to all areas of Anacortes shoreline jurisdiction, regardless of the designated shoreline environment. The Shoreline Management Act requires cities to adopt goals, or "elements," to guide and support major shoreline management issues. RCW 90.58.100(2)

4.2 Shoreline Use Element

A. Purpose

As required by 90.58.100(2)(d) RCW, this section addresses the proposed general distribution, location and extent of uses on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land.

B. Goal

To establish and implement policies and regulations for land uses that are consistent with the requirements of the Act, the Shoreline Master Program Guidelines, and the GMA, and which promote a mixture of reasonable and appropriate shoreline uses that enhance the City's character, emphasize its connection with marine trades, foster its historic and cultural identity, protect environmental resources, and achieve a net ecosystem improvement over time.

C. Policies

Policy 4.2.1 Identify and designate those shoreline areas suited for particular long term uses, including conservancy, recreational, residential, commercial, and industrial.

Policy 4.2.2 Avoid uses which would pre-empt preferred shoreline uses as contemplated by the Shoreline Management Act.

Policy 4.2.3 Maximize water-dependent and water-related uses in appropriate locations.

Policy 4.2.4 Encourage marine trades and water-oriented uses that are in keeping with the historical character of the area.

Policy 4.2.5 Enhance public access and achieve no net loss of shoreline ecological functions by appropriately locating, designing, and operating all activities, development, and redevelopment.

Policy 4.2.6 Develop existing public view and access easements to facilitate public access to the water and to the shoreline and pursue additional public access opportunities. Private access opportunities are not limited by this policy.

4.3 Economic Development Element

A. Purpose

As required by RCW 90.58.100(2)(a), this section addresses the location and design of industries, industrial projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce, and other developments that are particularly dependent on their location on or use of the shorelines of the state. This section also provides consistent policies and plans which promote the State's constitutional reservation of harbor areas for use by commerce and navigation and are consistent with marine resource protection.

B. Goal

To foster a balanced, diversified, and sustainable marine oriented service in the local economy that contributes to Anacortes' high quality of life, through the protection and enhancement of the community's natural, historical, and cultural amenities, and the improvement of the financial well being of its residents.

C. Policies

Policy 4.3.1 Provide opportunity for development of water-dependent commercial and industrial uses, preferably at locations that are currently developed or at locations outside of critical habitat areas.

Policy 4.3.2 Plan so that deep water sites are available for uses requiring such sites.

Policy 4.3.3 Establish multiple-use commercial and industrial sites for compatible, water-oriented development activities.

Policy 4.3.4 Encourage public access to the water and the shoreline in commercial

areas.

Policy 4.3.5 Maintain and improve existing water quality to make waters attractive to recreational users, and where appropriate, encourage uses complementary and compatible with recreational development.

Policy 4.3.6 Detailed consideration should be given to enhancing the habitat function of Fidalgo Bay to provide greater resource protection and improved opportunities for recreation, tourism, and commercial fisheries.

Policy 4.3.7 Support and maintain maritime industries and visitor services as significant components of the area economy.

Policy 4.3.8 Give priority to new shoreline commercial and industrial development that is water-dependent or water-related or which provides a significant public benefit in the form of restoration of ecological functions, and enhancement of public access and for revitalization of historic resources.

Policy 4.3.9 Strengthen the marine trades economy while protecting the natural environment and increasing public use of shoreline areas.

a. Maintain and enhance Anacortes' character as a working waterfront City by allowing marine-related commerce and industry in appropriate shoreline areas.

b. Assist the Port of Anacortes in the development and implementation of plans for Port properties that are consistent with the Growth Management Act and the Shoreline Master Program.

c. Plan and design shoreline open spaces that are compatible with marine-related industrial and commercial uses of shoreline areas.

d. Promote the skill, motivation, and availability of Anacortes' marine trade workforce as a regional resource of major importance to the City and County's economic future.

e. Encourage governmental and non-profit agencies to work with local firms to identify and transfer technology that can increase marine trade's competitiveness.

f. Encourage the creation of marine trade jobs, including jobs dependent upon traditional skills, construction techniques, and materials, such as: sail and canvas accessory manufacture; spar and rigging construction; marine-oriented carpentry; construction of wooden boats; blacksmithing; and block-making and casting,

as well as more modern skills and trades.

i. Support educational and vocational training efforts aimed at enhancing marine trades skills, including mentorship and apprenticeship programs.

ii. Promote marine trade enterprises on Port owned lands by working with the Port of Anacortes.

Policy 4.3.10 The Fidalgo Bay Navigation Channel is a critically important deep water access to the marine industries located on the City's Fidalgo Bay industrial and commercial marine zones. The current employment level in these zones exceeds 1500 and has the potential to double over the next 20 years.

The Fidalgo Bay Navigation Channel should be maintained at its current federally authorized depth of -18 feet. The existing waterfront connections to this channel and the upland connections to the water access should be protected from encroachments (unless relocated to an adjacent location). Provided that impacts are fully mitigated, additional connections should be given the highest priority.

4.4 Circulation Element

A. Purpose

As required by 90.58.100(2)(d) RCW, this section addresses the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element.

B. Goal

To achieve safe, convenient, non-motorized-friendly, and diversified circulation systems to provide public access to the shoreline and 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.

C. Policies

Policy 4.4.1 Maintain and improve existing navigation channels to serve water-dependent uses and develop new navigation channels where appropriate. New navigation channels shall be adequately mitigated.

Policy 4.4.2 Motorized land transportation routes should be located as far as reasonably possible from the water's edge, except where needed to access water-dependent uses.

Policy 4.4.3 When possible, improve existing transportation facilities to enhance economic, recreational, and visual benefits to the public.

Policy 4.4.4 Assure that shore located activities provide sufficient parking in areas which avoid possible adverse impacts to water quality or shoreline views.

Policy 4.4.5 Require the installation of native vegetation adjacent to transportation facilities.

Policy 4.4.6 The City should protect the former Burlington Northern right-of-way from the railroad trestle to the Port marine terminal facilities for future transportation planning and development.

4.5 Public Access Element

A. Purpose

This section makes provisions for public access to the shoreline as required by 90.58.100(2)(b) RCW.

B. Goal

To provide, maintain, and enhance a safe, convenient, and balanced system of public access, both physical and visual: a system that increases the amount and diversity of opportunity for the public to enjoy the shorelines of the state, including access for people with disabilities to the extent feasible, while respecting the rights of private ownership; a system that is respectful of fragile natural features of the shorelines; and, strives to maintain the character of the community.

C. Policies

Policy 4.5.1 Provide for public access to shorelines in City parks and recreation plans.

Policy 4.5.2 Increase opportunities for public view sites and identify publicly owned access areas through appropriate signing.

Policy 4.5.3 Use street ends abutting shorelines for public access and view easements, and develop lateral access along the waterfront connecting access points unless an alternative public access plan has been agreed to by the City.

Policy 4.5.4 Provide incentives for public shoreline access opportunities in private developments.

Policy 4.5.5 Encourage development of facilities (restaurants, shops, markets) which attract the public to appropriate shoreline areas.

Policy 4.5.6 Locate a public fishing pier along the Guemes channel with priority to co-locating with an existing facility; the location has yet to be determined.

Policy 4.5.7 Incorporate design standards for appropriate building design and landscaping including but not limited to height, bulk, scale, setbacks, signage, lighting, and preservation of view corridors to protect and enhance public access; encourage the use of native vegetation where landscaping is required.

Policy 4.5.8 Preserve and enhance shoreline access areas through acquisition, enhancement of shoreline street ends, signage of public access points, and designation and design of specific shoreline access areas for small vessels such as kayaks.

Policy 4.5.9 Promote a coordinated system of connected pathways, sidewalks, passageways between buildings, beach walks, and shoreline access points that increase the amount and diversity of opportunities for walking and chances for personal discoveries.

Policy 4.5.10 Provide access for a range of users including pedestrians, cyclists, boaters, and people with disabilities to the extent feasible.

Policy 4.5.11 Vary public access opportunities by providing a range from urban water walks to viewing platforms of natural areas.

Policy 4.5.12 Expand the amount and diversity of shoreline public access opportunities consistent with the character, functions, and values of the shoreline, private property rights, and public safety.

Policy 4.5.13 Encourage plans by existing industries and public agencies occupying waterfront lands, including the Port of Anacortes and Washington State Ferries, to provide as much public accessibility to the water as practicable, consistent with public safety, homeland security concerns, and the protection of shoreline ecological functions.

Policy 4.5.14 Develop a waterfront trail along the Guemes Channel connecting Washington Park to Downtown and the Tommy Thompson Trail, while providing protection of intact shoreline ecological functions or enhancement to shoreline functions where impaired conditions exist and where such enhancements are feasible.

4.6 Recreational Element

A. Purpose

As required by 90.58.100(2)(c) RCW, this section provides for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas.

B. Goal

To develop and maintain appropriate public and private recreational opportunities that are compatible with adjacent uses and that minimize and mitigate for disruption and degradation of the shoreline environment, recognizing the importance of existing park, trail, and recreation areas.

C. Policies

Policy 4.6.1 Increase opportunities for water-oriented recreation in coordination with the Port of Anacortes and Skagit County.

Policy 4.6.2 Develop priorities for acquisition of public recreation and access sites in shoreline areas, particularly those providing lineal access, and acquire sites through purchase or easements.

Policy 4.6.3 Encourage development of private recreational facilities.

Policy 4.6.4 Provide a balance of active recreational and passive open spaces.

Policy 4.6.5 Do not allow public recreation sites to exceed their capacity to sustain the recreation experience sought by visitors.

Policy 4.6.6 Do not allow conflicting recreational uses to decrease a site's primary recreational value.

Policy 4.6.7 All uses abutting the Fidalgo Bay waterfront should provide a walkway that will constitute a segment of a continuous, publicly accessible esplanade (the walkway should be at least ten feet wide) unless an alternative public access plan has been agreed to by the City.

Policy 4.6.8 Prohibit recreational facilities and activities that even after mitigation are reasonably projected to significantly degrade fragile shoreline ecosystems and ecological functions.

Policy 4.6.9 Public recreation facilities should be planned and designed to augment and enhance private recreation facilities and vice versa.

Policy 4.6.10 Unique shoreline recreational areas and vistas should be preserved for future generations.

Policy 4.6.11 Recreational planning and development should recognize the wide variety of needs generated by the diverse local and regional population.

Policy 4.6.12 Commercial recreational developments should conform to relevant regulations contained in this Shoreline Master program.

Policy 4.6.13 Recreational developments, public and private, should be located,

constructed, and operated so as not to be a hazard to public health and safety nor should they materially interfere with normal public use of the water and shorelines.

4.7 Conservation Element

A. Purpose

This section addresses the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and fish and wildlife habitat that are required by 90.58.100(2)(f) RCW.

B. Goal

To preserve**,** protect, enhance and restore shoreline natural resources including scenic vistas, aesthetics, estuaries, beaches, shorelines, fragile ecological areas, fish and wildlife habitats, native vegetation and landforms, water, and air.

C. Policies

Policy 4.7.1 Preserve, protect, enhance and restore critical areas and shoreline ecological processes and functions through regulatory and non-regulatory means that may include required vegetated shoreline setbacks, acquisition of key properties, regulation of development, and incentives to encourage ecologically sound design and maintenance.

Policy 4.7.2 Locate, design, construct, and operate development so as not to degrade water quality as measured by state water quality standards**.**

Policy 4.7.3 Achieve no net loss of shoreline ecological functions. This shall be accomplished by the use of Mitigation Sequencing, as defined in this master program, and as provided by WAC 173-26-201(2)(e).

Policy 4.7.4 Identify unique and sensitive shoreline areas for permanent protection.

Policy 4.7.5 Develop and apply appropriate conservation practices in public shoreline areas.

Policy 4.7.6 Establish a "significant areas" acquisition fund designed to provide for acquisition and public land banking of privately-held priority properties as a "development mitigation" strategy.

Policy 4.7.7 Develop and design performance standards which will minimize detrimental impacts of development upon the shoreline.

Policy 4.7.8 Encourage study and monitoring of waters and shoreline habitats; maintain awareness of existing conditions and future alterations.

Policy 4.7.9 In conjunction with State regulatory and resource agencies, affected

tribes, and the County, establish clear requirements for mitigating development-related impacts to resources. These could include a pre-approved set of mitigation projects, activities and strategies upon which permit applicants could focus their mitigation plans.

Policy 4.7.10 Support research and demonstration efforts designed to create new eelgrass beds which, if successfully developed, could serve as an eelgrass mitigation bank.

Policy 4.7.11 All soils disturbed by use activities, and which are potentially erodable or unstable should be stabilized through seeding, mulching, terracing or other effective means.

Policy 4.7.12 Development on unique or fragile shoreline areas should be avoided unless it can be shown in the proposal that development will not degrade the shoreline, or that the development will enhance public use of shoreline resources while fully mitigating for impacts to fragile areas.

Policy 4.7.13 Shorelines are to be kept free of discarded waste materials.

Policy 4.7.14 Existing street rights-of-way or utility easements which offer physical or visual access to the shorelines or water body should be maintained in public ownership for resource conservation and as a recreational and public view resource.

Policy 4.7.15 The City shall ensure that permit approval from the U.S. Department of the Army, Corps of Engineers, is secured for all construction and work performed in navigable waters of the United States; permit approval of this agency is also required for the discharge of dredged or fill material on wetlands adjacent and contiguous to navigable waters of the United States.

Policy 4.7.16 Mitigation for all proposed shoreline development should comply with Mitigation Framework requirements (Revised Final Integrated Fidalgo Bay-Wide Plan & EIS, 2000 & EIS, Chapter VIII).

Policy 4.7.17 Protect existing shoreline trees and other shade vegetation, especially in areas where surf smelt and/or sand lance spawning has been documented.

Policy 4.7.18 The maximum width for either the wetland buffer or the shoreline setback must be applied for the portion of the wetland that lies within the shoreline setback.

4.8 Restoration and Adaptive Management Element

A. Purpose

Consistent with the Shoreline Management Act's policy on protection and restoration of environmental resources of the shoreline, this section addresses the requirement to achieve no net loss of ecological functions necessary to sustain shoreline natural resources and to provide for the restoration of impaired ecological functions.

B. Goal

To achieve no net loss of ecological functions and strive to improve impaired shoreline ecological functions with the goal of achieving improvement over time, when compared to the status at the time of adoption of the Master Program.

C. Policies

Policy 4.8.1 Implement the Restoration Plan included in Appendix B of this Master Program.

Policy 4.8.2 Encourage projects that restore/rehabilitate/enhance shoreline resources. Strategies may include but are not limited to a simplified permit process, reduced or waiver of permits fees, public outreach, encouraging landowners to replant with native vegetation, tax relief, transfer of development rights, and City participation.

Policy 4.8.3 Provide incentives for restoration by implementing tools which may include, but are not limited to: modifying the shoreline setback area that would apply to the restored areas or allowing a greater range of uses or flexible development standards (e.g., setbacks, height limits, lot coverage) on properties providing restoration.

Policy 4.8.4 Craft a preferential tax incentive in coordination with the County through the Public Benefit Rating System administered by the County under the Open Space Taxation Act (RCW 84.34) to encourage private landowners to preserve natural shoreline features for “open space” tax relief.

Policy 4.8.5 Employ Adaptive Management: Monitor and analyze the cumulative impacts of development permitted in shoreline areas, including development exempt from a Shoreline Substantial Development Permit. Where impacts are occurring beyond that anticipated, the City should revise the Master Program to address the cumulative impacts, and/or revise the conditions of approval of developments to address the new information.

Policy 4.8.6 Mitigation for new development projects should use enhancement of

degraded conditions to offset the impacts of the new development near shoreline resources.

Policy 4.8.7 During the project review process, mitigation for impacts of the development should emphasize restoration of ecological functions.

4.9 Historic, Cultural, Scientific, and Educational Element

A. Purpose

Protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values.

B. Goal

To ensure the recognition, preservation, protection, and restoration of shoreline areas that have historical, cultural, educational, or scientific value and create a unique "sense of place" in the shoreline jurisdiction.

C. Policies

Policy 4.9.1 Foster greater appreciation for the importance of shoreline management, environmental conservation, and maritime history and activities by encouraging educational projects and programs.

Policy 4.9.2 Ensure that new development is compatible with existing historic structures and cultural areas, and that it promotes the creation of our own legacy for the future.

Policy 4.9.3 Encourage the rehabilitation, renovation, and adaptive reuse of upper floors of historic buildings (e.g., for artist studios, permanent housing, and office space).

Policy 4.9.4 Encourage public and private groups to research and study areas of historical tribal or cultural significance.

Policy 4.9.5 Areas of historical or cultural significance should be considered in park and recreation planning.

Policy 4.9.6 Develop guidelines to direct private and public development with regard to historic structures and areas.

CHAPTER 5 SHORELINE ENVIRONMENTS & ASSOCIATED POLICIES AND REGULATIONS

5.1 Introduction
5.2 Authority
5.3 Shoreline Environment Designations
5.4 Official Shoreline Environments Designation Map
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5.7 Natural
5.8 Conservancy
5.9 Shoreline Residential
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5.11 Urban Maritime
5.12 Shoreline Use and Modification Matrix and Development Standards

5.1 Introduction

The intent of designating shoreline environments is to encourage development that will enhance the present or desired character of the shoreline. To accomplish this, segments of shoreline are given an environment designation based on existing development patterns, the biological and physical character of the shoreline, and the aspirations of the local community as expressed through the comprehensive plans and criteria of the Guidelines – Chapter 173-26 WAC.

Environment designations are categories that reflect the type of development that has, or should take place in a given area. The scheme of classifications represents a relative range of development, from high to low intensity land use, and targets types of development to specific areas. The environment classification scheme is intended to work in conjunction with local comprehensive planning and zoning.

Management policies are an integral part of the environment designations and are used for determining uses and activities that can be permitted in each environment. Specific development regulations specify how and where permitted development can take place within each shoreline environment. Development regulations in this chapter generally govern use, height limits, and setbacks. Additional policies and development regulations are provided for specific situations, uses and developments in other chapters of this Master Program.

5.2 Authority

Local governments are required, under the Washington State Shoreline Management Act of 1971 through WAC 173-26, to develop and assign a land use categorization system for shoreline areas as a basis for effective shoreline master programs. 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 of these shoreline segments.*
>
> *The method for local government to account for different shoreline conditions is to assign an environment designation to each distinct shoreline section in its jurisdiction. The environment designation assignments provide the framework for implementing shoreline policies and regulatory measures specific to the environment designation.*

5.3 Shoreline Environment Designations

The Anacortes classification system consists of six shoreline environments that are consistent with, and implement the Washington State Shorelines Management Act (Chapter 90.58 RCW), the Shoreline Master Program Guidelines (Chapter 173-26 WAC), and the City of Anacortes Comprehensive Plan. These environment designations have been assigned consistent with the corresponding designation criteria provided for each environment. In delineating environment designations the City of Anacortes aims to assure that existing shoreline ecological functions are protected with the proposed pattern and intensity of development. Such designations should also be consistent with policies for restoration of degraded shorelines. The six shoreline environments are:

5.6 Aquatic
5.7 Natural
5.8 Conservancy
5.9 Shoreline Residential
5.10 Urban
5.11 Urban Maritime

These shoreline environments are based on those provided in the state Shoreline Master Program Guidelines and include designation criteria and management policies that recognize the unique characteristics of Anacortes and specific areas of the shoreline. Undesignated areas within shoreline jurisdiction shall be considered "Conservancy".

5.4 Official Shoreline Environments Designation Map

A. Map Established

The location and extent of areas under the jurisdiction of this Master Program, and the boundaries of the various shoreline environments affecting the lands and waters of the

City shall be as shown on the map, entitled, "Official Shoreline Environments Designation Map, City of Anacortes, Washington." The official shoreline map and all the notations, references, and amendments thereto and other information shown thereon are hereby made a part of this Master Program, just as if such information set forth on the map were fully described and set forth herein.

B. File Copies

The official shoreline map shall be kept on file in the office of the City of Anacortes Planning Department, the Washington State Department of Ecology, and the Washington State Code reviser. Unofficial copies of the map may be prepared for administrative purposes.

C. Map Amendments

The designation map is an integral part of this Master Program and may not be amended except upon approval by the City and the Washington State Department of Ecology, as provided under the Shoreline Management Act.

D. Boundary Interpretation

Where uncertainty or conflict may occur in the exact location of a jurisdictional or shoreline designation boundary line, the Shoreline Administrator shall rely upon the criteria contained in RCW 90.58.030(2) and chapter 173-22 WAC pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map. Undesignated shorelines will be designated Conservancy.

5.5 Shorelines of Statewide Significance

A. Introduction

The Shoreline Management Act designates certain shoreline areas as "shorelines of statewide significance." The state puts added emphasis on these areas to ensure that they are protected for the long-term interests of the people of the state.

The Shoreline Management Act states that the interests of all of the people of the state shall be paramount in the management of Shorelines of Statewide Significance.

B. Areas Designated

Within the Anacortes shoreline jurisdiction, the waters of Puget Sound and Strait of Juan de Fuca lying seaward from the line of extreme low tide are designated as Shorelines of Statewide Significance. Padilla Bay, from March Point to William Point, is also identified as a specific estuarine area and is considered a Shoreline of Statewide Significance waterward from the ordinary high water mark and all associated shorelands.

C. Management Policies

Policy 5.5.1 Recognize the order of use preferences established by the Shoreline Management Act in formulating and implementing this Master

Program and any amendments affecting shorelines of statewide significance. This Master Program gives preference to uses, in the following order of preference, that:

a. *Recognize and protect the statewide interest over local interest.* The City will consult with applicable state agencies, affected Indian tribes, and statewide interest groups on proposed actions affecting shorelines of statewide significance.

b. *Preserve the natural character of the shoreline.* Shoreline environment designations and use regulations should direct higher intensity uses away from functionally intact shorelines.

c. *Result in long-term over short-term benefit*. The benefits of new development should be evaluated in light of the long-term impacts on shoreline resources and aesthetics.

d. *Protect the resources and ecology of the shoreline.*

e. *Increase public access to publicly owned areas of the shoreline.* Given that all of Anacortes' shorelines of statewide significance lie seaward of the line of extreme low tide, public access for shorelines of statewide significance pertains to aesthetics and access for recreational uses such as boating and scuba diving.

f. *Increase recreational opportunities for the public on the shoreline.*

g. *Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.*

Policy 5.5.2 In addition to the provisions of this section, all proposed developments and activities within Shorelines of Statewide Significance should comply with Section 5.6 Aquatic and all other appropriate provisions of this Master Program.

5.6 Aquatic

In addition to the aquatic policies and regulations set forth below, proposals involving areas seaward of extreme low tide must comply with the policies for Shorelines of Statewide Significance (section 5.5 above).

A. Purpose

The purpose of the Aquatic designation is to protect, restore and manage the unique characteristics and resources of marine waters, including habitat, ecology, navigation and public enjoyment.

B. Designation Criteria

The Aquatic environment designation is the area located waterward of the ordinary high-water mark. An Aquatic environment designation should be assigned to marine waters and lands waterward of the ordinary high-water mark. The Aquatic environment includes the water surface together with the underlying lands and the water column of such areas.

C. Rationale

The Aquatic shoreline environment allows specific control over potential in-water uses and developments.

D. Management Policies

Uses

Policy 5.6.1 Limit uses and activities within the Aquatic environment to water-dependent uses, ecological restoration and public access/recreational improvements designed to provide access to the shoreline for a substantial number of people, with few exceptions.

Policy 5.6.2 In aquatic areas adjacent to Urban or Urban Maritime designated shorelines, permit water-enjoyment uses in *existing* over-water structures along the Anacortes waterfront built prior to March 1, 2010 or in new structures in the limited instances where they are auxiliary to and necessary in support of water-dependent uses. (For purposes of over-water structures the mere presence of pilings would not meet the definition of an "existing" structure.)

New Over-water Structures

Policy 5.6.3 Allow new over-water structures only for water-dependent and accessory uses, restoration projects, public access, or minor, accessory non-water-dependent Port facilities in conjunction with a water-dependent use. New over-water structures, other than single-family and community piers, must show significant public benefits and approval shall only be granted after consideration has been given to the environmental impacts to public resources.

Policy 5.6.4 Limit the size of new over-water structures to the minimum necessary to support the structures' intended use and encourage multiple-use as a means of reducing impacts of shoreline development and increasing effective use of water resources.

Reuse of Historic Over-water Structures

Policy 5.6.5 Permit minor expansions or rebuilding of historic over-water structures when necessary to provide public access, to facilitate environmental restoration, to facilitate preservation and reuse of historic structures, or to meet building safety codes when in support of a water-dependent use, PROVIDED the structures are rebuilt or expanded using

environmentally-friendly designs and that construction activities implement BMPs. The newly-expanded or rebuilt structure shall provide better habitat function and values to fish and wildlife than the existing structure. Minor is defined as less than a 10% increase in overwater square footage.

Policy 5.6.6 Refurbish or rebuild existing piers and wharves to maintain a modern-day link with the community's maritime history. The refurbishment or redevelopment of existing pier and wharf structures may include water-enjoyment uses PROVIDED the structures are rebuilt or expanded using environmentally-friendly designs and that construction activities implement BMPs. The newly-expanded or rebuilt structure should provide better habitat function and values to fish and wildlife than the existing structure. Non-water-dependent commercial uses should not be allowed over water except in existing or replacement structures or in new structures in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.

Policy 5.6.7 Develop, in coordination with the Port, a moorage float and dock facility for passenger ferries and other seasonal commercial tour vessels.

Design Elements

Policy 5.6.8 All developments and uses should be located and designed to minimize interference with surface navigation, to be compatible with adjacent aquatic and upland uses, and with wildlife resources, and to consider impacts to public view.

Environmental Protection

Policy 5.6.9 Shoreline uses and modifications within the Aquatic environment should be designed and managed consistent with the Environmental Protection policies and regulations of Chapter 6 including, but not limited to, preservation of water quality, habitat (such as eelgrass, kelp, forage fish spawning beaches, etc.), natural hydrographic conditions, and safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

Policy 5.6.10 Remove abandoned over-water structures when they no longer serve their permitted use and provide no environmental benefit.

Policy 5.6.11 Multiple use of over-water facilities is encouraged.

Policy 5.6.12 Private, non-commercial docks for individual residential or community use are allowed. The project should result in no net loss of ecological functions and should pursue alternative alignments or locations to avoid or minimize potential impacts.

Policy 5.6.13 All over water and near-shore developments require habitat assessment of site and adjacent beach sections.

E. Development Regulations

Uses

DR-5.6.1 Prohibited, conditionally permitted, and allowed uses are generally identified in Table 5.1 in Section 5.12 of this Master Program. In addition:

a. Water-dependent uses (e.g., water-dependent recreation and moorage) that are neither prohibited by the adjoining upland environmental designation nor associated with over-water structures are allowed. (For uses involving over-water structures see "New over-water structures" and "Historic Reuse of Over-Water Structures" above and below).

b. Water-oriented ~~recreational~~ uses must be low to moderate in intensity.

Commented [AC12]: Table 5-1, #3

Commented [AC13]: Table 5-1, #3

DR-5.6.2 The over-water footprint shall be designed and located to reduce associated environmental impacts. Strategies may include limiting the size of the footprint to that necessary to support the structure's intended use and/or extending the structure waterward to avoid shading of critical habitat.

DR-5.6.3 Where feasible, over-water facilities shall be designed to accommodate multiple uses consistent with the Aquatic designation as a means of reducing the cumulative effects of numerous structures; cost factors are to be included in the definition of feasible.

Reuse of Historic Over-water Structures

The Shoreline Management Act allows for protection and restoration of historical buildings and the City of Anacortes Comprehensive Plan encourages adaptive reuse of historically significant structures. Several such structures exist along the City's shoreline. These structures include traditional over-water structures (e.g., Nelbro Cannery). The following regulations apply to proposals involving a new, water-enjoyment ~~use~~and/or water-oriented use ~~-~~on an existing structure. (See also Sections 3.3-3.6 and 12.2 - Definitions)

Commented [AC14]: **Table 5-1 #3**

DR-5.6.4 Water-enjoyment uses open to the general public may be permitted as a conditional use on historic over-water structures provided the following conditions are met:

a. The structure is documented on the City's local historic register as a contributing structure.

b. Whenever redevelopment is proposed, the redevelopment proposal must have overall environmental benefits that are greater after the redevelopment or expansion than before, and the applicant shall document how the development will improve shoreline ecological functions. The historic overwater footprint may be altered provided that the revised footprint reduces associated environmental impacts (e.g., a reduced footprint, a design incorporating grates to allow light to penetrate, or even extension of the dock). Minor expansion of existing over-water structures may be permitted when necessary to provide public access where it is currently lacking, for environmental restoration, to preserve historic elements of the structure, or to meet building safety codes.

c. The redevelopment will not result in a reduction in the amount of physical public access to and over the water that currently exists.

d. Where new buildings are proposed on existing or reconstructed historic over-water structures:

    i. At least one third of the over-water structure, including a perimeter walkway, is dedicated for public access and enjoyment of the shoreline.

    ii. The other two thirds must comply with the following: WAC 173-26-231(3)(b) states that water-related and water enjoyment use may be allowed as part of a mixed-use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses, provided the minimum size requirement needed to meet water-dependent use is not violated and the proposal provides improved shoreline ecological functions.

    iii. The design must be approved by appropriate historic preservation agencies as being compatible with and reinforcing of the architectural integrity of the historic district.

e. All public access provisions shall be completed and available for public use upon completion of the first component of development.

f. The City of Anacortes shall be a party to a binding agreement or other mechanisms will be utilized to guarantee the public access and enjoyment provisions are continuously maintained.

g. Any proposed non-water-dependent commercial use must be associated with a water-dependent use and designed to provide

for the public's interaction and enjoyment of the shoreline and provide ecologic restoration.

h. To encourage the preservation of privately owned historic over-water structures and to encourage public access to such structures, commercial uses catering to the general public may be allowed if the structures are part of a mixed use that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives. Such uses include shops, restaurants, specialty stores, small boat rental, visitor moorage, transient lodging, etc. Limited commercial office uses may also be considered.

i. Residential development (e.g., private residences, condominiums, apartments) is not a preferred use of over-water structures and shall be prohibited on any new or refurbished historical over-water structures.

DR-5.6.5 Re-use of historic structures consistent with provisions under SMP Section 8.4, Aquaculture, and WAC 173-26-241(3)(b) Aquaculture Standards, which minimizes overall visual impact to the greatest extent possible.

Commented [AC15]: Table 5-1 #3

Design Elements for all over-water structures

DR-5.6.6~~5~~ All structures that could interfere with navigation shall be marked in accordance with the Coast Guard Private Aids to Navigation.

DR-5.6.7~~6~~ Aquatic developments shall not be approved in narrow channels, shipping lanes, or in other areas where they are a significant hazard to navigation.

DR-5.6.8~~7~~ Structures placed in the Aquatic designation shall blend into the surroundings to the greatest extent feasible utilizing appropriate color(s), texture, non-reflective materials, and other design characteristics; cost factors are to be included in the definition of feasible.

DR-5.6.9~~8~~ All feasible methods shall be employed to minimize over-water noise generation and pollution; cost factors are to be included in the definition of feasible.

DR-5.6.10~~9~~ Structures shall be designed with sensitivity to ecological processes and/or function.

DR 5.6.11~~0~~ Structures placed in the Aquatic designation shall minimize interference with surface navigation, and shall be designed so as to consider impacts to public views and to allow for the safe,

unobstructed passage of fish and wildlife, particularly those species dependent on migration.

DR-5.6.12~~1~~ New structures and uses in the Aquatic designation shall prevent water quality degradation and alteration of natural hydrographic conditions, and shall result in no net loss of ecological functions.

Conditions of Approval

DR-5.6.13~~2~~ Approval of new over-water structures shall include a condition that structures, equipment, and materials shall be removed as soon as practicable upon the cessation of a project's operation or a structure's useful life. Any structure that is damaged or breaks away in the water shall be repaired or removed by the permittee as soon as practicable. Permittees who anticipate a temporary interruption of the use of a facility or structure may be allowed to keep it in its permitted location provided they notify and receive written concurrence from the Administrator. Any structure not utilized for over one (1) year shall be removed by the owner regardless of future anticipated use unless prior permission has been granted by the City's Shoreline Administrator upon showing of good cause (e.g., environmental benefit, potential for reuse consistent with historic character, removal may result in environmental degradation).

DR-5.6.14~~3~~ Permittees shall be liable for all damages to public and private property resulting from their activities and development within the Aquatic designation. The City may require liability insurance beyond that required by the State if it is determined that state requirements are not adequate to cover damages.

5.7 Natural

A. Purpose

The purpose of the Natural designation 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 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, the Shoreline Master Program should include planning for restoration of degraded shorelines within this environment.

B. Designation Criteria

The Natural designation includes those areas that can only accommodate very low intensity uses to maintain the ecological functions and ecosystem-wide processes. A Natural designation should be considered for shoreline areas if *any* of the following characteristics apply:

1. The shoreline is ecologically intact and therefore ecological functions must

be maintained;

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

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

4. The shoreline is in public ownership and has been identified as a restoration opportunity in Appendix B, Shoreline Restoration Plan, and is intended to remain free of development.

Such shoreline areas include largely undisturbed portions of shoreline areas such as lakes, wetlands, estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats.

Ecologically intact shorelines, as used here, means those shoreline areas that retain the majority of their 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. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development.

C. Rationale

The Natural-designated areas in the City of Anacortes remain in a relatively natural state and perform important ecological functions.

D. Management Policies

Uses

Policy 5.7.1 Allow uses that are in keeping with the primary goal of environmental protection. To the extent feasible, new uses and activities should be limited to restoration projects and public access or recreational/educational uses.

Policy 5.7.2 Preserve and enhance ecological functions of the area by appropriately designing permitted uses.

E. Development Regulations

Uses

DR-5.7.1 Prohibited and allowed uses are generally identified in Table 5.1 in Section 5.12 of this Master Program. In addition:

a. Any development that would substantially degrade ecological functions or the natural character of the shoreline (e.g., armoring of the shoreline that would interrupt habitat forming processes taking place within drift cells) is prohibited.

b. Upgrades of existing public facilities where no feasible alternative exists are permitted.

DR-5.7.2 Uses that result in restoration of ecological functions and/or fish and wildlife habitat are encouraged if the use is otherwise compatible with the character of the area.

Height Limitations

DR-5.7.3 No new or expanded building or structure is permitted except as allowed in DR-5.7.1 and Table 5.1, and would be subject to the height limits identified in DR-5.12.B.2 and Table 5.2.

Setbacks

DR-5.7.4 Unless otherwise specified herein, permanent structures, storage, and hard surfaces are prohibited.

Design Elements

DR-5.7.5 Within the Natural designation, removal of vegetation and topsoil is strictly regulated under the Vegetation Conservation provisions of Section 6.5.

F. Legal Description

Washington Park:

Beginning at the intersection of Parcel #32465 or 5919 Cabana Lane and Parcel #32464, thence West and North along the shoreline 6,760 feet to the intersection of Parcel #32393 and Parcel #31552. This area is all within 200 feet of the OHWM.

Washington Park – North Side:

Beginning at a point West of the intersection of Parcel #31552 and Parcel #31551, 919 feet, thence East along the shoreline 1,883 feet to a point 829 feet East of the intersection of Parcel #31552 and Parcel #31551. This area is all within 200 feet of the OHWM.

Shannon Point – West Side:

Beginning at the intersection of Parcel #331554 and Parcel #31556, thence North along the shoreline 2,317 feet to the intersection of Parcel #31555 and Parcel #31547. This area is all within 200 feet of OHWM.

Shannon Point – Lake Shannon:

Beginning at the intersection of Parcel #31547 and Parcel #31548, thence South and East

along the shoreline 1,077 feet to a point 748 feet West of in the intersection of Parcel #31577 and Parcel #31576. Jurisdiction is 200-feet landward of the OHWM and included the associated wetland (Lake Shannon wetland).

Ship Harbor Wetland:

Beginning at a point 636 West along the shoreline of the intersection of Parcel #31668 and Parcel #31667, thence East along the shoreline 1,442 feet to the intersection of Parcel #31667 and Parcel #31666. Jurisdiction is 200-feet landward of the OHWM and included the associated wetland (Ship Harbor wetland).

Cap Sante - SE:

Beginning at the intersection of Parcel #56851 the South line of 6th Street Right of Way, thence South and West along the shoreline 2,534 feet to the intersection of Parcel #56906 and Parcel #56905. This area is all within 200 feet of the OHWM.

Little Cranberry Lake:

The Western, Southern and Eastern shoreline of Little Cranberry Lake and entire shoreline of Big Beaver Pond a distance of 12,210 feet. Jurisdiction is 200-feet landward of the OHWM and included the associated wetland.

Heart Lake:

The Western half of the Heart Lake shoreline a distance of 5,056 feet. This area is all within 200 feet of the OHWM.

Whistle Lake:

The Western, Southern and Eastern shoreline of Whistle Lake a distance of 7,634 feet. This area is all within 200 feet of the OHWM.

Lake Erie:

Beginning at the intersection of Parcel #19038 and Parcel #19044 and traveling Southeast along the shoreline of Lake Erie 1,335 feet to the intersection of Parcel #19044 and Parcel #19152. This area is all within 200 feet of the OHWM.

5.8 Conservancy

A. Purpose

The Conservancy designation is intended to protect and restore the public benefits and ecological functions of open space, floodplain, natural areas and other sensitive lands (e.g., valuable historic, educational, or scientific research areas, areas of high scenic value) where they exist within the City, while allowing a variety of compatible uses. It is the most suitable designation for shoreline areas that possess a specific resource or value that can be protected without excluding or severely restricting all other uses. It should be applied to those areas that would most benefit the public if their existing character is maintained, but which are also able to tolerate limited or carefully planned development

or resource use. Permitted uses may include recreational, cultural, and historic uses provided these activities are in keeping with the goals of protection and restoration as stated herein.

B. Designation Criteria

The Conservancy designation consists of valuable natural, cultural, or historical resources or environmental conditions that should be protected, conserved, and managed so that those resources and areas remain available for the benefit of the public. The Conservancy designation is assigned to appropriate shoreline areas, that is, those planned for development that are compatible with maintaining or restoring ecological functions of the area, and that are generally not suitable for water-dependent uses, if any of the following characteristics apply:

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

C. Rationale

The Conservancy-designated areas in the City of Anacortes are preserved areas of open space that support outdoor recreational uses. Their lack of intense development affords the opportunity for ecological restoration. They also include cultural and historic resources that should be preserved for continued public access.

D. Management Policies

Uses

Protect shoreline functions and resources by limiting, to the extent feasible, new uses and activities in the Conservancy designation to recreational, cultural and historic uses located and designed to avoid shoreline impacts.

Policy 5.8.1 Ensure the preservation of scenic and non-renewable natural resources and the conservation of renewable resources for the benefit of existing and future generations, by limiting permitted uses and assuring that they are located and designed appropriately.

Policy 5.8.2 Encourage the following uses:

a. Uses that preserve the natural character of the area or promote

preservation of open space, culturally or historically significant sites, or sensitive lands, either directly or over the long term.

b. Uses that result in restoration of ecological functions if the use is otherwise compatible with the character of the area.

Policy 5.8.3 Give priority to water-oriented uses over non-water-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses that cannot be reasonably located in other environments should be given highest priority.

Policy 5.8.4 Establish best management standards for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the Conservancy designation to ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

Policy 5.8.5 Public access and public recreation objectives should be implemented in the Conservancy environment whenever feasible.

E. Development Regulations

Uses

DR-5.8.1 Prohibited and allowed uses are generally identified in Table 5.1 in Section 5.12 of this Master Program. In addition:

a. Any development that would reduce the capability of vegetation to perform normal ecological functions or that would have a significant ecological impact on the area is prohibited;

b. The subdivision of property to support additional residential, commercial or industrial uses that would require significant vegetation removal or shoreline modification within the Conservancy designation (i.e., subdivisions lying partially within the Conservancy designation) must ensure that uses and modifications proposed within the Conservancy designation are consistent with this section and that the overall subdivision results in no net loss of ecological functions.

c. As indicated in Table 5.1, development of one residential dwelling unit may be allowed as a conditional use. This provision applies only to existing platted lots and only if the intensity of such use is limited as necessary to protect ecological functions.

d. New roads and utility extensions may be approved as a conditional use only where no feasible alternative exists. Cost factors are to be included in the mitigation sequencing.

DR-5.8.2 Uses that result in restoration of ecological functions and/or enhance fish and wildlife habitat are permitted if the use is otherwise compatible with the character of the area.

Setbacks

DR-5.8.3 Unless otherwise specified herein or in Table 5.2, permanent structures, storage, and hard surfaces shall be set back a minimum of one hundred (100) feet from the ordinary high water mark. Setbacks are measured landward, on a horizontal plane, perpendicular to the ordinary high water mark.

a. To prevent denying reasonable use of a parcel in violation of constitutional or statutory requirements, a single residential dwelling may be allowed within the setback, provided that placement of structures, storage, and impervious surfaces shall be limited to the minimum necessary to allow for reasonable use of the property and impacts to wetlands and habitat functions are mitigated through the Shoreline Variance process.

b. Developments consisting of public access and low-moderate intensity water-oriented recreational uses are not required to meet the one hundred (100) foot setback, but shall be approved through the Shoreline Variance process. However, where such development may be approved within the setback, the placement of structures, storage, and hard surfaces shall be limited to the minimum necessary for the successful operation of the use.

c. Development of public roads, utility corridors, and parking areas that cannot be located outside of Conservancy-designated shorelines are not required to meet the one hundred (100) foot setback, but shall require a Conditional Use Permit. However, further application proposals must include an analysis of alternative locations for siting the proposed development to ensure that all other locations outside of the setback and within the vicinity of the project site have been evaluated. Where such improvements may be approved within the setback, the placement of structures, storage, and impervious surfaces shall be limited to the minimum necessary for the successful operation of the use.

DR-5.8.4 Any other deviations from the required setback shall be reviewed on an individual basis through the Shoreline Variance permit process.

DR-5.8.5 Within the Conservancy designation, removal of vegetation and topsoil is strictly regulated under the Vegetation Conservation provisions of Section 6.5.

Design Elements

DR-5.8.6 For all residential development within shoreline jurisdiction, the area of impervious surfaces (including parking areas, but excluding required right-of-way improvements) to be developed within shoreline jurisdiction shall be limited by the slope of the lot as specified in the following table. Preferential use of Low Impact Development (LID) in sensitive shorelines areas shall be required. The lot calculation includes the entire subject property.

a. Table 5.8.6 – Impervious limits based upon Percent Slope

Slope	**Impervious limit (expressed as a percentage of actual land area)**
15% or less	30%
15-30	25%
Greater than 30%	20%

b. Areas waterward of the ordinary high water mark and areas of marine bluffs, steep slopes, and wetlands shall not be included to calculate land area. For example, only the ~~buildable~~ remaining area landward of the marine bluff edge shall be used in the calculation. Any increases beyond these percentages of impervious surfaces shall require a Shoreline Variance.

Commented [AC16]: Table 5-1 #11

F. Legal Description

Washington Park:

Beginning at the intersection of Parcel #32393 and Parcel #31552, thence North and East along the shoreline 383 feet to a point West of the intersection of Parcel #31552 and Parcel #31551, 919 feet. This area is all within 200 feet of the OHWM.

Washington Park – Boat Launch:

Beginning at a point 829 feet East of the intersection of Parcel #31552 and Parcel #31551, thence North along the shoreline 1,692 feet to the intersection of Parcel #31554 and Parcel #31556. This area is all within 200 feet of the OHWM except for the north 315 feet which is the only area within 100 feet of the OHWM.

Shannon Point:

Beginning at the intersection of the Southwest corner of Parcel #31555 and Parcel #31547, thence East along the shoreline 650 feet to a point 730 feet Northwest of the intersection of Parcel #31547 and Parcel #31548 at Lake Shannon. This area is all within 200 feet of the OHWM.

Guemes Channel – West of Lovrics:

Beginning at a point ~~803~~ 565 feet West of the intersection of Parcel #~~31666~~ 31575 and ~~Parcel #31669~~City Right of Way, thence North and East along the shoreline 6,~~175~~ 740 feet to a point at the intersection of Parcel #31732 and Parcel #31739. This area is all within 100 feet of the OHWM.

Commented [AC17]: Table 4-1 #2

Guemes Channel – East of Lovrics:

Beginning at the intersection of Parcel #31705 and Parcel #31703, thence North and East along the shoreline 1,878 feet to the intersection of Parcel #31538 and Parcel #31532. The West 1,403 feet are within 150 feet of the OHWM. The East 475 feet are within 25 feet of the OHWM.

Guemes Channel – Guemes Ferry:

Beginning at the intersection of Parcel #31530 and Parcel #56024, thence North and East along the shoreline 703 feet to a point 114 feet West of the intersection of Parcel #31523 and Parcel #31540. This area is all within 200 feet of the OHWM.

Cap Sante -SW:

Beginning at the intersection of Parcel #56906 and Parcel #56905, thence West and North along the shoreline 2,280 feet to a point at the intersection of Parcel #56900 and Parcel #56897. This area is all within 200 feet of the OHWM.

Fidalgo Bay – North of Weaverling Spit:

Beginning at the intersection of Parcel #33198 and Parcel #33210, thence South and East along the shoreline 2,880 feet to the intersection of Parcel #33202 and Parcel #33203. This area is all within 200 feet of the OHWM.

Fidalgo Bay:

Beginning at the intersection of Parcel #33440 and Parcel #33439, thence Southeast and Northwest along the shoreline 2,878 feet to a point at the intersection of Parcel #33445 and Parcel #112900. This area is all within 200 feet of the OHWM except for the West 462 feet that are within 150 feet of the OHWM.

Fidalgo Bay:

Beginning at the intersection of Parcel #33271 and Parcel #33268 thence South, East and North to the City limits line on March Point along the shoreline 15,800 feet. This areas is all within 200 feet of the OHWM.

Padilla Bay:

Beginning at a point 454 feet West of the intersection of Parcel #19709 and Parcel #19707, thence Southeast along the shoreline 2,000 feet to a point at the intersection of Parcel #19707 and the Anacortes City Limits. Jurisdiction is 200-feet landward of the OHWM and included the associated wetlands in Parcel #19676.

Little Cranberry Lake:

The Northern shoreline of Little Cranberry Lake a distance of 1,548 feet. This area is all within 200 feet of the OHWM.

Heart Lake:

The Eastern half of the Heart Lake shoreline a distance of 4,295 feet. This area is all within 200 feet of the OHWM.

Whistle Lake:

The Northern shoreline of Whistle Lake a shoreline distance of 782 feet. This area is all within 200 feet of the OHWM.

Lake Erie:

The southernmost point of City Limits, extending 200 feet east from the Lake Erie OHWM to capture portions of Parcels #19152 (5022 Lake Erie Way Anacortes, WA 98221) and #19152.

Commented [AC18]: Table 4-1 #4

5.9 Shoreline Residential

A. Purpose

The purpose of the Shoreline Residential designation is to accommodate residential development and associated structures that are consistent with the Shoreline Management Act, this Master Program, and the protection and restoration of ecological functions. An additional purpose is to provide appropriate public access and recreational uses.

B. Designation Criteria

The Shoreline Residential designation is appropriate for shoreline areas that are planned and platted for residential development. Appropriate infrastructure either exists within these areas or is planned to be extended for the purpose of serving residential development.

C. Rationale

The Shoreline Residential-designated areas are privately owned lands zoned for residential development and have become established as residential neighborhoods. The Shoreline Residential designation is an area of low- and moderate-intensity residential land that maintains significant natural features. Infrastructure either exists or is planned to extend to these areas for the purpose of serving residential development.

D. Management Policies

Uses

Policy 5.9.1 Allow residential uses as the primary allowed uses in the Shoreline Residential designation.

Policy 5.9.2 Allow limited non-residential uses such as community clubhouse, day cares, home occupation businesses, churches, and bed and breakfasts provided they are consistent with the residential character of the neighborhood.

Policy 5.9.3 Implement public access, public education (e.g., interpretive signs), and public recreation objectives whenever feasible while ensuring that significant ecological impacts can be mitigated and private property rights reserved.

Policy 5.9.4 Encourage protection/restoration of ecological functions through proactive public education, reduced setback incentives and stewardship programs.

Design Elements

Policy 5.9.5 Allow development only in those areas where impacts and hazards to or caused by the proposed development can be effectively mitigated and where the environment is capable of supporting the proposed use in a manner that protects ecological functions.

Policy 5.9.6 Minimize impacts to bluffs by requiring shoreline development to implement low impact development (LID) stormwater techniques as described in Low Impact Development, Technical Guidance Manual for Puget Sound (PSAT, January 2005).

Policy 5.9.7 Protect public vista points and views enjoyed by a substantial number of occupied residences by ensuring that new development is sensitively located and designed. Private views of the shoreline, although considered during the review process, are not expressly protected. Property owners concerned with the protection of views from private property are encouraged to obtain view easements, purchase intervening property and/or seek other similar private means of minimizing view obstruction.

Policy 5.9.8 Provide for public access and joint-use of recreational facilities when permitting multi-lot developments (i.e., more than four), multi-family residential, cottage developments and recreational facilities.

Policy 5.9.9 Provide adequate access, utilities, and public services to serve existing needs and/or planned future development.

Policy 5.9.10 While shoreline setbacks based on science are preferred to protect ecological functions, using them may not be feasible where previous development has significantly altered the natural shoreline environment, such as along some parts of Burrows Bay. In such areas, an alternative strategy is established for new and re-development using smaller shoreline setbacks that are based on the existing development

pattern, in combination with mitigation requirements that provide enhancement of existing degraded conditions and offsets impacts of the development on shoreline ecological functions.

E. Development Regulations

Uses

DR-5.9.1 Prohibited and allowed uses are generally identified in Table 5.1 in Section 5.12 of this Master Program.

DR-5.9.2 Limited non-residential uses, such as community clubhouse, day cares, home occupation businesses, churches, and bed and breakfasts, may be allowed, provided they are consistent with the residential character and the underlying zoning.

Height Limitations

DR-5.9.3 New or expanded structures shall be limited to maximum heights as specified in Table 5.2, except the height limit shall not apply to television antennas, chimneys, flagpoles, public utilities, private residential wind-powered generators, and similar appurtenances.

DR-5.9.4 Fill shall not be used as a means to increase the allowable height. See Table 5.2 and Chapter 12 for height definition.

Setbacks

DR-5.9.5 Shoreline Setback - Permanent buildings and structures including common appurtenant structures such as garages and decks over 30 inches above grade shall be set back a minimum of sixty (60) feet from the ordinary high water mark, except for the shoreline along Burrows Bay between the east extent of Croatian Way and Skyline Way which shall have a minimum setback of twenty-five (25) feet from the ordinary high water mark. Patios, decks under 30 inches, or other structural or impervious surfaces, shall be limited to no more than 150 square feet and intrude no more than 10 feet into the shoreline setback. Pathways providing access to the shoreline, not including trams, are allowed but shall utilize pervious materials. Setbacks are measured landward, on a horizontal plane, perpendicular to the ordinary high water mark. Setback requirements shall apply to non-water-dependent structures and uses and do not apply to piers, ramps or docks.

DR-5.9.6 Exceptions from the Shoreline Residential setback may be granted through an administrative approval. Any restrictions or conditions which are tied to the parcel through this exception process shall be recorded on a revised Notice on Title. Such exceptions include:

a. For areas with a setback of 60 feet, reductions of up to twenty-five (25) percent of the standard setback, may be approved if the

applicant demonstrates that either:

i. enhancing the setback (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means) will result in a reduced setback that functions at a higher level than the existing standard setback; or

ii. conditions (existing uses or developments) exist within the site's shoreline setback, which substantially prevent or impair delivery of most riparian functions.

b. If the applicant can demonstrate that a single-family residence or otherwise allowed non water-oriented use cannot be accommodated or accomplished outside of the standard or standard reduced setback, a reduction in the setback width not exceeding fifty (50) percent may be approved administratively. Adequate space for a single-family residence and associated yard is considered to be available when the buildable lot depth is eighty (80) feet or greater as measured from the ordinary high water mark. The approved reduction may be no more than that necessary to accommodate the allowed use. These modifications of standards may be approved with either a Shoreline Substantial Development Permit or, if applicable, a shoreline exemption, where the modification is consistent with underlying zoning regulations and are not anticipated to have adverse impacts on adjacent properties. In such cases, for either single family residences or non-water oriented uses, the City may allow a decrease in front yard setback or side yard setback standards if those actions will reduce or eliminate the need for the shoreline setback reduction. However, any deviation in front yard setback or side yard setback beyond already specified limits may require a zoning variance.

c. The applicant must submit a mitigation plan that addresses the specific habitat components and/or ecological functions that may be lost as a result of either reduction mechanism. Such a mitigation plan shall document how the proposed mitigation accounts for no net loss of ecological functions. Mitigation plan elements, including monitoring and maintenance, shall be included in the plan consistent with mitigation plan requirements outlined in the City of Anacortes shoreline-specific critical areas regulations (see SMP ~~Appendix A and~~ Chapter 6). Plan elements may include one or more of the following:

Commented [AC19]: Table 3-1 #1

i. Restoration of the reduced setback as needed with native

vegetation, including trees and shrubs found in undisturbed riparian areas of Fidalgo Island.

ii. Removal of all or portions of existing shoreline armoring located at, below, or within 5 feet landward of the ordinary high water mark and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, aquatic and upland habitat features, and beach/substrate composition as appropriate.

iii. Opening of previously piped on-site watercourse to allow potential rearing opportunities for anadromous fish. Opened watercourses must be provided with a native planted setback at least ten (10) feet wide on either side of the stream, and must not encumber adjacent properties without express written permission of the adjacent property owner.

iv. Installation of biofiltration/infiltration mechanisms, such as bioswales, created and/or enhanced wetlands, or ponds, that exceed standard stormwater requirements.

v. Installation of pervious materials for driveway, parking or road construction.

d. Where a residential setback was established as part of the approval of a residential subdivision, the established subdivision setback shall take precedence except when such setback has expired or no longer exists per RCW 58.17.170.

e. For developed single-family residential waterfront lots, beach stairs may be allowed where they do not interfere with other areas of public access, do not extend waterward of the ordinary high water mark, and do not impair visual access of the shoreline from neighboring lots.

DR-5.9.7 Deviations from the required setback beyond the allowed exceptions described above shall be reviewed on an individual basis. A request for such a deviation shall be considered a variance following the procedures established under Section 3.2 and will be subject to the variance review criteria established under Section 3.2.C of this Master Program.

DR-5.9.8 Developments consisting of water-dependent scientific, historical, cultural, educational research uses, public access, low-moderate intensity water-oriented recreation open to the general public and ecological restoration are not required to meet the setback requirement. However, where such development may be approved within the

setback, the placement of structures, storage, and impervious surfaces shall be limited to the minimum necessary for the successful operation of the use.

DR-5.9.9 Removal of vegetation and topsoil is strictly regulated under Section 6.5, Vegetation Conservation.

Design Elements

DR-5.9.10 For all residential development within shoreline jurisdiction, the area of impervious surfaces (including parking areas, but excluding required right-of-way improvements) to be developed within shoreline jurisdiction shall be limited by the slope of the lot as specified in the following table. The lot calculation includes the entire subject property.

a. Table 5.9.10 – Impervious limits based upon Percent Slope

Slope	**Impervious limit (expressed as a percentage of actual land area)**
15% or less	30%
15-30	25%
Greater than 30%	20%

b. Areas waterward of the ordinary high water mark and areas of marine bluffs, steep slopes, and wetlands shall not be included to calculate land area. For example, only the ~~buildable~~remaining area landward of the marine bluff edge shall be used in the calculation. A Shoreline Variance is required for reduction of dimensional standards.

Commented [AC20]: Table 5-1 #11

DR-5.9.11 Where riparian vegetation does not exist or is degraded, a minimum of fifteen percent (15%) of the total lot area shall be retained or replanted in native vegetation. Areas to be retained or replanted shall include the largest contiguous, and/or most waterward blocks of native vegetation located on site. If few or no areas of native vegetation remain, the vegetation retention area shall be replanted with species native to shoreline areas of Fidalgo Island. For additions and expansions of existing developments, replanting shall be commensurate with the degree of impact resulting from the new development. For lots which border the OHWM, all revegetation shall take place within the shoreline setback in order to provide the greatest benefit.

F. Legal Description

Skyline Area:

Beginning at the city limits line along Burrows Bay, and inside Flounder Bay a length of

9,860 feet along the shoreline to a point at the intersection of Parcel #60074 or 5801 Kingsway and Parcel #60075 or 1901 Skyline Way. This area is all within 200 feet of the OHWM.

Washington Court:

Beginning at the intersection of Parcel #31554 and Parcel # 31557, thence North 315 feet to the intersection of Parcel #31554 and Parcel #31556. This area is 100 feet inland of the OHWM and 100 feet deep.

Guemes Channel – West of Lovrics:

Beginning at a point ~~803~~ 525 feet West of the intersection of Parcel #~~31666~~ 101413 and City Right of Way~~Parcel #31669~~, thence North and East ~~6,685~~7,210 feet to a point 510 feet East of the intersection of Parcel #31732 and Parcel #31739. This area is 100 feet inland of the OHWM and 100 feet deep.

Commented [AC21]: Table 4-1 #3

Guemes Channel – East of Lovrics:

Beginning at the intersection of Parcel #31705 and Parcel #31703, thence North and East 4,602 feet to the intersection of Parcel #31523 and Parcel #31540. The West 1,413 feet are 150 feet off the OHWM and 50 feet deep. The East 3,189 feet are 50 feet off the OHWM and 150 feet deep.

Cap Sante – NE:

Beginning at the intersection of Parcel #32871 and the East line of the "U" Avenue Right of Way, thence East and South along the shoreline 3,100 feet to the intersection of Parcel #56851 and the South line of the 6th Street Right of Way. This area is all within 200 feet of the OHWM.

5.10 Urban

A. Purpose

The purpose of the Urban designation is to provide for commercial, industrial, and recreational uses; residential uses in some locations; and public land uses while seeking opportunities for protection and restoration of ecological functions.

B. Designation Criteria

The Urban designation is appropriate for areas that currently support or are planned for general commercial or industrial development. The Urban designation is located landward of the ordinary high water mark.

C. Rationale

The Urban-designated areas are zoned for industrial and commercial uses. Existing and planned uses in the Urban designation represent a variety of water-oriented and non-water-oriented uses. In addition, current zoning allows for retail businesses, professional offices, hotels, restaurants, personal service shops, recreational uses, marinas, and

residential uses. The state ferry terminal at Ship Harbor is included in this designation.

D. Management Policies

Uses

Policy 5.10.1 Give priority to water-oriented uses over non-water-oriented uses. First priority should be given to water-dependent uses. Second priority should be given to water-related uses and third priority to water-enjoyment uses. Non-water-oriented uses shall only be allowed if they are part of mixed used developments where the primary use is (1) water-dependent or (2) water-related, or (3) in conjunction with a water-enjoyment use on sites where there is no access to water.

Policy 5.10.2 Encourage uses that enhance ecological functions and/or enhance opportunities for the public use and enjoyment of the shoreline; new development shall not cause a net loss of shoreline ecological functions.

Design Elements

Policy 5.10.3 Ensure that, where applicable, improvements within this district are reviewed for compatibility and consistency with the Design Standards codified in the zoning code.

Policy 5.10.4 Encourage designs that incorporate conservation and restoration elements, such as restoration of intertidal habitat, shoreline vegetation, and enhancement of public access.

Policy 5.10.5 Require, where applicable, new development and/or redevelopment to include environmental cleanup (e.g., removal of contaminated soils) and restoration of the shoreline in accordance with state and federal requirements.

Public Access

Policy 5.10.6 Plan for a public pedestrian walkway system along the Urban waterfront utilizing a combination of natural beaches, pathways, piers, wharves, street-ends, sidewalks, stairways, or other improvements. Although it may not be feasible for the walkway system to be continuous throughout the entire area, it should promote quality pedestrian access to and along major portions of the waterfront. Street-ends should, at a minimum, become developed access points to the shoreline. Linkage between these street-ends should be determined by the physical characteristics of the shorelines, existing development patterns, potential for structural improvements, and other factors relevant to developing a continuous pedestrian system. *Port of Anacortes' Integrated Approach to Marine Public Access, Final Report (October, 2003),* is incorporated by reference into this SMP.

Policy 5.10.7 Encourage designs that enhance pedestrian traffic without impeding vehicular traffic through the use of paving textures, fencing, landscaping, and signage that make a greater distinction between automobile traffic and pedestrian circulation systems.

E. Development Regulations

Uses

DR-5.10.1 Prohibited and allowed uses are generally identified in Table 5.1 in Section 5.12 of this Master Program. In addition:

a. Mini-storage is prohibited.

b. Radio and television towers as a primary use are prohibited.

DR-5.10.2 Development that can be classified as a water-dependent, water-related, or water-enjoyment use shall be permitted.

DR-5.10.3 A limited range of non-water-oriented development, open to the general public, while not preferred, may also be authorized as a conditional use provided said development:

a. Conforms with the criteria set forth for conditional uses in Section 3.1;

b. Is designed and located in manner that capitalizes on shoreline views and is compatible with water-oriented uses;

c. Makes provisions for the public access and enjoyment consistent with this Master Program; and

d. Is part of a mixed-use development or the parcel is separated from the water. *(See WAC 173-26-211(5)(d)(ii)(A)).*

DR-5.10.4 Multi-family residential or transient accommodation (hotel and motel) uses may be permitted provided they meet the requirements for non-water-oriented uses listed in subsections (a)-(d) of DR-5.10.3 and further that said use meets the following terms:

a. Public access and enjoyment shall be the primary design consideration. Private and public space shall be appropriately separated through sensitive design.

b. The development shall be a mixed use project.

c. A maximum of 50% of total floor area may be devoted to multifamily residential and/or transient accommodations; provided that up to an additional 25% of total floor area may be

devoted to multifamily residential and/or transient accommodations upon obtaining a waiver under section f below.

d. The floor area not devoted to multifamily residential and/or transient accommodations shall be used as follows:

   i. No less than 25% of the total floor area of the development shall be devoted to water-oriented uses unless a Conditional Use Permit is obtained under section (f) below.

   ii. The remaining floor area shall be devoted to non-water-oriented uses accessible to the general public (e.g., retail, personal services, recreational and cultural uses) excluding transient accommodations.

e. Ground floor ~~R~~residential uses must meet zoning code compliance under AMC 19.61, Block Frontage Standards~~may only be placed above a commercial ground floor~~.

Commented [AC22]: Table 4-1 #6

f. Restoration/Public Access Incentive – the increase in non-water-oriented use in (c) and the minimum water-oriented use in (d)(i) of this section may be applied through a Conditional Use Permit when the proposal provides restoration of ecological functions, habitat enhancement, and/or provision of public access improvements (e.g., parks, esplanades; etc.), that constitute a significant improvement.

   The following criteria shall apply:

   i. The proposal will provide 'significant improvements' consistent with this Master Program without additional probable significant adverse impacts to public health, safety or the environment, that cannot be adequately mitigated.

   ii. Items that may constitute a 'significant improvement' include; but, are not limited to, (1) preservation of critical shoreline habitat, (2) restoration of impaired ecological functions, (3) dedication to the City of land for a public park or open space, (4) preservation of scenic resources, (5) enhanced public access amenities, and (6) educational opportunities which broaden the public's understanding of the maritime world.

g. Residential and transient accommodation uses must not intrude on the public's use and enjoyment of the shoreline:

h. Building designs that step back from the public area are

encouraged (e.g., upper floors step back from the public area).

DR-5.10.5 Additional allowed, conditional, and prohibited uses for the Urban designation are listed in Table 5.1.

Height Limitations

DR-5.10.6 New or expanded structures shall be limited to maximum heights as specified in Table 5.2.

Setbacks

DR-5.10.7 New, permanent buildings and structures shall be set back a minimum of twenty-five (25) feet from the ordinary high water mark. Setbacks are measured landward, on a horizontal plane, perpendicular to the shoreline. Shoreline setback requirements shall apply to non-water-dependent structures and uses.

DR-5.10.8 Developments consisting of water-dependent scientific, historical, industrial, cultural, or educational research uses, public access, water-oriented recreation and ecological restoration are not required to meet the shoreline setback requirements, nor are piers, ramps or docks.

F. Legal Description

Skyline Area:

Beginning at the intersection of Parcel #60074 or 5801 Kingsway and Parcel #60075 or 1901 Skyline Way, thence following the shoreline around Flounder Bay and Burrows Strait a length of 6,462 feet to the intersection of Parcel #32465 or 5919 Cabana Lane and Parcel #32464. This area is all within 200 feet of the OHWM.

~~**Ferry Terminal:**~~

~~Beginning at a point West of the intersection of Parcel #31577 and Parcel #31576 thence South and East along the shoreline 1,077 feet to a point 636 feet West of the intersection of Parcel #31668 and Parcel #31667. This area is all within 200 feet of the OHWM.~~

Commented [AC23]: Table 4-1 #2

Ship Harbor:

Beginning at the intersection of Parcel #31667 and Parcel #31666, thence East along the shoreline of Guemes Channel 554 feet to a point 803 feet West of the intersection of Parcel #31666 and Parcel #31669. This area is all within 200 feet of the OHWM.

Guemes Channel – Lovric:

Beginning at the intersection of Parcel #31732 and Parcel #31739, thence East along the shoreline of Guemes Channel to the intersection of Parcel #31705 and Parcel #31703. This area is all within 200 feet of the OHWM except for the West 500 feet which is only 100 feet off the OHWM.

Guemes Channel – B-H Ave.:

Beginning at the intersection of Parcel #31538 and Parcel #31532, thence East along the shoreline of Guemes Channel 2,644 feet to the intersection of Parcel #31537 and Parcel #31534. All within 50 feet of the OHWM.

Cap Sante Basin – Fidalgo Bay - South to 34th St.:

Beginning at the intersection of Parcel #56900 and Parcel #56897, thence North, West, and South along the shoreline 11,733 feet to a point at the intersection of Parcel #119601 and Parcel #33196. This area is all within 200 feet of the OHWM.

Fidalgo Bay - Weaverling Spit – North Side:

Beginning at the intersection of Parcel #33202 and Parcel #33203, thence South and East along the shoreline 1,770 feet to a point at the intersection of Parcel #33440 and Parcel #33439. This area is all within 200 feet of the OHWM.

Fidalgo Bay - Weaverling Spit – South Side:

Beginning at the intersection of Parcel #33445 and Parcel #112900, thence West and South along the shoreline 670 feet to a point at the intersection of Parcel #33271 and Parcel #33268. This area is all within 200 feet of the OHWM except for the East 462 feet that are off the OHWM 150 feet and 50 feet deep.

Padilla Bay – South March's Point Road Beginning at the intersection of Parcel #19713 and March's Point Road, thence East and North approximately 1,750 feet along the shoreline to a point at the intersection of Parcel #19676 and #19761.

Commented [AC24]: Table 2-1 2007b

5.11 Urban Maritime

A. Purpose

The purpose of the Urban Maritime designation is to preserve a variety of water-dependent, water-oriented, and water-related public, commercial, and industrial uses such as those associated with the Port of Anacortes.

B. Designation Criteria

The Urban Maritime designation is appropriate for high intensity urban uses that are currently zoned Manufacturing/Shipping.

C. Management Policies

Uses

Policy 5.11.1 Give preference to water-dependent transportation, shipping, Port, and manufacturing uses due to their proximity to deep shipping berths and channels and to navigable waters.

Policy 5.11.2 Encourage expansion of water-dependent and water-related uses.

Policy 5.11.3 Non-water-oriented uses should not be allowed unless they are a supportive use to a water-oriented use or are established along with the water-oriented use.

Policy 5.11.4 Primary non-water-oriented uses should not be permitted.

Policy 5.11.5 Existing non-water-oriented industrial and commercial uses should be encouraged to relocate to non-waterfront property.

Policy 5.11.6 Industrial and commercial development along Urban Maritime shorelines should provide protection of existing ecological functions where practicable and mitigated. It should also provide public access opportunities only where appropriate and where public safety would not be compromised and alternative off-site provision has been made.

Public Access

Policy 5.11.7 Where desirable and practicable, industrial and commercial facilities should be designed to facilitate pedestrian waterfront activities. *The Port of Anacortes' Integrated Approach to Marine Public Access, October 2003* is incorporated by reference, and substitutes for uniform public access requirements on individual port actions.

D. Development Regulations

DR-5.11.1 Prohibited and allowed uses are generally identified in Table 5.1 in Section 5.12 of this Master Program.

