CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. 3146

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, AMENDING THE MARYSVILLE GROWTH MANAGEMENT COMPREHENSIVE PLAN, APPROVING THE RECOMMENDATION OF THE MARYSVILLE PLANNING COMMISSION TO ADOPT AN UPDATE TO THE 2006 SHORELINE MASTER PLAN ELEMENT, REPEALING MARYSVILLE MUNICIPAL CODE CHAPTER 22E.050 SHORELINE MANAGEMENT MASTER PROGRAM, AMENDING MARYSVILLE MUNICIPAL CODE TITLE 22 UNIFIED DEVELOPMENT CODE, ADOPTING A NEW SHORELINE MANAGEMENT MASTER PROGRAM CHAPTER AND AMENDING DEFINITIONS IN MARYSVILLE MUNICIPAL CODE SECTIONS 22A.020.050, 22A.020.060, 22A.020.070 AND 22A.020.200.

WHEREAS, on September 15, 2015, the Marysville City Council enacted ordinance 3000, adopting a Growth Management Comprehensive Plan for the City of Marysville; and

WHEREAS, the Growth Management Act allows comprehensive plans to be amended more frequently than once a year for the adoption and/or amendment of a shoreline master program under the procedures set forth in Chapter 90.58 RCW; and

WHEREAS, on February 14, 2011 the Marysville City Council adopted Ordinance 2852, adding Chapter 22G.020 of the Marysville Municipal Code (MMC), entitled "Procedures for Legislative Actions," which established procedures for processing and review of legislative actions relating to amendments to the City's Growth Management Comprehensive Plan and development regulations, and said procedures have been followed by the City as recited below; and

WHEREAS, the Marysville Planning Commission, after review of the proposed update to the 2006 Shoreline Master Plan at a public workshop on March 12, 2019, held a public hearing on March 26, 2019, as advertised in accordance with WAC 173-26-100, and received testimony from the Department of Ecology and staff following public notices and no other public testimony was received; and

WHEREAS, the Marysville City Council, after review of the proposed updates to the 2006 Shoreline Master Plan at public workshop on June 3, 2019, held a public meeting on June 10, 2019 and reviewed the Planning Commission's recommendation and adopted Resolution 2470, attached hereto as **Exhibit A**, declaring the Council's intent to adopt (and codify) by ordinance, the April 2019 amendments to the Shoreline Master Program and proposed revisions to Title 22 MMC Unified Development Code, pending Department of Ecology review and approval; and

WHEREAS, the City received written confirmation from the Department of Ecology (the "Department") that the City's proposed Shoreline Master Program update is consistent with Chapter 90.58 RCW, the Shoreline Management Act of 1971 and the Shoreline Master Program Guidelines outlined in Chapter 173-26 WAC – Part III, subject to the Department's Finding and Conclusions and the Department's Required Changes, which Required Changes are attached hereto as **Exhibit B**; and

WHEREAS, on February 10, 2020 the City Council reviewed the proposed updates to the 2006 Shoreline Master Plan (including the Department's Required Changes) and the proposed revisions to Title 22 MMC Unified Development Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON. DO ORDAIN AS FOLLOWS:

Section 1. **Required Findings**. In accordance with MMC 22G.010.500, the following findings are made regarding the comprehensive plan and development regulation amendments subject of this ordinance:

(1) The amendments are consistent with the purposes of the comprehensive plan;

(2) The amendments are consistent with the purpose of MMC Title 22;

(3) There have been significant changes in the circumstances to warrant these amendments; and

(4) The benefit or cost to the public health, safety and welfare is sufficient to warrant adoption of the amendments.

Section 2. The City Council hereby adopts the updates to the 2006 Shoreline Master Plan as an element of, and amendment to, the Marysville Growth Management Comprehensive Plan, subject to the modification set forth in the Department of Ecology's Required Changes, which are attached hereto as **Exhibit B**. A copy of the Comprehensive Plan Amendment, entitled "Marysville Shoreline Master Program", is attached hereto as **Exhibit C**.

Section 3. MMC Chapter 22E.050 *Shoreline Management Master Program*, adopted by Ordinance 2852, on February 14, 2011, is hereby repealed in its entirety.

Section 4. MMC Title 22 *Unified Development Code* is hereby amended by adoption of a new Chapter 22E.050 *Shoreline Master Program*, attached hereto as **Exhibit D**.

Section 5. MMC Section 22A.020.050, entitled "D" definitions is hereby amended to add new definitions and modify existing definitions, as follows (all other provisions of MMC 22A.020.050 remain in effect and are unchanged):

> "Development" means any proposed land use, zoning, or rezoning, comprehensive plan amendment, annexation, subdivision, short subdivision, planned residential development, binding site plan, conditional use permit, ~~shoreline development permit,~~ or any other property development action permitted or regulated by the Marysville Municipal Code.
>
> "Development (Shoreline Master Program)" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulk heading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to Chapter 90.58 RCW at any state of water level. "Development" does not include dismantling or removing structures if there is no other associated development or re-development.

Section 6. MMC Section 22A.020.060, entitled "E" definitions is hereby amended to add the following definitions (all other provisions of MMC 22A.020.060 remain in effect and unchanged):

"Exceptions (Shoreline Master Program)". "Requirements to obtain shoreline permits or local reviews (Shoreline Master Program)". Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

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

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

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

(iv) Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

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

"Exemption (Shoreline Master Program)". Certain specific developments as listed in WAC 173-27-040 are exempt from the definition of substantial developments are 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); WAC 173-27-040.) The external retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 USC Sec. 12010 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

Section 7. MMC Section 22A.020.070, entitled "F" definitions is hereby amended to add the following definition (all other provisions of MMC 22A.020.070 remain in effect and unchanged):

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

Section 8. MMC Section 22A.020.200, entitled "S" definitions is hereby amended to add the following definition (all other provisions of MMC 22A.020.200 remain in effect and unchanged):

"Substantial development" (Shoreline Master Program)". Any development of which the total cost or fair market value exceeds the dollar threshold established in RCW 90.58.030(e), or any development that materially interferes with the normal public use of the water or shorelines of the state; except as specifically exempted pursuant to RCW 90.58.030(3)(e). See also definition of "development" and "exemption".

Section 9. MMC 22A.010.160 is hereby amended to add the following reference to this adopted ordinance in order to track amendments to the City's Unified Development Code:

"**22A.010.160 Amendments.**

The following amendments have been made to the UDC subsequent to its adoption:

Ordinance	Title (description)	Effective Date
3146	Shoreline Master Program Adoption and Definition Amendments	Feb 20, 2020"

Section 10. **Severability**. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 11. **Corrections**. Upon approval by the city attorney, the city clerk or the code reviser are authorized to make necessary corrections to this ordinance, including scrivener's errors or clerical mistakes; references to other local, state, or federal laws, rules, or regulations; or numbering or referencing of ordinances or their sections and subsections

Section 12. **Effective Date**. Pursuant to RCW 90.58.090(7), this ordinance shall be effective fourteen (14) days from the date of the Department of Ecology's Written Notice of Final Action to the City.

PASSED by the City Council and APPROVED by the Mayor this 11 day of February, 2020.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
~~TINA BROCK, DEPUTY~~ CITY CLERK
JAN BERG

Approved as to form:

By: _____
JON WALKER, CITY ATTORNEY

Date of Publication: 2/15/20

Effective Date: See Section 12

EXHIBIT A

CITY OF MARYSVILLE
Marysville, Washington
RESOLUTION NO. 2470

A RESOLUTION OF THE CITY OF MARYVILLE DECLARING THE COUNCIL'S APPROVAL AND INTENTION TO ADOPT THE APRIL 2019 AMENDMENTS TO THE SHORELINE MASTER PROGRAM AND PROPOSED REVISIONS TO THE UNIFORM DEVELOPMENT CODE

WHEREAS, the State of Washington Shoreline Management Act of 1971 (Chapter 90.58 RCW) requires that Counties and Cities incur certain duties, obligations and responsibilities with regard to implementation of said Act; and

WHEREAS, the City Council finds that certain revisions to the existing City Shoreline Master Program are necessary in furtherance of the provisions of Chapter 90.58 RCW, and that such revisions are in the best interest of the citizens of Marysville; and

WHEREAS, the City Planning Commission, after review of the proposed Shoreline Master Plan amendments and development code revisions at a public workshop on March 12, 2019, held a public hearing on March 26, 2019, as advertised in accordance with WAC 173-26-100, and received testimony from a Department of Ecology representative and staff following public notices; no public testimony was received; and

WHEREAS, comments were solicited from federal, state, local, regional and tribal interests in accordance with Chapter 90.58.130 RCW and no comments were received; and

WHEREAS, the April 2019 DRAFT amendments to the City Shoreline Master Program and proposed development code revisions were sent to the Department of Ecology on April 20, 2019 for comments in accordance with WAC 173-26-100(5) and one memorandum from Ecology was received on May 29, 2019; and

WHEREAS, the April 2019 DRAFT amendments to the City Shoreline Master Program and proposed development code revisions were sent to the Department of Commerce on March 20, 2019 for 60-day review in compliance with RCW 36.70A.106; and

WHEREAS, in taking the actions set forth in this Resolution, the City of Marysville has complied with the requirements of the State Environmental Policy Act, Chapter 43.21C RCW, (SEPA) by issuing Addendum No. 28 on March 8, 2019 to the City of Marysville Comprehensive Plan DEIS, dated January 13, 2005, and FEIS, dated April 12, 2005 for the Comprehensive Plan, development regulations, and the Official Zoning Map amendments; and

WHEREAS the City Council held a public workshop on June 3, 2019 to review the proposed Shoreline Master Program amendments and development code revisions; and

WHEREAS, the revised Shoreline Master Program and development code revisions were formally considered by the City Council during a public meeting held on June 10, 2019;

WHEREAS, the City Council directed the Community Development Department to send the proposed master program amendments and supporting materials, consistent with WAC 173-26-110 submittal requirements, to the Department of Ecology for its review and adoption;

NOW THEREFORE, BE IT RESOLVED by the City Council of Marysville, as follows:

1. The City Council approves the April 2019 Shoreline Master Program amendments and code revisions that are attached to this resolution and incorporated herein by reference, with the understanding that in accordance with RCW 90.58.190(3), the proposed shoreline master program amendments will become effective locally immediately upon formal State Department of Ecology adoption; and
2. Following Department of Ecology adoption of the amendments, the City Council intends to adopt (and codify), by ordinance, the subject Shoreline Master Program amendments and revisions to the development code.

PASSED by the City Council and APPROVED by the Mayor this 10 day of June 2019.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
TINA BROCK, DEPUTY CITY CLERK

Approved as to form:

By: _____
JON WALKER, CITY ATTORNEY

Attachment B: Ecology Required Changes

The following changes are required to comply with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III):

ITEM	SMP Submittal PROVISION (Cite)	TOPIC	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE
1	**Chapter 4 General Provisions, section 3, Critical Areas:**	Critical Areas Regulations (CAR) Referencing	3. The Marysville Critical Areas Regulations, as codified in Chapter ~~1924~~ 22E.0I0 MMC (dated May 2, 2005, Ordinance #2571 and amending Ordinance 3073, dated December 11, 20 I 7), are herein incorporated into this master program except as noted below. 4. Provisions of Marysville Critical Area Regulations that include a reasonable use determination" shall not apply within Shoreline Jurisdiction. Specifically, • The sentence in MMC ~~19.24.020~~ 22E.010.020 referring to reasonable use determination does not apply. • MMC Section ~~19.22.420~~ 22E.010.410 does not apply. 5. Provisions of Marysville Critical Areas Regulations relating to variance procedures and criteria do not apply in Shoreline Jurisdiction. Within Shoreline Jurisdiction, the purpose of a variance permit is strictly limited to granting relief from specific bulk,	Current SMP CAR referencing is outdated. Reference to 2017 amended CAR and revised city municipal code is needed for consistency with WAC 173-26-221 (2) (Critical Areas).

EXHIBIT B

			dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Specifically, • MCC section ~~19.24.320(2)~~ 22E.010.310 (2) shall not apply. Variance procedures and criteria shall be established in this SMP. ~~Chapter 8 Section B~~ MMC Chapter 22E.050 *Shoreline Management Master Program* and in Washington Administrative code WAC 173-27-170.4 Environmental Impacts 6. Criteria (b) and)c) describing exceptions for approved plats and legally created lots in MMC section ~~19.24.330(7)~~ 22E.010.320 (7) shall not apply, except where adjacent to the QWULOOLT Restoration Project.	

EXHIBIT C

Marysville Shoreline Master Program

February 2020

City Council Approved, _____, 2020
Ordinance No. ____

Table of Contents

Chapter 1 ..... **4**

Introduction to the SMP Handbook **4**

A. History of the SMA 4

B. Geographic Applications of the SMA 5

Chapter 2 ..... **7**

Goals and Objectives **7**

A. Introduction 7

B. Elements 7

1. Shoreline Use Element 7
2. Economic Development Element 8
3. Circulation Element 8
4. Conservation Element 9
5. Public Access Element 9
6. Recreational Element 10
7. Historical/Cultural Element 10
8. Flood Damage Minimization Element 10

Chapter 3 ..... **11**

Environment Designation Provisions **11**

A. Introduction 11

B. Environment Descriptions 11

1. Aquatic Environment 11
2. Aquatic Urban Shoreline Environment 12
3. High-Intensity Environment 13
4. Urban Conservancy Environment 14
5. Shoreline Residential Environment 15

C. Shoreline Use and Modification Matrices 18

Chapter 4 ..... **23**

General Provisions **23**

A. Introduction 23

B. Policies and Regulations 23

1. Universally Applicable Policies and Regulations 23
2. Archaeological and Historic Resources 24
3. Critical Areas 26
4. Environmental Impacts 26
5. Flood Hazard Reduction and River Corridor Management 28
6. Parking 31
7. Public Access 32
8. Shorelines of State-Wide Significance Regulations 35
9. Signage 37
10. Utilities (Accessory) 38
11. Vegetation Conservation 39
12. Water Quality 41

Chapter 5 43

Shoreline Modification Provisions 43

A. Introduction and Applicability 43

B. Policies and Regulations 43

1. General Policies and Regulations 43
2. Shoreline Stabilization (Including Bulkheads) 45
3. Pier and Docks 49
4. Fill 52
5. Breakwaters, Jetties, and Groins 53
6. Dredging and Disposal 55
7. Shoreline Restoration and Ecological Enhancement 57

Chapter 6 59

Shoreline Use Provisions 59

A. Introduction 59

B. Shoreline Use Policies and Regulations 59

1. General Use Policies 59
2. Agriculture 59
3. Boating Facilities 61
4. Commercial Development 65
5. Industry 66
6. In-Stream Structures 69
7. Recreational Development 70
8. Residential Development 72
9. Transportation and Parking 74
10. Utilities 77

Chapter 7 80

Definitions 80

Chapter 8 92

Restoration Plan 92

A. Restoration Goals and Objectives 92
1. Goals 92
2. List of Existing and Ongoing Projects and Programs 93

CHAPTER 1

Introduction to the SMP Handbook

A. History of the SMA

In 1969, the Washington State Supreme Court decided in the case of *Wilbur v. Gallagher* (77 Wn.2d 302), commonly known as the "Lake Chelan Case," that certain activities along shorelines were contrary to the public interest. The court findings required that the public interest be represented in the proper forum for determining the use of shoreline properties. The ramifications of this decision were significant in that developers, environmentalists, and other interested parties began to recognize—although probably for different reasons—the need for a comprehensive planning and regulatory program for shorelines.