DR-5.11.2 Where applicable, require new development to include environmental cleanup (e.g. removal of contaminated soils) and restoration of the shoreline in compliance with state and federal laws.

DR-5.11.3 No net loss of shoreline ecological function ~~shall~~ must result from new development.

DR-5.11.4 Any impacts to ecological functions ~~shall~~ must be fully mitigated with the mitigation sequencing defined in Chapter 12. If mitigation is required for water-dependent use, off-site mitigation in conjunction with appropriate on-site mitigation would be most appropriate.

DR 5.11.5 Redevelopment and renewal of substandard, degraded, or obsolete urban shoreline areas ~~shall~~ must be encouraged in order to make maximum use of the available shoreline resources and to accommodate future water-oriented uses.

DR 5.11.6 Residential or transient accommodation uses are prohibited in the Urban Maritime designation.

DR 5.11.7 Ensure that, where applicable, improvements are reviewed for

consistency with the Design Standards codified in the zoning code.

Height Limitations

DR-5.11.8 New or expanded structures ~~shall~~ must be limited to maximum heights as specified in Table 5.2.

Setbacks

DR-5.11.9 New, permanent buildings and structures ~~shall~~ must be set back a minimum of twenty-five (25) feet from the ordinary high water mark. Setbacks are measured landward, on a horizontal plane, perpendicular to the shoreline. Setback requirements ~~shall~~ must apply to non-water-dependent structures and uses.

DR-5.11.10 Developments consisting of water-dependent scientific, historical, industrial, commercial, cultural, or educational research uses, public access, water-oriented recreation and ecological restoration are not required to meet the setback requirements, nor are piers, ramps or docks.

E. Legal Description

Guemes Channel – Guemes Ferry East to "U" Ave.:

Beginning at a point 114 feet West of the intersection of Parcel #31523 and Parcel #31540, thence East along the shoreline of Guemes Channel 6,493 feet to the intersection of Parcel #32871 and the East line of the "U" Avenue Right of Way. This area is all within 200 feet of the OHWM.

Fidalgo Bay – 34th to Fidalgo Bay Rd.:

Beginning at the intersection of Parcel #119601and Parcel #33196, thence South along the shoreline 1,097 feet to a point at the intersection of Parcel #33198 and Parcel #33210. This area is all within 200 feet of the OHWM.

5.12 Shoreline Use and Modification Matrix and Development Standards

A. Shoreline Uses and Modifications Matrix

1. Table 5.1 identifies new land uses and shoreline modifications in the shoreline jurisdiction and the type of use approval required. Additional detail that supplements Table 5.1 may be found in Chapters 5, 8 and 9. Uses, developments or modifications not listed in Table 5.1 or otherwise permitted in the applicable sections of this Master Program ~~shall~~ must be considered 'unclassified' and ~~shall~~ must be processed as Conditional Uses. Accessory uses ~~shall~~ must be subject to the same shoreline permit process as its primary use, unless explicitly stated otherwise in Table 5.1 or in Chapters 8 or 9. Where there is a conflict between the chart and the

written provisions in this SMP, the most protective of shoreline resources ~~shall~~ must apply.

2. An accessory use ~~shall~~ must not be established on a property independent of its primary use.

3. Permitted uses and modifications are only allowed in shoreline jurisdiction where the underlying zoning allows for it and subject to the policies and regulations of this SMP.

4. Uses and modifications identified as "Permitted" require either a Substantial Development Permit or may be exempt from the requirement to obtain a Substantial Development Permit, as outlined in Section 2.4. Exempted uses and modifications, however, are not exempt from the Act or this SMP, and must be consistent with the applicable policies and provisions.

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

6. In all cases, the permit processes identified below are for new uses and modifications and do not contradict the exemptions which allow for such actions as normal repair and maintenance or emergency measures. For example, while a new road may be prohibited in the Natural environment, repair of existing roads is allowed.

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

8. When a development or use is proposed that does not comply with the shoreline setback, lot frontage, side yard setback, and other dimensional performance standards of this SMP not otherwise allowed by administrative reduction, such development or use can only be authorized by approval of a Shoreline Variance.

9. Except as otherwise stated, the comprehensive plan, zoning regulations, subdivision regulations, health regulations, and other adopted regulatory provisions apply within shoreline jurisdiction. In the event the provisions of this SMP conflict with provisions of other responsible local government regulations, the more protective of shoreline resources ~~shall~~ must prevail.

10. Where a use or modification may occur in the Aquatic environment as indicated in Table 5.1 and in the corresponding regulations for that use, it ~~shall~~ must also be subject to any more restrictive permit processes or prohibitions on that use or modification as indicated for the adjacent

shoreland environment.

TABLE 5.1. SHORELINE USE AND MODIFICATION MATRIX.

The chart is coded according to the following legend. P = Permitted, when meeting requirements for that use and shoreline area, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements C = Conditional Use, when approved by the City and Department of Ecology X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit	Natural	Conservancy	Shoreline Residential	Urban	Urban Maritime	Aquatic
Shoreline Uses						
Advertising and Signs	X	P	P	P	P	P
Agriculture	X	X	X[1]	X[1]	X	X
Aquaculture						
Non-commercial aquaculture for recovery of a native population	C	C	P	P	P	P
All other aquaculture	X	X	X	C	C	X[5]
Commercial Development						
Water-dependent	X	X	P[3]	P	P	C
Water-related	X	X	P[3]	P	P	C
Water-enjoyment	X	X	P[3]	P	P	C
Non-water-oriented	X	X	P[3]	C	C	X
Forest Practices[2]	X	C	X	X	X	X
Industrial and Port Facilities						
Water-dependent	X	X	X	P	P	P
Water-related	X	X	X	P	P	C
Non-water-oriented	X	X	X	C	C	X
Marinas	X	X	X	P	P	P
Mining	X	X	X	X	X	X
Parking Facilities						
Primary	X	X	X	P	P	X
Accessory	X	C	P	P	P	X
Recreational Facilities						
Water-dependent (e.g., public access piers)	X	P	P	P	P	P
Water-related	X	P	P	P	P	P
Water-enjoyment (e.g., pedestrian trails)	C	P	P	P	P	P
Nonwater-oriented	X	X	C	C	C	X
Residential Development						
Single-family	X	C	P	P	X	X

Commented [AC25]: Table 5-1 #3

Commented [AC26]: Table 2-1 2017e

The chart is coded according to the following legend. P = Permitted, when meeting requirements for that use and shoreline area, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements C = Conditional Use, when approved by the City and Department of Ecology X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit	Natural	Conservancy	Shoreline Residential	Urban	Urban Maritime	Aquatic
Multi-family	X	X	P	P	X	X
Scientific, Cultural and Educational Facilities	C	P	P	P	P	P
Transportation Facilities						
Water-dependent (e.g., ferry terminal)	X	X	X	P	P	P
Water-related (e.g., ferry loading area)	X	X	X	P	P	P
Roads and associated facilities (e.g., sidewalks, bike lanes, storm drainage, etc.)	X	C	P	P	P	X
Other non-water-oriented	X	X	X	X	X	X
Utilities (Primary)						
Major	X	C	P	P	P	C
Minor	X	P	P	P	P	C
Shoreline Modifications						
Boat Launches						
Public	X	C	C	P	P	P
Private	X	X	C	P	P	P
Breakwaters[2]	X	C	C	C	C	C
Docks, Piers and Floats						
Public	X	C	P	P	P	P
Private	X	X	P[4]	P	P	P
Dredging and Dredge Spoil Disposal						
Dredging or in-water disposal associated with restoration	P	P	P	P	P	P
Other dredging	X	C	P	P	P	P
Other in-water disposal	X	X	X	X	X	X
Upland disposal	X	C	P	P	P	--
Fill						
In-water or upland restoration	P	P	P	P	P	P
Other in-water fill	X	C	C	C	C	C
Other upland fill	X	C	P	P	P	--
Jetties and Groins	X	X	C[2]	C[2]	C[2]	C[2]
Mooring Buoys	X	C	P	P	P	P
Shoreline Habitat and Natural Systems Enhancement Projects	P	P	P	P	P	P
Shoreline Stabilization						

The chart is coded according to the following legend. P = Permitted, when meeting requirements for that use and shoreline area, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements C = Conditional Use, when approved by the City and Department of Ecology X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit	Natural	Conservancy	Shoreline Residential	Urban	Urban Maritime	Aquatic
Bioengineering or other soft structural stabilization technique	P	P	P	P	P	P
Hard structural stabilization	X	C	C	P	P	P

[1] Home gardens associated with a single-family residence are allowed in the Shoreline Residential and Urban environment.
[2]Those structures installed to protect or restore ecological functions may be processed as a Substantial Development Permit.
[3] Except for marinas, only commercial uses that are incidental to the primary residential use and are compatible with the residential character of the neighborhood, such as home occupations and bed and breakfast inns, may be permitted.
[4] Private piers are only permitted in single-family residential use areas within Flounder Bay and along Cap Sante. All other residential piers are prohibited.
[5] Some above-water aquaculture projects may be allowed as a conditional use in limited circumstances per SMP Section 8.4. ~~isSection~~ ~~Section~~
[6] A forest practice that only involves timber cutting is not a development under the act and does not require a shoreline Substantial Development Permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the act and may require a Substantial Development Permit, as required by WAC 222-50-020.

Commented [AC27]: Table 5-1 #3

Commented [AC28]: Table 2-1 2017e

B. Development Standards

1. Table 5.2 establishes development standards, specifically lot size, lot coverage, height limits, and shoreline setbacks. The standards contained in Table 5.2 are minimum requirements unless otherwise specified by this Master Program. In addition, shoreline developments ~~shall~~ must comply with all density, lot area, setback and other dimensional requirements of the responsible local government zoning and subdivision codes. Variances may be granted to avoid denying "reasonable use of private property" in violation of constitutional or statutory limitations on regulation. Applicants are encouraged to setback further and to allow opportunity for restoration of impaired ecological functions.

2. Building Height. No building or structure in shoreline jurisdiction ~~shall~~ may exceed the height limits indicated in Table 5.2, except as allowed per subsection (2)(g). In calculating the height of a building, the following measurement methods must be used:~~:~~

   a. For a lot that slopes uphill from, or remains at the same elevation as, the property line at the front (street) of the building, the building height is

measured to the highest point of the structure from the average of the natural or existing topography at the foundation at the front (street side) of the building.

b. For a lot that slopes downhill from the property line at the front (street) of the building, the building height is measured to the highest point of the building from the average of the natural grade directly under the building.

c. For a lot that has frontage on two or more streets and the lot slopes downhill from the property line on either street frontage, the building height is measured to the highest point of the building from the average of the natural grade directly under the building.

d. For purposes of a-c above:

i. Calculation of the average topography is made by averaging the elevations of the center of all exterior walls of the proposed structure.

ii. Natural or existing topography is the topography of the land immediately prior to any site preparation, grading, excavation, or filling. Where land is regraded for purpose of a land division, the "natural or existing topography" is the grades as they exist at the time of recording of the final plat.

e. For over-water structures, height is measured to the highest point of the structure from the ordinary high water mark elevation.

f. For wireless service facilities and emergency communication facilities, structure height is measured from the lowest pre-existing ground level within the footprint of the facility to the highest point on the facility, including but not limited to the antenna or antenna array.

Commented [AC29]: Table 5-1 #4

~~Cranes, gantries, mobile conveyors and similar equipment necessary for the functions of marinas, marine manufacturing, permitted commercial, industrial or port activities and servicing vehicles.~~

~~b. Flagpoles or masts, transmission towers, chimneys, smokestacks, aerials or stairwells, when part of a permitted use.~~

~~c. Belfries, monuments, spires or steeples, transmission towers, provided such structures shall be designed to minimize obstruction of views.~~

~~d. In non-residential zones, covers for elevator and other mechanical equipment and monitors for light and ventilation are permitted when occupying less than 15% of the total roof area and less than 5% of lot coverage and extending not more than 10 feet above roof level.~~

g. Exceptions: The following structures may be erected above the height limits

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established in Table 5.2 below:

i. Cranes, gantries, mobile conveyors and similar equipment necessary for the functions of marinas, marine manufacturing, permitted commercial, industrial or port activities and servicing vehicles.

ii. Flagpoles or masts, transmission towers, chimneys, smokestacks, aerials or stairwells, when part of a permitted use.

iii. Belfries, monuments, spires or steeples, transmission towers, provided such structures must be designed to minimize obstruction of views.

iv. In mixed use and industrial zones, covers for elevator and other mechanical equipment and monitors for light and ventilation are permitted when occupying less than 15% of the total roof area and less than 5% of lot coverage and extending not more than 10 feet above roof level.

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he. When considering allowance of the structures (listed in this subsection (g)) to exceed the height limitations, the ~~Planning Commission, City Council, or Hearing Examiner~~ decision-maker must consider:

i. View obstruction;

ii. Alternate siting outside shoreline areas;

iii. Significance of alteration of existing skyline profile.

iv. The Shoreline Variance criteria in Section 3.2(C) of this SMP.

TABLE 5.2. SHORELINE DEVELOPMENT STANDARDS MATRIX.

Environment Designation	Min. Resid. Lot Size (sq.ft.)	Lot Coverage % of Area[1]	Max. Height	Setback[2]	
				Water-Dependent	Non-Water-Dependent
Shoreline Residential					
Burrows Bay (between east end of Croatian Way and Skyline Way)	7,500	35%[3]	35’	0’	25’
All other remaining areas	6,000 or 7,500	35%[3]	35’	0’	60’[5~~6~~]
Urban					

Environment Designation	Min. Resid. Lot Size (sq.ft.)	Lot Coverage % of Area[1]	Max. Height	Setback[2]	
				Water-Dependent	Non-Water-Dependent
Burrows Bay (Skyline Marina to Washington Park)	Per Zoning[4]	50%	35’	0’	25’
All other remaining areas	Per Zoning[4]	50%	50’[6]	0’	25’
Urban Maritime	NA	50%	50’[6]	0’	25’
Conservancy	Per Zoning~~NA~~	25%[3]	25’	0’	100’
Natural	NA	NA	NA	0’	100’
Aquatic	NA	NA	--~~[4][5]~~	NA	NA

[1] Lot Coverage: Buildings or structures in the Shoreline Area ~~shall~~must not occupy a greater percentage of a lot than indicated.
[2] Setback: Setback ~~shall~~must be the minimum distance measured in feet from the ordinary high water mark on a horizontal plane perpendicular to the shoreline.
[3] The impervious surface limits on residential development located in Chapter 5, Sections 5.8 and 5.9, supersede general lot coverage standards in this table.
[4] ~~See underlying zoning for minimum residential lot size within Urban environment designation~~
[5] ~~See adjacent upland designation~~
[5][6] See DR 5.9 for setback reduction criteria, if applicable
[6] Proposed buildings exceeding building height above 35’ must provide view analysis showing proposed buildings in relation to impacted views, per RCW 90.58.320 and View Protection/Aesthetics regulation DR-6.4.18.

Commented [AC30]: Table 4-1 #4

Commented [AC31]: Table 4-1 #4

Commented [AC32]: Table 5-1 #4

FIGURE 5.1 CITY OF ANACORTES SHORELINE ENVIRONMENT DESIGNATIONS

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CHAPTER 6 ENVIRONMENTAL PROTECTION GENERAL REGULATIONS

6.1 Introduction
6.2 Organization
6.3 Impacts, Mitigation, Bonding
6.4 Environmental Elements
6.5 Vegetation Conservation
6.6 Critical Areas - General
6.7 Fish and Wildlife Habitat Conservation Areas
6.8 Frequently Flooded Areas and Tsunami Inundation Areas
6.9 Geologically Hazardous Areas
6.10 Wetlands

6.1 Introduction

The intent of these regulations is to provide policies and regulations that protect the shoreline environment as well as the critical areas found within the shoreline jurisdiction. These policies and regulations apply to all uses, developments and activities that may occur within the shoreline jurisdiction regardless of the Shoreline Master Program environment designation. They are to be implemented in conjunction with the specific use and activity policies and regulations found in this Master Program.

The Shoreline Management Act (SMA) mandates the preservation of the ecological functions of the shoreline by preventing impacts that would harm the fragile shorelines of the state. The SMA also mandates that local master programs include goals, policies and actions for the restoration of impaired shoreline ecological functions to achieve overall improvements in shoreline ecological functions over time (WAC 173-26-201(2)(f)).

The environment protection policies and regulations of this Master Program address general environmental impacts and critical areas. General environmental impacts include effects upon the elements of the environment listed in the State Environmental Policy Act (SEPA) (WAC 197-11-444). These regulations are not intended to limit the application of SEPA.

The Anacortes Critical Area Regulations, as codified in Chapter 19~~7~~.70 (Ordinance #XX ~~2702~~ dated XX ~~April 18, 2005, #2743 dated August 7, 2006, and #2748 dated October 2, 2006~~), have been revised and incorporated in this Master Program ~~as Appendix A~~. ~~Chapter 17.70 of the AMC does not apply in shoreline jurisdiction.~~ The City recognizes that there are inherent conflicts between water-dependent uses and the desire for shoreline setbacks. These conflicts are addressed in the Fidalgo Bay habitat plan of 2005 titled: *Plan for Habitat Protection, Restoration and Enhancement Fidalgo Bay and Guemes Channel*, which strives to balance these conflicting goals. When any provision of this Master Program conflicts with any other provision of this Master Program, the provision which provides more protection to critical areas and the environment ~~shall~~must apply.

6.2 Organization

These regulations first present general environmental policies and regulations including analysis of impacts, mitigation, bonding, and monitoring. Second, policies and regulations protecting the broad elements that comprise the shoreline environment (e.g., earth, air, and water) are provided. Third, it presents general and specific policies and regulations for "critical areas" including: wetlands, geologically hazardous areas, frequently flooded areas, and fish and wildlife habitat conservation areas, including exclusions where the AMC 19.70, Ordinance #XX, dated XX, Critical Areas Regulations do not apply within shoreline jurisdiction. Regulations for the protection of critical aquifer recharge areas are dealt with under AMC Chapter 19.70, Ordinance #XX, Critical Areas Regulations~~in the critical areas section (see Appendix A)~~. And finally, it presents policies and regulations for conservation of vegetation in shoreline jurisdiction.

Commented [AC33]: Table 3-1 #1, Table 3-1 #3

6.3 Impacts, Mitigation, and Bonding

A. Management Policies

Policy 6.3.1 Protect the environment through implementation of this Master Program including the use of the AMRRCM mitigation sequence (Avoid, Minimize, Rectify, Reduce, Compensate, Monitor) (WAC 173-26-201(2)(e)(i)).

Policy 6.3.2 Minimize the adverse impacts of shoreline developments and activities on the shoreline environment during all phases of development (e.g., design, construction, operation, and management).

Policy 6.3.3 Assure, at a minimum, that development and use within shoreline jurisdiction results in no net loss of ecological functions necessary to sustain shoreline natural resources. Development activities ~~shall~~must protect existing ecological functions and ecosystem-wide processes.

Policy 6.3.4 Encourage shoreline developments or activities that serve to enhance ecological functions and/or values and those that protect and/or contribute to the long-term restoration of properly functioning conditions for proposed, threatened, and endangered species consistent with the fundamental goals of this Master Program. Use of creosote and pentachlorophenol treated woods is prohibited. Use of other treated woods (e.g. CZA, ACZA) should be minimized as much as practicable.

Policy 6.3.5 Ensure, through appropriate monitoring and enforcement measures, that all required conditions are met, improvements installed, and properly maintained.

Policy 6.3.6 Shoreline-specific critical area provisions promote human uses and values, such as public access and aesthetic values, provided they do

not significantly adversely impact ecological functions.

B. Development Regulations

General

DR-6.3.1 All shoreline development and activity ~~shall~~must be located, designed, constructed, and managed in a manner that avoids, minimizes and/or mitigates adverse impacts to the environment. The preferred mitigation sequence (avoid, minimize, rectify, reduce, or compensate for the environmental impact) ~~shall~~must follow that listed in WAC 173-26-201((2)(e), see also definition of "Mitigation" listed in this Master Program, Chapter 12).

DR-6.3.2 In approving shoreline developments, the City of Anacortes ~~shall~~must ensure that shoreline development, use, and/or activities will result in no net loss of ecological functions necessary to sustain shoreline resources, including loss that may result from the cumulative impacts of similar developments over time to the extent consistent with constitutional and statutory limitations on the regulation of private property. To this end, the City may require modifications to the site plan and/or adjust or prescribe project dimensions, intensity of use, and screening as deemed appropriate. If impacts cannot be avoided through design modifications, the City ~~shall~~must require mitigation commensurate with the project's adverse impacts.

DR-6.3.3 Identified significant short term, long term, or cumulative adverse environmental impacts lacking appropriate mitigation ~~shall~~must be sufficient reason for permit denial consistent with constitutional and statutory limitations on such denials.

DR-6.3.4 Wood treated with creosote or pentachorophenol is prohibited. Use of other wood treatments ~~shall~~must be minimized to the extent practicable.

Mitigation

DR-6.3.5 In addition to the requirements for critical areas reports contained in the ~~shoreline-specific~~ Critical Areas Regulations, Ordinance #XX, dated XX, found ~~in Appendix A~~under AMC 19.70, the mitigation plan ~~shall~~must address the following:

Commented [AC34]: Table 3-1 #1

a. Inventory existing shoreline environment including the physical, chemical and biological elements and provide an assessment of their condition.

b. A discussion of the project's impacts and their effect on the ecological functions necessary to support existing shoreline resources.

c. A discussion of any federal, state, or local special management recommendations which have been developed for wetlands or nearshore species or habitats located on the site;

d. An assessment of habitat recommendations proposed by resource agencies and their applicability to the proposal;

e. A discussion of measures to preserve existing habitats and opportunities to restore habitats that were degraded prior to the proposed land use activity.

f. Planting and soil specifications; success standards; and contingency plans;

g. A discussion of proposed measures which mitigate the impacts of the project to ensure no net loss of shoreline ecological functions, value, and proposed success criteria;

h. An evaluation of the anticipated effectiveness of the proposed mitigation measures to ensure no net loss of ecological functions;

i. A discussion of proposed management practices which will protect fish and wildlife habitat both during construction, and after the project site has been fully developed, including proposed monitoring and maintenance programs;

j. Contingency plan if the mitigation fails to meet established success criteria;

k. Any additional information necessary to determine the impacts of a proposal and mitigation of the impacts.

Mitigation plans and/or critical areas reports ~~shall~~must be forwarded to the appropriate state and/or federal resource agencies and affected Tribes for review and comment.

DR-6.3.6 Compensatory mitigation in the immediate vicinity of the impact ~~shall~~must be the preferred mitigation option, except where off-site mitigation can be demonstrated to be more beneficial to shoreline ecological functions; for example, mitigation off-site may be the better choice if large, cohesive areas are available off-site while only small fragmented areas are available on-site for mitigation.

DR-6.3.7 If off-site mitigation is implemented, the applicant must demonstrate to the satisfaction of the Shoreline Administrator that that the mitigation site will be protected in perpetuity. This may be accomplished through various means including but not limited to dedication of a permanent easement to the City or approved non-profit

entity; participation in a publicly sponsored restoration or enhancement program or purchase of credits from a state certified mitigation bank in accordance with Chapter 90.84 RCW (Wetlands Mitigation Banking). Any restrictions, conditions, or easements which are tied to the parcel through off-site mitigation ~~shall~~must be recorded on a revised Notice on Title.

DR-6.3.8 Where feasible, replacement mitigation ~~shall~~must be required prior to impact and, at a minimum, prior to occupancy.

Bonding

DR-6.3.9 Except for projects undertaken by public entities, performance or maintenance bonds or other security ~~shall~~must be required by the City to assure that work is completed, monitored, and maintained.

Monitoring

DR-6.3.10 As a condition of approval, the City ~~shall~~must require periodic monitoring for up to five years from the date of completed development to ensure the success of required mitigation. The monitoring period may be extended if the success criteria set forth in the approved mitigation plan fail to be accomplished, or the mitigation plan has a longer horizon.

DR-6.3.11 Monitoring plans ~~shall~~must be forwarded, for review and comment, to state and/or federal resource agencies and affected Tribes with jurisdiction.

6.4 Environmental Elements

A. Management Policy

Policy 6.4.1 Protect against adverse impacts to the public health, to the land and its vegetation and wildlife, and to waters of the state and their aquatic life. In-stream structures that protect and preserve ecosystem-wide processes, ecological functions, and cultural resources, including, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas are of particular importance. This section provides policies and regulations to address environmental impacts to the elements of the environment listed in the State Environmental Policy Act (SEPA) (WAC 197-11-444). It is not intended to limit the application of SEPA.

B. Development Regulations (In Alphabetical Order)

Air

DR-6.4.1 In approving shoreline development, uses or activities, the Planning Commission, City Council, or Hearing Examiner may apply conditions

to control emissions, including any compounds, chemicals, pollutants, odors, fugitive dust, or vehicle exhaust with the intent of avoiding significant adverse impacts to the legal use of adjoining properties and ensuring adherence to the guidelines, policies, standards and regulations of applicable air quality management programs and related regulatory agencies.

Archaeological/Historical/Cultural Impacts

Applicability: The following provisions apply to archaeological and historic resources consistent with state law.

DR-6.4.2 All shoreline permits ~~shall~~must contain provisions that require developers to comply with all applicable state law requirements regarding preservation of archaeological and historic resources, including provisions to stop work and notify the appropriate agencies should protected resources be uncovered during excavation.

DR-6.4.3 Archaeological sites located both in and outside shoreline jurisdiction are potentially subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 (Archaeological sites and records) and chapter 25.48 WAC (Archaeological excavation and removal permits) as well as the provisions of this section.

DR-6.4.4 Where archaeological or historic sites have been identified, the City may require public access consistent with constitutional and statutory limitations, provided the development is consistent with the provisions for public access and provided further it is determined that public access to the site will not damage or reduce the cultural value of the site.

Earth

DR-6.4.5 All shoreline uses and activities ~~shall~~must be located, designed, constructed and managed to minimize interference with beneficial natural shoreline processes such as littoral drift, sand and gravel movement, erosion, and accretion. For projects proposing clearing and grading see Section 6.5 Vegetation Conservation, Chapter 9 Specific Modification Policies and Development Regulations.

DR-6.4.6 Gravel and sand bars and other accretion shore forms are naturally unstable environments. They are valued for recreation and in some cases may provide habitat. Therefore, new development on these shore forms is prohibited and modification ~~shall~~must be allowed only to protect existing occupied structures. Furthermore, developments that could disrupt the processes benefiting these shore forms ~~shall~~must be carefully evaluated and allowed only when the impacts of such disruption can be adequately mitigated, and where there is a

demonstrated public benefit.

DR-6.4.7 An erosion and sedimentation control plan ~~shall~~must be submitted with a permit application for activities that involve the removal of vegetation, stockpiling of earth or other materials, or any activity that could result in shoreline erosion or siltation. Said program ~~shall~~must conform to ~~the City of Anacortes' Engineering Design Standards~~AMC 19.76, Stormwater, and ~~shall at a minimum,~~AMC 19.78, Clearing and Grading, to utilize Best Management Practices (BMPs) to prevent shoreline erosion and siltation.

Noise

DR-6.4.8 Noise emanating from a shoreline use/activity ~~shall~~must be muffled so as to not to interfere with the designated use of adjoining properties. This determination ~~shall~~must take into consideration ambient noise levels, intermittent beat, frequency, and shrillness. Shoreline developments/activities ~~shall~~must comply with the maximum permissible noise levels and time limits set forth in Anacortes Municipal Code Chapter 19.69, Standards, Generally.~~7.54~~. Exception: This regulation does not apply to fog horns, tsunami warning or other emergency warning systems.

Commented [AC35]: Table 4-1 #10

Pesticides and Fertilizers, Application of:

(Pesticides include herbicides and algaecides)

DR-6.4.9 Chemical pesticides using aerial spraying techniques within the shoreline jurisdiction, including over waterbodies or wetlands, ~~shall~~must be prohibited unless specifically permitted by the Washington Departments of Agriculture or Public Health.

DR-6.4.10 Pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary ~~shall~~must be restricted in accordance with the a) state Department of Fish and Wildlife Management Recommendations b) the regulations of the state Department of Ecology as the Environmental Protection Agency's delegated authority and permitting body for the application of pesticides and herbicides to the waters of Washington State, and c) pesticide labels as per the authority of the state Department of Agriculture.

DR-6.4.11 Pesticides ~~shall~~must 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 Control Act (RCW 15.58) to prevent contamination and sanitation problems.

DR-6.4.12 Pesticide products commercially applied for terrestrial use usually include information on how far to stay away when applying near water. If there were a chance of a product entering the water, the

product ~~shall~~must be labeled for aquatic use. Only products approved by the Washington State Departments of Agriculture, and Ecology for aquatic use can be applied to Washington State waters. Activities to be conducted using these products ~~shall~~must take place under one of the Department of Ecology's general NPDES permits for aquatic pesticides. In some cases labeling information for commercial products may indicate the need for larger shoreline setbacks and other restrictions when used near salmon-bearing waters.

DR-6.4.13 Application of pesticides by commercial applicators requires licensing through the Washington State Department of Agriculture.

DR-6.4.14 Integrated Pest Management (IPM) principles ~~shall~~must be used when applying pesticides and herbicides within the shoreline jurisdiction of the SMP. Application of pesticides to areas outside of the SMP shoreline jurisdiction that might have an affect on this jurisdiction ~~shall~~must also follow these practices. IPM can be defined as a coordinated decision-making and action process that uses the most appropriate pest control methods and strategy in an environmentally and economically sound manner to meet pest management objectives.

Public Health & Safety

DR-6.4.15 All shoreline developments ~~shall~~must be located, designed, constructed, and operated so as not to be a hazard to public health and safety.

View Protection/Aesthetics

DR-6.4.16 The protection of public views of the shoreline is an important shoreline management objective, although provisions of adequate shading of surf smelt spawning grounds must also be viewed as a priority. View protection can include preventing view blockage through height limitations or requiring aesthetic enhancement with landscaping. View protection does not justify the excessive removal of vegetation to create views or enhancing partial existing views. Retaining vegetation and "windowing" or other pruning techniques ~~shall~~must always be preferred options over vegetation removal. Please refer to Section 6.5, Vegetation Conservation and Chapter 7, Public Access.

DR-6.4.17 New development ~~shall~~must be located and designed to mitigate adverse impacts to views from public vista points.

DR-6.4.18 No permit ~~shall~~must be issued pursuant to this Master Program for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such

shorelines except where this Master Program does not prohibit the same and then only when overriding considerations of the public interest will be served. This protection does not extend to existing residences in previous phases of the proposed development. Private views of the shoreline, although considered during the review process, are not expressly protected. Property owners concerned with the protection of views from private property are encouraged to obtain view easements, purchase intervening property and/or seek other similar private means of minimizing view obstruction.

DR-6.4.19 Where lighted signs and illuminated areas are permitted, such illuminating devices ~~shall~~must be shaded and directed so as to minimize, to the extent practicable, light and glare from negatively impacting neighboring properties, streets, public areas or water bodies.

DR-6.4.20 New development, uses and activities ~~shall~~must locate and screen trash and recycling receptacles, utility boxes, HVAC systems, electrical transformers, fences and other appurtenances to minimize interference with public views.

Water Quality

DR-6.4.21 The bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or a permanent basis, ~~shall~~must not occur in shorelines without adequate secondary containment and an emergency spill response plan in place.

DR-6.4.22 All development activities approved under this Shoreline Master Program ~~shall~~must be designed and maintained consistent with the City's Stormwater Management ~~Plan~~ Regulations and Engineering Design Standards.

Commented [AC36]: Table 4-1 #10

DR-6.4.23 As a condition of approval of a permit issued in accordance with this Master Program, the Shoreline Administrator may apply the following conditions to protect water quality:

a. The development, use or activity ~~shall~~must utilize Best Management Practices (BMPs) to minimize any increase in surface runoff and to control, treat and release surface water runoff to protect the quality and quantity of surface and ground water. Such measures may include, but are not limited to, catch basins or settling ponds, installation and required maintenance of oil/water separators, biofiltration swales, interceptor drains and landscaped shoreline setbacks.

b. The release of oil, chemicals (including pesticides and herbicides), fertilizer or hazardous materials onto land or into the water is prohibited within the shoreline jurisdiction.

c. Equipment for the transportation, storage, handling, or application of such materials ~~shall~~must be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment ~~shall~~must be suspended until the deficiency has been satisfactorily corrected.

6.5 Vegetation Conservation

A. Introduction

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

Unless otherwise stated, vegetation conservation does not include those activities covered under the Washington State Forest Practices Act, except for conversion to other uses and those other forest practice activities over which local governments have authority. Vegetation conservation provisions apply even to those shoreline uses and developments that are exempt from the requirement to obtain a permit. Vegetation conservation standards do not apply retroactively to existing uses and structures.

The City's Tree Preservation requirements (Ordinance No. 2756, as amended) limits the removal of trees in all parts of the City, including shorelines of statewide significance.

Commented [AC37]: Table 5-1 #5

B. Management Policies

Policy 6.5.1 Prohibit speculative clearing, grading, or vegetation removal. Allow alteration of the natural landscape only in association with existing legal uses or a new permitted shoreline use or development.

Policy 6.5.2 Limit alteration of the natural landscape to the minimum necessary to accommodate the shoreline development or a landscape plan developed in conjunction with the shoreline development, or to remove invasive vegetation.

Policy 6.5.3 Restrict clearing and grading within shoreline jurisdiction in order to maintain the functions and values of the shoreline environment, including protection of habitat and shoreline bluffs.

Policy 6.5.4 Tree removal is to be minimized on City shorelines. Place priority on retention of snags and live trees that provide nesting or perching for eagles, other raptors, or priority species.

Policy 6.5.5 Use best management practices (BMPs) during clearing and grading to control erosion.

C. Regulations

Note that all clearing, grading and vegetation removal activities must also be consistent with the environmental protection regulations in the remainder of Chapter 6, when applicable.

DR-6.5.1 Forest practices not covered by the Forest Practices Act ~~shall~~must be prohibited.

DR-6.5.2 Alteration of the natural landscape ~~shall~~must only be allowed as set forth below:

a. Landscaping or maintenance associated with an existing legal use or new permitted shoreline use or development.

b. Removal of noxious weeds, as listed by the state in Chapter 16-750 WAC, provided such activity ~~shall~~must be conducted in a manner consistent with best management practices and the City's engineering design standards and native vegetation is promptly reestablished in the disturbed area.

c. Modification of vegetation in association with a legal, non-conforming use provided that said modification is conducted in a manner consistent with this Master Program and results in no net loss to ecological functions or critical fish and wildlife conservation areas.

DR-6.5.3 All clearing and grading activities ~~shall~~must be limited to the minimum necessary for the intended development.

DR-6.5.4 Exposed soils ~~shall~~must be immediately developed or revegetated to prevent erosion.

DR-6.5.5 Exposed soils must be replanted such that complete coverage of exposed soils is attained within one growing season, or otherwise stabilized using mulch or other similar BMPs.

DR-6.5.6 In all cases where clearing is followed by revegetation, native plants ~~shall~~must be preferred. Lawns are discouraged due to their limited erosion control value, limited water retention capacity, and associated chemical and fertilizer applications.

DR-6.5.7 Clearing and grading within shoreline jurisdiction ~~shall~~must only be permitted upon approval of a detailed landscape plan for revegetation. Any restrictions or conditions which are tied to the parcel through the development of a landscape plan ~~shall~~must be recorded on a revised Notice on Title. The landscape plan ~~shall~~must 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 plant community (e.g., fish and wildlife habitat values, slope stabilization).

b. A description of the shade conditions created by existing vegetation. This description ~~shall~~must include an inventory of overhanging vegetation as well as a determination of how much shade is created 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 species, distribution, and density of plants. Any pathways or nonvegetated portions ~~shall~~must be noted.

e. A description of any vegetation introduced for the purposes of fish and wildlife habitat. Loss of wildlife habitat ~~shall~~must be mitigated on-site. If on-site mitigation habitat is not possible, off-site mitigation ~~shall~~must be permitted at a minimum replacement ratio of one-to-one-and-a-quarter (1.25) (habitat lost to habitat replaced).

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

f. At the time of planting, shrubs must be eighteen (18) inches high. Shrubs ~~shall~~must be planted such that within two years the shrubs will cover at least thirty percent (30%) of the area that would be covered when the shrubs have attained a mature size.

g. 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)~~up to eight (8) feet in height.

Commented [AC38]: Table 4-1 #10

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

i. For a period of two (2) years after initial planting, the applicant ~~shall~~must replace any unhealthy or dead vegetation planted as part of an approved landscape plan.

DR-6.5.8 As part of meeting project site area landscaping requirements, and in coordination with any buffer requirements, the applicant for a proposed new development, expansion, or redevelopment project of a non-water-dependent use other than public shoreline access trails that will abut the City's marine shorelines must submit a landscaping plan for approval specifying protection of existing native riparian vegetation within fifteen feet of the OHWM. If native vegetation within fifteen feet of the OHWM has been destroyed or significantly degraded, the landscaping plan ~~shall~~must specify replacement by installation of dense native riparian vegetation consisting of trees, shrubs, and groundcovers within and along portions of the fifteen-foot wide strip of land lying immediately landward of the line of ordinary high water (OHW) for currently unarmored shorelines, or the landward edge of existing shoreline armoring for currently armored shorelines. Water-dependent uses and public access trails that will abut the City's marine shorelines are exempt from the locational requirements of planted areas but must provide a landscaping/mitigation plan that provides equal to or greater environment function than already exists . Riparian vegetation should be encouraged, but not required, elsewhere on the site for aesthetic continuity with the riparian vegetation required along the shoreline. DR-5.9.11 also requires additional enhancement in the Residential environment. Any restrictions or conditions which are tied to the parcel through the development of a landscape plan ~~shall~~must be recorded on a revised Notice on Title. The landscaping plan must also meet the following requirements:

a. Locations and Sizes of Required Shoreline Planting Areas. The landscaping plan ~~shall~~must specify (a) particular species of salt-tolerant riparian vegetation that are to be planted preferably at existing ground-level, or if that is not feasible, then in raised planting beds. Each planting area ~~shall~~must be a minimum of ten feet in width and a minimum of ten feet in length (a minimum of one-hundred square feet). The total minimum linear footage of riparian vegetation to be protected and/or replaced along the project's shoreline ~~shall~~must be fifty percent of the project's shoreline length in the case of new development projects and twenty-five percent of the project's shoreline length in the case of redevelopment of already-developed project sites. Subdivision of property must be in a configuration that will not require significant (greater than 25%) native vegetation removal and shoreline modification, and will not adversely impact ecological functions;

Commented [AC39]: Table 5-1 #5

b. Plant Selection. The native riparian plant species ~~shall~~must be specified on the landscaping plan. The suitability of the species must be reviewed and approved by a biologist/riparian plant specialist. The plant names listed on the landscaping plan

~~shall~~must comply with the names generally accepted in the riparian plant nursery trade. The plan ~~shall~~must further specify that (a) all plant materials ~~shall~~must be true to species and variety and legibly tagged, and (b) riparian plant materials ~~shall~~must be nursery grown in the Puget Sound area of Washington except that dug plants may be used upon approval of the biologist/riparian plant specialist;

c. Plant Sizes. The landscaping plan ~~shall~~must specify the sizes of the riparian plants to be installed. The plan may also specify that larger stock may be substituted provided that (a) it has not been cut back to the specified size, and (b) the root ball is proportionate to the size of the plant. Because smaller stock may be acceptable based upon site-specific conditions, the plan may specify that the biologist/riparian plant specialist may make field determinations to substitute smaller stock for the stock size set forth on the plan.

d. Site Preparation. The landscaping plan ~~shall~~must specify that (a) an amended planting soil ~~shall~~must be placed in the planting beds if needed, (b) all existing exotic vegetation must be removed from the planting beds, and (c) the project biologist/riparian plant specialist may make field determinations for the installation of barriers to limit Canada geese intrusion and feeding on installed plants;

e. Plant Monitoring. The landscaping plan ~~shall~~must specify that five-year monitoring will be conducted to ensure the long-term survival and stability of the riparian planting beds, with the elements of the monitoring to be (a) annual inspections of the plants, (b) replacement of failed riparian plants, (c) removal of exotic invasive species that may have become established, and (d) photographic documentation of planting success;

f. Criteria for Success. The landscaping plan ~~shall~~must specify that, at the end of the fifth year of the monitoring, the riparian planting beds ~~shall~~must be considered successful if the following performance standards are met: (1) a minimum eighty percent survival rate of the riparian vegetation within the planting beds; and (2) a minimum of fifty percent cover within the planting beds by riparian vegetation four feet tall or taller.

DR-6.5.9 Trimming of trees and vegetation is allowed within shoreline setback areas ~~without a landscape plan~~, under authorization of a shoreline exemption, provided:

a. This provision is not interpreted to allow clearing of vegetation,

b. Trimming does not include topping, stripping or imbalances; a minimum of ~~60~~75% of the original crown ~~shall~~must be retained to maintain tree health,

c. Trimming impacts to the following critical areas may require evaluation and a report prepared by a qualified professional to demonstrate:

i. ~~does not directly~~No direct impact the nearshore functions and values including fish and wildlife habitat,

ii. ~~d. Trimming i~~Is not within a wetland or wetland buffer, and

iii. ~~e. Trimming~~It does not impact soil stability ~~-~~in landslide and erosion hazard areas. ~~does not impact soil stability.~~

f. Trimming is for view preservation, not view creation. Trimming cannot be for more than 25% of limbs in a five-year period, so long as DR-6.5.9(b) is also met, whichever is more restrictive. Photo documentation must accompany the shoreline permit application before with flagging showing limb(s) requested for removal.

g. A photo of the tree is required as an as-built submittal, post permit issuance.

h. Hazardous trees, or those identified as an extreme public nuisance by the Shoreline Administrator, may be removed under an ISA Tree Risk Assessment by a qualified arborist.

i. Hand-held equipment removal of invasive or non-native shoreline vegetation, or noxious weeds (WAC 16-750) must be re-planted with the equivalent square footage of native vegetation in the disturbed area, including a minimum of one native conifer within the shoreline setback. This clearing must occur with hand-held equipment within the shoreline setback. A plan can be drawn by the applicant, so long as it is to scale, showing native species proposed, for permit submittal.

j. Ground-based motorized equipment may be used if accompanied by a professionally drawn plan showing requirements of DR 6.5.11 and other applicable SMP and development regulations, to re-establish native vegetation, and with prior written approval of the Shoreline Administrator. The ground based motorized equipment must only be operated by a licensed professional, if within the shoreline setback.

Commented [AC40]: Table 5-1 #5

DR-6.5.10 The Planning, Community and Economic Development Director may require a performance bond as a condition of shoreline exemption.

DR-6.5.11 Stabilization of exposed erosional surfaces along shorelines ~~shall~~must, whenever feasible, utilize soil bioengineering techniques.

DR-6.5.12~~1~~ All shoreline development and activity ~~shall~~must use effective measures to minimize increases in surface water runoff that may result from clearing and grading activity. The applicant must implement best management practices in compliance with the City's stormwater, clearing and grading regulations in AMC 19.76 Stormwater and 19.78 Clearing and Grading~~Chapter 5, Clearing, Grading, and Erosion Control under the City's Engineering Design Standards~~. Submittal requirements may include a plan addressing species removal, revegetation, irrigation, erosion and sedimentation control, and other methods of nearshore/riparian corridor protection in accordance with the City's Engineering Design Standards.

Commented [AC41]: Table 4-1 #10

DR-6.5.13~~2~~ The City may require a performance bond as a condition of shoreline exemption or shoreline permit approval, to ensure compliance with this Master Program.

6.6 Critical Areas - General

A. Policies

Policy 6.6.1 Protect unique, rare, and fragile environments, including wetlands and fish and wildlife habitat conservation areas, from impacts associated with development.

Policy 6.6.2 Locate and design development to minimize risks to people, property and other critical areas associated with geologically hazardous areas, frequently flooded areas, and tsunamis.

Policy 6.6.3 Provide a level of protection to shoreline-specific critical areas that is equal to or greater than the level of protection provided by the adopted Anacortes critical areas regulations. Recognizing this, the City has ~~incorporated~~ adopted appropriate portions of its critical areas regulations into this Master Program ~~as Appendix A~~by reference.

B. Regulations

DR-6.6.1 Development and uses proposed within shorelines of the state ~~shall~~must meet the requirements of the City's ~~shoreline-specific~~ Critical Areas Regulations as ~~contained in Appendix A~~adopted under Ordinance #XX, dated XX, and AMC 19.70, in addition to the requirements found elsewhere in the Master Program.

DR-6.6.2 The following Critical Areas sections under AMC 19.70, Critical Areas do not apply to development located in shoreline jurisdiction:

a. 19.70.XXX, Critical Areas Review

b. 19.70.XXX, Exempt Activities

c. 19.70.XXX, Permitted Alterations

d. 19.70.XXX, Reasonable use exception variance

e. 19.70.XXX(B) Wetlands – General Development Standards, Exemptions and allowed activities.

f. 19.70.XXX(B) Fish and wildlife habitat – Specific standards for streams, Exemptions and allowed activities.

~~a.~~g. 19.70.XXX(B) Geologically hazardous areas – General development standards, Exemptions and allowed activities.

Commented [AC42]: Table 3-1 #1

6.7 Fish and Wildlife Habitat Conservation Areas

A. Applicability

This section provides policies and regulations that apply to fish and wildlife habitat conservation areas, including critical saltwater and freshwater habitats as defined by WAC 173-26-221(2)(c)(iii) and (iv). These policies and regulations apply in addition to the shoreline-specific critical areas protection standards for fish and wildlife habitat conservation areas found in ~~Appendix A, Section A-5~~ Critical Areas Regulations, Ordinance #XX, dated XX, AMC 19.70.300-360, Fish and wildlife habitat.

Commented [AC43]: Table 3-1 #1

Kelp beds, eelgrass beds, herring spawning and holding areas, smelt and sand lance spawning and holding areas and other critical saltwater habitats are classified as "critical saltwater habitats" in the Shoreline Master Program Guidelines, WAC 173-26-221(2)(iii). The Guidelines also classify subsistence, commercial and recreational shellfish beds, mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association as "critical saltwater habitat". The Department of Fish and Wildlife has identified the following habitats of special concern: kelp beds, eelgrass beds, herring spawning areas, sand lance spawning areas, smelt spawning areas, juvenile salmonid migration corridors, rock sole spawning beds, rockfish settlement and nursery areas, and lingcod settlement and nursery areas.

In addition, it is important to give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish stocks, such as salmon (RCW 36.70A.172), some of which are classified as "Threatened" under the Endangered Species Act. Fish and wildlife habitat conservation areas include, but are not limited to, areas with which endangered, threatened, and sensitive species have a "primary association" (see WAC 365-130-080). Critical Saltwater Habitats include these "primary

association" areas. Examples of "primary association" areas include, but are not limited to, the following:

a. Shallow water/low gradient habitats along shorelines

b. Migratory corridors that allow juvenile salmon to move within and between habitats (e.g., beaches, as well as eelgrass, kelp, etc.). In addition, a diversity of shoreline habitats is essential for providing adequate functions for juvenile salmon.

~~Section A-5~~AMC Section 19.70.625(B), Frequently Flooded Areas – Critical Areas Report Additional Requirements provides the minimum report requirements for a Floodplain Habitat Assessment and Mitigation Plan, as required by FEMA Region X, 2013, or hereafter amended. ~~of the shoreline-specific Critical Areas Regulations contained in Appendix A.~~ In addition, the *Northern Skagit County Bays and Shoreline Habitat Conservation and Restoration Blueprint 2005 Update* ~~provides~~ describes protection measures~~s~~ for critical salt-water habitats addressing these areas within City.~~that are described in the *Northern Skagit County Bays and Shoreline Habitat Conservation and Restoration Blueprint 2005 Update*.~~

Commented [AC44]: Table 3-1 #5

B. Management Policies

Policy 6.7.1 Encourage the protection of critical saltwater habitats in recognition of their importance to the marine ecosystem of the City of Anacortes and the State of Washington. These habitats provide critical reproduction, rearing and migratory nursery areas for valuable recreational and commercial species. They provide habitat for many marine plants, fish, and animals.

An analysis of alternatives using SEPA will be required for any project proposed within FWHCAs. The analysis should include, in part, shoreline bathymetry, shoreline features at the site, and substrate composition.

Policy 6.7.2 Water-dependent uses, including recreational facilities, marinas, transportation facilities and some utility crossings, may be permitted in critical saltwater habitats provided that on-site and/or off-site mitigation is provided that will result in no net loss of ecological functions resulting from the proposed facility or utility.

Policy 6.7.3 Protect the composition of the beach and bottom substrate. Developments within or adjacent to the shoreline jurisdiction where critical saltwater habitats exist, should avoid to the extent practicable directly or indirectly changing the composition of the beach and bottom substrate except for restoration or for driving of pilings for uses permitted under this Master Program.

Policy 6.7.4 Avoid impacts on critical saltwater habitats by appropriately locating

and designing developments beyond the standard setback where necessary to protect the critical habitat.

C. Development Regulations

DR-6.7.1 Water-dependent development and uses, including marinas, docks, piers, mooring areas, underwater parks, utility crossings, and shoreline modifications, ~~shall~~ must not intrude into or be built over critical saltwater habitat unless the applicant can show that all of the following criteria can be met:

a. The use preference listing in RCW 90.58.020 for uses in Shoreline of Statewide Significance ~~shall~~ must be adhered to.

b. The public's need for such a structure is clearly demonstrated and an alternative alignment or location on the applicant's property that would avoid impacts to critical saltwater habitats is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose. An alternatives analysis will be required for any non–exempt project proposed within FWHCAs. The analysis should include in part, shoreline bathymetry, shoreline features at the site, and substrate composition.

c. The project is consistent with the state's interest in resource protection and species recovery.

d. Impacts to critical saltwater habitat functions are mitigated to result in equal or better ecological function.

DR-6.7.2 Except as a habitat improvement or restoration measure, aquatic herbicide treatments, mechanical removal of vegetation and aquatic pesticide treatments ~~shall~~ must not be used on critical salt-water habitats.

DR-6.7.3 Sand, gravel or other materials ~~shall~~ must neither be added nor removed from critical salt-water habitats, except when part of an approved restoration effort or beach nourishment program or as allowed in DR-6.7.1, above.

DR-6.7.4 New outfalls (including stormwater and sewer outfalls) and discharge pipes ~~shall~~ must not be located in critical saltwater habitats or areas where outfall or discharge will adversely affect critical saltwater habitats unless the applicant can show that all of the following can be met:

a. There is no 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 intertidal zone

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

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

DR-6.7.5 The City ~~shall~~ must maximize the use of existing outfalls.

DR-6.7.6 In addition to requiring compliance with DR-6.5.9 for certain types of developments and uses (e.g., minimum ten-foot wide planting bed(s) of riparian vegetation along marine shorelines), the City ~~shall~~ must require the establishment of buffer areas for activities adjacent to fish and wildlife habitat conservation areas on a case by case basis through a critical area report when needed to protect such habitat conservation areas. The applicant shall, with assistance of a licensed professional, determine the buffer(s) necessary, as applicable, depending upon the number of species present and the presence of existing habitat corridors to be preserved. The critical area report needs to reflect the nature of the existing vegetation, sensitivity of the habitat, and the type and intensity of human activity proposed to be conducted nearby. Habitat conservation areas and their buffers must be preserved in perpetuity using native growth protection easements and critical area tracts. In order to determine the need or extent of a buffer, critical area reports must be required for all development in or adjacent to a habitat conservation area, utilizing AMC 19.70.320, Fish and wildlife habitat - Mapping. ~~pursuant to Section A 5.3(G)(1) of the shoreline specific Critical Areas Regulations contained in Appendix A. In order to determine the need or extent of a buffer, a critical area report shall be required for all development in or adjacent to a habitat conservation area (see also DR-6.7.7).~~

Commented [AC45]: Table 3-1 #5)

DR-6.7.7 Until an inventory of critical saltwater habitat is done, prior to construction all over water and near-shore developments ~~shall~~ must conduct an inventory of site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. The methods and extent of inventory ~~shall~~ must be consistent with accepted research methodology. New studies ~~shall~~ must be developed only where existing information is inadequate or does not exist.

6.8 Frequently Flooded Areas and Tsunami Inundation Areas

Portions of Anacortes' shoreline are subject to periodic flooding that may result from factors including, but not limited to, unusual amount of rainfall over a short period of time, high tides, and wind driven waves. Tsunamis also pose a less frequent, but potentially more hazardous, type of flooding event.

A. Management Policies

Policy 6.8.1 Ensure that new development in areas prone to periodic flooding comply with the Frequently Flooded Areas standards (~~Section A-1 of the~~City ~~-~~Critical Areas Regulations, Ordinance #XX, dated XX, AMC 19.70.600-625 and Floodplain Management Regulations, Ordinance #XX, dated XX, AMC Chapter 19.74 ~~found in Appendix A~~) to minimize health hazards and property damage due to flooding.

Commented [AC46]: Table 3-1 #1

Policy 6.8.2 Develop, enhance, and implement education programs aimed at mitigating natural hazards, and reducing the risk to citizens, public agencies, private property owners, businesses and schools.

Policy 6.8.3 Encourage development of acquisition and management strategies to preserve open space for flood mitigation, fish habitat, and water quality in frequently flooded areas.

Policy 6.8.4 Coordinate and support the development of improved tsunami warning systems.

B. Development Regulations

DR-6.8.1 All new development and new uses within the jurisdiction of this Master Program ~~shall~~ must comply with the provisions of City Critical Areas Regulations, Ordinance XX, dated XX, AMC 19.70.600-625 and Floodplain Management Regulations, Ordinance #XX, dated XX, AMC Chapter 19.74~~Section A-1, Frequently Flooded Areas located in Appendix A of this Master Program.~~ .

Commented [AC47]: Table 3-1 #1

Commented [AC48]: Table 3-1 #5

6.9 Geologically Hazardous Areas

A. Introduction

Geologically hazardous areas are areas susceptible to severe erosion; slide activity, or other geologic events. In the Anacortes shoreline, high marine bluffs are the most visible

type of geologically hazardous area, although seismic, tsunami and erosion hazards have also been mapped.

The more severe hazard areas are not suitable for placing structures or locating intense activities or uses due to the inherent threat to public health and safety. Vegetation removal during construction and development of adjacent properties alters surface runoff and ground water infiltration patterns that can lead to increased slope instability.

A certain level of erosion of shorelines and marine bluffs is natural to the Puget Sound area. Erosion from "feeder bluffs" is the primary source of sand and gravel found on beaches including accretion beaches (gravel bars, sand pits and barrier beaches). Extensive "hardening" of feeder bluff areas can eventually starve beaches down drift of the bluff, resulting in lowered beach profiles and the potential for increased erosion. Changes in the beach substrate resulting from reduced sediment deposition may result in negative habitat impacts. Erosion and accretion are natural processes that provide ecological functions and thereby contribute to sustaining the natural resource and ecology of the shoreline.

B. Management Policies

Policy 6.9.1 Ensure that new development or the creation of new lots does not cause any foreseeable risk from geological conditions to people or improvements during the life of the development.

Policy 6.9.2 Permit development in such a manner and only in locations where no slope protection (e.g. bulkheads, rip-rap, retaining walls, etc.) is necessary or where nonstructural protection (e.g., shoreline setbacks) is sufficient for the life of the project (75 years).

Policy 6.9.3 Ensure that proposals are designed and constructed in a manner that does not increase or result in slope instability or sloughing.

Policy 6.9.4 Allow shoreline modifications or other measures to protect existing primary structures only when they are demonstrated to be necessary, when no alternatives including relocation or reconstruction of existing primary structures are found to be feasible, and when the modifications are found to comply with the policies and regulations of this Master Program for modifications (See Chapter 9) as well as the requirements of WAC 173-26-231 (Shoreline Modification requirements). Preference should be given to those types of shoreline modifications that have a lesser impact on ecological functions. Assure that modifications individually and cumulatively will result in no-net-loss of ecological functions.

Policy 6.9.5 New development should be discouraged in geologically hazardous areas by promoting and encouraging property development transfers, or encouraging expanded buffers and setbacks through property tax incentives.

C. Development Regulations

Applicability: Regulations for Geologically Hazardous Areas are set forth in the ~~shoreline-specific~~ Critical Areas Regulations, Ordinance XX, dated XX, contained in AMC 19.70.400-450~~Section A-3 of Appendix A of this Master Program~~. Note that in addition to the buffers applied therein, vegetation preservation may be required by Section 6.5 Vegetation Conservation and Chapter 9 Specific Shoreline Modification Policies and Development Regulations.

Commented [AC49]: Table 3-1 #1

Commented [AC50]: Table 3-1 #1

DR-6.9.1 The following activities are allowed in geologically hazardous areas specifically mapped and designated by ordinance of the city council pursuant to allowed activities of this section and do not require submission of a critical area report, so long as they meet all applicable provisions of the SMP:

a. Erosion and Landslide Hazard Areas. Only those activities approved and permitted consistent with an approved critical area report in accordance with this master program , in addition to shoreline permit provisions under AMC 19.20, must be allowed in erosion or landslide hazard areas.

Commented [AC51]: Table 4-1 #10

b. Seismic, Mine, and Tsunami Hazard Areas. The following activities are allowed within seismic, mine, and tsunami hazard areas:

1. Construction of new buildings with less than two thousand five hundred square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;

2. Additions to existing single-story residences that are two hundred fifty square feet or less; and

3. Installation of fences.

Commented [AC52]: Table 3-1 #1. Appendix A

~~1.~~4. Maintenance, replacement, or repair of existing utility and transportation facilities.

~~Additional standards for marine bluffs (i.e., slopes greater than 40 percent that exceed a vertical height of 10 feet within the marine shorelines jurisdiction) are provided below.~~

~~**Special Reports and Determination of Buffers**~~

~~**DR-6.9.1** Applicants proposing development adjacent to a marine bluff shall submit a geotechnical engineering report, prepared in accordance with the requirements of this Master Program and the shoreline-specific Critical Areas Regulations contained in Appendix A, when development is proposed within:~~

a. 50 feet of the crest of a marine bluff, or a distance equal to the height of the slope up to a distance of 100 feet from the crest (measured from the top), whichever is greater;

b. 50 feet from the sides of a marine bluff; or

c. 50 feet from the toe of a marine bluff.

DR 6.9.2 The geotechnical engineering report shall be prepared by a Washington State licensed professional civil engineer with a specialty in geotechnical engineering or an engineering geologist with a Washington specialty license in engineering geology as specified in RCW 18.220. The report shall be based upon the best available science, existing and proposed uses, risks of slope failure, and coastal erosion rates over at least 75 years, if applicable.

DR 6.9.3 All proposed development on a marine bluff or in the required buffer shall be prohibited, except:

a. As may be allowed in the shoreline-specific Critical Areas Regulations under Subsection A-3.5 of Appendix A of this Master Program.

b. Minor development to provide public access (e.g., public trails, stairs or view points), provided that impacts are mitigated and the development can be shown to be safe.

Bluff drainage

DR 6.9.4 Surface drainage shall be directed away from marine bluffs. When no other solution is feasible, surface drainage piping may be located on the face of a steep slope when contained in a tight line (closed, nonleaking pipe) and in such a way that erosion will not be exacerbated at the base of the bluff and that physical access along the shoreline is not degraded. Furthermore, conditions may be applied to mitigate for aesthetic impacts of drainage systems as viewed from public areas.

DR 6.9.5 Special Reports. For marine bluffs, steep slopes, erosion hazard areas, and landslide hazard areas, a geotechnical report shall be required to review potential hazards and propose measures to mitigate such hazards consistent with the requirements of this Master Program and attached appendices.

Commented [AC53]: Table 3-1 #1

6.10 Wetlands

A. Introduction

Wetlands are those areas that are inundated or saturated by ground or surface 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. A wetland directly impacts water quality and stormwater control by trapping and filtering surface and ground water. Wetlands also provide valuable habitat for fish and wildlife. Because of the difficulty in replacing these rare and valuable areas, these regulations control development adjacent to and within wetlands, and limit the amount of wetlands, which may be altered. The purpose of these regulations is to protect the public from harm by preserving the functions of wetlands and streams as recharge for ground water, flood storage, floodwater conveyance, habitat for fish and wildlife, sediment control, pollution control, surface water supply, aquifer recharge and recreation**.** Wetlands in Anacortes are characterized by hydric soils, water-tolerant plants (hydrophytes), and surfaces that are either saturated or inundated with water for a specified period of time.

B. Management Policies

Policy 6.10.1 Preserve and protect wetland ecosystems, and mitigate impacts, so that there is no net loss of wetland acreage and functions. Where feasible, improve wetland quality. Maintaining or restoring vegetated buffers is the preferred method for protecting/improving wetland functions.

Policy 6.10.2 Prevent adverse impacts to wetland functions by controlling all activities that could potentially affect wetland ecosystems whether the activity is located within or adjacent to shorelines jurisdictional wetlands or their buffers.

Policy 6.10.3 Encourage in-kind replacement of functional wetland values as the preferred mitigation. Where in-kind replacement is not feasible or practical due to the characteristics of the existing wetland, provide ecological resources of equal or greater value, preferably within the same hydrologic sub-basin, and located based on limiting factors or critical needs identified in watershed or comprehensive resource management plans, including the Shoreline Restoration Plan.

Policy 6.10.4 Coordinate proposals for mitigation, creation, or enhancement with appropriate resource agencies to ensure adequate design and consistency with local, state and federal regulatory requirements.

Policy 6.10.5 Develop wetland education programs to increase awareness of the importance of wetlands and to inform the citizenry of protective wetland regulations. The City of Anacortes should distribute wetland education materials to the public, including schools, landowners, and developers in the Anacortes area.

Policy 6.10.6 Seek regional solutions to wetland mitigation through coordinated planning with state and federal agencies, Skagit County, port authorities and the public.

C. Development Regulations

Applicability: ~~In addition to the~~See regulations set forth in the ~~shoreline-specific~~ Critical Areas Regulations, Ordinance XX, dated XX, ~~contained in Section A-4 of Appendix A of this Master Program, the following shall~~ must ~~apply~~ for activities impacting wetlands proposed within shoreline jurisdiction, in addition to the exemption section under DR 6.6.2.~~:~~

~~**DR-6.10.1** All development, development proposals and alterations that are located within or adjacent to shoreline jurisdictional wetlands or their buffers, or that are likely to significantly impact shoreline jurisdictional wetlands shall prepare a wetland analysis pursuant to Subsection A-4.7 in Appendix A, shoreline-specific Critical Areas Regulations, of this Master Program. The wetland analysis shall include the wetland rating (using the Washington State Wetland Rating System for Western Washington (2006) or as revised by Ecology), a functional assessment of potential buffers (based on Ecology's best available science for wetlands), and notes of any water features and other critical areas and their related buffers in the proximity of the wetland.~~

~~**DR-6.10.2** Wetlands will be delineated using the Washington State Wetland Identification and Delineation Manual (Ecology publication #96-94, adopted under WAC 173-22-080). The wetland buffer for shoreline wetlands shall be established per the provisions of Subsection A-4.8(F) in Appendix A of this Master Program.~~

~~**DR-6.10.3** Prohibit alteration of wetlands and their buffers unless:~~

~~a. Doing so will constitute a violation of constitutional or statutory limitations on regulations of private property or~~

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

~~In either case, the proponent shall provide mitigation to achieve no net loss of wetland function or value, according to an approved mitigation plan prepared consistent with this Master Program, including Section A-4 of Appendix A, shoreline-specific Critical Areas Regulations.~~

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CHAPTER 7 SHORELINE PUBLIC ACCESS

7.1 Introduction
7.2 Background
7.3 Public Access Policies
7.4 Public Access Development Regulations

7.1 Introduction

Anacortes is a uniquely situated jurisdiction. An attractive destination for travelers because of the geography and historic setting, it is also a stop along the state highway linking to Whidbey Island, the San Juan Islands, Vancouver Island, and points north and east. The State Parks, the Waterfront Festival, and the Arts Festival, among others, attract large numbers of visitors from far and wide annually. Inarguably, the economic vitality of the City is bolstered by the public access to and enjoyment of the shorelines.

Shoreline public access is the physical ability of the general public to reach and touch the water's edge or the ability to have a view of the water and the shoreline from upland locations. There are a variety of types of public access, including docks and piers, boat launches, pathways and trails, promenades, street ends, picnic areas, beach walks, viewpoints and others.

An important goal of the Shoreline Management Act is to protect and enhance public access to the state's shorelines. Specifically, the SMA states:

> ***RCW 90.58.020: "****[T]he 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."*
>
> *"Alterations of the natural conditions of the shorelines of the state, in those limited instances when authorized, shall be given priority for…development that will provide an opportunity for substantial numbers of people to enjoy the shorelines of the state."*

Public access and use of the shoreline is supported, in part, by the Public Trust Doctrine. 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 is not invalidated by private ownership of the underlying land. 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 waterbodies.

Requiring public access on privately owned property as a condition of development has been the subject of considerable legal review. Our state Constitution and the U.S.

Constitution provide both the authority for conducting the activities necessary to carry out the Shoreline Management Act and significant limitations on that authority. While the SMA stresses the need for public access, our state and the U.S. Constitutions provide for protection of certain private property rights. Where public access is required as a permit condition, the courts have stated that there must be a rational and roughly proportionate connection between the project's impact on public access and the public access requirement. Certain state statutes also impose limitations on the regulation of private property.

7.2 Background

This Public Access Chapter is preceded by several planning efforts to maintain and enhance public access to the shoreline in Anacortes. The public access policies and strategies included in this Master Program build on those established in past planning documents.

7.3 Public Access Policies

A. General Policies

Policy 7.3.1 Seek to maintain and enhance public access, both physical and visual, throughout the City's shoreline. Access should be provided for a range of users including pedestrians, bicyclists, boaters and, to the extent feasible, people with disabilities. Access opportunities should be varied, ranging from urban water walks to viewing platforms of natural areas. Encourage the use of public access facilities to actively educate and inform the public on the importance of environmental protection of the shoreline jurisdiction. Work in partnership with local entities (e.g., Skagit Marine Resources Committee, and others) to implement this policy.

Policy 7.3.2 Locate and design public access in a manner that does not result in a net loss of ecological functions or wildlife habitat.

Policy 7.3.3 Link recreational and public access opportunities together via trails, beach walks and water routes whenever appropriate. Where practical, access points link to non-motorized transportation routes, such as bicycle and hiking paths, and kayak/canoe routes.

Policy 7.3.4 Seek a public pedestrian walkway system along the waterfront utilizing a combination of natural beaches, pathways, piers, wharves, street-ends, sidewalks, stairways, or other improvements. Although it may not be feasible for the walkway system to be continuous along the water's edge throughout the entire area, it should promote quality pedestrian access to and along major portions of the waterfront. The public's ability to physically walk along the beach is a priority and thus extending boardwalks over the beach should be limited. Where

development of a waterfront trail is to occur, the development should protect shoreline ecological functions and enhance areas of impaired functions when feasible.

Policy 7.3.5 Require new development that impacts public access to mitigate through the provision of on-site visual and physical public access, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline. In lieu of on-site improvements, the Shoreline Administrator may allow for off-site improvements if said improvements would provide a greater public benefit.

Policy 7.3.6 Foster public access through a variety of approaches including purchase of key segments, encouraging public and private partnerships, and working with developers to explain the benefits of incorporating public access and recreation.

Policy 7.3.7 Incorporate public access provisions into the review and approval of all public and private development projects including land divisions into five or more parcels. Exceptions may be considered for the following:

a. Single-family dwelling units not part of a development planned for five or more parcels;

b. Where deemed inappropriate due to health, safety, security, incompatible uses, constitutional or other legal limitations and environmental concerns. In these cases alternate methods of providing public access ~~shall~~ must be considered such as off-site improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access; and

c. Where a more effective integrated public access plan exists.

Beachwalks

Policy 7.3.8 Preserve beachwalks as unimproved public access. Beachwalks are unmarked sections of intertidal land upon which the public has rights of passage in accordance with the Public Trust Doctrine. Beachwalks by definition are usually not passable on a 24-hour basis due to tidal action.

Street Ends

Policy 7.3.9 Encourage the use of street ends and other publicly owned or controlled lands to increase public access to shoreline areas.

Policy 7.3.10 Develop street end access and viewpoints. Improvements to and linkages between these street-ends should be determined by the

physical characteristics of the shorelines, existing development patterns, potential for structural improvements, and other factors relevant to developing a continuous pedestrian system.