Wilbur v. Gallagher was a case primarily involving property rights. It was decided at a time of heightened environmental awareness. At the same time, Congress was considering environmental legislation and subsequently passed a number of laws relating to protection of the environment including the National Environmental Policy Act (1969) and the Coastal Zone Management Act (1972). "Earth Day" and the concept of "spaceship earth" were part of the American scene. "Conservationists" had become "environmentalists" and some had even gone so far as to call themselves "ecologists." Whatever the name or concept, concern for fragile ecological areas became important, along with the rights associated with property ownership.

Voters of the state, seeing the failure of the Seacoast Management Bill in the state legislature, validated an initiative petition commonly titled the "Shoreline Protection Act." The state legislature, choosing between adoption of the people's initiative petition or its own alternative, passed into law the "Shoreline Management Act of 1971" (SMA) effective June 1, 1971, which contained the provision for both statutes to be deferred to the electorate in the November 1972 election. The election issue required that voters respond to two questions: (1) Did they favor shoreline management? and (2) Which alternative management program did they prefer? Most Washington voters favored both shoreline management and the legislature's alternative (providing greater local control), by an approximately 2-to-1 margin. It is important to keep in mind that the SMA was a response to a people's initiative and was ratified by the voters, giving the Act a populist foundation as well as an environmental justification.

The Act's paramount objectives are to protect and restore the valuable natural resources that shorelines represent and to plan for and foster all "reasonable and appropriate uses" that are dependent upon a waterfront location or that offer opportunities for the public to enjoy the state's shorelines. With this clear mandate, the SMA established a planning and regulatory program to be initiated at the local level under State guidance.

This cooperative effort balances local and state-wide interests in the management and development of shoreline areas by requiring local governments to plan (via shoreline master programs) and regulate (via permits) shoreline development within SMA jurisdiction. (See "Geographic Applications of the SMA" below.) Local government actions are monitored by the Washington Department of Ecology (Ecology), which approves new or

amended shoreline master programs (SMPs), reviews substantial development permits, and approves conditional use permits and variances.

After the Act's passage in 1971, Ecology adopted Chapter 173-16 WAC to serve as a standard for the implementation of the Act and to provide direction to local governments and Ecology in preparing master programs. Two hundred forty-seven cities and counties have prepared SMPs based on that WAC chapter. Over the years, local governments, with the help of Ecology, developed a set of practices and methodologies, the best of which were collected and described in the 1994 *Shoreline Management Guidebook*.

In 1995, the state legislature passed Engrossed Substitute House Bill 1724, which included several RCW amendments to better integrate the Growth Management Act (GMA), the Shoreline Management Act, and the State Environmental Policy Act (SEPA). The bill also directed Ecology to review and update the state SMA guidelines every five years. In response, Ecology undertook a primarily in-house process to prepare a new WAC chapter (also referred to in this *Handbook* as the "Guidelines"). After meeting with a series of advisory committees and producing a number of informal drafts, Ecology formally proposed a new WAC rule for the SMA in April 1999. Subsequently, in 2003, the Legislature further clarified the integration of the SMA and GMA.

The rule was appealed and then-Governor Gary Locke and former Attorney General Christine Gregoire cosponsored a year-long mediation effort in 2002 that culminated in a third draft, which was issued for public comment in July 2002. That proposal had the endorsement of the Association of Washington Business, the Washington Aggregates & Concrete Association, the Washington Environmental Council (WEC) and other environmental organizations – all of whom were parties to the lawsuit.

Ecology received about 300 comments on the version proposed in 2003. Seventeen changes were made in response to those comments, to clarify language and to delete obsolete or duplicative references. The final version was adopted December 17, 2003.

B. Geographic Applications of the SMA

The Shoreline Management Act covers all shorelines of the state, including "shorelines" and "shorelines of state-wide significance" (SSWS). Provisions of the Act apply to the following geographical shoreline areas. (See RCW 90.58.030 (2).)

1. All marine waters of the state, together with the lands underlying them.
2. Streams and rivers with a minimum mean annual flow of 20 cubic feet per second.
3. Lakes and reservoirs larger than 20 acres in area.
4. "Shorelands," which are upland areas extending 200 feet landward from the edge of these waters, and the wetlands and river deltas areas *associated* with one of the above.

Local governments have the option of including the entire 100-year floodplain. The City has chosen a combined approach, which includes a portion of the floodplain. Most notably, the City has chosen not to include the area surrounding the waste water treatment plant and Allen Creek upstream of the tide gate. The shoreline jurisdiction in Marysville is identified in Figures 1 and 2. For the Ebey Slough area, Figure 1 illustrates shoreline jurisdiction identified at this time. Figure 1 also illustrates shoreline jurisdiction based on the proposed

dike breach on the north side of Ebey Slough. The inundated floodplain will overtime establish an ordinary high water mark. Until then, as allowed by RCW 90.58.030(2)(b), the mean higher high tide (8.86 feet, NAVD 88) will be used as the ordinary high water mark.

CHAPTER 2

Goals and Objectives

A. Introduction

The following goals and objectives were derived from the SMA objectives, provisions in Marysville's Comprehensive Plan, and other civic activities. They were reviewed at the public open house on March 12, 2005.

B. Elements

1. Shoreline Use Element

Goals

1. Identify and reserve shoreline and water areas with unique attributes for specific long-term uses, including commercial, industrial, residential, recreational, and open space uses.
2. Ensure that activities and facilities are located on the shorelines in such a manner as to retain or improve the quality of the environment as it is designated for that area.
3. Ensure that proposed shoreline uses do not infringe upon the rights of others or upon the rights of private ownership.
4. Encourage shoreline uses that enhance their specific areas or employ innovative features for purposes consistent with this program.
5. Encourage joint-use activities in proposed shoreline developments.
6. Ebey Slough is a shoreline of state-wide significance and is of value to the entire state and should be protected and managed. In order of preference, the priorities are to:
   a. Recognize and protect the state-wide interest over local interest.
   b. Preserve the natural character of the shoreline.
   c. Result in long-term over short-term benefit.
   d. Protect the resources and ecology of shorelines.
   e. Increase public access to publicly owned areas of the shorelines.
7. Encourage intensive mixed-use development with public access on the city's central waterfront consistent with the 2004 Downtown Plan, and the 2005 Comprehensive Plan.
8. Ensure that planning, zoning, and other regulatory and non-regulatory programs governing lands adjacent to shoreline jurisdiction are consistent with SMA and GMA policies and regulations and the provisions of this SMP.

9. When determining allowable uses and resolving use conflicts, apply the following preferences and priorities in order of sequence listed below with a. being given top priority.
   a. Uses and activities that protect and restore ecological functions, to control pollution, and prevent damage to the natural environment and public health
   b. Water-dependent uses
   c. Water related and water enjoyment uses.
   d. Single family residences where they are appropriate and consistent with the comprehensive plan and where they can be developed without significant impact to ecological functions or displacement of water oriented uses
   e Non-water-oriented uses where they are consistent with the comprehensive plan and where they can be developed without significant impact to ecological functions or displacement of water oriented uses.

   Note that joint-use projects that combine two or more of the categories above are encouraged and should be evaluated with respect to the degree that they achieve a balance of the priorities above and the provisions of this master program.

2. Economic Development Element

Goals

1. Ensure healthy, orderly economic growth by allowing development and/or re-development activities which will be an asset to the community and local economy and which result in the least possible adverse effect on the quality of the shoreline and surrounding environment.
2. Protect current economic activity (e.g., marinas, industrial businesses, etc.) that is consistent with the objectives of the Comprehensive Plan, the SMP, and provide for environmentally sensitive new development.
3. Seek opportunities that will rely on a landscape analysis to both support appropriate development within shoreline jurisdiction and provide for an improvement or restoration of environmental functions.
4. Develop, as an economic asset, the recreation industry along shorelines in a manner that will enhance the public enjoyment of, and public access to shorelines. Encourage improvement of boat launches, marina facilities, and public access trails when coupled with environmental protection and/or restoration.
5. Ensure that any economic activity taking place along the shoreline operates without harming the quality of the site's environment or adjacent shorelands.
6. Encourage new economic development to locate in areas already developed with similar uses that are consistent with the City's Comprehensive Plan including this master program.

3. Circulation Element

Goals

1. Provide safe, reasonable, and adequate circulation systems to shorelines where routes will have the least possible adverse effect on unique or fragile shoreline features and existing ecological systems, while contributing to the functional and visual enhancement of the shoreline.

2. To the extent feasible, locate land circulation systems that are not shoreline dependent in a manner that will reduce or eliminate interference with either natural shoreline resources or other appropriate shoreline uses. Where possible, avoid creating barriers between adjacent uplands and the shoreline.
3. Protect and enhance those characteristics of shoreline roadway corridors that are unique or have historic significance or aesthetic quality for the benefit and enjoyment of the public.

4. Conservation Element

Goals

1. As a long-term goal, seek no further degradation of environmental functions and where appropriate, the restoration of the Ebey Slough and associated wetlands to perform their natural ecological functions within the Snohomish River Estuary.
2. Ensure that utilization of a natural resource takes place with the minimum adverse impact to natural systems and quality of the shoreline environment.
3. Reclaim and restore areas that are biologically and aesthetically degraded to the greatest extent feasible while maintaining appropriate use of the shoreline. Consider the restoration of the Qwuloolt site and add trails with interpretive displays describing the natural ecology and the restoration process.
4. Require that shoreline ecological restoration be a condition of all non-water-dependent development fronting directly on the ordinary high water mark (OHWM).
5. Preserve the scenic aesthetic quality of shoreline areas and vistas to the greatest extent feasible.
6. Pursue a comprehensive program of ecological enhancements as identified in the Shoreline Ecological Restoration Plan attached to this SMP.
7. Minimize the loss of native vegetation and preserve tree cover in riparian areas by establishing conservation standards.
8. To the extent feasible, locate and design development to avoid impacts to shoreline natural resources and the functions provided by these resources. Shoreline development projects should follow best management practices that protect water quality. Encourage public and private shoreline owners to control populations of invasive or noxious plants and animals as defined by the Washington Department of Fish & Wildlife.

5. Public Access Element

Goals

1. Provide, protect, and enhance a public access system that is both physical and visual, utilizing both private and public lands, which increases the amount and diversity of public access to the State's shorelines consistent with the natural shoreline character, private rights, and public safety.
2. Construct a continuous public path along the Ebey Slough shoreline while providing for protection of ecological functions.
3. Integrate public access to shorelines as a part of the City public trail system consistent with the adopted GMA Plan.

4. Develop a comprehensive public access system that incorporates public access into new shoreline development and unifies individual public access elements.

6. Recreational Element

Goals

1. Increase recreational opportunities in shoreline areas that can reasonably tolerate active, passive, competitive, or contemplative uses without diminishing or degrading the integrity and character of the shoreline.
2. Coordinate with the City Department of Parks and Recreation to optimize opportunities for water-oriented recreation.
3. Integrate recreational elements into other regional trail systems and into federal, state, and local public access planning.
4. Ensure existing and proposed recreational uses are of a safe and healthy nature.

7. Historical/Cultural Element

Goals

1. Identify, protect, preserve, and restore important archaeological, historical, and cultural sites located in shorelands of the State for educational, scientific, and enjoyment of the general public.
2. Encourage educational projects and programs that foster a greater appreciation of the importance of shoreline management, marine activities, environmental conservation, and local history.

8. Flood Damage Minimization Element

Goals

1. Reduce the likelihood of flood damage within and outside the city limits by locating development away from flood-prone areas and by protecting and restoring natural geohydrological processes.
2. Participate in watershed-wide programs to reduce flood hazards and improve the shoreline ecology.

CHAPTER 3

Environment Designation Provisions

A. Introduction

The Shoreline Management Act (RCW 90.58) and Shoreline Guidelines (WAC 173-26 provide for shoreline designations to serve as a tool for applying and tailoring the general policies of the Act to local shorelines. Shoreline classifications provide a means of adapting broad policies to shoreline segments while recognizing different conditions and valuable shoreline resources, and a way to integrate comprehensive planning into shoreline master program regulations.

B. Environment Descriptions

1. Aquatic Environment

a. Purpose

The purpose of the Aquatic Environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark (OHWM).

b. Designation Criteria

An Aquatic Environment designation will be assigned to shoreline areas waterward of the ordinary high water mark.

c. Management Policies

- New over-water structures should be prohibited except for water-dependent uses, public access, or ecological restoration.
- The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
- Provisions for the Aquatic Environment should be directed towards maintaining and restoring habitat for priority aquatic species.
- All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
- Uses that cause significant ecological impacts to critical saltwater and freshwater habitats should be discouraged. Where those uses are necessary to achieve the objectives of RCW 90.58.020, their impacts shall be mitigated according to the sequence defined in Section 4.B.4.
- Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
- All developments and activities using navigable waters or their beds should be located and designed to minimize interference with surface navigation, to

minimize adverse visual impacts, and to allow for the safe, unobstructed passage of fish and animals, particularly those whose life cycles are dependent on such migration.

- Development of underwater pipelines and cables on first- and second-class tidelands should include adequate provisions to ensure against substantial or irrevocable damage to the environment.
- Abandoned and neglected structures that cause adverse visual impacts or are a hazard to public health, safety, and welfare should be removed or restored to a usable condition consistent with the provision of this program.

2. Aquatic Urban Shoreline Environment

a. Purpose

The purpose of the Aquatic Urban Environment Designation is to allow for the removal, maintenance or construction of high-intensity, water-oriented uses that require piers/docks for operations or for access to the water including essential public transportation facilities, recreational, and mixed-use commercial development.

b. Designation Criteria

An Aquatic Urban Environment designation includes all water waterward of the OHWM that is currently occupied by, or planned for development or redevelopment by water-dependent; water-related; and water-enjoyment uses, including water dependent/water-related transportation, mixed-use commercial, and recreational uses.

For the purposes of this plan, the Aquatic Urban Environment designation includes areas waterward from the OHWM on the north side of Ebey Slough a maximum of 175' or to the edge of navigable water, whatever comes first. The width of the 'Aquatic Urban Shoreline Environment' lies between Interstate 5 to the west and the eastern boundary of the Marysville Waste Water Treatment Plant to the western city boundary along Interstate-5.

c. Management Policies

- All development, activies and uses waterward of the OHWM shall: minimize interference with surface navigation; consider impacts to public views, and allow for the safe, unobstructed passage of fish and wildlife.
- Ensure that public and private use of the aquatic environment and its natural resources occurs with minimal adverse impacts to the quality of the aquatic areas waterward of the shoreline with focus on maintaining and restoring the nearshore and aquatic environments.
- Minimize adverse impacts of overwater structures, docks, and boat moorage on the aquatic environment's ecological functions.
- Over water uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

3. High-Intensity Environment

a. Purpose

The purpose of the High-Intensity Environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological function in those areas that have been previously degraded.

b. Designation Criteria

A High-Intensity Environment designation will be assigned to shorelands within City jurisdiction if they currently support or are suitable and planned for high-intensity water-dependent uses related to commerce, transportation, or navigation, or if they support the City of Marysville Comprehensive Plan goals and environmental management goals.

The following shorelands landward of the OHWM are designated High-Intensity:

- All shorelands landward of the OHWM on the north side of Ebey Slough from the eastern boundary of the Marysville Waste Water Treatment Plant to the western city boundary.
- All shorelands in the public right-of-way, state and local, and railroad properties existing in public or railroad ownership at the time of adoption of this SMP to the south of Ebey Slough.
- Land located east of SR 529, north of Steamboat Slough, south and west of Ebey Slough (aka TP #300533-002-002-00) and in the northwest and southwest quarters of Section 33, Township 30N, Range 5E, W.M. (the concrete plant).
- Public rights-of-way (streets and utilities) crossing or near Quilceda Creek.

c. Management Policies

- In regulating uses in the High-Intensity Environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Non-water-oriented uses should be discouraged except as part of mixed-use developments or existing developed areas supporting water-dependent uses and/or shoreline restoration. Non-water-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline if shoreline restoration is included as part of development.
- New development should protect and, where feasible, restore shoreline ecological functions, with particular emphasis on habitat for priority species. Where applicable, new development shall include environmental cleanup and restoration of the shoreline in accordance with state and federal requirements.
- Visual and physical public access should be required as provided for in SMP Section 4.B.7, except as noted in that section.
- Aesthetic objectives should be actively implemented by means such as sign control regulations, appropriate development siting, screening and

architectural standards, and maintenance of natural vegetative buffers. These objectives may be implemented either through this master program or other City ordinances.

- Development in the High-Intensity Environment should be managed so that it enhances and maintains the shorelines for a variety of urban uses, with priority given to water-dependent, water-related, water-enjoyment uses and public access.
- In order to make maximum use of the available shoreline resource and to accommodate future water-oriented uses, the redevelopment and renewal of substandard, degraded, obsolete urban shoreline areas should be encouraged.

4. Urban Conservancy Environment

a. Purpose

The purpose of the Urban Conservancy Environment is to protect and restore ecological functions in urban and developed settings, while allowing limited water-oriented uses.

b. Designation Criteria

An Urban Conservancy Environment designation will be assigned to shorelands appropriate and planned for development that are not generally suitable for water-dependent uses and that lie in incorporated municipalities, urban growth areas, or commercial or industrial rural areas of more intense development with any of the following characteristics:

- They are suitable for water-related or water-enjoyment uses;
- They are flood plains, steep slopes, or other areas that should not be more intensively developed;
- They have potential for ecological restoration;
- They retain important ecological functions, even though partially developed; or

The following shorelands are designated Urban Conservancy:

- All shorelands southward of Ebey Slough, except those noted as High-Intensity in the immediately preceding section.
- All shorelands bordering on Quilceda Creek (except public rights-of-way (street and utility crossings)).
- All lands lying within the 100-year floodplain north of Ebey Slough between the eastern boundary of the Waste Water Treatment Plant (WWTP) and the eastern city boundary, except for residential lots less than 6,000 square feet in area and those areas designated High-Intensity in the previous section.
- All shorelands not otherwise designated in this Master Program.

c. Management Policies

- During development and redevelopment, all reasonable efforts should be taken to restore ecological functions. Where feasible, restoration and public access should be required of all non-water-dependent development on previously developed shorelines.

- Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the urban conservancy designation to ensure that new development does not further degrade the shoreline and is consistent with an overall goal to improve ecological functions and habitat for priority species.
- Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
- Water-oriented uses should be given priority over non-water-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.
- Derelict, unsafe and unlawful structures should be removed or brought into conformance of this SMP.

5. Shoreline Residential Environment

a. Purpose

The purpose of the Shoreline Residential Environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

b. Designation Criteria

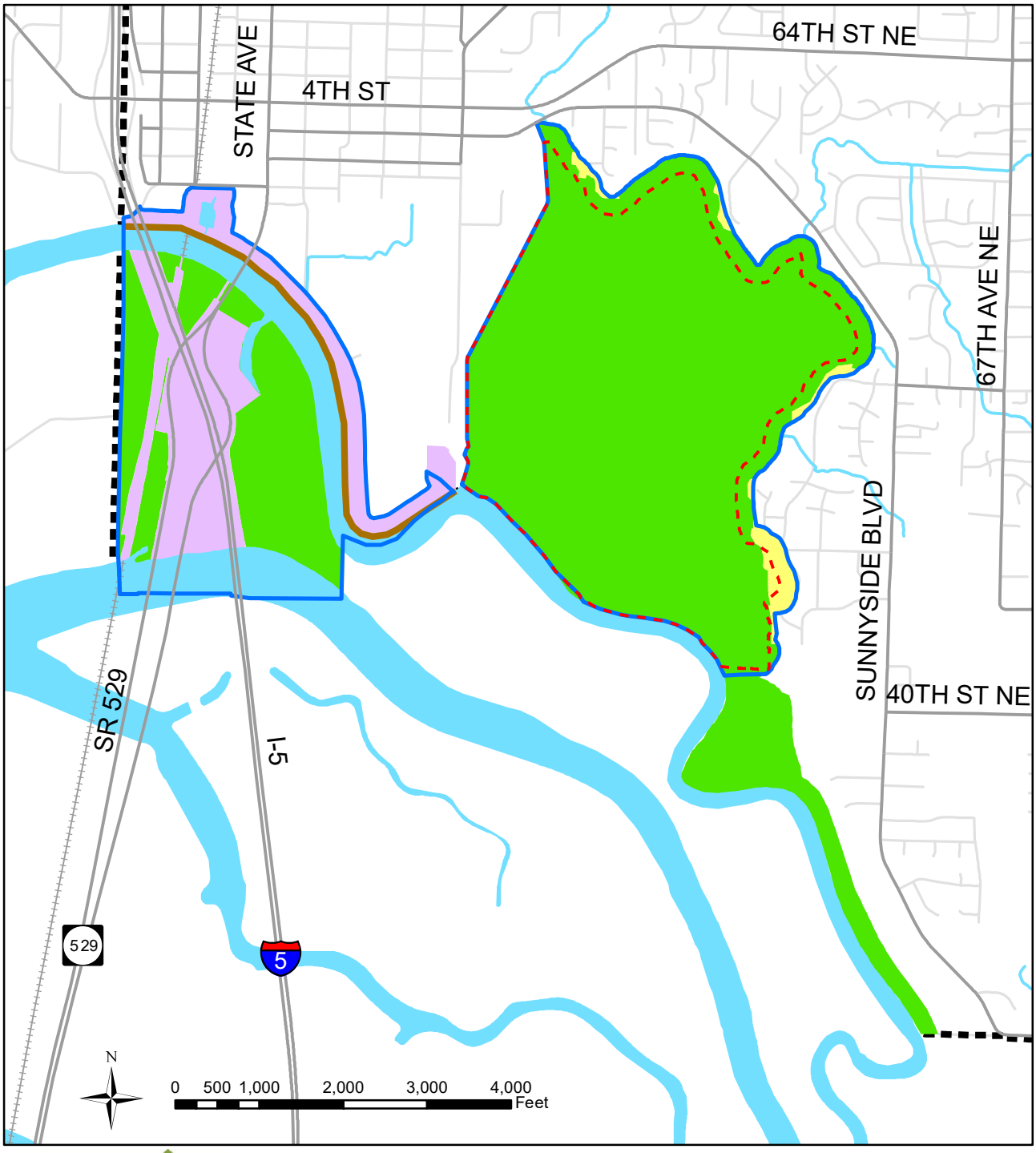
A Shoreline Residential Environment designation will be assigned to shorelands inside urban growth areas, as defined in RCW 36.70A.110, incorporated municipalities, rural areas of more intense development, or master planned resorts, as described in RCW 36.70A.360, if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.

The following shorelands are designated Shoreline Residential:

- Shorelands lying north of Ebey Slough and adjacent to the slough or its associated wetlands with existing residential uses on lots less than 6,000 square feet in area as of the date of adoption of this SMP.

c. Management Policies

- Densities or minimum frontage width standards in the Shoreline Residential Environment should be set to protect the shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.
- Development standards for setbacks or buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time.
- Water-oriented recreational uses should be allowed.



Shoreline Master Plan
Ebey Slough and Surrounding Area

March 2019

- Shoreline MHHT/OHWM
- Aquatic Urban
- Aquatic
- Shoreline Jurisdiction
- Shoreline Residential
- High Intensity
- Urban Conservancy
- Marysville city limits

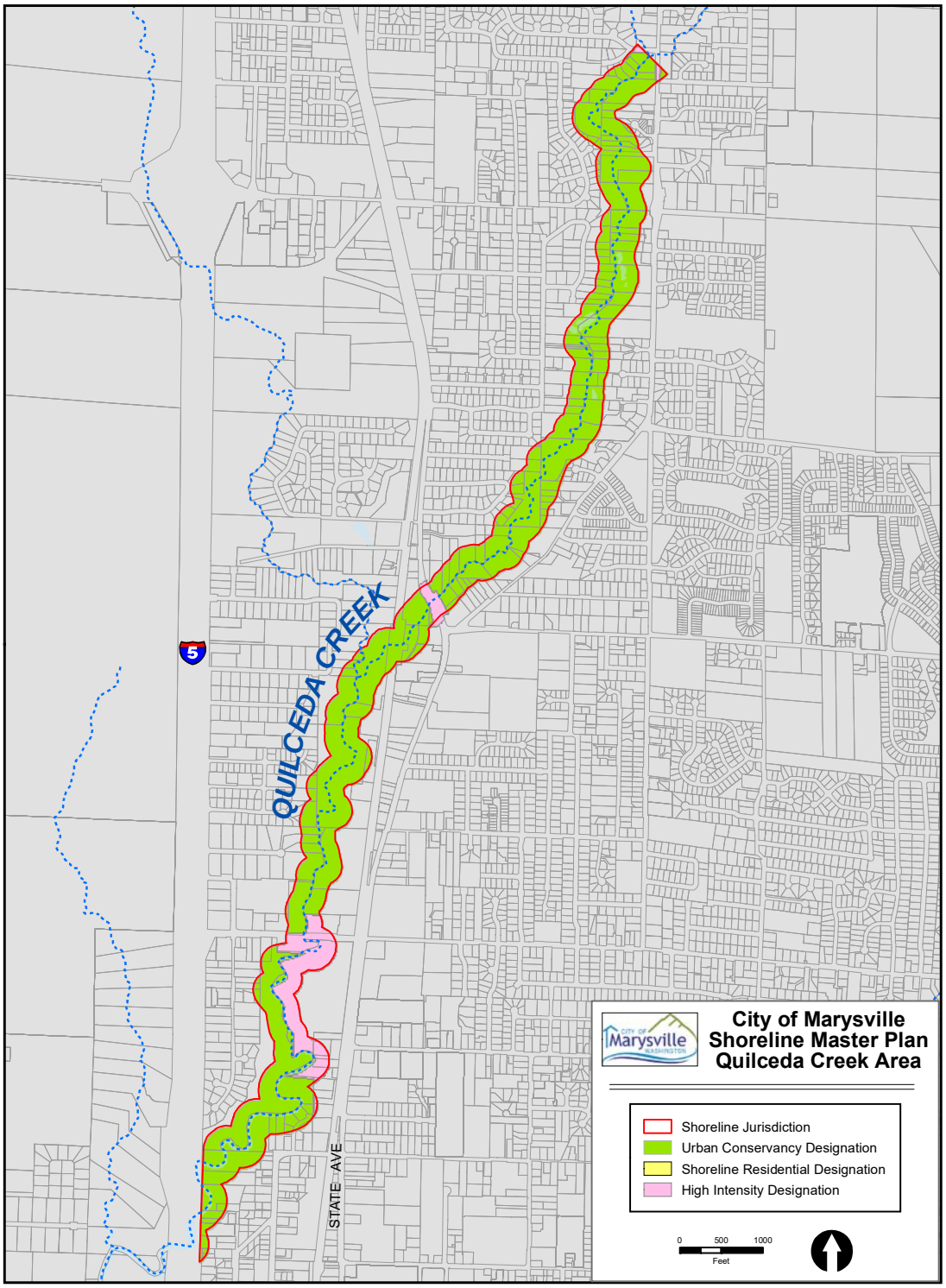


Figure 2. Shoreline environment designations for City of Marysville - Quilceda Creek.

C. Shoreline Use and Modification Matrices

The following matrices indicate the allowable uses and shoreline modifications and some of the standards applicable to those uses and modifications. Where there is a conflict between the chart and the written provisions in Chapters 4, 5, or 6 of this master program, the written provisions shall apply.

The charts are coded according to the following legend. Where a hyphen is used (e.g., P-X), see "Notes to Matrices" following the charts for an explanation.

P = May be permitted

C = May be permitted as a conditional use only

X = Prohibited; the use is not eligible for a variance or conditional use permit

N/A = Not applicable

SHORELINE USE	High-Intensity	Urban Conservancy	Shoreline Residential	Aquatic Urban	Aquatic
Agriculture	P	P	X	X	X
Aquaculture	X	X	X	X	X
Boating facilities (including marinas)	P	C[3]	X	P	P[1]
Commercial:					
Water-dependent	P	X	X	P	P[1]
Water-related, water-enjoyment	P[2]	X	X	P	X[15]
Non-water-oriented	P[2]	X	X	P[2]	X
Flood hazard management	P	P[3]	P	X	X
Forest practices	X	X	X	X	X
Industrial:					
Water-dependent	P	X	X	P[1]	P[1]
Water-related, water-enjoyment	P[2]	X	X	X[15]	X[15]
Non-water-oriented	C[2]	X	X	X	X
Mining	X	X	X	X	X
Parking (accessory)	P	P[3]	P	X	X
Parking (primary, including paid)	X	X	X	X	X
Recreation:					
Water-dependent	P	P[3]	P	P	P
Water-enjoyment	P	P[3]	P	P	X
Non-water-oriented	P[2]	X	P	P[2]	X

SHORELINE USE	High-Intensity	Urban Conservancy	Shoreline Residential	Aquatic Urban	Aquatic
Single-family residential	X	X-P[9,]	P	X	X
Multifamily residential	P[2]	X	P	X	X
Land division (See Section 6.B.7.)	P	X	P	X	X
Signs:					
On premises	P	X	X	X	X
Off premise	X	X	X	X	X
Public, highway	P	P	X	X	X
Solid waste disposal	X	X	X	X	X
Transportation:					
Water-dependent	P	P	C	P	P
Non-water-oriented	P[4]	C[4]	C[4]	P[4]	C[4,17]
Roads, railroads	P[4]	C[4]	P[4]	C[4,17]	C[4,17]
Utilities (primary)	P[4]	C[4]	P[4]	P[4]	C[4]

SHORELINE MODIFICATIONS	High-Intensity	Urban Conservancy	Shoreline Residential	Aquatic Urban	Aquatic
Shoreline stabilization[13]:					
Beach restoration/enhancement	P	P[5]	P	P	P[5]
Bioengineering	P	P[5]	P	P	C[5]
Revetments	P	C[5]	P	P	C[5]
Bulkheads	P	C[5]	P	X	X
Breakwaters/jetties/rock weirs/groins	P	C[5]	P	C	C[5]
Dikes, levees	P	C[5]	P	C	X
Dredging	N/A	N/A	N/A	P[6]	C[6]
Hazardous waste cleanup	P	P	P	P	P
Fill [3]	P	C[5]	P	P	C[5]

Piers, docks, buoys, floats	P	P[7]	X	P[1,2]	P[1]

DEVELOPMENT STANDARDS[12]	High-Intensity	Urban Conservancy	Shoreline Residential	Aquatic Urban	Aquatic
Boating Facilities					
Water-dependent setback	0	0	0	N/A	N/A
Water-related Building setback	25’	50’	N/A	N/A	N/A
Commercial, Recreational, and Industrial Development					
Water-dependent setback	0	N/A	N/A	N/A	N/A
Water-related, water-enjoyment setback	70’[8]	N/A	N/A	N/A	N/A
Non-water-oriented setback	70’[8]	N/A	N/A	N/A	N/A
Building height limit	65’	N/A	N/A	40’	N/A
Parking (Accessory)					
Setback	70’[8]	N/A	20’	N/A	N/A
Residential Development					
Setbacks for all dwelling units	70’[8]	N/A[10]	20’[11]	N/A	N/A
Height limit	85’	25’	40’	N/A	N/A

Notes to Matrices:

1. *The use or shoreline modification may be allowed in the Aquatic Environment and Urban Aquatic Environment if, and only if, permitted in the adjacent upland environment.*
2. *Public access, as approved by the City, is a condition of non-water-dependent development.*
3. *The use may be allowed provided it does not cause significant ecological impacts.*
4. *The use may be allowed providing there is no other feasible route or location.*
5. *The shoreline modification may be allowed for environmental restoration or if the City determines that there will be a net increase in desired shoreline ecological functions.*
6. *Dredging may be allowed only in support of a water-dependent use when the City finds that the need is demonstrated.*
7. *Piers or docks may be allowed only for public access or hand-held vessels and only if significant adverse ecological impacts are avoided.*
8. *The setback space shall include a 50-foot minimum strip of shoreline restoration measures and/or native vegetation plantings as approved by the City plus a 20-foot-wide public access easement running parallel with the shoreline. (See General Provisions, Vegetation Conservation, Section 4.B.11.)*

   The City may reduce the required setback to 40 feet for mixed-use development as part of master planned marinas or water-dependent recreation facilities, provided public access to the shoreline is provided in some other way and the vegetation enhancement is provided in the 40-foot setback.