Policy 7.3.11 Ensure that use of street ends for parking does not physically block public access to the shoreline or degrade the scenic qualities of the City. (See Parking Facilities, Section 8.9, Chapter 8)

Policy 7.3.12 Identify and bring into compliance uses that unlawfully encroach on public access areas, unless a street use agreement has previously been made between the City of Anacortes and the proponent of the use.

Policy 7.3.13 Develop a prioritized list of improvements to street ends. Cost effectiveness should be a key element in prioritizing the proposed improvements.

Design

Policy 7.3.14 Public access improvements should be designed and constructed to:

a. Look and "feel" welcoming to the public and be usable by the greatest number and diversity of people including, to the extent possible, the physically handicapped.

b. Connect to public areas, street-ends and other pedestrian or public thoroughfares.

c. Be as close as possible to the water's edge while preserving the natural character of the shoreline and protecting ecological functions and processes of shorelines and/or their associated wetlands.

d. Be compatible with the surrounding character and appropriate for the anticipated intensity of use. In general, the higher the intensity of development and use, the more formal and durable the improvements should be.

e. Enhance the character of Anacortes, including the historic and economic activity of downtown, marine business and industry, Port activity, and natural areas.

f. Avoid conflicts with water-dependent uses.

g. Provide for public safety and minimize potential impacts to private property and individual privacy and security.

h. Require low maintenance design.

i. Ensure that construction (i.e., structures, trails and access

pathways) incorporates environmentally sensitive design and materials (e.g., use non-toxic, natural materials).

7.4 Development Regulations

A. General Requirements

DR-7.4.1 Developments, uses, and activities ~~shall~~ must be designed and operated to avoid significantly blocking, reducing, or adversely interfering with the public's visual or physical access to the water and the shorelines.

DR-7.4.2 Except as provided in regulations 7.4.4 and 7.4.5, shoreline substantial developments or conditional uses ~~shall~~ must provide public access where any of the following conditions are present:

a. Where a development or use will create increased demand for public access to the shoreline, the development or use ~~shall~~ must provide public access to mitigate this impact.

b. Where a development or use will interfere with an existing or potential public access way, the development or use ~~shall~~ must apply mitigation sequencing principles and provide public access to address the impact.

c. Where a non-water-enjoyment use is converted to a water-enjoyment use by the addition of substantial opportunity for public access. For example, a restaurant may qualify as a water-enjoyment use when located, designed and operated to assure the public's ability to interact with the shoreline.

d. Where land is subdivided into five or more parcels.

e. Where a development or use is located on public land or is managed by a public entity, unless access is incompatible with safety, security, or environmental protection.

DR-7.4.3 Required public access ~~shall~~ must include the preservation of shoreline views, the establishment of public access easements to and along the shoreline, enhancement of an adjacent street-end or park, or other consideration commensurate with the degree of impact caused by the development.

DR-7.4.4 Public access is not required if the applicant can demonstrate to the satisfaction of the City that constitutional and or statutory limitations would be violated by the provision of such access. Nor is public access required for individual single-family residences which are not part of a development planned for more than four parcels.

DR-7.4.5 Alternatives to on-site, physical access to the shoreline may be approved if the applicant can demonstrate to the satisfaction of the City that one or more of the following conditions exist:

a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;

b. Access is not feasible due to the configuration of existing parcels and structures, such that access areas are blocked in such a way that cannot be reasonably remedied by the proposed development;

c. Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions;

d. The cost of providing on-site access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development;

e. Unacceptable environmental harm which cannot be mitigated, such as damage to spawning areas or nesting areas, will result from the public access; or

f. Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated.

Provided further, that the applicant has first demonstrated and the City has determined that all reasonable alternatives have been exhausted, including, but not limited to:

g. Regulating access by such means as limiting hours of use to daylight hours, or allowing public access to only a portion of the site.

h. Designing separation of uses and activities, using such means as terracing, hedges, and landscaping.

DR-7.4.6 When on-site public access is not required under DR-7.4.5, alternative shoreline access must result in an equal or greater public benefit. Alternatives may include but are not limited to:

a. Publicly accessible rooftop decks.

b. Off-site public access, such as improvements 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 (relating to fees associated with development).

DR-7.4.7 Off-site public access, when required, must meet the same standards and requirements as on-site public access.

DR-7.4.8 In providing visual access to the shoreline, significant vegetation removal of native vegetation ~~shall~~ must not occur, including by clearing or by topping. (Note: Trimming of trees and vegetation may be allowed, pursuant to Section 6.5 of this Master Program).

DR-7.4.9 When required, public access sites ~~shall~~ must be fully developed and available for public use at the time of occupancy or use of the development or activity, except where the decision maker determines an appropriate mechanism for delayed public access implementation is necessary for practical reasons. If on or over the water, development ~~shall~~ must be constructed to minimize interference with physical access along the beach and views from surrounding properties to the shoreline and adjoining waters, including locating structures as far landward as feasible.

B. Physical Access and Easements

DR-7.4.10 Where on-site physical access is appropriate, the development ~~shall~~ must dedicate, improve, and provide maintenance for a pedestrian easement that provides area sufficient to ensure usable access to and along the shoreline for the general public.

DR-7.4.11 Public access easements ~~shall~~ must be designed to accommodate the anticipated intensity of use, generally ranging from a minimum 12-foot width easement in less traveled residential areas to a minimum 25-foot width in more intensely urbanized areas. Where deemed necessary to protect environmental functions, the easement ~~shall~~ must accommodate an area of native vegetation between the OHWM and the public access walkway/viewpoint.

DR-7.4.12 A reduced width access easement may be allowed to facilitate redevelopment of existing structures that encroach into the easement area, provided that the easement and design of the access is sufficient to provide safe access or alternative shoreline access is provided.

DR-7.4.13 Public access easements and permit conditions ~~shall~~ must be recorded in an appropriate manner, such as on the deed where applicable or on the face of a plat or short plat as a condition running in perpetuity with the land. Said recording with the Auditor's office ~~shall~~ must occur at the time of permit approval (RCW 58.17.110; relating to subdivision approval or disapproval) and prior to the issuance of any land disturbing or construction permits.

DR-7.4.14 The standard state approved logo or other approved signs that indicate the public's right of access and hours of access ~~shall~~ must be constructed, installed, and maintained by the applicant in conspicuous locations at public access sites. Signs ~~shall~~ must be designed to distinguish between public and private areas. In accordance with the regulations in this section, signs controlling or restricting public access may be approved as a condition of permit approval.

DR-7.4.15 Future actions by the applicant or other parties ~~shall~~ must not diminish the usefulness or value of the public access site.

C. Design

DR-7.4.16 Public access sites ~~shall~~ must 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~~ must be designed to accommodate logical future connections. In either case, the design ~~shall~~ must take into consideration the priority placed on protecting physical access along the beach (i.e., boardwalk connections that interfere with physical access along the adjoining beach area are discouraged).

DR-7.4.17 Public access sites ~~shall~~ must be made barrier free for the physically disabled, where feasible, and designed consistent with the Americans with Disabilities Act.

DR-7.4.18 Public access landscape design ~~shall~~ must use native vegetation in the shoreline setback and predominantly native vegetation (i.e., 80% or greater) in the remainder of shoreline jurisdiction, particularly drought-resistant and, along marine shorelines, saline-tolerant plant species. Landscape plantings may be required where desirable to provide public/private space separation.

DR-7.4.19 Public access ~~shall~~ must be designed to achieve no net loss of ecological functions. Where impacts are identified, mitigation ~~shall~~ must be required. Materials ~~shall~~ must be:

a. Consistent with the character of the shoreline and the anticipated intensity of use. For example “formal” (e.g. concrete sidewalks, colonnade) elements in the downtown or "informal" design elements (e.g. log benches, dune grass and gravel paths) along the Guemes Channel.

b. Durable, capable of withstanding exposure to the elements; and

c. Wherever financially feasible and practical, environmentally friendly materials and technology in such things as building materials, paved surfaces, porous pavement, etc., ~~shall~~ must be

used. Creosote-treated timber ~~shall~~ must not be used within the shoreline jurisdiction.

D. Public/Private Separation

DR-7.4.20 Public access facilities ~~shall~~ must look and feel welcoming to the public, and not appear as an intrusion into private property.

DR-7.4.21 Natural elements such as logs, grass, shrubs, and elevation separations are encouraged as means to define the separation between public and private space.

DR-7.4.22 New residential development bordering public spaces that contain adjacent pathways ~~shall~~ must be designed to provide a visual privacy separation between uses.

E. Amenities

DR-7.4.23 Furniture used in public access areas ~~shall~~ must be appropriate for the proposed level of development, and the character of the surrounding district.

DR-7.4.24 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~~ must be set back from a walkway or path so pedestrians will still have room to walk by when the benches are in use. At least four (4) feet of unobstructed pathway width ~~shall~~ must remain where benches are placed on pathways. Benches may be built without backs and ~~shall~~ must be at least 4 to 5 feet in length.

b. Provisions for maintenance ~~shall~~ must be required as a condition of permit approval.

c. Educational signage ~~shall~~ must be used to identify unique natural features, maritime uses and historical landmarks.

F. Parking

DR-7.4.25 Parking associated with Public Access ~~shall~~ must comply with applicable parking requirements in Chapter 8, *Specific Use Policies and Development Regulations,* Section 8.9. Section 8.11 includes specific development regulations for vista parking facilities.

CHAPTER 8 SPECIFIC USE POLICIES AND DEVELOPMENT REGULATIONS

8.1 Introduction
8.2 Advertising and Signs
8.3 Agriculture
8.4 Aquaculture
8.5 Commercial Development
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8.8 Mining
8.9 Parking Facilities
8.10 Recreational Facilities
8.11 Residential Development
8.12 Scientific, Cultural and Educational Facilities
8.13 Transportation Facilities
8.14 Utilities (Primary)

8.1 Introduction

Development and use proposals may involve a number of *uses* and shoreline *modifications* and must comply with the policies and regulations for each. 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, and perhaps landfill. Each project is reviewed for compliance with the applicable *"use"* policies and regulations in these regulations and with the applicable *"modification*" policies and regulations in Chapter 9.

All shoreline developments and uses must comply with the standards of this Master Program whether or not a shoreline substantial development permit is required. Specific conditions that ensure such compliance may be attached as a condition of permit approval of a shoreline permit or shoreline exemption.

Shoreline uses specifically listed as "prohibited" ~~shall~~ must not be eligible for consideration as a Shoreline Variance or Shoreline Conditional Use Permit. If the use is not specifically prohibited, 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~~ must apply.

This chapter provides specific policies and regulations for the following types of specific uses. Refer to Chapter 9 for shoreline modifications:

a. Advertising and Signs

b. Agriculture

c. Aquaculture

d. Commercial Development

e. Industrial and Port Facilities

f. Marinas

g. Mining

h. Parking Facilities

i. Recreational Facilities

j. Residential Development

k. Scientific, Cultural and Education Facilities

l. Transportation Facilities

m. Utilities (Primary)

Uses not classified (i.e., "unclassified uses") under this Master Program ~~shall~~ must be processed as conditional uses.

8.2 Advertising and Signs

Outdoor advertising and signs include publicly displayed messages on signs, billboards, placards, or buildings that direct attention to promotion of a business, service, or product, or for public notice, transportation, or direction.

Outdoor advertising is regulated by the Anacortes sign code.

A. Policies

Policy 8.2.1 Ensure that signage within the shoreline jurisdiction complies with the City's Sign regulations codified in Chapter 17 of the Anacortes Municipal Code.

Policy 8.2.2 Ensure that signs are compatible with the shoreline environment and adjacent land and water uses through appropriate design and placement.

Policy 8.2.3 Minimize degradation of vistas and viewpoints and ensure visual access to the water from such vistas by appropriately locating signs.

Policy 8.2.4 Signs should not be placed where they will detract from or block shoreline views, nor should they be of a design and size which would degrade the shoreline character as defined in the Area Designations.

B. Development Regulations

DR-8.2.1 Outdoor advertising and signs ~~shall~~ must be in conformance with the City of Anacortes sign regulations codified in Chapter 19.67~~17~~ of the Anacortes Municipal Code.

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DR-8.2.2 Signs facing the water ~~shall~~ must be limited to:

a. Directional signage associated with a marina or boatyard, and

b. Signage on buildings with a waterside entrance.

DR-8.2.3 Over-water signs or signs on floats or pilings (signs in all areas below OHWM) ~~shall~~ must be limited to those that are a necessary part of approved in-water or over-water uses and ~~shall~~ must generally be limited to signs for navigation, safety, identification, or public information.

DR-8.2.4 Artificial lighting for signs ~~shall~~ must be directed or beamed away from the water, public streets, or adjacent premises so as to not cause glare reflection that may constitute a traffic or boating hazard or nuisance.

DR-8.2.5 Flashing and blinking signs are not permitted in the shoreline area. No sign or part thereof ~~shall~~ must consist of banners, posters, streamers, spinners, or other similar moving devices.

DR-8.2.6 No signs ~~shall~~ must be constructed or operated in a manner that obscures or detracts from the effectiveness of navigational aids.

DR-8.2.7 Billboards are prohibited within shoreline areas of the City and at upland locations which would obstruct existing visual access to the shorelines.

DR-8.2.8 Free-standing signs are permitted provided they are no larger than thirty-two square feet in area on any one face.

8.3 Agriculture

Agriculture includes the cultivation of soil, production of crops, or the raising of livestock.

A. Policies

Policy 8.3.1 Agricultural activities ~~shall~~ must be prohibited in all environments except for home gardens associated with a single-family residence.

8.4 Aquaculture

A. Introduction

Aquaculture is the farming or culturing of aquatic organisms. Aquaculture encompasses a wide variety of activities including hatching, seeding, planting, cultivating, feeding, raising, and harvesting of aquatic plants and animals. These activities may have widely differing impacts on the aquatic and shoreline environment.

Harvesting by Tribal entities is exempt from compliance with the City's Shoreline Master Program pursuant to Tribe treaties.

Aquaculture can be carried out in subtidal, intertidal, upland, and fresh water areas. The subtidal area is seaward of the line of extreme low tide. The intertidal area is seaward of the ordinary high water mark and landward of the line of extreme low tide. The upland area is landward of the ordinary high water mark.

B. Policies

Policy 8.4.1 Non-commercial aquaculture for recovery of a native population is preferred.

Policy 8.4.2 Limit all other aquaculture uses to the Urban and Urban Maritime environments and adjacent Aquatic environments as a Conditional Use.

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Policy 8.4.3 Ensure that, when permitted, aquaculture developments are located, designed and operated in a manner that is compatible with existing uses and in keeping with the natural shoreline environment and the environmental protection and restoration policies of this Master Program.

Policy 8.4.4 Aquaculture should not be permitted where it would result in a net loss of shoreline ecological functions; adversely affect the quality or extent of habitat for native species including eelgrass, kelp, and other macroalgae; adversely impact other habitat conservation areas; or interfere with navigation or other water-dependent uses.

Policy 8.4.5 The City should actively seek substantive comment on any shoreline permit application for aquaculture from all appropriate Federal, State and local agencies; affected tribes; and the general public regarding potential adverse impacts. Comments of nearby residents or property owners directly affected by a proposal should be considered and evaluated, especially in regard to use compatibility and aesthetics.

C. Development Regulations

DR-8.4.1 Shellfish seeding/culturing may be permitted when conducted for native population recovery in accordance with a government/Tribal approved plan. All other aquaculture developments and activities, including fish pens and commercial shellfish seeding/culturing, are limited to the Urban shoreline environment and those adjacent Aquatic designated areas.

DR-8.4.2 Aquaculture facilities ~~shall~~ must be located and designed to avoid:

a. loss of ecological functions,

b. impacts to native eelgrass and macroalgae,

c. significant conflict with navigation and water-dependent uses,

d. the spreading of disease,

e. introduction of non-native species, or

f. impacts to shoreline aesthetic qualities.

DR-8.4.3 Mitigation sequencing ~~shall~~ must be followed.

DR-8.4.4 Aquaculture that involves little or no substrate modification ~~shall~~ must be given preference over those that involve substantial modification. The applicant/proponent ~~shall~~ must demonstrate that the degree of proposed substrate modification is the minimum necessary for feasible aquaculture operations at the site.

DR-8.4.5 New aquatic species that are not previously cultivated in Washington State ~~shall~~ must not be introduced into City saltwaters or freshwaters without prior written approval of the Director of the Washington State Department of Fish and Wildlife and the Director of the Washington Department of Health. In saltwaters, the City ~~shall~~ must not issue permits for projects that include the introduction of such organisms until it has also received written comment from the Marine Resources Committee, and the local tribes, provided that such comment is received in a timely manner.

DR-8.4.6 No processing of any aquaculture product, except for the sorting or culling of the cultured organism and the washing or removal of surface materials or organisms after harvest, ~~shall~~ must occur in or over the water unless specifically approved by permit. All other processing and processing facilities ~~shall~~ must be located on land and ~~shall~~ must be subject to the policies and regulations of this SMP.

DR-8.4.7 Aquaculture wastes ~~shall~~ must be disposed of in a manner that will

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ensure strict compliance with all applicable governmental waste disposal standards, including but not limited to the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (RCW 90.48). No garbage, wastes or debris ~~shall~~ must be allowed to accumulate at the site of any aquaculture operation.

DR-8.4.8 In-water aquaculture is prohibited in the Aquatic Designation. Over-water aquaculture projects using legal above-water structures may be permitted, subject to the provisions under SMP Section 5.6, Aquatic. Applicants must include a narrative of their aquaculture proposal for a shoreline permit, consistent with the following:

a. Operations must maintain or improve overall water quality of the affected waterway, as applicable,

b. Identify antibiotics, vaccines, growth stimulants, anti-fouling agents or other chemicals the applicant anticipates using. Such materials must not be used until approval is obtained from all appropriate state and federal agencies, including but not limited to the U.S. Food and Drug Administration, the Washington State Department of Ecology, Fisheries and Wildlife, Agriculture and Department of Health.

c. Identify noise generation associated with the project, including boat or vehicle traffic that will occur during anticipated regular operation.

d. Subtidal, intertidal, floating, and upland structures and apparatus associated with the aquaculture proposal must be designed and maintained to avoid adverse shoreline ecological impact.

e. Aquaculture use and development must be sited so that shading and other adverse impacts to existing eelgrass, kelp, or native shellfish beds are avoided, minimized, and mitigated consistent with DR 8.4.3.

f. For aquaculture projects using overwater structures, tool and other essential apparatus storage seaward of the OHWM where a pre-existing legal structure does not already exist must be limited to a container three (3) feet height, measured from the raft or adjacent pier surface.

   i. Increases above three (3) feet in container height may be considered by the Shoreline Administrator without a shoreline variance, given a visual impacts analysis is provided by the applicant. A visual impact analysis can be prepared the applicant themselves, so long as it is substantially complete, to scale and has the proper photo point of references from nearby

properties.

ii. Height limitations do not apply to materials and apparatus that are removed daily.

g. Aquaculture equipment must be of sound construction, and contain the owners' identifying marks where feasible. Abandoned or unsafe structures and equipment must be promptly removed or repaired by the owner.

~~Fish net pens and rafts shall meet the following criteria in addition to the other applicable regulations of this section:~~

~~a. Fish net pens shall meet, at a minimum, State approved administrative guidelines for the management of net pen cultures. In the event there is a conflict in requirements, the more restrictive requirement shall prevail.~~

~~b. Fish net pens shall not occupy more than 2 surface acres of water area, excluding booming and anchoring requirements. Anchors that minimize disturbance to substrate, such as helical anchors, shall be employed. Such operations shall not use chemicals or antibiotics.~~

~~c. Net cleaning activities shall be conducted on a frequent enough basis so as not to violate state water quality standards. When feasible, the cleaning of nets and other apparatus shall be accomplished by air drying, spray washing, or hand washing.~~

DR-8.4.9 ~~All floating and submerged aquaculture structures and facilities in navigable waters shall be marked in accordance with U.S. Coast Guard requirements.~~ All geoduck aquaculture must adhere to the provisions of WAC 173-26-241(3)(b). The definition of aquaculture and its associated provisions does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery.

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8.5 Commercial Development

Commercial development means those uses and facilities that are involved in wholesale or retail trade or other business activities. Examples include, but are not limited to, hotels, motels, grocery stores, restaurants, shops, offices, and indoor recreation facilities.

A. Policies

Policy 8.5.1 Give priority to those commercial developments that are dependent on

shoreline locations or that allow a substantial number of people to actively or passively enjoy the shoreline; preference should first be given to water-dependent uses, then to water-related and water-enjoyment uses.

Policy 8.5.2 Except for marinas, commercial docking facilities, and related facilities, prohibit new over-water commercial structures.

Policy 8.5.3 Design commercial uses in a manner that provides reasonable physical and visual access to the water.

Policy 8.5.4 Design commercial uses adjacent to the ordinary high water mark in a manner that provides shoreline setback enhancement and environmental restoration at the water's edge consistent with constitutional and other limitations on the regulation of private property.

Policy 8.5.5 New non-water-oriented commercial uses are prohibited unless there is no direct access to navigable waterways or unless they are part of a mixed-use project that includes water-dependent uses as the primary uses or navigation is severely limited at the proposed site and the use provides a significant public benefit with respect to SMA objectives for public access and ecological benefit.

B. Development Regulations

DR-8.5.1 Over-water construction of commercial uses is prohibited except as follows:

a. The development of docks, piers, boat launch ramps, or other similar shoreline access facilities for marinas, related facilities, and port facilities.

b. Reconstruction of existing over-water buildings and associated structures may be allowed to facilitate development of non-water-dependent commercial uses in the limited instances where they are auxiliary to and necessary in support of water-dependent uses, provided that reuse or reconstruction of the existing structure or the addition of new structures will result in no net loss of ecological functions and provide public access and ecological restoration.

c. Minor commercial uses that are accessory and clearly incidental to an allowed use may be provided on *publicly owned* docks and piers (e.g., espresso stand at the ferry terminal; authorized ticket sales for a temporary, marine-oriented event).

d. Minor commercial uses that are accessory and clearly incidental

to an allowed use may be provided on privately owned or publicly owned marina docks and piers (e.g., marine fuel-related sales including boater convenience store, vessel-chartering services, boat maintenance and security services, marina security services, waiting area for float plane and/or ferry services).

DR-8.5.2 Commercial development ~~shall~~must be subject to the design review provisions of the Anacortes ~~Zoning c~~Unified Development Code (Title 1~~9~~7 AMC, specifically Chapters AMC 19.61, Block Frontage Standards, through AMC 19.69, Standards, Generally).

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DR-8.5.3 All commercial development/redevelopment requiring a Substantial Development or Conditional Use Permit within shoreline jurisdiction ~~shall~~must provide for public visual and physical access to the shoreline in accordance with Chapter 7, *Public Access,* taking into consideration constitutional and statutory limitations. Such provisions could be the preservation of shoreline views, the establishment of public access easements across and to the shoreline, enhancement of an adjacent street-end or park or other consideration commensurate with the degree of impact caused by the development. Ecological restoration ~~shall~~must also be considered as potential mitigation of impacts to shoreline resources and values for all non-water-dependent commercial development unless demonstrated to be infeasible or inappropriate.

DR-8.5.4 Bed and Breakfast establishments are required to meet the policies and regulations for both Residential and Commercial use.

DR-8.5.5 Warehousing is permitted in shoreline areas as an accessory use only if it is auxiliary to and necessary in support of a water-dependent use.

DR-8.5.6 Water-enjoyment and water-related commercial uses must be designed to avoid impacts to existing navigation, recreation, and public access.

DR-8.5.7 Priority ~~shall~~must first be given to water-dependent commercial uses over non-water-dependent commercial uses; second, preference to water-related and water-enjoyment commercial uses over non-water-oriented commercial uses.

DR-8.5.8 Non-water-oriented commercial uses in shoreline jurisdiction ~~shall~~must be prohibited unless they meet the following criteria:

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

b. Navigability is severely limited at the proposed site and the

commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

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

8.6 Industrial and Port Facilities

A. Introduction

Industry applies to those businesses or uses involved in the production, processing, manufacturing, or fabrication of goods. Warehousing and storage of materials or products is considered part of the industrial process. Water-dependent industries are those that require location adjacent to the shoreline by reason of the intrinsic nature of their business. Ports are a specialized subcategory of general industrial use. Port facilities are centers of water-borne traffic and commerce. Industry and ports are both covered in this section.

Some port and industrial developments are often associated with a number of uses and modifications that are identified separately in this Master Program (e.g., parking, dredging). Each use activity and every type of shoreline modification should be carefully identified and reviewed for compliance with all applicable sections.

Port and industrial facilities are intensive and have the potential to negatively impact the shoreline environment. When impacts cannot be avoided, they must be mitigated to assure no net loss of the ecological function necessary to sustain shoreline resources. Please refer to Chapter 6, *Environmental Protection General Regulations.*

B. Policies

Policy 8.6.1 Reserve shorelines that are particularly suitable for water-dependent and water-related industrial and port development for these uses.

Policy 8.6.2 Prohibit non-water-dependent industrial and port developments over water.

Policy 8.6.3 Require new industrial and port development to provide physical and visual access to shorelines whenever possible, consistent with constitutional and statutory limitations, and provided such access does not interfere with industrial operations or endanger public health and safety.

Policy 8.6.4 Encourage cooperative use of docks, cargo handling, storage, parking,

and other accessory facilities among private or public entities in shoreline industrial and port areas.

Policy 8.6.5 Ensure that land transportation and utility corridors serving ports and water-related industry follow the guidelines provided under the sections dealing with utilities and transportation. Where feasible, transportation and utility corridors should be located upland to reduce conflicts with industrial operations

Policy 8.6.6 Only water-dependent industrial and port uses ~~shall~~must be permitted on shorelands with direct frontage on and practical access to navigable waterways.

Policy 8.6.7 Opportunities for public access to the water are required at port and industrial sites, unless such access would interfere with operations or endanger public health and safety, or the proponent otherwise provides for equivalent access elsewhere in the City.

Policy 8.6.8 Cooperative and complementary port and industrial activities are encouraged to locate in common areas.

Policy 8.6.9 Industrial uses and redevelopment are encouraged to locate where environmental cleanup and restoration can be accomplished.

Policy 8.6.10 New non-water-oriented industrial uses are prohibited unless they are part of a mixed-use project, navigation is severely limited, and the use provides a significant public benefit with respect to SMA objectives.

C. Development Regulations

General

DR-8.6.1 Preference ~~shall~~must be given to water-dependent industrial uses over non-water-dependent industrial uses; and second, give preference to water-related industrial uses over non-water-oriented industrial uses.

DR-8.6.2 Non-water-oriented industrial uses in shoreline jurisdiction ~~shall~~must be prohibited unless they meet the following criteria:

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

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

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

DR-8.6.3 Only water-dependent industrial and water-dependent port facilities ~~shall~~must be permitted over water.

DR-8.6.4 Storage and/or disposal of industrial wastes are prohibited within shoreline jurisdiction, unless specifically listed herein.

DR-8.6.5 Solid waste disposal and solid waste disposal sites are prohibited within shoreline jurisdiction.

DR-8.6.6 The following uses may be permitted as a conditional use:

a. Bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or a permanent basis, provided that:

   i. Secondary containment and an emergency spill response plan are included in the proposal.

   ii. Alternate inland areas are unavailable.

   iii. The storage is directly related to a water-dependent use.

b. Wastewater treatment and reclamation systems accessory to a permitted use (also see "Utilities"), provided that:

   i. Alternate inland areas are unavailable and;

   ii. The proposed location, design and operation are compatible with existing and planned water-oriented uses.

Design

DR-8.6.7 Industrial and port facilities ~~shall~~must be located, designed, constructed, and operated so as to minimize impacts to shoreline resources and adjacent property owners, as well as adjacent shoreline or water uses. To this end, applications for industrial/port facilities must demonstrate conformance with the following criteria. The proposal ~~shall~~must:

a. Comply with all federal, state, regional, and local requirements regarding air and water quality.

b. All new or expanded industrial development ~~shall~~must be set back and buffered from adjacent shoreline properties that are used for or zoned for non-industrial purposes. Such buffering or greenbelt ~~shall~~must include landscaping, shrubs, trees and native

vegetation as found to be appropriate depending on the impact

c. Maximize joint use of accessory facilities -industrial/port facilities ~~shall~~must be designed and operated to promote joint use of over-water and accessory facilities such as piers, docks, storage, and parking whenever practicable.

d. Protect public views of harbor areas and other officially delineated vistas. Private views of the shoreline, although considered during the review process, are not expressly protected. Property owners concerned with the protection of views from private property are encouraged to obtain view easements, purchase intervening property and/or seek other similar private means of minimizing view obstruction.

e. Make adequate provision for fire and safety hazards -

   i. The storage and handling of inflammable liquids, liquefied petroleum gases and explosives ~~shall~~must comply with rules and regulations falling under the jurisdiction of the City fire chief, the laws of the state and other local ordinances;

   ii. Bulk storage of inflammable liquids below ground ~~shall~~must be permitted, and the tank ~~shall~~must be located not closer to the property line than the greatest dimension (diameter, length, or height of the tank).

   iii. Adequate fire fighting, fire prevention and safety equipment ~~shall~~must be provided as necessary to handle materials stored or used on the site.

   iv. Flammable/explosive/hazardous materials ~~shall~~must be kept removed from adjacent activities to a distance that is compatible with the potential danger involved.

   v. Provisions ~~shall~~must be made to minimize the probability of spills of fuel or other toxic substances and to handle accidental spills that occur.

   vi. Emission of dangerous radioactivity ~~shall~~must be prohibited.

f. Prevent interference. - Provide for necessary shielding or other measures to prevent on-site mechanical or electrical equipment from interfering with the use of electrical apparatus off-site.

g. Exterior lighting ~~shall~~must not be used in such a manner that

produces nuisance glare.

h. Noxious odors ~~shall~~must be eliminated to the extent practicable.

i. Assure no net loss of ecological functions.

Public Access

DR-8.6.8 Port and industrial facilities ~~shall~~must provide public access to shoreline areas in accordance with Chapter 7, *Public Access*, taking into consideration constitutional and statutory limitations, public safety, health, and security. Where industrial use is proposed for location on land in public ownership, public access ~~shall~~must be required in the general vicinity of the impact. Such provisions could be the preservation of shoreline views, the establishment of public access easements across and to the shoreline, enhancement of an adjacent street-end or park or other consideration commensurate with the degree of impact caused by the development. In this regard the *Port of Anacortes' Integrated Approach to Marine Public Access, October 2003* is incorporated by reference into this SMP.

DR 8.6.9 The Port of Anacortes and City ~~shall~~must coordinate the cooperative multiple use of publicly owned piers, docks, and parking facilities.

8.7 Marinas

A. Introduction

For the purpose of this chapter, marinas are defined as facilities that provide launching, storage, supplies, moorage, and other services for five or more pleasure and commercial watercraft. Commercial development, not accessory to the operation of a marina, ~~shall~~must comply with Section 8.5, "Commercial Development." Shoreline modifications associated with marinas, including docks, piers, and floats, ~~shall~~must also comply with Chapter 9 *Specific Shoreline Modifications Policies and Development Regulations*. Marinas are restricted to suitable environmental designations (Table 5.1).

B. Policies

Policy 8.7.1 Ensure that proposed marinas and the expansion of existing marinas are located, designed, constructed and operated in a manner that will minimize damage to shoreline processes and functions. When impacts cannot be avoided, impacts must be mitigated to assure no-net-loss of ecological function necessary to sustain shoreline resources.

Policy 8.7.2 Ensure that marinas are located, designed, and operated so as to be compatible with adjacent uses and protect the aesthetic qualities of the shoreline environment.

Policy 8.7.3 Consult the standards and guidelines of applicable federal, state and

local agencies in planning for marina expansion and new mooring facilities.

Policy 8.7.4 Marinas are to be designed to minimize adverse impacts to water quality, through avoidance and/or mitigation, and to be aesthetically compatible with the shoreline area.

Policy 8.7.5 Viewpoints and public access to marina areas should be included in marina plan and design.

Policy 8.7.6 Marinas must be designed to comply with regulations prepared by the State Department of Fish and Wildlife and other agencies having jurisdiction over such development.

Policy 8.7.7 New marinas and marina expansions are to be located and designed so that they will minimize damage to fish and shellfish resources after all mitigation requirements are met.

Policy 8.7.8 Marinas are to be designed to minimize, as far as practicable, adverse impacts to natural shoreline processes.

Policy 8.7.9 Special attention should be given to the design and development of operational procedures for fuel handling and storage in order to minimize accidental spillage and provide satisfactory means for handling those spills that do occur.

Policy 8.7.10 All applicable State and local health and safety standards ~~shall~~must be complied with in the development of marinas.

Policy 8.7.11 Upland dry storage marinas are preferred for non-transient storage of boats less than 30 feet in length, provided adequate boat launching/retrieval facilities and in-water staging floats are provided.

Policy 8.7.12 Preference should first be given to water-dependent uses, then to water-related and water-enjoyment uses.

C. Development Regulations

DR-8.7.1 The following uses ~~shall~~must be prohibited at marinas:

a. Floating buildings, except that floating shelters for boats may be allowed in a marina for community and/or youth boating programs operated by nonprofit organization or public agencies.

DR-8.7.2 Marina expansions, new mooring buoy fields, and new marinas, ~~shall~~must be located, designed, constructed, and operated so as to minimize impacts to shoreline resources and adjacent residential property owners, as well as adjacent shoreline or water uses. To this end, applications for such facilities must demonstrate conformance

with the following criteria. The proposal ~~shall~~must:

a. Locate with regard to favorable conditions related to wind, current, bathymetrics, and for overnight moorage facilities, adequate flushing action.

b. Comply with all federal, state, regional, and local requirements regarding water quality, including, but not limited to, Department of Health standards and environmental policies and regulations contained in Chapter 6, *Environmental Protection General Regulations*.

c. Provide for adequate upland support facilities (e.g., restrooms, dumpsters, etc.)

d. Provide accessory parking and loading areas - said facilities ~~shall~~must be located well away from the water's edge and ~~shall~~must be designed in accordance with Section 8.9, *Parking Facilities*.

e. Facilitate orderly launching, retrieval, and storage of boats as well as circulation of vehicles and pedestrians in the vicinity of the marina.

f. Marinas ~~shall~~must make provisions to minimize the probability of fuel spills during handling or storage.

g. Make provisions to handle accidental spills that do occur.

h. Except for mooring buoy fields, provide pump-out and on-shore sewage and waste disposal facilities, with or without charge.

i. Ensure that navigation rights are protected.

j. Demonstrate compliance with mitigation sequencing techniques. When impacts cannot be avoided, impacts must be mitigated to assure no-net-loss of ecological function necessary to sustain shoreline resources.

DR-8.7.3 Marina development ~~shall~~must comply with all applicable local, state, and federal regulations and requirements, including those of the Washington State Department of Fish and Wildlife.

DR-8.7.4 Placement of breakwaters, jetties, groins, bulkheads, and landfills, and dredging activities associated with marina construction ~~shall~~must comply with regulations contained in this Master Program pertaining to those activities.

DR-8.7.5 Marinas ~~shall~~must provide parking facilities adequate to meet demand/need analysis projections.

DR-8.7.6 Marinas ~~shall~~must be supplied with restroom and solid waste receptacles to accommodate marina users, and ~~shall~~must have facilities and established procedures for the discharge of solid waste or sewage, other than discharge into the water.

DR-8.7.7 Marinas ~~shall~~must have facilities and established procedures for the disposal or discarding of fish or shellfish cleaning waste, scrapfish, viscera, or unused bait in or near the marina.

DR-8.7.8 Marinas ~~shall~~must have facilities and established procedures for the containment and recovery of spilled petroleum or toxic projects.

DR-8.7.9 Marinas ~~shall~~must provide view points and regulated pedestrian access areas which will allow the public to view marina activity.

DR-8.7.10 Marinas ~~shall~~must provide pump-out, holding and/or treatment facilities for sewage contained on boats or vessels.

DR-8.7.11 Marinas ~~shall~~must implement a landscaping plan which addresses impacts on adjacent properties, views from upland areas, and topography of the area.

DR-8.7.12 Accessory uses at marinas ~~shall~~must be limited to those uses that are water-dependent or directly serve needs of marina users and ~~shall~~must comply with the regulations contained in the Master Program pertaining to those activities.

DR-8.7.13 Over-the-water parking facilities are prohibited.

DR-8.7.14 Space for transient moorage ~~shall~~must be encouraged.

DR-8.7.15 Applicants for new marinas and marina expansions must demonstrate the following**:**

a. The proposed design will meet the State Water Quality Standards.

b. The proposed design will minimize significant interference with geohydraulic processes and disruption of existing shore forms;

c. The proposed design will minimize impediments to fish migration;

d. The proposed facility will not impact shellfish or finfish habitat, including spawning, feeding and rearing areas, unless mitigation

consistent with the requirements of the mitigation element of the *Revised Integrated Fidalgo Bay Plan & EIS*, 2000 has been provided.

DR-8.7.16 Marina construction ~~shall~~must conform to the tabular requirements established in Table 5.2 except as provided below:

a. Structures for upland boat storage ~~shall~~must comply with height, bulk and setback requirements for buildings in the underlying zone.

DR-8.7.17 Viewpoints and public access to new and expanded marina areas ~~shall~~must be included in marina plan and design, particularly where water-enjoyment uses are associated.

8.8 Mining

A. Introduction

Mining is the removal and primary processing of naturally occurring materials from the earth for economic use. For purposes of this Master Program, "processing" includes screening, crushing, and stockpiling of materials removed from the site. Mining activities also include in-water dredging activities related to mineral extraction. Processing does not include general manufacturing, such as the manufacture of concrete. Removal of intertidal/subtidal bottom materials for beach nourishment purposes or habitat restoration purposes is not to be considered mining.

B. Policies

Policy 8.8.1 Ensure that all mining activities occur in appropriately designated areas outside of the Anacortes shoreline jurisdiction.

C. Development Regulations

DR-8.8.1 Mining in all shoreline areas is prohibited.

8.9 Parking Facilities

A. Introduction

Parking is the use of land for storage of motor vehicles, motorized equipment, or accessory units, such as trailers. Land used for this purpose is leveled, cleared, and often covered with an impermeable surface. Parking includes areas for scenic vista parking.

B. Policies

Policy 8.9.1 Encourage offsite parking with shuttle parking service.

Policy 8.9.2 Design and place parking facilities as far as practicable from the water's edge.

Policy 8.9.3 Ensure that parking facilities are adequate to serve the level of demand anticipated by the associated use.

Policy 8.9.4 Minimize impacts from parking facilities in shoreline areas including those related to stormwater runoff, water quality, visual qualities, public access, and vegetation and habitat maintenance, through appropriate location and design.

C. Development Regulations

Parking for specific land use activities within the City of Anacortes is subject to the requirements and standards set forth in the Anacortes Zoning Code, in addition to the regulations of this section.

DR-8.9.1 Parking in shoreline areas must directly serve an approved shoreline use.

DR-8.9.2 Parking as a principal use (i.e., not accessory to an authorized use) is prohibited, except when provided as part of a public scenic vista.

DR-8.9.3 Parking ~~shall~~must comply with the following design standards as applicable (e.g., items a, b, e and f would not apply to over-water ferry terminal parking):

a. Parking ~~shall~~must be located on the landward side of the development unless contained within a permitted structure.

b. Where there is no existing structure, parking ~~shall~~must extend no closer to the shoreline than a permitted structure.

c. The design and construction of parking facilities ~~shall~~must assure that surface water runoff will not pollute adjacent waters or cause soil or beach erosion. Oil separators and detention facilities ~~shall~~must be required for new parking facilities. Alternatives to conventional storm water treatment, such as use of pervious materials, ~~shall~~must be considered where appropriate in order to minimize impacts due to runoff and/or the need for storm water treatment.

d. Security lighting associated with parking facilities ~~shall~~must be beamed, hooded, or directed so as to not cause nuisance glare.

e. Parking facilities ~~shall~~must be separated from residential, recreation, and natural areas (e.g., the shoreline) by landscaping and/or screening in accordance with the Parking Facilities

Landscaping requirements of the Anacortes Municipal Code, Title 19~~7~~). The landscaping ~~shall~~must, preferably, consist of native vegetation. The requirement for screening may be waived or modified by the Shoreline Administrator, where screening would obstruct a significant view from public property or public roadway or to address public safety concerns.

f. All landscaping must be maintained in a neat and orderly manner. In no event ~~shall~~must such landscape areas be used for the storage of materials or parking of automobiles, or recreational or other vehicles.

g. Vista parking facilities ~~shall~~must include a significant public view and provide recreational opportunities such as picnic tables or viewing benches.

8.10 Recreational Facilities

A. Introduction

Recreational development provides opportunities for play, sports, relaxation, amusement, or contemplation. It includes facilities for passive recreational activities, such as hiking, photography, viewing, and fishing. It also includes facilities for active or more intensive uses such as parks, campgrounds, public and private marinas, and golf courses. 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. Commercial recreational development must be consistent with the provisions of this section *and* the provisions of Section 8.5 for commercial uses.

This Master Program gives priority to recreational development that is primarily related to access to, enjoyment of, and use of the water and shorelines of the state as reflected in the Table 5.1 Shoreline Use and Modification Matrix.

B. Policies

Policy 8.10.1 Encourage the coordination of local, state, and federal recreation planning so as to mutually address recreational needs. Shoreline recreational developments should be consistent with all adopted park, recreation, and open space plans.

Policy 8.10.2 Encourage the linkage of shoreline parks, recreation areas, and public access points in a linear system, such as hiking paths, bicycle paths, and scenic drives.

Policy 8.10.3 Locate and design recreational developments in a manner that preserves, enhances, or creates scenic views and vistas.

Policy 8.10.4 Locate and design recreational facilities to minimize adverse impacts

including those related to stormwater runoff, water quality, visual qualities, public access, and vegetation and habitat maintenance.

Policy 8.10.5 Encourage physical and visual access to shorelines and surface waters.

Policy 8.10.6 Prevent concentration of clutter and leave the beaches and tidelands in their natural state by locating camping and overnight recreation sites in upland areas. Park design and operation should deal with the impact such activities have not only within park boundaries but on adjacent properties and communities as well.

Policy 8.10.7 Prohibit use of recreational off-road vehicles within the shoreline area, except by public agencies for maintenance, operations and emergency services.

Policy 8.10.8 Location, design and operation of recreational facilities ~~shall~~must be consistent with the purpose of environment designations in which they are allowed.

Policy 8.10.9 Recreational development ~~shall~~must achieve no net loss of ecological processes and functions.

C. Development Regulations

DR-8.10.1 Table 5.1 generally identifies allowed and prohibited recreation developments by environment designation. In addition, the following recreational uses and developments are prohibited:

a. Use of recreational off-road vehicles in shoreline areas, except by public agencies for maintenance, operations and emergency services;

DR-8.10.2 Recreational facilities ~~shall~~must make adequate provisions for:

a. Vehicular and pedestrian access, both on-site and off-site;

b. Vehicular traffic, both inside and outside the facility;

c. Vehicular parking;

d. Water supply, sewage disposal, and garbage collection;

e. The control of fires both within recreational facilities and between recreational facilities and adjacent private or public lands;

f. The prevention of overflows and trespasses onto adjacent properties;

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

h. Enforcement of laws and regulations associated with use of the facilities being proposed;

i. Security; and

j. Maintenance.

DR-8.10.3 Valuable shoreline resources and fragile or unique areas, such as wetlands and accretion shore forms, ~~shall~~must be used only for non-intensive recreation activities.

DR-8.10.4 Waterward of the ordinary high water mark, no recreational buildings or structures ~~shall~~must be built, except water-dependent and/or water-enjoyment structures as follows: docks, bridges, piers, public boat launches, marinas, and viewing platforms.

DR-8.10.5 For recreation developments, such as playing fields that require the use of fertilizers, pesticides, or other chemicals, the applicant ~~shall~~must submit plans demonstrating the methods to be used to prevent these chemical applications and resultant leachate from entering adjacent water bodies and wetlands. Natural vegetation planting strips ~~shall~~must be required between the shoreline waters and recreation developments that use fertilizers, pesticides, or other chemicals. The planting strips ~~shall~~must not be less than fifty (50) feet wide, measured on a horizontal plane, perpendicular to the edge of the ordinary high water mark. The proponent ~~shall~~must also be required to leave a chemical-free swath at least one hundred (100) feet in width next to waterbodies and wetlands.

DR-8.10.6 Encourage recreational facilities to provide signage and enforce regulations that prohibit tree cutting and limit the taking of marine life, driftwood, and the like.

DR-8.10.7 Signs associated with recreational facilities ~~shall~~must be kept to a minimum in number and size and ~~shall~~must be erected as informational or directional aids only.

8.11 Residential Development

A. Introduction

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, mobile home parks, 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, and saunas, but not guest cottages, when allowed by the underlying zoning. Residential development does not include hotels, motels, or camping facilities. Bed and Breakfast establishments proposed within a Residential zoning district are required to meet the policies and regulations for both Residential and Commercial use.

Note: A Substantial Development Permit may not be required for construction of a single-family residence by an owner, lessee, or contract purchaser for his own use or the use of his family. However, such construction and all normal appurtenant structures must otherwise conform to this Master Program and obtain a Letter of Exemption. In addition, when applicable, all residential development is subject to the variance and conditional use requirements of this Master Program. For example, a Variance will be required for any residential development that proposes to locate within the shoreline environment setbacks established in Chapter 5 of this Master Program.

Uses and facilities associated with residential development, which are identified as separate use activities or modifications in this Master Program, such as clearing, grading and fill, are subject to the regulations established for those uses in addition to this section.

B. Policies

Policy 8.11.1 Single-family residences are identified as a priority use only when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.

Policy 8.11.2 No net loss of ecological functions must be assured with specific standards for setback of structures sufficient to avoid problems with future soil stabilization, planted areas, density, shoreline stabilization, and on-site sewage disposal.

Policy 8.11.3 Prohibit residential structures, floating homes (except that floating shelters for boats may be allowed in a marina for community and/or youth boating programs operated by nonprofit organization or public agencies), and accessory structures except for permitted docks in areas waterward of the ordinary high water mark, or within wetlands, habitat conservation areas, flood hazard areas, landslide hazard areas or their respective buffers.

Policy 8.11.4 Ensure that all residential development is designed:

a. At a level of density of site coverage and occupancy compatible with the physical capabilities of the shoreline area, and consistent with the density provisions of the Anacortes Comprehensive Plan Ordinance No. ~~2757~~ 2982, dated July 18, 2016 and ~~Zoning~~Unified Development Code Ordinance No. ~~2702~~3040,

dated July 22, 2019, as amended.

Commented [AC61]: Table 5-1 #9

b. To preserve and enhance existing shoreline vegetation, control erosion and protect water quality, ecological resources and shoreline aesthetics of the shoreline both during and after construction.

c. To protect public views and provide public access to the shoreline. In accordance with the Public Access requirements in Chapter 7, residential developments of more than four (4) dwelling units should provide dedicated and improved public access to the shoreline.

d. To preserve natural drainage courses, aquifer recharge areas, and similar ecologically sensitive areas.

e. Private views of the shoreline, although considered during the review process, are not expressly protected. Property owners concerned with the protection of views from private property are encouraged to obtain view easements, purchase intervening property and/or seek other similar private means of minimizing view obstruction. Residential structures greater than thirty-five feet above average grade level are prohibited, except for a multi-use project containing multi-family residential.

f. To blend into the site as much as possible.

Policy 8.11.5 Consider additional design features for new subdivision and short subdivisions that:

a. Cluster dwelling units in order to preserve natural features, minimize physical impacts, and provide for public access to the shoreline.

b. Maintain usable waterfront areas for the common use of all property owners within the development.

c. Are serviced by sanitary sewer and public water facilities in accordance with appropriate state and local health regulations. Storm drainage facilities ~~shall~~must be separate, not combined with sewage disposal systems.

d. Assures that the lots created will not require shoreline stabilization other than soft armoring in order for reasonable use to occur.

Policy 8.11.6 Encourage joint use of shoreline facilities including access stairs, trams, piers, and docks.

Policy 8.11.7 Planned unit residential developments which provide for additional open space and public shoreline access are encouraged.

Policy 8.11.8 Subdivisions and high density residential developments are to be planned and designed to avoid problems of storm and sanitary sewage disposal, and minimize impervious surfaces.

C. Development Regulations

DR-8.11.1 Clearing and grading associated with a single-family residence may be exempted from the Shoreline Substantial Development Permit requirement, provided the conditions identified in Section 2.4(E)(7) are met.

DR-8.11.2 Residential and accessory structures, including floating homes (except that floating shelters for boats may be allowed in a marina for community and/or youth boating programs operated by nonprofit organization or public agencies), but not including permitted piers, docks, or floats, ~~shall~~must not be located in areas waterward of the ordinary high water mark, areas subject to flooding or tidal inundation, or within wetlands, habitat conservation areas, flood hazard areas, landslide hazard areas or their respective buffers.

DR-8.11.3 Residential development ~~shall~~must be:

a. Located and designed to avoid the need for structural shore defense and flood protection works in the foreseeable future.

b. Designed to minimize potential conflicts with the use of adjacent public lands and areas of public access. This may include providing a physical separation to reinforce the distinction between public and private space, achieved by providing adequate space, through screening with landscape planting or fences, or other means.

DR-8.11.4 Subdivisions:

a. ~~Shall~~Must comply with local plans, codes, and/ordinances

b. ~~Shall~~Must be designed to exemplify the definition and policy of the applicable shoreline designation as well as the environmental and physical capabilities of the subject site. Parcels ~~shall~~must not be created for residential construction that would require shoreline stabilization for the foreseeable future.

c. ~~Shall~~Must be prohibited if flood control or shoreline protection measures are necessary to create a residential lot or site area.

d. May be required to cluster residential units and structures to avoid wetlands, habitat conservation areas or landslide hazards that are located on the development site.

e. ~~Shall~~Must be designed to minimize potential conflicts with the use of adjacent public lands and areas of public access. This may include providing a physical separation to reinforce the distinction between public and private space, achieved by providing adequate space, through screening with landscape planting or fences, or other means.

f. ~~Shall~~Must comply with the applicable policies and performance standards of this Master Program, with regard to roads, utilities, and other improvements.

g. Plats that preclude or reduce the need for roadways are encouraged.

h. New subdivided lots ~~shall~~must be designed to prevent the loss of ecological functions at full build-out; ~~shall~~must prevent the need for new shoreline stabilization or flood hazard reduction measures; and ~~shall~~must be consistent with applicable SMP environment designations and standards.

Public Access

DR-8.11.5 Public access to publicly owned shorelines ~~shall~~must be maintained.

DR-8.11.6 Public access improvements ~~shall~~must be designed to include measures to prevent overflow usage from common and public areas upon privately owned shore lands and uplands. Appropriate measures may include fences or landscaping.

DR-8.11.7 Developments of more than four (4) dwelling units adjacent to the waterfront ~~shall~~must dedicate, improve, and provide maintenance provisions for a pedestrian easement that provides area sufficient to ensure usable access to the shoreline for all residents of the development and the general public. When required, public access easements ~~shall~~must be a minimum of twenty-five (25) feet in width and ~~shall~~must comply with the public access standards contained in this Master Program (see *Chapter 7, "Shoreline Public Access"*).

DR-8.11.8 New construction or expansion of existing piers, bulkheads or fills to provide for over-water residential development is prohibited.

DR-8.11.9 Single-family subdivisions and multi-family residences on waterfront property ~~shall~~must provide for regulated public access to the water or to water view sites.

DR-8.11.10 Liveaboards are restricted to marinas with facilities adequate to accommodate them.

Environmental Protection

In addition to all relevant provisions of Chapter 6, residential development ~~shall~~must comply with the following standards:

DR-8.11.11 Engineered storm drainage and treatment facilities ~~shall~~must be required by the City for proposals of five (5) or more dwellings. Drainage facilities ~~shall~~must be separate from sewage disposal facilities. Drainage systems ~~shall~~must include provisions to prevent the direct entry of uncontrolled and untreated surface water runoff into receiving waters. Such provisions may include retention ponds, vaults, vegetated swales, and artificial wetlands.

DR-8.11.12 Developments containing wetlands ~~shall~~must use those areas only in association with parks, open space, or passive recreational facilities. Such use ~~shall~~must be consistent with the ~~shoreline-specific~~City's Critical Areas Regulations, Ordinance No. XX, dated XX, found ~~in Appendix A~~AMC 19.70, in addition to the applicable provisions of this Master Program.

Commented [AC62]: Table 3-1, #1

DR-8.11.13 Alteration of topography for building sites, access roads, and utilities ~~shall~~must be conducted in compliance with the applicable policies and performance standards of this Master Program.

DR-8.11.14 Sewage disposal systems ~~shall~~must not be located within wetlands, habitat conservation areas, landslide hazard areas, or their buffers, or in the floodplain.

8.12 Scientific, Cultural and Educational Facilities

A. Introduction

Scientific, cultural and educational facilities include those sites, structures, or facilities that provide unique insight into our natural or cultural heritage.

B. Policies

Policy 8.12.1 Consider permanently preserving sites, where practicable, consistent with constitutional and statutory limitations, for scientific study and public observation.

Policy 8.12.2 Provide for site inspections and an evaluation by a professional archaeologist in coordination with affected Indian tribes. Ensure that archaeological data is properly salvaged by attaching special conditions to development activities in areas known to contain archaeological data.

Policy 8.12.3 Prevent public or private developments from destroying or destructively altering potential or recognizable sites having historic, cultural, scientific, or educational value protected by state law wherever feasible, consistent with constitutional and statutory limitations.

Policy 8.12.4 Ensure that excavation activities are conducted in compliance with the applicable policies and standards of this Master Program.

Policy 8.12.5 An inventory of historical and archeological sites should be prepared and referred to when reviewing plans for development in shoreline areas.

Policy 8.12.6 If, in the course of construction on shorelines, items of possible archeological significance are uncovered, the contractor ~~shall~~must notify the City of the find, and stop work which could damage such items, or protect the items from damage, until appropriate evaluations and actions can be carried out.

C. Development Regulations

DR-8.12.1 No development or substantial development ~~shall~~must be undertaken with regard to a site or structure that has probable historical, scientific, or archaeological significance until an evaluation of the site or structure has been made by an authority judged competent in such matters by the Shoreline Administrator.

DR-8.12.2 All feasible means ~~shall~~must be employed to ensure that data, structures, and sites having historical, scientific, educational, or archaeological significance are extracted, preserved, or used in a manner commensurate with their importance.

DR-8.12.3 Consistent with constitutional and statutory limitations, public and private developments ~~shall~~must be located and designed to prevent destruction and alteration of sites having significant historic, cultural, scientific, or educational value.

DR-8.12.4 All shoreline permits ~~shall~~must contain provisions that require developers to immediately stop work if cultural resources protected by state law are uncovered during excavation. In such cases, the developer ~~shall~~must provide for site inspection and evaluation by a professional archaeologist.

DR-8.12.5 The establishment, restoration, or revitalization of historical, archaeological, scientific, or educational facilities ~~shall~~must be done in such a manner that would cause minimal disturbance to adjacent properties as well as natural features of the shoreline.

DR-8.12.6 Excavation of Indian artifacts ~~shall~~must be conducted in compliance with the Washington State Archaeological Sites and Resources Act (RCW 27.53).

DR-8.12.7 Excavation activities ~~shall~~must be conducted in compliance with the applicable policies and standards of this Master Program.

DR-8.12.8 Archeological and historic site development is permitted as a conditional use in shoreline areas designated Natural subject to relevant shoreline regulations.

DR-8.12.9 Such developments which are intended for commercial purposes ~~shall~~must comply with policies and regulations for Commercial Development.

DR-8.12.10 Evaluations of archeological finds protected by state law ~~shall~~must be done promptly by a qualified archeologist and ~~shall~~must be done so as to avoid excessive delays to construction.

DR-8.12.11 All permits issued in areas documented to contain archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian Tribes.

8.13 Transportation Facilities

A. Introduction

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, boat and floatplane terminals, and parking. Under this Master Program, bikeways, walkways and trails are addressed under Section 8.10 “Recreational Facilities”.

B. Policies

Policy 8.13.1 Proposed transportation and parking facilities are required to plan, locate, and be designed where routes will have the least possible adverse effect on unique or fragile shoreline features, and will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

Policy 8.13.2 Circulation system plans must include systems for pedestrian, bicycle, and public transportation where appropriate.

Policy 8.13.3 Parking ~~shall~~must be allowed only as necessary to support an authorized shoreline use and where it minimizes environmental and visual impacts of the parking facilities.

Policy 8.13.4 Discourage the location of new roads in the shoreline jurisdiction.

Policy 8.13.5 Reserve new roads for local access traffic or to connect to and serve new or existing transportation facilities.

Policy 8.13.6 Avoid unnecessary duplication of roads by making use of existing roads where practicable. New wetland crossings by roads or trails should be avoided.

Policy 8.13.7 Plan road locations to fit the topography so alterations of natural conditions will be minimized.

Policy 8.13.8 Make provisions for scenic corridors and safe pedestrian and other non-motorized travel when designing new public roadways. Also, provisions should be made for viewpoints, rest areas, scenic corridors, and picnic areas in public shorelines.

Policy 8.13.9 Coordinate plans for transportation facilities with land use. Plans for transportation facilities should be consistent with the Anacortes Comprehensive Plan.

Policy 8.13.10 Road and railway development should be located as far inland from the land/water interface as feasible and should not interfere with other appropriate shoreline uses, or degrade shoreline areas.

Policy 8.13.11 Design of roadways on shoreline areas should take advantage of scenic vistas and provide for viewpoints and rest and picnic sites in public areas.

Policy 8.13.12 Design of new roadways or redesigned roadways ~~shall~~must use Low Impact Development provisions when practicable.

C. Development Regulations

DR-8.13.1 When practicable, major highways and railroads ~~shall~~must be located away from shoreline areas.

DR-8.13.2 Whenever possible, roads ~~shall~~must be located on natural benches, ridge tops, or other areas where alteration of natural features such as soils will be minimal.

DR-8.13.3 Roads ~~shall~~must be located to avoid critical areas and their buffers. Fill for transportation facility development is prohibited in water bodies, associated wetlands and their buffers, except when there is a demonstrated purpose and need, and alternatives to accomplish the same purpose have been shown to be infeasible. Such fill may be permitted by a Conditional Use Permit and must comply with the provisions of Section 9.7, Fill.

DR-8.13.4 Roads and waterway crossings ~~shall~~must be prohibited within

wetlands or critical fish and wildlife conservation areas and associated buffers except when all upland alternatives have been proven impracticable and the transportation facilities are necessary to support uses consistent with this program. When permitted, these facilities ~~shall~~must be:

a. The minimum width to accommodate the anticipated use.

b. Designed so the integrity of the naturally occurring geohydraulic process is maintained.

c. Designed to provide minimal disturbance to banks.

DR-8.13.5 Culverts, bridges and similar devices ~~shall~~must be designed to pass water, sediment, and debris loads anticipated under appropriate hydraulic analysis and ~~shall~~must not impede the migration of anadromous fish.

DR-8.13.6 All roads and drainage systems ~~shall~~must be maintained to prevent erosion and/or water quality degradation.

DR-8.13.7 Mechanical apparatus or hand removal, rather than chemicals, ~~shall~~must be used for brush clearing maintenance wherever practicable.

DR-8.13.8 Herbicides used for maintenance along roads and drainage systems ~~shall~~must follow the performance standard outlined in Section 6.4.

DR-8.13.9 To the greatest extent practicable, organic, nontoxic, methods and BMPs should be utilized for maintenance along roads and drainage systems in the vicinity of critical fish and wildlife habitats.

DR-8.13.10 Street vacations ~~shall~~must comply with applicable state laws, including statutory provisions relating to vacations of right of way which abut a body of salt or fresh water.

DR-8.13.11 Limited food and retail service may be allowed as an accessory use within the waiting area of a publicly owned and operated ferry terminal. Said facilities ~~shall~~must be limited in size to serve passengers and employees.

Roads and Railroads

DR-8.13.12 New railroad and road developments, to the extent consistent with public safety, may be required to provide public access opportunities, and to maintain existing pedestrian access to shorelines.

DR-8.13.13 Road and railroad development ~~shall~~must be coordinated with the various governing bodies, and where possible, development ~~shall~~must

be designed to accommodate varied modes of transportation.

DR-8.13.14 Design of roadways on shorelines ~~shall~~must provide for pedestrian and bicycle routes.

8.14 Utilities (Primary)

A. Introduction

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 primary use and activities such as sewage treatment plants, sewer lift pumps, stormwater outfalls and fuel storage facilities. On-site utility features serving a primary use, such as water, sewer or gas line to a residence, are "accessory utilities" and ~~shall~~must be reviewed as appurtenances to the primary use (in this example, the residential use).

Utilities are further described as major and minor to allow for a simplified permit process for minor utility improvements. As used in this Master Program, major utilities include substations, pump stations, treatment plants, sanitary sewer outfalls, regional stormwater outfalls, electrical transmission lines greater than 55,000 volts, water, sewer or storm drainage mains greater than eight (8) inches in diameter, major recycling facilities (as defined by the AMC), gas and petroleum transmission lines, macro wireless facilities, and submarine telecommunications cables. Minor utilities include local public water, minor storm sewer outfalls, electric, minor recycling facilities (as defined by the AMC), natural gas distribution, public sewer collection, cable and telephone service, micro and mini wireless facilities, and appurtenances.

B. Policies

Policy 8.14.1 Design, location and maintenance of utilities is required to assure no net loss of ecological functions.

Policy 8.14.2 Utilities are required to be located in existing rights-of-ways whenever possible.

Policy 8.14.3 Utility production and processing facilities and transmission facilities are required to be located outside of shoreline jurisdiction, unless no other feasible option exists.

Policy 8.14.4 Incorporate, to the extent feasible, major utility corridors on shorelines areas into the City's programs and plans for public access to and along water bodies.

Policy 8.14.5 Prohibit solid waste disposal activities and facilities, other than minor recycling facilities as defined by the AMC, in shoreline areas.

Policy 8.14.6 Prohibit utilities in wetlands and other critical areas unless no other

practicable alternative exists.

Policy 8.14.7 Ensure that whenever utilities must be placed in a shoreline area, the location is chosen to:

a. Meet the needs of future populations in areas planned to accommodate this growth.

b. Utilize existing transportation and utility sites, rights-of-way and corridors, whenever possible. Joint use of rights-of-way and corridors should be encouraged.

c. Preserve scenic views and aesthetic qualities of the shoreline area.

d. Be located such that shoreline defense works will not be required for the life of the project.

e. Non-water-oriented parts of wastewater treatment, water reclamation, desalinization, and power plant facilities ~~shall~~must be located outside shoreline jurisdiction unless it can be demonstrated that no other feasible option is available.

Policy 8.14.8 Restore the land/substrate to its pre-project configuration upon completion of installation/maintenance of utilities in shorelines, Disturbed areas should be replanted with native species, and be provided with irrigation and maintenance care until the newly planted vegetation is established.

Policy 18.14.9 Placement of utilities in shoreline areas should be planned and designed to avoid degradation of the shorelines and shoreline views during and after installation.

C. Development Regulations

General

DR-8.14.1 Utility development ~~shall~~must, through coordination with local government agencies, provide for compatible, multiple uses of sites and rights-of-way.

DR-8.14.2 Utilities ~~shall~~must be designed and installed to meet future needs when possible.

DR-8.14.3 Personal wireless facilities ~~shall~~must comply with the City's "Wireless Communications Towers and Antennas" ordinance codified in Chapter 17 of the Anacortes Municipal Code.

Uses

DR-8.14.4 The following utilities are prohibited within the shoreline jurisdiction:

a. Solid waste disposal and transfer facilities, other than minor recycling facilities as defined by the AMC

b. Fuel storage facilities (excepting fuel storage that is accessory to a permitted use).

c. Use of creosote or pentachlorophenol treated timber is prohibited.

DR-8.14.5 Minor utilities are allowed as a permitted use provided that, within the Natural and Conservancy designations, it has been determined that no other feasible alternative exists

DR-8.14.6 Upgrades to existing major utilities are permitted.

DR-8.14.7 The following new major utility facilities may be permitted in shoreline jurisdiction if it can be shown that no practicable alternative exists outside of shoreline jurisdiction.

a. Electrical energy generating plants, substations, and transmission lines greater than 55,000 volts;

b. Sanitary sewer outfalls;

c. Sewage system mains, interceptors, pump stations, and treatment plants;

d. Storm drainage mains and regional outfalls;

e. Submarine telecommunications cables; and

f. Water lines and water system treatment plants.

DR-8.14.8 All impacts to fish and wildlife resources ~~shall~~must be fully mitigated.

Applications

DR-8.14.9 Applications for the installation of major utility facilities ~~shall~~must include the following:

a. Description of the proposed facilities;

b. Reasons why the utility facility requires a shoreline location;

c. Alternative locations considered and reasons for their elimination;

d. Location of other utility facilities in the vicinity of the proposed project and any plans to include the other types of utilities in the project;

e. Plans for reclamation of areas disturbed both during construction and following decommissioning and/or completion of the useful life of the utility;

f. Plans for control of erosion and turbidity during construction and operation; and

g. Identification of any possibility for locating the proposed facility at another existing utility facility site or within an existing utility right-of-way.

Location

DR-8.14.10 Utilities ~~shall~~must 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.

DR-8.14.11 Sewage treatment, water reclamation, desalinization, and power plants ~~shall~~must be located to minimize interference with adjacent uses of the water and shore lands.

Public Access

DR-8.14.12 When feasible, utility development ~~shall~~must include public access to the shoreline, trail systems, and other forms of recreation, providing such uses will not unduly interfere with utility operations, or endanger the public health, safety, and welfare. Public access easements ~~shall~~must be a minimum of twenty-five (25) feet in width and ~~shall~~must comply with the public access standards contained in this Master Program (see *Chapter 7, "Public Access"*).

Environmental Protection

In addition to the general environmental policies and regulations of Chapter 6, utilities ~~shall~~must comply with the following standards:

DR-8.14.13 Utilities ~~shall~~must be located, designed, constructed, and operated so as to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses.

DR-8.14.14 To protect aesthetic qualities of the shoreline, new utility lines including electricity, communications, and fuel lines ~~shall~~must be located underground, except where the presence of bedrock or other obstructions make such placement infeasible.

DR-8.14.15 Utility developments ~~shall~~must be located and designed so as to avoid, to the extent practicable, the need for any structural or artificial shoreline modification works for the life of the project.

DR-8.14.16 Utilities should be avoided in floodplains to the greatest extent practicable; if necessary, flood protection structures ~~shall~~must not increase flood hazards in other areas along the waterbody.

DR-8.14.17 Underwater construction of utilities or construction in adjacent wetlands ~~shall~~must be timed to avoid fish and wildlife migratory and spawning periods.

DR-8.14.18 Installation of utilities ~~shall~~must assure the prevention of siltation or beach erosion.

DR-8.14.19 Upon completion of installation/maintenance of utilities in shorelines, the land/substrate ~~shall~~must be restored to its pre-project configuration, replanted with native species as appropriate, and be provided with maintenance care until the newly planted vegetation is established.

DR-8.14.20 When feasible, utilities within the shoreline area ~~shall~~must be placed underground, and utility corridors ~~shall~~must be used for shoreline access.

DR-8.14.21 Undergrounding of utilities across a water body ~~shall~~must comply with all applicable local, state, and federal agency regulations and requirements; a shoreline permit is required.

CHAPTER 9 SPECIFIC SHORELINE MODIFICATION POLICIES AND DEVELOPMENT REGULATIONS

9.1 Introduction -- Applicability
9.2 General Policies and Regulations
9.3 Boat Launches
9.4 Breakwaters
9.5 Docks, Piers and Floats
9.6 Dredging and Dredge Spoil Disposal
9.7 Fills
9.8 Jetties and Groins
9.9 Mooring Buoys
9.10 Shoreline Habitat and Natural Systems Enhancement Projects
9.11 Shoreline Stabilization Measures and Flood Protection Works

9.1 Introduction - Applicability

What is a shoreline modification?

Shoreline modification activities are structures or actions that permanently change the physical configuration or quality of the shoreline, particularly at the point where land and water meet. Shoreline modifications include, but are not limited to, structures such as dikes, breakwaters, weirs, dredge basins, fill, bulkheads and piers and actions such as clearing, grading, and removing vegetation. Generally, shoreline modifications are undertaken for the following reasons:

a. To prepare for a shoreline use;

b. To support an upland use; or

c. To provide shoreline stabilization or defense from erosion.

A single shoreline use may require several different shoreline modification activities. For example, a new boat storage yard may require clearing and grading of the upland yard and construction of a jetty and docks in the water.

Proposals for shoreline modifications are to be reviewed for compliance with the applicable *"use"* policies and regulations in Chapter 8 and the applicable *"modification*" policies and regulations of this Chapter.