9. *New residential development is not allowed in the Urban Conservancy Environment except along the Quilceda Creek shoreline. For shoreline lots existing prior to the adoption of this shoreline master program along the Quilceda Creek shoreline, new residential development is allowed provided it meets the provisions of this master program and the City of Marysville Critical Area Ordinance.*
10. *Note that new residential development is prohibited in the Urban Conservancy Environment except for lots fronting Quilceda Creek created prior to the adoption of this shoreline master program. All new and redeveloped lots must meet the buffer requirements listed in the Critical Areas section of the SMP. See also regulations related to Residential Development and Nonconforming Use within the SMP.*
11. *Properties abutting the Qwuloolt Restoration Project are not required to obtain a Shoreline substantial development permit pursuant to RCW 90.58.580(3) "A substantial development permit is not required on land within urban growth areas as defined in RCW 36.70A.030 that is brought under shoreline jurisdiction due to a restoration project creating a landward shift in the ordinary high water mark." .*
12. *See also Section 3, "Critical Areas" and Section 4.B.11, "Vegetation Conservation."*
13. *See also setback requirements in Chapter 5, Section B.2.c.3.*
14. *Fill in the floodway requires a conditional use permit. See Chapter 5, Section B.4.c.4.*
15. *Except for some mixed-use development. See Chapter 5, Section B.3.c.3.*
16. *The High-Intensity designations along Quilceda Creek must meet the buffer requirements listed in the Critical Areas section of the SMP.*
17. *Expansion of existing facilities does not require a conditional use.*

CHAPTER 4

General Provisions

A. Introduction

General policies and regulations are applicable to all uses and activities (regardless of master program environment designation) that may occur along a jurisdiction's shorelines. If used properly, they can also reduce redundancy in a master program by eliminating the need to repeat regulations over and over for each environment designation.

This chapter is broken up into twelve different topic headings and is arranged alphabetically. Each topic begins with a discussion of background master program issues and considerations, followed by general policy statements and regulations. The intent of these model provisions is to be inclusive, making them applicable over a wide range of environments as well as particular uses and activities. They can be used directly or modified to include more restrictive language as necessary.

B. Policies and Regulations

1. Universally Applicable Policies and Regulations

a. Applicability

The following regulations describe the requirements for all shoreline uses and modifications in all environment designation.

b. Policies

1. The City will periodically review conditions on the shoreline and conduct appropriate analysis to determine whether or not other actions are necessary to protect and restore the ecology, protect human health and safety, upgrade the visual qualities, and enhance residential and recreational uses on the City's shorelines. Specific issues to address in such evaluations include, but are not limited to:

    a. Water quality.

    b. Conservation of aquatic vegetation (control of noxious weeds and enhancement of vegetation that supports more desirable ecological and recreational conditions).

    c. Upland vegetation.

    d. Changing visual character as a result of new residential development, including additions, and individual vegetation conservation practices.

    e. Shoreline stabilization and modifications.

2. The City will keep records of all project review actions within shoreline jurisdiction, including shoreline permits, letters of exemption, and building permits.
3. Where appropriate, the City will pursue the policies of this master program in other land use, development permitting, public construction, and public health and safety activities. Specifically, such activities include, but are not limited to:
   a. Water quality and storm water management activities, including those outside shoreline jurisdiction but affecting the shorelines of the state.
   b. Aquatic vegetation management.
   c. Health and safety activities, especially those related to sanitary sewage.
   d. Public works and utilities development.
4. Involve affected federal, state, and tribal governments in the review process of shoreline applications.

c. Regulations

1. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the Shoreline Management Act, Chapter 90.58 RCW, and to the policies and regulations of this master program.
2. All new shoreline modifications must be in support of an allowable shoreline use that conforms to the provisions of this master program. Except as otherwise noted, all shoreline modifications not associated with a legally existing or an approved shoreline use are prohibited.
3. Shoreline uses, modifications, and conditions listed as "prohibited" shall not be eligible for consideration as a shoreline variance or shoreline conditional use permit.
4. The "policies" listed in this master program will provide broad guidance and direction and will be used by the City in applying the "regulations." The policies, taken together, constitute the Shoreline Element of the Marysville Comprehensive Plan.
5. Where provisions of this master program conflict, the provisions most directly implementing the objectives of the Shoreline Management Act, as determined by the City, shall apply unless specifically stated otherwise.
6. See Section 4 for regulations, including exemptions, variances, conditional uses, and nonconforming uses.

2. Archaeological and Historic Resources

a. Applicability

The following provisions apply to archaeological and historic resources that are either recorded at the State Historic Preservation Office and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to Chapter 27.44 RCW (Indian graves and records) and Chapter 27.53 RCW (Archaeological sites and records) and shall comply with Chapter 25-48 WAC as well as the provisions of this chapter.

b. Policy

Due to the limited and irreplaceable nature of the resource, public or private uses, activities, and development should be prevented from destroying or damaging any site having historic, cultural, scientific or educational value as identified by the appropriate authorities and deemed worthy of protection and preservation.

c. Regulations

1. All shoreline permits shall contain provisions which require developers to immediately stop work and notify the City if any phenomena of possible archaeological value are uncovered during excavations. In such cases, the developer shall be required to provide for a site inspection and evaluation by a professional archaeologist to ensure that all possible valuable archaeological data are properly salvaged or mapped.
2. Permits issued in areas known to contain archaeological artifacts and data shall include a requirement that the developer provide for a site inspection and evaluation by an archaeologist. The permit shall require approval by the City before work can begin on a project following inspection. Significant archaeological data or artifacts shall be recovered before work begins or resumes on a project.
3. Significant archaeological and historic resources shall be permanently preserved for scientific study, education and public observation. When the City determines that a site has significant archaeological, natural, scientific or historical value, a Substantial Development Permit shall not be issued which would pose a threat to the site. The City may require that development be postponed in such areas to allow investigation of public acquisition potential and/or retrieval and preservation of significant artifacts.
4. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The City shall notify the State Department of Ecology, the State Attorney General's Office and the State Historic Preservation Office of such a waiver in a timely manner.
5. Archaeological sites located both in and outside the shoreline jurisdiction are subject to RCW 2744 (Indian Graves and Records) and RCW 2753 (Archaeological Sites and Records) and shall comply with WAC 25-48 as well as the provisions of this master program.
6. Archaeological excavations may be permitted subject to the provisions of this program.
7. Identified historical or archaeological resources shall be considered in park, open space, public access and site planning, with access to such areas designed and managed so as to give maximum protection to the resource and surrounding environment.
8. Clear interpretation of historical and archaeological features and natural areas shall be provided when appropriate.
9. The City will work with affected tribes and other agencies to protect Native American artifacts and sites of significance and other archaeological and cultural resources as mandated by Chapter 27.53 RCW.

3. Critical Areas

The Marysville Critical Areas Regulations, as codified in Chapter ~~19.24~~ 22E.010 MMC (dated May 2, 2005, Ordinance #2571 and amending Ordinance 3073, dated December 11, 2017), are herein incorporated into this master program except as noted below.

Exceptions to the applicability of Marysville Critical Areas Regulations in Shoreline Jurisdiction in the instances specified below.

1. If provisions of the Critical Areas Regulations and other parts of the master program conflict, the provisions most protective of the ecological resource shall apply, as determined by the City.
2. Provisions of the Critical Areas Regulations that are not consistent with the Shoreline Management Act Chapter, 90.85 RCW, and supporting Washington Administrative Code chapters shall not apply in Shoreline jurisdiction.
3. The provisions of Marysville Critical Areas Regulations do not extend Shoreline Jurisdiction beyond the limits specified in this SMP. For regulations addressing critical area buffer areas that are outside Shoreline Jurisdiction, see Marysville Critical Areas Regulations.
4. Provisions of Marysville Critical Area Regulations that include a "reasonable use determination" shall not apply within Shoreline Jurisdiction. Specifically,
   - The sentence in MMC ~~19.24.020~~ 22E.010.020 referring to reasonable use determination does not apply.
   - MMC Section ~~19.24.420~~ 22E.010.410 does not apply.
5. Provisions of Marysville Critical Areas Regulations relating to variance procedures and criteria do not apply in Shoreline Jurisdiction. Within Shoreline Jurisdiction, the purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Specifically, MMC ~~19.24.320(2)~~ 22E010.310(2) shall not apply. Variance procedures and criteria shall be established in the SMP, ~~Chapter 8 Section B~~ MMC Chapter 22E.050 *Shoreline Master Program* and in Washington Administrative Code WAC 173-27-170.
6. Criteria (b) and (c) describing exceptions for approved plats and legally created lots in MMC section ~~19.24.330(7)~~ 22E.010.320(7) shall not apply, except where adjacent to the QWULOOLT Restoration Project.

4. Environmental Impacts

a. Applicability

The following policies and regulations apply to all uses and development in shoreline jurisdiction.

b. Policies

1. In implementing this master program, the City will take necessary steps to ensure compliance with Chapter 43.21 RCW, the Washington State Environmental Policy Act of 1971, and its implementing guidelines.
2. All significant adverse impacts to the shoreline should be avoided or, if that is not possible, minimized to the extent feasible.

c. Regulations

1. All project proposals, including those for which a shoreline permit is not required, shall comply with Chapter 43.21c RCW, the Washington State Environmental Policy Act.
2. Projects that cause significant ecological impacts, as defined in Definitions, are not allowed unless mitigated according to the sequence in Item 4 below to avoid reduction or damage to ecosystem-wide processes and ecological functions.
3. Projects that cause significant adverse impacts, other than significant ecological impacts, shall be mitigated according to the sequence in Item 4 below.
4. When applying mitigation to avoid or minimize significant adverse effects and significant ecological impacts, the City will apply the following sequence of steps in order of priority, with (a) 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.

   The City will set mitigation requirements or permit conditions based on impacts identified. In determining appropriate mitigation measures, avoidance of impacts by means such as relocating or redesigning the proposed development will be applied first. Lower priority measure will be applied only after higher priority measures are demonstrated to be not feasible or not applicable. (See definition of “feasible” in Definitions.)
5. All shoreline development shall be located and constructed to avoid significant adverse impacts to human health and safety.

5. Flood Hazard Reduction and River Corridor Management

a. Applicability

The provisions in this section apply to those areas within shoreline jurisdiction lying along Ebey Slough and the Snohomish River floodplain corridors, including rivers, streams, associated wetlands in the floodplain, and river deltas.

The provisions in this section are intended to address two concerns especially relevant to river shorelines:

1. Protecting human safety and minimizing flood hazard to human activities and development.
2. Protecting and contributing to the restoration of ecosystem-wide processes and ecological functions found in the applicable watershed or sub-basin.

For this Section 5, "Flood Hazard Reduction and River Corridor Management," only, the term "floodway" refers to the FEMA definition.

b. Policies

1. Implement a comprehensive program to manage the City's riparian corridors that integrates the following City ordinances and activities:
   a. Regulations in this master program.
   b. The City's Critical Area Ordinance.
   c. The City's zoning ordinance.
   d. The City's storm water management plan and implementing regulations.
   e. The City's flood hazard minimization ordinance, Chapter 16.32 MMC, "Floodplain Management."
   f. The City's participation in flood hazard reduction programs, including the Federal Emergency Management Act and the Washington State Flood Control Assistance Account Program.
   g. The construction or improvement of new public facilities, including roads, dikes, utilities, bridges, and other structures.
   h. The ecological restoration of selected shoreline areas.
2. In regulating development on shorelines within SMA jurisdiction, endeavor to achieve the following:
   a. Maintenance of human safety.
   b. Protection and, where appropriate, the restoration of the physical integrity of the ecological system processes, including water and sediment transport and natural channel movement.
   c. Protection of water quality and natural groundwater movement.
   d. Protection of fish, vegetation, and other life forms and their habitat vital to the aquatic food chain.
   e. Protection of existing legal uses and legal development unless the City determines relocation or abandonment of a use or structure is the only

feasible option or that there is a compelling reason to the contrary based on public concern and the provisions of the SMA.

f. Protection of recreation resources and aesthetic values, such as point and channel bars, islands, and other shore features and scenery.

3. Undertake flood hazard planning, where practical, in a coordinated manner among affected property owners and public agencies and consider entire drainage systems or sizable stretches of rivers, lakes, or marine shorelines. This planning should consider the off-site erosion and accretion or flood damage that might occur as a result of stabilization or protection structures or activities. Flood hazard management planning should fully employ nonstructural approaches to minimizing flood hazard to the extent feasible.

4. Give preference to and use nonstructural solutions over structural flood control devices wherever feasible, including prohibiting or limiting development in historically flood-prone areas, regulating structural design and limiting increases in peak storm water runoff from new upland development, public education, and land acquisition for additional flood storage. Structural solutions to reduce shoreline hazard should be allowed only after it is demonstrated that nonstructural solutions would not be able to reduce the hazard.

5. In designing publicly financed or subsidized works, give consideration to providing public pedestrian access to the shoreline for low-impact outdoor recreation.

6. Encourage the removal or breaching of dikes to provide greater wetland area for flood water storage and habitat; provided, such an action does not increase the risk of flood damage to existing human development.

c. Regulations

1. The applicant shall provide the following information as part of a shoreline permit application on Ebey Slough.

   a. Location of ordinary high water mark (OHWM), 100-year floodplain boundary, floodway boundary as defined by FEMA, and bankfull width boundary.

   b. Existing shoreline stabilization and flood-protection works on the site.

   c. Physical, geological, and soil characteristics of the area.

   d. Predicted impacts upon area shore and ecological processes, adjacent properties, and shoreline and water uses.

   e. Analysis of alternative construction methods, development options, or flood protection measures, both structural and nonstructural.

   f. Description of existing shoreline vegetation and measures to protect existing vegetation and to re-establish vegetation.

2. New development must be consistent with items a through d below in addition to the provisions of this master program. In cases of inconsistency, the provisions most protective of shoreline ecological functions and processes shall apply:

a. The City's comprehensive flood hazard reduction plan, Chapter 16.32 MMC, "Floodplain Management."

b. The applicable provisions of the City floodplain regulations adopted under Chapter 86.16 RCW.

c. The flood insurance study for Snohomish County, Washington, prepared by FEMA in accordance with Chapter 86.16 RCW and the National Flood Insurance Program.

d. The 2001 Washington Department of Ecology Stormwater Manual, as adopted by the City of Marysville.

Conditions of Hydraulic Project Approval, issued by Washington State Department of Fish and Wildlife, may be incorporated into permits issued for flood protection.

3. New structural flood hazard reduction measures, including dikes, levees, and overflow channels, may be allowed only when all of the following can be demonstrated:

   a. The project does not further restrict natural channel movement, except that flood hazard reduction measures that protect an existing building, roadway, bridge, or utility line may be installed, provided the measure is placed as close to the existing structure as possible;

   b. Other, nonstructural measures would not be feasible or adequate;

   c. The measures are necessary to protect existing development or new public development, such as a roadway, that cannot be located further from the stream channel; and

   d. Shoreline vegetation necessary to provide ecological functions is protected or restored.

4. New flood hazard reduction measures, including dikes and levees, may be constructed to protect properties as part of a shoreline environmental restoration project, such as the breaching of a dike to create additional wetlands.

5. Otherwise allowed development in the 100-year floodplain and flood hazard reduction measures shall employ the type of construction or measure that causes the least significant ecological impacts. Authorizing development within the 100-year floodplain, the City will require that the construction method with the least negative significant ecological impacts be used. For example, the City will not allow rock revetments to be used for erosion control if a "softer" approach using vegetation plantings and engineered woody debris placement is possible.

6. Existing hydrological connections into and between water bodies, such as streams, tributaries, wetlands, and dry channels, shall be maintained. Where feasible, obstructed channels shall be re-established as a condition of non-water-dependent uses, development in the 100-year floodplain, and structural flood hazard reduction measures.

7. Re-establishment of native vegetation waterward of a new structure on Ebey Slough is required where feasible. The City may require re-establishment of

vegetation on and landward of the structure if it determines such vegetation is necessary to protect and restore ecological functions.

8. Designs for flood hazard reduction measures and shoreline stabilization measures in river corridors must be prepared by qualified professional engineers (or geologists or hydrologists) who have expertise in local riverine processes.
9. Structural flood hazard reduction projects that are continuous in nature, such as dikes or levees, shall provide for public access unless the City determines that such access is not feasible or desirable according to the criteria in the "Public Access" section.
10. Refer to the use, shoreline modification and development standards table in Chapter 3 for allowable uses and modification and development standards such as setbacks and clearing and grading within each environment designation.
11. Residential, commercial, and industrial uses that may be damaged by flooding are prohibited in 100-year floodplains. In determining whether a use may be damaged, the local government should consider its location, its design, the extent to which development has occurred in the floodplain, and whether access will be available to the use during flood events.
12. Hospitals, health care facilities, nursing homes, and retirement homes are prohibited within 100-year floodplains.
13. Residential, commercial, and industrial subdivisions and short subdivisions shall be designed so that each lot will have a building site outside the 100-year floodplain and new buildings shall be located outside the 100-year floodplain. The subdivision's internal street system should be laid out to provide access to each lot that is passable by passenger car during a 100-year flood event.
14. Bridges, culverts, and other river, stream, and waterway crossings shall be designed and constructed so they do not restrict flood flows such that flood elevations are increased. Where a bridge, culvert, or other waterway crossing replaces an existing crossing, the replacement structure shall not increase flood heights over those caused by the original structure.
15. The removal of gravel for flood control may be allowed only if biological and geomorphologic study demonstrates a long-term benefit to flood hazard reduction, no net loss of ecological functions, and extraction is part of a comprehensive flood management solution.

6. Parking

a. Applicability

Parking is the temporary storage of automobiles or other motorized vehicles. Except as noted the following provisions apply only to parking that is "accessory" to a permitted shoreline use. Parking as a "primary" use and parking which serves a use not permitted in the shoreline jurisdiction is prohibited.

b. Policies

1. Parking should be planned to achieve optimum use. Where possible, parking should serve more than one use (e.g. serving recreational use on weekends, commercial uses on weekdays).
2. Where feasible, parking for shoreline uses should be provided in areas outside shoreline jurisdiction.
3. Low-impact parking facilities, such as permeable pavements, are encouraged.

c. Regulations

1. Parking as a primary use or that serves a use not permitted in the applicable shoreline environment designation shall be prohibited over water and within shoreline jurisdiction.
2. Parking in shoreline jurisdiction must directly serve a permitted shoreline use.
3. Parking facilities shall be designed and landscaped to minimize adverse impacts upon the adjacent shoreline and abutting properties. Landscaping shall consist of native vegetation and/or plant materials approved by the City and be planted before completion of the parking area in such a manner that plantings provide effective screening within three years of project completion.
4. Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served, EXCEPT when the parking facility is within or beneath the structure and adequately screened, or in cases when an alternate location would have less environmental impact on the shoreline.
5. Parking facilities for shoreline activities shall provide safe and convenient pedestrian circulation within the parking area and to the shorelines.
6. Parking facilities shall provide adequate facilities to prevent surface water runoff from contaminating water bodies, using best available technologies and include a maintenance program that will assure proper functioning of such facilities over time.

7. Public Access

a. Applicability

Shoreline public access is the physical ability of the general public to reach and touch the water's edge and/or the ability to have a view of the water and the shoreline from upland locations. Public access facilities may include picnic areas, pathways and trails, floats and docks, promenades, viewing towers, bridges, boat launches, and improved street ends. The City has prepared a plan for a proposed “Ebey Waterfront Trail” extending along the Ebey Slough waterfront and connecting to the existing pedestrian trail to Sunnyside public access point and to the east to connect to a regional trail system. Trails and public access points are also shown on the trail network maps in the City of Marysville Parks and Recreation Plan

Along Quilceda Creek, public access will be primarily views of the stream from public roadways.

b. Policies

1. Public access should be considered in the review of all private and public developments (including land division) with the exception of the following:

   a. One- and two-family dwelling units; or

   b. Where deemed inappropriate due to health, safety and environmental concerns.

   Public access should be required when land is divided into more than four residential lots.

2. Developments, uses, and activities on or near the shoreline should not impair or detract from the public's access to the water or the rights of navigation.

3. Public access, including historical recreational access should be provided as close as possible to the water's edge without causing significant ecological impacts and should be designed in accordance with the Americans with Disabilities Act.

4. Opportunities for public access should be identified on publicly owned shorelines. Public access afforded by shoreline street ends, public utilities and rights-of-way should be preserved, maintained and enhanced.

5. Public access should be designed to provide for public safety and comfort and to minimize potential impacts to private property and individual privacy. There should be a physical separation or other means of clearly delineating public and private space in order to avoid unnecessary user conflict.

6. Public views from the shoreline upland areas should be enhanced and preserved. Enhancement of views should not be construed to mean excessive removal of existing native vegetation that partially impairs views.

7. Public access and interpretive displays should be provided as part of publicly funded restoration projects where significant ecological impacts can be avoided.

8. The Ebey Waterfront Trail and, where applicable, the City's Parks and Recreation Plan should be implemented to provide a continuous waterfront multi-purpose trail from the City's Waterfront Park to the east and north to connect to the Sunnyside Drive Public Access Point and to proposed regional trails.

9. Commercial and industrial waterfront development should be encouraged to provide a means for visual and pedestrian access to the shoreline area wherever feasible.

10. The acquisition of suitable upland shoreline properties to provide access to publicly owned shorelands should be encouraged.

c. Regulations

1. Except as provided in regulations 2 and 3, shoreline substantial developments or conditional uses shall 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 provide public access to mitigate this impact.

b. Where a development or use will interfere with an existing public access way, the development or use shall provide public access to mitigate this impact. Impacts to public access may include blocking access or discouraging use of existing on-site or nearby accesses.

c. Where a use which is not a priority shoreline use under the Shoreline Management Act locates on a shoreline of the state, the use or development shall provide public access to mitigate this impact.

d. Where a use or development will interfere with a public use of lands or waters subject to the public trust doctrine, the development shall provide public access to mitigate this impact.

e. Where the development is proposed by a public entity or on public lands.

f. Where called for under the City's public access plan, including the Ebey Waterfront Trail.

g. Where the rights of navigation are impacted, the proposed development will include mitigation for that impact.

h. As part of development for non-water-dependent uses (including water-enjoyment and water-related uses) and subdivisions of land into more than four parcels.

The shoreline permit file shall describe the impact, the required public access conditions, and how the conditions address the impact. Mitigation for public access impacts shall be in accordance with the definition of mitigation and mitigation sequence in Section 4.B.4.

2. An applicant need not provide public access where the City determines that one or more of the following conditions apply.

   a. The adopted City's public access planning indicates that public access is not required.

   b. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;

   c. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;

   d. The cost of providing the access as determined by the City, easement or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development;

   e. Significant ecological impacts will result from the public access which cannot be mitigated; or

   f. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.

3. In order to meet any of the conditions "a" through "f" above, the applicant must first demonstrate and the City determine in its findings that all reasonable alternatives have been exhausted, including but not limited to:

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

b. Designing separation of uses and activities (e.g. fences, terracing, use of one-way glazings, hedges, landscaping, etc.); and

c. Developing provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.

4. Public access provided by shoreline street ends, public utilities and rights-of-way shall not be diminished (This is a requirement of RCW 35.79.035 and RCW 36.87.130).

5. Public access sites shall be connected directly to the nearest public street or public right-of-way and shall include provisions for physically impaired persons, where feasible.

6. Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity.

7. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition running contemporaneous with the authorized land use, at a minimum. Said recording with the County Auditor's Office shall occur at the time of permit approval (RCW 58.17.110).

8. Minimum width of public access easements shall be 20 feet, unless the City determines that undue hardship would result.

   In such cases, easement width may be reduced only to the minimum extent necessary to relieve the hardship.

9. The standard state approved logo or other approved signs that indicate the public's right of access and hours of access shall be constructed, installed and maintained by the applicant in conspicuous locations at public access sites. In accordance with regulation 3-a, signs may control or restrict public access as a condition of permit approval.

10. Future actions by the applicant successors in interest or other parties shall not diminish the usefulness or value of the public access provided.

8. Shorelines of State-Wide Significance Regulations

a. Applicability

The Shoreline Management Act of 1971 designated certain shoreline areas as shorelines of state-wide significance. Within the City of Maryville's jurisdiction, Ebey Slough is a shoreline of state-wide significance. Shorelines thus designated are important to the entire state. Because these shorelines are major resources from which all people in the state derive benefit, this jurisdiction gives preference to uses which favor long-range goals and support the overall public interest.

b. Policies

In implementing the objectives of RCW 90.58.020, the City will base decisions and actions on the following policies in order of priority, 1 being the highest and 6 being lowest.

1. Recognize and protect the state-wide interest over local interest.

a. Solicit comments and opinions from groups and individuals representing state-wide interests by circulating the master program, and any amendments there of affecting shorelines of state-wide significance, to state agencies, adjacent jurisdictions, citizen's advisory committees and local officials and state-wide interest groups.

b. Recognize and take into account state agencies' policies, programs and recommendations in developing and administering use regulations and in approving shoreline permits.

c. Solicit comments, opinions and advice from individuals with expertise in ecology and other scientific fields pertinent to shoreline management.

2. Preserve the natural character of the shoreline.

a. Designate and administer shoreline environments and use regulations to protect and restore the ecology and environment of the shoreline as a result of man-made intrusions on shorelines.

b. Upgrade and redevelop those areas where intensive development already exists in order to reduce adverse impact on the environment and to accommodate future growth rather than allowing high intensity uses to extend into low-intensity use or underdeveloped areas.

c. Protect and restore existing diversity of vegetation and habitat values, wetlands and riparian corridors associated with shoreline areas.

d. Protect and restore habitats for State-listed “priority species.”

3. Result in long-term over short-term benefit.

a. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.

b. In general, preserve resources and values of shorelines of state-wide significance for future generations and restrict or prohibit development that would irretrievably damage shoreline resources.

4. Protect the resources and ecology of the shoreline.

a. All shoreline development should be located, designed, constructed and managed to avoid disturbance of and minimize adverse impacts to wildlife resources, including spawning, nesting, rearing and habitat areas and migratory routes.

b. Actively promote esthetic considerations when contemplating new development, redevelopment of existing facilities or general enhancement of shoreline areas.

5. Increase public access to publicly owned areas of the shoreline.

a. Give priority to developing paths and trails to shoreline areas, linear access along the shorelines and to developed upland parking.

b. Locate development landward of the ordinary high water mark so that access is enhanced.

c. Prevent development that would impede navigation on waters of the state.

6. Increase recreational opportunities for the public on the shoreline.

a. Plan for and encourage development of facilities for recreational use of the shoreline.

b. Reserve areas for lodging and related facilities on uplands well away from the shorelines with provisions for nonmotorized access to the shoreline.

9. Signage

a. Applicability

A sign is defined as a device of any material or medium, including structural component parts, which is used or intended to be used to attract attention to the subject matter for advertising, identification or informative purposes. The following provisions apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment, conducted or sold either on or off premises.

b. Policies

1. Signs should be designed and placed so that they are compatible with the esthetic quality of the existing shoreline and adjacent land and water uses.
2. Signs should not block or otherwise interfere with visual access to the water or shorelands.

c. Regulations

1. All signs shall be located and designed to avoid interference with vistas, viewpoints and visual access to the shoreline.
2. Over-water signs, signs on floats or pilings, and signs for goods, services, or businesses not located directly on the site proposed for a sign are prohibited.
3. Lighted signs shall be hooded, shaded, or aimed so that direct light will not result in glare when viewed from surrounding properties or watercourses.
4. Signs shall not exceed 32 square feet in surface area. On-site freestanding signs shall not exceed 6 feet in height. When feasible, signs shall be flush-mounted against existing buildings.
5. Temporary or obsolete signs shall be removed within 10 days of elections, closures of business, or termination of any other function. Examples of temporary signs include: real estate signs, directions to events, political advertisements, event or holiday signs, construction signs, and signs advertising a sale or promotional event.
6. Signs that do not meet the policies and regulations of this program shall be removed or conform within two years of the adoption of this master program.
7. No signs shall be placed in a required view corridor.
8. Allowable Signs: The following types of signs may be allowed in all shoreline environments:

    a. Water navigational signs, and highway and railroad signs necessary for operation, safety and direction.

    b. Public information signs directly relating to a shoreline use or activity.

c. Off-premise, free standing signs for community identification, information, or directional purposes.

d. National, site and institutional flags or temporary decorations customary for special holidays and similar events of a public nature.

e. Temporary directional signs to public or quasi-public events if removed within 10 days following the event.