Shoreline modifications listed as "prohibited" are not eligible for consideration as a Shoreline Variance. Deviations from the minimum performance standards may be approved under a Shoreline Variance unless specifically stated otherwise.

9.2 General Policies and Regulations

A. Policies applicable to all shoreline modifications

Policy 9.2.1 Locate and design all new development in a manner that prevents or minimizes the need for shoreline modifications.

Policy 9.2.2 Regulate shoreline modifications to assure that the modifications individually and cumulatively do not result in a net loss of ecological functions. Mitigation may be required to meet the no net loss standard.

Policy 9.2.3 Give preference to those types of shoreline modifications that have a lesser impact on ecological functions and require mitigation of identified impacts resulting from shoreline modifications.

Policy 9.2.4 Plan for the enhancement of impaired ecological functions where feasible and appropriate while accommodating permitted uses. Incorporate all feasible measures to protect ecological shoreline functions and values and ecosystem-wide processes and values in the placement and design of shoreline modifications. To avoid and reduce ecological impacts, the mitigation sequence in WAC 173-26-201(2)(e) should be followed.

Policy 9.2.5 Non-structural shoreline modifications are preferred over structural modifications.

Policy 9.2.6 Where applicable, base provisions on scientific and technical information and a comprehensive analysis of drift cells for marine waters.

B. Regulations applicable to all shoreline modifications

DR-9.2.1 Shoreline modification activities that do not support a permitted shoreline use are considered "speculative" and are prohibited by this Master Program, unless it can be demonstrated, to the satisfaction of the Shoreline Administrator that such activities are necessary and in the public interest for the maintenance of shoreline environmental resource values.

9.3 Boat Launches

Boat launches are slabs, pads, planks, rails, cranes or graded slopes used for launching boats by means of a trailer, hand, or mechanical device.

A. Policies

Policy 9.3.1 Maintain, improve, and expand existing boat launch capacity for future

Port, commercial, and recreational uses.

Policy 9.3.2 Install, maintain and rebuild boat launches in such a manner as to minimize adverse affects on natural and physical shoreline resources.

B. Development Regulations

General

DR-9.3.1 Boat launches for Port, commercial, or public recreational uses may be permitted in all shoreline environments except Natural. Boat launches in the Conservancy and Shoreline Residential environments require a Shoreline Conditional Use Permit.

DR-9.3.2 Launches associated with single-family residences for private use are prohibited.

Design Standards

DR-9.3.3 Boat launches and ancillary facilities ~~shall~~must be located, designed, constructed, and operated as to:

a. Minimize adverse affects of fish, shellfish, wildlife, water quality, and existing geohydraulic shoreline and stream processes. When impacts cannot be avoided, impacts must be mitigated to assure no-net-loss of ecological function necessary to sustain shoreline resources;

b. Be clearly separated from nearby swimming areas;

c. Provide adequate on-shore sewage and waste disposal facilities and a means for effective operation; and

d. Be compatible with adjacent uses and avoid or mitigate aesthetic impacts.

e. Ensure that navigation rights are protected.

f. Not impede the along shore flow of sand and gravel.

DR-9.3.4 Associated docks and floats ~~shall~~must conform to the applicable policies and performance standards of this Master Program.

DR-9.3.5 Associated parking areas ~~shall~~must:

a. Comply with the City of Anacortes' Parking Code;

b. Provide adequate off-road parking and loading areas;

c. Facilitate orderly launching and retrieval of boats, as well as the

movement of vehicles and trailers in the launching area;

d. Provide ample room for the handling and maneuvering of boat trailers;

e. Be located at least 25 feet landward of the OHWM; and

f. Ensure that surface runoff does not pollute adjacent waters or cause soil or beach erosion. Low Impact Development provisions should be emphasized.

DR-9.3.6 Preferred ramp designs, in order of priority, are:

(1) Open grid designs with minimum coverage of beach substrate.

(2) Seasonal ramps that can be removed and stored upland.

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

DR-9.3.7 Ramps ~~shall~~must be placed and maintained near flush with the foreshore slope.

DR-9.3.8 Maintenance and repair of existing ramps ~~shall~~must minimize impacts to shoreline areas.

9.4 Breakwaters

A. Introduction

Breakwaters are protective structures usually built offshore and aligned parallel to the shore to protect development and uses associated with beaches, bluffs, dunes, moorages and developed harbor areas from wave action. However, because offshore breakwaters are costly to build, they are seldom constructed to protect natural features alone, but are generally constructed for navigational purposes. Breakwaters can be either rigid or floating and may be connected to the shore or not. Rigid breakwaters, which are usually constructed of riprap or rock, have both beneficial and detrimental effects on the shore. All breakwaters eliminate wave action and thus protect the shore or structures immediately behind them. Breakwaters along Anacortes' shorelines are intended primarily to protect waterfront industrial activity and recreational activity (pleasure boat moorage).

The following policies are provided as a guide to future breakwater activity along Anacortes' shoreline:

B. Policies

Policy 9.4.1 Breakwaters should be allowed only where necessary to support water-

dependent uses, public access, shoreline stabilization, or other specific public purpose.

Policy 9.4.2 The availability for public use of the shoreline and water surface should be a strong consideration in allowing future breakwater construction.

Policy 9.4.3 Before a permit for breakwater construction can be issued, the construction and subsequent maintenance phases must be identified.

Policy 9.4.4 Multiple use concepts are to be strongly encouraged in the construction of both private and public breakwaters.

Policy 9.4.5 The design and construction of breakwaters ~~shall~~must address impacts to, and protect, ecological functions and critical areas. Mitigation sequencing and appropriate mitigation ~~shall~~must be required.

Policy 9.4.6 Breakwater design and construction should be such that disruption to the movement of sand, circulation of water, and biological communities are minimized and mitigated.

Policy 9.4.7 Floating breakwaters are preferred over traditional breakwater designs.

C. Regulations

DR 9.4.1 Breakwater design and construction should be such that alterations to the movement of sand, circulation of water, and biological communities are minimized and mitigated.

DR 9.4.2 Applications for breakwaters ~~shall~~must provide the following information:

a. Purpose of breakwater

b. Construction material

c. Method of construction

d. Direction of net long shore drift (when appropriate)

e. Seasonal wind data

The City ~~shall~~must require sufficient geotechnical, hydrological, and biological studies to analyze the impacts of the proposal.

DR 9.4.3 Design considerations:

a. Breakwaters ~~shall~~must minimize alterations to shore sand and gravel transport unless such impediment is found to be

beneficial. The effect of proposed breakwaters on sand movement ~~shall~~must be evaluated during permit review.

b. Breakwaters ~~shall~~must meet requirements of state and federal agencies with jurisdiction over in-water construction.

c. New or expanded breakwaters ~~shall~~must be designed by a registered civil engineer with expertise in such design.

d. Breakwaters ~~shall~~must be designed and constructed in a manner that minimizes significant adverse impacts on water circulation and aquatic life. The design ~~shall~~must also minimize impediments to navigation and to visual access to the shoreline.

e. Floating breakwaters ~~shall~~must be preferred over solid breakwaters where they can withstand anticipated wave action.

DR 9.4.4 A Conditional Use Permit ~~shall~~must be required for construction or expansion of a breakwater, except for those structures installed to protect or restore ecological functions.

DR 9.4.5 Breakwaters ~~shall~~must be allowed only for water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

DR 9.4.6 The design and construction of breakwaters ~~shall~~must address impacts to, and protect, ecological functions and critical areas. Mitigation sequencing and appropriate mitigation ~~shall~~must be required.

9.5 Docks, Piers and Floats

A. Policies

Policy 9.5.1 Limit docks, piers and floats to those required as part of a permitted water-dependent use; those operated by the City, the Port of Anacortes, Washington State Ferries, or those otherwise provided for public use. As used here, a dock associated with a single-family residence is a water-dependent use provided that it is designed and intended as a facility for access to watercraft and otherwise complies with the provisions of this section.

Policy 9.5.2 Limit docks, piers and floats associated with single-family residential use to the single-family residences within Flounder Bay and Cap Sante. Prohibit all other docks, piers and floats associated with single-family residences.

Policy 9.5.3 Prohibit docks, piers and floats located outside of a permitted marina to be used for permanent moorage of occupied boats (i.e., liveaboards).

Policy 9.5.4 Prohibit over water boathouses except that floating shelters for boats may be allowed in a marina for community and/or youth boating programs operated by nonprofit organization or public agencies.

Policy 9.5.5 Ensure that docks, piers, and floats are:

a. Considered together with shoreline characteristics, tidal action, aesthetics and adjacent land and water uses.

b. Discouraged at locations where critical physical limitations exist, such as ~~shall~~mustow, sloping bottoms; areas of frequent high wind, wave, or current exposure; high littoral drift areas; or slide prone and/or feeder bluffs.

c. Designed and maintained to mitigate adverse impacts to the environment such as eelgrass beds and fish habitats shoreline aesthetics and minimize interference with the public use of the water.

d. Designed, constructed, and maintained to provide a reasonable level of safety to users.

Policy 9.5.6 Encourage consideration of mooring buoys in place of piers, docks, and floats.

Policy 9.5.7 Use of floating docks or open pile piers is preferred over solid structures in order to minimize obstruction to currents and circulation of marine life.

Policy 9.5.8 The cooperative use of piers and docks should be encouraged. New residential development of two or more single-family dwellings should provide joint use or community dock facilities.

Policy 9.5.9 Piers and docks should not be constructed so as to obstruct navigable waters or to significantly reduce public use of the water surface.

Policy 9.5.10 Wood products treated with creosote or pentachlorophenol are prohibited on all new structures or repair projects. Use of other treated wood containing toxic compounds should only be used where non-toxic materials are deemed impracticable.

Policy 9.5.11 Pier and dock construction should be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use.

B. Development Regulations

DR-9.5.1 The following dock, pier, and float developments are prohibited in the shoreline jurisdiction:

a. Piers, docks, boat houses, and floats used for residential purposes. Boats that are occupied ~~shall~~must not be permitted to moor at piers, docks, or floats longer than three (3) days unless pump-out facilities are available.

b. Fill waterward of the ordinary high water mark or within a wetland to accommodate a dock, pier, or float.

c. Docks, piers, and floats associated with the upland Natural environment designation.

d. Docks, piers, and floats associated with single-family residences located outside of Flounder Bay along Burrow's Bay and Cap Sante.

e. Piers, docks, floats and other overwater structures associated with multi-family uses serving less than five watercraft.

DR-9.5.2 Prior to granting a permit for a pier, dock or float, the effects of the structure upon adjacent shoreline ~~shall~~must be determined, and disposition of the permit by the City ~~shall~~must reflect such determination.

DR-9.5.3 Design and construction of all piers and docks (and floats) are required to mitigate for impacts to ecological processes and functions.

DR-9.5.4 The design, location, and construction of docks, floats, and piers, as well as their subsequent use and operation, ~~shall~~must:

a. Minimize adverse effects on fish, shellfish, wildlife, water quality, and geohydraulic processes. Methods include, but are not limited to: limiting the footprint of the structure to that which is necessary to serve the intended water-dependent use and minimizing the use of materials hazardous to the environment.

b. Be capable of withstanding expected environmental conditions.

c. Minimize hazards to users.

d. Minimize interference with adjacent water uses and navigation.

DR-9.5.5 All docks, piers and floats ~~shall~~must adhere to the following design standards:

a. Railings, if provided, ~~shall~~must be of clear or open framework design and conform to the Building Code where required.

b. Utility service on docks and piers ~~shall~~must be placed on or

under the deck. Overhead utility service is prohibited. Floodlighting ~~shall~~must be shielded to prevent unnecessary glare.

c. Appropriate marking ~~shall~~must be provided as necessary to avoid hazardous conditions for water surface users.

d. Piers, docks and floats ~~shall~~must be constructed of materials that comply with requirements of federal and state regulations. Treated wood materials may be utilized on pilings in repair projects for timber structures, provided the BMPs for the use of Treated Wood in Aquatic and Sensitive Environments, Western Wood Preservers Institute/Wood Preservation Canada/Southern Pressure Treaters' Association/Timer Piling Council, are specified and met. The conditions found in *An Agreement Concerning the Use of Treated Wood in Aquatic Areas* between Ecology and Department of State Fish & Wildlife dated August, 1995, also fulfill this requirement. However, use of treated wood should be minimized wherever practicable.

DR-9.5.6 New piers and docks ~~shall~~must be allowed only for water-dependent uses or public access.

DR-9.5.7 Water-related and water-enjoyment uses may be allowed as part of a mixed-use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses, provided the minimum size requirement needed to meet the water-dependent use is not violated.

DR-9.5.8 Upland boathouses ~~shall~~must meet the setbacks required for non-water-dependent structures in the applicable shoreline designation.

DR-9.5.9 Docks, piers and floats ~~shall~~must not extend beyond the inner harbor line, unless approved by WDNR.

DR-9.5.10 Piers and docks may be restricted in areas of substantial littoral drift or significant historic/scenic values. In these areas open piling or floating structures may be required.

DR-9.5.11 Pier and dock construction ~~shall~~must be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use. For piers, docks and floats not associated with a single-family residence (including joint-use dock shared by two residences), the applicant must demonstrate that there is a specific need for the new or expanded pier, dock or float. Dimensional requirements for the structure will be based upon that need and the general criteria included in this section.

DR-9.5.12 When permitted, new residential development of more than two dwellings is required to provide joint use or community docks, rather

than individual docks.

DR-9.5.13 The following requirements apply to new, expansion, and replacement piers, docks and floats associated with a single-family residence.

a. Pier width: 6 feet or less

b. Pier grating: Grating of the full pier surface area is required on piers wider than 4 feet.

~~c.~~

Float dimensions: For a single-use residential structure, float width may not exceed 8 feet and float length may not exceed 30 feet. For a shared joint-use residential structure, float width may not exceed 8 feet and float length may not exceed 60 feet.

d. Float grating: Floats 6 feet wide or less are required to contain at least 30% functional grating. Floats wider than 6 feet are required to contain at least 50% functional grating.

e. Float orientation: The float must be installed in a north-south orientation to the maximum extent practicable.

DR-9.5.14 Repair– Repair proposals which replace only decking or decking substructure and less than 50 percent of the existing piles ~~subsections~~ ~~shall~~must be considered minor repairs and are permitted, consistent with all other applicable codes and regulations. If cumulative repairs of an existing pier or dock over three years would make a proposed repair exceed the threshold established above, the repair proposal ~~shall~~must be reviewed as a new pier or dock.

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DR-9.5.15 New docks, piers, and floats associated with single-family residences along Cap Sante ~~shall~~must be encouraged to use joint-use structures serving at least two but no more than four waterfront lots.

9.6 Dredging and Dredge Spoil Disposal

A. Introduction

Dredging is the removal of material from the bottom of a stream, river, lake, bay or other water body. The purposes of dredging might include: deepening a navigational channel, berth, or basin; streambed maintenance; use of dredged material for fill or habitat enhancement (effective reuse); and removal of contaminated sediments.

B. Policies

Policy 9.6.1 Dredging of navigable channels and berths and marina areas should be permitted provided that it avoids or, if that is not practicable,

minimizes adverse effects on marine or freshwater habitat and ecological function. Impacts that cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.

Policy 9.6.2 Dredging of navigable channels, berths, marina areas, and effective reuse of dredged materials should be consistent with this Master Program and other City plans and regulations.

Policy 9.6.3 Disposal or deposition of dredged material in water areas should be allowed when it is for the improvement of habitat or restoration of ecological functions, or where the alternative of depositing material on land is more detrimental to the shoreline resource than depositing it in the water, or as approved by state agencies at an approved deep-water disposal site.

Policy 9.6.4 Beneficial use of dredge material for environmental remediation projects, ecological enhancement, and restoration should be encouraged.

Policy 9.6.5 New development should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

Policy 9.6.6 Dredging for the purpose of establishing, expanding, or relocating or reconfiguring navigation channels and basins should be allowed where necessary for assuring safe and efficient accommodation of existing or proposed navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided.

Policy 9.6.7 Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

C. Development Regulations:

DR 9.6.1 Applications for dredging operations (non-maintenance) ~~shall~~must include the following information:

a. Location, depth, width, and total volume of material to be dredged;

b. Projected frequency and quantity of maintenance dredging;

c. Information on stability of bedlands adjacent to the proposed dredge area;

d. Timing and method of dredging and dredged material disposal;

e. Dredged material disposal area (non – PSDDA site): location,

size, capacity; methods of stabilization; hydrology of site;

f. Dredged materials; existing biological communities or resources in areas to be dredged, and the physical, chemical, and biological makeup of the dredged materials;

g. Hydraulic analysis, including tidal flows and potential impacts on ecological functions; and

h. Description of conformance with the no net loss standard for ecological processes and functions, including impact avoidance and minimization measures consistent with mitigation sequencing principles, and a description of any necessary mitigation.

DR 9.6.2 Dredging ~~shall~~must be permitted for the following purposes, dredging for other purposes is prohibited:

a. To improve water quality or aquatic habitat;

b. To establish, expand, or relocate or reconfigure navigation channels and basins where necessary for assuring safe and efficient accommodation of existing or proposed navigational uses, such as marinas and port/water-dependent industrial development, and then only when significant ecological impacts are minimized and when mitigation is provided.

c. To maintain previously dredged and/or existing authorized location, depth, and width of established navigation channels and basins.

d. To mitigate conditions that could endanger public safety;

e. To obtain fill material only when the fill material is necessary for restoration of ecological functions and only when the fill is placed waterward of the ordinary high water mark; and

f. To create or improve public recreational opportunities.

DR 9.6.3 Proposals for dredging and dredge spoil disposal, when permitted, ~~shall~~must:

a. Be kept to the minimum necessary to accommodate the proposed use.

b. Include all feasible mitigating measures to protect habitats and to minimize adverse impacts such as turbidity, release of nutrients, heavy metals, sulfides, organic materials, or toxic substances,

depletion of oxygen, disruption of food chains, loss of benthic productivity, and disturbance of fish runs and important localized biological communities;

c. Be scheduled so as to not materially interfere with the migratory movements of anadromous fish;

d. Utilize techniques that cause minimum dispersal and broadcast of bottom material; hydraulic dredging ~~shall~~must be used wherever feasible in preference to agitation dredging;

e. Not interfere with geohydraulic processes;

f. Be found, through analysis by qualified personnel, to be minimally or nonpolluting; and

g. Meet all requirements of applicable regulatory agencies.

DR-9.6.4 New development ~~shall~~must be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

9.7 Fill

A. Policies

Policy 9.7.1 Fill should be located, designed, and constructed to protect shoreline ecological processes and functions.

Policy 9.7.2 Fill landward of the ordinary high water mark should be permitted when necessary to support permitted uses, and when significant impacts can be avoided or mitigated.

Policy 9.7.3 Fill waterward of the ordinary high water mark should be permitted only by Shoreline Conditional Use Permit when necessary to accommodate water-dependent uses; public access; expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible; a transportation facility, utility, or navigational structure with no feasible alternative; cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan; disposal of dredged material considered suitable under and conducted in accordance with the Dredged Material Management Program of the Department of Natural Resources, Department of Ecology and U.S. Army Corps of Engineers; and public access.

Policy 9.7.4 Shoreline areas should not be considered for location of sanitary

(municipal solid waste) landfills or the disposal of material which will cause significant water quality impacts.

Policy 9.7.5 Perimeters of fill should be protected by shoreline stabilization or other design measures, unless it can be demonstrated that there will be environmental or public benefit for not employing any of these methods.

Policy 9.7.6 Placement of material for maintenance, restoration, or enhancement of beaches or mitigation should be permitted.

Policy 9.7.7 Fill should not adversely impact navigation.

B. Development Regulations

DR-9.7.1 Fill for water-dependent uses and for public use ~~shall~~must be given priority.

DR-9.7.2 Fill ~~shall~~must be permitted only when in conjunction with a proposal or activity otherwise permitted under the SMP.

DR-9.7.3 Fill waterward of the ordinary high water mark is permitted by Shoreline Conditional Use Permit only when necessary to accommodate water-dependent uses, and for maintenance and repair of existing structures; expansion or alternation of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible; a transportation facility, utility, or navigational structure with no feasible alternative; cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan; disposal of dredged material considered suitable under and conducted in accordance with the Dredged Material Management Program of the Department of Natural Resources; mitigation or compensation actions and ecological restoration including beach nourishment or enhancement projects when significant impacts can be mitigated; and public access.

DR-9.7.4 Projects ~~shall~~must be located and designed to minimize the area of fill necessary to accommodate the use.

DR-9.7.5 Applications for fill ~~shall~~must address impacts to wetlands and streams; aquatic habitats; flooding; sediment transport; navigation, and public access. The following information may be required: physical and biological characteristics of the fill site, source and quality of fill material, grading plan showing the site, adjacent properties and waters, method of placement and compaction, type of proposed surfacing and runoff control, method of erosion control and stabilization, and proposed use of the fill area. Fill that will result in significant adverse impacts that cannot be mitigated is prohibited.

DR-9.7.6 Fill ~~shall~~must be provided with some means for erosion control and/or shoreline stabilization consistent with the policies and regulations of Section 9.11, *Shoreline Stabilization Measures ad Flood Protection Works*.

DR 9.7.7 Fill material ~~shall~~must be sand, gravel, soil, rock, or similar material. Clean dredge material from a permitted dredging operation ~~shall~~must be permitted except for capping project(s) approved for clean-up under applicable federal and state regulatory programs.

DR 9.7.8 Excavation of beach material for the primary purpose of obtaining fill material is prohibited. When practical and where it would not result in significant adverse impacts, excess beach material from construction of utilities or other allowed improvements ~~shall~~must be used for beach enhancement and/or environmental restoration projects, rather than fill.

DR-9.7.9 Fills ~~shall~~must be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes.

9.8 Jetties and Groins

A. Policies

Policy 9.8.1 Jetties and groins located waterward of the OHWM ~~shall~~must be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

Policy 9.8.2 Jetties and groins should be permitted only for water-dependent uses when the benefits to the region outweigh short-term resource losses from such works, and only where mitigated to provide no net loss of shoreline ecological functions and processes.

Policy 9.8.3 Alternative structures, including several smaller discontinuous structures, should be considered where physical conditions make such alternatives with less impact feasible.

Policy 9.8.4 Jetties and groins ~~shall~~must be designed to protect critical areas and ~~shall~~must apply mitigation sequencing.

B. Development Regulations

DR-9.8.1 Jetties and groins are only allowed waterward of the ordinary high water mark for water-dependent uses, public access, shoreline stabilization, or other specific public purpose. Except for structures installed to protect or restore ecological functions, jetties and groins require a Shoreline Conditional Use Permit.

DR-9.8.2 New residential groins are prohibited in the marine environment at locations that will alter longshore drift, and are only allowed when demonstrated to be necessary for shoreline stabilization.

DR-9.8.3 New jetties and groins are prohibited in areas containing critical fish and wildlife habitats and ~~shall~~must not be located on shorelines where valuable geohydraulic or biological processes are sensitive to alteration or development such as feeder bluffs, marshes, wetlands and accretion shoreforms such as spits, hooks, bars, or barrier beaches.

DR-9.8.4 New jetty or groin proposals must incorporate cumulative effects analysis to determine how the project may affect adjacent beaches updrift and downdrift of the site. Cumulative effects analysis must be evaluated by utilizing expertise in several different fields of study (e.g., geologists, marine biologists, hydrologists). The assessment must be site-specific and scientifically rigorous to fully document the need for the jetty or groin.

DR-9.8.5 Repair or replacement of existing jetties and groins is allowed, provided:

a. A licensed engineering geologist with experience evaluating projects in marine areas determines that removing the structure will cause more damage to the beach than letting it remain, or, if is determined that significant impacts will occur to life or property if the groin is removed. Typical beach erosion, i.e., erosion rates occurring along adjacent beaches near the property, will not be considered a significant impact.

b. The replacement structure is designed in such a manner to allow uninhibited passage of longshore sediment movement.

c. The footprint on beach and bed areas is minimized to the greatest extent possible.

DR-9.8.6 All projects must utilize standard mitigation sequencing techniques to avoid and minimize impacts, and any impacts must be fully mitigated. Mitigation measures must incorporate principles of landscape connectivity and consider the impacts to ecosystem-wide processes and ecological functions as they may extend outside of the project boundaries.

9.9 Mooring Buoys

A. Introduction

Mooring buoys are anchored devices in waterbodies used for the mooring of watercraft. If 12 or more buoys are proposed, the proposal must also comply with polices and

regulations under Section 8.7 "*Marinas*," above.

B. Policies

Policy 9.9.1 Allow mooring buoys for transient boaters as a means to encourage economic development and recreation. Designated mooring buoys provide boaters with an alternative to anchoring in critical eelgrass beds.

Policy 9.9.2 Work with the Port of Anacortes, Washington State Parks, other public or non-profit agencies and the Department of Natural Resources to identify a "carrying capacity" of mooring buoys.

Policy 9.9.3 Prohibit mooring buoys where such installations will significantly interfere with navigation.

Policy 9.9.4 Discourage the placement of mooring buoys where sufficient dock facilities exist.

Policy 9.9.5 Ensure that mooring buoys are located, designed, constructed and operated in a manner that will minimize damage to sensitive ecological areas such as eelgrass beds, or aquaculture resources or facilities, except where the impacts of the mooring buoys will replace existing and ongoing practices that cause greater ecological degradation. (For example, the lesser impact of mooring buoys may be a suitable alternative to the current impacts of boat anchors.)

Policy 9.9.6 Ensure that mooring buoy fields are located, designed and operated so as to be compatible with adjacent uses and protect the aesthetic qualities of the shoreline environment.

Policy 9.9.7 Ensure that mooring buoys and the swing path of attached vessels do not encroach on navigation channels, privately owned tidelands, or the swing path of a legally established or "grandfathered" moored boat and buoy.

Policy 9.9.8 Extended moorage on waters of the state without a lease or permission ~~shall~~must be actively discouraged and mitigation of impacts to navigation and access is required.

C. Development Regulations

DR-9.9.1 Applications for public mooring buoys ~~shall~~must include an enforcement and management plan that describes rules and regulations for public use.

DR-9.9.2 Buoys may only be installed after the Administrator issues a Letter of Exemption or shoreline permit PROVIDED that the buoys meet all applicable requirements for a shoreline exemption or permit.

DR-9.9.3 Mooring buoys ~~shall~~must comply with the following design standards:

a. Land based retrieval lines from mooring buoys ~~shall~~must be prohibited.

b. Buoys must float at least 12" above the water and be a light or bright color.

c. Mooring buoys ~~shall~~must be located no closer than 100 feet from navigation channels, another mooring buoy, dock, pier, float, or other fixed navigational obstruction, unless there is a written agreement allowing for the encroachment with the parties affected, including the subtidal property owner.

d. Buoys ~~shall~~must be marked with the responsible agency's name, address, and telephone number.

e. Buoys ~~shall~~must comply with the requirements of all applicable regulatory agencies (e.g., WAC 332-30-148).

f. Helical anchors or other designs that minimize the footprint on the seabed are to be used to the greatest extent practicable.

DR-9.9.4 Mooring buoys ~~shall~~must 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. To this end, applications for such facilities must demonstrate conformance with the following criteria. The proposal:

a. Is located with regard to favorable conditions related to wind, current, bathymetrics and, for overnight moorage facilities, adequate flushing action.

b. Complies with all federal, state, regional, and local requirements regarding water quality including, but not limited to, Department of Health Standards and environmental policies and regulations contained in Chapter 6, *Environmental Protection General Regulations*.

c. Provides for adequate upland support facilities (e.g., restrooms, dumpsters, etc.).

d. Does not significantly interfere with navigation.

e. Demonstrates that the buoy system proposed is adequate to withstand the maximum expected physical stress that the environment and moored craft will place on the buoy.

f. Demonstrates compliance with mitigation sequencing techniques. When impacts cannot be avoided, impacts must be mitigated to assure no net loss of ecological function necessary to sustain shoreline resources.

DR-9.9.5 Extended moorage (longer than 5 days), regardless of method, on waters of the state except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public are mitigated is prohibited.

9.10 Shoreline Habitat and Natural Systems Enhancement Projects

A. Introduction

Shoreline habitat and natural systems enhancement and restoration projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines. Mitigation for project impacts is not necessarily included in this section.

B. Policies

Policy 9.10.1 Restoration and enhancement of shorelines should be designed using principles of landscape and conservation ecology and should restore or enhance chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.

Policy 9.10.2 Restoration and enhancement actions should improve shoreline ecological functions and processes and should target meeting the needs of sensitive and/or locally important plant, fish and wildlife species.

Policy 9.10.3 The City should seek funding from State, Federal, private and other sources to implement restoration, enhancement, and acquisition projects, particularly those that are identified in the Restoration Plan of this SMP (Appendix B) or any local watershed or area plans.

Policy 9.10.4 The City should develop processing guidelines that will streamline the review of restoration-only projects.

Policy 9.10.5 Allow for the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs, as they are developed, to encourage restoration and enhancement of shoreline ecological functions and to protect habitat for fish, wildlife and plants.

C. Regulations

DR-9.10.1 Restoration and enhancement ~~shall~~must be carried out in accordance with an approved shoreline restoration plan.

DR-9.10.2 All shoreline restoration and enhancement projects ~~shall~~must protect the integrity of adjacent natural resources, including aquatic habitats and water quality.

DR-9.10.3 Long-term maintenance and monitoring ~~shall~~must be included in restoration or enhancement proposals.

DR-9.10.4 Shoreline restoration and enhancement may be allowed if the project proponent demonstrates that no significant change to sediment transport will result and that the enhancement will not adversely affect ecological processes, properties, or habitat.

DR-9.10.5 Shoreline restoration and enhancement projects ~~shall~~must use be designed using scientific and technical information, and implemented using best management practices.

DR-9.10.6 Shoreline restoration and enhancement ~~shall~~must not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.

DR-9.10.7 Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments, provided the project's purpose or consequence is the restoration of the natural character and ecological functions of the shoreline.

DR-9.10.8 The City may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215.

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9.11 Shoreline Stabilization Measures & Flood Protection Works

A. Introduction

Shore stabilization works include actions taken to stabilize the shoreline, addressing erosion impacts to property and improvements caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods.

Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, and/or planning and regulatory measures to avoid the need for structural stabilization.

Structural methods can be "hard" or "soft". Hard structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads. These are static structures traditionally constructed of rock, concrete, wood, metal, or other materials that deflect,

rather than absorb, wave energy. Soft structural measures rely on softer materials, such as vegetation, drift logs, and gravel. They are intended to absorb wave energy, mimicking the function of a natural beach. Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. Structural shoreline stabilization methods also often result in vegetation removal and damage to near-shore habitat and shoreline corridors. The following methods of shoreline stabilization are organized from "soft" to "hard". The use of "soft" methods is the preferred "best practices" choice (if non-structural methods cannot be used or are insufficient) when considering shoreline stabilization measures.

"Soft"

Vegetation enhancement;
Upland drainage control;
Bioengineering/biotechnical measures;
Beach enhancement;
Anchor trees; and
Gravel enhancement.

"Hard"

Rock revetments;
Gabions;
Groins;
Retaining walls and bluff walls;
Bulkheads; and
Seawalls.

What constitutes normal repair and maintenance? As applied to shoreline stabilization, "normal repair" and "normal maintenance" include the patching, sealing, or refinishing of existing structures and the replenishment of sand or other material that has been washed away if part of a previous authorized activity. Normal maintenance and normal repair are limited to those actions that are typically done on a periodic basis. Construction that causes significant ecological impact is not considered normal maintenance and repair. (See Section 2.4 of this SMP for the definition of "normal maintenance or repair".)

What constitutes replacement? As applied to shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function when an existing structure can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures are considered new structures under this Master Program.

In addition, repairs that exceed a certain threshold are also effectively "replacement," providing a meaningful opportunity for the project applicant to consider and implement softer solutions to an existing hard structural stabilization. The following are thresholds for considering a repair to be effectively replacement: 1) when any repair is being conducted along more than 50 percent of the shoreline stabilization on the subject

property, or 2) when repair is being conducted along more than 25 feet of shoreline stabilization when that repair work includes removal and replacement of the stabilization measure's foundation material. These repairs may still be processed as Shoreline Exemptions if the relevant exemption criteria are met; however, the replacement provisions of these regulations will apply.

What is required for additions to existing shoreline stabilization? Additions to or increases in size of existing shoreline stabilization measures ~~shall~~must be considered new structures.

Is there an exception for protecting a home? Pursuant to the Shoreline Management Act (RCW 90.58.100(6), measures to protect single-family residences occupied prior to January 1, 1992, are exempt from the requirement to obtain a shoreline substantial development permit. However, a statement of exemption must be obtained from the City before constructing, adding to or substantially modifying these structures. The City may issue an exemption upon a finding that the structure is designed to minimize harm to the shoreline natural environment and that, to the extent feasible, the structure complies with the policies, prohibitions, and development standards of this Master Program. Mitigation will be required to meet the no net loss standard.

The following policies and regulations apply to all actions and developments that modify the shoreline for the purposes of preventing shore erosion or flooding.

B. Policies

Policy 9.11.1 Strive to reduce or eliminate the need for structural shoreline modifications activities through application of appropriate land use designations, development standards, and public education.

Policy 9.11.2 Discourage new development requiring structural shoreline stabilization. Any such work will require mandatory geotechnical analysis. New development on steep slopes and bluffs ~~shall~~must be set back to prevent the need for future shoreline stabilization during the life of the project.

Policy 9.11.3 Relocating existing structures out of harm's way is preferable to construction of structural shoreline stabilization.

Policy 9.11.4 Allow structural stabilization methods only:

a. After a determination is made by a qualified professional with experience and proven success installing non-structural bio-engineered shoreline stabilization techniques that soft armoring will not succeed or is not suitable due to specific site considerations.

b. Where it has been demonstrated to be necessary to support or protect a legally established, inhabited structure or ongoing

shoreline use that is in danger of loss or substantial damage, or when necessary for reconfiguration of the shoreline for mitigation or enhancement purposes, or where necessary to the operation and location of a new, single-family or multifamily structure, or a water-dependent, water-related, or water-enjoyment use consistent with this Master Program. They will not be permitted for the indirect purpose of creating land by filling.

Policy 9.11.5 Encourage soft stabilization and protection works, such as protective berms or vegetative stabilization over "hard" structural means such as concrete bulkheads or extensive revetments. Furthermore, designs that do not interrupt net drift or migration of anadromous fish are preferred (for example, open piling construction is preferable to solid walls, and floating breakwaters are preferable to solid landfills).

Policy 9.11.6 Potential impacts that proposed shoreline stabilization measures have on ecosystem-wide processes (e.g., sand movement) and functions (e.g., habitat) must be evaluated. Make provisions to minimize impacts where feasible. Mitigation must be provided to achieve no net loss of ecological functions.

Policy 9.11.7 Give special attention to the effect these structures will have on aesthetic qualities of the shoreline, public access and use of the water.

Policy 9.11.8 Construction of shoreline stabilization measures should not be allowed until effects on adjacent shores have been evaluated by the Shoreline Administrator against Shoreline Goals, Policies and Regulations. A coastal engineering report that considers alternative protection measures should be required for all proposals for new shoreline stabilization structures.

Policy 9.11.9 Shoreline stabilization measures should be designed to have a minimal degradation on water views, and avoid adverse effects on fisheries resources.

Policy 9.11.10 Shoreline stabilization measures which would decrease publicly owned lands should not be allowed.

Policy 9.11.11 Shoreline stabilization structures should be allowed only where demonstrated to be necessary to support or protect permitted shoreline uses or where an existing structure is in imminent danger from shoreline erosion.

Policy 9.11.12 One foot of bank hardening ~~shall~~must be removed or other equivalent mitigation for every foot of hardening installed. Such removal may be on non-contiguous sites, and may be on public property with agreement of the entity owning the site.

Policy 9.11.13 New development, including creation of new parcels, that would require shoreline stabilization is prohibited, unless needed to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result.

C. Development Regulations

DR-9.11.1 New development, including the subdivision of land, ~~shall~~must not create lots which require future shoreline stabilization to the extent feasible. If necessary, a geotechnical report ~~shall~~must be required.

DR-9.11.2 New development near steep slopes or bluffs ~~shall~~must be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure as demonstrated by a geotechnical analysis.

DR-9.11.3 New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas ~~shall~~must not be allowed.

DR-9.11.4 Structural stabilization methods ~~shall~~must be permitted when necessary for reconfiguration of the shoreline for (i) mitigation or enhancement purposes, or (ii) if determined to be appropriate based on the criteria of this section. In all other cases, structural stabilization methods ~~shall~~must only be allowed when all of the following criteria are met:

a. Relocation of existing structures, or implementation of nonstructural measures, such as placing the development even farther from the shoreline, planting and or retaining vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

b. Structural stabilization has been demonstrated, through a coastal engineer or other qualified geotechnical report, to be necessary to support or protect a legally established, inhabited structure or ongoing shoreline use that is in danger of loss or substantial damage or when necessary for reconfiguration of the shoreline for mitigation or enhancement.

c. The erosion is not being caused by upland conditions on the subject property, such as the loss of vegetation and drainage;

d. The shoreline stabilization measure will mitigate adverse impacts to the extent feasible.

e. Except for those uses that are water-dependent or when necessary to protect a single-family residence, uses ~~shall~~must not

be allowed to have hard structural stabilization unless a Conditional Use Permit is obtained. See Conditional Use Permit requirements in Section 3.1 and WAC 173-26-201(3)(d)(iii). Bioengineered or soft structural stabilization is permitted.

DR-9.11.5 As appropriate to the individual proposal, the City ~~shall~~must require and utilize the following information during its review of shoreline stabilization proposals:

a. Purpose of the project;

b. Documentation (including photos) of existing (pre-construction) shoreline characteristics.

c. Description of physical, geological, and/or soil characteristics of the area including existing and proposed slope profiles and location of ordinary high water mark;

d. Hydraulic characteristics of the water body within one-half (0.5) mile on each side of the proposed project;

e. Existing shoreline stabilization and flood protection devices within one-half (0.5) mile on each side of the proposed project;

f. Biological characteristics of the area including vegetation, fish and wildlife resources, and suitability of site to support forage fish spawning;

g. Construction materials including size, shape, quantity, plant types, and soil preparations;

h. Construction methods and timing;

i. Predicted impact upon area shore and hydraulic processes, ecological functions, public access, adjacent properties, and shoreline and water uses;

j. Evaluation to determine if alternative non-structural techniques are feasible;

k. Monitoring and adaptive management may be required to determine if the structure is properly functioning;

l. Description of measures incorporated into the design to address aesthetics and public access; and

m. Evaluation of the cumulative effects of "hard" stabilization methods within a drift cell ~~shall~~must be determined by a

Washington State licensed civil engineer with a specialty in coastal engineering or a qualified Washington State licensed geologist with a specialty in coastal geology, and a qualified marine habitat biologist.

n. Geotechnical reports ~~shall~~must include estimates of the rate of erosion and urgency (damage within 3 years) and evaluate alternative solutions.

DR-9.11.6 New development, including creation of new parcels, that would require future shoreline stabilization during the life of the structure is prohibited except where no alternative locations are available and no net loss of ecological functions will result as demonstrated through a geotechnical analysis.

DR-9.11.7 Shoreline stabilization works, including revetments and bulkheads, ~~shall~~must be located, designed and constructed in such a manner that will:

a. Minimize alterations of the natural shoreline and shoreline processes including sediment transport.

b. Minimize damage to ecological functions including wildlife, fish and shellfish habitats.

c. Provide for the long term multiple use of shoreline resources and public access to public shorelines. In the design of publicly financed or subsidized works, consideration ~~shall~~must be given to providing pedestrian access to shorelines for low intensity outdoor recreation.

d. The shoreline defense structure ~~shall~~must mitigate adverse impacts to the extent feasible, blend with the surroundings, and not distract from the aesthetic qualities of the shoreline.

e. Achieve the policy of no net loss of ecological functions necessary to sustain shoreline resources.

DR-9.11.8 Use of scrap building materials, asphalt from street work, or any discarded materials, equipment or appliances for the stabilization of shorelines ~~shall~~must be prohibited.

DR-9.11.9 Upon project completion, all temporarily disturbed shoreline areas ~~shall~~must be restored to as near pre-project configuration as possible and replanted with appropriate vegetation, with preference given to native plantings. All losses in nearshore/riparian vegetation or fish or

wildlife habitat ~~shall~~must be mitigated at a ratio that would be equivalent to the time that it would take the vegetation to reach full maturity or the level of maturity prior to disturbance.

Hard Stabilization Methods (e.g., revetments, bulkheads)

"Hard" stabilization methods are solid, static structures including rock revetments, gabions, concrete groins, retaining walls and bluff walls, bulkheads, and seawalls (definitions in Chapter 15). The two most common hard methods applied in Puget Sound are revetments and bulkheads.

A revetment is 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 (rock filled wire baskets) or other systems and materials. The principal features of a revetment, regardless of type is a heavy armor layer, a filter layer, and toe protection.

Bulkheads are solid or open-pile walls 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 poured-in-place concrete, steel or aluminum sheet piling, wood, or wood and structural steel combinations.

Additional Policies for Hard Stabilization Methods

In addition to the policies and regulations listed above, proposals for "hard" stabilization methods ~~shall~~must comply with the policies and regulations in this subsection.

Policy 9.11.14 Evaluate the cumulative effect of allowing "hard" stabilization methods along the shoreline prior to permitting new "hard" structures. If it is determined that the cumulative effect would have a net loss of ecological functions on the shoreline, then exemptions and permits should not be granted.

Policy 9.11.15 Do not permit "hard" structures as a solution to geo-physical problems such as mass slope failure, sloughing, or landslides. Hard structures should only be approved for the purposes of preventing bank erosion.

Additional Regulations for "Hard" Stabilization Structures

DR-9.11.10 Proposals for "hard" stabilization structures must first demonstrate that use of natural materials and processes and non-structural solutions, including relocation or reconstruction of existing structures, to bank stabilization are unworkable. Then, evaluate the cumulative effect of allowing "hard" stabilization methods along the shoreline prior to permitting new "hard" structures. If it is determined that the cumulative effect would have a net loss of shoreline ecological

functions, then exemptions and permits ~~shall~~must not be granted.

DR-9.11.11 **"**Hard" stabilization structures may be allowed only when evidence is presented which conclusively demonstrates that at least *one* of the following conditions exist:

a. Erosion threatens a legally established use or existing building(s) on upland property: provided that all other alternative methods of shore protection have proven infeasible or insufficient.

b. Structural stabilization is necessary to the operation and location of a new, single-family home, or a water-dependent use consistent with this Master Program; provided that all other alternative methods of shore protection have proven infeasible or insufficient through a geotechnical report.

c. Structural stabilization is necessary as part of a habitat enhancement project.

DR-9.11.12 Bulkheads are to be permitted only where local physical conditions are suitable for such alterations. Factors to consider ~~shall~~must include, but are not limited to, foundation bearing materials and surface and subsurface drainage.

Siting and Design

DR-9.11.13 Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.

DR-9.11.14 Unless found to be infeasible, bulkheads and revetments ~~shall~~must be located landward of the ordinary high water mark and follow the natural contours of the shoreline. In addition:

a. Where no other bulkheads are adjacent, the construction of a bulkhead ~~shall~~must be as close to the eroding bank as possible and in no case ~~shall~~must it be more than three (3) feet from the toe of the bank.

b. A bulkhead for a permitted fill ~~shall~~must be located at the toe of the fill.

c. Where permitted, a bulkhead must tie in no further waterward than flush with existing bulkheads on adjoining properties, except where the adjoining bulkheads extend waterward of the ordinary high water mark. In which case, the new bulkhead must meet standard requirements.

DR-9.11.15 Replacement bulkheads may be permitted if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves provided that:

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

b. For residences, the replacement structure does not encroach waterward of the ordinary high water mark or existing structure and there are overriding safety or environmental concerns. In such cases, the replacement structure ~~shall~~must abut the existing shoreline stabilization structure. Minor encroachment may be granted for resurfacing of existing structures in conformance with Washington State Department of Fish & Wildlife regulations, replacement of existing structures protecting residences occupied prior to January 1, 1992, or for soft shoreline stabilization measures that provide restoration of ecological functions.

c. The existing bulkhead structure is removed unless doing so is found to be detrimental to ecological functions or unreasonable.

d. If a structure is placed waterward of the existing bulkhead or revetment, all impacts, including loss of beach habitat, must be fully mitigated.

DR-9.11.16 Bulkheads ~~shall~~must be sited and designed consistent with appropriate engineering principles. Professional geologic site studies or design may be required for any proposed bulkhead if the Shoreline Administrator determines sufficient uncertainties exist.

DR-9.11.17 Bulkheads ~~shall~~must be designed for the minimum dimensions necessary to adequately protect the development.

DR-9.11.18 Bulkheads and revetments ~~shall~~must be designed to permit the passage of surface or groundwater without causing ponding or saturation of retained soil/materials.

DR-9.11.19 Adequate toe protection ~~shall~~must be provided to ensure bulkhead stability.

DR-9.11.20 Materials used in bulkhead construction ~~shall~~must meet the following standards:

a. Bulkheads ~~shall~~must utilize stable, non-erodible, homogeneous materials such as concrete, wood, and rock that are consistent with the preservation and protection of the ecological habitat.

b. Shore materials ~~shall~~must not be used for fill behind bulkheads, except clean spoil from a permitted dredge and fill operation or clean upland materials.

DR-9.11.21 If an armored revetment is employed the following design criteria ~~shall~~must be met:

a. The size and quantity of the material ~~shall~~must be limited to only that necessary to withstand the estimated energy intensity of the hydraulic system;

b. The toe reinforcement or protection must be adequate to prevent a collapse of the system from wave action; and

c. Fish habitat components ~~shall~~must be considered in the design subject to Hydraulic Project Approval by the Washington Department of Fish and Wildlife.

Public Access Provisions

DR-9.11.22 When hard stabilization measures are required at a public access site, provision for safe access to the water ~~shall~~must be incorporated into bulkhead design wherever reasonable and practicable.

DR-9.11.23 Stairs or other permitted structures may be built into a hard stabilization structure, but ~~shall~~must not extend waterward of it.

DR-9.11.24 Prior to granting a permit for new shoreline stabilization (bulkheads, breakwaters, groins and jetties) the effect of such development on adjacent properties ~~shall~~must be determined and the decision of the City ~~shall~~must reflect such determination. Applications for such development must be accompanied by information showing configuration of the shoreline and consistency of bank materials for properties within 300 feet in both directions from the proposal. Mitigation of adverse effects may be required as an alternative to denial.

DR-9.11.25 Public access is required as part of any publicly financed shoreline erosion control measures.

CHAPTER 10 ENFORCEMENT AND PENALTIES

10.1 Enforcement
10.2 Penalties
10.3 Violations – Subsequent Development and Building Permits.
10.4 Public and Private Redress
10.5 Fees for Permits Obtained After Development

10.1 Enforcement

10.1.1 The enforcement provisions of RCW 58.17 and WAC 173-27-240 through 173-27-310 ~~shall~~ must apply.

10.1.2 The Shoreline Administrator and/or a designated representative ~~shall~~must enforce all provisions of the Master Program. The Shoreline Management Act calls for a cooperative enforcement program between local and state government. It provides for both civil and criminal penalties, orders to cease and desist, orders to take corrective action and permit rescission. 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 accrue to the violator, and the cost of obtaining compliance may also be considered.

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 Shoreline Master Program, rules or regulations adopted pursuant thereto ~~shall~~must be subject to the penalty provisions of the AMC.

10.3 Violations – Subsequent Development and Building Permits

No building permit or other development permit ~~shall~~must be issued for any parcel of land developed or divided in violation of this Master Program. All purchasers or transferees of property ~~shall~~must comply with provisions of the Act and this Master Program and each purchaser or transferee may recover damages from any person, firm, corporation, or agent selling, transferring, or leasing land in violation of the Act or this Master Program including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of the Act or this Master Program as well as costs of investigation, suit, and reasonable attorney's fees occasioned thereby. Such purchaser, transferee, or lessor, as an alternative to conforming their property to these requirements, may rescind the sale, transfer, or lease and recover

costs of investigation, litigation and reasonable attorney's fees occasioned thereby from the violator.

10.4 Public and Private Redress

10.4.1 Any person subject to the regulatory program of the Master Program who violates any provision of the Master Program or the provisions of a Permit issued pursuant thereto ~~shall~~must be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation.

10.4.2 The City Attorney may bring suit for damages under this section on behalf of the City. Nothing in this section precludes private persons from bringing suit for damages on their own behalf. If liability has been established for the cost of restoring an area affected by violation, the court ~~shall~~must make provisions to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the court, in its discretion, may award attorneys' fees and costs of the suit to the prevailing party.

10.5 Fees for Permits Obtained After Development

10.5.1 Triple fees for permits obtained after development. Permits obtained following, rather than prior to, the establishment of a development or use ~~shall~~must be three (3) times the normal amount. This provision is in addition to the enforcement measures contained in this chapter and in the AMC.

10.5.2 Delinquent permit penalties ~~shall~~must be paid in full prior to resuming the use or activity.

CHAPTER 11 MASTER PROGRAM – REVIEW, AMENDMENTS AND ADOPTION

11.1 Master Program Review
11.2 Amendments to Master Program
11.3 Severability
11.4 Effective Date

11.1 Master Program Review

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

11.2 Amendments to Master Program

11.2.1 Any of the provisions of this Master Program may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173-26 WAC. Amendments or revision to the Master Program, as provided by law, do not become effective until approved by the Washington State Department of Ecology.

11.2.2 Proposals for shoreline environment redesignation (i.e., amendments to the shoreline maps and descriptions), 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~~must not be affected.

11.4 Effective Date

This Master Program ~~shall~~must take effect on October 4, 2010 and ~~shall~~will apply to new applications submitted on or after that date and to incomplete applications submitted prior to that date.

CHAPTER 12 DEFINITIONS

12.1 General Information
12.2 Definitions

12.1 General Information

For the purpose of this Master Program, certain terms and their derivations ~~shall~~must be construed as specified in this section. Some terms used in this Master Program may have a different definition and application under other City of Anacortes regulations. Words in the singular include the plural, and the plural, the singular. The words "~~shall~~must" and "will" are mandatory; the word "may" is permissive. Additional definitions applicable to this Master Program and adopted by reference herein, are found in RCW 90.58 and applicable sections of the Washington Administrative Code. The following definitions apply throughout this Program, unless otherwise indicated.

If a definition is not included here, the City ~~shall~~must rely on definitions found in applicable citations in the Revised Code of Washington (RCW), Washington Administrative Code (WAC), the Anacortes Municipal Code (AMC) specifically Chapters 19.12, Definitions and Interpretation, and 19.70, Critical Areas Regulations, Ordinance #XX, dated XX, and finally a standard dictionary, in that order. In case of conflict with AMC, definitions within the RCW, WAC, and/or this Master Program ~~shall~~must prevail.

Commented [AC64]: Table 4-1 #7

12.2 Definitions

Commented [AC65]: **Table 4-1 # 7 – Definitions removed already exist in Title 19**

Abiotic Not Living.

~~**Accessory Building** A subordinate building attached to or detached from the principal building and used for purposes customarily incidental to the use of the principal building. Accessory buildings include but are not limited to an automobile storage garage, playhouse, laundry room, garden shelter, hobby room and mechanical room.~~

~~**Accessory Dwelling Unit** An accessory dwelling unit (ADU) is a habitable dwelling unit added to, created within, or detached from and on the same lot with a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking, and sanitation.~~

~~**Accessory Use** A water-oriented or non-water-oriented use that is demonstrably subordinate and incidental to a primary use and which functionally supports its activity.~~

Commented [AC66]: **Table 4-1 # 7 – Definitions removed already exist in Title 19**

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, hooks and tombolos.

Act means the Washington State Shoreline Management Act, Chapter 90.58 RCW. ~~The Shoreline Management Act of 1971, as amended (Chapter 90.58 RCW).~~

Commented [AC67]: Table 5-1 #2

Activity An occurrence associated with a use; the use of energy toward a specific action or pursuit. Examples of shoreline activities include but are not limited to fishing, swimming, boating, dredging, fish spawning, wildlife nesting, or discharging of materials.

~~**Act** means the Washington State Shoreline Management Act, Chapter 90.58 RCW~~

Commented [AC68]: Table 5-1 #2

Adjacent Lands Lands adjacent to the shorelines of the state (outside of shoreline jurisdiction). The SMA directs local governments to develop land use controls (i.e., zoning, comprehensive planning) for such lands consistent with the policies of the SMA, related rules and the local shoreline master program (see Chapter 90.58.340 RCW).

Administrator The City Director of Planning, Community, and Economic Development or his/her designee, charged with the responsibility of administering the Anacortes Shoreline Master Program.

Advertising Any display of letters, numerals, characters, words, symbols, emblems, illustrations, objects or registered trademarks which serve to call to the attention of the public products, services, businesses, buildings, premises, events, candidates or ballot proportions. On-premise advertising is that which is actually located on the site of the business or service advertised.

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

Agriculture The cultivation of soil, production of crops, or the raising of livestock.

~~**AKART** An acronym for "all known, available, and reasonable methods of prevention, control, and treatment" (WAC 173-201A-020). AKART shall represent the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. The concept of AKART applies to both point and nonpoint sources of pollution.~~

Alteration Any human-induced action that impacts the existing conditions of the area. Alteration includes but is not limited to:

1. Grading, filling, dredging, draining, channelizing, cutting, topping;
2. Clearing, relocating or removing vegetation;
3. Paving, construction, modifying for surface water management purposes;
4. Human activity that impacts the existing topography, vegetation, hydrology, or wildlife habitat.

Alteration does not include walking, passive recreation, or similar activities.

Amendment A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

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 procreate.

Applicable Master Program The Master Program approved or adopted by the Washington State Department of Ecology pursuant to RCW 90.58.090 or RCW 90.58.190.

Approval An official action by a local government legislative body agreeing to submit a proposed shoreline master program or amendments to the department for review and official action pursuant to these regulations; or an official action by the department to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program.

Appurtenance A structure or development that is necessarily connected to the function and enjoyment of a single-family residence or other use 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; and grading which does not exceed two hundred fifty (250) cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.

Aquaculture The culture or farming of food fish, shellfish, or other aquatic plants or animals, including the incidental preparation of these products for human use. The term encompasses a wide variety of activities including hatching, seeding, planting, cultivating, feeding, raising, and harvesting of plants and animals. but does not encompass the wild harvest of geoduck.

Commented [AC69]: Table 2-1 2011b

Aquatic All water bodies, including marine waters, lakes, rivers, and streams and their respective water columns and underlying lands waterward of the ordinary high water mark..

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

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 (WAC 173-22-030(1)).

Auxiliary A structure or use which is supplemental or supportive to the primary structure or use.

Backshore The 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.

Bar Similar to spits and hooks, though generally not attached to the mainland during periods of high water.

Barrier Beach An accretion shore form of sand and gravel that has been deposited by longshore drift, like storm barriers, in front of bluffs, bays, marshes and estuaries.

Bathymetry, Bathymetrics The measurement of water depth at various places in a body of water; also: the information derived from such measurements - **bathy·met·ric**

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 down drift to stabilize or restore eroding beaches or berms.

Benthic/Benthos Of or having to do with the bottom of oceans or seas. In biology, "benthos" meaning the organisms living on or in the bottom of oceans, lakes, or streams.

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

~~**Best Management Practices (BMPs)** BMPs are methods of improving water quality that can have a great effect when applied by numerous individuals. 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 and is considered a subset of the AKART requirement.~~

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 fisheries habitat enhancement measures in project design (e.g., anchored logs, root wads, etc.). This use of bioengineering as a shoreline stabilization technique is seen as an alternative to riprap, concrete, and other structural solutions.

Biota The animals and plants that live in a particular location or region.

Biologist - Qualifications

Biotic Of or relating to life; *especially*: caused or produced by living beings.

Boat Launch or Ramp 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 and place vessels into the water. These devices are usually located along a pier.

Boating Facilities Boating facilities include marinas, both backshore and foreshore, dry storage and wet-moorage types, covered moorage, boat launches, and marine travel lifts. Boating facility standards do not apply to docks serving four or fewer single-family residences.

Boathouse A structure designed for storage of vessels located over water or in upland areas, which is designed to surround or enclose the vessel. Boathouses should not be confused with "houseboats."

Bog A shallow water area that may be filled by sedimentation and the decaying of vegetation.

Breakwater An off-shore structure generally built parallel to the shore that may or may not be connected to land. Its primary purpose is to protect a harbor, moorage, or navigational activity from wave and wind action by creating a still-water area along the shore. A secondary purpose is to protect the shoreline from wave-caused erosion.

Buffer The zone contiguous to a environmentally sensitive critical area that is required for the continued maintenance, function, and/or structural stability of the critical area. Buffer widths vary depending on the relative quality and sensitivity of the area being protected. Unlike zoning setbacks, buffer areas are intended to be left undisturbed, or may need to be enhanced to support natural processes, functions and values. The critical functions of the riparian buffer (those associated with an aquatic system) include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, interception of sediments, overflow during high water event, protection from disturbance by humans and domestic animals, maintenance of a wild habitat, and room for variation of aquatic system boundaries over time due to hydrological or climatic effects. The critical functions of terrestrial buffers include protection of slope stability, attenuation of surface water flows from stormwater runoff and precipitation, and erosion control.

(Also See "Setbacks").

~~**Building** Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of any use or occupancy. (different but consistent with AMC)~~

Building Setback Line Unless otherwise indicated with this Master Program, the line which establishes the limits of all buildings, structures, and fencing along the shoreline. Setback lines are based upon land use patterns while setbacks associated with buffers are intended to protect critical areas (See "buffer").

Building Height – see ~~Height~~ Section 5.12 Shoreline Use and Modification Matrix and Development Standards.

Commented [AC70]: Table 4-1 #7

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 poured-in-place concrete, steel or aluminum sheet piling, wood, or wood and structural steel combinations.

Bulkheads are normally lighter than a seawall and similar to structures termed "Revetments" defined below.

Buoy Buoys are floating devices anchored in a waterbody for navigational purposes or moorage. See also "Mooring Buoy."

Campground An outdoor area established for overnight accommodation of recreational user.

Channel An open conduit for water either naturally or artificially created, but does not include artificially created irrigation, return flow, or stock watering channels. See also "Stream".

~~**City** The incorporated City of Anacortes, 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 the soils on the site. This includes such activities as clear-cutting or selective harvest of trees, chipping of stumps and hauling off of shrubs, slash piles, etc.

Coastline The highest landward line of long-term marine water effect upon the land.

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

Commercial Commercial developments are those uses that are involved in wholesale and retail trade or business activities. Examples include but are not limited to hotels, motels, grocery stores, restaurants, shops, offices, and indoor recreation facilities.

~~**Comprehensive Plan** The document, including maps, adopted by the City Council that outlines the City's goals and policies relating to management of growth, and prepared in accordance with Ch. 36.70A RCW. The term also includes adopted sub area plans prepared in accordance with Ch. 36.70A RCW.~~

Conditional Use A use, development, or substantial development that is classified as a conditional use or is not classified within the applicable master program. Refer to WAC 173-27-030(4).

Conservancy An area with natural, cultural, or historical resources of exceptional value.

County Skagit County, Washington.

Creek A small stream; often a shallow or intermittent tributary to a river. Surface water run-off flowing in a natural or modified channel that is drawn by gravity to progressively lower levels and eventually to the sea.

Critical Areas For the purposes of this Master Program, "critical areas" include aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands. Under the GMA, critical areas are to be classified, designated and protected. In designating and protecting critical areas, the City ~~shall~~must use the best available science, consistent with RCW 36.70A.172.

Cumulative Impact 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 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 other project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any state of water level (RCW 90.58.030(3d)). "Development" does not include dismantling or removing structures if there is no other associated development or re-development. See also "Substantial Development."

Commented [AC71]: Table 2-1 2017b

Dock A dock or pier is a landing and moorage facility for watercraft that abuts the shoreline. This definition does not include recreational decks, storage facilities, or other appurtenances which may be associated with the dock or pier.

Downdrift The direction of movement of beach materials.

Dredge Spoil or Dredge Material The material removed by dredging.

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

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

Driftway The foreshore area that connects a feeder bluff and its accretion from where sand or gravel is deposited by net effect of wave action and longshore drifts.

Dwelling Any building or portion thereof designed or used primarily for residential occupancy, including single-family dwellings, duplexes, triplexes, fourplexes, and multifamily dwellings, and condominiums, but not including hotels or motels.

~~**Dwelling, multifamily** A building containing two or more dwelling units.~~

~~**Dwelling, single-family** A dwelling designed for single-family occupancy~~

Ecological Functions "Ecological functions" or "shoreline functions" means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-201(2)(c).

The beneficial roles served by ecological functions include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, ground water recharge and discharge, erosion control, wave attenuation, protection from hazards, historical and archaeological and aesthetic value protection, educational opportunities, and recreation. These beneficial roles are not listed in order of priority. Functions can be used to help set targets (species composition, structure, etc.) for managed areas, including mitigation sites.

Economic Development A development that provides a service, produces a good, retails a commodity, or engages in any other use or activity for the purpose of making financial gain.

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

Emergency An unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the Master Program. Emergency construction is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3eiii) and WAC 173-27-040(2d)). See also “Substantial Development”.

Enhancement Alteration of an existing resource to improve or increase its characteristics and processes without degrading other existing functions. Enhancements are to be distinguished from resource creation or restoration projects.

Environmental Impacts The effects or consequences of actions on the natural and built environments. Environmental impacts include effects upon the elements of the environment listed in the State Environmental Policy Act (SEPA) (WAC 197-11-600 and WAC 197-11-444)

Environment(s) (Shoreline Environment(s)) Designations given specific shoreline areas based on the existing development pattern, the biophysical capabilities and limitations, and the goals and aspirations of local citizenry, as part of a Master Program.

Erosion The group of natural processes including weathering, dissolution, abrasion, corrosion, and transporting by which earthy or rocky material is removed from any part of the earth's surface.

Esplanade A public walk or walkway.

Estuary That portion of a coastal stream influenced by the tide of marine waters into where it flows and where the seawater is diluted with fresh water derived from land drainage.

Exempt Development Certain specific developments as listed in WAC 173-27-040 and Chapter 90.58 RCW are exempt from the definition of substantial development and therefore exempt from the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the local master program. Conditional use and/or variance permits may also still be required even though the activity does not need a substantial development permit (RCW 90.58.030(3e).

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

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

Feasible Pursuant to the Shoreline Guidelines (WAC 173-26), feasible means that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions: (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (b) The action 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. In cases where these guidelines require certain actions unless they are proven to be infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

Feeder Bluff A shore or sea bluff whose eroding material is transported by longshore drift and provides the building blocks and nourishment for spits, bars, hooks, and other

accretion shore forms.

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 shores of navigable tidal waters belonging to the state, lying within or in front of the corporate limits of any city, or within one mile of either side and between the line of 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.

Float A floating structure, not connected to the shoreline, that is moored, anchored, or otherwise secured in the water.

Floating Home A floating structure that is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling.

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

Floodplain A term synonymous with the hundred-year floodplain, meaning that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area ~~shall~~must be based upon flood ordinance regulation maps or a reasonable method that meets the objectives of the Shoreline Management Act.

Floodway The area, as identified in a master program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway ~~shall~~must not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state [RCW 90.58.030(2)(b)].

Commented [AC72]: Table 2-1 2007a

Forest Practices Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: road and trail construction; harvesting, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. Forest practice ~~shall~~must not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

Functions and Values (see "Ecological Functions")

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.

Geotechnical report or geotechnical analysis A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports ~~shall~~must conform to accepted technical standards and must be prepared by qualified professional engineers or geologists-who have professional expertise about the regional and local shoreline geology and processes.

GMA Growth Management Act – Washington State House Bill 2929 adopted in 1990 and amendments thereto. Codified largely within Chapter 36.70A RCW.

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

Grassy Swale A vegetated drainage channel that is designed to remove various pollutants from storm water runoff through biofiltration.

Groin A barrier-type structure extending from the backshore or stream bank into a water body. The purpose of a groin is to interrupt sediment movement along the shore. A groin is also referred to as a rock weir.

Guidelines [in context of the Shoreline Master Program Guidelines] Those standards adopted by the department to implement the policy of chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards ~~shall~~must 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.

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

Hearings Board The State Shorelines Hearings Board established by the Act.

Height: Is defined under SMP Section 5.12 Shoreline Use and Modification Matrix and Development Standards. ~~Height shall be measured from average grade level to the highest point of a structure not otherwise excepted from the height limits, where "average grade level" is: the average of the natural or existing topography of the portion of the lot, parcel or tract of real property which will be directly under the proposed building or structure; provided, that in the case of structures to be built over water, average grade level shall be the elevation of ordinary high water. Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure. Additionally, "natural or existing topography" is: The topography of the lot, parcel or tract of real property immediately prior to any site preparation, grading, excavation, or filing.~~

Commented [AC73]: Table 4-1 #7

~~No building or structure in the Shoreline Area (200 feet from OHWM) shall exceed the height limits indicated on Table 5.2, except:~~

~~1. Cranes, gantries, mobile conveyors and similar equipment necessary for the function of marinas, marine manufacturing, permitted commercial, industrial or port activities and servicing vehicles.~~

~~2. Flagpoles or masts, transmission towers, chimneys, smokestacks, aerials or stairwells, when part of a permitted use.~~

~~3. Belfries, monuments, spires or steeples, transmission towers, provided such structures shall be designed to minimize obstruction of views.~~

~~4. In non-residential zones, penthouses for elevator and other mechanical equipment and monitors for light and ventilation are permitted, when occupying less than 15% of the total roof area less than 5% of lot coverage and extending not more than 10 feet above roof level.~~

~~5. When considering allowance of structures to exceed the height limitations the Planning commission must consider:~~

~~a. View obstruction;~~

~~b. Alternate siting outside shoreline areas;~~

~~c. Significance of alteration of existing skyline profile.~~

~~d. The variance criteria in Chapter 15 of this SMP.~~

~~Temporary construction equipment is not used in calculating height.~~

~~For Personal Wireless Service Facilities/Emergency Communication Facilities, height means the vertical distance measured from the lowest pre-existing ground level within the footprint of the facility to the highest point on the facility, including but not limited to the~~

~~antenna or antenna array.~~

Historic Having considerable importance or influence in history; historical.

Historic Overwater Structure Those overwater structures which are identified on the City's historic register.

HPA - Hydraulic Project Approval The permit issued by the Washington State Department of Fish and Wildlife pursuant to the State Hydraulic Code Chapter 77.55 RCW.

Hydric Soil Hydric soil means 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.

Hydrophytes Plants capable of growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

Impervious Surface means a non-vegetated surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non- vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or stormwater areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

Commented [AC74]: Table 4-1 #7

Industry The production, processing, manufacturing, or fabrication of goods or materials. Warehousing and storage of materials or production 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 outer harbor line and constituting the inner boundary of the harbor area.

In-kind Replacement To replace wetlands, biota or other organisms with substitute flora or fauna whose characteristics closely match those destroyed, displaced, or degraded by an activity.

In-Stream Structures Structures waterward of the ordinary high water mark that either cause or have the potential to cause water impoundment or the diversion, obstruction, or modification of water flow.

Jetty A structure generally perpendicular to the shore, extending through or past the intertidal zone. Jetties are built singly or in pairs at a harbor entrance or river mouth mainly to prevent accretion from littoral drift in an entrance channel, which may or may not be dredged. Jetties also serve to protect channels from storm waves or cross currents and to stabilize inlets through barrier beaches. On the Pacific Coast, most jetties are of

rip-rapped, mound construction.

Lake A body of standing water in a depression of land or expanded part of a river, including reservoirs, of twenty (20) acres or greater in total area. A lake is bounded by the ordinary high water mark or, where a stream enters a lake, the extension of the elevation of the lake's ordinary high water mark within the stream (WAC 173-22-030(9)).

~~**Landscaping** Vegetative ground cover including shrubs, trees, flower beds, grass, ivy and other similar plants and including tree bark and other materials which aid vegetative growth and maintenance.~~

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

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 five or more pleasure and/or commercial water craft.

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

Marine bluffs Slopes greater than 40 percent that exceed a vertical height of 10 feet within the marine shoreline jurisdiction.

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

May The action is acceptable, provided it conforms to the provisions of these regulations.

Mining The removal of naturally occurring rock, sand, gravel, and minerals from the earth.