9. Prohibited Signs: The following types of signs are prohibited:

a. Off-premises detached outdoor advertising signs.

b. Commercial signs for products services, or facilities located off-site.

c. Spinners, streamers, pennants, flashing lights and other animated signs used for commercial purposes. Highway and railroad signs are exceptions.

d. Signs placed on trees or other natural features.

10. Utilities (Accessory)

a. Applicability

Accessory utilities are those that effect small-scale distribution services connected directly to the uses along the shoreline. They are addressed in this section because they concern all types of development and have the potential to impact the quality of the shoreline and its waters.

b. Policies

1. Accessory utilities should be properly installed so as to protect the shoreline and water from contamination and degradation.

2. Accessory utility facilities and rights-of-way should be located outside of the shoreline area to the maximum extent possible. When utility lines require a shoreline location, they should be placed underground.

3. Accessory utility facilities should be designed and located in a manner which preserves the natural landscape and shoreline ecological processes and functions and minimizes conflicts with present and planned land uses.

c. Regulations

1. In shoreline areas, accessory utility transmission lines, pipelines and cables shall be placed underground unless demonstrated to be infeasible. Further, such lines shall utilize existing rights-of-way, corridors and/or bridge crossings whenever possible. Proposals for new corridors in shoreline areas involving water crossings must fully substantiate the infeasibility of existing routes.

2. Accessory utility development shall, through coordination with government agencies, provide for compatible multiple use of sites and rights-of-way. Such uses include shoreline access points, trails and other forms of recreation and transportation systems, providing such uses will not unduly interfere with utility operations or endanger public health and safety.

3. Sites disturbed for utility installation shall be stabilized during and following construction to avoid adverse impacts from erosion and, where feasible, restored to pre-project configuration and replanted with native vegetation.

4. Utility discharges and outfalls should be located, designed, constructed, and operated in accordance with best management practices to ensure degradation to water quality is kept to a minimum.

11. Vegetation Conservation

a. Applicability

The following provisions apply to any activity that results in the removal of or impact to shoreline vegetation, whether or not that activity requires a shoreline permit. Such activities include clearing, grading, grubbing, and trimming of vegetation. These provisions also apply to vegetation protection and enhancement activities. They do not apply to forest practices managed under the Washington State Forest Practices Act. See Chapter 7 for definitions of "significant vegetation removal," "ecological functions," "clearing," "grading," and "restore."

b. Policies

1. Vegetation within the city shoreline areas should be enhanced over time to provide a greater level of ecological functions, human safety, and property protection. To this end, shoreline management activities, including the provisions and implementation of this master program, should be based on a comprehensive approach that considers the ecological functions currently and potentially provided by vegetation on different sections of the shoreline, as described in the Shoreline Inventory and Characterization Report.
2. This master program in conjunction with other City development regulations should establish a coordinated and effective set of provisions and programs to protect and restore those functions provided by shoreline vegetation.
3. Aquatic weed management should stress prevention first. Where active removal or destruction is necessary, it should be the minimum to allow water-dependent activities to continue, minimize negative impacts to native plant communities, and include appropriate handling or disposal of weed materials.

c. Regulations

<u>For All Shoreline Environments:</u>

1. The creation of new land parcels or lots that would require significant vegetation removal in order to develop is not allowed. In order to create a new lot partially or wholly within shoreline jurisdiction, the applicant must demonstrate that development can be accomplished without significant vegetation removal. The City may make exceptions to this standard for water dependent development and for development in the High Intensity Environment only.
2. All development, including clearing and grading, shall minimize significant vegetation removal in shoreline jurisdiction to the extent feasible. In order to implement this regulation, applicants proposing development that includes significant vegetation removal, clearing, or grading within shoreline jurisdiction must provide, as a part of a substantial development permit or a letter of exemption application, a site plan, drawn to scale, indicating the extent of proposed clearing and/or grading within 50 feet of the OHWM. The City may require that the proposed development or extent of clearing and grading be modified to reduce the impacts to ecological functions.

3. Vegetation restoration of any shoreline that has been disturbed or degraded shall use native plant materials with a diversity and type similar to that which originally occurred on-site unless the City finds that native plant materials are inappropriate or not hardy in the particular situation.
4. In addressing impacts from significant vegetation removal the City will apply the mitigation sequence described in Section 4.B.4.
5. Where shoreline restoration is required, the vegetation plantings shall adhere to the specifications in Appendix A unless the City finds that another method is more appropriate.
6. For properties within areas planned for residential development within the Urban Conservancy or Shoreline Residential environments, new development that will cause significant vegetation removal shall not be allowed except where the dimensions of existing lots or parcels are not sufficient to accommodate permitted primary residential structures outside of the vegetation conservation area or where the denial of reasonable use would result in a takings. In these instances the City will apply the mitigation sequence in Section 4.B.4 to minimize ecological impacts. Generally, this will mean placing the development away from the shoreline as far as possible, locating the development to avoid tree cutting, and modifying building dimensions to reduce vegetation removal.

<u>For Shorelines in the Urban Conservancy Environment</u>

1. Wherever possible, development along Ebey Slough shall be located at least 50- feet landward of the OHWM, except where the development is part of a project that increases water area or wetlands through inundation (e.g., the proposed Qwuloolt restoration project).
2. A condition of all development shall be that those shorelands on the site not occupied by structures, shoreline uses, or human activities shall be revegetated with native vegetation.
3. The enhancement of vegetation shall be a condition of all non-water-dependent development in the urban conservancy environment except where the City finds that:
   - Vegetation enhancement is not feasible on the project site. In these cases the City may require off-site vegetation enhancement that performs the same ecological functions within the watershed or drift cell.
   - The restoration of ecological processes and functions can be better achieved through other measures such as the removal of channel constraints.
   - Sufficient native vegetation already exists

<u>For Shorelines in the High-Intensity Environment</u>

1. The impacts due to significant vegetation removal shall be mitigated according to the sequence described in Section 4.B.4.
2. A condition of all development shall be that those shorelands on the site not occupied by structures, shoreline uses, or human activities shall be revegetated. Vegetation within 50 feet of the shoreline must be native vegetation or species approved by the City. For mixed-use development as part of a marina or water-dependent recreation, the City may reduce the

vegetated strip to a 40-foot strip if a 50-foot strip does not allow enough room for proposed development.

For Shorelines in the Aquatic Environment

1. Aquatic weed control shall only occur when native plant communities and associated habitats are threatened or where an existing water dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards.
2. The control of aquatic weeds by hand pulling, mechanical harvesting, or placement of aqua screens, if proposed to maintain existing water depth for navigation, shall be considered normal maintenance and repair and therefore exempt from the requirement to obtain a shoreline substantial development permit.
3. The control of aquatic weeds by derooting, rotovating or other method which disturbs the bottom sediment or benthos shall be considered development for which a substantial development permit is required, unless it will maintain existing water depth for navigation in an area covered by a previous permit for such activity, in which case it shall be considered normal maintenance and repair and therefore exempt from the requirement to obtain a substantial development permit.
4. Where large quantities of plant material are generated by control measures, they shall be collected and disposed of in an appropriate, identified upland location.
5. Use of herbicides to control aquatic weeds shall be prohibited except where no reasonable alternative exists and weed control is demonstrated to be in the public's interest. A conditional use permit shall be required in such case.

12. Water Quality

a. Applicability

The following section applies to all development and uses in shoreline jurisdiction that affect water quality, as defined below.

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

Because the policies of this master program are also policies of the City’s comprehensive plan, the policies also apply to activities outside shoreline jurisdiction that affect water quality within shoreline jurisdiction.

b. Policies

1. All shoreline uses and activities should be located, designed, constructed, and maintained to avoid significant ecological impacts by altering water quality, quantity, or hydrology.
2. The City should require reasonable setbacks, buffers, and storm water storage basins and encourage low-impact development techniques and materials to achieve the objective of lessening negative impacts on water quality.
3. All measures for controlling erosion, stream flow rates, or flood waters through the use of stream control works should be located, designed, constructed, and maintained so that net off-site impacts related to water do not degrade the existing water quality.
4. As a general policy, the City will seek to improve water quality, quantity, and flow characteristics in order to protect and restore ecological functions and ecosystem-wide processes of shorelines within Shoreline Management Act jurisdiction. The City will implement this policy through the regulation of development and activities, through the design of new public works, such as roads, drainage, and water treatment facilities, and through coordination with other local, state, and federal water quality regulations and programs. The City will implement the 2001 Washington Department of Ecology Stormwater Manual, as updated and adopted by City ordinance.
5. All measures for the treatment of runoff for the purpose of maintaining and/or enhancing water quality should be conducted on-site before shoreline development impacts waters off-site.

c. Regulations

1. All shoreline development, both during and after construction, shall avoid or minimize significant ecological impacts, including any increase in surface runoff, through control, treatment, and release of surface water runoff so that the receiving water quality and shore properties and features are not adversely affecting. Control measures include, but are not limited to, dikes, catch basins or settling ponds, oil interceptor drains, grassy swales, planted buffers, and fugitive dust controls.
2. All development shall conform to local, state, and federal water quality regulations, provided the regulations do not conflict with this master program.

CHAPTER 5

Shoreline Modification Provisions

A. Introduction and Applicability

Shoreline modifications are structures or actions which permanently change the physical configuration or quality of the shoreline, particularly at the point where land and water meet. Shoreline modification activities include, but are not limited to, structures such as revetments, bulkheads, levees, breakwaters, docks, and floats. Actions such as clearing, grading, landfilling, and dredging are also considered shoreline modifications.

Generally, shoreline modification activities are undertaken for the following reasons:

1. To prepare a site for a shoreline use
2. To provide shoreline stabilization or shoreline protection
3. To support an upland use

The policies and regulations in this chapter are intended to prevent or mitigate the adverse environmental impacts of proposed shoreline modifications. General provisions, which apply to all shoreline modification activities, are followed by provisions tailored to specific shoreline modification activities. This chapter provides policies and regulations for shoreline modification features including shoreline stabilization measures and docks and floats.

B. Policies and Regulations

1. General Policies and Regulations

a. Applicability

The following provisions apply to all shoreline modification activities whether such proposals address a single property or multiple properties.

b. Policies

1. Structural shoreline modifications should be allowed only where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.
2. The adverse effects of shoreline modifications should be reduced and, as much as possible, shoreline modifications be limited in number and extent.
3. Allowed shoreline modifications should be appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

4. The City should take steps to assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions. This is to be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modifications.
5. Where applicable, the City will base provisions on “best available science,” scientific and technical information, and a comprehensive analysis of site-specific conditions for river and stream systems.
6. Impaired ecological functions should be enhanced and/or restored where feasible and appropriate while accommodating permitted uses. As shoreline modifications occur, the City will incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes.
7. In reviewing shoreline permits, the City should require steps to reduce significant ecological impacts according to the mitigation sequence in WAC 173-26- 201(2)(e).
8. When shoreline modifications are necessary, they should be as compatible as possible with ecological shoreline processes and functions.

c. Regulations

1. All shoreline modification activities must be in support of a permitted shoreline use. Shoreline modification activities which do not support a permitted shoreline use are considered “speculative” and are prohibited by this master program; unless it can be demonstrated that such activities are necessary and in the public interest for the maintenance of shoreline environmental resource values.
2. Structural shoreline modification measures shall be permitted only if nonstructural measures are unable to achieve the same purpose. Nonstructural measures considered shall include alternative site designs, increased setbacks, drainage improvements, relocation, and vegetation enhancement.
3. Stream channel modification (i.e., realignment) shall be prohibited as a means of shoreline stabilization or shoreline protection, unless it is the only feasible alternative.
4. All new shoreline development shall be located and designed to prevent or minimize the need for shoreline modification activities.
5. Proponents of shoreline modification projects shall obtain all applicable federal and state permits and shall meet all permit requirements.
6. In addition to the permit information required by WAC 173-27-190, the City shall require and consider the following information when reviewing shoreline modification proposals:
    a. Construction materials and methods.
    b. Project location relative to the ordinary high water mark (OHWM).
    c. General direction and speed of prevailing winds.
    d. Profile rendition of beach and uplands.
    e. Beach and upland soil type, slope and material.

f. Physical or geologic stability of uplands.

g. Potential impact to natural shoreline processes, adjacent properties, and upland stability.

7. Shoreline modification materials shall be only those approved by applicable state agencies. No toxic (e.g.: creosote) or quickly degradable materials (e.g., plastic or fiberglass that deteriorates under ultraviolet exposure) shall be used.

2. Shoreline Stabilization (Including Bulkheads)

a. Applicability

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

Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, planning and regulatory measures to avoid the need for structural stabilization.

“Hard” structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while “soft” structural measures rely on softer materials, such as biotechnical vegetation measures or beach enhancement.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

WAC 173-27-040(2)(b) defines normal replacement and repair of existing structures and notes that normal maintenance and repair actions are not exempt from substantial development permits if they “cause substantial adverse effects to shoreline resources or the environment.”

Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

a. Policies

1. “Soft” shoreline stabilization of natural materials such as protective berms, beach enhancement or vegetation stabilization are strongly preferred over structural shoreline stabilization made of materials such as steel, wood, or concrete. Nonstructural or “soft” measures have less adverse and cumulative impacts on shore features and habitats. Proposals for structural solutions including bulkheads should demonstrate that natural methods are unworkable.

2. Bulkheads and other structural stabilizations should be located, designed, and constructed primarily to prevent damage to existing development and minimize adverse impacts to ecological functions. New development requiring bulkheads and/or similar protection should not be allowed. Shoreline uses should be located in a manner so that bulkheading and other structural stabilization are not likely to become necessary in the future.

c. Regulations

1. New stabilization measures are not allowed except to protect or support an existing or approved development, for the restoration of ecological functions, or for hazardous substance remediation pursuant to Chapter 70.105D RCW.

2. New development shall, where feasible, be located and designed to eliminate the need for concurrent or future shoreline stabilization. New development that would require shoreline stabilization such as a new stormwater outfall that would cause significant adverse impacts to adjacent or down-current properties is prohibited.

3. New or replacement structural shoreline stabilization measures are allowed in the High-Intensity Environment if set back at least 50 feet from the OHWM and a 50-foot strip of native vegetation, including trees and shrubs, is installed between the shoreline stabilization measure and the shoreline. A landscape plan indicating types, sizes, and location of plant materials must be submitted to the City for approval.

   Exception: The City may permit shoreline stabilization measures that may be necessary to protect private property as a result of shoreline restoration/inundation of the Qwuloolt site. New or replacement shoreline stabilization measures may be allowed closer to the OHWM if the City determines that it is necessary to protect existing development or new water-dependent uses from aggressive erosion. In these cases, the City will determine the depth of the setback from the OHWM.

4. New development shall, where feasible, be located and designed to not require structural shoreline stabilization or flood hazard protection. New development, including single-family residences, that includes structural shoreline stabilization will not be allowed unless all of the conditions below apply:
   - The need to protect the development from destruction due to erosion caused by natural processes, such as tidal action, currents, and waves, is demonstrated through a geotechnical report.
   - The erosion is not being caused by upland conditions, such as loss of vegetation and drainage.
   - Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
   - The structure will not cause significant ecological impacts to priority species.