Mitigation or Mitigation Sequencing The process necessary to avoid, minimize or reduce, or compensate for the environmental impact(s) of a proposal (see WAC 197-11-768 and WAC 173-26-201(2.e)). Mitigation or mitigation sequencing means the following sequence of steps listed in order of priority, with (a) of this subsection being top priority:

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

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

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

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

e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

f) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Mixed-use Development Mixed-use projects are developments that combine water-dependent/water-related uses with water-enjoyment uses and/or non-water-oriented uses. Mixed-use developments can be a tool for increased water-dependent activities, civic revitalization, and public access to the shoreline. To encourage mixed-use projects that achieve a public benefit, special provisions can be included in a master program that offer a potential developer incentives or more latitude than normal master program requirements. In return, the developer's proposal must include elements that further the objectives of the Shoreline Management Act and benefit the public. Implicit in the concept of mixed-use provisions is that additional development incentives must be justified by increased and long-term public benefit resulting from the project and that the public benefit must relate to SMA objectives. Generally in mixed-use projects the water-oriented uses and non-revenue recreation uses are "subsidized" by the economic advantages of the other uses in the sense that the water-oriented uses could not be economically developed without support from viable non-water-oriented uses

Mixed Use Facility A mixed use facility is a structure or development that combines non-water-oriented uses such as transient accommodations, residential units, or retail with one or more water-oriented uses in a manner that takes advantage of a shoreline location and which, as a general characteristic of the use, provides shoreline recreational and aesthetic enjoyment for a substantial number of people. In order to meet the definition of a mixed use facility, the facility must be designed to protect views to the shoreline, must be open to the general public and must be devoted to the specific aspects of the use that foster shoreline enjoyment.

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

Moorage Piles Structural members that are driven into the lake bed or tide lands to serve as a stationary moorage point. They are typically used for moorage of small boats in the absence of, or instead of, a dock or pier. In some cases, moorage piles may be associated with a dock or pier.

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

Mooring Buoy Field The existence or establishment of 12 or more mooring buoys in a contiguous area.

Multiple-Use The combining of compatible uses within one development.

Must A mandate; the action is required.

Native Plants or Native Vegetation Plant species that are indigenous to Fidalgo Island.

Natural A shoreline possessing unique or fragile features that are totally or essentially unaltered from their natural state or are relatively intolerant of human use other than for passive historical, cultural, scientific, recreational, archaeological, or educational activity.

Natural or Existing Topography The topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling.

Navigable Waters Those waters lying waterward of and 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.

No Net Loss. No net loss of ecological function ~~shall~~must be measured based on the data submitted with a shoreline application, and SEPA checklist if applicable.

Nonconforming development or Nonconforming structure An existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.

Nonconforming lot A lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.

~~**Non-conforming Use or Development** A shoreline use or structure or portion thereof which was lawfully constructed or established prior to the effective date of the Shoreline Management Act or local shoreline master program provision, or amendments, but no longer conforms to the policies and regulations of this Master Program.~~**Nonconforming use** An existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.

Commented [AC75]: Table 2-1 2017g

Non-water-oriented Use A use that has little or no relationship to the shoreline and is not considered a priority use under the Shoreline Management Act. All uses which do not meet the definition of water-dependent, water-related, or water-enjoyment are classified as non-water-oriented uses.

Examples of non-water-oriented uses include professional offices, general retail or commercial uses, residential development, condominiums, and mini-storage facilities.

Normal Maintenance Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition (WAC 173-27-040(2b)). See also "Normal Repair".

Normal Protective Bulkhead A bulkhead, common to single-family residences, constructed at or near the ordinary high water mark to protect an existing single-family residence, and which sole purpose is for protecting land from erosion, not for the purpose of creating new land (WAC 173-27-040(2c).

Normal Repair Activities that restore the character, size or scope of a project only to the previously authorized condition within a reasonable period after decay or partial destruction, excepting that repair involving total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment ~~shall~~must not be construed as normal repair (WAC 173-27-040(2b) See also "Normal Maintenance".

Noxious Weed Any plant which is invasive, such as Himalayan blackberries, nettles, Scotch broom, Spartina, and listed on the state noxious weed list in Chapter 16-750 WAC.

Offshore The sloping subtidal area seaward from the low tideland.

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

Off-site Compensation To compensate 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

On-site Compensation To compensate 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 impact were located.

Out-of-kind compensation To compensate for lost or degraded wetlands or other shoreline environmental resources by creating substitute habitat whose characteristics do not closely approximate those lost or degraded by a development activity.

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 man-made structures.~~

Ordinary High Water Mark (often abbreviated OHWM) That mark on all lakes, streams, and tidal waters 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 or as it may naturally change thereafter; or as it may change thereafter in accordance with permits issued by the local government or the Washington State Department of Ecology; provided that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining saltwater ~~shall~~must be the line of mean higher high tide, and the ordinary high water mark adjoining fresh water ~~shall~~must 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~~must never sell or lease any rights whatsoever.

Over-water Structure Any device or structure projecting over the ordinary high water mark, including, but not limited to piers, docks, floats, and moorage or anchor buoys.

~~**Parking Space or Parking Stall** Areas providing for the storage of motor vehicles, including vista parking facilities. Excepting however, that this definition shall not apply to vehicle holding areas necessary to support a publicly operated ferry system.~~

Performance Standard Regulations, which include bulk and dimensional standards that are applied to the design and function of a development or use.

Permit (or Shoreline Permit) Any substantial development, variance or conditional use permit, or revision, or any combination thereof, authorized by the Act (WAC 173-27-030(13)).

~~**Person** An individual, firm, partnership, corporation, association, organization, agency, or any non-federal entity however designated.~~

Pier A fixed, pile-supported structure in the water.

Pocket Beach In this Master Program, pocket beach refers to an isolated accretion beach bordered by shoreline modifications.

Point A low profile beach promontory, generally of triangular shape whose apex extends seaward.

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.

Port A center for water-borne commerce and traffic.

Practicable Alternative An alternative that is available and capable of being carried out after taking into consideration short-term and long-term cost, existing technology, options of project scale and phasing, and logistics in light of overall project purposes, and having less impacts to environmentally sensitive areas. It may include using an area not owned

by the applicant that can reasonably be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed development.

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; • Refuge habitat; • Limited availability; • High vulnerability to habitat alteration; • Unique or dependent species; or • Shellfish bed. A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

Priority Species Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below. (a) Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297. (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 (See RCW 90.58.020)

Proposed, Threatened and Endangered (PTE) Species Those native species that are proposed to be listed or are listed in rule by the Washington State Department of Fish and Wildlife as threatened or endangered, or that are proposed to be listed as threatened or endangered or that are listed as threatened or endangered under the federal Endangered

Species Act.

Public Access A means of physical approach to and along the shoreline available to the general public. This may also include visual approach.

Public Interest The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development. [WAC 173-27-030(14)]

Public Use Public use means to be made available daily to the general public on a first-come, first-served basis, and may not be leased to private parties on any more than a day use basis. (WAC 332-30-106(56))

RCW Revised Code of Washington.

Recreational Facilities Facilities such as parks, trails and pathways, campgrounds, and swim rafts that provide a means for relaxation, play, or amusement. For the purposes of this Master Program, recreational uses are divided into two categories:

1. Water-dependent (e.g., boating facilities, fishing pier, swim rafts) and

2. Non-water-dependent. Non water-dependent recreational uses are further divided into three subcategories based on their relative impact to the shoreline environment:

    a. High Intensity recreational uses require substantial development/ land modification or large areas of fertilized lawn. Such uses may include but are not limited to camp grounds, sport courts (e.g., tennis/basketball), golf course, sport fields (e.g., ball park), aquatic center, skateboard park.

    b. Moderate Intensity recreational uses are typified by formal parks for passive recreation (e.g., Washington and Cap Sane Parks) requiring some modification of natural conditions, limited paving and often including accessory structures (e.g., picnic shelters, restrooms, viewing galleries, gazebos, playground equipment.

    c. Low intensity recreational uses are passive in nature (e.g., walking, photography, wildlife viewing) and require very minimal alteration of natural conditions. Such uses/modifications may include but are not limited to trails, vista points, wildlife viewing areas, picnic tables and benches.

Recycling Facilities Recycling facility means a facility for the collection and/or sorting and storage of recyclable materials generated from domestic or small business sources, such as bottles, cans, paper, cardboard, aluminum, and plastics. This definition does not include facilities for the processing of recyclable materials, which are classified as a

manufacturing use. Recycling facilities are further divided into two categories:

A. Major recycling facilities include facilities primarily dedicated to the collection, sorting, or purchase and resale of recyclable materials.

B. Minor recycling facilities include bins or other temporary or permanent facilities for the collection of small quantities of recyclable materials to be sorted and/or processed elsewhere. A minor facility may be accessory to a primary use, such as a recycling bin at a grocery store parking lot.

Repair (See Normal Repair)

Residence A dwelling and those structures and developments within a contiguous ownership that are normal appurtenances. An appurtenance is necessarily connected to the use and enjoyment of a residence and is located landward of the perimeter of a wetland, and associated buffers, and landward of the ordinary high water mark. A normal appurtenance includes a garage, deck, driveway, utilities, fences, and grading that does not exceed 250 cubic yards.

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, mobile home parks, 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, and saunas, but not guest cottages, when allowed by the underlying zoning. Residential development does not include hotels, motels, or camping facilities.

Restaurant An establishment where food and drink are prepared, served and consumed primarily within the principal building. Restaurants may qualify as a water-enjoyment use when located, designed and operated to assure the public's ability to interact with the shoreline. Water-enjoyment design elements may include the incorporation of outdoor seating areas that are compatible with shoreline public access. Drive-thru restaurants are not considered water-enjoyment uses and are prohibited in the shoreline designation.

Restore, "restoration" or "ecological restoration" The reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions (WAC 173-26-020(27)).

Restoration of ecological functions, above and beyond that which may be required as mitigation for project impacts, is considered a water-dependent use under this Master Program.

Retrieval Lines A system by which a float or other floating object is retrieved to a pier, dock, or shoreland.

Revegetation The planting of vegetation to cover any land areas that have been disturbed during construction. This vegetation shall be maintained to insure its survival and ~~shall~~must be consistent with planting requirements of the Anacortes Landscaping Code.

Revetment A revetment is 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 (rock filled wire baskets) or other systems and materials. The principal features of a revetment, regardless of type is a heavy armor layer, a filter layer, and toe protection. See also "bulkheads."

Riprap A layer, facing, or protective mound of stone placed on shoulders, slopes, or other such places to protect them from erosion, scour, or sloughing of a structure or embankment; also, the stone so used.

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.

Runoff Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

Sediment The fine-grained material deposited by water or wind.

SEPA See State Environmental Policy Act.

SEPA Checklist A checklist is required of some projects under SEPA to identify the probable significant adverse impacts on the quality of the environment. The checklist will also help to reduce or avoid impacts from a proposal, and help the responsible governmental agency decide whether a full environmental impact statement (EIS) is required (WAC 197-11-960).

Scientific, Cultural and Educational Facilities Those sites, structures, or facilities that provide unique insight into our natural and cultural heritage.

Sea wall A bulkhead, except its primary purpose is to artificially armor the shore from erosion by water waves and it may incidentally retain uplands or fills. Sea walls are usually more massive than bulkheads or revetments because they are designed to resist the full force of waves.

Second Class Shoreland Land bordering on the shore of a navigable lake or river not subject to tidal flow, between the line of ordinary high water and the line of navigability

and within or in front of the corporate limits of any City or within two miles thereof upon either side.

Second Class Tideland Land over which the tide ebbs and flows outside and more than two miles from the corporate limits of any City from the line of ordinary high tide to the line of extreme low tide.

Setbacks A. "Setback (yard requirements)" means the distance between a building and its property lines. B. Shoreline Environment Setbacks – the distance between a building or use and the ordinary-high water-mark (OHWM) as established for each specific environmental designation under Chapter 5of this Master Program.

~~**Shall** Indicates a mandate; the particular action must be done, unless a variance is secured or another appropriate exception applies.~~

Shore Defense Works Structures or modifications for the purpose of retarding shore erosion from waves or current action, protecting channels and harbors from wave action, encouraging deposition of beach materials, preventing stream bank overflow, and retaining uplands. They may consist of bulkheads, seawall, dikes, revetments, breakwaters, jetties, groins, or gabions. Defense works are commonly constructed from quarry rock (rip-rap), treated wood, concrete, steel, and sand and gravel.

Shoreland Areas or Shorelands Those lands extending landward for two hundred (200) 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 this chapter; the same to be designated as to location by the Washington Department of Ecology (see also RCW 90.58.030).

Shoreline Administrator See Administrator.

Shoreline areas and **shoreline jurisdiction** All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

Shoreline Environment(s) See Environment

Shoreline Management Act of 1971 A law passed by the Washington State Legislature in 1971 and ratified by the voters in 1972 (reference RCW 90.58).

Shoreline master program or **master program** The comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW ~~shall~~must be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, ~~shall~~must be considered a part of the county or city's development regulations.

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

Shoreline Permit A permit to conduct a development or use as defined by RCW 90.58 and this Master Program. A shoreline permit means any form of permission required under RCW 90.58 prior to undertaking activity on shorelines of the state, including substantial development, conditional use or variance permits.

Shoreline Setback Line Unless otherwise indicated within this Master Program, the line which establishes the limits of all buildings, structures and fencing along the shoreline. Setback lines are based upon land use patterns while setbacks associated with buffers are intended to protect critical areas (See "buffer areas").

Shoreline setbacks are measured horizontally in a line perpendicularly from the ordinary high water mark (OHWM) to the most waterward part of the structure.

Shorelines All the water area of Anacortes, including their associated wetlands, together with lands underlying them, except:

a. Shorelines of statewide significance.

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

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

Shorelines Hearings Board A state-level quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government on DOE approval of master programs, rules, regulations, guidelines or designations under the SMA. See RCW 90.58.170; 90.58.180; and WAC 173-27-220 and 173-27-290.

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

Shorelines of Statewide Significance A shoreline of the state with respect to the City of Anacortes as identified as follows: Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent saltwaters north to the Canadian line and lying seaward from the line of extreme low tide. Padilla Bay, from March Point to William Point, is also identified as a specific estuarine area and is considered a Shoreline of Statewide Significance waterward from the ordinary high water mark and all associated shorelands.

Should A particular action is required unless there is a demonstrated, compelling reason,

based on policy of the Shoreline Management Act and these regulations, against taking the action.

~~**Sign** Any visual communication device, structure, placard or fixture that uses color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. For the purpose of this chapter, a sign is not considered to be building or structural design, but is restricted solely to graphics, symbols or written copy that is meant to be used in the aforementioned way. However, a sign shall not include the following:~~

~~a. Official notices authorized by a court, public body or public officer.~~

~~b. Direction, warning, or information sign authorized by federal, state, or municipal authority.~~

~~c. The official flag, emblem, or insignia of a government, school or religious group or agency.~~

~~d. A memorial plaque or tablet, or cornerstones indicating the name of a building and date of construction, when cut or carved into any masonry surface or when made of bronze or other incombustible part of the building or structure. (See also "Advertising.")~~

Significant 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 significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. ~~Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.~~

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Single-family dwelling – see "Dwelling, single-family"

SMA See Shoreline Management Act.

Soil Bioengineering An applied science that combines structure, biological and ecological concepts to construct living structures that stabilizes the soil to control erosion, sedimentation and flooding using live plant materials as a main structural component.

Solid Waste Solid waste includes all putrescible and nonputrescible solid and semisolid wastes, including garbage, rubbish, ashes, industrial wastes, wood wastes and sort yard wastes associated with commercial logging activities, swill, demolition and construction wastes, abandoned vehicles and parts of vehicles, household appliances and other discarded commodities. Solid waste does not include sewage, dredge material or agricultural or other commercial logging wastes not specifically listed above.

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.

State master program The cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by the department.

Stream A body of running water; especially such a body moving over the earth's surface in a channel or bed, as a brook, rivulet, or river.

~~**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 on, above, or below the surface of the ground or water, except for vessels.~~

Substantial Development Any development that:

a. The total cost or fair market value exceeds the amount specified in WAC 173-27-040(2)(a); or

b. Materially interferes with the normal public use of the water or shorelines of the state.

A list of developments not considered substantial development is provided in Section 2.4 of this Master Program. Developments not required to obtain shoreline permits or local reviews can be found under Section 2.5, (WAC 173-27-044).

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Substantially degrade To cause significant ecological impact

Substructure, pier Relating to all the pier composite elements supporting the pier decking itself, excluding the pier pile.

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Swamp A lowland region saturated with water.

Temporary building or structure A building or structure not having or requiring permanent attachment to the ground or to other structures.

Temporary use A use established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

Top of Slope The top of slope is a distinct, topographical break in slope that separates slopes inclined at less than forty percent (40%) from slopes forty percent (40%) or steeper. When no distinct break exists, the top of slope is the upper most limits of the area where the ground surface drops ten (10) feet or more vertically within a horizontal distance of twenty-five (25) feet.

Toe of Slope The toe of slope is a distinct topographical break in slope that separates

slopes inclined at less than forty percent (40%) from slopes forty percent (40%) or steeper. When no distinct break exists, the toe of slope of a steep slope is the lowermost limit of the area where the ground surface drops ten (10) feet or more vertically within a horizontal distance of twenty-five (25) feet.

Tombolo A causeway-like accretion spit connecting an offshore rock or island with the main shore.

Truck Maneuvering Area An area of a site used by trucks for turning and backing or for access to loading/unloading areas.

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

Use or Use Activity 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~~must 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 in this Master Program as primary, accessory, and personal wireless facilities:

a) Primary utilities are services and facilities that produce, transmit, carry, store, process or dispose of power, gas, water, sewage, communications (excepting wireless facilities, see below), oil and the like. For example: sewage treatment plants and outfalls, public high-tension utility lines, power generating or transfer stations, gas distribution lines and storage facilities.

b) Accessory utilities are small-scale distribution services directly serving a permitted shoreline use. For example, power, telephone, cable, communication antennas, water, sewer lines, including stormwater systems.

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

Variance, Shoreline A means of granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program to a particular piece of property, which property, because of special circumstances is deprived of privileges commonly enjoyed by other properties in the same vicinity and environmental designation, and not a means to vary from the permitted uses of a shoreline.

Commented [AC79]: Table 4-1 #7

Vegetation Removal See "significant vegetation removal."

Vegetation Stabilization Planting of water-loving land vegetation upon shoreline banks,

slopes, or berms to retain soil and retard erosion from surface run-off; planting of aquatic vegetation offshore to reduce wave action and retain bottom materials; and utilizing temporary structures or netting to enable plants to establish in unstable areas.

Vessel Ship, boat, barge, or any other floating craft that is designed and used for navigation and does not interfere with the normal public use of the water.

Waste Disposal Refuse composed of garbage, rubbish, ashes, dead animals, demolition wastes, automobile parts, and similar material.

Water-dependent Use A use or a portion of a use, which, as its primary characteristic, cannot exist in any other location than on the water because it is dependent on the water by the intrinsic nature of its operations.

Water-enjoyment Use A shoreline recreational use such as a park, pier, or other use that facilitates public access to the shoreline as a primary characteristic of the use; or, a use that provides for passive/active recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general character of the use and which, through location, design and operation assure the public's ability to enjoy the physical and/or aesthetic qualities of the shoreline.

In order to qualify as a water-enjoyment use, the use must be open to the public and most if not all of the shoreline oriented space within the project must be devoted to the specific aspects of the use that foster shoreline enjoyment.

Water-enjoyment uses may include, but are not limited to, shoreline parks, public access piers or other improvements (e.g., walkways or boardwalks) facilitating public access to the shorelines of the state or that foster the public's awareness and understanding of the shorelines of the state (e.g., shoreline or maritime-related museums, and scientific/ecological reserves).

Other uses, including mixed-use developments, may qualify as water-enjoyment uses if they include a mix of more than one of the general water-enjoyment uses designed to take advantage of a waterfront location, protect views of the water, enhance pedestrian traffic, and display and sell merchandise oriented to marine uses or other office and research functions contributing to marine activities. Examples may include those uses listed below:

a. Ecological and Scientific Reserves

b. Waterfront Parks

c. Beaches for Public Use

d. Aquariums Available to the Public

e. Museums - Marine Oriented or Natural History Museums

f. Restaurants providing substantial public access and/or public views to the water for non-paying customers and not necessarily limited to working hours of operation.

Water-oriented Use A use or a portion of a use which is either a water-dependent, water-related, or water-enjoyment use, or any combination thereof. All uses which do not meet the definition of water-dependent, water-related, or water-enjoyment are classified as non-water-oriented uses.

Water-related Use A use or portion of a use that is not intrinsically dependent on a waterfront location, but whose operation cannot occur economically without a shoreline location. Water-related uses contribute to the marine trades, maritime educational uses or maritime heritage uses or activities of a particular shoreline designation because of the following:

a. A functional requirement for a waterfront location, such as the arrival or shipment of materials by water (e.g., fish processors), or the ability to work on boats that are moored in a marina (e.g., sail lofts, riggers, boat repair) or;

b. The use provides a necessary service supportive of the water-dependent, water-related commercial activities and the proximity of the use to its customers and marine trades businesses makes its services less expensive and more convenient. Examples include marine chandleries or marine hardware stores, boat shops, marine electrical services, marine metal work or fabrication, or manufacturers of boat parts or supplies that are necessary for a viable marine trades economy; or

c. The use provides marine-related services necessary to serve in-water marinas and on-land boatyards that provide a cluster of marine-related businesses that derive an economic benefit from close proximity to one another. Examples include boat dealers and brokers, marine surveyors and marine architects, moorage offices, shower and laundromat facilities for moorage guests, and specialized professional services to support the marine trades; or

d. The use provides maritime educational or maritime heritage activities that strengthen the City's marine trades businesses by providing a cluster of activities that support water-dependent uses, water-related uses and marine-related services. Examples include yacht or sail club facilities, diving shops with classes and/or rentals, recreational services that promote on-the-water activities (e.g., kayak rentals) and interpretive and educational facilities that provide demonstration areas or classrooms for marine trades or marine-related ecology or educational workshops, seminars or classes (e.g., vocational boat schools or maritime educational centers).

Watershed Restoration Plan A plan, developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, the Department of Natural Resources, the

Department of Transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a City, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

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 if permitted by the City (RCW 36.70A.030(21)).

Wireless Facilities – See "Utility"

APPENDIX A SHORELINE CRITICAL AREAS REGULATIONS

Commented [AC80]: Table 3-1 #1

A-1. Frequently Flooded Areas (FEMA Approved)

A-1.1 Statutory authorization, findings of fact, purpose, and objectives.

A. Statutory Authorization.

The legislature of the state of Washington has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city council of Anacortes, does ordain as follows:

1. Findings of Fact.

   a. The flood hazard areas of Anacortes are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

   b. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

2. Statement of Purpose. It is the purpose of these regulations to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

   a. To protect human life and health;

   b. To minimize expenditure of public money and costly flood control projects;

   c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

   d. To minimize prolonged business interruptions;

e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;

f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

g. To ensure that potential buyers are notified that property is in an area of special flood hazard; and

h. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

3. Methods of Reducing Flood Losses. In order to accomplish its purposes, these regulations include methods and provisions for:

a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

d. Controlling filling, grading, dredging, and other development which may increase flood damage; and

e. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas.

A-1.2 Definitions.

Unless specifically defined below or in Chapter 12 of the SMP, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations their most reasonable application.

"Appeal" means a request for a review of the interpretation of any provision of these regulations or a request for a variance.

"Area of shallow flooding" means a designated AO, or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and

~~indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.~~

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

~~"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "one hundred-year flood." Designation on maps always includes the letters A or V.~~

~~"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.~~

~~"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.~~

~~"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V1-30, VE or V.~~

~~"Critical facility" means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.~~

~~"Development" means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.~~

~~"Elevated building" means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.~~

~~"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.~~

~~"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation~~

~~of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).~~

~~"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:~~

~~1. The overflow of inland or tidal waters; and/or~~

~~2. The unusual and rapid accumulation of runoff of surface waters from any source.~~

~~"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.~~

~~"Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.~~

~~"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of these regulations found at Section A-1.5(B)(1)(b).~~

~~"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."~~

~~"Manufactured home park or subdivision" means a parcel (or contiguous) of land divided into two or more manufactured home lots for rent or sale.~~

~~"New construction" means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in these regulations.~~

~~"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.~~

~~"Recreational vehicle" means a vehicle which is:~~

~~1. Built on a single chassis;~~

2. Four hundred square feet or less when measured at the largest horizontal projection;

3. Designed to be self-propelled or permanently towable by a light duty truck; and

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Scientist, Professional Wetland" means a professional wetland scientist shall be certified through the Society of Wetland Scientists Professional Certification Program.

"Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:

1. Before the improvement or repair is started; or

2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or

other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

A-1.3 General provisions.

A. Lands to Which These Regulations Apply. These regulations shall apply to all areas of special flood hazards within the shoreline jurisdiction of the City of Anacortes.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Anacortes" dated March 17, 2003, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of these regulations. The Flood Insurance Study and the FIRM are on file at 904 6th Street. The best available information for flood hazard area identification as outlined in Subsection A-1.4(C)(2) of these regulations shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under Subsection A-1.4(C)(2) of these regulations.

C. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of these regulations and other applicable regulations. Violations of the provisions of these regulations by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one thousand ($1,000) dollars or imprisoned for not more than ten days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Shoreline Administrator from taking such other lawful action as is necessary to prevent or remedy any violation.

D. Abrogation and Greater Restrictions. These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another ordinance, easement, covenant, or

deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation. In the interpretation and application of these regulations, all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body; and

3. Deemed neither to limit nor repeal any other powers granted under state statutes.

F. Warning and Disclaimer of Liability. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of the city of Anacortes, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder.

A-1.4 Administration.

A. Establishment of development permit.

1. Development Permit Required. A development permit and the appropriate shoreline permit shall be obtained before construction or development begins within any area of special flood hazard established in Subsection A-1.3(B) of these regulations. The permit shall be for all structures including manufactured homes, as set forth in the "Definitions," and for all development including fill and other activities, also as set forth in the "Definitions."

2. Application for Development Permit. Application for a development permit shall be made on forms furnished by the city of Anacortes and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

a. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

b. Elevation in relation to mean sea level to which any structure has been floodproofed;

c. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Subsection A-1.5(B)(2) of these regulations; and

d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

B. Designation of the Shoreline Administrator. The Administrator is hereby appointed to administer and implement these regulations.

C. Duties and Responsibilities of the Shoreline Administrator. Duties of the Administrator shall include, but not be limited to:

1. Permit Review.

a. Review all development permits to determine that the permit requirements of these regulations have been satisfied.

b. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.

c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Subsection A-1.5(D) of these regulations are met.

2. Use of Other Base Flood Data (In A and V Zones). When base flood elevation data has not been provided (A and V Zones) in accordance with Subsection A-1.3(B), basis for establishing the areas of special flood hazard, the Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Subsection A-1.5(B), specific standards, and Subsection A-1.5(D), critical facility.

3. Information to be Obtained and Maintained.

a. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in subsection (C)(2) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

b. For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in subsection (C)(2) of this section:

i. Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed; and

ii. Maintain the floodproofing certifications required in subsection (A)(2)(c) of this section.

c. Maintain for public inspection all records pertaining to the provisions of these regulations.

4. Alteration of Watercourses.

a. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

5. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection (D) of this section.

D. Variance Procedure.

1. Requests for variances from the requirements of these regulations shall be reviewed and processed as outlined in Section 3.2 of this Master Program and Chapter 18.16 AMC.

2. In passing upon such applications, the decision maker shall consider all technical evaluations, all relevant factors, standards specified in other sections of these regulations, and:

a. The danger that materials may be swept onto other lands to the injury of others;

b. The danger to life and property due to flooding or erosion damage;

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. The importance of the services provided by the proposed facility to the community;

e. The necessity to the facility of a waterfront location, where applicable;

f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

g. The compatibility of the proposed use with existing and anticipated development;

h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

l. Upon consideration of the factors of subsection (D)(1)(d) of this section and the purposes of these regulations, the board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of these regulations.

m. The Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

2. Conditions for Variances. In addition to meeting the criteria for Shoreline Variances outline in Section 3.2(C) of this Master Program, Shoreline Variances in frequently flooded areas may only be approved in the following circumstances:

a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i through xi) in subsection (D)(1)(d) of this section have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

b. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

c. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

e. Variances shall only be issued upon:

i. A showing of good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

iv. A demonstration that no net loss of critical areas functions and values will occur as a result.

f. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

g. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (D)(2)(a) of this section, and otherwise complies with Subsections A-1.5(A)(1), (3) and (4) of the general standards.

h. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

A-1.5 Provisions for flood hazard reduction.

A. General Standards. In all areas of special flood hazards, the following standards are required:

1. Anchoring.

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

b. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

2. Construction Materials and Methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;

b. The proposed water well shall be located on high ground that is not in the floodway (WAC 173-160-171);

c. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters; and

d. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Subdivision Proposals.

a. All subdivision proposals shall be consistent with the need to minimize flood damage;

b. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty lots or five acres (whichever is less).

5. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (Subsection A-1.4(C)(2)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

B. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) as set forth in Subsection A-1.3(B), basis for establishing the areas of special flood hazard, or Subsection A-1.4(C)(2), use of other base flood data (In A and V Zones), the following provisions are required:

1. Residential Construction.

a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

ii. The bottom of all openings shall be no higher than one foot above grade;

iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Subsection A-1.4(C)(3)(b) of these regulations;

d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (B)(1)(b) of this section;

e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one foot below).

3. Manufactured Homes.

a. All manufactured homes to be placed or substantially improved on sites:

i. Outside of a manufactured home park or subdivision,

ii. In a new manufactured home park or subdivision,

iii. In an expansion to an existing manufactured home park or subdivision, or

iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

Shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

b. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions be elevated so that either:

i. The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation, or

ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

4. Recreational Vehicles. Recreational vehicles placed on sites are required to either:

a. Be on the site for fewer than one hundred eighty consecutive days;

b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

c. Meet the requirements of subsection (B)(3) of this section and the elevation and anchoring requirements for manufactured homes.

C. Coastal High Hazard Areas. Located within areas of special flood hazard established in Subsection A-1.3(B) of these regulations are coastal high hazard areas, designated as Zones V1-30, VE and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in these regulations, the following provisions shall also apply:

1. All new construction and substantial improvements in Zones V1-30 and VE (V if base flood elevation data is available) on the community's FIRM shall be elevated on pilings and columns so that:

a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level, and

b. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in and given year (one hundred-year mean recurrence interval).

~~A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this section.~~

~~2. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-30, VE, and V on the community's FIRM and whether or not such structures contain a basement. The Administrator shall maintain a record of all such information;~~

~~3. All new construction within Zones V1-30, VE, and V on the community's FIRM shall be located landward of the reach of mean high tide;~~

~~4. Provide that all new construction and substantial improvements within Zones V1-30, VE, and V on the community's FIRM have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:~~

~~a. Breakaway wall collapse shall result from water load less than that which would occur during the base flood, and~~

~~b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (one hundred-year mean recurrence interval).~~

~~If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.~~

~~5. Prohibit the use of fill for structural support of buildings within Zones V1-30, VE, and V on the community's FIRM;~~

~~6. Prohibit man-made alteration of sand dunes within Zones V1-30, VE, and V on the community's FIRM which would increase potential flood damage;~~

7. All manufactured homes to be placed or substantially improved within Zones V1-30, V, and VE on the community's FIRM on sites:

a. Outside of a manufactured home park or subdivision,

b. In a new manufactured home park or subdivision,

c. In an expansion to an existing manufactured home park or subdivision, or

d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

Meet the standards of subsections (C)(1) through (6) of this section and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1-30, V, and VE on the FIRM meet the requirements of subsection (B)(3) of this section.

8. Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's FIRM either:

a. Be on the site for fewer than one hundred eighty consecutive days,

b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, or

c. Meet the requirements of Subsection A-1.4(A)(1) of these regulations, development permit required and subsection (C)(1) through (6) of this section.

D. Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (one hundred year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or to the height of the five hundred year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

A-2. Aquifer Recharge Areas

A-2.1 Aquifer recharge areas.

A. Intent. This section establishes areas determined to be critical in maintaining both groundwater quantity and quality. This section specifies regulatory requirements to be enacted when development within these areas is proposed to occur and provides a methodology by which the city will determine the level of review and any mitigations required. The intent of this section is to:

1. Define minimum regulatory requirements to protect groundwater quality and quantity for existing and future use;

2. Identify the practices, alternatives, or mitigations that can minimize the adverse impacts of proposed projects; and

3. Ensure adequate design, construction, management, and operations to protect groundwater quality and quantity.

B. Existing and future beneficial uses of groundwater shall be maintained and protected and degradation of groundwater quality that would interfere with or become injurious to beneficial uses shall be avoided or minimized.

C. Wherever groundwaters are determined to be of a higher quality than the criteria established for said waters under this section, the existing water quality shall be protected, and contaminants that will reduce the existing quality thereof shall not be allowed to enter such waters, except in those instances where it can be demonstrated that:

1. An overriding consideration of the public interest will be served; and

2. All contaminants proposed for entry into said groundwater(s) shall be provided with all known, available, and reasonable methods of prevention, control, and treatment prior to entry.

D. It is the intent of this regulation to be consistent with and implement the requirements of RCW 90.48, RCW 90.54, WAC 173-200, WAC 173-201A, WAC 173-160, WAC 246-290, and WAC 246-291, as the same may hereafter be amended.

A-2.2 Aquifer recharge area designations.

The city through this section, hereby designates two categories for aquifer recharge areas. These categories are designated to assist the Administrator in determining the level of assessment necessary to evaluate specific land use proposals. The categories are based on the determination that certain areas require additional scrutiny of the potential impacts of

a proposed land use with consideration given to hydrogeologic vulnerability. All designated areas are subject to change as data and information are updated or become available.

A. Designation Categories.

1. Category I areas are those so designated because of the need to provide them special protection due to a specific preexisting land use, or because they are identified by the city, county, state or federal government as areas in need of special aquifer protection where a proposed land use may pose a potential risk which increases aquifer vulnerability.

   Category I includes areas served by groundwater which have been designated as a "Sole Source Aquifer Area" under the Federal Safe Drinking Water Act; areas identified within a "closed" or "low flow" stream watershed designated by the Department of Ecology pursuant to RCW 90.22; areas identified by the city or county as sea water intrusion areas; and areas designated as "Wellhead Protection Areas" pursuant to WAC 246-290-135(4) and the groundwater contribution area in WAC 246-290-135(4) and the groundwater contribution area in WAC 246-291-100(2)(e). Wellhead protection areas shall, for the purpose of this regulation, include the identified recharge areas associated with either group A public water supply wells, those group B wells with a wellhead protection plan filed with the Skagit County Health Department, or plats served by five or more individual wells where the average lot size is equal to or less than two acres for which a well head protection plan has been completed and filed with the Skagit County Health Department, Category I areas are shown on the aquifer recharge area map.

2. Category II is designated as areas throughout the city not identified as Category I areas.

3. When any portion of the proposed project area lies partly within a Category I area, the proposed project shall be subject to the level of scrutiny provided for Category I area.

4. Areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). Critical aquifer recharge areas have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of groundwater resources or contribute significantly to the replenishment of groundwater.

A-2.3 Applicability and prohibited activities.

A. Applicability. All development projects are subject to the provisions of this section except for the following:

1. Existing activities that currently and legally exist at the time this section became effective. However, expansions or changes in use are subject to this section and the review process contained herein;

2. Single-family residential building permits, including accessory building permits, which are outside Category I areas;

3. Residential short plats outside Category I areas where each lot is two and one-half acres or greater;

4. Single-family residential building permits where a site assessment report was required to be completed for the land division, in which case, to meet the conditions of this exemption, the applicant must comply with the recorded plat notes and the applicable mitigations contained in the site assessment report.

B. Prohibited Activities. The following activities are prohibited in Category I areas due to the probability and/or potential magnitude of their adverse effects on groundwater:

1. Landfill activities as defined in WAC 173-304 and WAC 173-351;

2. Class V injection wells, including:

a. Agricultural drainage wells,

b. Untreated sewage waste disposal wells,

c. Cesspools,

d. Industrial process water and disposal wells, and

e. Radioactive waste disposal;

3. Radioactive disposal sites;

4. Mining;

a. Metals and hard rock mining;

b. Sand and gravel mining are prohibited in critical aquifer recharge areas determined to be highly susceptible or vulnerable unless a stormwater quality management plan is approved by the city council;

5. Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);

6. Other Prohibited Uses or Activities.

a. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source,

b. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream, and

c. Activities that are not connected to an available sanitary sewer system are prohibited from critical aquifer recharge areas associated with sole source aquifers.

A-2.4 Initial project review.

A. General Procedures. Applicants for all development projects not allowed under Subsection A-2.3 of these regulations shall be required, through a site assessment report prepared pursuant to Section A-2.5 of these regulations, to evaluate potential impacts to aquifer recharge areas, and appropriate mitigation measures to reduce or eliminate the potential for adversely impacting aquifer recharge areas shall be identified. The level of study and report detail required will be determined by the Shoreline Administrator based on the type of land use being proposed, the designated aquifer recharge area category, and the vulnerability of the underlying aquifer(s) to contamination.

The goal of this section is to require applicants to identify and characterize vulnerability only to the level necessary to determine appropriate mitigation measures necessary, to either reduce potential adverse impact to established parameters or eliminate potential adverse impacts to underlying aquifer(s).

B. Scoping. The level of study which will be required of the applicant by the Shoreline Administrator for a given development will be based on an initial project review by the planning department that may include staff from the county health department. Elements for the report that are required at a minimum and other elements that may be required as part of the scope for the study are listed in Subsection A-2.5 of these regulations. Subsequent findings from the study or other information made available after the initial project review may obligate the applicant to additional evaluation, development of a mitigation plan, and/or development of a groundwater monitoring plan. The following outlines the review process:

1. The Shoreline Administrator shall review the project and determine the required scope of the site assessment report. The scope of site assessment required shall be conveyed to the applicant and/or his or her representative in writing. The applicant may present evidence to the Shoreline Administrator to justify reduction in the scope for the site assessment report.

2. Four copies of the site assessment report shall be submitted to the planning department for review. The Shoreline Administrator shall either approve the site assessment report as submitted, require additional evaluation, or require

development of a mitigation plan. If additional information is required beyond the initial site assessment report, the applicant and/or his or her representative shall be notified in writing of the specifics of the information required. The applicant may present evidence to the reviewing official to justify modification of the requirement for additional information or present alternative or additional mitigation measures in lieu of further study.

3. When, to the satisfaction of the Shoreline Administrator all information is provided and mitigation(s) established as being in compliance with this section, the zoning administrator shall make appropriate recommendations for project permit approval.

A-2.5 Site assessment report.

A. The scope of the site assessment report shall be determined based on the initial project review specified in Section A-2.4 of these regulations. The scope of the report may be reduced by utilizing appropriate mitigation measures, or if the water quality or quantity issue(s) are already known.

B. The site assessment report shall be prepared by, or under the direction of, and signed by a professional engineer, licensed in the State of Washington, trained and qualified to analyze geologic, hydrologic, and groundwater flow systems; or by a geologist or hydrogeologist who earns his or her livelihood from the field of geology and/or hydrogeology and has received a degree in geological sciences from an accredited four-year institution of higher education and who has relevant training and experience analyzing geologic, hydrologic, and groundwater flow systems.

C. Site Assessment Report Requirements. A site plan shall be prepared in accordance with the requirements of the planning department. In addition, a site assessment report shall include:

1. A description of the project including those activities, practices, materials, or chemicals that have a potential to adversely affect the quantity or quality of underlying aquifer(s);

2. Identification of appropriate mitigation measures and description of how they will prevent degradation of underlying aquifer(s);

3. A site plan or another appropriately sealed map showing the approximate location of known or geologically representative well(s) (abandoned and active), spring(s), and surface watercourses within one thousand feet of the subject project property. All well logs available through the county health department for identified wells within one thousand feet of the project property shall be included;

4. A description of the site-specific hydrogeologic characteristics regarding impact to the quantity or quality of underlying aquifer(s). At a minimum this will include a description of the lithology, depth to and static water level of known underlying aquifer(s), and depiction of groundwater flow direction and patterns on the appropriate map;

5. Identification of the initial receptors of potential adverse impacts located hydraulically down-gradient form the project within one thousand feet or as otherwise directed by the Shoreline Administrator.

D. Additional Site Assessment Elements. After the initial project review, one or more of the site assessment elements listed below may be required based upon the proposed project activity, aquifer recharge area classification, complexity of underlying hydrogeologic conditions, and/or the perceived potential to adversely impact hydraulically downgradient receptors. One or more of these additional elements may also be required if the applicant chooses to demonstrate that certain mitigation measures are not necessary to protect the quantity or quality of the underlying aquifer(s), or that the project does not pose a detrimental risk to hydraulically downgradient receptors.

1. Lithologic characteristics and stratigraphic relationships of the affected aquifer(s) and overlying geologic unites (includes soil types) including thickness, horizontal and vertical extent, permeability, and infiltration rates of surface soils.

2. Delineation of identified structural features such as faults, fractures, and fissures.

3. Aquifer characteristics including determination or recharge and discharge areas, transmissivity, storage, hydraulic conductivity, porosity, and estimate of groundwater flow direction, velocity and patterns for the affected aquifer(s).

4. Estimate of precipitation, evaporation, and evapotranspiration rates for the project area.

5. Preparation of appropriate hydrogeologic cross sections depicting at a minimum underlying lithology and stratigraphy, aquifer(s), and potential or probable contaminant pathways from a chemical release.

6. Contaminant fate and transport including probable migration pathways and travel time of potential contaminant release(s) from the site through the unsaturated zone to the aquifer(s) from the site through the unsaturated zone to the aquifer(s) may be attenuated within the unsaturated zone and aquifer(s). Include consideration of advection, dispersion, and diffusion of contaminants in the groundwater.

7. Delineation of areas potentially affected by contaminant migration on the ground surface and/or through the affected aquifer(s).

8. Determination of background or existing groundwater quality underlying the project area.

9. Development of groundwater monitoring program to measure potential impacts of the development of underlying aquifer(s).

10. Development of a spill plan and/or contingency plan describing the specific actions, which will be taken if a release of a contaminant(s) occurs, or if groundwater monitoring results indicate a contaminant(s) from the site has entered the underlying aquifer(s).

11. The degree of continuity between groundwater and nearby surface water including potential impact to "closed" or "low flow" streams from proposed groundwater withdrawals, and potential impacts to surface water quality from site runoff or contaminated groundwater discharge.

12. In conjunction with the Skagit County Interim Seawater Intrusion Policy and subsequent policies or ordinances, applicable projects shall be required to determine appropriate pumping rates and schedules that maintain appropriate pumping rates and schedules that maintain dynamic draw down levels above mean seal level.

13. Applicable projects such as special use permits, short plats, or long plats shall test existing and/or test wells for nitrate levels and where appropriate calculate the nitrate loading rate at full build-out of the project. If the calculated nitrate loading in the intended water supply equals or exceeds five mg/L nitrate as nitrogen, the proposal will need to develop a mitigation plan. The point of compliance shall be determined based on project specifics.

14. A description of wetlands and FWHCAs and their buffers when such occur within three hundred feet of the recharge area.

A-2.6 Aquifer recharge area mitigation.

The planning department shall review development proposals to assess aquifer(s) vulnerability and establish needed mitigation. Where determined to be necessary through the site assessment process, development approvals shall include conditions designed to prevent significant degradation of water quality or reduction in water quantity in aquifer recharge areas. The project shall not cause degradation of the groundwater quality below the standards described in WAC 173-200 or Department of Ecology's seawater intrusion policy.

A. Wellhead Protection Mitigation. Where a wellhead protection plan that addresses the project area exists, the Shoreline Administrator shall use the recommendations contained in the wellhead protection plan as a basis for formulating mitigations. In the absence of such mitigation plan, the planning department shall contact the public water system water purveyor and jointly develop mitigations, a summary

of which shall be signed by the applicant and recorded with the applicant's property title. Where the project includes five or more lots of two acres or less in size and is proposed to be served by individual wells, the applicant shall prepare a wellhead protection plan which must be approved by and kept on file with the Skagit County Health Department.

B. Seawater Intrusion Mitigation. Mitigation for a single-family residence shall be in conformance with the "Seawater Intrusion Policy" in effect under Skagit County Code 12.48.

C. Nitrate Loading Mitigation. If the project's calculated nitrate loading concentration at the determined point of compliance (per SCC 14.24.340(2)(m)) is equal to or greater than five mg/L nitrate as nitrogen, the project shall be required to place a notification on the documents of title for the property affected and a monitoring plan shall be developed to track the nitrate level and include a contingency plan to be implemented if the nitrate level exceeds ten mg/L nitrate as nitrogen. If the plat nitrate loading calculation is equal to or exceeds five mg/L nitrate as nitrogen, then the applicant shall develop a mitigation plan to reduce the nitrate loading rate below five mg/L nitrate as nitrogen.

A-2.7 Public notice and review.

In addition to the provisions for public notice provided in Anacortes Municipal Code Chapter 18.16, the Shoreline Administrator shall provide official notice of decision and make the site assessment report available for public review upon approval of the following projects which have undergone critical areas review pursuant to this section.

A. All projects occurring in Category I areas, except single-family residence or accessory building permits, and short subdivision.

B. All activities identified under Subsection A-2.3(B), regardless of location; and

C. Commercial or industrial projects or subdivisions that have the potential to adversely affect the quality or availability of potable water.

A-2.8 Performance standards--General requirements.

A. Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely effect the recharging of the aquifer.

B. The proposed activity must comply with the water source protection requirements and recommendations of the U.S. Environmental Protection Agency, Washington State Department of Health, and the Skagit County Health Department.

C. The proposed activity must be designed and constructed in accordance with Chapter 13.36 of this code (Stormwater Ordinance).

A-2.9 Performance standards--Specific uses.

A. Storage Tanks. All storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:

1. Underground Tanks. All new underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

a. Prevent releases due to corrosion or structural failure for the operational life of the tank;

b. Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances;

c. Use material in the construction or lining of the tank that is compatible with the substance to be stored.

2. Aboveground Tanks. All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

a. Not allow the release of a hazardous substance to the ground, groundwaters, or surface waters;

b. Have a primary containment area enclosing or underlying the tank or part thereof; and

c. A secondary containment system either built into the tank structure of a dike system built outside the tank for all tanks.

B. Vehicle Repair and Servicing.

1. Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.

2. No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the

Washington Department of Ecology prior to commencement of the proposed activity.

C. Use of Reclaimed Water for Surface Percolation or Direct Recharge. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the State Departments of Ecology and Health.

1. Use of reclaimed water for surface percolation must meet the groundwater recharge criteria given in Chapter 90.46.080(1) and Chapter 90.46.010(10) RCW. The Department of Ecology may establish additional discharge limits in accordance with Chapter 90.46.080(2) RCW.

2. Direct injection must be in accordance with the standards developed by authority of Chapter 90.46.042 RCW.

D. State and Federal Regulations. The uses listed below shall be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations.

A-2.10 Habitat management for the March Point Heronry.

A habitat management plan substantially similar to that developed by the Skagit Land Trust and T Bailey for the March Point Heronry in 2003 shall be developed prior to any city development permit(s) being issued for any parcels of property within the city limits that are adjacent to the March Point Heronry.

A-3. Geologically Hazardous Areas

A-3.1 Designation of geologically hazardous areas.

Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at risk, but also may increase the hazard to surrounding development and use. Areas susceptible to one or more of the following types of hazards shall be designated as a geologically hazardous area: WAC 365-190-080(4)(a).

A. Erosion hazard;

B. Landslide hazard;

C. Seismic hazard;

D. Mine hazard;

E. Volcanic hazard; and

F. Other geological events including tsunamis, mass wasting, debris flows, rock falls, and differential settlement.

These rules are designed to supplement, and not replace: building code rules and requirements, stormwater management rules and requirements, and other provisions of this zoning code.

A-3.2 Designation of specific hazard areas.

A. Erosion Hazard Areas. Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard. See WAC 365-190-080(4)(c).

B. Landslide Hazard Areas. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Example of these may include, but are not limited to the following:

1. Areas of historic failures, such as: See WAC 365-190-080(4)(d)(i).

   a. Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe" limitation for building site development,

   b. Those areas mapped by the Washington Department of Ecology (Coastal Zone Atlas) or the Washington State Department of Natural Resources (slope stability mapping) as unstable (U or class 3), unstable old slides (UOS or class 4), or unstable recent slides (URS or class 5), or

   c. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Washington State Department of Natural Resources;

2. Areas with all three of the following characteristics: See WAC 365-190-080(4)(d)(ii).

   a. Slopes steeper than fifteen percent,

   b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock, and

   c. Springs or groundwater seepage;

3. Areas that have shown movement during the Holocene epoch (from ten thousand years ago to the present) or that are underlain or covered by mass wastage debris of that epoch; See WAC 365-190-080(4)(d)(iii).

4. Slopes that are parallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials; See WAC 365-190-080(4)(d)(iv).

5. Slopes having gradients steeper than eighty percent subject to rock fall during seismic shaking; See WAC 365-190-080(4)(d)(v).

6. Areas potentially unstable because of rapid stream inclusion, stream bank erosion, and undercutting by wave action; See WAC 365-190-080(4)(d)(vi).

7. Areas that show evidence of, or are at risk from snow avalanches; See WAC 365-190-080(4)(d)(vii).

8. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; See WAC 365-190-080(4)(d)(viii).

9. Any area with a slope of forty percent or steeper and with a vertical relief of ten or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least ten feet of vertical relief. See WAC 365-190-080(4)(d)(ix).

C. Seismic Hazard Areas. Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primarily affected by: See WAC 365-190-080(4)(e).

1. The magnitude of an earthquake;

2. The distance from the source of an earthquake;

3. The type of thickness of geologic structure.

Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow groundwater table.

D. Mine Hazard Areas. Mine hazard areas are those areas underlain by or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of probable sink holes, gas releases, or subsidence due to mine workings. Factors that should be considered include: proximity to development, depth from

ground surface to the mine working, and geologic material. See WAC 365-190-080(4)(f)(ii).

E. Volcanic Hazard Areas. Volcanic hazard areas are areas subject to pyroclastic flows, lava flows, debris avalanche, and inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity. See WAC 365-190-080(4)(f)(i).

F. Tsunami Hazard Areas. Tsunami hazard areas are coastal areas and large lake shoreline areas susceptible to flooding and inundation as the result of excessive wave action derived from seismic or other geologic events. See WAC 365-190-080(3)(d).

G. Other Hazard Areas. Geologically hazardous areas shall also include areas determined by the [director] to be susceptible to other geological events including mass wasting, debris flows, rock falls, and differential settlement.

A-3.3 Classification of geologically hazardous areas.

All geologic hazard areas should be classified according to the following categories for each geologic hazard type.

Classification	Documentation and Data Sources
Known or Suspected Risk	Documentation or projection of the hazard by a qualified professional exists.
Risk Unknown	Documentation or projection of the lack of hazard by a qualified professional exists, or data are not available to determine the presence or absence of a geological hazard.

A-3.4 Mapping of geologically hazardous areas.

A. The approximate location and extent of geologically hazardous areas are shown on the adopted critical area maps. The adopted critical areas maps include:

1. Coastal Zone Atlas (for marine bluff hazards);

2. U.S. Geological Survey landslide hazard, seismic hazard, and volcano hazard maps;

3. Washington State Department of Natural Resources seismic hazard maps for Western Washington;

4. Washington State Department of Natural Resources slope stability maps;

5. National Oceanic and Atmospheric Administration tsunami hazard maps;

6. Federal Emergency Management Administration flood insurance maps;

7. Maps included as Appendix B to the city comprehensive plan.

B. These maps are to be used as a guide for the city, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

A-3.5 Activities allowed in geologically hazardous areas.

The following activities are allowed in geologically hazardous areas specifically mapped and designated by ordinance of the city council pursuant to allowed activities of this section and do not require submission of a critical area report:

A. Erosion and Landslide Hazard Areas. Except as otherwise provided for in this title, only those activities approved and permitted consistent with an approved critical area report in accordance with this title shall be allowed in erosion or landslide hazard areas.

B. Seismic Hazard Areas. The following activities are allowed within seismic hazard areas:

1. Construction of new buildings with less than two thousand five hundred square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;

2. Additions to existing single-story residences that are two hundred fifty square feet or less; and

3. Installation of fences.

C. Mine Hazard Areas. The following activities are allowed within mine hazard areas:

1. Construction of new buildings with less than two thousand five hundred square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;

2. Additions to existing residences that are two hundred fifty square feet or less; and

3. Installation of fences.

D. Volcanic Hazard Areas. The following activities are allowed within volcanic hazard areas:

1. Construction of new buildings with less than two thousand five hundred square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;

2. Additions to existing residences that are two hundred fifty square feet or less; and

3. Installation of fences.

E. Tsunami Hazard Areas. The following activities are allowed within tsunami hazard areas:

1. Construction of new buildings with less than two thousand five hundred square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;

2. Additions to existing residences that are two hundred fifty square feet or less; and

3. Installation of fences.

F. Other Hazard Areas. The planning director may allow the following activities within other geologically hazardous areas, if the activity will not increase the risk of the hazard:

1. Construction of new buildings with less than two thousand five hundred square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;

2. Additions to existing residences that are two hundred fifty square feet or less; and

3. Installation of fences.

A-3.6 Critical area report--Additional requirements for geologically hazardous areas.

A. Preparation by a Qualified Professional. A critical areas report for a geologically hazardous area shall be prepared by an engineer or geologist, licensed in the State of Washington, with experience analyzing geologic, hydrologic, and groundwater flow systems, and who has experience preparing reports for the relevant type of hazard.

B. Area Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for geologically hazardous areas:

1. The project area of the proposed activity;

2. All geologically hazardous areas within two hundred feet of the project area or that have potential to be affected by the proposal;

3. The presence, nature, and location of wetlands, FWHCAs, and/or aquifer recharge zones.

C. Geological Hazards Assessment. A critical area report for a geologically hazardous area shall contain an assessment of geological hazards including the following site- and proposal-related information at a minimum:

1. Site, Land Clearing, and Construction Plans. The report shall include a copy of the site plans for the proposal showing:

a. The type and extent of geologic hazard areas, and any other critical areas, and buffers on, adjacent to, within two hundred feet of, or that are likely to impact the proposal,

b. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available,

c. The topography, in two-foot contours, of the project area and all hazard areas addressed in the report, and

d. Clearing limits;

2. Assessment of Geological Characteristics. The report shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:

a. A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report,

b. A detailed overview of the field investigations, published data and references; data and conclusions from past assessments of the site; and site specific measurements, test, investigations, or studies that support the identification of geologically hazardous areas, and

c. A description of the vulnerability of the site to seismic and other geologic events,

3. Analysis of Proposal. The report shall contain a hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s),

and its potential impact upon the hazard area, the subject property, and affected adjacent properties; and

4. Minimum Buffer and Building Setback. The report shall make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis.

D. Incorporation of Previous Study. Where a valid critical areas report has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required critical area report. The applicant shall submit a hazards assessment detailing any changed environmental conditions associated with the site.

E. Mitigation of Long-Term Impacts. When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the preexisting level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the preexisting conditions following abandonment of the activity.

A-3.7 Critical area report--Additional technical information requirements for specific hazards.

Critical area reports for geologically hazardous areas must meet the requirements of this section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

A. Erosion and Landslide Hazard Areas. In addition to the basic critical area report requirements, the technical information for an erosion hazard or landslide hazard area shall include the following information at a minimum:

1. Site Plan. The critical area report shall include a copy of the site plan for the proposal showing:

a. The height of slope, slope gradient, and cross-section of the project area,

b. The location of springs, seeps, or other surface expressions of groundwater on or within two hundred feet of the project area or that have potential to be affected by the proposal, and

c. The location and description of surface water runoff features;

2. Hazards Analysis. The hazards analysis component of the critical areas report shall specifically include:

   a. A description of the extent and type of vegetative cover,

   b. A description of subsurface conditions based on data from site-specific explorations,

   c. Descriptions of surface and groundwater conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements,

   d. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure,

   e. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one hundred-year storm event,

   f. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties,

   g. A study of slope stability including an analysis of proposed cuts, fills, and other site grading,

   h. Recommendations for building siting limitations, and

   i. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion;

3. Geotechnical Engineering Report. The technical information for a project within a landslide hazard area shall include a geotechnical engineering report prepared by a licensed engineer or geologist licensed by the state that presents engineering recommendations for the following:

   a. Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations and estimates of settlement performance,

   b. Recommendations for drainage and subdrainage improvements,

   c. Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary, and

d. Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate;

4. Erosion and Sediment Control Plan. For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan shall be required. The erosion and sediment control plan shall be prepared in compliance with requirements set forth in Chapter 13.36 of this Code;

5. Drainage Plan. The technical information shall include a drainage plan for the collection, transport, treatment, discharge, and/or recycle of water prepared in accordance with Chapter 13.36 of this Code. The drainage plan should consider onsite septic system disposal volumes where the additional volume will affect the erosion or landslide hazard area;

6. Mitigation Plans. Hazard and environmental mitigation plans for erosion and landslide hazard areas shall include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan, and/or other means for maintaining long-term soil stability; and

7. Monitoring Surface Waters. If the planning director determines that there is a significant risk of damage to downstream receiving waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the technical information shall include a plan to monitor the surface water discharge from the site. The monitoring plan shall include a recommended schedule for submitting monitoring reports to the city.

B. Seismic Hazard Areas. In addition to the basic report requirements, a critical area report for a seismic hazard area shall also meet the following requirements:

1. The site map shall show all known and mapped faults within two hundred feet of the project area or that have potential to be affected by the proposal;

2. The hazards analysis shall include a complete discussion of the potential impacts of seismic activity on the site (for example, forces generated and fault displacement);

3. A geotechnical engineering report shall evaluate the physical properties of the subsurface soils, especially the thickness of unconsolidated deposits and their liquefaction potential. If it is determined that the site is subject to liquefaction, mitigation measures appropriate to the scale of the development shall be recommended and implemented.

C. Mine Hazard Areas. In addition to the basic report requirements, a critical area report for a mine hazard critical area shall also meet the following requirements:

1. Site Plan. The site plan shall delineate the following found within two hundred feet of or directly underlying the project area, or that have potential to be affected by the proposal:

   a. The existence of mines, including all significant mine features, such as mine entries, portals, adits, mine shafts, air shafts and timber shafts,

   b. The location of any nearby mines that may impact or be affected by the proposed activities,

   c. The location of any known sinkholes, significant surface depressions, trough subsidence features, coal mine spoil piles, and other mine related surface features, and

   d. The location of any prior site improvements that have been carried out to mitigate abandoned coal mine features.

2. Hazards Analysis. The hazards analysis shall include a discussion of the potential for subsidence on the site and classify all mine hazards areas within two hundred feet of the project area, or that have potential to be affected by the proposal, as either low, moderate, or severe. The hazards analysis shall include a mitigation plan containing recommendations for mitigation of the potential for future trough subsidence, as appropriate, for the specific proposed alteration and recommendations for additional study, reports, and development standards if warranted.

D. Volcanic Hazard Areas. In addition to the basic report requirements, a critical area report for a volcanic hazard area shall also meet the following requirements:

1. Site Plan. The site plan shall show all areas within two hundred feet of the project area that have potential to be affected by pyroclastic flows, lahars, or mud and debris flows derived from volcanic events;

2. Hazards Analysis. The hazards analysis shall include a complete discussion of the potential impacts of volcanic activity on the site (for example, inundation by mud flows resulting from volcanic activity);

3. Emergency Management Plan. The emergency management plan shall include plans for emergency building exit routes, site evacuation routes, emergency training, notification of local emergency management officials, and an emergency warning system.

E. Tsunami Hazard Areas. In addition to the basic report requirements, a critical area report for a tsunami hazard area shall also meet the following requirements:

1. Site Plan. The site plan shall show all areas within two hundred feet of the project area that have potential to be inundated by wave action derived from a seismic event;

2. Hazards Analysis. The hazards analysis shall include a complete discussion of the potential impacts of the tsunami hazard on the site;

3. Emergency Management Plan. The emergency management plan shall include plans for emergency building exit routes, site evacuation routes, emergency training, notification of local emergency management officials, and an emergency warning system.

F. Other Geologically Hazardous Areas. In addition to the basic requirements, the planning director may require additional technical information to be submitted when determined to be necessary to the review the proposed activity and the subject hazard. Additional technical information that may be required, includes, but is not limited to:

1. Site Plan. The site plan shall show all hazard areas located within two hundred feet of the project area or that have potential to be affected by the proposal; and

2. Hazards Analysis. The hazards analysis shall include a complete discussion of the potential impacts of the hazard on the project area and of the proposal on the hazard.

A-3.8 Performance standards--General requirements.

A. Alterations of geologically hazardous areas or associated buffers may only occur for activities that:

1. Will not increase the threat of the geological hazard to adjacent properties beyond predevelopment conditions;

2. Will not adversely impact other critical areas;

3. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and

4. Are certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.

B. Critical Facilities Prohibited. Critical facilities shall not be sited within geologically hazardous areas unless there is no other practical alternative.

A-3.9 Performance standards--Specific hazards.

A. Erosion and Landslide Hazard Areas. Activities on sites containing erosion or landslide hazards shall meet the standards of performance standards--general requirements [Section A-3.8] and the specific following requirements:

1. Buffer Requirement. A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall be determined by the planning director to eliminate or minimize the risk of property damage, death, or injury resulting from landslides caused in whole or part by the development, based upon review of and concurrence with a critical area report prepared by a qualified professional;

    a. Minimum Buffer. The minimum buffer shall be equal to the height of the slope or fifty feet, whichever is greater,

    b. Buffer Reduction. The buffer may be reduced to a minimum of ten feet when a qualified professional demonstrates to the planning director's satisfaction that the reduction will adequately protect the proposed development, adjacent developments, and uses and the subject critical area,

    c. Increased Buffer. The buffer may be increased where the planning director determines a larger buffer is necessary to prevent risk of damage to proposed and existing development;

2. Alterations. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a hazards analysis is submitted and certifies that:

    a. The development will not increase surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions,

    b. The development will not decrease slope stability on adjacent properties,

    c. Such alterations will not adversely impact other critical areas;

3. Design Standards. Development and land clearing within an erosion or landslide hazard area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of this title. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

    a. The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the Uniform Building Code,

    b. Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas,

c. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography,

d. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation,

e. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties,

f. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes, and

g. Development shall be designed to minimize impervious lot coverage;

4. Vegetation Retention. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited;

5. Seasonal Restriction. Clearing shall be allowed only from May 1st to October 1st of each year provided that the city may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions;

6. Utility Lines and Pipes. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available. The line or pipe shall be located aboveground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior;

7. Point Discharges. Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area shall be prohibited except as follows:

a. Conveyed via continuous storm pipe downslope to a point where there are no erosion hazards areas downstream from the discharge,

b. Discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state,

c. Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope;

8. Subdivisions. The division of land in landslide hazard areas and associated buffers is subject to the following:

a. Land that is located wholly within a landslide hazard area or its buffer may not be subdivided. Land that is located partially within a landslide hazard area or its buffer may be divided provided that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer,

b. Access roads and utilities may be permitted within the landslide hazard area and associated buffers if the city determines that no other feasible alternative exists.

9. Prohibited Development. On-site sewage disposal systems, including drain fields, shall be prohibited within erosion and landslide hazard areas and related buffers.

B. Seismic Hazard Areas. Activities proposed to be located in seismic hazard areas shall meet the standards of performance standards - general requirements [Section A-3.8].

C. Mine Hazard Areas. Activities proposed to be located in mine hazard area shall meet the standards of performance standards - general requirements [Section A-3.8] and the specific following requirements:

1. Alterations. Alterations of a mine hazard area and/or buffer are allowed, as follows:

a. All alterations are permitted within a mine hazard area with a low potential for subsidence,

b. Within a mine hazard area with a moderate potential for subsidence and at coal mine by-product stockpiles, all alterations are permitted subject to a mitigation plan to minimize risk of structural damage using appropriate criteria to evaluate the proposed use, as recommended in the hazard analysis, and

c. Within a mine hazard area with a severe potential for subsidence only those activities allowed in accordance with Subsection A-3.5 of these regulations will be allowed.

2. Subdivisions. The division of land in mine hazard areas and associated buffers is subject to the following:

a. Land that is located within two hundred feet of a mine hazard area with a severe potential for subsidence may not be subdivided. Land that is located partially within a mine hazard area may be divided provided that each resulting lot has sufficient buildable area that is two hundred feet

away from the mine hazard area with a severe potential for subsidence. Land that is located within a mine hazard area with a low or moderate potential for subsidence may be subdivided,

b. Access roads and utilities may be permitted within two hundred feet of a mine hazard area with a moderate or severe potential for subsidence if the city determines that no other feasible alternative exists.

3. Reclamation Activities. For all reclamation activities, including grading, filling, and stockpile removal, as-built drawings shall be submitted to the city in a format specified by the planning director.

D. Volcanic and Tsunami Hazard Areas. Activities on sites containing areas susceptible to inundation due to volcanic or tsunamis hazards shall require an evacuation and emergency management plan. The city may use the performance standards for coastal high hazard areas (see Section A-1, Frequently Flooded Areas) as guidance in reviewing new structures proposed in volcanic and tsunami hazard areas.

E. Other Hazard Areas. Activities on sites containing or adjacent to volcanic, tsunamis, or other geologically hazardous areas, shall meet the standards of performance standards--general requirements [Section A-3.8 of these regulations].

A-4. Wetland Protection Areas

A-4.1 Findings of fact and purpose.

The wetlands of the city are indispensable and fragile natural resources with significant development constraints. In their natural state, wetlands serve humans and nature. They provide habitat areas for fish, wildlife, and vegetation; water quality maintenance and pollution control; flood control; shoreline erosion control; natural resource education; scientific study; open space; and recreation opportunities.

A number of these important natural resources have been lost or impaired by draining, dredging, filling, excavating, land clearing, building, pollution, and other acts. Piecemeal or cumulative losses may, over time, destroy remaining wetlands. Damaging or destroying wetlands diminishes public safety and the general welfare.

It is therefore necessary for the city of Anacortes to ensure protection for wetlands by regulating development activities in wetlands and those activities at adjacent sites that may adversely affect wetlands and to encourage restoration of already degraded or destroyed systems.

A-4.2 Purpose.

A. It is the policy of the City of Anacortes to minimize damage to wetlands wherever prudent or feasible; to require that activities not dependent upon a wetland location be located at non-wetland sites; to allow wetland losses only where all practicable measures have been applied to reduce those losses that are unavoidable and in the public interest; to provide for compensation in the form of wetland restoration or creation to offset losses; to prevent any net loss of wetlands and to provide for the protection of wetlands under additional ordinances already adopted by the City of Anacortes, including building codes, clearing and grading control ordinances, groundwater management regulations, stormwater management regulations, Shoreline Master Plan regulations, and other pertinent regulations.

B. Furthermore, such activities must not threaten public safety or cause nuisances by:

1. Blocking flood flows or destroying flood storage areas, thereby raising flood heights or velocities on other land and increasing potential flood damages;

2. Causing water pollution through any means, including location of wastewater disposal systems in wet soils; unauthorized or detrimental application of pesticides, herbicides, and algaecides; disposal of solid wastes or stormwater runoff at inappropriate sites; or the creation of unstable fills. However, nothing contained in these regulations shall prevent the establishment of new wetland areas designed to improve water quality;

3. Increasing erosion; or

4. Increasing runoff of sediment and/and or stormwater.

C. In addition, it is the policy of the city of Anacortes that activities in or affecting wetlands shall not destroy natural wetland functions important to the general welfare by:

1. Decreasing breeding, spawning, nesting, wintering, feeding, or other critical habitat for fish and wildlife, including rare, threatened, and endangered plant and animal species and commercially and recreationally important wildlife;

2. Interfering with the exchange of nutrients needed by fish and other forms of wildlife;

3. Decreasing groundwater recharge;

4. Destroying sites suitable for education and scientific research as outdoor biophysical laboratories, living classrooms, and training areas;

5. Interfering with public rights in waters and the recreation opportunities for fishing, boating, hiking, birdwatching, photography, camping, and other activities related to wetlands.

A-4.3 Wetland district.

These regulations shall apply to all lands in of a wetland and its associated buffers designated in these regulations located within shoreline jurisdiction of the City of Anacortes. Such wetlands are hereby designated to be within the wetland district and protected under all of the terms and provisions of these regulations.

A-4.4 Rules for interpretation of wetland district boundaries.