5. New development on steep slopes or bluffs shall be set back, as required in the City's Critical Area Ordinance, sufficiently to ensure that shoreline stabilization will not be needed during the life of the structure, as demonstrated by a geotechnical analysis by a licensed geotechnical engineer or related licensed professional.

6. New or enlarged structural shoreline stabilization measures for an existing development or residences shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis by a licensed geotechnical engineer or

related licensed professional, is not demonstration of need. The geotechnical report must include estimates of erosion rates and damage within three years and must evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. The project design and analysis must also evaluate vegetation enhancement as a means of reducing undesirable erosion.

7. An existing shoreline stabilization structure shall not be replaced with a similar structure unless there is need to protect primary structures from erosion caused by currents, tidal action, or waves. At the discretion of the City Engineer, the demonstration of need does not necessarily require a geotechnical report by a licensed geotechnical engineer or related licensed professional. The replacement structure shall be designed, located, sized, and constructed to minimize harm to ecological functions. Replacement walls or bulkheads shall not encroach waterward of the OHWM or existing structures unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. Where significant ecological impacts to critical saltwater habitats would occur by leaving the existing structure, remove it as part of the replacement measure. Soft shoreline stabilization that restores ecological functions may be permitted waterward of the OHWM.

8. Where structural shoreline stabilization measures are demonstrated to be necessary, as in the above provisions, the size of stabilization measures shall be limited to the minimum necessary. The City may require that the proposed structure be altered in size or design. Impacts to sediment transport shall be avoided or minimized.

9. The City will require mitigation of adverse impacts to shoreline functions in accordance with the mitigation sequence defined in Section 4.B.4 of the General Provisions. The City may require the inclusion of vegetation conservation, as described in Section 4.B.11, as part of shoreline stabilization, where feasible.

10. Shoreline modification activities, with the exception of shoreline restoration or enhancement efforts, are prohibited in wetlands and in salmon and trout spawning waters. Shoreline stabilization and shoreline protection shall be located landward of the floodway and all associated wetlands.

11. Shoreline stabilization measures along the shoreline that incorporate ecological restoration through the placement of rocks, gravel or sand, and native shoreline vegetation may be allowed.

12. Repair of existing shoreline stabilization measures is allowed. Replacement of existing shoreline stabilization measures, as defined in the Applicability statement above, is allowed if it conforms to Regulations 3 and 5 above or if the residence on the site was occupied prior to January 1, 1992 and the City determines that replacement is necessary to prevent damage to residences, appurtenant structures, or the shoreline ecology from shoreline erosion; and impacts to the natural environment are minimized. When an existing bulkhead is being repaired or replaced by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead

has deteriorated such that an OHWM 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 OHWM.

13. Stream channel modification (i.e., realignment) shall be prohibited as a means of shoreline stabilization or shoreline protection, unless it is the only feasible alternative or if the City determines that it would improve shoreline ecological functions.
14. Bulkhead design and development shall conform to all other applicable City and state agency policies and regulations including the Department of Fisheries criteria governing the design of bulkheads.
15. Gabions (wire mesh filled with concrete or rocks) are prohibited unless there is no reasonable alternative as determined by the City Engineer for locating a new regional stormwater outfall along the shoreline.
16. The construction of a bulkhead for the primary purpose of retaining or creating dry land that is not specifically authorized as a part of the permit shall be prohibited.
17. Use of a bulkhead to protect a platted lot where no structure presently exists is prohibited unless the City determines that it is part of the residence construction and is the only feasible way to protect the otherwise lawful structure.
18. Bulkheads shall be designed with the minimum dimensions necessary to adequately protect the development for the expected life of the development.
19. Stairs, boat ramps or other permitted structures may be built as integral to a bulkhead but shall not extend waterward of it.
20. Bulkheads shall be designed to permit the passage of surface or ground water without causing ponding or over-saturation of retained soil/materials of lands above the OHWM.
21. Adequate toe protection consisting of proper footings, a fine retention mesh, etc., shall be provided to ensure bulkhead stability without relying on additional riprap.
22. Materials and dimensional standards:
    a. New bulkheads and other shoreline stabilization structures shall not be constructed higher than 24 inches (twenty-four inches) above the OHWM or, if the bulkhead is set back from the shoreline, 24 inches above grade at the base of the bulkhead or structure. On steep slopes, new bulkheads may be built taller than 24 inches high if necessary to meet the existing slope. Replacement bulkheads may be built to the height of the original bulkhead. <u>Exception</u>: The City may waive this provision for flood hazard minimization measures conforming to this master program.
    b. The following materials are examples of acceptable materials for shoreline stabilization structures:
        - Cast-in-place reinforced concrete.
        - Stacked masonry units (e.g., interlocking cinder block wall units).
        - Large stones, with vegetation planted in the gaps. Stones should not be stacked in a wall greater than 2 horizontal to 1 vertical slope.

- Timbers or logs. Note the prohibition against toxic wood treatments.

c. The following materials are not acceptable for shoreline stabilization structures:
   - Degradable plastics and other nonpermanent synthetic materials.
   - Sheet materials, including metal, plywood, fiberglass, or plastic.
   - Broken concrete, asphalt, or rubble.
   - Car bodies, tires or discarded equipment.

23. Following completion of shoreline modification activities, disturbed shoreline areas shall be restored to pre-project conditions to the greatest extent possible. Plantings shall consist of native grasses, shrubs, and/or trees in keeping with preexisting bank vegetation. If native species are not available and vegetation is needed for shoreline stabilization purposes, the City will determine acceptable plant substitutes.

24. Fill behind bulkheads shall be limited to an average of 1 cubic yard per running foot of bulkhead. Any filling in excess of this amount shall be considered landfill and shall be subject to the provisions for landfill and the requirement for obtaining a shoreline substantial development permit.

25. The City may require and utilize the following information, in addition to the standard permit information required by WAC 173-27, in its review of all bioengineering projects:

    a. Proposed construction timing.

    b. Hydrologic analysis, including predicted flood flows.

    c. Site vegetation, soil types, and slope stability analysis.

    d. Proposed project materials, including rock size, shape, and quantity; plant types; and soil preparations.

    e. Existing and proposed slope profiles, including location of OHWM.

    f. Proposed designs for transition areas between the project site and adjacent properties.

    g. Documentation (including photos) of existing (preconstruction) shoreline characteristics.

26. Bioengineering projects shall use native trees, shrubs, and/or grasses, unless such an approach is unfeasible.

27. Cleared areas shall be replanted following construction. Vegetation shall be fully reestablished within three years. Areas which fail to adequately reestablish vegetation shall be replanted with approved plants until the plantings are viable.

28. All bioengineering projects shall include a program for monitoring and maintenance.

3. Pier and Docks

a. Applicability

Piers and docks are structures that abut the shoreline and are used as a landing or moorage place for water craft. Piers are built on fixed platforms above the water, while docks float upon the water. Mooring floats, buoys and other mooring facilities are also covered in this section.

Piers and docks are utilized for commercial, industrial, military, and recreational purposes. Often they are mixed, serving several uses. Because of this, regulations concerning specific uses that may employ a pier or dock will be located in that specific section. For instance, piers and docks containing more than ten moorage spaces are considered marinas and are addressed in the "Boating Facilities" provisions.

b. Policies

1. Pier and dock construction should be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use.
2. Multiple-use and expansion of legally existing piers, wharves, and docks should be encouraged over the addition and/or proliferation of new facilities. Joint-use facilities are preferred over new single-use piers, docks, and floats.
3. Piers, floats, and docks should be sited and designed to avoid or minimize possible significant ecological impacts, including potential impacts on littoral drift, sand movement, water circulation and quality, and fish and wildlife habitat.
4. The proposed size of the structure and intensity of use or uses of any dock, pier, and/or float should be compatible with the surrounding environment and land and water uses.

c. Regulations

General

1. Proposals for piers or docks shall include, at a minimum, the following information:
   a. Description of the proposed structure, including its size, location, design, and any shoreline stabilization or other modification required by the project.
   b. Ownership of tidelands, shorelands, and/or bedlands.
   c. Proposed location of piers, floats, buoys, or docks relative to property lines and the OHWM.
   d. Location, width, height, and length of piers or docks on adjacent properties within 300 feet.
2. Piers, docks, and floats are not allowed in critical aquatic habitats unless it can be established that the dock or pier project, including auxiliary impacts and established mitigation measures, will not be detrimental to the natural habitat or species of concern.
3. New piers and docks shall be allowed only for water-dependent uses or public access. Water-related and water-enjoyment uses may be allowed as part of 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. New pier or dock construction shall be permitted only when the applicant has

demonstrated that a specific need exists to support the intended water-dependentuses.

4. Piers, floats, buoys, and docks shall not significantly interfere with use of navigable waters.
5. The length of piers and docks shall be limited in constricted water bodies to assure navigability and protect public use. The City may design or require reconfiguration of pier and dock proposals where necessary to protect navigation, public use, or ecological functions.
6. All piers and docks shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe docks and piers shall be removed or repaired promptly by the owner. Where any such structure constitutes a hazard to the public, the City may, following notice to the owner, abate the structure if the owner fails to do so within ninety days and may impose a lien on the related shoreline property in an amount equal to the cost of the abatement.

Design and Construction

7. Materials and coatings of all dock members shall conform to applicable state and federal agency material standards as well as to the City of Marysville building codes. The use of materials with toxic substances such as creosote or degradable materials (some plastics and foam products) is prohibited.
8. No over-water field applications of paint, preservative treatment, or other chemical compounds shall be permitted except in accordance with best management practices set forth by applicable state agencies.
9. Pilings employed shall be installed so that the top elevation is at least one foot above extreme high water.
10. All docks shall include stops that serve to keep the floats off the bottom of tidelands at low tide or water level.
11. When plastics or other nonbiodegradable materials are used in float, pier, or dock construction, precautions shall be taken to ensure their containment.
12. Overhead wiring or plumbing is not permitted on piers or docks.
13. Lighting should be the minimum necessary to locate the dock at night. Lights shall be directed to prevent light spillage onto water surfaces.

Commercial/Industrial Facilities

These standards apply to piers and docks intended for any commercial or industrial use.

14. Piers and docks will be permitted to the outer harbor line or combined U.S. Pierhead/Bulkhead Line for water-dependent and multiple-use facilities if the majority use is water-dependent and public access can safely be provided. The length should be no more than that required for the draft of the largest vessel expected to moor at the facility. Maximum size of the pier or dock shall be no greater than necessary to serve the intended use and will be determined by the City on a case-by-case basis.

15. Facilities and procedures for receiving, storing, dispensing, and disposing of oil and other toxic products shall be designed to ensure that such oil and other toxic products are not introduced into the water body.
16. Bulk storage for gasoline, oil, and other petroleum products for any use or purpose is prohibited on piers and docks. Bulk storage means nonportable storage in fixed tanks.
17. Storage for boat fueling facilities shall be located landward of the OHWM and meet the applicable policies and regulations for utilities (accessory and primary), commercial, and industrial development.
18. Spill clean-up facilities shall be available for prompt response and application at all piers and docks involved in oil and hazardous products transfer.

4. Fill

a. Applicability

Fill is 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. Any fill activity conducted within shoreline jurisdiction must comply with the following provisions.

b. Policies

1. Fills waterward of OHWM should be allowed only when necessary to facilitate water-dependent and/or public access uses, cleanup and disposal of contaminated sediments, and other water-dependent uses that are consistent with this master program.
2. Shoreline fill should be designed and located so there will be no significant ecological impacts and no alteration of local currents, surface water drainage, or flood waters which would result in a hazard to adjacent life, property, and natural resource systems.

c. Regulations

1. Applications for fill permits shall include the following:
    a. Proposed use of the fill area;
    b. Physical, chemical and biological characteristics of the fill material;
    c. Source of fill material;
    d. Method of placement and compaction;
    e. Location of fill relative to natural and/or existing drainage patterns and wetlands;
    f. Location of the fill perimeter relative to the OHWM;
    g. Perimeter erosion control or stabilization means; and
    h. Type of surfacing and runoff control devices.
2. Fill waterward of OHWM may be permitted only when:
    a. In conjunction with a water-dependent or public use permitted by this master program;

b. In conjunction with a bridge or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist; or

c. As part of an approved shoreline restoration project.

3. Waterward of OHWM, pile or pier supports shall be utilized whenever feasible in preference to fills. Fills for approved road development in floodways or wetlands shall be permitted only if pile or pier supports are proven unfeasible.

4. Fills are **prohibited** in flood plains except where it can be clearly demonstrated that the hydrologic characteristics and flood storage capacity will not be altered to increase flood hazard or other damage to life or property. Fills are **prohibited** in floodway, except when approved by conditional use permit and where required in conjunction with a proposed water-dependent or other use, specified in Regulation #2 above.

5. Fill shall be permitted only where it is demonstrated that the proposed action will not:

   a. Result in significant ecological damage to water quality, fish, shellfish, and/or wildlife habitat; or

   b. Adversely alter natural drainage and circulation patterns, currents, river and tidal flows or significantly reduce flood water capacities.

6. Environmental cleanup action involving excavation/fill, as authorized by the City, may be permitted.

7. Sanitary fills shall not be located in shoreline jurisdiction.

5. Breakwaters, Jetties, and Groins

a. Applicability

Breakwaters are protective structures built off shore to protect harbor areas, moorage, navigation, beaches and bluffs from wave action. Breakwaters may be fixed (for example, rubble mound or rigid wall), open-pile, or floating.

Rock weirs and groins are structures built seaward perpendicular to the shore for the purpose of building or preserving an accretion beach by trapping littoral sand drift. Generally narrow and of varying lengths, groins may be built in a series along the shore.

Rock groins are also used to protect buried pipes of cables from erosion or other damage, anchor dragging, etc.

b. Policy

In general, breakwaters should be allowed only through a conditional use permit and where there is a demonstrated need to support a water-dependent use because these structures permanently impact natural shoreline processes, create the need for ongoing maintenance dredging or beach replenishment programs, and adversely affect shorelines located downdrift of the project site. Rock weirs and groins should be prohibited except as necessary to support shoreline restoration.

c. Regulations

1. The design and construction of breakwaters, rock weirs and groins shall conform to all applicable state agency policies and regulations.
2. The City shall require and use the following information in its review of breakwater, rock weir, or groin proposals:
   a. Purpose of the structure.
   b. Net and seasonal direction and quantity of littoral drift and tidal currents.
   c. Seasonal wind data (wind rose).

   The following information also is required for groins:

   d. Profile of uplands.
   e. Beach types, slope, and materials
   f. Upland slope, geology, vegetation, and stability.
   g. Soils types. (Soil Conservation Service)
   h. Potential impact to adjacent shoreline processes, properties and upland stability.
3. The effect of proposed breakwaters, rock weirs and groins on sediment movement shall be evaluated during permit review. The beneficiaries and/or owners of large scale works that substantially alter, reduce or block littoral drift and cause new erosion of downdrift shores shall be required to establish and maintain an adequate long term beach replenishment program (either by artificially transporting sand to the downdrift side of an inlet or) by artificial beach replenishment (in the case of breakwaters, rock weirs, and groins).
4. All breakwater, rock weir and groin proposals must be in support of an allowable shoreline use which is in conformance with the provisions of this master program; unless it can be demonstrated that such activities are necessary and in the public interest for the maintenance of shoreline environmental resources.
5. Breakwaters shall be allowed for the following purposes only:
   a. Navigation.
   b. Industrial activities: as an integral component of a harbor, marina, or port where water-dependent uses are located seaward of the existing shoreline and where protection from strong wave action is essential.
   c. Marinas: where water-dependent uses are located seaward of the existing shoreline and where protection from strong wave action is essential.
6. Anchored-in-place open-pile or floating breakwaters shall be preferred over fixed breakwaters; unless, it can be demonstrated that solid breakwaters will have no significant adverse impacts to natural shoreline processes or that such adverse impacts can be adequately mitigated.
7. Rock weirs and groins shall be allowed only for fisheries or habitat enhancement as part of an adopted resource management plan or to protect utilities where no other option is feasible.