The boundaries of a specific wetland district shall ordinarily be determined by the applicant through the performance of a field survey applying wetland definition criteria. The applicant is required under Section A-4.7 of these regulations to show a wetland district boundary on a scaled drawing submitted as part of the permit application. Wetland delineations shall be performed in accordance with the procedures specified in Section A-4.6 of these regulations. Evidence documenting the results of the boundary survey shall be required by the planning department. The definition of wetlands does not apply to those wetlands that were unintentionally created after July 1, 1990 as a result of the construction of a road, street, or highway; or to stormwater detention ponds or stormwater conveyance systems (other than those facilities formally designated as wetland mitigation sites).

The planning department, when requested by the applicant, may waive the delineation and, in lieu of direct action by the applicant, perform the delineation. The planning department may use remote sensing, hydrology, soils, plant species, and other data, and consult with biologists, hydrologists, soil scientists, or other experts as needed to perform the delineation. The applicant will be charged for costs incurred in accordance with the provisions of Subsection A-4.14 of these regulations.

Where the planning department performs a wetland district determination at the request of the applicant, it shall be considered a final determination.

Where the applicant has provided a determination of the wetland district boundary, the planning department shall verify the accuracy of, and may render adjustments to, the boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the planning department shall, at the applicant's expense, obtain competent expert services, from a person agreed upon by applicant and planning department, to render a final delineation.

A-4.5 Permit requirements, enforcement.

No regulated activity in a wetland or its associated buffers may be conducted without the appropriate shoreline permit associated with the proposed development and must be conducted in full compliance with the terms of these regulations and other applicable regulations. Any permanent, adverse wetland alteration must obtain a Shoreline Conditional Use Permit, regardless of the permit type otherwise required for the associated development. All activities that are not permitted as of right or as special permit uses shall be prohibited. All projects shall be fully bonded prior to any wetland work being undertaken pursuant to permits issued under these regulations.

A-4.6 Designation, rating, and mapping wetlands.

A. Designating Wetlands. Wetlands are those areas, designated in accordance with the Washington State Department of Ecology, Wetlands Identification and Delineation Manual, March 1997, Pub. No. 96-94, that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. All areas within the city meeting the wetland designation criteria in the Identification and Delineation Manual, regardless of any formal identification, not otherwise excluded under Sections A-4.4 or A-4.8 of these regulations are hereby designated critical areas and are subject to the provisions of this title.

B. Wetland Ratings. Wetlands shall be rated according to the August 2006 Washington State - Wetland Rating System found in the Washington State Wetland Rating System for Western Washington, or as revised by Ecology. These documents contain the definitions and methods for determining if the criteria below are met.

1. Wetland Rating Categories.

a. Category I. Category I wetlands are those that meet one or more of the following criteria:

i. represent a unique or rare wetland type; or

ii. are more sensitive to disturbance than most wetlands; or

iii. are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or

iv. provide a high level of functions

b. Category II wetlands provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection

c. Category III wetlands are:

i. wetlands with a moderate level of functions (scores between 30–50 points) and

ii. interdunal wetlands between 0.1 and 1 acre in size.;

d. Category IV wetlands have the lowest levels of functions (scores less than 30 points) and are often heavily disturbed. These are wetlands that should be able to be replaced, and in some cases be improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and also need to be protected.

2. Date of Wetland Rating. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the local government, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications.

3. Wetland delineations that are accepted by the city are valid for five years from the date the delineation was completed.

C. Mapping. The approximate location and extent of known wetlands are shown on the adopted critical area maps. The following critical area maps, are hereby adopted: City Stormwater Quality Management Plan, 1994. Additionally, soil maps produced by U.S. Department of Agriculture National Resources Conservation Service may be useful in helping to identify potential wetland areas.

These maps are to be used as a guide for the city, project applicants, and/or property owners, and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation. Updating is to be accomplished through the city's annual comprehensive plan/development regulations updating process described in the city comprehensive plan Appendix F.

The exact location of a wetland's boundary shall be determined through the performance of a field investigation by a Professional Wetland Scientist (PWS), certified by the Society of Wetland Scientists professional certification program.

A-4.7 Critical area report.

Critical area reports for wetlands must meet the requirements of this section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

A. Preparation by a Qualified Professional. A critical area report for wetlands shall be prepared by a Professional Wetland Scientist.

B. Area Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for wetlands:

1. The project area of the proposed activity;

2. All wetlands and recommended buffers within three hundred feet of the project area. Critical area reports should consider wetlands and other critical areas within three hundred feet due to the maximum potential buffer size for wetlands. Critical area size and characteristics beyond the project area may be estimated through aerial photographic interpretation and discussions with agency staff if the adjacent property owner denies access; and

3. All shoreline areas, water features, floodplains, and other critical areas, and related buffers within three hundred feet of the project area.

C. Wetland Analysis. A critical area report for wetlands shall contain an analysis of the wetlands including the following site- and proposal-related information at a minimum:

1. A written assessment and accompanying maps of the wetlands and buffers within three hundred feet of the project area, including the following information at a minimum:

a. Wetland delineation and required buffers,

b. Existing wetland acreage,

c. Wetland category,

d. Vegetative, faunal, and hydrologic characteristics,

e. Soil and substrate conditions,

f. Topographic elevations, at two-foot or five-foot contours (as determined by the Administrator), and

g. A discussion of the water sources supplying the wetland along with documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, evidence of recharge or discharge, evidence of water depths throughout the year - drift lines, algal layers, moss lines, and sediment deposits);

2. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land use activity;

3. A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and wetland functions;

4. Functional evaluation for the wetland and adjacent buffer using a local or state agency staff recognized method and including the reference of the method and all data sheets;

5. Proposed mitigation, if needed, including a written assessment and accompanying maps of the mitigation area, including the following information at a minimum:

   a. Existing and proposed wetland acreage,

   b. Vegetative and faunal conditions,

   c. Surface and subsurface hydrologic conditions including an analysis of existing and future hydrologic regime and proposed hydrologic regime for enhanced, created, or restored mitigation areas,

   d. Relationship within watershed and to existing waterbodies,

   e. Soil and substrate conditions, topographic elevations,

   f. Existing and proposed adjacent site conditions,

   g. Required wetland buffers (including any buffer reduction and mitigation proposed to increase the plant densities, remove weedy vegetation, and replant the buffers),

   h. Property ownership,

   i. Associated wetlands and related wetlands that may be greater than three hundred feet from the subject project,

   j. A map drawn to a scale appropriate to show relevant features and information of the development proposal site and adjacent area,

   k. A discussion of ongoing management practices that will protect wetlands after the project site has been developed; including proposed monitoring and maintenance programs;

6. A bond estimate for the installation (including site preparation, plant materials and installation, fertilizers, mulch, stakes) and the proposed monitoring and maintenance work for a minimum of five years.

D. Additional Information. When appropriate, the Administrator may also require the critical area report to include an evaluation by the State Department of Ecology or an independent qualified expert regarding the applicant's analysis and the

effectiveness of any proposed mitigating measures or programs, and to include any recommendations as to improving effectiveness.

1. If the development proposal site contains or is within a wetland area, the applicant shall submit an affidavit, which declares whether the applicant has knowledge of any illegal alteration to any or all wetlands on the proposed site and whether the applicant previously had been found in violation of any wetland-related ordinance. If the applicant has been found previously in violation, the applicant shall declare whether such violation has been corrected to the satisfaction of the jurisdiction.

2. The Shoreline Administrator shall determine if the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety, and welfare, and the functions and value of the affected wetland, consistent with the goals, purposes, objectives and requirements of these regulations.

A-4.8 Performance standards--General requirements.

A. Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not degrade the functions and functional performance of the wetland and other critical areas.

B. Activities and uses shall be prohibited in wetlands and wetland buffers, except as provided for in these regulations.

C. Category I Wetlands. Activities and uses shall be prohibited from Category I wetlands, except as provided for in Sections A-4.11 and A-4.12, provided the standards for Category II and III wetlands are met.

D. Category II and III Wetlands. With respect to activities proposed in Category II and III wetlands, the following standards shall apply to special permit requirements:

1. Water-dependent activities may be allowed where there are no practical alternatives that would have a less adverse impact on the wetland, its buffers and other critical areas;

2. Where nonwater-dependent activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited, unless the applicant demonstrates that:

a. The basic project purpose cannot reasonably be accomplished and successfully avoid, or result in less adverse impact on, a wetland on another site or sites in the general region,

b. All alternative designs of the project as proposed, that would avoid or result in less of an adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration, or density of the project, are not feasible, and

c. Full compensation is made for loss of hydrological and ecological function and value as set forth in Section A-4.9 of these regulations.

E. Category IV Wetlands. Activities and uses that result in unavoidable and necessary impacts may be permitted in Category IV wetlands and associated buffers through a Conditional Use Permit in accordance with an approved critical area report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's reasonable objectives. Full compensation for the acreage and functions losses will be provided.

F. Wetland Buffers.

1. Standard Buffer Widths. The standard buffer widths presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity.

Required standard wetland buffers, based on wetland category are as presented in Tables 4-1 and 4-2.

Table A-4-1 Buffer Widths by Category (Provided the measures in Table A-4-2 are taken)

Wetland Characteristics	Buffer Widths
Category IV wetlands	—
Score for all 3 basic functions is less than 30 points	40 ft.
Category III wetlands	—
Moderate level of function for habitat (score for habitat 20--28 points)	110 ft.
Not meeting above characteristic	60 ft.
Category II wetlands	—
High level of function for habitat (score for habitat 29--36 points)	225 ft.
Moderate level of function for habitat (score for habitat 20--28 points)	110 ft.
High level of function for water quality improvement and low for habitat (score for water quality 24--32 points; habitat less than 20 points)	75 ft.
Not meeting above characteristic	75 ft.
Category I wetlands	—

Wetland Characteristics	Buffer Widths
High level of function for habitat (score for habitat 29–36 points)	225 ft.
Moderate level of function for habitat (score for habitat 20–28 points)	110 ft.
High level of function for water quality improvement (24–32 points) and low for habitat (less than 20 points)	75 ft.
Not meeting above characteristic	75 ft.

Table A-4-2 Measures to Minimize Impacts to Wetlands from Proposed Change in land Use That Have the Potential for High Impacts

Examples of Disturbance	Activities and Uses That Cause Disturbances	Measures to Minimize Impacts
Lights	Parking lots Warehouses Manufacturing Residential	Direct lights away from wetland
Noise	Manufacturing Residential	Locate activity that generates noise away from wetland to the maximum extent practicable
Toxic runoff*	Parking lots Roads Manufacturing Residential areas Application of agricultural pesticides Landscaping	Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered; Establish covenants limiting use of pesticides within 150 ft. of wetland; Apply integrated pest management
Stormwater runoff	Parking lots Roads Manufacturing Residential areas Commercial Landscaping	Retrofit stormwater detention and treatment for roads and existing adjacent development; Prevent channelized flow from lawns that directly enters the buffer
Change in water regime	Impermeable surfaces Lawns Tilling	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	Residential areas	Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place wetland and its buffer in a separate tract
Dust	Tilled fields	Use best management practices to control dust

2. Measurement of Wetland Buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category and the proposed land use. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers with predominately native plants will be considered. Lawns, walkways, driveways, and other mowed, cultivated, or paved areas will not be considered buffers.

3. Increased Wetland Buffer Widths. The Administrator shall require increased buffer widths in accordance with the recommendations of an experienced, qualified professional wetland scientist, and the best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:

   a. A larger buffer is needed to protect other critical areas;

   b. The buffer or adjacent uplands has a slope greater than fifteen percent or is susceptible to erosion and standard erosion control measures will not prevent adverse impacts to the wetland; or

   c. The buffer area has minimal vegetative cover. In lieu of increasing the buffer width where existing buffer vegetation is inadequate to project the wetland functions and values, implementation of a buffer planting plan may substitute. Where a buffer planting plan is proposed, it shall include densities that are not less than three feet on center for shrubs and eight feet on center for trees and require monitoring and maintenance to ensure success. Existing buffer vegetation is considered "inadequate" and will need to be enhanced through additional native plantings and (if appropriate) removal of nonnative plants when: (1) nonnative or invasive plant species provide the dominant cover, (2) vegetation is lacking due to disturbance and wetland resources could be adversely affected, or (3) enhancement plantings in the buffer could significantly improve buffer functions.

4. Wetland Buffer Width Averaging. The Administrator may allow modification of the standard wetland buffer width in accordance with an approved critical area report and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified professional wetland scientist demonstrates that:

   a. It will not reduce wetland functions or functional performance;

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

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

   d. For Category I and II wetlands the buffer width is not reduced to less than seventy-five percent of the standard width.

5. Buffer Consistency. All mitigation sites shall have buffers consistent with the buffer requirements of these regulations.

6. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this title, wetland buffers shall be retained in an undisturbed or enhanced condition. Removal of invasive nonnative weeds is required for the duration of the mitigation bond.

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

   a. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife and in accordance with an approved critical area report;

   b. Passive Recreation. Passive recreation facilities designed in accordance with an approved critical area report;

   c. Stormwater Management Facilities. Stormwater management outfall facilities are allowed in accordance with an approved critical areas report with no net loss of function to the wetland and wetland buffer. However, stormwater facilities beyond those necessary to ensure continued predevelopment stormwater flows to wetlands may only be permitted through the Shoreline Conditional Use process.

8. Construction Practices. All construction adjacent to a wetland buffer(s) shall be undertaken pursuant to best management practices as set forth in city code and post-construction uses shall comply with best operating procedures as set forth in City Code.

G. Signs and Fencing of Wetlands.

1. Temporary Markers. The outer perimeter of the wetland or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur during construction and is subject to inspection by the Administrator prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

2. Permanent Signs. As a condition of any permit or authorization issued pursuant to these regulations, the Administrator may require the applicant to install permanent signs or markers along the boundary of a wetland or buffer.

3. Fencing.

   a. The Administrator shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the

Planning Commission, City Council, or Hearing Examiner shall condition any permit or authorization issued pursuant to these regulations to require the applicant to install a permanent fence at the edge of the wetland buffer, when fencing will prevent future impacts to the wetland.

b. The applicant shall be required to install a permanent fence around the wetland or buffer when domestic grazing animals are present or may be introduced on site.

c. Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

4. Buffer Isolation. If a portion of a required buffer is effectively isolated from the remainder of the buffer or its associated wetland by existing development such as a road, building, paving, etc., in such a way that it cannot perform the usual functions of a buffer, it shall not be identified as a buffer.

A-4.9 Performance standards--Compensatory mitigation requirements.

Compensatory mitigation for alterations to wetlands shall achieve equivalent or greater hydrological and biologic functions. There shall be no net loss of ecological function and value as a result of any mitigation project, with risks reduced through the use of mitigation ratios. Compensatory mitigation plans shall be consistent with the State Department of Ecology Wetland Mitigation in Washington State publications #06-06-11a and #06-06-011b as revised.

A. Mitigation shall be required in the following order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;

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

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

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

5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.

B. Mitigation for Lost or Affected Functions. Compensatory mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement and shall provide similar wetland functions to those lost, except when:

1. The lost wetland provides minimal functions as determined by a site-specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington State Watershed Assessment Plan or protocol; or

2. Out-of-kind replacement will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.

C. Preference of Mitigation Actions. Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:

1. Restoring wetlands on upland sites that were formerly wetlands;

2. Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of nonnative introduced species. This should only be attempted when there is a consistent source of hydrology and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is being designed;

3. Enhancing significantly degraded wetlands in combination with restoration or creation. Such enhancement should be part of a mitigation package that includes replacing the impacted area meeting appropriate ratio requirements.

D. Type and Location of Mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, compensatory mitigation for ecological functions shall be either in-kind and on-site, or in-kind and within the same stream reach, sub-basin, or drift cell. Mitigation actions shall be conducted within the same subdrainage basin and on the site as the alteration except when all of the following apply:

1. There are no reasonable on-site or in-subdrainage basin opportunities or on-site and in-subdrainage basin opportunities do not have a high likelihood of success, after a determination of the natural capacity of the site to mitigate for the impacts. Consideration should include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydrogeomorphic classes of on-site wetlands when restored, proposed flood storage capacity, potential to mitigate riparian fish and wildlife impacts (such as connectivity);

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

3. Off-site locations shall be in the same subdrainage basin unless:

a. Established watershed goals for water quality, flood or conveyance, habitat, or other wetland functions have been established and strongly justify location of mitigation at another site, or

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

E. Mitigation Timing. Mitigation projects shall be completed with an approved monitoring and maintenance plan prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity or development adjacent to the wetlands. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

The Shoreline Administrator may authorize a one-time temporary delay, up to one hundred twenty days, in completing minor construction and landscaping when environmental conditions could produce a high probability of failure or significant construction difficulties. The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, and general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the mitigation plan. The justification must be verified and approved by the city and include a financial guarantee.

F. Mitigation Ratios.

1. Acreage Replacement Ratios. The ratios in Table 4-3 shall apply to creation or restoration that is in-kind, is on-site, is the same category, is timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases. These ratios do not apply to the use of credits from a state certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be consistent with the requirements of the bank's certification. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

Table A-4-3 Required Mitigation Ratios

(excerpted from Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10. March 2006. *Wetland Mitigation in Washington*

State – Part 1: Agency Policies and Guidance (Version 1). Washington State Department of Ecology Publication #06-06-011a. Olympia, WA.)

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only[1]	Re-establishment or Creation (R/C) and Rehabilitation (RH)[1]	Re-establishment or Creation (R/C) and Enhancement (E)[1]	Enhancement Only[1]
Wetland Buffer Impacts	Not applicable	Not applicable	Not applicable	Not applicable	1:1
All Category IV	1.5:1	3:1	1:1 R/C and 1:1RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I - based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Natural Heritage site	Not allowed	6:1 Rehabilitation of a Natural Heritage site	Not allowed	Not allowed	Case-by-case
Category I Bog	Not allowed	6:1 Rehabilitation of a bog	Not allowed	Not allowed	Case-by-case

[1] These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement

2. Increased Replacement Ratio. The Administrator may increase the ratios under the following circumstances:

   a. Uncertainty exists as to the probable success of the proposed restoration or creation;

   b. A significant period of time will elapse between impact and replication of wetland functions;

[1] These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement

c. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted, or

d. The impact was an unauthorized impact.

G. Wetlands Enhancement as Mitigation.

1. Impacts to wetland functions may be mitigated by enhancement of existing degraded wetlands and/or buffers using the ratios specified in Table 4-3. Applicants proposing to enhance wetlands must produce a critical area report that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.

H. Wetland Mitigation Banks.

1. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

a. The bank is certified under Chapter 173-700 WAC;

b. The Administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

c. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

2. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the banks certification.

3. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

A-4.10 Performance standards--Subdivisions.

The subdivision and short subdivision of land in wetlands and associated buffers is subject to the following:

A. Land that is located wholly within a wetland or its buffer may not be subdivided;

B. Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is:

1. Located outside of the wetland and its buffer, and

2. Meets the minimum lot size requirements of the city.

C. Access roads and utilities serving the proposed subdivision may be permitted within the wetland and associated buffers only if the city determines that no other feasible alternative exists and when consistent with these regulations.

A-4.11 Uses by right.

The following uses shall be allowed as a right within a wetland to the extent that they are not prohibited by any other ordinance or law; are consistent with the Shoreline Exemptions outlined in Section 2.4 of this Master Program; and provided they do not require structures, grading, fill, draining, or dredging except as provided herein or authorized by Shoreline Conditional Use Permit:

A. Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of existing wetland;

B. Outdoor recreational activities, including fishing, birdwatching, hiking, boating, horseback riding, swimming, canoeing, and similar activities with limited environmental impact;

C. Enhancement of a wetland through the removal of nonnative invasive species. Weeding shall be restricted to hand removal and weed material shall be removed from the site. Bare areas that remain after weed removal shall be revegetated with native shrubs and trees at natural densities. Some hand seeding may also be done over the bare areas with native herbs;

D. Education, scientific research, and nature trails;

E. Uses by right that do not require a special permit and that may involve filling, flooding, draining, dredging, ditching, or excavating to the extent specifically provided below:

1. Maintenance or repair of lawfully located roads or structures and of facilities used in the service of the public to provide transportation, electric, gas, water, telephone, telegraph, telecommunication, or other services, provided that such roads, structures, or facilities are not materially changed or enlarged and written notice prior to the commencement of work has been given to the planning department and provided that the work is conducted using best management practices to ensure that flow and circulation patterns, and chemical and biological characteristics of the wetland, are not impaired and that any adverse effect on the aquatic environment will be minimized,

2. Limited excavating and filling necessary for the repair and maintenance of piers, walkways, observation decks, wildlife management shelters, boathouses, and other similar water-related structures, provided that they are

built on pilings to allow unobstructed flow of water and preserve the natural contour of the wetland, except as authorized by special permit.

A-4.12 Special permit uses (Conditional Use Permits).

Regulated activities other than those specified in Subsection A-4.11 of these regulations may not be conducted except upon application to the planning department and issuance of a Shoreline Conditional Use Permit.

A-4.13 Shoreline Conditional Use Permits.

Application for a Shoreline Conditional Use Permit to conduct a regulated activity shall be made to the planning department on forms furnished by that office. See Section 3.1 of this Master Program and AMC 18.16.

A-4.14 Permit applications.

Application for a Shoreline Conditional Use permit for a regulated activity shall include, but not be limited to, the following unless waived with written justification by the planning department:

A. The purpose of the project and an explanation of why the proposed activity requires a wetland location or access to wetlands, or cannot be located at other sites;

B. A site plan drawn to an appropriate scale showing the wetland district boundary and the wetland boundary as determined by field survey; the width, depth, and length of all existing and proposed structures, roads, watercourses, and drainageways; water, wastewater, and stormwater facilities; utility installations within three hundred feet of a wetland; and the relationship of the proposed activity and any potentially affected wetland to the entire parcel of land owned by the applicant;

C. A description of the wetland or wetlands that will be affected by the regulated activity, including a sketch plan for the entire wetland drawn to a scale appropriate to delineate all significant or affected features, the area that may be filled or impacted; vegetation type; wetland water sources; and a general characterization of the habitat, wildlife, and common plants;

D. Soil types on the site and the exact locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods;

E. Adjacent land use;

F. Elevations of the site and adjacent lands within three hundred feet of the site at contour intervals of no greater than five feet; and

G. Any other required elements outlined in AMC Chapter 18.16 or Section 3.1 of this Master Program

The planning department may require additional information, including, but not limited to, documentation and evidence of a wetland boundary determination by field survey; an assessment of wetland functional characteristics; documentation of the ecological, aesthetic, economic, or other values of a wetland, a study of flood, erosion, or other hazards at the site; evidence of any protective measures that might be taken to reduce such hazards; and any other information deemed necessary to verify compliance with the provisions of these regulations or to evaluate the proposed use in terms of the purposes of these regulations.

Any person who wants to know whether a proposed activity or an area is subject to these regulations may request in writing a determination from the planning department. Such a request for determination shall contain plans, data, and other information as may be requested by the planning department to assist in making the determination.

At the time of an application or request for determination, the applicant shall pay a filing fee sufficient to cover the costs of evaluation of the application as specified by city ordinance. These fees may be used to retain expert consultants who will provide services pertaining to wetland boundary determinations, functional assessment, and mitigation measures, as deemed necessary by the planning department.

Upon receipt of the completed application, the planning department shall notify the individuals and agencies, including federal and state agencies, having jurisdiction over or an interest in the matter to provide such individuals and agencies an opportunity to comment.

The planning department shall establish a mailing list of all interested persons and agencies who wish to be notified of such applications.

A-4.15 Public hearing and recommendations.

Chapter 18.16 Shoreline Master Program of the Anacortes Municipal Code, Chapter 17.62 Public Hearings, and Section 3.1 of this Master Program outline the Shoreline Conditional Use Permit procedures. No later than sixty days after receipt of a complete Conditional Use Permit application and after at least fifteen days' advance notice that the application has been published in one newspaper having general circulation in the area, the planning commission shall hold a public hearing on the application.

Any person may present evidence and testimony at the hearing. At the hearing, the applicant shall have the burden of demonstrating that the proposed activity will be on accordance with the purposes of these regulations and the standards set forth below.

A-4.16 Additional standards for Conditional Use Permits.

The city, after according consideration to the comments of the general public, other affected municipalities and counties, and federal and state agencies with jurisdiction over the area in question, shall issue a Shoreline Conditional Use Permit only if it is found that the regulated activity is determined to be in the public interest in accordance with Section A-4.18 of these regulations and that the applicant has demonstrated by a preponderance of the evidence that the regulated activity satisfies the review criteria contained in Section 3.1.D of this Master Program and:

A. Is water-dependent or requires access to the wetland as a central element of its basic function, or is not water-dependent but has no practicable alternative;

B. Will result in minimum feasible alteration or impairment to the wetland's functional characteristics and its existing contour, vegetation, fish and wildlife resources, and hydrological conditions;

C. Will not jeopardize the continued existence of species that appear on federal or state endangered or threatened species lists; or on the Department of Fish and Wildlife list of species of special concern in Skagit County.

D. Will not cause significant degradation of groundwater or surface water quality;

E. Complies with all applicable state, local, and federal laws, including those related to sediment control, pollution control, floodplain zoning, and on-site wastewater and stormwater disposal;

F. Will provide the mandated wetland buffer area between the wetland and upland activities for those portions of a regulated activity that need not be conducted in the wetland; and

G. Complies with other standards contained in these regulations, including those pertaining to wetland enhancement, creation, and restoration as required.

A-4.17 Practicable alternative test.

For all permit applications, an alternative site for the proposed activity shall be considered practicable if it is available and the proposed activity can be carried out on that site after taking into consideration costs, existing technology, infrastructure, and logistics, in light of overall project purposes.

There is no practicable alternative if the applicant demonstrates all of the following to the satisfaction of the Shoreline Administrator:

A. The basic purpose of the project cannot reasonably be accomplished using one or more other sites in the general region that would avoid or result in less adverse impact on a wetland;

B. The basic purpose of the project cannot be accomplished by a reduction in the size, scope, configuration, or density of the project as proposed or by changing the design of the project in a way that would avoid or result in fewer adverse effects on the wetland; and

C. In cases where the applicant has rejected alternatives to the project as proposed due to constraints such as inadequate zoning, infrastructure, or parcel size, the applicant has made reasonable attempts to remove or accommodate such constraints.

A-4.18 Public interest test.

In determining whether a proposed regulated activity in any wetland is in the public interest, the city council shall consider the following as a part of its Conditional Use Permit review under Section 3.1.D of this Master Program and Section A-4.16 of these regulations.

A. The extent of the public need for the proposed activity;

B. The extent and permanence of the beneficial or detrimental effects that the proposed regulated activity may have on the public and private uses for which the property is suited;

C. The quality of the wetland that may be affected and the amount of wetland to be disturbed with the quality of the wetland to be evaluated using procedures specified in the Washington State wetland assessment method;

D. The economic value of the proposed regulated activity to the general area; and

E. The ecological value of the wetland and probable impact on public health and safety, fish, plants, and wildlife.

A-4.19 Shoreline Conditional Use Permit conditions.

The city council shall attach such conditions to the granting of a Shoreline Conditional Use Permit as deemed necessary to carry out the purposes of these regulations. Such conditions may include but are not limited to:

A. Limitations on minimum lot size for any regulated activity;

B. Requirements that structures be elevated on piles and otherwise protected against natural hazards;

C. Modification of waste disposal and water supply facilities;

D. Imposition of operational control, sureties, and deed restrictions concerning future use and subdivision of lands, such as flood warnings, preservation of undeveloped areas in open space use, and limitation on vegetation addition or removal;

E. Dedication of easements to protect wetlands;

F. Establishment of vegetated buffer zones separating and protecting the wetland from proposed activities;

G. Erosion control and stormwater management measures;

H. Setbacks for structures and restrictions on fill, deposit of soil, and other activities in the wetland;

I. Modification in project design to ensure continued water supply to the wetland and circulation of water;

J. Creation or restoration of an area of wetland; and

K. Development of a plan to guide actions involving the creation of a new wetland or the restoration of a damaged or degraded wetland.

The planning department shall require a bond in an amount and with surety and conditions sufficient to secure compliance with the conditions and limitations set forth in the permit. The particular amount and the conditions of the bond shall be consistent with the purposes of these regulations. In the event of a breach of any condition of any such bond, the planning department may institute an action in a court of competent jurisdiction upon such bond and prosecute the same to judgment and execution.

A-4.20 Wetland restoration and creation.

As a condition of a permit issued or as an enforcement action under these regulations, the city shall require that the applicant engage in the restoration or creation of wetlands in order to offset, in whole or in part, the losses resulting from an applicant's or violator's actions. In making a determination of whether such a requirement will be imposed, and, if so, the degree to which it would be required, the planning department will consider the following:

A. The long and short-term effects of the action upon wetland and associated aquatic ecosystem, and the reversible or irreversible nature of the impairment or loss;

B. The type and benefit of the wetland functions and associated resources lost;

C. The type, size, and location of the wetland altered, and the effect it may have upon the remaining system or watershed of which the wetland is a part;

D. Observed or predicted trends with regard to the gains or losses of this type of wetland in the watershed, in light of natural and human processes;

E. The cost and likely success of the possible compensation measures in relation to the magnitude of the proposed project or violation; and

F. The degree to which the applicant has demonstrated a good faith effort to incorporate measures to minimize and avoid wetland impacts within the proposed project.

If wetland restoration or creation is required by the city, the applicant or violator shall develop a wetland restoration or creation plan for review and approval of the planning department. The creation or restoration of wetlands shall not be an alternative to the standards set forth in Section A 4.17 of these regulations but shall be used only to compensate for unavoidable losses.

The plan should state the exact location, of the proposed site; ownership; size, type and complete ecological assessment (flora, fauna, hydrology, wetland functions, etc.) of the wetland being restored or the area where a new wetland will be created; and the natural suitability of the proposed site for establishing the replacement wetland (i.e., water source and drainage patterns, topographic position, wildlife habitat opportunities, value of the existing area to be converted, etc.). In addition, plan view and cross-sectional, scaled drawings; topographic survey data, including slope percentage and final grade elevations; and other technical information are required in sufficient detail to explain, illustrate, and provide for:

1. Soil and substrate conditions; topographic elevations; grading and excavation; erosion and sediment control needed for wetland construction and long-term survival;

2. Planting plans specifying plant species types, quantities, locations, size, spacing, or density; source of plant materials, propagules, or seeds; timing, season, water, and nutrient requirements for planting; and, where appropriate, measures to protect plants from predation;

3. Water quality parameters, water source, water depths, water control structures, and water level maintenance practices needed to achieve the necessary ambient water conditions and hydrocycle/hydroperiod characteristics;

4. Mid-course corrections and a five- or ten-year monitoring and replacement plan establishing responsibility for removal of exotic and nuisance vegetation and permanent establishment of the wetland system and all its component parts (five years is recommended for emergent vegetation and ten years for forested and scrub-shrub wetland sites);

5. A demonstration of fiscal, administrative, and technical competence of sufficient standing to successfully execute the overall project.

A-4.21 Wetland enhancement, restoration, and creation alternatives.

Ordinarily, the applicant or violator shall undertake restoration or creation efforts on or adjacent to the site where permanent losses have been sustained or where restoration of a former wetland is possible. Replication "in-kind" of the impacted wetland will be the preferred alternative for creation or restoration efforts. Where the applicant has demonstrated to the satisfaction of the Shoreline Administrator that this approach is infeasible due to technical constraints, such as parcel or wetland size or wetland type, or that a wetland of a different type or location is strongly justified based on regional needs or the functional value of the impacted wetland, the Shoreline Administrator may accept or recommend an alternative proposal. Such proposal may involve monetary compensation as provided for in this section or the creation or restoration "out-of-kind" and "off-site."

The council shall set reasonable fees for compensation of wetland losses based upon the amount that would be required to perform on-site, in-kind restoration or creation. Where the city council determines that the public interest is better served, the city council may require a fee in lieu of direct action on behalf of the applicant or violator to initiate restoration or creation projects. Such fees shall be held in escrow for the express use of wetland creation and restoration projects and shall not be commingled with other funds. Work shall begin within twelve months and be completed no later than twenty-four months from receipt of a fee in lieu.

A-4.22 Suspension, revocation.

The planning department may suspend or revoke a permit if it finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work set forth in the permit. The planning department shall cause notice of the denial, issuance, conditional issuance, revocation, or suspension of a permit to be published in a timely manner in a daily or weekly newspaper having a broad circulation in the area wherein the wetland lies.

A-4.23 Nonconforming activities.

This section supplements the general nonconforming provisions found in Chapter 3 of this Master Program only as the regulated activities listed below relate specifically to nonconforming uses, development and structures in wetlands or wetland buffers. A regulated activity that was lawful before the passage of these regulations, but which is not in conformity with the provisions of these regulations, may be continued subject to the following:

A. No such structure or use shall be expanded, changed, enlarged, or altered in any way that increases its nonconforming character relative to the provisions of these regulations without securing a Shoreline Conditional Use Permit, except as specifically authorized in subsections (B) and (C) of this section.

B. State Ferry Terminal: the existing developed footprint, except for infill between the toll booth area in the lowest parking lot, hillside walking paths, and a hillside side slope along the western side of the main terminal parking lot, and including all associated parking, at the Washington State Ferry Terminal facility, shall not be increased and redevelopment may occur provided there is no net loss of ecological function and value in the adjacent buffer areas for Cannery Pond and Ship Harbor Interpretive Preserve wetlands.

C. Shannon Point Marine Center: the buffer area surrounding Cannery Pond shall conform to the following distances: two hundred twenty-five feet along the western boundary of the wetland to its southwestern corner, with this line extending southward parallel to, and one hundred feet east of, the access road to a point four hundred feet south of the southern edge of the wetland; the southern edge of the buffer will be an east-west line perpendicular to the east property boundary connecting with the west buffer boundary as described above. Where the access road falls within the buffer boundary (west side of wetland), SPMC may undertake maintenance and repair of the road and underground utilities as specified in Section A-4.11 of these regulations.

D. Final plat approvals, conditional use permits, and building permits issued after the adoption of the city's first wetland ordinance (Ordinance #2131, adopted January 2, 1990) but before the effective date of the ordinance codified in these regulations will continue to be controlled by the version of these regulations in effect at the time of their final approval/permit issuance except that all new uses and developments or redevelopments shall be consistent with current applicable ordinances.

E. In the event that a structure defined as nonconforming relative to provisions of these regulations is destroyed by fire or remodeled, it may be rebuilt in such a way that does not increase the nonconformity, but such rebuilding or remodeling shall not trigger a requirement for restoration of wetlands, streams, or buffers that were altered in a way that was legal at the time of their alteration.

A-4.24 Adaptive management.

The city will monitor all construction projects undertaken adjacent to a wetland buffer(s) after the effective date of the ordinance codified in these regulations at least once a year in order to assess buffer function and the use of city prescribed best operating procedures. From year to year the city will ensure that there is no net loss of buffer ecological function and value, on a citywide basis. In the event that such a situation occurs the city will promptly mitigate for any loss and take any further corrective action necessary to

ensure that this situation does not reoccur. Corrective action may involve widening buffers, fines, and/or performance bonds.

A-5. Fish and Wildlife Conservation Areas

A-5.1 Designation of fish and wildlife habitat conservation areas.

A. Fish and wildlife habitat conservation areas include:

1. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association.

   a. Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listing status.

   b. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the State of Washington identified by the Washington Department of Fish and Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (state endangered species) and WAC 232-12-011 (state threatened and sensitive species). The State Department of Fish and Wildlife maintains the most current listing and should be consulted for current listing status.

   This subsection shall not apply to hair seals and sea lions that are threatening to damage or are damaging commercial fishing gear being utilized in a lawful manner or when said mammals are damaging or threatening to damage commercial fish being lawfully taken with commercial gear.

2. State Priority Habitats and Areas Associated With State Priority Species. Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the State

Department of Fish and Wildlife and may be designated as appropriate through the process detailed in subsection (A)(3) of this section.

3. Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the city, including, but not limited to, those habitats and species that, due to their population status or sensitivity to habitat manipulation, warrant protection (see Appendix A-1 of this Master Program). Habitats may include a seasonal range or habitat element with which a species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. The City shall maintain and periodically update a list of identified habitats and species of local importance.

a. Designation Process. The city shall consider nominations for habitat areas and species to be designated as locally important on an annual basis, following the procedures set forth in the city comprehensive plan, Appendix F.

i. Habitats and species to be designated shall exhibit the following characteristics:

(1) Local populations of native species are in danger of extirpation based on existing trends;

(2) Local populations of native species that are likely to become endangered, or

(3) Local populations of native species that are vulnerable or declining;

(4) The species or habitat has recreation, commercial, game, tribal, or other special value;

(5) Long-term persistence of a species is dependent on the protection, maintenance, and/or restoration of the nominated habitat;

(6) Protection by other county, state, or federal policies, laws, regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in; and

(7) Without protection, there is a likelihood that the species or habitat will be diminished over the long term.

ii. Areas nominated to protect a particular habitat or species must represent either high-quality native habitat or habitat that has a high potential to recover to a suitable condition and which is of limited availability, highly vulnerable to alteration, or provides landscape

connectivity which contributes to the integrity of the surrounding landscape.

iii. Habitats and species may be nominated for designation by any person.

iv. The nomination should indicate whether specific habitat features are to be protected (for example, nest sites, breeding areas, and nurseries), or whether the habitat or ecosystem is being nominated in its entirety.

v. The nomination may include management strategies for the species or habitats. Management strategies must be supported by best available science, and where restoration of habitat is proposed, a specific plan for restoration must be provided prior to nomination.

vi. The Administrator shall determine whether the nomination proposal is complete, and if complete, shall evaluate it according to the characteristics enumerated in subsection (A)(3)(i) of this section and make a recommendation to the planning commission based on those findings.

vii. The planning commission shall hold a public hearing for proposals found to be complete in accordance with city hearing procedures and make a recommendation to the city council based on the characteristics enumerated in subsection (A)(3)(i) of this section.

viii. Following the recommendation of the planning commission, the city council shall determine whether the nominated habitat or species shall be designated a habitat or species of local importance.

ix. Approved nominations will be subject to the provisions of these regulations.

b. The following areas are designated as habitats of local importance:

i. The Anacortes Community Forest Lands, subject to the uses by right exemption set forth in Section A-4.11 of these regulations. Unless otherwise protected by perpetual deed restrictions, permanent habitat protection within the ACFL shall be accomplished through the city's conservation easement program.

ii. The March Point Heronry, with the understanding that even though it is currently outside the city limits and therefore under Skagit County jurisdiction, a habitat management plan using CAO guidelines and professional scientific analysis shall be developed prior to any city development permit(s) being issued for any parcels of property within the city limits that are adjacent to the March Point Heronry.

iii. The one and one-half acre "Park Reserve" at Cap Sante bounded by 3rd Street, East Park Drive, and Curtis Drive.

4. Commercial and Recreational Shellfish Areas. These areas include all public and private tidelands or wetlands suitable for shellfish harvest, including shellfish protection districts established pursuant to Chapter 90.72 RCW.

5. Kelp and eelgrass beds and herring and smelt spawning areas.

6. Naturally Occurring Ponds Under Twenty Acres But Larger Than Two Thousand Five Hundred Square Feet. Naturally occurring ponds are those ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, water or wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

7. Stream Designations.

a. The following fifteen streams are hereby designated as FWHCAs for those stretches that are not in culverts or artificially created ditches as of December 31, 2003: Whistle Creek, Happy Valley Stream, Ace of Hearts Creek, Beaver Brook, Cranberry Creek, Clyde Creek, Anaco Bourn (given the particular characteristics of this subsection (A)(7)(c) of this section will be applicable to portions of this stream corridor), Morrison Run, Cedar Springs, Weaverling Rill, Miller Creek, Aqua Creek, Howard Creek, Summit Creek, and March's Run.

b. Stream Buffers. Within these FWHCAs fifty-foot buffers, on each side of the creek, measured from the top of the bank, are hereby established, and therein:

i. All new subdivisions of land must demonstrate that existing ecological functions and values of these streams and their buffers are at least maintained (and preferably enhanced);

ii. Prior to issuing a building permit, the building department must have documents(s) and photographs on file describing the existing ecological function and value of the fifty-foot buffer in general terms and a description of how the property owner will ensure that this existing function and value will be maintained over time. Every year the building department will commission an evaluation by a qualified riparian scientist as to whether or not on a cumulative basis ecological function and value has been maintained on all sites subject to building permit since January 1, 2004. If at any time this standard is not achieved, the city shall

either adopt a regulatory scheme to ensure that the standard is met or actually restore buffers to ensure that the standard is met.

iii. The documentation called for in subsection (A)(7)(b)(ii) of this section shall consist of the following: a description of the existing stream characteristics on the subject and adjacent properties; any known water quality or quantity issues; streambed width and substrate; the presence of wetlands, if any, and their character; stream buffer characteristics in terms of species and habitat functions; a description of the project impacts; a description of the proposed mitigation; a planting plan with numbers and species of plants proposed; as-built reporting; and, three-year performance and maintenance standards. A guidance document shall be provided by the city planning department.

iv. The adaptive management program called for in subsection (A)(7)(b)(ii) of this section shall consist of the following: using the information in subsection (A)(7)(b)(iii) of this section to calculate the pre-development habitat function of each property covered by these regulations, a site visit to determine the current stream buffer habitat functional value, calculation of the total net habitat gain or loss for all properties covered by this regulation, and corrective action as necessary.

c. Converting Culverts and Ditches to Streams. Property owners or developers shall be encouraged to open up, or daylight, portions of streams that are in culverts, and return streams that are in artificial ditches to a more natural state. Streams that were in culverts or artificial ditches, as of December 31, 2003 shall only be subject to ten-foot buffers, with enhanced buffer planting and may use the platting or boundary line adjustment process to:

i. Reduce individual lot sizes to any buildable configuration provided the total square footage of the new lots plus the stream and buffer square footage equals or exceeds the total square footage for an equal number of minimum size lots in that zone prior to removing the stream from the culvert.

8. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.

9. State Natural Area Preserves and Natural Resource Conservation Areas. Natural area preserves and natural resource conservation areas are defined and established by the Washington State Department of Natural Resources.

10. Areas of Rare Plant Species and High Quality Ecosystems. Areas of rare plant species and high quality ecosystems are identified by the Washington

State Department of Natural Resources through the Natural Heritage Program as designated through the process detailed in subsection (A)(3) of this section.

11. Land useful or essential for preserving connections between habitat blocks and open spaces as designated through the process detailed in subsection (A)(3) of this section.

12. Critical Fresh and Saltwater Habitat as described in Section 6.7.

B. All areas within the city having one or more of these characteristics are hereby designated critical areas and are subject to this Shoreline Master Program.

C. Mapping. The approximate location and extent of habitat conservation areas are shown on the critical area maps adopted by the city, as most recently updated. The following critical area maps are hereby adopted:

1. Washington Department of Fish and Wildlife Priority Habitat and Species maps;

2. Washington State Department of Natural Resources, Official Water Type Reference maps, as amended;

3. Washington State Department of Natural Resources Puget Sound Intertidal Habitat Inventory maps;

4. Washington State Department of Natural Resources Shorezone Inventory;

5. Washington State Department of Natural Resources Natural Heritage Program mapping data;

6. Washington State Department of Health Annual Inventory of Shellfish Harvest Areas;

7. Anadromous and resident salmonid distribution maps contained in the habitat limiting factors reports published by the Washington Conservation Commission;

8. Washington State Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area maps;

9. City official habitat maps; and

10. NOAA Northwest Region Critical Habitat Mapper or equivalent source: http://map.streamnet.org/website/CriticalHabitat/viewer.htm. The website presents information consistent with the City's definition of habitat conservation areas.

These maps are to be used as a guide for project applicants, and/or property owners and should be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

A-5.2 Critical area report.

Critical area reports for habitat conservation areas must meet the requirements of this section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

A. Preparation by a Qualified Professional. A critical areas report for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat.

B. Areas Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for habitat conservation areas:

1. The project area of the proposed activity;

2. All habitat conservation areas and their associated buffers within three hundred feet of the project area; and

3. All shoreline areas, floodplains, wetlands, streams, other critical areas, and related buffers within three hundred feet of the project area.

C. Habitat Assessment. A habitat assessment is an investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. A critical area report for a habitat conservation area shall contain an assessment of habitats including the following site- and proposal-related information at a minimum:

1. Detailed description of vegetation on and adjacent to the project area and its associated buffer;

2. Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

3. A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;

4. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;

5. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity;

6. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

D. Additional Information May Be Required. When appropriate due to the type of habitat or species present or the project area conditions, the Administrator may also require the habitat management plan to include:

1. An evaluation by an independent qualified professional hired by the city and paid for by the applicant regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate;

2. A request for consultation with the Washington Department of Fish and Wildlife or the local Native American Indian Tribe or other appropriate agency; and

3. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

A-5.3 Performance standards--General requirements.

A. Alterations. A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the quantitative and qualitative functions and values of the habitat. All new structures and land alterations not currently authorized shall be prohibited from habitat conservation areas, except either in accordance with these regulations or this Master Program.

B. Nonindigenous Species. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

C. Mitigation and Contiguous Corridors. Mitigation sites shall be located wherever practicable to preserve or achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical area report to minimize the isolating effects of development on habitat areas.

D. Approvals of Activities. Development within habitat conservation areas or their buffer areas not otherwise permitted in these regulations shall be by Shoreline Conditional Use Permit. Conditions may be established based on professional scientific analysis and may include, but are not limited to, the following:

1. Establishment of buffer zones;

2. Preservation of critically important vegetation and/or habitat features such as snags and downed wood;

3. Limitation of access to the habitat area, including fencing and/or signage to deter unauthorized access;

4. Seasonal restriction of construction activities;

5. Establishment of a duration and timetable for periodic review of mitigation activities; and

6. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

E. Mitigation and Equivalent or Greater Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

F. Scientific Basis for Approvals. Any approval of alterations or impacts to a habitat conservation area shall be supported by the professional scientific analysis.

G. Buffers.

1. Establishment of Buffers. The city shall require the establishment of buffer areas for activities adjacent to habitat conservation areas on a case by case basis based on a critical area report when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the nature of the existing vegetation, sensitivity of the habitat, and the type and intensity of human activity proposed to be conducted nearby. Habitat conservation areas and their buffers shall be preserved in perpetuity through the use of native growth protection easements and critical area tracts. In order to determine the need or extent of a buffer, critical area reports shall be required for all development in or adjacent to a habitat conservation area (see also DR 5.6.15).

2. Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.

3. Habitat Buffer Averaging. The Administrator may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report including professional scientific analysis only if:

a. It will not reduce stream or habitat functions;

b. It will not adversely affect salmonid habitat;

c. It will provide additional natural resource protection, such as buffer enhancement;

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

e. Isolated buffers may not be included in any buffer averaging calculation.

4. Buffer Isolation. If a portion of a required buffer is effectively isolated from the remainder of the buffer or its associated habitat areas by existing development such as a road, building, paving, etc. in such a way that it cannot perform the usual functions of a buffer, it need not be designated as a buffer.

H. Signs and Fencing of Habitat Conservation Areas.

1. Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and verified by the building official prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until an occupancy permit has been issued and permanent signs, if required, are in place.

2. Permanent Signs. As a condition of any permit or authorization issued pursuant to these regulations, the aAdministrator may require the applicant to install permanent signs along the boundary of a habitat conservation area or buffer.

3. Fencing.

a. The Administrator shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the Planning Commission, City Council, or Hearing Examiner shall condition any permit or authorization issued pursuant to these regulations to require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer, when fencing is needed to minimize future impacts to the habitat conservation area.

b. The applicant shall be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on-site.

c. Fencing installed as part of a proposed activity or as required in this subsection shall be design so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

I. Subdivisions. The subdivision and short subdivision of land in fish and wildlife habitat conservation areas and associated buffers within shoreline jurisdiction is subject to the city Shoreline Conditional Use Permit process.

A-5.4 Performance standards--Specific habitats.

A. Bald Eagle Habitat. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified professional. Approval of the activity shall not occur prior to approval of the habitat management plan by the Washington Department of Fish and Wildlife.

B. Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall conform to the wetland performance standards set forth in Wetlands (Section A-4 of these regulations).

C. Riparian Habitat Areas. Unless otherwise allowed in these regulations, all structures and activities shall be located outside of the riparian habitat area.

1. Establishment of Riparian Habitat Areas. Riparian habitat areas shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, seeps, and springs.

2. Riparian Habitat Area Widths. Recommended riparian habitat area widths are shown in the Table A-5-1 below. A riparian habitat area shall have the width recommended, unless a greater width is required pursuant to subsection (C)(3) of this section, or a lesser width is allowed pursuant to subsection (C)(4) of this section. Widths shall be measured outward in each direction, on the horizontal plane, from the ordinary high water mark, or from the top of bank, if the ordinary high water mark cannot be identified. Riparian areas should be sufficiently wide to achieve the full range of riparian and aquatic ecosystem functions, which include but are not limited to protection of instream fish habitat through control of temperature and sedimentation in streams; preservation of fish and wildlife habitat; and connection of riparian wildlife habitat to other habitats.

Table A-5-1 REQUIRED BUFFER WIDTHS FOR RIPARIAN HABITAT AREAS

Stream Type	Recommended RHA Widths
Type 1 and 2	250 feet
Type 3; or other perennial or fish bearing streams, 5–20 feet wide	200 feet
Type 3; or other perennial or fish bearing streams, < 5 feet wide	50 feet
Type 4 and 5; or intermittent streams and washes with low mass wasting potential	50 feet
Type 4 and 5; or intermittent streams and washes with high mass wasting potential	225 feet

3. Increased Riparian Habitat Area Widths. The recommended riparian habitat area widths shall be increased, as follows:

   a. When the Administrator determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area;

   b. When the frequently flooded area exceeds the recommended riparian habitat area width, the riparian habitat area shall extend to the outer edge of the frequently flooded area;

   c. When a channel migration zone is present, the riparian habitat area width shall be measured from the outer edge of the channel migration zone;

   d. When the habitat area is in an area of high blowdown potential, the riparian habitat area width shall be expanded an additional fifty feet on the windward side; or

   e. When the habitat area is within an erosion or landslide hazard area, or buffer, the riparian habitat area width shall be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.

4. Riparian Habitat Area Width Averaging. The Administrator may allow the recommended riparian habitat area width to be reduced in accordance with a critical area report only if:

   a. The width reduction will not reduce stream or habitat functions, including those of nonfish habitat;

   b. The width reduction will not degrade the habitat, including habitat for anadromous fish;

   c. The proposal will provide additional habitat protection;

d. The total area contained in the riparian habitat area of each stream on the development proposal site is not decreased;

e. The width reduction will not be located within another critical area or associated buffer; and

f. The reduced riparian habitat area width is supported by professional scientific analysis.

5. Riparian Habitat Mitigation. Mitigation of adverse impacts to Type 1 and 2 riparian habitat areas shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same subdrainage basin as the habitat impacted. Mitigation of adverse impacts to Type 3, 4, and 5 riparian habitat areas may be approved by the Administrator provided there is no net loss in buffer function and value from existing conditions as of December 31, 2003. See Section A-5.1(A)(7)(b)(ii) of these regulations.

6. Alternative Mitigation for Riparian Habitat Areas. The performance standards set forth in this subsection may be modified at the city's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected subdrainage basin as a result of alternative mitigation measures.

D. Anacortes Community Forest Lands (ACFL) Standards.

1. Shared Wetland. In any circumstance where a jurisdictional wetland is shared by a private property owner and the ACFL, said wetland shall not be impacted adversely by private property owners unless the impacts are appropriately mitigated per Section A-4 of these regulations.

2. Noxious and Invasive Plants. The Skagit County noxious weed ordinance and the ACFL invasive plant control program shall be carefully considered in any adjacent development decision. Nonnative plants known to be invasive into the ACFL shall be prohibited in landscaping plans of adjacent developments. Where such developments have CC&Rs, reference to this requirement shall be included therein.

3. Vacations. In the case of street or alley vacations contiguous with an ACFL boundary, the half of the area vacated which is adjacent to the ACFL shall be incorporated into the ACFL and subject to all ACFL related requirements.

4. Private Access to ACFL. No new accesses will be established to the ACFL without prior request for such access to the parks and recreation department and the forest advisory board and approval by the city council.

5. ~~Burning. No burn piles or outdoor fires shall ever be left unattended while ignited and in the event sparks or flames come within three hundred feet of the ACFL, the fire shall immediately be brought under control or extinguished.~~

6. ~~Boundary Identification. City staff will work closely with property owners and developers to ensure that survey lines adjacent to the ACFL boundary are clearly and correctly marked before any timber and/or vegetation is removed from adjacent property. The forest manager will be involved in the final inspection of boundary lines.~~

7. ~~ACFL Buffers. City staff will work closely with builders to secure thirty-foot ACFL buffers using all available incentives.~~

APPENDIX A-1

VULNERABLE SPECIES OF ANACORTES

Throughout the world, natural habitats are increasingly being disturbed or destroyed as land is developed for agriculture, industry, infrastructure, and homes. An inevitable result is the reduction, and sometimes the eradication, of the plant and animal species that depend on those habitats.

The City of Anacortes is fortunate to have within the City boundaries approximately 4.3 square miles of Community Forest Lands including three lakes and their watersheds, numerous wetlands, and natural habitat for a diversity of wildlife. Although many areas were logged in the past to provide city revenue, new forests have grown up, and most of this vast acreage remains in a natural state. These areas are designated as Fish and Wildlife Conservation Areas in these Critical Areas Regulations as part of this Shoreline Master Program, and provide significant habitat for both imperiled and commonplace species.

In addition, Washington Park, Cap Sante Park, Anacortes School District property, the Ship Harbor Interpretive Preserve, Tommy Thompson Trail, and Shannon Point Marine Center also preserve significant areas of undeveloped natural habitat within the City. Including the Fidalgo Bay tidelands preserve, the total natural open space acreage now constitutes approximately 1/2 of the total area of the Anacortes.

Like other cities, Anacortes has seen its share of wetland and habitat destruction over the past century, as early development had few controls on these activities. However, unlike other cities, even much larger ones, Anacortes has been able to retain significant natural forested areas and protect them from development. The Anacortes Community Forest Lands alone could have been sold to developers and over 10,000 homes could be built on that acreage. Instead, these lands have been preserved. They represent a unique and irreplaceable habitat resource for our human, animal, and plant residents.

While the City will continue to strengthen and enforce its protection of the remaining few small habitat areas still present in the developed areas of Anacortes, our primary emphasis will be on protecting the large forestland and park tracts, as they represent the best, largest, and most valuable habitat in the City, and indeed, one of the finest in any comparable city in the country.

The State of Washington Natural Heritage Plan lists species that are of particular concern. Those lists includes Priority Animal Species and Priority Plant Species. The Plan also identifies ecosystem types, from deep subtidal mud to alpine forests. Nine animal species and 16 plants that were noted historically in the state are now believed to be extinct. Only a few of these listed species and ecosystem types are known to occur in or near Anacortes.

The following pages list plants, birds, and animals of concern in the Puget Sound region, and identify those which are known to occur within or near Anacortes. The City encourages the continual updating of these lists. Additions, corrections, and deletions for these lists

may be proposed at any time by submitting a suggestion to the Planning Director. Proposed changes will be considered through the annual cycle of amending the City Comprehensive Plan and Development Regulations.

VULNERABLE ANIMALS OF ANACORTES

The following animals are listed by the Washington Department of Natural Resources as species of concern which are known to exist in the Puget Trough Ecoregion. Many of these species are found outside of the Anacortes area, in other habitats.

The species designated with an asterisk (*) are believed to occur within the City of Anacortes, but others may occur here and have not yet been identified. Therefore, the City's preservation of extensive areas of natural habitat represents the best hope for such animals to succeed undisturbed, should they emerge here. In addition, these habitats allow currently successful animal populations to continue to thrive, thus avoiding potential loss of additional species.

In its 2,800 acres of Community Forest Lands, including three pristine lakes and their watersheds, there are numerous wetlands, rock bluffs, old growth forests, grassy knolls, windswept hilltops, sheltered caves, and a variety of other habitats and microclimates. In addition, Washington Park, Cap Sante Park, Anacortes School District property, the Ship Harbor Interpretive Preserve, Tommy Thompson Trail, and Shannon Point Marine Center also preserve significant areas of undeveloped natural habitat within the City, including significant sections of undisturbed shoreline.

Washington Natural Heritage Plan		
SCIENTIFIC NAME	**COMMON NAME**	**STATE STATUS**
Priority 1 Animals	—	—
Beetles	—	—
Eanus hatchi	Hatch's click beetle	G2?S1
Birds		
Eremophila alpestris strigata	Streaked horned lark	G5S1B
Pooecetes gramineus affinis	Oregon vesper sparrow	G5S1B
Sitta carolinensis aculeata	Slender-billed nuthatch	G5S1
Butterflies		
Euchloe ausonides insulanus	Island large marble	G5S1
Euphydryas editha taylori	Taylor's checkerspot	G5S1
Polites mardon	Mardon skipper	G2G3S1
Dragonflies and Damselflies		
Gomphus kurilis	Pacific clubtail	G4S1
Slugs and Snails	—	—
Deroceras hesperium	Evening fieldslug	G2SH

Washington Natural Heritage Plan		
SCIENTIFIC NAME	**COMMON NAME**	**STATE STATUS**
Megomphix hemphilli	Oregon megomphid	G3S1
Valvata mergella	Rams-horn valvata	G2S1
Vorticifex neritoides	Nerite rams-horn	G1S1?
Fish	—	—
Catostomus sp. 4	Salish sucker	G1S1
Salvelinus confluentus pop. 3 *	Bull trout (Coastal-Puget Sound)	G3SNR
Amphibians	—	—
Rana pretiosa	Oregon spotted frog	G2S1
Reptiles	—	—
Actinemys marmorata *	Western pond turtle	G3G4S1
Mammals	—	—
Microtus townsendii pugeti	Shaw Island vole	G5S1S2
Myotis keenii	Keen's myotis	G2G3S1
Thomomys mazama couchi	Shelton pocket gopher	G4S1
Thomomys talpoides douglasii	Bush prairie pocket gopher	G5S2

Global Rank characterizes the relative rarity or endangerment world-wide. Two codes (G1G2) = intermediate rank.

G1 = Critically imperiled
G2 = Imperiled
G3 = Vulnerable to extirpation or extinction.
G4 = Apparently secure
G5 = Demonstrably widespread, abundant, and secure
? = Indicates that the rank is somewhat uncertain

State Rank characterizes the relative rarity or endangerment within the state of Washington. Two codes (S1S2) = intermediate rank.

S1 = Critically imperiled
S2 = Imperiled
S3 = Vulnerable to extirpation or extinction
S4 = Apparently secure
S5 = Demonstrably widespread, abundant, and secure
SH = Historical occurrences only but still expected to occur
SNR = Not ranked to date

"B" and "N" qualifiers are used to indicate breeding and nonbreeding status, respectively, of migrant species whose nonbreeding status (rank) may be quite different from their breeding status in the state (e.g. S1B,S4N for a very rare breeder that is a common winter resident).

VULNERABLE PLANTS OF ANACORTES

The following plants are listed by the Washington Department of Natural Resources as species of concern which are known to exist in Skagit County. Many of these species are found outside of the Anacortes area, in alpine habitats, for example. This list has been reviewed by local members of the Salal Chapter of the Washington Native Plant Society, who are intimately familiar with habitats on Fidalgo Island.

None of these species are believed to occur within the City of Anacortes. Nevertheless, the City's preservation of extensive areas of natural habitat represents the best hope for such plants to succeed undisturbed, should they emerge here. In addition, these habitats allow

currently successful plant populations to continue to thrive, thus avoiding potential loss of additional species.

In its 2,800 acres of Community Forest Lands, including three pristine lakes and their watersheds, there are numerous wetlands, rock bluffs, old growth forests, grassy knolls, windswept hilltops, sheltered caves, and a variety of other habitats and microclimates. In addition, Washington Park, Cap Sante Park, Anacortes School District property, the Ship Harbor Interpretive Preserve, Tommy Thompson Trail, and Shannon Point Marine Center also preserve significant areas of undeveloped natural habitat within the City, including significant sections of undisturbed shoreline.

Washington Natural Heritage Information System **List of Known Occurrences of Rare Plants in Washington** **February 2009 Skagit County**		
SCIENTIFIC NAME	**COMMON NAME**	**STATE STATUS**
Anthoxanthum hirtum	Common northern sweet grass	Review
Carex comosa	Bristly sedge	Sensitive
Carex magellanica ssp irrigua	Poor sedge	Sensitive
Carex pauciflora	Few-flowered sedge	Sensitive
Carex praeceptorum	Teacher's sedge	Review
Carex stylosa	Long-styled sedge	Sensitive
Castilleja levisecta	Golden paintbrush	Endangered
Erythronium revolutum	Pink fawn lily	Sensitive
Hypericum majus	Canadian St. John's wort	Sensitive
Lobelia dortmanna	Water lobelia	Threatened
Loiseleuria procumbens	Alpine azalea	Threatened
Luzula arcuata ssp unalaschkensis	Curved woodrush	Sensitive
Montia diffusa	Branching montia	Sensitive
Potamogeton obtusifolius	Blunt-leaved pondweed	Sensitive
Ranunculus californicus	California buttercup	Threatened
Salix sessilifolia	Soft-leaved willow	Sensitive
Saxifraga rivularis	Pygmy saxifrage	Sensitive

State Status of the species is determined by the Washington Department of Fish and Wildlife. Factors considered include abundance, occurrence patterns, vulnerability, threats, existing protection, and taxonomic distinctness.

Endangered. In danger of becoming extinct or extirpated from Washington.
Threatened. Likely to become Endangered in Washington.
Sensitive. Vulnerable or declining and could become Endangered or Threatened in the state.
Review. Of potential concern but needs more field work to assign another rank.

Washington Natural Heritage Program - www.dnr.wa.gov/nhp/
Washington Dept. of Natural Resources, PO Box 47014, Olympia, WA 98504-7014

VULNERABLE BIRDS OF ANACORTES

The health of our bird populations reflects the health and trends of the environment upon which we ourselves depend. Habitat suitable for birds sustains populations of mammals,

insects, amphibians, reptiles, and many other vertebrates, invertebrates, and plants too numerous to quantify or even identify. It is the intent of designating Fish and Wildlife Conservation Areas within the City to continue to provide significant areas of habitat for these critical species, and thus for a wide range of less threatened species as well.

The species noted with an asterisk (*) are known to exist in the City of Anacortes, its surrounding saltwater areas, or adjacent parts of Fidalgo Island.

Birds of Immediate Concern. These most threatened species have low populations, have steep population declines over all or part of their ranges, or face rapid habitat loss.

Birds of High Concern. While not facing imminent threats, these species have experienced population declines or habitat losses.

Early Warning Birds. These birds are potentially at risk due to their rarity, downward population trends, limited distribution, or limited habitat on both global and regional scales. While secure today, these species face an increasingly uncertain future.

COASTAL	**FORESTS**	**WETLANDS**	**RIPARIAN**
Birds of Immediate Concern	**Birds of Immediate Concern**	**Birds of Immediate Concern**	**Birds of Immediate Concern**
Snowy Plover	Northern Goshawk*	American Bittern*	(none)
Long-billed Curlew	Marbled Murrelet*	—	—
Red Knot	Spotted Owl	**Birds of High Concern**	**Birds of High Concern**
Marbled Murrelet*	Black Swift	Western Grebe*	Lewis's Woodpecker
—	White-headed Woodpecker	Trumpeter Swan*	—
Birds of High Concern	Olive-sided Flycatcher*	Purple Martin*	**Early Warning Birds**
Western Grebe*	—	—	American White Pelican
Trumpeter Swan*	**Birds of High Concern**	**Early Warning Birds**	Harlequin Duck*
Caspian Tern*	Golden Eagle*	Clark's Grebe	Black-chinned Hummingbird
Purple Martin*	Band-tailed Pigeon*	American White Pelican	Red-naped Sapsucker
—	Flammulated Owl	Canvasback*	Willow Flycatcher*
Early Warning Birds	Lewis's Woodpecker	Redhead	Gray Catbird
Common Loon*	—	Barrow's Goldeneye*	Yellow Warbler*
Black-footed Albatross	**Early Warning Birds**	Hooded Merganser*	MacGillivray's Warbler
Pink-footed Shearwater	Harlequin Duck*	Sandhill Crane	Yellow-breasted Chat
Brown Pelican*	Barrow's Goldeneye*	Whimbrel	Lazuli Bunting*

COASTAL	FORESTS	WETLANDS	RIPARIAN
Brant's Cormorant*	Hooded Merganser*	Short-billed Dowitcher	—
Pelagic Cormorant*	Bald Eagle*	Wilson's Phalarope	—
Aleutian Canada Goose (subspecies)	Cooper's Hawk*	Black Tern	—
Brant*	Merlin*	Willow Flycatcher*	—
Harlequin Duck*	Blue Grouse		—
Barrow's Goldeneye*	Mountain Quail	—	—
Hooded Merganser*	Great Gray Owl*	—	—
Bald Eagle*	Vaux's Swift*	—	—
Merlin*	Calliope Hummingbird	—	—
Peregrine Falcon*	Rufous Hummingbird*	—	—
Black Oystercatcher*	Williamson's Sapsucker	—	—
Whimbrel	Red-naped Sapsucker	—	—
Marbled Godwit	Red-breasted Sapsucker*	—	—
Ruddy Turnstone	American Black-backed Woodpecker	—	—
Black Turnstone*	Pileated Woodpecker*	—	—
Surfbird*	Hammond's Flycatcher	—	—
Sanderling	Dusky Flycatcher	—	—
Rock Sandpiper	Pacific Slope Flycatcher*	—	—
Short-billed Dowitcher	Cassin's Vireo	—	—
Wilson's Phalarope	Slender-billed White-breasted Nuthatch (subspecies)	—	—
Heerman's Gull*	Pygmy Nuthatch	—	—
Western Gull*	Western Bluebird	—	—
Arctic Tern	Black-throated Gray Warbler*	—	—
Common Murre*	Hermit Warbler	—	—
Cassin's Auklet	Chipping Sparrow	—	—
Tufted Puffin	—	—	—

This list is based on "State of the Birds" published by Audubon Washington 2004.

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APPENDIX AB SHORELINE RESTORATION PLAN

Commented [AC81]: See separate Restoration Plan to plug in… Table 5-1 #6

AB-1. Introduction

Anacortes' Shoreline Master Program applies to activities in the shoreline jurisdiction zone. Activities that have adverse affects on the ecological functions and values of the shoreline must be mitigated. By law, the proponent of that activity is required to return the subject shoreline to a condition equivalent to the baseline level at the time the activity takes place. It is understood that some uses and developments cannot always be mitigated fully, resulting in incremental and unavoidable degradation of the baseline condition. The subsequent challenge is to improve the shoreline over time in areas where the baseline condition is degraded, severely or marginally.

WAC Section 173-26-201(2)(f) of the Shoreline Master Program Guidelines (Guidelines)[2] says:

> "master programs shall include goals and policies that provide for restoration of such impaired ecological functions. These master program provisions shall identify existing policies and programs that contribute to planned restoration goals and identify any additional policies and programs that local government will implement to achieve its goals. These master program elements regarding restoration should make real and meaningful use of established or funded nonregulatory policies and programs that contribute to restoration of ecological functions, and should appropriately consider the direct or indirect effects of other regulatory or nonregulatory programs under other local, state, and federal laws, as well as any restoration effects that may flow indirectly from shoreline development regulations and mitigation standards."

Degraded shorelines are not just a result of pre-Shoreline Master Program activities, but also of unregulated activities and exempt development. The new Guidelines also require that "[l]ocal master programs ~~shall~~must include regulations ensuring that exempt development in the aggregate will not cause a net loss of ecological functions of the shoreline." While some actions within shoreline jurisdiction are exempt from a permit, the Shoreline Master Program should clearly state that those actions are not exempt from compliance with the Shoreline Management Act or the local Shoreline Master Program. Because the shoreline environment is also affected by activities taking place outside of a specific local master program's jurisdiction (e.g., outside of city limits, outside of

[2] The Shoreline Master Program Guidelines were prepared by the Washington Department of Ecology and codified as WAC 173-26. The Guidelines translate the broad policies of the Shoreline Management Act (RCW 90.58.020) into standards for regulation of shoreline uses. See http://www.ecy.wa.gov/programs/sea/sma/guidelines/index.html for more background.

the shoreline area within the city), assembly of out-of-jurisdiction actions, programs and policies can be essential for understanding how the City fits into the larger watershed context. The latter is critical when establishing realistic goals and objectives for dynamic and highly inter-connected environments.

Restoration of shoreline areas, in relation to shoreline processes and functions, commonly refers to methods such as re-vegetation, removal of invasive species or toxic materials and removal of bulkhead structures, piers, and docks. Consistent with Ecology's definition, use of the word "restore," or any variations, in this document is not intended to encompass actions that reestablish historic conditions. Instead, it encompasses a suite of strategies that can be approximately delineated into four categories:

- Creation (of a new resource)
- Restoration (of a converted or substantially degraded resource)
- Enhancement (of an existing degraded resource)
- Protection (of an existing high-quality resource).

As directed by the Guidelines, the following discussions provide a summary of baseline shoreline conditions, list restoration goals and objectives, and discuss existing or potential programs and projects that positively impact the shoreline environment. In total, implementation of the Shoreline Master Program (with mitigation of project-related impacts) in combination with this Restoration Plan (for restoration of lost ecological functions that occurred prior to a specific project) should result in a net improvement in the City of Anacortes' shoreline environment in the long term.

In addition to meeting the requirements of the Guidelines, this Restoration Plan is also intended to support the City's or other non-governmental organizations' applications for grant funding, and to provide the interested public with contact information for the various entities working within the City to enhance the environment.

B-2. Shoreline Inventory Summary

B-2.1 Introduction

The City recently completed a comprehensive inventory and analysis of its shorelines (October 2009) as an element of its Shoreline Master Program update. The purpose of the shoreline inventory and analysis was to gain a greater understanding of the existing condition of Anacortes' shoreline environment to ensure the updated Shoreline Master Program policies and regulations are well-suited in protecting ecological processes and functions. The inventory describes existing physical and biological conditions in the shoreline zones within City

limits and includes recommendations for restoration of ecological functions where they are degraded. The *Shoreline Analysis Report for the City of Anacortes' Shorelines: Puget Sound Waters, Cranberry Lake, Heart Lake, Whistle Lake and Lake Erie* (TWC 2009) is summarized below.

B-2.2 Shoreline Boundary

As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the state plus their associated "shorelands." At a minimum, the waterbodies designated as shorelines of the state are streams whose mean annual flow is 20 cubic feet per second (cfs) or greater and lakes whose area is greater than 20 acres. Shorelands are defined as:

"those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter…Any county or city may determine that portion of a one-hundred-year-floodplain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom… Any city or county may also include in its master program land necessary for buffers for critical areas (RCW 90.58.030)"

The City's Shoreline Master Program was first adopted in 1977 and most recently amended in 2000. This SMP consists of the goals and policies in the city's Comprehensive Plan and provisions in the City's Municipal Code. Together these documents represent the City's current SMP.

The City's existing shoreline management area includes the shorelines along the Puget Sound waters of Burrows Bay, Guemes Channel, Fidalgo Bay, Padilla Bay, and freshwater lakes of Cranberry Lake, Heart Lake, Whistle Lake and Lake Erie, and their associated wetlands (Table 1). This shoreline management area has been adjusted (subject to City Council and Ecology approval) concurrent with this SMP update [for more details see the *Shoreline Inventory Report – Technical Appendix C* (TWC 2009)]. Modifications to the jurisdiction boundary, as summarized below, are based on new information regarding associated wetlands.

Table B-1. Area of shoreline jurisdiction.

Shoreline	Total Jurisdictional Area (acres)	Total Jurisdictional Area (square miles)
Puget Sound Waters (including Burrows Bay, Guemes Channel, Fidalgo Bay & Padilla Bay)	472	0.74
Cranberry Lake	49	0.08
Heart Lake	44	0.07
Whistle Lake	43	0.07
Lake Erie	5	0.01
TOTAL	**614**	**0.96**

B-2.3 Inventory

The City of Anacortes' shoreline inventory includes all land currently within the City's proposed shoreline jurisdiction [see the *Shoreline Analysis Report – Technical Appendix C* (TWC 2009)]. The total area subject to the City's updated SMP, not including aquatic area, is approximately 614 acres (0.96 square miles), and encompasses approximately 27 miles of shoreline. Table B-1 above shows the breakdown of jurisdictional area for each shoreline waterbody. The following inventory and analysis information is summarized from detailed information presented in the *Shoreline Analysis Report*. A map of the twenty-eight reaches is depicted in Figure B-1 below.

Figure B-1. Shoreline reach breaks

B-2.3.1 Land Use and Physical Conditions

The City of Anacortes is located in the far western portion of Skagit County and encompasses approximately 15.4 square miles. Unincorporated Skagit County lies to the south and east. State Route 20 Spur passes through the City from the south along the shoreline of Fidalgo Bay, traversing northward through the City, and then westward toward the terminus at the Washington State Ferry Terminal.

Summary details for impervious surface and vegetative cover are listed in Table B-2. Table B-3 provides a breakdown by reach of various zoning patterns as well as the quantity of vacant lots.

Table B-2. Impervious surface and vegetated area by shoreline reach.

Shoreline Reach	Impervious Area (acres)	Impervious %	Vegetation Area (acres)	Vegetation %
1 Burrows Bay East	1.5	17%	3.3	36%
2 Burrows Bay West	1.9	33%	1.1	19%
3 Burrows Bay Marina East	11.8	39%	3.0	10%
4 Burrows Bay Marina West	11.0	72%	1.2	8%
5 Burrows Bay Far West	1.1	13%	1.9	22%
6 Fidalgo Head South	0.4	1%	18.0	61%
7 Fidalgo Head North	0.9	6%	10.2	67%

Shoreline Reach	Impervious Area (acres)	Impervious %	Vegetation Area (acres)	Vegetation %
8 Fidalgo Residential	0.5	16%	0.9	26%
9 Shannon Point	0.4	3%	3.1	21%
10 Ship Harbor	2.4	49%	0.7	15%
11 Ship Harbor Wetland	0.0	0%	15.8	50%
12 West of Lovric's Marina	1.3	4%	26.3	91%
13 Lovric's Marina	4.8	50%	5.4	57%
14 East of Lovric's Marina	4.9	20%	12.8	53%
15 Marine Shipping	31.3	98%	0.8	2%
16 Cap Sante North	3.6	30%	5.7	48%
17 Cap Sante South	0.0	0%	12.0	89%
18 Cap Sante Boat Haven	12.0	50%	5.0	21%
19 Cap Sante Marina South	6.2	54%	0.3	2%
20 Fidalgo Bay Marinas	14.6	60%	2.1	9%
21 North Weaverling Spit	2.4	14%	10.8	64%
22 Weaverling Spit	4.3	21%	8.9	42%
23 Fidalgo Bay South	15.9	24%	28.1	42%
24 Padilla Bay	0.3	2%	17.8	98%
Subtotal	**133**	**28%**	**195**	**41%**
25 Whistle Lake	0.2	0%	41.5	96%
26 Heart Lake	4.4	10%	39.6	90%
27 Cranberry Lake	0.0	0%	37.0	75%
28 Lake Erie	0.0	0%	5.2	100%
Subtotal	**5**	**3%**	**123**	**87%**
Total	**138**	**22%**	**319**	**52%**

Table B-3. Land use zoning patterns for the city of Anacortes by shoreline reach.

Shoreline Reach	Zoning									Vacant Lots
	Type[1]	%	Type	%	Type	%	Type	%		
1 Burrows Bay East	R2	100								7
2 Burrows Bay West	R2	100								1
3 Burrows Bay Marina East	R2	100								21
4 Burrows Bay Marina West	CM	100								2
5 Burrows Bay Far West	CM	97	P	3						6
6 Fidalgo Head South	P	100								0
7 Fidalgo Head North	P	97	R2	3						0
8 Fidalgo Residential	R2	100								1
9 Shannon Point	P	78	CM	22						0
10 Ship Harbor	CM	100								0
11 Ship Harbor Wetland	CM	100								0

Shoreline Reach	Zoning								Vacant Lots
	Type[1]	%	Type	%	Type	%	Type	%	
12 West of Lovric's Marina	R2	68	CM	32					28
13 Lovric's Marina	R2	74	LM	26					3
14 East of Lovric's Marina	R2	55	R3	36	LM	9			1
15 Marine Shipping	MS	58	LM	37	CM1	5	R2	< 1	1
16 Cap Sante North	R2	100							2
17 Cap Sante South	P	100							0
18 Cap Sante Boat Haven	CM	81	P	19	C	< 1	CM1	< 1	0
19 Cap Sante Marina South	CM1	100							0
20 Fidalgo Bay Marinas	CM2	54	I	46					4
21 North Weaverling Spit	CM	87	R2	8	I	4	R3	1	8
22 Weaverling Spit	CM	94	LM1	6					0
23 Fidalgo Bay South	LM1	100							1
24 Padilla Bay	HM	100							4
25 Whistle Lake	P	100							0
26 Heart Lake	P	100							0
27 Cranberry Lake	P	100							0
28 Lake Erie	P	100							0

[1] R2: Residential Low Density 2
R3: Residential Low Density 3
CM: Commercial Marine
CM1: Commercial Marine 1
CM2: Commercial Marine 2
P: Public
LM: Light Manufacturing
LM1: Light Manufacturing 1
MS: Marine Shipping
C: Commercial
I: Industrial
HM: Heavy Manufacturing.

Besides the State Route 20 and State Route 20 Spur located at the south end of Fidalgo Bay, there are very few major arterial road sections in shoreline jurisdiction. The majority of public roadways within 200 feet of the shoreline are primarily residential or local access streets. There are also several unimproved street ends that terminate at the shoreline along Guemes Channel.

Two ferry terminals are located along Guemes Channel, providing access to the San Juan Islands and Vancouver Island via the Washington State Ferry terminal near Shannon Point and Guemes Island via the Skagit County Ferry terminal adjacent to Kiwanis Park.

There are two primary utilities with the ability to directly and indirectly impact State shorelines: wastewater and stormwater. Wastewater utilities are present within shoreline jurisdiction in the form of sewer main lines and lateral lines (*Shoreline Analysis Report – Technical Appendix D, Figure 4*). Adjacent to shorelines, these utilities clearly have potential to affect water quality in the event of line failure. Stormwater utilities also exist within shoreline jurisdiction with numerous direct discharges throughout the City to local waterbodies (*Shoreline Analysis Report – Technical Appendix D, Figure 5*).

The City provides sewer services to all areas located within the City, collecting and treating wastewater at the Wastewater Treatment Plant located near northwest side of Cap Sante Park. This plant discharges into Puget Sound after providing primary and secondary treatments.

The City operates and maintains pipes, catch basins, and detention facilities in conjunction with streams, lakes and wetlands to maintain water quality and to protect fish and other wildlife. Although much of the Public Work's jurisdiction is outside of the shoreline zone, the regulated surface waters, both natural and piped, is treated and either naturally dispersed back into the ground or discharged into Puget Sound.

The topography along the City's shorelines vary widely from shallow, low-gradient shorelines within portions of Fidalgo Bay to more steep-gradient shorelines along Guemes Channel. Shoreline modifications are anthropogenic alterations to the natural shoreline edge and nearshore environments, and primarily include a variety of armoring types like bulkheads and rock walls (some associated with fill), piers, docks, marinas, boat repair and maintenance facilities, other in-water structures such as boatlifts, boathouses, and moorage covers, culverts, weirs, and bridges. These sorts of modifications may alter shoreline functions by changing erosion, sediment, and water movement patterns, the distribution of aquatic and terrestrial vegetation, and predator-prey dynamics of fish and wildlife. An inventory of the extent and location of shoreline modifications along shorelines is important to understand baseline conditions and the potential cumulative effect of future goals, policies and regulations.

B-2.3.2 Biological Resources and Critical Areas

The City is located on Fidalgo Island and is surrounded by water bodies on three sides, including Burrows Bay, Guemes Channel and Fidalgo Bay. The City of Anacortes has a unique urban setting that includes nearly 2,800 acres of designated Community Forest Lands surrounding Cranberry, Heart, Whistle and Erie Lakes, providing broad vegetated areas which include lakes, streams and wetlands. These areas provide over 50 miles of public access trails and direct access to the shoreline waterbodies. Critical area details are taken from the *Shoreline Analysis Report – Technical Appendix D.*

The City's critical areas regulations include frequently flooded areas, aquifer recharge areas, geologically hazardous areas (erosion, landslide, seismic, mine, volcanic, and other geologic events), wetlands, fish and wildlife conservation areas, and marine shoreline vegetation. The inventory of critical areas was based on a wide range of information sources, including City GIS, critical area inventories, Washington Department of Fish and Wildlife databases, and other relevant maps and literature obtained from the Washington Department of Natural Resources (DNR), Ecology, National Marine Fisheries Service, and U.S. Fish and Wildlife Service.

Geologically hazardous areas within shoreline jurisdiction mapped by the City's GIS include unstable and steep slopes. Additionally, the Fidalgo Bay Bay-Wide Plan (City of Anacortes 2000) and 2002 Skagit County data, identify shoreline erosion areas.

The City regulates frequently flooded areas and has mapped these floodplains along the marine shorelines. Based on recent findings of the National Marine Fisheries Service, FEMA plans to work with local jurisdictions and update the National Flood Insurance Program (NFIP) throughout Puget Sound to reduce impacts on critical habitat for certain salmon species.

Based on a field reconnaissance and aerial photo interpretation conducted by the City in 2005, wetlands were mapped in eight of the twenty-eight reaches (Table B-4).

Table B-4. Extent of wetlands by shoreline reach.

Shoreline Reach	Wetland Area (ft^2)	Wetland Area as Percent of Shoreline
11 Ship Harbor Wetland	1,201,708	86%
21 North Weaverling Spit	40,608	5%
22 Weaverling Spit	9,902	1%
23 Fidalgo Bay South	122,498	4%
24 Padilla Bay	54,840	7%
25 Whistle Lake	66,350	4%
27 Cranberry Lake	542,591	25%
Total	**2,038,497**	**8%**

Streams pass through the City of Anacortes, discharging into Puget Sound. Some of the larger Puget Sound tributaries include Clyde Creek, Cranberry Creek, Beaver Creek, Ace of Hearts Creek, Happy Valley Stream, and Whistle Creek. Several other smaller tributaries also flow through shoreline jurisdiction. Stream outfalls were identified in seven of the twenty-eight reaches (Table 5).

Table B-5. Extent of stream outfalls by shoreline reach.

Shoreline Reach	Stream Outfalls
1 Burrows Bay East	1
13 Lovric's Marina	1
20 Fidalgo Bay Marinas	2
22 Weaverling Spit	1
23 Fidalgo Bay South	2

26 Heart Lake	1
27 Cranberry Lake	1
Total	**9**

WDFW mapping of Priority Habitat and Species indicates the presence of other Fish and Wildlife Habitat Conservation Areas within and adjacent to the shoreline zone (*Shoreline Analysis Report – Technical Appendix D, Figure 11*). These include historic and current bald eagle nest locations, great blue heron nest colony, wetlands, urban natural open space, harbor seal pullouts, waterfowl concentration areas, and brant concentration areas. In addition to the shoreline waterbodies themselves, significant fish and wildlife habitats in the City's shorelines include non-jurisdictional waterbodies (i.e. small lakes and streams) and wetlands.

B-3. Restoration Goals and Objectives

The restoration vision statement below establishes the overarching idea of the future restored ecosystem and provides a basis for the restoration plan framework, including goals and objectives. This statement seeks to make clear the intent of addressing restoration of impaired ecological functions and processes.

Restoration Vision*:* Degraded ecological processes and habitats of the Anacortes shoreline are to be restored so that, when combined with protection of existing resources, a net improvement to the shoreline ecosystem is obtained to benefit native fish and wildlife and the people of Anacortes. Restoration occurs over time through a combination of public and private ventures and leverages opportunities presented by shoreline development in a way that enhances the environment and is compatible with planned shoreline uses.

Goals for restoring the Anacortes shoreline are derived from analysis of watershed function, water quality, habitat and other ecological studies. General goals are as follows:

Goal 1 – To improve water, seabed and sediment quality;

Goal 2 – To restore degraded and lost habitat and corridors;

Goal 3 – To improve connectivity of the shoreline environments in terms of both space and time; and

Goal 4 – To balance the protection and enhancement of shoreline ecological functions with the desire of the community to preserve and improve public access and passive recreation opportunities in this unique environment.

These goals provide direction and guidance for the plan's objectives. Objectives refer to specific actions, ideally measurable, that can be taken to achieve the

stated goals. For example, to meet the goal of improving water quality, an objective would be to remove creosote pilings. By translating the restoration goals into objectives, the objectives for the Anacortes restoration plan are:

Protect and restore native vegetation

Protect and restore wetlands, salt marsh, and nearshore habitat

Remove intertidal fill/restore beach deposits and processes

Manage and treat stormwater and wastewater properly

Work towards removal/replacement of creosote pilings and timbers with non-toxic alternatives.

These objectives assist with defining actions or projects to restore the natural processes and ecological functions identified as not properly functioning. Opportunities and strategies are then identified as means of implementing the objectives. At this level, no specific performance standards are applied to goals. For example, one overall goal is to improve water quality to meet the vision of a restored ecosystem, not to improve it by a particular measure. Individual restoration projects that may be implemented as part of this plan will generally identify specific measurable goals.

Ultimately, most restoration priorities will be in some part opportunistic based on site access, available funding, and feasibility. Of the restoration opportunities identifed in this report, stormwater system improvements to address untreated stormwater outfalls may be the most readily feasible for the City due to public control of the system and the need to also address clean water planning requirements to meet EPA standards.

Table B-6 shows the relationship of the goals, objectives, natural processes and ecological functions. The first column lists the goals, the second column shows the objectives associated with those goals and the third column shows the natural process and ecological function that will be enhanced by completing the objectives. Objectives are found under multiple goals affecting different natural processes and ecological functions. Potential metrics for monitoring each objective are listed in the right hand column.

Table B-6. Restoration goals and objectives addressing natural processes in the City of Anacortes.

Restoration goal	Objective(s)	Natural process(es) *Ecological function(s) addressed*	Potential metrics
Improve water quality	Remove/replace unused creosote pilings; remove creosote beach logs	**Sediment Transport** *Toxic Compound Removal* *Vegetation support*	Number of creosote pilings Water quality measurements
	Protect and restore wetlands and salt marsh habitat	**Hydrologic processes, sediment/nutrient transport** *Water storage* *Sediment storage* *Toxic compound removal* *Nutrient removal*	Wetland acreage Wetland functions Wetland ratings Water quality measurements
	Manage and treat stormwater and wastewater properly	**Hydrologic processes, sediment/nutrient transport** *Water Storage* *Sediment Storage* *Toxic Compound Removal* *Nutrient Removal*	Water quality measurements Storm flows
	Protect and restore native vegetation	**Hydrologic processes, nutrient transport** *Water storage* *Sediment storage* *Toxic compound removal*	% impervious surface in basin Acreage of vegetation Water quality measurements
	Remove intertidal fill	**Sediment transport** *Water storage* *Sediment storage* *Nutrient removal*	Acreage of vegetation Species diversity Species composition Connectivity/fragmentation Extent of tree canopy Acreage or number of restored/remaining impaired areas

Restoration goal	Objective(s)	Natural process(es) *Ecological function(s) addressed*	Potential metrics
Restore degraded and lost habitat and corridors	Protect and restore native habitat	**Sediment/nutrient transport, habitat function** *Vegetation enhancement* *Woody debris recruitment* *Organic material* *Rearing habitat* *Resting habitat* *Predation avoidance habitat* *Migration corridors* *Food production and delivery*	Acreage of vegetation Degree of diversity Species supported Connectivity/areas of isolation Extent of tree canopy
	Protect and restore wetlands salt marsh habitat, and estuarine and lagoon functions	**Hydrologic processes, sediment/nutrient transport, habitat function** *Support vegetation* *Organic material availability* *Rearing habitat* *Resting habitat* *Predation avoidance* *Habitat migration corridors* *Food production* *Food delivery*	Wetland acreage Wetland functions Wetland ratings
	Protect naturally eroding bluffs, and spits and accretion land forms	**Sediment transport, habitat function** *Support vegetation* *Wood debris recruitment* *Recruitment* *Organic material* *Availability* *Beach habitat* *Predation avoidance* *Habitat* *Migration corridors*	Acreage of vegetation in bluff areas Linear feet of bulkhead
	Remove intertidal fill/restore beach deposits and processes	**Sediment/nutrient transport, habitat function** *Support vegetation* *Woody debris recruitment* *Organic material availability* *Rearing habitat* *Resting habitat* *Predation avoidance* *Habitat migration corridors* *Food production anddelivery*	Acreage or number of restored/remaining impaired areas Linear feet of bulkhead
	Manage and treat stormwater and wastewater properly	**Hydrologic processes, sediment/nutrient transport** *Water storage* *Sediment storage* *Toxic compound removal* *Nutrient removal*	Water quality measurements Storm flows

Restoration goal	Objective(s)	Natural process(es) *Ecological function(s) addressed*	Potential metrics
Improve connectivity of the shoreline environments in terms of both space and time	Protect and restore native vegetation	**Hydrologic processes, sediment/nutrient transport, habitat function** *Support vegetation* *Woody debris recruitment* *Organic material availability* *Beach habitat* *Predation avoidance habitat* *Migration corridors* *Food production and delivery*	Acreage of vegetation Connectivity/areas of isolation Extent of tree canopy Linear feet of bulkhead
	Protect and restore wetlands, salt marsh habitat and estuarine and lagoon functions	**Hydrologic processes, sediment/nutrient transport, habitat function** *Support vegetation* *Woody debris recruitment* *Organic material availability* *Rearing habitat* *Resting habitat* *Predation avoidance habitat* *Migration corridors* *Food production and delivery*	Wetland acreage Wetland functions Wetland ratings Connectivity/fragmentation
	Remove intertidal fill/ restore beach deposits and processes	**Hydrologic processes, sediment/nutrient transport, habitat function** *Support vegetation* *Woody debris recruitment* *Organic material availability* *Rearing habitat* *Resting habitat* *Predation avoidance habitat* *Migration corridors* *Food production and delivery*	Acreage of restored/remaining impaired areas Shoreline connectivity/fragmentation
	Protect naturally eroding bluffs, sand spits and accretion land forms	**Sediment transport, habitat function** *Support vegetation* *Woody debris recruitment* *Organic material availability* *Beach habitat* *Predation avoidance* *Habitat migration corridors*	Acreage of vegetation in bluff areas Linear feet of bulkhead

B-4. Existing and Ongoing Projects and Programs

The following series of existing projects and programs include federal and State agency-led projects, City projects and programs, and non-profit organizations that are also active in the City of Anacortes area.

B-4.1 City of Anacortes Plans and Projects

B-4.1.1 Park and Recreation Plan

The City's *Anacortes Comprehensive Park and Recreation Plan* (2009a) contains several park management goals and policies applicable to shoreline parks:

Goal 7: Design, construct and manage parks facilities and programs with sensitivity to the protection and restoration of environmental resources and natural habitats.

Policies:

- Ensure that all park projects comply with the City's Critical Areas, Tree Preservation and Shoreline regulations.
- Promote stewardship of native habitat for wildlife and native vegetation where the choice contributes to habitat value in parks or areas of parks with natural lands, especially for sensitive habitats and habitats that are in decline.
- Maintain or improve the functional integrity of water-courses, wetlands, bodies of water and their shores by keeping them in their existing natural condition where appropriate or restoring them as appropriate.
- Continue to reduce the use of chemical fertilizers, pesticides and herbicides and to test the use of less toxic alternatives, particularly in areas immediately adjacent to waterways and wetlands.
- Continue program to remove non-native invasive plant species from parks, the ACFL and city green spaces.
- For storm water discharge from Anacortes Parks, provide treatment that effectively reduces or eliminates trash, oil, toxicants and fecal bacteria being discharged to marine water of Puget Sound when appropriate.

B-4.1.2 Forest Lands Management Plan

More specific management goals, policies, and recommendations have been established in the *Anacortes Community Forest Lands Comprehensive Plan 2009* (City of Anacortes 2009b) for shoreline lakes in the boundaries of the Anacortes Community Forest Lands (ACFL).

Goals:

Identify areas of environmental, educational, historic, cultural and/or biological significance, encourage their preservation, and regulate development which could cause significant deterioration of these qualities.

The City's parks and forest lands (ACFL) should be managed with the principal goals of maintaining and enhancing habitat, conservation, and recreational values.

Policies:

Whistle Lake, Heart Lake and Little Cranberry Lake watersheds should be managed to maintain their pristine and/or fragile environment and to preserve

watersheds, wildlife habitats, wetlands, aesthetic values, and recreational uses with priority for residents.

The City of Anacortes will continue to support the Conservation Easement Program until all eligible acres have conservation easements.

B-4.1.3 City of Anacortes Capital Facilities Plan

The Capital Facilities Plan, prepared by the City of Anacortes Finance Department, lists a number of projects with restoration and other environmental components. All of the projects in Table B-7 are slated for implementation within the period of 2009 to 2014.

Table B-7. Projects with environmental restoration components to be implemented per the City of Anacortes Capital Facilities Plan.

Project/Location	Environmental component(s)	Implementation status
Ship Harbor wetland interpretive trail	An interpretive trail through the Ship Harbor wetlands will provide educational opportunities and access to wetlands. The trail will be environmentally sensitive.	Pending
Depot area improvements	Landscaping will be improved in conjunction with an expanded plaza area; wetlands and a madrone grove will be preserved and/or enhanced.	Pending
H Avenue Park stream restoration	Stream restoration in the park will include wetland enhancement, an interpretive trail, and native plantings.	Planning stages
Waterfront Trail (Guemes Channel Trail)	A 12-foot-wide waterfront trail will be constructed along the old railroad bed from Washington Park to the existing Thompson Trail, excluding the area in and around the Ship Harbor wetland. The trail will provide access to wetlands and the shoreline.	Planning stages
Clyde Creek water quality enhancement	Existing stormwater discharges to Clyde Creek will be evaluated to identify opportunities for water quality improvement. Possibilities include replacing catch basins with mechanical water quality devices and constructing bioswales. Habitat value of the creek will increase and water quality will improve.	Funding/permits not yet secured
Cap Sante sewer extension	A project providing gravity sewer collection to nine homes on Cap Sante will replace old systems; new systems will prevent leaching of incompletely treated wastewater to Fidalgo Bay.	Planning stages
Shannon Point Road signage and fence	Environmental signage and fencing will limit dumping in the wetland and access from surrounding areas and improve habitat function.	Planning stages

B-4.2 Washington State Department of Natural Resources Aquatic Resources Program

The Fidalgo Bay Aquatic Reserve was established in 2000 (confirmed in 2003) to conserve and enhance sensitive habitats and species of the bay. The Aquatic Reserves Program of the Department of Natural Resources (DNR) completed the Fidalgo Bay Environmental Aquatic Reserve Management Plan in April 2008 (DNR 2008) to guide the DNR in decision-making and planning for the reserve's 90-year term. The plan describes management actions to be taken to achieve desired ecological conditions, and identifies protection, enhancement and restoration opportunities.

Management actions fall into four main categories: resource protection, enhancement and restoration; monitoring and research; allowable public uses; and prohibited uses. The first action is to continue classifying and mapping the ecosystem to aid in identifying management opportunities. When opportunities are recognized, protection efforts may include placing important habitat into conservation easements and acquiring tidelands and shoreline property through gifts. If enhancement is needed to prevent further degradation of processes or habitats, such effort will be employed and may include adding sediment sources to sediment-deficient beaches and augmenting oyster populations.

A number of general restoration opportunities and specific restoration projects are presented in the plan. Most are cooperative efforts with other agencies, local governments, tribes, and private businesses and landowners. Restoration projects and management recommendations are shown in Table B-8.

Table B-8. Restoration projects and management recommendations from the Fidalgo Bay Environmental Aquatic Reserve Management Plan.

Project Type	Project/Program	Description	Status/Funding
Shoreline restoration	March's Point shoreline restoration and pocket estuary enhancement	Cooperative effort between the DNR and Swinomish tribe. Removal of shoreline armoring and restoration of pocket estuaries to restore natural shoreline processes.	The Texaco Restoration Fund was presented a proposal for the project in 2007
Feasibility study	Rail trestle at Weaverling Spit feasibility study	Samish Tribe is looking at the feasibility of reducing the trestle and causeway impacts in order to restore more natural tidal flow to the south bay, leaving the Thompson Trail intact.	Ecology is funding the Tribe through the Puget Sound Initiative
Water quality	Fidalgo Bay watershed assessment	Cooperative effort between the DNR and Samish tribe to conduct a watershed assessment to identify and address water quality issues in the Fidalgo Bay Aquatic Reserve.	Partially funded by Ecology through a Direct Implementation Fund grant to DNR
Structure removal	Removal of derelict treated structures	General effort to remove unused and creosote-treated structures from the Reserve.	Led by DNR
Sediment quality	Sediment cleanup in Fidalgo Bay Aquatic Reserve and the City of Anacortes	Joint effort by the DNR and Ecology to clean up contaminated sediments at several sites in the Reserve and further north in Anacortes.	Funded by Ecology through the Puget Sound Initiative
Restoration and Education	Oyster restoration, shoreline restoration, and education in and near Fidalgo Bay Aquatic Reserve	Efforts include projects to restore native Olympia oysters, restoration of shoreline processes on east March's Point, and environmental education in and adjacent to the Reserve.	Led by the Skagit County MRC

The monitoring and research component of the Fidalgo Bay Environmental Aquatic Reserve Management Plan includes data gap analysis, baseline monitoring, trend monitoring, and research (Table B-9). The plan also achieves management and restoration goals through specific allowed and prohibited uses in the Fidalgo Bay Aquatic Area.

Table B-9. Findings and recommendations for monitoring and research outlined in the

Phase	Findings and recommendations to guide management			
	Gaps in knowledge			
Data gap analysis	Great blue heron population status and changes	Eelgrass distribution status	Use by federally listed salmon species	Sediment quality characteristics
	Proposed monitoring projects based on gap analyses			
Baseline monitoring	Great blue heron distribution population and status	Current eelgrass population distribution and status	Collection of comprehensive sediment quality data	Modeling effects of climate change on water quality and sea level rise
	Current and future trend analyses			
Trend monitoring	Nearshore vegetation monitoring	WDFW, DNR, Samish tribe, Swinomish tribe foraging fish spawning surveys	Samish tribe water quality monitoring	Sediment quality monitoring
	Potential research opportunities to be pursued			
Research	Effects of beach sediment nourishment on forage fish spawning habitat	Effects of shade vegetation augmentation on forage fish spawning success	Determining socioeconomic incentives for private restoration, enhancement, and preservation	Determining use of nearshore habitat by Federally listed salmonids

B-4.3 Fidalgo Bay Planning Committee and Technical Committee

The City of Anacortes formed the Fidalgo Bay Planning Committee in the mid-1990s to direct development of a bay-wide plan, using the City of Anacortes Comprehensive Plan and Shoreline Master Program (updated September 29, 1999) for further guidance in plan development. The resulting Draft Fidalgo Bay-Wide Plan/Environmental Impact Statement (and subsequent Final EIS dated September 1999) addresses the nearshore area between Shannon Point and March Point. Subsequent review revealed that the Plan/EIS would benefit from additional analyses, goals and objectives, investigation and prioritization of restoration and enhancement opportunities, and a mitigation framework. In response, a Technical Committee formed and completed the Plan for Habitat Protection, Restoration, and Enhancement: Fidalgo Bay and Guemes Channel (Antrim et al. 2005), the scope of which included addressing these issues in marine and shoreline habitat.

Analysis of the study area looked at historic and current conditions, including shoreline and offshore processes; shoreline modification; water quality; intertidal

and subtidal vegetation; invasive and non-native species; and invertebrates, fish and wildlife habitat. The study allowed the identification of a number of specific restoration and enhancement opportunities, which were ranked by the Technical Committee (Table B-10). Current land use and ownership were not considered in the identification of opportunities, and abandonment of existing federally authorized navigation channels within the bay was not considered a realistic option.

Table B-10. Restoration projects and their priority status from the Plan for Habitat Protection, Restoration, and Enhancement: Fidalgo Bay and Guemes Channel.

Priority	Project/Program	Description
High	Railroad trestle and Thompson Trail Causeway improvements at Weaverling Spit	Approximately 1,500-foot causeway beneath trestle constricts water exchange to south Fidalgo Bay. Berm could be reduced in area or breaks installed. Exposed creosote-treated wood leaches into the bay. Obsolete pilings could be removed; treated wood pilings could be replaced with pilings constructed of non-contaminating materials; retrofitting should be explored to determine if eelgrass habitat could reestablish. Possibly purchase headland for public ownership.
High	Weaverling Spit North/Stockwell Beach protection	Acquisition or protection of 0.5 miles of high-quality upper-intertidal sand-gravel beach. Used year-round by spawning smelt. Log raft remains on beach could be removed.
High	Custom Plywood Mill	Remove deteriorated pier and industrial debris from beach. Remove fill (possibly slag burner waste fragments) from upper beach potential superfund site that could extend to sub/intertidal areas. Remove wood debris from subtidal habitat.
High	Trident Seafoods	Replace deteriorating pier with a modified structure that improves conditions for eelgrass, including minimizing shading from overhead cover.
Moderate	Seafarer's Memorial Park/Scott Paper Mill	Remove wood and brick debris from intertidal zone; replace riprap that has migrated downbeach with more stable material; enhance surf smelt habitat by restoring marine riparian vegetation.
Moderate	Cap Sante Marina	Replace treated wood ring wall with concrete or other non-contaminating material as part of current ongoing improvements.
Moderate	SW Shore of Fidalgo Bay (2), old mill site	Remove berm to open a small mill pond and restore the natural shoreline.
Moderate	Nearshore fill between 27th and 30th Streets	Excavate nearshore fill from the 1970s from approximately 15 acres to restore intertidal habitat.

Priority	Project/Program	Description
Moderate	Dike relocation at SE corner of South Fidalgo Bay	Increase marsh and mudflat habitat by relocating dike at corner of March's Point Road and State Highway 20 closer to intersection.
Moderate	Rock quarry at Sharpe's Corner	Wooded headland could be purchased for wildlife habitat and public ownership.
Moderate	Curtis Beach	Remove fill at shore west of Port of Anacortes Office Building and Pier 1.
Moderate	Guemes ferry terminal	Replace treated wood pilings with concrete or other non-contaminating material.
Moderate	Lovric's Boatyard	The shoreline has been extensively modified with a riprap dike and docks, boat ramps, and nearshore fill. Could remove modified shoreline features, replace treated wood pilings with concrete or other non-contaminating material, and investigate contamination issues associated with boat-building and maintenance activities.
Moderate	Bay-wide *Spartina* protection	Expansive mudflats should be protected from *Spartina* invasion.
Low	Anchor Cove Marina	Replace treated wood pilings with concrete or other non-contaminating material.
Low	Dakota Shipyards	Preserve or mitigate for small eelgrass bed between two areas of nearshore fill.
Low	SW shore of Fidalgo Bay (1)	Remove or reposition shoreline armoring, which may be impacting sediment supply to Weaverling Spit, to minimize intertidal habitat impacts
Low	Curtis Beach, North end of N Avenue	Clean up sources of oil seep and contaminated sediment on beach.

B-4.4 Skagit County Marine Resources Committee (MRC)

B-4.4.1 The Northern Skagit County Bays and Shoreline Habitat Conservation and Restoration Blueprint 2005 Update

The Skagit County MRC, established by County Resolution #17433 in May 1999, is one of seven MRCs formed to discuss, study and take action on marine resource related issues in Northern Puget Sound. The Northwest Straits Commission (NWSC) is the regional group that supports all seven of the MRCs through grants, coordination with appropriate governmental agencies, and training on marine resource issues. The NWSC has bonding from the National Oceanic Atmospheric Administration of the US Department of Commerce. Washington State Senator Patty Murray and Congressman Jack Metcalf helped form the NWSC when they convened the Northwest Straits Citizens' Advisory Commission in 1997, in response to declining marine life and habitat in the Straits of Juan De Fuca and Northern Puget Sound. In 1998, the Northwest Straits Marine Conservation Initiative was authorized by Congress.

Skagit MRC members come from the community and include scientists and interested citizens, combined with representatives from sport and commercial fisheries, tribes, divers, marine industry, oil companies, the Port of Anacortes, the City of Anacortes, and environmentalists, all of whom have accepted volunteer appointments form the Board of Skagit County Commissioners. The purpose of the Skagit MRC is to discuss marine related issues and determine action items to enhance and protect local marine habitat.

MRC and People for Puget Sound (PPS) worked in cooperation to produce the Northern Skagit County Bays and Shoreline Habitat Conservation and Restoration Blueprint 2005 Update: A Plan to Restore and Protect the Habitats and Heritage of the Northern Bays of Puget Sound (PSP 2006). The partnership worked in four phases to gather information and utilize Geographic Information System (GIS) analyses to identify and prioritize restoration actions: 1) gather existing data on nearshore and marine habitat conditions; 2) inventory nearshore habitat using oblique shoreline photographs; 3) evaluate habitat based on ability to support forage fish, juvenile salmonid and shorebird use of nearshore habitat, aquatic vegetation, and sediment supply to nearshore habitat and prioritize restoration and conservation areas; and 4) apply social, political and economic feasibility criteria to potential restoration and conservation projects. Twenty-four potential projects on 21 sites rank as high priority in the analysis. Of these, eight are located in Anacortes shoreline jurisdiction (Table B-11).

Table B-11. Restoration projects and their ecological function rankings from the Northern Skagit

County Bays and Shoreline Habitat Conservation and Restoration Blueprint 2005.

Project/Location	Description	Ranking
Guemes Channel/East Ship Harbor conservation	Conservation easement recommended for shorebird, forage fish, juvenile salmon, and sediment supply conservation functions.	Top and second tier
Cap Sante structure removal	Remove unused pilings and overwater structure in former marina site; employ ecologically sensitive redevelopment	Top and median tier
Custom Plywood Mill site clean-up	Extensive clean-up tied to site redevelopment should include removal of creosote and other contaminants, removal of sunken tugboat, and ecologically sensitive site redevelopment	Top tier
34th Street to Weaverling Spit lagoon restoration	Recommendation is to negotiate an ecologically friendly option with the landowner to remove or redesign shoreline armoring to make lagoon navigable.	Lowest tier
Thompson Trail vegetation restoration and management	Recommends planting supplemental vegetation along the trail; plant vegetation on shore side of proposed trail on top of armoring; prune existing vegetation in environmentally sensitive manner; encourage City to leave fallen armor rocks in place and keep paving away from edge of armor.	Lowest tier
Weaverling Spit railroad trestle removal or redesign	Remove railroad trestle or unneeded creosote pilings, or redesign causeway to a more overwater structure to increase flow to south end of Bay.	Top tier
SE side of March's Point conservation easement	Conservation easement recommended to protect forage fish and shorebird habitat (top-ranking function) and juvenile salmon (second-tier-ranking function)	Top and second tier

B-4.4.2 March Point Rapid Shoreline Inventory

PPS (2001) prepared this inventory for MRC as a means of helping citizens and agencies make informed decisions regarding conservation and restoration of shoreline habitat. The inventory was conducted largely by volunteers, including high school students, who received at least 10 hours of training prior to surveying the March Point shoreline. A number of the resulting restoration recommedations are specific to Anacortes shoreline jurisdiciton, while some more general results can apply to Fidalgo and Padilla Bays in general (Table B-12).

Table B-12. Recommendations resulting from PPS citizen science March Point Rapid Shoreline Inventory.

Project/Location	Description
Forage fish spawning habitat surveys	Approximately 1.4 miles of shoreline documented by WDFW as surf smelt spawning habitat did not appear to contain appropriate substrate in the upper intertidal zone. Recommendations are to further investigate historic spawning sites, identify methods of recreating historic habitat, and prevent further degradation of existing habitat.
Upland invasive species control	Scot's broom and other invasive species were detected on the peninsula. Recommendation is to remove invasive species, prioritizing Scot's broom, and replant with native species.
Intertidal invasive species	Recommends removal of *Spartina* where it was detected in along the SE shoreline of March Point.
Intertidal structures	The possibility of removal of failing intertidal structures in the March Point Road area should be explored.
Freshwater outfalls	Recommends further investigation of shoreline outfall characteristics that may affect the nearshore and offshore water. These include erosion, discolored water, darkened sediment, odors, oil slicks, debris and trash, and excessive algae growth.

B-4.4.3 Five Year Strategic Plan

The MRC Five Year Strategic Plan, dated 9 October 2008, was completed in pursuit of the goals of restoring the health of Skagit County marine waters, habitat and shorelines to sustainable conditions; collecting and promoting the use of high quality data; and promoting stewardship of County marine resources through education and outreach (Skagit County MRC 2008). Progress toward these goals is being achieved through projects that include landowner workshops, promoting Marine Protected Areas, partnerships with the Skagit Land Trust, regional projects (drift cell mapping, estuary restoration, creosite removal, oyster restoration and monitoring, water quality testing, *Spartina* control, and many others , including the projects listed in the preceeding two sections of this report), and public outreach such as members participating in policy comment opportunities.

B-4.5 Port of Anacortes

A number of the Port's projects involve mitigation actions to protect public resources, including the environment. The Port's strategy, outlined in the Port of

Anacortes Comprehensive Plan 2008 update (Makers Architecture and Urban Design 2008), is to proactively secure grant funding to protect and enhance natural resources. The Port addresses environmental concerns by incorporating sustainable building practices and site treatment where appropriate, mitigating in advance for projects potentially impacting natural resources, and considering obtaining property for mitigation purposes in some situations. Ongoing and potential future projects are described in Table B-13.

Table B-13. Port of Anacortes projects involving restoration or other environmental components.

Project	Environmental/restoration component(s)
Cap Sante Boat Haven redevelopment	The Port is actively working to complete this project which includes environmental clean-up, shoreline restoration, installation of a wave-break and reef habitat to provide long-term beach stability. Planned clean-up includes removing wood debris and sediment from Fidalgo bay, including an existing timber breakwater.
Scott Paper Mill environmental clean-up project	The Port is working in partnership with Ecology and Kimberly Clark, former owners of the site. Further opportunity to restore the area as part of the clean-up is along the shoreline, where revegetation would enhance low shoreline ecological function.
Custom Plywood/Fidalgo Marinas	Redevelopment of the former mill site may involve mitigation; site is in private ownership.
Padilla Bay former mill site	Also in private ownership, the site's redevelopment will likely require mitigation for environmental impacts.
Guemes Channel: Curtis Wharf improvements	An opportunity for environmental clean-up and creation of a buffer for industrial uses exists if the Port acquires two blocks of property between N Avenue and Commercial Avenue and between 2nd Street and 3rd Street. The Port is actively working on restoration at O Avenue. A macroalgae/kelp mitigation plan was implemented to mitigate for the impacts of dredging. Although dredging is not yet planned, a subtidal rock reef mound was constructed in February 2001 to provide habitat for kelp and algae.
Guemes Channel: Pier 1 replacement	There is an opportunity to replace the wood piling and deck with non-contaminating materials during comprehensive repairs. Recommended actions would remove creosote pilings and contaminated sediment and soils in the ship basin and adjoining uplands.
Fidalgo Bay Eelgrass advanced mitigation	The Port was awarded a $400,000 grant in 2005 from Skagit County's Distressed County Public Facilities Fund. This grant was awarded for Phase 1 of Project Pier 1, which involves construction of an advance eelgrass mitigation site in Fidalgo Bay. The Port will construct a 6-acre eelgrass habitat site in an otherwise un-vegetated portion of Fidalgo Bay that is currently too deep to support eelgrass, but with clean fill, will be suitable for eelgrass

Project	Environmental/restoration component(s)
	establishment. The mitigation will offset the loss of existing eelgrass that will result from dredging and construction during shipyard redevelopment.
Ship Harbor land use improvements	Plans include creating an environmental reserve within the Ship Harbor wetlands and possibly building a boardwalk system and interpretive center. Ongoing improvements to the wetlands are expected to be part of future plans.

B-4.6 Skagit River System Cooperative

The primary objective of the Skagit River System Cooperative (SRSC) is to restore Skagit River Chinook Salmon. In 2006, the group undertook an effort to assess restoration potential along the March Point/Fidalgo Bay shoreline, with particular attention to landscape and process considerations (McBride et al. 2006). The June 2006 report entitled *March Point and Fidalgo Bay Nearshore Habitat Restoration Vision* collated new information and existing restoration project ranking attempts to produce a landscape-based plan for nearshore habitat restoration. Potential restoration projects particular to the Anacortes shoreline are shown in Table B-14.

Table B-14. Restoration recommendations from the 2006 SRSC Nearshore Habitat Restoration Vision report.

Location	Ecological process(es) disrupted	Restoration project recommendation
Whitmarsh tidal channel estuary	Diking has isolated the marsh from tidal influence; land uses may have re-routed freshwater inputs to the marsh	Remove or breach the dike or replace the tide gate. Plant a riparian buffer at upland edge to lessen water quality impacts from cattle grazing adjacent to the marsh.
Cap Sante Boat Haven to Weaverling Spit	Scouring along the sediment source beaches has eliminated forage fish spawning areas; armoring has altered the shoreline shape and created a new area of sediment accumulation.	[see below: Weaverling Lagoon recommendations]
Weaverling Lagoon	An historic marsh was diked and filled when the railroad trestle was built. Freshwater sources are now ditched and piped to the beach outside the spit. Remnant marsh remains.	Remove all or part of the railroad fill to restore emergent marsh, reconnect the remnant marsh to tidal exchange, and possibly restore eelgrass habitat in the fill footprint and lagoon. Also remove failing riprap along the W side of the lagoon and restore the beach and marsh.

Location	Ecological process(es) disrupted	Restoration project recommendation
Summit Park Estuary	Most of historic marsh was filled; freshwater inputs have been altered by land uses cut off by Hwy 20 fill; possible sediment and water contamination issues.	Restore tidal connection and freshwater input to marsh fragments; restore tidal and wave process behind railroad trestle. Investigate and address sedimentation and water contamination.
Sharpe's Corner estuary	Most of historic tidal channel estuary is flooded; remnants connect to Bay via culverts through a dike. Freshwater inputs have been intercepted and culverted. Possible sediment and water contamination issues.	Enlarge the connections to Fidalgo Bay to improve tidal processes and fish access; restore freshwater into estuary. Investigate and address sedimentation and water contamination.

B-4.7 Skagit River System Cooperative (SRSC) / Washington Department of Fish and Wildlife (WDFW)

Through funding by the Skagit Watershed Council and the Salmon Recovery Board, as lead entity for WRIAs 3 and 4, SRSC and WDFW developed the Skagit Chinook Recovery Plan (SRSC and WDFW 2005). The plan is intended to provide a detailed strategy by which Skagit River chinook populations can be restored to the point where they meet established recovery goals. The plan includes includes both a means by which to evaluate potential protection actions in relation to recovery goal and specific recommendations.

The plan targets pocket estuaries for restoration. While none are located within Anacortes shoreline jurisdiction, the general goals presented in the Recovery Plan are relevant to the Anacortes shoreline within and Fildalgo Bay and Padilla Bay, and progress toward these goals would be achieved with implementation of both the plan's restoration projects and those described in other sections of this Shoreline Restoration Plan. Goals of the Skagit Chinook Recovery Plan include the following:

- protecting emergent marshes and impoundments;
- protecting and restoring tidal connectivity;
- preserving unarmored (and restore armored) sediment source beaches that create and maintain the spits that form pocket estuaries;
- restoring lost pocket estuaries and their freshwater inputs; protecting and restoring spits and cusps that form pocket estuaries;

- removing impediments to sediment transport;
- protecting and restoring forage fish habitats;
- protecting juvenile salmon in boat harbors and other modified shorelines; and
- planning for predicted rising sea levels in all nearshore projects.

Key to Skagit River chinook recovery, as evidenced in the Recovery Plan, is restoration of tidal delta habitat along the Swinomish Channel and in lower Padilla Bay to enhance connectivity and nearshore habitat. The entire shoreline regulated area of Anacortes located within Padilla Bay is also completely within the recommended restoration area of the Swinomish Channel and lower Padilla Bay. An ongoing project in the area is the Fornsby Creek SRT (self-regulating tidegate) project. Implemented in 2005 and now in Phase 2, this restoration project will excavate channels and improve floodplain conditions on Swinomish tribal lands to increase estuarine marsh habitat for salmonids, improve passage at tide gates, and enhance riparian development.

B-5. Involvement of Other Agencies and Entities

B-5.1 Water Resource Inventory Area (WRIA) 3 Participation

The WRIAs 3 and 4 Technical Advisory Group for Habitat Limiting Factors consolidated existing data to detemine habitat limiting factors for salmon and steelhead in the Sakgit and Samish basins (see also Section B-4.5). Recommendations generated by the work are broad and address ecological processes at the watershed level in most cases, with some mention of restoration opportuntities in the WRIAs applicable to the Anacortes Shoreline (Smith and Waldo, date unknown) (Table B-15).

Table B-15. Restoration recommendations for addressing salmon and steelhead habitat limiting factors in WRIAs 3 and 4.

Habitat or habitat component	Recommendation
Water quality	Address riparian, sedimentation, flow, and wetland loss conditions throughout the Skagit basin; assess inputs from agriculture, urban, and forestry land uses.
	Apply stormwater quality and quantity controls to existing impervious infrastructure.

Habitat or habitat component	Recommendation
	Restrict hydromodification and other development in floodplains.
	Encourage low-impact development techniques for new construction.
	Reduce industrial and urban pollution inputs.
Streambed or sediment	Decommission roads that are at high risk of delivering sediment to streams. Roads should be selected after a risk assessment is conducted.
	Improve large woody debris transport from dams and around bridges.
	Pursue funding for road restoration needs beyond regulatory requirements
	Decrease sedimentation impacts, such as reduced gravel recruitment and increased scour, to salmonids from diking.
	Prioritize and conduct assessments on stream stability on habitat components in order to rank potential restoration projects.
Estuarine and nearshore	Reconnect and restore potentially functional estuarine habitat associated with the Skagit Basin.
	Restore tidal influence to relic channels.
	Set back dikes to reconnect salt marsh areas and sloughs.
	Restore freshwater inputs to relic sloughs.
	Reconnects and restore potentially functional slough habitat to restore tidal influence.
	Protect and restore pocket estuaries.
	Address salmonid access to Padilla Bay.
	Control *Spartina* throughout WRIA 3.
	Protect existing forage fish habitat.
	Minimize additional shoreline modifications.
	Encourage improved shoreline riparian vegetation.

B-5.2 Puget Sound Partnership

The Puget Sound Partnership consists of representatives from a variety of interests from the Puget Sound region including business, agriculture, the shellfish industry, environmental organizations, local governments, tribal governments, and the Washington state legislature. Some of the Partnership's key tasks are as follows:

- Develop a set of recommendations for the Governor, the Legislature and Congress to preserve the health of Puget Sound by 2020 and ensure that marine and freshwaters support healthy populations of native species as

well as water quality and quantity to support both human needs and ecosystem functions.

- Engage citizens, watershed groups, local governments, tribes, state and federal agencies, businesses and the environmental community in the development of recommendations.

- Review current and potential funding sources for protection and restoration of the ecosystem and, where possible, make recommendations for the priority of expenditures to achieve the desired 2020 outcomes.

The Partnership through the Leadership Council released an Action Agenda in December 2008. Implementation of this Action Agenda has resulted in State and Federal funding of restoration and protection initiatives and projects. This includes integrating the work of the Puget Sound Nearshore Restoration Project to increase focus on completing work necessary to request Puget Sound restoration funds under the Water Resources Development Act slated for 2012.

B-5.3 Skagit Conservation District

The Skagit Conservation District (SCD) is composed of local farmers, landowners, and concerned citizens and is dedicated to maintaining Skagit County's renewable natural resources. The SCD's priorities and goals include:

- Protection and improvement of surface and groundwater quality
- Watershed planning and implementation
- Riparian restoration and enhancement
- Forest stewardship
- Wildlife habitat enhancement
- Conservation education
- Protection and preservation of prime agricultural land
- County government assistance

These goals are met through SCD's technical assistance and public outreach programs. SCD staff work with private partners, state and federal government agencies, agricultural and environmental organizations, and other conservation districts to provide education and on-the-ground assistance to local landowners and cooperators. The SCD is funded through grants, an annual native plant sale, and state general-fund money requiring a dollar-for-dollar match. Much of the technical assistance provided to landowners and land users consists of helping them adopt conservation Best Management Practices (BMPs). SCD technicians

provide farm conservation planning services free of charge to cooperators who request assistance. The SCD Service Forester uses an ecosystem management approach in Forest Stewardship planning services offered to non-industrial private forest land owners.

SCD public outreach and education efforts include hosting workshops on many topics including septic system maintenance, livestock management, forest management, and encouraging citizen involvement in watershed protection. SCD's education and volunteer programs include Watershed Masters, Beach Monitors, and Stream Team as well as working with schools to foster development of environmentally aware adults, involving volunteers in watershed education, monitoring and restoration projects. The SCD's programs reduce soil erosion and prevent sediment build-up, help dairies achieve nutrient management standards, increase wildlife habitat on private land, establish riparian enhancement projects, target shellfish protection by correcting nonpoint pollution, and educate local citizens about their watersheds.

B-5.4 Skagit Land Trust

Skagit Land Trust acquires land for protection through purchase or gifts of land and by assisting landowners and other conservation groups and agencies to protect land. Conservation easements are one method used to achieve this goal. Easements allow the land to remain in private ownership while restricting certain future uses to protect the land's wildlife and conservation values. Other choices include land donation or land sales. The Trust is presently working on twelve new projects under the guidance of a Conservation Strategy that helps protect the highest quality, most at-risk lands first.

Acting as project manager, Skagit Land Trust applied for and obtained funds from the Coastal Protection fund to purchase 450 acres of tidal property in South Fidalgo Bay for Ecology. The property, now managed by the DNR, is restricted from development by a conservation easement held by the Trust. The easement was completed in December 1999. This easement was amended under a similar process in 2006 to incorporate an additional 82 acres to the easement. A second property, 12.5 wooded acres off State Route 20 on the south end of Fidalgo Bay, is protected from development and commercial logging after being donated to the Trust in October 1997.

B-5.5 Skagit County WSU Beach Watchers

Skagit County WSU Beach Watchers are university-trained volunteers dedicated to protecting the county's environment through education, research, restoration, and personal stewardship. Projects conducted by the organization include organizing educational lecture series for the public; collecting data on marine plants, animals, and shore topography; participating in restoration activities; and community outreach.

B-5.6 Friends of the Forest

The Friends of the Forest is a non-profit citizens organization active in the preservation of the Anacortes Community Forest Lands through education, outreach, stewardship and advocacy. Their Forest Education Program conducts seminars, field camps, and other education activities for adults and youth. Stewardship activities are conducted in cooperation with the City of Anacortes Parks and Recreation Department. Efforts include trail maintenance, invasive plant removal, litter pick-up, user group education, habitat restoration, and "Adopt a Trail." The group participates in the City's decision making process, in association with the Parks & Recreation Department, Planning Commission, and City Council. Advocacy is often in the form of public testimony, but it also involves the gathering and sharing of scientific information, monitoring the effects of recreation and conservation activities, and developing and promoting positive programs such as the Conservation Easement Program. Ongoing restoration projects by Friends of the Forest inlcude invasive species control at Heart Lake and Whistle Lake, and native plant restoration at Cranberry Lake.

B-6. Strategies to Achieve Local Restoration Goals

This section discusses programmatic measures for the City of Anacortes designed to foster shoreline restoration and achieve a net improvement in shoreline ecological processes, functions, and habitats. With projected budget and staff limitations, the City of Anacortes does not anticipate leading most restoration projects or programs. However, the City's SMP represents an important vehicle for facilitating and encouraging restoration projects and programs that could be led by private and/or non-profit entities. The discussion of restoration mechanisms and strategies below highlights programmatic measures that the City may potentially implement as part of the proposed SMP, as well as parallel activities that would be led by other governmental and non-governmental organizations.

B-6.1 Capital Facilities Program

The City could develop shoreline restoration as a new section of the City's Capital Facilities Program (CFP) to facilitate implementation. Current CFP projects that may be prime candidates for immediate consideration due to interest and potential outside support are listed in Table B-17.

B-6.2 Development Opportunities

When shoreline development occurs, the City has the ability to look for opportunities to conduct restoration in addition to minimum mitigation requirements as part of the SMP. Development may present timing opportunities for restoration that would not otherwise occur and may not be available in the future. Mitigation may also allow for "banking" opportunities. In certain cases,

on-site mitigation opportunities are limited due to building site constraints, limited potential ecological gains, or other site-specific factors. In these instances, the City shoreline administrator could identify an off-site restoration site that could be contributed to in lieu of on site mitigation.

B-6.3 Development Incentives

Through the SMP, the City may provide development incentives for restoration, including the waiving of some or all of the development application fees, infrastructure improvement fees, or stormwater fees. This may serve to encourage developers to try to be more imaginative or innovative in their development designs to include more access and preservation.

B-6.4 Tax Relief / Fee System

A tax relief/fee system to directly fund shoreline restoration measures is being investigated under the SMP. One possibility is to have the City work with the county to craft a preferential tax incentive through the Public Benefit Rating System administered by the County under the Open Space Taxation Act (RCW 84.34) to encourage private landowners to preserve natural shore-zone features for "open space" tax relief. Ecology has published a technical guidance document for local governments who wish to use this tool to improve landowner stewardship of natural resources. More information about this program can be found at http://www.ecy.wa.gov/biblio/99108.html. The guidance in this report provides technically based property selection criteria designed to augment existing open space efforts with protection of key natural resource features that directly benefit the watershed. Communities can choose to use any portion, or all, of these criteria when tailoring a Public Benefit Rating System to address the specific watershed issues they are facing.

A second possibility is a Shoreline Restoration Fund. A chief limitation to implementing restoration is local funding, which is often required as a match for State and federal grant sources. To foster ecological restoration of the City's shorelines, the City may establish an account that may serve as a source of local match monies for non-profit organizations implementing restoration of the City's shorelines. This fund may be administered by the City shoreline administrator and be supported by a levy on new shoreline development proportional to the size or cost of the new development project. Monies drawn from the fund would be used as a local match for restoration grant funds, such as the Salmon Recovery Funding Board (SRFB), Aquatic Lands Enhancement Account (ALEA), or another source.

B-6.5 Shore Stewards Education

Shore Stewards is a volunteer program in which shoreline property owners and residents of waterfront communities with shared beach access voluntarily follow

ten wildlife-friendly guidelines in caring for their beaches, bluffs, gardens and homes. These guidelines help them create and preserve a healthy shoreline environment for fish, wildlife, birds and people. This program was created to help shoreline residents feel more connected to the nearshore ecosystem because it is found that when people understand the natural processes at work on their beaches, they may play a more active, positive role in the preservation of healthy, fish-friendly wildlife habitats.

The ten Shore Stewards guidelines for shoreline living are:

1. Use water wisely
2. Maintain your septic or sewer system
3. Limit pesticide and fertilizer usage
4. Manage upland water runoff
5. Encourage native plants and trees
6. Know permit procedures for shoreline development
7. Develop on bluffs with care
8. Minimize bulkheads, docks and other structures
9. Respect intertidal life
10. Preserve eelgrass beds and forage fish spawning habitat

Shore Stewards was created in 2002 with grant funding by the Island County Marine Resources Committee. The pilot program was launched on Camano Island by a dedicated group of Washington State University (WSU) Beach Watchers, who wrote the resource-packed Shore Stewards Guide. Shore Stewards is now expanding to other counties of Puget Sound.

B-6.6 Stewardship Certification Process

The Shore Stewards program sets up guidelines for shoreline residents to preserve and enhance the shoreline environment. With a verification component, Shore Stewards could provide certification and tracking. This could be implemented as a Shoreline Tax Incentives program when someone participates in the WDFW backyard sanctuary program. Since the City recognizes that there are important opportunities to improve shoreline ecological conditions and functions through non-regulatory, volunteer actions by shoreline residents and property owners, it might examine the potential for property tax breaks for shoreline property owners who actively manage their property for habitat protection or enhancement. To encourage volunteer actions that better shoreline ecological functions, shoreline

property owners actively participating in the WDFW backyard sanctuary program or some similar program could receive, for example, a 5% credit on their City property taxes.

A small demonstration restoration project that included a variety of techniques could be completed by the City as an example for others. The City could also identify a set of demonstration restoration projects (which have broad public support), then actively solicit entities to implement one or more of them. The City should also encourage participation in WDFW backyard sanctuary program and other citizen-oriented conservation programs.

B-6.7 Resource Directory

Development of a resource list would be helpful in aiding property owners who want to be involved in restoration. Examples of grant programs that could be included are:

Landowner Incentive Program (LIP): This is a competitive grant process to provide financial assistance to private individual landowners for the protection, enhancement, or restoration of habitat to benefit species-at-risk on privately owned lands.

Salmon Recovery Funding Board (SRFB) Grant Programs: SRFB administers two grant programs for protection and/or restoration of salmon habitat. Eligible applicants can include municipal subdivisions (cities, towns, and counties, or port, conservation districts, utility, park and recreation, and school districts), tribal governments, state agencies, nonprofit organizations, and private landowners.

B-6.8 Volunteer Coordination

The City will continue to emphasize and accomplish restoration projects by using community volunteers and coordinate with organizations such as Skagit County MRC, Skagit Beach Watchers, and local tribes, which already have volunteer programs in place.

B-6.9 Regional Coordination

The City will continue its association and active involvement with the Skagit County MRC, a County Commissioner-appointed volunteer organization that facilitates marine and shoreline habitat restoration for salmon and marine resources. The City may also look for other opportunities for involvement in regional restoration planning and implementation.

B-7. Proposed Implementation Targets and Monitoring Methods

B-7.1 Project Evaluation

When a restoration project is proposed for implementation by the City, other agency, or by a private party, the project should be evaluated to ensure that the project's objectives are consistent with those of this Restoration Plan of the SMP and, if applicable, that the project warrants implementation above other candidate projects. (It is recognized that, due to funding sources or other constraints, the range of any individual project may be narrow.) It is also expected that the list of potential projects may change over time, that new projects will be identified and existing opportunities will become less relevant as restoration occurs and as other environmental conditions, or our knowledge of them, change.

When evaluating potential projects, priority should be given to projects most meeting the following criteria:

- Restoration meets the goals and objectives for shoreline restoration.
- Restoration of processes is generally of greater importance than restoration of functions.
- Restoration avoids residual impacts to other functions or processes.
- Projects address a known degraded condition.
- Conditions that are progressively worsening are of greater priority.
- Restoration has a high benefit to cost ratio.
- Restoration has a high probability of success.
- Restoration is feasible, such as being located on and accessed by public property or private property that is cooperatively available for restoration. Restoration should avoid conflicts with adjacent property owners.
- There is public support for the project.
- The project is supported by and consistent with other restoration plans.

The City should consider developing a project "score card" as a tool to evaluate projects consistent with these criteria.

B-7.2 Monitoring and Adaptive Management

In addition to project monitoring required for individual restoration and mitigation projects, the City should conduct system-wide monitoring of shoreline conditions and development activity, to the degree practical, recognizing that individual project monitoring does not provide an assessment of overall shoreline ecological health. The following three-prong approach is suggested:

1. Track information using the City's GIS and permit system as activities occur (development, conservation, restoration and mitigation), such as:

    - New shoreline development
    - Shoreline variances and the nature of the variance
    - Compliance issues
    - New impervious surface areas
    - Number of pilings
    - Removal of fill
    - Vegetation retention/loss
    - Bulkheads/armoring

    The City may require project proponents to monitor as part of project mitigation, which may be incorporated into this process. Regardless, as development and restoration activities occur in the shoreline area, the City should seek to monitor shoreline conditions to determine whether both project specific and SMP overall goals are being achieved.

2. Periodically review and provide input to the regional ongoing monitoring programs, such as:

    - DNR monitoring
    - Puget Sound Ambient Monitoring Program

    Through this coordination with regional agencies, the City should seek to identify any major environmental changes that might occur.

3. Re-review status of environmental processes and functions at the time of periodic SMP updates to, at a minimum, validate the effectiveness of the SMP. Re-review should consider what restoration activities actually occurred compared to stated goals, objectives and priorities, and whether restoration projects resulted in a net improvement of shoreline resources.

Under the Shoreline Management Act, the SMP is required to result in no net loss of shoreline ecological functions. If this standard is found to not be met at the time of review, Anacortes will be required to take corrective actions. The goal for restoration is to achieve a net improvement. The cumulative effect of restoration over time between reviews should be evaluated along with an assessment of impacts of development that is not fully mitigated to determine effectiveness at achieving a net improvement to shoreline ecological functions.

Evaluation of shoreline conditions, permit activity, GIS data, and policy and regulatory effectiveness should occur at varying levels of detail consistent with the Comprehensive Plan update cycle. A complete reassessment of conditions, policies and regulations should be considered every seven years. To conduct a valid reassessment of the shoreline conditions every seven years, it is necessary to monitor, record and maintain key environmental metrics to allow a comparison with baseline conditions. As monitoring occurs, the City should reassess environmental conditions and restoration objectives. Those ecological processes and functions that are found to be worsening may need to become elevated in priority to prevent loss of critical resources. Alternatively, successful restoration may reduce the importance of some restoration objectives in the future.

B-7.3 Reporting

Section B-4 describes project opportunities to restore shoreline conditions. The restoration opportunities included are based upon a detailed inventory and analysis of shoreline conditions by many sources. Nonetheless, exhaustive scientific information about shoreline conditions and restoration options is cost prohibitive at this stage. Additionally, restoration is at times experimental. Monitoring must be an aspect of all restoration projects. Information from monitoring studies will help demonstrate what restoration is most successful. Generally, conservation of existing natural areas is the least likely to result in failure. Alternatively, enhancement (as opposed to complete restoration of functions), has the highest degree of uncertainty.

This Restoration Plan does not provide a comprehensive scientific index of restoration opportunities that allows the City to objectively compare opportunities against each other. If funding was available, restoration opportunities could be ranked by which opportunities are expected to have the highest rates of success, which address the most pressing needs, and other factors. Funding could also support a long-term monitoring program that evaluates restoration over the life of the SMP (as opposed to independent monitoring for each project).

City planning staff is encouraged to track all land use and development activity, including exemptions, within shoreline jurisdiction, and may incorporate actions and programs of the other departments as well. A report may be assembled that provides basic project information, including location, permit type issued, project description, impacts, mitigation (if any), and monitoring outcomes as appropriate. Examples of data categories might include square feet of non-native vegetation

removed, square feet of native vegetation planted or maintained, reductions in chemical usage to maintain turf, linear feet of eroding stream bank stabilized through plantings, or linear feet of shoreline armoring removed. The report would also outline implementation of various programs and restoration actions (by the City or other groups) that relate to watershed health.

The staff report may be assembled to coincide with Comprehensive Plan updates and may be used, in light of the goals and objectives of the Shoreline Master Program, to determine whether implementation of the SMP is meeting the basic goal of no net loss of ecological functions relative to the baseline condition established in the Inventory and Analysis Report. In the long term, the City should be able to demonstrate a net improvement in the City of Anacortes' shoreline environment.

B-8. References

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TECHNICAL MEMORANDUM

Date:	December 20, 2019
To:	City of Anacortes
From:	Mike Thai, Environmental Scientist
Project Name:	Anacortes 2020 SMP Update
Project Number:	180755

Subject: Anacortes Restoration Plan Addendum

The purpose of this memorandum is to update the previous Shoreline Restoration Plan adopted by the City of Anacortes in 2010. The Shoreline Restoration Plan is meant to help identify and prioritize restoration or enhancement projects and areas of the shoreline for improvement. Generally, uses and developments within shorelines cannot always be fully mitigated, which may result in incremental and unavoidable degradation to the baseline conditions of the shoreline. This document aims to counter these incremental degradations by identifying areas and projects for enhancement and restoration which can improve degraded baseline conditions along the shoreline over time.

This addendum references tables from the 2010 Shoreline Restoration Plan containing enhancement and restoration project proposals and updates them based on information received by stakeholder organizations and agencies. These stakeholders include the City of Anacortes, Skagit Conservation District, Skagit MRC, the Port of Anacortes, and the Friends of the Forest. New projects presented by the aforementioned organizations and agencies, as well as projects that were not completed and/or updated in Tables B-7 – B-16 are then organized into a new table (B-17) and prioritized based on a rudimentary cost benefit analysis. This high-level analysis grades projects on anticipated cost and overall ecological benefit as it relates to no net loss of shoreline ecological functions.

Table B-7. Projects with environmental restoration components to be implemented per the City of Anacortes Capital Facilities Plan.

Project/Location	Environmental component(s)	Implementation status (2010)	Status Update
Ship Harbor wetland interpretive trail	An interpretive trail through the Ship Harbor wetlands will provide educational opportunities and access to wetlands. The trail will be environmentally sensitive.	Pending	Completed
Depot area improvements	Landscaping will be improved in conjunction with an expanded plaza area; wetlands and a madrone grove will be preserved and/or enhanced.	Pending	No update
H Avenue Park stream restoration	Stream restoration in the park will include wetland enhancement, an interpretive trail, and native plantings. New project added to replace restrooms, seating, and improve the parking lot.	Planning stages	Planning stages, added new project components
Waterfront Trail (Guemes Channel Trail)	A 12-foot-wide waterfront trail will be constructed along the old railroad bed from Washington Park to the existing Thompson Trail, excluding the area in and around the Ship Harbor wetland. The trail will provide access to wetlands and the shoreline.	Planning stages	Phases 1 & 7 completed (July 2015); Phases II, III, IV, and VI in planning stages
Clyde Creek water quality enhancement	Existing stormwater discharges to Clyde Creek will be evaluated to identify opportunities for water quality improvement. Possibilities include replacing catch basins with mechanical water quality devices and constructing bioswales. Habitat value of the creek will increase and water quality will improve.	Funding/permits not yet secured	No update
Cap Sante sewer extension	A project providing gravity sewer collection to nine homes on Cap Sante will replace old systems; new systems will prevent leaching of incompletely treated wastewater to Fidalgo Bay.	Planning stages	No update
Shannon Point Road signage and fence	Environmental signage and fencing will limit dumping in the wetland and access from surrounding areas and improve habitat function.	Planning stages	No update
Creosote Pile Replacement	Creosote pile removal and replacement at the City owned travel lift float and dock.	n/a	New proposal
SHIP Wetland Interpretive Trail	Construction of a teaching station and improvement of a connection to the WA State ferry terminal.	n/a	New proposal
Heart Lake Improvements	Improvements will include better access to the water, stormwater management infrastructure for the parking lot, and day use amenities such as a picnic shelter and walking paths.	n/a	New proposal

Project/Location	Environmental component(s)	Implementation status (2010)	Status Update
Tommy Thompson Trestle and Causeway	Removal and replacement of the trestle and causeway of the Tommy Thompson Trail.	n/a	New proposal

Table B-8. Restoration projects and management recommendations from the Fidalgo Bay Environmental Aquatic Reserve Management Plan.

Project Type	Project/Program	Description	Status Update	Status/Funding
Shoreline restoration	March's Point shoreline restoration and pocket estuary enhancement	Cooperative effort between the DNR and Swinomish tribe. Removal of shoreline armoring and restoration of pocket estuaries to restore natural shoreline processes.	Completed	The Texaco Restoration Fund was presented a proposal for the project in 2007
	Weaverling Spit beach restoration and enhancement	Restored approximately 1,760 feet of shoreline at Weaverling Spit (Phases 1, 2, & 3).	Completed 2015, 2017	
	Riparian restoration	Removal of structures and riparian restoration along the southwest side of Fidalgo Bay.	Ongoing	
	West March Point restoration and enhancement	Beach enhancement and forage fish habitat restoration at select locations on West March Point	Completed 2010, 2011, 2012	Skagit River System Cooperative, Tesoro, Skagit Marine Resources Committee (Skagit MRC), DNR
	Nearshore Surveys	Invasive plant and green crab surveys in Weaverling spit restoration site(s).		
	Eelgrass restoration	Eelgrass meadow planted and successfully established on the Scott paper mill remediation site, the meadow is expanding on tidelands adjacent to the reserve.	Completed	
	Fidalgo Bay Riparian Restoration	Removal of structures and riparian restoration, southwest side of Fidalgo Bay	Ongoing 2017-present	Skagit Land Trust
Feasibility study	Rail trestle at Weaverling Spit feasibility study	Samish Tribe is looking at the feasibility of reducing the trestle and causeway impacts in order to restore more natural	Completed	Ecology is funding the Tribe through

Project Type	Project/Program	Description	Status Update	Status/Funding
		tidal flow to the south bay, leaving the Thompson Trail intact.		the Puget Sound Initiative
Water quality	Fidalgo Bay watershed assessment	Cooperative effort between the DNR and Samish tribe to conduct a watershed assessment to identify and address water quality issues in the Fidalgo Bay Aquatic Reserve.	Ongoing	Partially funded by Ecology through a Direct Implementation Fund grant to DNR
	Pollution reduction	Samish Indian Nation is using outfall pollution data to upgrade and address problems with pollution in cooperation with the City.	Ongoing	
	Fidalgo Bay water quality monitoring	Several water quality monitoring projects are ongoing in Fidalgo Bay by Samish Indian Nation, DNR, WDFW, and others.	Ongoing	
Structure removal	Removal of derelict treated structures	General effort to remove unused and creosote-treated structures from the Reserve.	Some projects have been completed and other are ongoing	Led by DNR, Skagit MRC, Samish Indian Nation
Sediment quality	Sediment cleanup in Fidalgo Bay Aquatic Reserve and the City of Anacortes	Joint effort by the DNR and Ecology to clean up contaminated sediments at several sites in the Reserve and further north in Anacortes.	No update	Funded by Ecology through the Puget Sound Initiative
Restoration and Education	Oyster restoration, shoreline restoration, and education in and near Fidalgo Bay Aquatic Reserve	Efforts include projects to restore native Olympia oysters, restoration of shoreline processes on east March's Point, and environmental education in and adjacent to the Reserve.	Ongoing	Led by the Skagit County MRC, Puget Sound Restoration Fund

Table B-10. Restoration projects and their priority status from the Plan for Habitat Protection, Restoration, and Enhancement: Fidalgo Bay and Guemes Channel.

Priority	Project/Program	Description	Update
High	Railroad trestle and Thompson Trail Causeway improvements at Weaverling Spit	Approximately 1,500-foot causeway beneath trestle constricts water exchange to south Fidalgo Bay. Berm could be reduced in area or breaks installed. Exposed creosote-treated wood leaches into the bay. Obsolete pilings could be removed; treated wood pilings could be replaced with pilings constructed of non-	No update

Priority	Project/Program	Description	Update
		contaminating materials; retrofitting should be explored to determine if eelgrass habitat could reestablish. Possibly purchase headland for public ownership.	
High	Weaverling Spit North/Stockwell Beach protection	Acquisition or protection of 0.5 miles of high-quality upper-intertidal sand-gravel beach. Used year-round by spawning smelt. Log raft remains on beach could be removed.	No update
High	Custom Plywood Mill	Remove deteriorated pier and industrial debris from beach. Remove fill (possibly slag burner waste fragments) from upper beach potential superfund site that could extend to sub/intertidal areas. Remove wood debris from subtidal habitat.	Phases I and II are complete, Phase III is ongoing
High	Trident Seafoods	Replace deteriorating pier with a modified structure that improves conditions for eelgrass, including minimizing shading from overhead cover.	No update
Moderate	Seafarer's Memorial Park/Scott Paper Mill	Remove wood and brick debris from intertidal zone; replace riprap that has migrated downbeach with more stable material; enhance surf smelt habitat by restoring marine riparian vegetation.	Completed 2012
Moderate	Cap Sante Marina	Replace treated wood ring wall with concrete or other non-contaminating material as part of current ongoing improvements.	No update
Moderate	SW Shore of Fidalgo Bay (2), old mill site	Remove berm to open a small mill pond and restore the natural shoreline.	No update
Moderate	Nearshore fill between 27th and 30th Streets	Excavate nearshore fill from the 1970s from approximately 15 acres to restore intertidal habitat.	No update
Moderate	Dike relocation at SE corner of South Fidalgo Bay	Increase marsh and mudflat habitat by relocating dike at corner of March's Point Road and State Highway 20 closer to intersection.	Completed 2011
Moderate	Rock quarry at Sharpe's Corner	Wooded headland could be purchased for wildlife habitat and public ownership.	No update
Moderate	Curtis Beach	Remove fill at shore west of Port of Anacortes Office Building and Pier 1.	Complete
Moderate	Guemes ferry terminal	Replace treated wood pilings with concrete or other non-contaminating material.	Ongoing
Moderate	Lovric's Boatyard	The shoreline has been extensively modified with a riprap dike and docks, boat ramps, and nearshore fill. Could remove modified shoreline features, replace treated wood pilings with concrete or other non-contaminating material, and investigate contamination issues associated with boat-building and maintenance activities.	No update
Moderate	Bay-wide *Spartina* protection	Expansive mudflats should be protected from *Spartina* invasion.	No update
Low	Anchor Cove Marina	Replace treated wood pilings with concrete or other non-contaminating material.	Completed

Priority	Project/Program	Description	Update
Low	Dakota Shipyards	Preserve or mitigate for small eelgrass bed between two areas of nearshore fill.	No update
Low	SW shore of Fidalgo Bay (1)	Remove or reposition shoreline armoring, which may be impacting sediment supply to Weaverling Spit, to minimize intertidal habitat impacts	No update
Low	Curtis Beach, North end of N Avenue	Clean up sources of oil seep and contaminated sediment on beach.	No update

Table B-11. Restoration projects and their ecological function rankings from the Northern Skagit County Bays and Shoreline Habitat Conservation and Restoration Blueprint 2005.

Project/Location	Description	Ranking	Update
Guemes Channel/East Ship Harbor conservation	Conservation easement recommended for shorebird, forage fish, juvenile salmon, and sediment supply conservation functions.	Top and second tier	No update
Cap Sante structure removal	Remove unused pilings and overwater structure in former marina site; employ ecologically sensitive redevelopment	Top and median tier	Completed 2013
Custom Plywood Mill site clean-up	Extensive clean-up tied to site redevelopment should include removal of creosote and other contaminants, removal of sunken tugboat, and ecologically sensitive site redevelopment	Top tier	Complete
34th Street to Weaverling Spit lagoon restoration	Recommendation is to negotiate an ecologically friendly option with the landowner to remove or redesign shoreline armoring to make lagoon navigable.	Lowest tier	No update
Thompson Trail vegetation restoration and management	Recommends planting supplemental vegetation along the trail; plant vegetation on shore side of proposed trail on top of armoring; prune existing vegetation in environmentally sensitive manner; encourage City to leave fallen armor rocks in place and keep paving away from edge of armor.	Lowest tier	No update
Weaverling Spit railroad trestle	Remove railroad trestle or unneeded creosote pilings, or redesign causeway to a	Top tier	No update

Project/Location	Description	Ranking	Update
removal or redesign	more overwater structure to increase flow to south end of Bay.		
SE side of March's Point conservation easement	Conservation easement recommended to protect forage fish and shorebird habitat (top-ranking function) and juvenile salmon (second-tier-ranking function)	Top and second tier	No update

Table B-13. Port of Anacortes projects involving restoration or other environmental components.

Project	Environmental/restoration component(s)	Update
Cap Sante Boat Haven redevelopment	The Port is actively working to complete this project which includes environmental clean-up, shoreline restoration, installation of a wave-break and reef habitat to provide long-term beach stability. Planned clean-up includes removing wood debris and sediment from Fidalgo bay, including an existing timber breakwater.	Complete
Scott Paper Mill environmental clean-up project	The Port is working in partnership with Ecology and Kimberly Clark, former owners of the site. Further opportunity to restore the area as part of the clean-up is along the shoreline, where revegetation would enhance low shoreline ecological function.	Complete
Custom Plywood/Fidalgo Marinas	Remediation and enhancement of nearshore and riparian habitat that included removing wood waste and toxics from the uplands and nearshore, and the construction of a pocket estuary at the Custom Plywood site.	Complete
Padilla Bay former mill site	Also in private ownership, the site's redevelopment will likely require mitigation for environmental impacts.	No update
Guemes Channel: Curtis Wharf improvements	An opportunity for environmental clean-up and creation of a buffer for industrial uses exists if the Port acquires two blocks of property between N Avenue and Commercial Avenue and between 2nd Street and 3rd Street. The Port is actively working on restoration at O Avenue. A macroalgae/kelp mitigation plan was implemented to mitigate for the impacts of dredging. Although dredging is not yet planned, a subtidal rock reef mound was constructed in February 2001 to provide habitat for kelp and algae.	Complete
Guemes Channel: Pier 1 replacement	There is an opportunity to replace the wood piling and deck with non-contaminating materials during comprehensive repairs. Recommended actions would remove creosote pilings and contaminated sediment and soils in the ship basin and adjoining uplands.	No update
Fidalgo Bay Eelgrass advanced mitigation	The Port was awarded a $400,000 grant in 2005 from Skagit County's Distressed County Public Facilities Fund. This grant was awarded for Phase 1 of Project Pier 1, which involves construction of an advance eelgrass mitigation site in Fidalgo Bay. The Port	Complete

Project	Environmental/restoration component(s)	Update
	will construct a 6-acre eelgrass habitat site in an otherwise un-vegetated portion of Fidalgo Bay that is currently too deep to support eelgrass, but with clean fill, will be suitable for eelgrass establishment. The mitigation will offset the loss of existing eelgrass that will result from dredging and construction during shipyard redevelopment.	
Ship Harbor land use improvements	Plans include creating an environmental reserve within the Ship Harbor wetlands and possibly building a boardwalk system and interpretive center. Ongoing improvements to the wetlands are expected to be part of future plans.	Partial completion
Anacortes Port Log Yard	Contamination is present from passed commercial use, a plan is being prepared by the Port and Ecology to clean up the site. Remediation will most likely involve the removal of contaminated sediment and improvements to nearshore habitat.	New proposal, Planning
Quiet Cove	Hydrocarbon and heavy metal contamination detected in soil and groundwater from the site's previous use as a fueling station. Remediation will most likely include sediment removal and nearshore habitat enhancement.	New proposal, ongoing

Table B-16. Completed Projects not Included in the Previous Restoration Plan.

Project Location	Project Description	Lead Agency	Year of Completion
Northeast March's Point	Groin removal along both sides of the boat ramp off E March's Point Rd and shoreline vegetation enhancement.	Skagit MRC	2010
Northwest March's Point	Angular rock removed from beach and restacked into revetment, 2,230 tons of beach nourishment material suitable for surf smelt spawning habitat added to the beach.	Skagit MRC, SRI, Northwest Straits Foundation	2014
Guemes Channel and Padilla Bay	Removed and disabled 480 derelict crab pots	Skagit MRC, NW Straits Foundation	2018

Project Prioritization

The projects were prioritized in Table B-17 below using a rudimentary rating system that incorporates values for a project's overall cost and a project's overall ecological benefit as it relates to no net loss of shoreline ecological functions. The analysis was limited by the level of detail incorporated in the descriptions of the potential projects in the previous restoration report and given by agencies and organizations. Much of the project details, including overall project area size and volumes of sediment and other material removed and added to an area, are not determined until official project proposals or submittals, making a quantitative analysis extremely difficult. Therefore, the current ecological conditions of proposed project areas were assessed using aerial imagery (Google Earth and Island County Parcel Viewer Application) and the City's Cumulative Impacts Analysis (March 2010).The amount of ecological lift a proposed project would provide to the shoreline environment was assessed based on general knowledge of project outcomes, including type and volume of habitat potentially created relative to existing conditions and the possibility of reincorporating or enhancing shoreline functions within an area.

In Table B-17, projects are given an ecological value of High associated with a score of 3; Medium associated with a score of 2; and Low associated with a score of 1. A High ecological value is given to projects that show the greatest potential to provide the most ecological lift within their proposed areas. Projects were also valued and scored based on cost, with a value of Low associated with a score of 3; Medium associated with a score of 2; and High associated with a score of 1. Projects with a cost value of Low are given a higher score to help distinguish projects that allow the community to be the most efficient with available restoration funds. The list was then organized based on overall score (example a project with a High rating for ecological value and a Low rating for cost results in the highest score of 6), many projects had scores of 4 and 3 and were then prioritized based on ecological value.

Table B-17. Project Prioritization Accounting for Overall Ecological Benefit Potential and Cost.

Project Location	Project Description	Table of Origin	Ecological Value	Cost Value	Total Project Score
Guemes Channel/East Ship Harbor conservation	Conservation easement recommended for shorebird, forage fish, juvenile salmon, and sediment supply conservation functions.	Table B-11	High	Low	6
SE side of March's Point conservation easement	Conservation easement recommended to protect forage fish and shorebird habitat (top-ranking function) and juvenile salmon (second-tier-ranking function).	Table B-11	High	Low	6
SW Shore of Fidalgo Bay (2), old mill site	Remove berm to open a small mill pond and restore the natural shoreline.	Table B-10	Medium	High	5
Sediment cleanup in Fidalgo Bay Aquatic Reserve and the City of Anacortes	Joint effort by the DNR and Ecology to clean up contaminated sediments at several sites in the Reserve and further north in Anacortes.	Table B-8	High	High	4
Railroad trestle and Thompson Trail Causeway improvements at Weaverling Spit	Approximately 1,500-foot causeway beneath trestle constricts water exchange to south Fidalgo Bay. Berm could be reduced in area or breaks installed. Exposed creosote-treated wood leaches into the bay. Obsolete pilings could be removed; treated wood pilings could be replaced with pilings constructed of non-contaminating materials; retrofitting should be explored to determine if eelgrass habitat	Table B-10	High	High	4

	could reestablish. Possibly purchase headland for public ownership.				
Weaverling Spit North/Stockwell Beach protection	Acquisition or protection of 0.5 miles of high-quality upper-intertidal sand-gravel beach. Used year-round by spawning smelt. Log raft remains on beach could be removed.	Table B-10	High	High	4
Nearshore fill between 27th and 30th Streets	Excavate nearshore fill from the 1970s (approximately 15 acres) to restore intertidal habitat.	Table B-10	High	High	4
Bay-wide Spartina protection	Protect Expansive mudflats from Spartina grass invasion.	Table B-10	Medium	Medium	4
Depot area improvements	Improve landscaping in conjunction with an expanded plaza area; wetlands and a madrone grove will be preserved and/or enhanced.	Table B-7	Low	Low	4
Shannon Point Road signage and fence	Environmental signage and fencing will limit dumping in the wetland and access from surrounding areas and improve habitat function.	Table B-7	Low	Low	4
Creosote Pile Replacement	Creosote pile removal and replacement at the City owned travel lift float and dock.	Table B-7	Low	Low	4
SHIP Wetland Interpretive Trail	Construct a teaching station and improve a connection to the WA State ferry terminal.	Table B-7	Low	Low	4
SW shore of Fidalgo Bay (1)	Remove or reposition shoreline armoring, which may be impacting sediment supply to	Table B-10	Low	Low	4

	Weaverling Spit, to minimize intertidal habitat impacts				
434th Street to Weaverling Spit lagoon restoration	Negotiate an ecologically friendly option with the landowner to remove or redesign shoreline armoring to make lagoon navigable.	Table B-11	Low	Low	4
Thompson Trail vegetation restoration and management	Plant supplemental vegetation along the trail; plant vegetation on shore side of proposed trail on top of armoring; prune existing vegetation in environmentally sensitive manner; encourage City to leave fallen armor rocks in place and keep paving away from edge of armor.	Table B-11	Low	Low	4
Dakota Shipyards	Preserve or mitigate for small eelgrass bed between two areas of nearshore fill.	Table B-10	Low	Low	4
Trident Seafoods	Replace deteriorating pier with a modified structure that improves conditions for eelgrass, including minimizing shading from overhead cover.	Table B-10	Medium	High	3
Rock quarry at Sharpe's Corner	Wooded headland purchase for wildlife habitat and public ownership.	Table B-10	Medium	High	3
Padilla Bay former mill site	Also in private ownership, the site's redevelopment will likely require mitigation for environmental impacts. Potential ecological benefit to the marine environment is minimized by existing railroad blocking off direct tidal influence to the site, if mitigation were performed.	Table B-13	Medium	High	3
Lovric's Boatyard	The shoreline has been extensively modified with a riprap dike and docks, boat ramps, and nearshore fill. Remove	Table B-10	Medium	High	3

	modified shoreline features, replace treated wood pilings with concrete or other non-contaminating material, and investigate contamination issues associated with boat-building and maintenance activities.				
Clyde Creek water quality enhancement	Existing stormwater discharges to Clyde Creek will be evaluated to identify opportunities for water quality and habitat improvement. Possibilities include replacing catch basins with mechanical water quality devices and constructing bioswales. Increased Habitat value of Clyde Creek and water quality improvements are expected to occur with improvements to neighboring stormwater infrastructure.	Table B-7	Low	Medium	3
Cap Sante sewer extension	A project providing gravity sewer collection to nine homes on Cap Sante will replace old systems; new systems will prevent leaching of incompletely treated wastewater to Fidalgo Bay.	Table B-7	Low	Medium	3
Heart Lake Improvements	Improvements include better access to the water, stormwater management infrastructure for the parking lot, and day use amenities such as a picnic shelter and walking paths.	Table B-7	Low	Medium/High	2.5
Cap Sante Marina	Replace treated wood ring wall with concrete or other non-contaminating material as part of current ongoing improvements.	Table B-10	Low	High	2

Curtis Beach	Remove fill at shore west of Port of Anacortes Office Building and Pier 1.	Table B-10	Low	High	2
Guemes Channel: Pier 1 replacement	There is an opportunity to replace the wood piling and deck with non-contaminating materials during comprehensive repairs. Recommended actions removing creosote pilings, contaminated sediment, and soils in the ship basin and adjoining uplands.	Table B-13	Low	High	2

ANACORTES SHORELINE MASTER PROGRAM

PERIODIC UPDATE

Planning Commission
July 22, 2020
Workshop

Shoreline Management Act (SMA) (Ch. 90.58 RCW)
Washington Administrative Code Chapter 173-96, and 173-97 WAC

PROJECT INFORMATION

Project Webpage: https://www.anacorteswa.gov/1095/SMP-Update

Staff reports, resources, notices, and public participation plan (pending update) are on the project webpage.

Notify Me

https://www.anacorteswa.gov/list.aspx

Project Contact: Libby Grage, Planning Manager
360-299-1986 libbyb@cityofanacortes.org

PLAN FOR TONIGHT

1. Background and Context (staff)
2. SMP Periodic Update Video (the Watershed Co.)
3. PC Questions and Discussion (All)
4. Community Comments

PROJECT TEAM

The Watershed Company

- Alex Capron, Environmental Planner & GIS Analyst
- Dan Nickel, Vice President

City of Anacortes Staff

- Don Measamer, PCED Director
- Libby Grage, Planning Manager / Project Contact
- Tess Cooper, Associate Planner

BACKGROUND AND CONTEXT

SHORELINE MANAGEMENT ACT (SMA)

Overarching Goal:

"…To prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

More Information:

Revised Code of Washington Chapter 90.58 RCW

Washington Administrative Code Chapter 173-26, and 173-27 WAC

WA State Department of Ecology Shoreline Management page

- 1971 – passed by WA State legislature
- 1972 – adopted by voters
- Requires development and implementation of Shoreline Master Programs by cities and counties
- Roles & Responsibilities:
  - Local Governments –
    - Prepare a "Master Program" and develop a permit system
  - WA State Department of Ecology
    - supportive and review capacity – with emphasis on providing assistance to insure compliance with SMA
    - Substantive review and decision on SCUPs and SVARs

ANACORTES SHORELINE MASTER PROGRAM (SMP)

Anacortes SMP Legislative History

- **1977 – Anacortes adopts 1st Shoreline Master Program (Ord. 1704)**
- 1980, ‘81, ‘82,– Minor local amendments (Ord. 1835, 1850, 1888)
- **1983 – Major Update - New SMP (Ord. 1908)**
- 1985, ‘88 – Minor local Amendments (Ord. 1997, 2063)
- **2001 – Major Update - New SMP (Ord. 2555)**
- **2010 – Comprehensive Update – New SMP (Ord. 2837)**
- **2020 – Current Periodic Update**

SMP IMPLEMENTATION

- All “Development” within shoreline jurisdiction must conform to SMA and SMP
- Shoreline Permit Types:
  - Letter of Exemption – Type 1
  - Shoreline Substantial Development Permit – Type 3-PC or Type 4-CC
  - Shoreline Conditional Use Permit – Type 3-PC; Ecology decision
  - Shoreline Variance – Type 3-PC – Ecology decision
- Appeals
  - Local appeals (per Table AMC 19.20.030)
  - Shoreline Hearings Board (21 days from date of filing w/ Ecology)

PROJECT MILESTONES TO DATE – 2020 SMP Periodic Update

July 2019: Executed contract with The Watershed Company

Oct 2019: 1st Open House (in-person)

Dec 2019: Executed Ecology Grant Funding Agreement

Mar 2020: Completed Gap Analysis & Draft Proposed Amendments placed on website

Mar 2020: 2nd Open House (online)

July 22 2020: Planning Commission Workshop

Next Steps: Finalize draft proposed amendments for public comment, advertise joint public comment period (30 days) and hold public hearing; SEPA determination; PC recommendation to City Council (Fall/Winter timeframe)

VIDEO PRESENTATION

Watch Video:
https://anacortes.granicus.com/player/clip/526?view_id=2

Presented by Alex Capron, The Watershed Company

October 30, 2019 Open House

CAO & SMP UPDATE TIMELINES DRAFT

Regs.	PC Workshop	SEPA	PC Public Hearing	PC Rec. to CC	CC Review	CC Public Hearing (if req'd)	Adoption
CAO Update	7/26/17-12/4/19	11/27/19	12/18/19	1/22/20	August, 2020	September 2020	October 2020
SMP Update	July/Aug., 2020	September 2020	October, 2020	Winter	Winter	Winter	June, 2021 at the latest

Joint Local/DOE Public Comment Period & Public Hearing

Codification & Reorganization

SMP regulations to be re-located from standalone document to Title 19.

SMP content	Existing Location	New Location (DRAFT)
Goals and Policies	2010 SMP	Comprehensive Plan
Development Regulations	2010 SMP	AMC Ch. 19.72 Shorelines
Administrative Provisions and Procedures	2010 SMP – Ch. 3 AMC Ch. 18.16 AMC Ch. 19.20 Procedures	AMC Ch. 19.20 Procedures AMC Ch. 19.3X Permits
Definitions	2010 SMP – Ch. 12	Title 19 - TBD
Shoreline Specific Critical Areas Regulations	2010 SMP – Appendix A	AMC 19.70 Critical Areas Regulations incorporated by reference, excepting certain sections that are inconsistent with the SMP
Shoreline Restoration Plan	2010 SMP – Appendix B	TBD

QUESTIONS?

THANK YOU

libbyb@cityofanacortes.org

https://www.anacorteswa.gov/1095/SMP-Update

Received 10/30/19
~~8~~ 84

WV WELLS TESTAMENTARY TRUST
c/o MARILYN DERIG
P.O. Box 341
ANACORTES, WA 98221-2146

March 25, 2013

Mayor H. Dean Maxwell
City of Anacortes
PO Box 547
Anacortes, WA 98221

Re: Application for Amendments to the 2010 City of Anacortes Shoreline Master Program

Dear Mayor Maxwell,

At the January 22, 2013 hearing ("Hearing") of the City Council on 2012 amendments to the Comprehensive Plan ("Plan"), I commented that Plan inconsistencies would be created by incorporating by reference the 2010 Anacortes Shoreline Master Program ("SMP") into the Plan. A copy of my comments is provided in Attachment T-1 hereto. I asked you to fix these inconsistencies in the manner proposed by Mr. Rooks. A copy of Mr. Rooks' Hearing comments is provided in Attachment T-2 hereto.

Plan internal inconsistencies are a violation of the Growth Management Act. (RCW 36.70A.070(preamble).) At the Hearing, I believe you said that it was not the right time to raise this issue. I have asked Attorney Gerald Steel for advice on this matter. He recommended that we submit an application for amendments to the 2010 Shoreline Master Program to fix these inconsistencies. Earlier today, I submitted such an application to Planning. A copy of that application is provided in Attachments T-3 to T-14 hereto.

I request that planning staff be directed to process this application on the same time schedule used for processing proposed 2013 Plan amendments. Mr. Steel also recommended that we file an appeal to the Growth Management Hearings Board alleging Plan internal inconsistencies. While we all prefer that this matter be resolved by timely processing of our proposed SMP amendments, we would lose our right to appeal these inconsistencies if we don't timely file an appeal. After the appeal is filed, we will propose to the City that processing of the appeal be stayed to give the City time to process our proposed SMP amendments. Thank you for your attention to our proposed SMP amendments.

Respectfully,

Marilyn Derig, Trustee for WV Wells Testamentary Tr

Marilyn Derig for WVWTT

cc: Council Members, Planning Commission Members, and Planning Director

Attachments: T-1 - Marilyn Derig comments at 1/22/13 Hearing
T-2 - Hal Rook comments at 1/22/13 Hearing
T-3 to T-14 - Copy of application for amendments to the SMP

January 22, 2013

Good Evening Council and Mayor,

My name is Marilyn Wells Derig. I reside at 1302 K Avenue in Anacortes. I am very concerned about the issue raised this evening by Mr. Rooks. As you may recall, Mr. Rooks raised this same issue in an op-ed piece in August, 2012.

If these inconsistencies persist, it is conceivable that a developer could come in and propose to build something of a commercial or industrial use, or propose 50' condos, based on the shoreline allowances, but not allowed in the zoning codes for R-2 or R-3.

These inconsistencies would at a minimum be confusing to developers and people outside the area, and certainly would cause problems and stir up neighborhoods unnecessarily.

I urge you to rectify these inconsistencies and contradictions as outlined by Mr. Rooks before ratifying this amendment.

Thank you for your consideration.

Marilyn Wells Derig
360-293-3928

Ex 1

January 22, 2013

Comments to City Council
Contradictions in ASMP 2010 and the Comp Plan

Good evening Mayor and City Council Members. I'm Hal Rooks; I reside at 1219 10th St. in Anacortes.

The Proposed Comprehensive Plan Amendment to Update Document References, which you are considering this evening, proposes that the Comp Plan incorporate by reference the Anacortes Shoreline Master Program (SMP) 2010. There are many improvements in the 2010 version of this SMP which deserve incorporation into the Comp Plan, but there is also an inconsistency between the SMP and the Anacortes Municipal Code zoning regulations that I urge you to direct Staff to fix.

The inconsistency is that in the 2010 ASMP, there is a "Shoreline Urban" Designation along the Guemes Channel between B and H Avenues which allows commercial or industrial development that is clearly not allowed in the current R-2 and R-3 Comp Plan zoning designations for the same properties.

If this "Shoreline Urban" designation is adopted without being fixed, I believe this would cause an internal inconsistency in the newly amended Comp Plan that would be in violation of RCW 35.70A.070 (Preamble).

One way to deal with his inconsistency would be to adopt the 2010 SMP into the Comp Plan but then in the body of the adopting ordinance direct staff to fix this inconsistency by staff proposing an amendment to the 2010 SMP to change the subject "Urban Shoreline" designation to "Shoreline Residential" and directing staff to add a similar amendment to the 2013 Comp Plan amendment docket.

Thank you for your attention to this matter.

Hal Rooks

T-2

GERALD STEEL, PE
ATTORNEY-AT-LAW
7303 YOUNG ROAD NW
OLYMPIA, WA 98502
Tel/fax (360) 867-1166

RECEIVED
MAR 25 2013

March 22, 2013

Ryan Larsen
Director of Planning and Community Development
P.O. Box 547
Anacortes, WA 98221

Re: Application for Amendments to the 2010 City of Anacortes Shoreline Master Program

Dear Mr. Larsen,

Consider this letter to be an application for amendments to the 2010 City of Anacortes Shoreline Master Program ("SMP"). I submit these amendments on behalf of the WV Wells Testamentary Trust ("WVWTT"). We submit these amendments pursuant to the requirements of Chapter 11.2 of the current 2010 City of Anacortes Shoreline Master Program. We request that the SMP Environment Designation that is now "Urban" (yellow) between "B" Ave. and "H" Ave. in the Guemes Channel, as shown below in Figure 1, be changed to "Shoreline Residential" (red).

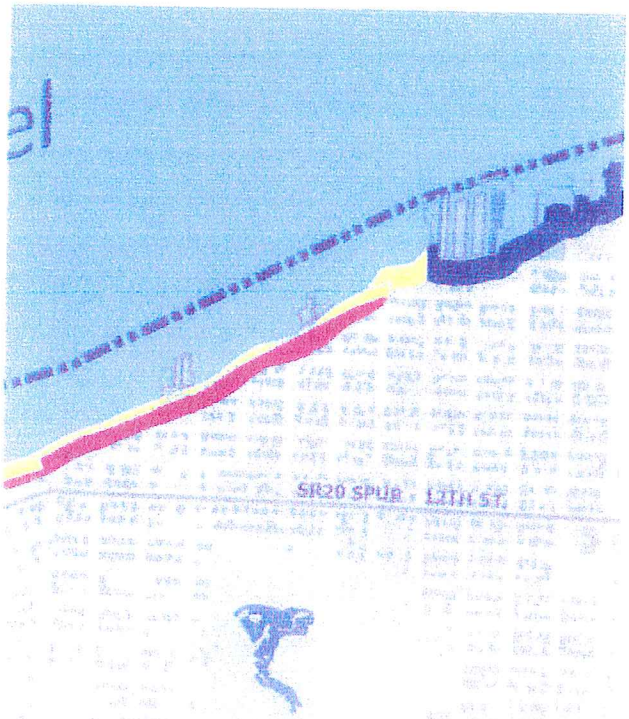


Figure 1
Excerpt from 2010 SMP Figure 5.1 showing existing Urban (yellow) Environment Designation for the Guemes Channel – "B" to "H" Ave.

T-3

Two text amendments to the City of Anacortes Shoreline Master Program would be required in addition to the change identified above to the Shoreline Environment Designation Map. These text amendments are necessary to remove the legal description for "Guemes Channel – B-H Ave." from the "Legal Description" subsection "F" in Section "5.10 Urban" and add it to the "Legal Description" subsection "F" in Section "5.9 Shoreline Residential." In underline/strikeout format these proposed text amendments are as follows:

Subsection 5.9(F):

. . . .

Guemes Channel – B-H Ave.:

Beginning at the intersection of Parcel #31538 and Parcel #31532, thence East along the shoreline of Guemes Channel 2,644 feet to the intersection of Parcel #31537 and Parcel #31534. All within 50 feet of the OHWM.

. . . .

Subsection 5.10(F):

. . . .

~~Guemes Channel – B-H Ave.:~~

~~Beginning at the intersection of Parcel #31538 and Parcel #31532, thence East along the shoreline of Guemes Channel 2,644 feet to the intersection of Parcel #31537 and Parcel #31534. All within 50 feet of the OHWM.~~

. . . .

JUSTIFICATION

The primary justifications for these amendments are the goals and aspirations of the local citizenry as reflected in the locally adopted comprehensive land use plan. (WAC 173-26-110(3).) The City of Anacortes Comprehensive Plan designates the subject area between "B" and "D" Ave. as Residential Low Density (R2) and designates the subject area between "D" and "H" Ave. as Residential Medium Density (R3) in the Old Town Overlay District. A copy of the 2012 Comprehensive Plan and zoning Map is Attachment 1 hereto and an excerpt for the subject area is provided in Figure 2 hereto. Attachment 2-1 and 2-2 hereto are copies of GIS maps downloaded from the Skagit County website with the "Guemes Channel – B-H Ave." Legal Description for the "Urban" SMP designation plotted by me in yellow (50 feet wide from the OHWM).

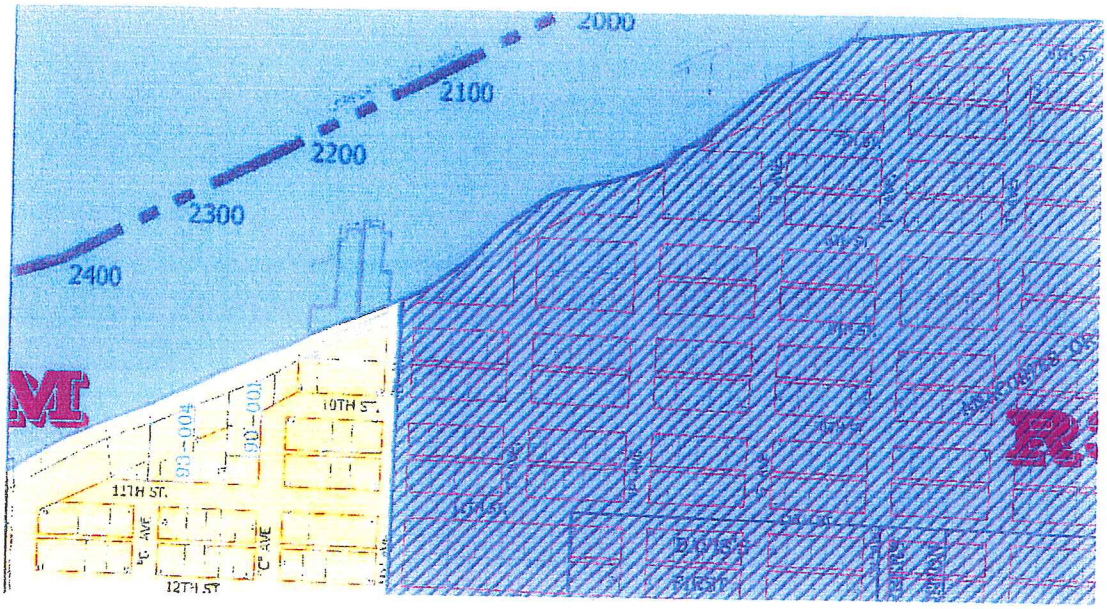


Figure 2
Excerpt from 2012 Comprehensive Plan Map showing Residential Low Density (R2 – yellow) on all land between "B" Ave. and "D" Ave. on the Guemes Channel and showing Residential Medium Density (R3 – light purple) with the Old Town Overlay District (crosshatch) on all land between "D" Ave. and nearly to "H" Ave. on the Guemes Channel.

The 2010 City of Anacortes Shoreline Master Program in subsection 11.2.1 allows amendments as provided in Chapter 173-26 WAC. As stated above, WAC 173-26-110(3) provides that amendments may be justified by the goals and aspirations of the local citizenry as reflected in the locally adopted comprehensive land use plan. The 2012 Comprehensive Plan at pages 2 and 10 incorporates by reference the City of Anacortes Shoreline Master Program, 2010. WAC 173-26-191(1)(e) requires consistency of the Shoreline Master Program with other elements of the Comprehensive Plan including the future land use map and with development regulations. (*See* RCW 36.70A.040(3), RCW 36.70A.070(preamble) and WAC 365-196-500(1).)

The "Urban" environmental designation in the 2010 City of Anacortes Shoreline Master Program is limited to lands zoned for industrial and commercial uses. (2010 SMP 5.10(C).) The subject lands are designated in the Comprehensive Plan and zoned for residential uses. We request that this inconsistency be corrected by changing the "Urban" SMP environmental designation on the subject lands to the "Shoreline Residential" SMP environmental designation. The "Shoreline Residential" SMP environmental designation is intended for lands zoned for residential development. (2010 SMP 5.9(C).)

The "Urban" SMP environmental designation for the subject lands is inconsistent with many of the goals and policies of the 2012 Comprehensive Plan. The Housing/Residential

goals and policies on pages 15-17 of the Comprehensive Plan focus on maintaining the integrity of existing residential areas and neighborhoods including the subject R2 and R3 neighborhoods. Residential Goal 7 states: "maintain integrity of existing residential areas and neighborhoods." The R3 neighborhood in the subject area is protected by the Old Town Overlay District. The Comprehensive Plan uses overlay districts "to preserve historical character" of a neighborhood. (Residential Policy 1(h).) The Comprehensive Plan states that R2 areas "are to reflect existing residential trends and should be designed to reduce adverse impacts from commercial and industrial development." (Residential Policy 3(b).)

The people who live in these R2 and R3 neighborhoods strongly value and are very protective of their neighborhoods' residential character. Conservation Goal 8 in the Comprehensive Plan states, "The existing quality of life experienced by inhabitants of residential areas has an intrinsic value that should be preserved." Implementing Policy 8(c) states, "Commercial and industrial development should be restricted to areas zoned for such development."

The Comprehensive Plan is clear that the residential character and integrity of these R2 and R3 neighborhoods should be protected. The "Urban" SMP environmental designation does not protect residential character. For the subject area, the "Urban" SMP designation should be changed to "Shoreline Residential" to make the SMP environmental designation for these neighborhoods consistent with the Comprehensive Plan designations. The R2 and R3 zoning in the subject neighborhoods implements the Comprehensive Plan goals and policies. Permitted uses in the R2 zone are limited to low density single family dwellings and necessary public uses, parks, and playgrounds. (AMC 17.36.020.) Permitted uses in the R3 zone are limited to medium density single family homes, duplexes and necessary public uses, parks, and playgrounds. (AMC 17.34.020.) Because the subject R3 zone is in the Old Town Overlay District, new multifamily residences, beyond duplexes, are not allowed even by conditional use permit. (AMC 17.27.020.) No new commercial parking is allowed in the Old Town Overlay District. *Id.*

Both the R2 and R3 zones allow by conditional use permit certain limited commercial uses that are incidental to the primary residential use. (AMC 17.36.040 and AMC 17.34.040.)

Table 5.1 (Attachments 3-1 to 3-3 hereto) from the 2010 Shoreline Master Program outlines the permitted, conditional, and prohibited uses in the "Urban" and "Shoreline Residential" SMP environmental designations. In particular, the "Urban" SMP designation allows or conditionally allows general commercial and industrial development and private transportation facilities such as a ferry terminal. These uses are not allowed in the R2 and R3 zones. Allowance of these uses by the 2010 Shoreline Master Program is inconsistent with the R2 and R3 designations and zones.

Such general commercial and industrial uses and transportation facilities are generally not allowed in the "Shoreline Residential" SMP designation and so, for these major uses, the "Shoreline Residential" SMP designation is consistent with the R2 and R3 designations and zones. The "Shoreline Residential" SMP designation allows certain commercial uses that are incidental to the primary residential use and this is consistent with the allowed conditional uses in the R2 and R3 zones. (*Compare* the commercial uses conditionally allowed in AMC 17.36.040 and AMC 17.34.040 with the commercial uses allowed in the Shoreline Residential SMP designation as specified in note 3 to Table 5.1.)

Therefore, because the uses allowed by the Urban SMP designation for the Guemes Channel between "B" and "H" Ave. are inconsistent with the uses allowed by the comprehensive plan designations and zoning for the same area, this inconsistency should be fixed by changing the "Urban" SMP designation on the subject lands to the "Shoreline Residential" SMP designation in the Shoreline Master Program.

This limited amendment is consistent with subsection (c)(i) of WAC 173-27-201(1) because it increases the consistency of the Shoreline Master Program with the goals, policies, and implementing rules that direct that the Shoreline Master Program be consistent with the City comprehensive plan and development regulations. It is allowed by subsection (c)(ii) because the City is not currently conducting a comprehensive shoreline master program update. It satisfies subsection (c)(iii) because it seeks to increase coordinated development by having allowed development limited to that allowed by the comprehensive plan and implementing development regulations. This amendment is consistent with subsection (c)(iv) because it increases consistency with the applicable policies and standards of the Shoreline Management Act. This amendment will not result in a net loss of shoreline ecological functions because it only prohibits uses that would already not have been allowed by the comprehensive plan and zoning regulations.

Regarding SEPA, this amendment would be a non-project action and it will have no impact on the environment because the uses that are prohibited in this local area by changing the SMP designation from "Urban" to "Shoreline Residential" are uses that were already prohibited by the existing zoning code. Therefore there is no adverse effect on the environment from making the subject changes. There are no new uses allowed by "Shoreline Residential" SMP designation that were not already allowed by the "Urban" SMP designation. (*See* Table 5.1.) This amendment is important because today, developers and property owners in the subject area might think that all of the uses allowed by the "Urban" SMP designation would be uses allowed by the City and they might spend money and effort to implement commercial and industrial uses that are inconsistent with the comprehensive plan and zoning code. This limited amendment to the Shoreline Master Program will make it clear that commercial and industrial uses not allowed by the comprehensive plan and zoning code are also not allowed by the Shoreline Master Program.

I have researched the fees charged by the City of Anacortes and there are no fees for processing amendments to the Shoreline Master program. If you would like additional information from me, please contact me at the address and telephone number above or by email at geraldsteel@yahoo.com

Thank you for consideration of our proposed limited amendment to the City of Anacortes Shoreline Master Program.

Respectfully,

Gerald Steel
Attorney for WVWTT

Attachments:

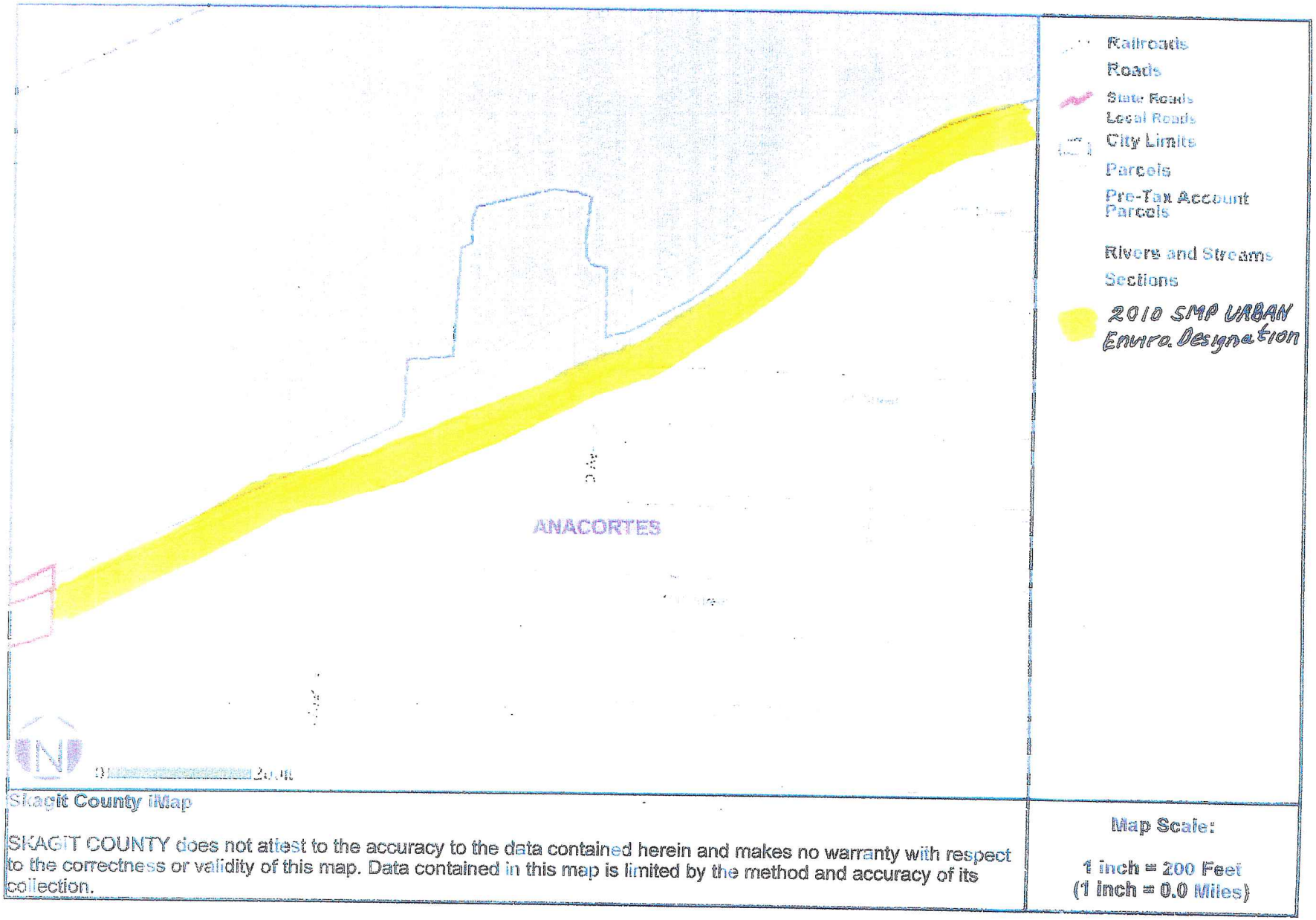
1. Copy of 2012 Comprehensive Plan Map
2. Plot in yellow of the subject "Urban" SMP Environmental Designation
3. Copy of Table 5.1 from the 2010 Shoreline Master Program

A-1

T-9

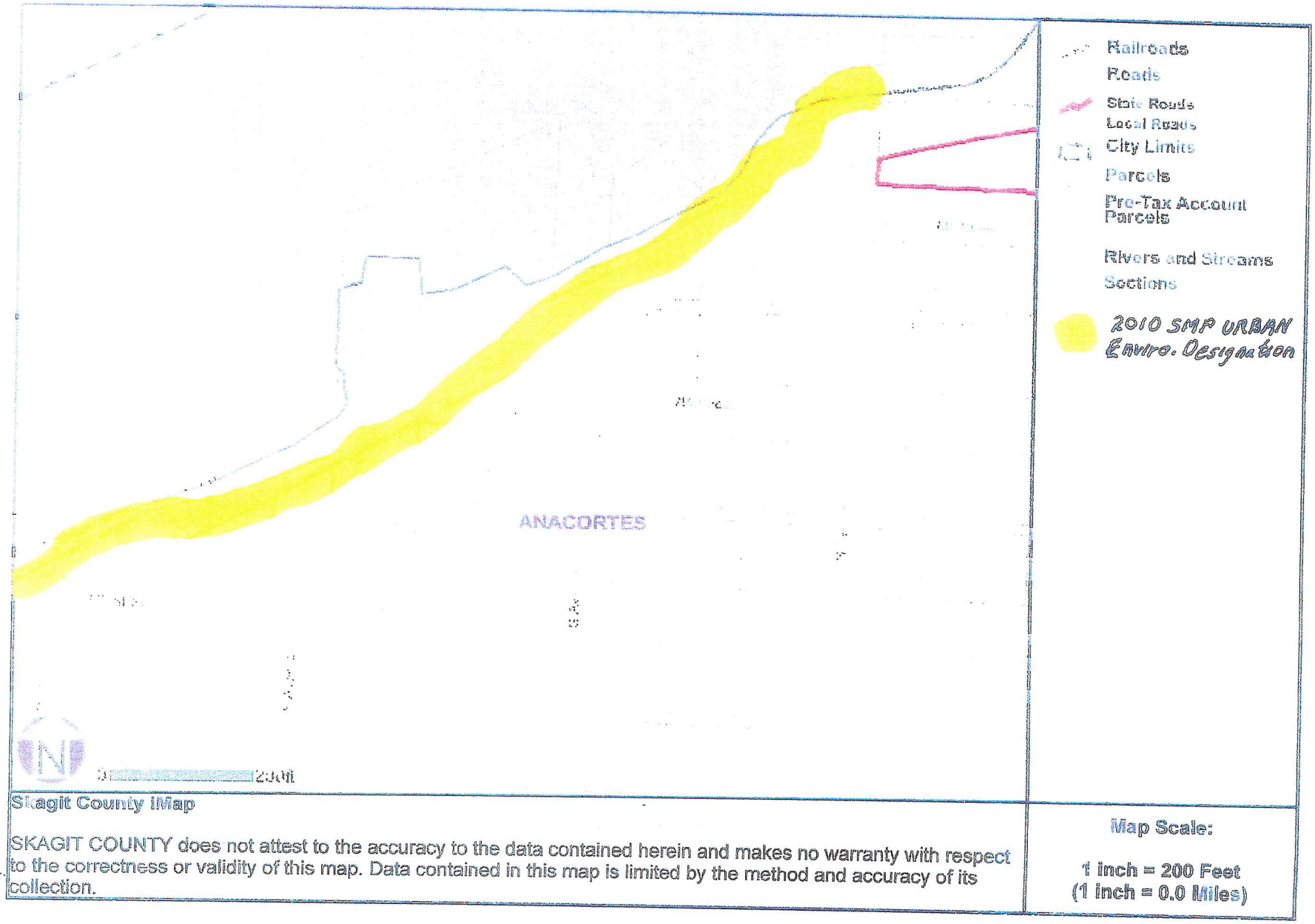
CITY OF ALMACONDES
COMPREHENSIVE PLAN
ZONING / PLANTS / ZONING PLANTS
LEGEND:
A2 = AIRPORT ZONE
C = COMMERCIAL
CBD = CENTRAL BUSINESS
CM = COMMERCIAL MARINE
CM2 = COMMERCIAL MARINE (2)
HM = HEAVY MANUFACTURING
I = INDUSTRIAL
LM = LIGHT MANUFACTURING
LM3 = LIGHT MANUFACTURING (3)
MS = MANUFACTURING / SHIPPING
P = PUBLIC USE
R4 = RESIDENTIAL HIGH DENSITY
R4A = RESIDENTIAL HIGH DENSITY TWO (A)
R4B = RESIDENTIAL HIGH DENSITY TWO (B)
R3 = RESIDENTIAL MEDIUM DENSITY
R3 = OLD TOWN OVERLAY DISTRICT
R2 = RESIDENTIAL LOW DENSITY
R1 = RESIDENTIAL LOW DENSITY

Skagit County GIS Map



T-10 A-2.1

Skagit County GIS Map



Skagit County iMap

SKAGIT COUNTY does not attest to the accuracy to the data contained herein and makes no warranty with respect to the correctness or validity of this map. Data contained in this map is limited by the method and accuracy of its collection.

Map Scale:

1 inch = 200 Feet
(1 inch = 0.0 Miles)

A-22
T-11

TABLE 5.1. SHORELINE USE AND MODIFICATION MATRIX.

The chart is coded according to the following legend. P = Permitted, when meeting requirements for that use and shoreline area, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements C = Conditional Use, when approved by the City and Department of Ecology X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit	Natural	Conservancy	Shoreline Residential	Urban	Urban Maritime	Aquatic
Shoreline Uses						
Advertising and Signs	X	P	P	P	P	P
Agriculture	X	X	X[1]	X[1]	X	X
Aquaculture						
Non-commercial aquaculture for recovery of a native population	C	C	P	P	P	P
All other aquaculture	X	X	X	C	C	X
Commercial Development						
Water-dependent	X	X	P[3]	P	P	C
Water-related	X	X	P[3]	P	P	C
Water-enjoyment	X	X	P[3]	P	P	C
Non-water-oriented	X	X	P[3]	C	C	X
Forest Practices	X	C	X	X	X	X
Industrial and Port Facilities						
Water-dependent	X	X	X	P	P	P
Water-related	X	X	X	P	P	C
Non-water-oriented	X	X	X	C	C	X
Marinas	X	X	X	P	P	P
Mining	X	X	X	X	X	X
Parking Facilities						
Primary	X	X	X	P	P	X
Accessory	X	C	P	P	P	X
Recreational Facilities						
Water-dependent (e.g., public access piers)	X	P	P	P	P	P
Water-related	X	P	P	P	P	P
Water-enjoyment (e.g., pedestrian trails)	C	P	P	P	P	P
Nonwater-oriented	X	X	C	C	C	X
Residential Development						
Single-family	X	C	P	P	X	X
Multi-family	X	X	P	P	X	X

A-3.1

The chart is coded according to the following legend. P = Permitted, when meeting requirements for that use and shoreline area, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements C = Conditional Use, when approved by the City and Department of Ecology X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit	Natural	Conservancy	Shoreline Residential	Urban	Urban Maritime	Aquatic
Scientific, Cultural and Educational Facilities	C	P	P	P.	P	P
Transportation Facilities						
Water-dependent (e.g., ferry terminal)	X	X	X	P	P	P
Water-related (e.g., ferry loading area)	X	X	X	P	P	P
Roads and associated facilities (e.g., sidewalks, bike lanes, storm drainage, etc.)	X	C	P	P	P	X
Other non-water-oriented	X	X	X	X	X	X
Utilities (Primary)						
Major	X	C	P	P	P	C
Minor	X	P	P	P	P	C
Shoreline Modifications						
Boat Launches						
Public	X	C	C	P	P	P
Private	X	X	C	P	P	P
Breakwaters[2]	X	C	C	C	C	C
Docks, Piers and Floats						
Public	X	C	P	P	P	P
Private	X	X	P[4]	P	P	P
Dredging and Dredge Spoil Disposal						
Dredging or in-water disposal associated with restoration	P	P	P	P	P	P
Other dredging	X	C	P	P	P	P
Other in-water disposal	X	X	X	X	X	X
Upland disposal	X	C	P	P	P	--
Fill						
In-water or upland restoration	P	P	P	P	P	P
Other in-water fill	X	C	C	C	C	C
Other upland fill	X	C	P	P	P	--
Jetties and Groins	X	X	C[2]	C[2]	C[2]	C[2]
Mooring Buoys	X	C	P	P	P	P
Shoreline Habitat and Natural Systems Enhancement Projects	P	P	P	P	P	P
Shoreline Stabilization						

A.3.2

The chart is coded according to the following legend. P = Permitted, when meeting requirements for that use and shoreline area, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements C = Conditional Use, when approved by the City and Department of Ecology X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit	Natural	Conservancy	Shoreline Residential	Urban	Urban Maritime	Aquatic
Bioengineering or other soft structural stabilization technique	P	P	P	P	P	P
Hard structural stabilization	X	C	C	P	P	P

[1] Home gardens associated with a single-family residence are allowed in the Shoreline Residential and Urban environment.

[2] Those structures installed to protect or restore ecological functions may be processed as a Substantial Development Permit.

[3] Except for marinas, only commercial uses that are incidental to the primary residential use and are compatible with the residential character of the neighborhood, such as home occupations and bed and breakfast inns, may be permitted.

[4] Private piers are only permitted in single-family residential use areas within Flounder Bay and along Cap Sante. All other residential piers are prohibited.

B. Development Standards

1. Table 5.2 establishes development standards, specifically lot size, lot coverage, height limits, and shoreline setbacks. The standards contained in Table 5.2 are minimum requirements unless otherwise specified by this Master Program. In addition, shoreline developments shall comply with all density, lot area, setback and other dimensional requirements of the responsible local government zoning and subdivision codes. Variances may be granted to avoid denying "reasonable use of private property" in violation of constitutional or statutory limitations on regulation. Applicants are encouraged to setback further and to allow opportunity for restoration of impaired ecological functions.

2. No building or structure in shoreline jurisdiction shall exceed the height limits indicated in Table 5.2, except:

   a. Cranes, gantries, mobile conveyors and similar equipment necessary for the functions of marinas, marine manufacturing, permitted commercial, industrial or port activities and servicing vehicles.

   b. Flagpoles or masts, transmission towers, chimneys, smokestacks, aerials or stairwells, when part of a permitted use.

   c. Belfries, monuments, spires or steeples, transmission towers, provided such structures shall be designed to minimize obstruction of views.

A-3,3

Evergreen Islands Board of Directors

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mailing address
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98221

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EVERGREEN ISLANDS

Date: July 21, 2020

Submitted by email

To: Libby Grage, Don Measamer, Planning and Economic Development Dept
To: City of Anacortes Planning Commission
Cc: Evergreen Islands Board of Directors

Subject: Comments on Shoreline Master Program Update

Dear Planning Department Staff and Planning Commissioners,

Please accept these comments on behalf of Evergreen Islands. We appreciate your efforts to update the Shoreline Master Program and the opportunity to participate in the process.

We write these comments in the spirit of exercising citizen participation, seeking clarity, and improving the City of Anacortes's success in meeting the goals set forth in the Shoreline Management Act.

Sincerely,
/s/ Marlene Finley

Marlene Finley, President

Shoreline Master Program Periodic Update
City of Anacortes
Evergreen Islands Comments
July 21, 2020

1. Pre-decisional. The City should not adopt updates of the SMP based on "soon to be adopted Critical Areas Ordinances". To do so could be pre-decisional, circumventing the authority of the Planning Commission and City Council.
2. Process Example-Wetlands. (GAP Table 2.1, 2016 Row "b"), references the 2014 wetlands rating system. It is our understanding there have been objections to the proposed wetlands section. Since it is still in "draft" in the CAO, what is it that can be commented upon, here?
3. Organization of SMP Documents. Will the Shoreline Master Program (SMP) be incorporated into AMC 19.70 along with the Critical Area Regulations? The SMP alone is currently 320 pages. This could make for a cumbersome document. Will the SMP be a separate document within AMC 19.70? The exact changes in organization is not clear.
4. Organization of the Documents. While the Gap document is helpful, too often, in the "Action" column, there are statements such as "The City will consider…." or "The City may consider…." or the City will explore….". It takes further research, i.e. more time and effort, to find

out whether changes were made. Additionally, so many other documents are referenced, one feels the need to have the Anacortes Comp Plan, the CAO, Anacortes Municipal Code, and the WAC's readily available. Might there be an easier way to present this?

5. Organization of Documents Example. (GAP Table 2.1, 2015, Row "a" and In SMP 3.8.1 page 29), only state **highway** projects are given the reduced time frame of 90 days, not the ferry terminal. This is an example of where the City "will consider" the recommendations, but the action is different than the recommendation. Does it mean there is a need to check every single "will consider, etc.. Please explain these differences and your rationale.
6. Organization of SMP Documents. How will the Critical Area Regulations and SMP be cross walked (referenced)? It is difficult to flip back and forth between documents.
7. Organization of SMP Documents. Where will Appendix A of the SMP be located? Is it moving Chapter 6? Was the existing Appendix A changed to become Appendix B? Appendix B is still referenced in the Draft SMP at 4.8 Policy 4.8.1, page 39 and 5.7 B #4.
8. Appeal Process. Where can we find information on the permit appeal process in the SMP? It should be referenced.
9. Definitions. Is the Critical Area Ordinance the same as Critical ordinance Regulations? Both terms are used in the documents.
10. Definitions. (Draft SMP Update, Chapter 12. GAP Table 3.1 #6) The SMP Update includes changes to definitions. The following examples demonstrate incomplete or missing information:
    Chapter 12, page 190 "Biologist – Qualifications". No definition is provided
    Chapter 12, page 191 "Building Height". References Table 4-1 #7. Where is the table?
    The document includes terms such as "Decision Maker", "Qualified Professional". Where are the definitions for these terms?

11. Language. (GAP Table 5.1 #1): does the use of "must" versus "shall" ensure greater compliance with the regulations? If not, what mechanism might there be to achieve this?
12. Omission/Error. (GAP Table 3.1 #4), the last sentence under "Action" is incomplete.
13. Review Suggestion. Please put a "Draft" watermark or "Draft" in a header or footer on each page of the draft documents and a date or version. It can be difficult to tell which version we are reviewing and making comments.
14. Building Heights. Please provide more explanatory information on building heights based on "zoning-based height thresholds and exemptions". The interested public, Planning Commission and City Council needs to be well informed on this topic.
15. Habitat Assessment Reports. (SMP Section 6.7 and Gap Analysis Table 3-1, Issue #5.) Habitat Assessment Reports should be required for shoreline projects proposed adjacent to the marine environment. Vegetated buffers can be critical habitat for fish and wildlife along saltwater, wetland and freshwater environments. The language proposed in the GAP analysis does not adequately protect sensitive shoreline habitat.
16. Aquaculture. (GAP Analysis page 20.) Why is there so much new language on aquaculture? What types of aquaculture are forecasted? Wouldn't consistency with zoning and regulations depend upon the level of development and associated impacts such as visuals, water quality, access, parking, etc.…?
17. Shoreline Environment Designations (SED) Confusion. In the Video by the Watershed Company, on the map legend, **Conservancy is listed before Natural**. In Chapter 5.3, of the SMP, "Shoreline Environment Designations" are listed in order of Aquatic, **Natural, Conservancy,** etc. Is the SMP accurate?

18. SED Confusion. (GAP Table 2.1 2017 Row "e") To allow forest practices (timber) in Conservancy seems contradictory to the intent of that designation. Additionally, Table 5.1 is referenced and under "Forest Practices" for Conservancy, a "6" is needed after the "C" in the body of the chart, to reference the footnote.
19. SHIP Harbor Wetland. Please include SHIP Harbor Wetland as a named, protected wetland in the Draft SMP Update on page 8, Sec 2.3 A. SHIP Harbor Wetland shoreline reach contributes 86% of the wetland area by percentage of shoreline (Draft SMP, page 312, Table B-4).
20. SHIP Harbor SED Designations. (GAP Analysis, page 15, Table 4-1, #2.) The shoreline environment designation (SED) of the land east of SHIP Harbor Wetland should be changed from Urban to Conservancy to maintain shoreline habitat and ecological integrity. In other words, rather than splitting the SED for the land near the Anacortes Ferry Terminal (currently designated Urban), between Conservancy and Shoreline Residential, why not make it all Conservancy?
21. SHIP. In this same section (GAP, page 15 Table 4-1), under Waterfront Trail (aka Guemes Channel Trail), it is stated: "excluding the area in and around the Ship Harbor wetland." Addition of the words "and buffer" to the end of the sentence, will add clarity.
22. Cannery SED Designations. We are concerned that maintaining the Urban shoreline environment designations (SED) for the two canneries may pose possible land use conflicts with the adjacent residential properties.
23. Vegetation Management. (SMP Draft Chapter 6, 6.5.9) We noted improvements in the language and specific practices to preserve trees within the shoreline boundaries.
24. Vegetation Management. While this may not be directly related to the SMP Update we have observed weaknesses in how the SMP is implemented. How are the regulations to be enforced? Who is responsible for monitoring land uses including tree and vegetation removal? What are the fines for violations? What oversight will the City provide to assure that mitigation is completed according to approved plans and permits? Who will conduct effectiveness monitoring for mitigation and restoration projects?
25. Guemes Channel Trail. What zoning or SED would be necessary for a 12-foot-wide waterfront trail to be built from Edwards Way to Washington Park? Would such a trail be permissible in a Natural SED? A Conservancy SED?
26. Restoration Plan. (GAP Table 5.1 #7) Has the City discussed a prioritized Restoration Plan with stakeholders? And who are considered stakeholders?
    Following a similar train of thought: Has the Implementation Status in Table B-7 (A7?) (p. 309, my copy) of the Appendix been updated? For example: the project for "An interpretive trail through the Ship Harbor wetlands will provide educational opportunities and access to wetlands" is marked as "pending"…..and yet that trail already exists.
27. Bulkheads. (Draft SMP Chapter 2, 2.4 E #3) We understand bulkheads are discouraged along the Puget Sound shoreline. Shouldn't bulkheads be disallowed?
28. Variances. (Draft SMP Chapter 3, 3.2 C #1, page 23) There are 6 criteria used in evaluating Variance applications. This includes areas such as wetlands. All 6 criteria must be met to allow a variance. How is it that the City has granted so many variances?
29. Mitigation and Restoration in Practice. Draft SMP Chapter 4, policies 4.7.3, 4.8.2-4, 4.8.6) This is another area of concern relating to the implementation of the SMP. The SMP allows for off-site mitigation, monitoring and appropriate corrective action. Who is responsible for oversight? In practice, there are systemic weaknesses. Landowners are even "encouraged and incentivized" to restore/rehabilitate/enhance shoreline resources by easing conditions such as waived permit fees or tax

relief. However, since the regulations are not enforced, why would the City allow for incentives with no accountability? These sections of the SMP are too permissive and lack teeth or accountability.

30. Discretion. Draft SMP, Chapter 1, 1.5 B, page 4) Is it appropriate to have the City Planning, Community and Economic Development Director be the Shoreline Administrator, with the role of "evaluating all development proposals relating to the shoreline are?" We are concerned the SMP leaves too much Discretion to the Planning Director.

EOD

LORING ADVISING

By Email

July 21, 2020

City of Anacortes Planning Commission
c/o Libby Grage, Planning Manager
libbyb@cityofanacortes.org

Re: Sequencing of City of Anacortes Critical Areas Ordinance Update and Shoreline Master Program Update

Dear Planning Commissioners,

I'm writing this letter on behalf of Evergreen Islands ("Evergreen") to request that the City of Anacortes ("City") publish updated project timelines for both of the City's updates for the Critical Areas Ordinance ("CAO") and Shoreline Master Program ("SMP"). We also request that the City confirm its intent to complete the CAO and the SMP in that order, the original sequence in which they were brought to the public. We are writing this letter because the City is moving ahead with the SMP update process while the CAO update appears to be languishing.

In addition, some confusion and concern has been created recently by references in SMP planning documents to the adoption of critical areas provisions by reference. For example, the Watershed Institute's Final Draft Gap Analysis Report references the wetlands rating system that has been captured by the draft CAO and then states that the City anticipates adopting the CAO by reference. Table 2-1, at 2016.b. (page 7). Although that text is somewhat ambiguous, it presumably refers to the incorporation of CAO provisions into the SMP by reference. Nevertheless, the CAO must be adopted as final legislation before it can be incorporated by reference into the SMP.

Sequencing the CAO and then the SMP would also be consistent with the deadlines for those two legislative updates. The CAO Update was due to be completed by June 30, 2017. RCW 36.70A.130.5.b. The SMP update is now due to be completed by June 30, 2021.

We look forward to an updated schedule for both of the CAO and SMP updates.

Sincerely,

Kyle A. Loring

Cc: Don Measamer, Director, Anacortes Dept. of Planning, Community, & Economic Dvpmt
Client