8. Rock weirs, or groins which would cause a net adverse impact to adjacent and nearby shorelines are prohibited.
9. Groin construction across tidal areas to provide access to deep water is prohibited unless integral to a public access project.

6. Dredging and Disposal

a. Applicability

Dredging is the removal or displacement of earth or sediment (gravel, sand, mud, silt and/or other material or debris) from a stream, river, lake, marine water body, or associated marsh, bog or swamp. Activities which require dredging include the construction and maintenance of navigation channels, turning basins, harbors, and marinas.

Dredge material disposal is the depositing of dredged materials on land or into water bodies for the purpose of either creating new or additional lands for other uses or disposing of the by-products of dredging.

b. Exemptions

Pursuant to WAC 173-27-040, actions are exempt from the requirement for a shoreline substantial development permit, but may still require a conditional use or variance permit.

c. Policies

1. Dredging operations should be planned and conducted to minimize interference with navigation and adverse impacts to other shoreline uses, properties, and values.
2. When allowed, dredging and dredge material disposal should be limited to the minimum amount necessary.

d. Regulations

General

1. Permit applications for shoreline dredging and dredge material disposal may be required to provide the following information:
   a. Physical, chemical and biological assessment of the proposed dredged material applicable to the particular dredging site.
   b. Specific data to be considered include:
      i. Physical - Grain size, clay, silt, sand or gravel as determined by sieve analysis.
      ii. Chemical - Including conventional parameters, metals and organics.
      iii. Biological - Bioassays useful in determining the suitability of dredged material for a selected disposal option.
   c. Dredging volumes, methods, schedule, frequency, hours of operation and procedures;
   d. Method of disposal, including the location, size, capacity and physical characteristics of the disposal site, transportation method and routes, hours of operation, schedule;

e. Stability of bedlands adjacent to proposed dredging area;

f. Hydraulic analyses, including tidal fluctuation, current flows, direction and projected impacts. Hydraulic modeling studies are required for large scale, extensive dredging projects, particularly in estuaries, in order to identify existing hydrological and geological patterns and probable effects of dredging;

g. Assessment of water quality impacts; and

h. Biological assessment including migratory, seasonal and spawning use areas.

2. Dredging and dredge disposal shall be permitted only where it is demonstrated that the proposed actions will not:

   a. Result in significant and/or ongoing damage to water quality, fish, shellfish, and other essential marine biological elements;

   b. Adversely alter natural drainage and circulation patterns, currents, river and tidal flows or significantly reduce flood water capacities; or

   c. Cause other significant ecological impacts.

3. Proposals for dredging and dredge disposal shall include all feasible mitigating measures to protect marine habitats and to minimize adverse impacts such as turbidity, release of nutrients, heavy metals, sulfides, organic material or toxic substances, dissolved oxygen depletion, disruption of food chains, loss of benthic productivity and disturbance of fish runs and important localized biological communities.

4. Dredging and dredge disposal shall not occur in wetlands, except as authorized by conditional use permit as a shoreline restoration project.

5. Dredging and dredge disposal shall be carefully scheduled to protect biological productivity (e.g. fish runs, spawning, benthic productivity, etc.) and to minimize interference with fishing activities.

6. Dredging and dredge disposal shall be **prohibited** on or in archaeological sites that are listed on the Washington State Register of Historic Places until such time that they have been released by the State Archaeologist.

7. Dredging shall utilize techniques which cause minimum dispersal and broadcast of bottom material.

8. Dredging shall be permitted only:

   a. For navigation or navigational access and recreational access;

   b. In conjunction with a water-dependent use of water bodies or adjacent shorelands;

   c. As part of an approved habitat improvement project;

   d. To improve water quality;

   e. In conjunction with a bridge, navigational structure or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist;

f. To improve water flow and/or manage flooding only when consistent with an approved flood/storm water comprehensive management plan; or

g. To clean up contaminated sediments.

9. When dredging is permitted, the dredging shall be the minimum necessary to accommodate the proposed use.

10. New dredging activity is prohibited:

    a. In estuaries, except as part of an approved shoreline restoration project;

    b. In shoreline areas with bottom materials which are prone to significant sloughing and refilling due to currents or tidal activity; which result in the need for continual maintenance dredging; except by conditional use permit; and

    c. In habitats identified as critical to the life cycle of officially designated or protected fish, shellfish or wildlife.

11. Dredging for the primary purpose of obtaining material for landfill is prohibited.

12. New development shall be located and designed to avoid or minimize the need for new or maintenance dredging where feasible.

13. Maintenance dredging of established navigation channels, public access facilities and basins is restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

<u>Regulations -- Dredge Material Disposal</u>

14. Except for sites approved through the PSDDA Management Plan, depositing clean dredge materials in water areas shall be allowed only by <u>conditional</u> use permit for one or more of the following reasons:

    a. For wildlife habitat improvement or shoreline restoration; or

    b. To correct problems of material distribution adversely affecting fish and shellfish resources.

15. Where the City requires, revegetation of land disposal sites shall occur as soon as possible in order to retard wind and water erosion and to restore the wildlife habitat value of the site. Native species and other compatible plants shall be used.

16. Proposals for disposal in shoreline jurisdiction must show that the site will ultimately be suitable for a use permitted by this master program.

17. The City may impose reasonable limitations on dredge disposal operating periods and hours and may require provision for buffers at land disposal or transfer sites in order to protect the public safety and other shore users' lawful interests from unnecessary adverse impacts.

7. Shoreline Restoration and Ecological Enhancement

a. Applicability

Shoreline restoration and/or enhancement is the improvement of the natural characteristics of upland, tidal, or submerged shoreline using native materials. The

materials used are dependent on the intended use of the restored or enhanced shoreline area. An Ecological Restoration Plan accompanies this SMP that recommends ecological enhancement and restoration measures.

b. Policies

1. The City should consider shoreline enhancement and/or restoration as an alternative to structural shoreline stabilization and protection measures where feasible.
2. All shoreline restoration and/or enhancement projects should protect the integrity of adjacent natural resources including aquatic habitats and water quality.
3. Where possible, shoreline restoration and/or enhancement should use maintenance-free or low-maintenance designs.
4. The City will pursue the recommendations in the shoreline restoration plan prepared as part of this SMP update. The City will give priority to projects consistent with this plan.
5. Shoreline restoration and/or enhancement should not extend waterward more than necessary to achieve the intended results.

c. Regulations

1. Shoreline enhancement may be permitted if the project proponent demonstrates that no significant change to sediment transport or river current will result which will adversely affect ecological processes, properties, or habitat.
2. Shoreline restoration and/or enhancement projects shall use best available science and management practices.
3. Shoreline restoration and/or enhancement shall not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.
4. Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments, provided:
    a. The project's purpose is the restoration of natural character and ecological functions of the shoreline, and
    b. It is consistent with the implementation of a comprehensive restoration plan approved by the City, or the City finds that the project provides an ecological benefit and is consistent with this master program.

CHAPTER 6

Shoreline Use Provisions

A. Introduction

The provisions in this section apply to specific common uses and types of development to the extent they occur within shoreline jurisdiction. All uses and development must be consistent with the provisions of the environment designation in which they are located and the general regulations of the master program.

B. Shoreline Use Policies and Regulations

1. General Use Policies

a. The City will give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon uses of the state's shoreline areas.

b. The City will ensure that all proposed shoreline development will not diminish the public's health, safety, and welfare, as well as the land or its vegetation and wildlife, and will endeavor to protect property rights while implementing the policies of the Shoreline Management Act.

c. The City will reduce use conflicts by prohibiting or applying special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the state's shoreline. In implementing this provision, preference will be given first to water-dependent uses, then to water-related uses and water-enjoyment uses.

2. Agriculture

a. Applicability

Agriculture includes, but is not limited to, the production of horticultural, vinicultural, floricultural, livestock, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, or Christmas trees; the operation and maintenance of farm and stock ponds, drainage ditches, or irrigation systems; normal crop rotation and crop change; and the normal maintenance and repair of existing structures, facilities, and lands currently under production or cultivation. Excluded are agricultural processing industries.

Uses and shoreline modifications associated with agriculture that are identified as separate use activities in this program, such as industry, shoreline stabilization,and flood hazard management, are subject to the regulations established for those uses in addition to the standards established in this section.

b. Policies

1. The creation of new agricultural lands by diking, draining, or filling tidelands, tidal marshes, channel migration zones, and associated marshes, bogs, and swamps should be prohibited.
2. A vegetative buffer should be maintained between agricultural lands and water bodies or wetlands in order to reduce harmful bank erosion and resulting sedimentation, enhance water quality, reduce flood hazard, and maintain habitat for fish and wildlife.
3. Animal feeding operations, retention and storage ponds, and feedlot waste and manure storage should be located out of shoreline jurisdiction and constructed to prevent contamination of water bodies and degradation of the adjacent shoreline environment.
4. Appropriate farm management techniques and new development construction should be utilized to prevent contamination of nearby water bodies and adverse effects on valuable plant, fish, and animal life from fertilizer and pesticide use and application.
5. Where ecological functions have been degraded, new development should be conditioned with the requirement for ecological restoration.

c. Regulations

1. Agricultural uses are allowed in the High Intensity and Urban Conservancy environments as a permitted use.
2. Agricultural development shall conform to applicable state and federal policies and regulations, provided they are consistent with the Shoreline Management Act and this master program. .
3. New manure lagoons, confinement lots, feeding operations, lot wastes, stockpiles of manure solids, aerial spraying, and storage of noxious chemicals are prohibited within shoreline jurisdiction.
4. A buffer of natural or planted permanent native vegetation shall be maintained between areas of new development for crops, grazing, or other agricultural activity and adjacent waters, channel migration zones, and marshes, bogs, and swamps. The City will determine the extent and composition of the buffer when the permit or letter of exemption is applied for.
5. Stream banks and water bodies shall be protected from damage due to concentration and overgrazing of livestock by providing the following:
   a. Suitable bridges, culverts, or ramps for stock crossing.
   b. Ample supplies of clean fresh water in tanks on dry land for stock watering.
   c. Fencing or other grazing controls to prevent bank compaction, bank erosion, or the overgrazing of or damage to buffer vegetation.
6. Agricultural practices shall prevent and control erosion of soils and bank materials within shoreline areas and minimize siltation, turbidity, pollution, and other environmental degradation of watercourses and wetlands.
7. The application of agricultural chemicals shall prevent the direct runoff of chemical-laden waters into water bodies or aquifer recharge areas. Adequate provision shall be made to minimize their entry into any body of water.

8. All shoreline development must conform to the General Provisions (see Chapter 4), the Shoreline Modification Provisions (see Chapter 5), and the Environment Designation Provisions (see Chapter 3) stated in the master plan.

3. Boating Facilities

a. Applicability

Boating facilities include marinas, both backshore and foreshore, dry storage and wet-moorage types; boat launch ramps; covered moorage; boat houses; mooring buoys; and marine travel lifts. See also "Piers and Docks" in Chapter 5, "Shoreline Modification Provisions," for non-marina-associated boating facility provisions.

A marina is a water-dependent use that consists of a system of piers, buoys, or floats to provide moorage for ten or more boats. There are two common types of backshore marinas, one with wet-moorage that is dredged out of the land to artificially create a basin; and the other a dry moorage which has upland storage with a hoist, marine travel lift, or ramp for water access. Foreshore marinas are located in the intertidal or offshore zone and may require breakwaters of open-type construction (floating breakwater and/or open pile work) and/or solid-type construction (bulkhead and landfill), depending on the location.

Accessory uses found in marinas may include fuel docks and storage, boating equipment sales and rental, wash-down facilities, fish cleaning stations, repair services, public launching, bait and tackle shops, potable water, waste disposal, administration, parking, groceries, and dry goods.

There are uses and activities associated with boating facilities but that are identified in this section as separate uses (e.g., Commercial Development and Industrial Development, including ship and boat building, repair yards, utilities, and transportation facilities) or as separate shoreline modifications (e.g., piers, docks, bulkheads, breakwaters, jetties and groins, dredging, and fill). These uses are subject to the regulations established for those uses and modifications in addition to the standards for boating facilities established in this section.

b. Policies

1. Boating facilities should be located, designed, and operated to provide maximum feasible protection and restoration of ecological processes and functions and all forms of aquatic, littoral, or terrestrial life—including animals, fish, shellfish, birds, and plants—and their habitats and migratory routes. To the extent possible, marinas should be located in areas of low biological productivity.
2. Boating facilities should be located and designed so their structures and operations will be esthetically compatible with the area visually affected and will not unreasonably impair shoreline views. However, the need to protect and restore ecological functions and to provide for water-dependent uses carries higher priority than protection of views.
3. Backshore marinas or launch ramps should generally be preferred over foreshore marinas in cases where they have substantially less impact on shoreline natural features, vegetation, uses, fisheries, and shellfish resources, as well as less irreversible appropriation of navigable waters.

4. Car top (hand held) boat launch facilities should be provided at appropriate public access sites.

c. Regulations

General

1. The City shall require and utilize the following information in its review of boating facility and marina proposals:
   a. Existing natural shoreline and backshore features and uses and bathymetric contours (1-foot increments).
   b. Hydrologic processes and flushing characteristics, volume, rates and frequencies.
   c. Biological resources and habitats for the backshore, foreshore, and aquatic environments.
   d. Area of surface waters appropriated and leased areas.
   e. Site orientation; exposure to wind, waves, flooding, or tidal/storm surges; type and extent of shore defense works or shoreline stabilization and flood protection necessary.
   f. Impact upon existing shoreline and water uses, including public access, recreation, and views.
   g. The design of the facilities, including sewage disposal, water quality controls, provisions for the prevention and control of fuel spillage, and a landscaping plan.
   h. Other information as necessary to comply with other regulations and codes.
2. Boating facility development and/or renovations shall comply with all other applicable state agency policies and regulations, including, but not limited to: the Department of Fish and Wildlife criteria for the design of bulkheads, landfills, and marinas; Federal Marine Sanitation standards (EPA 1972) requiring water quality certification from the U.S. Army Corps of Engineers (Section 10); U.S. Army Corps of Engineers dredging standards (Section 404); and state and federal standards for the storage of fuels and toxic materials.
3. New boating facilities shall not significantly impact the rights of navigation on the waters of the state.
4. Vessels shall not moor permanently on waters of the state without obtaining a lease or permission from the applicable state agency.

Location

5. When new sites are considered, sufficient evidence must be presented to show that existing marinas are inadequate and cannot be expanded to meet regional demand. The City may require a demand or marketing study indicating a need for a new boating facility.
6. Boating facilities shall not be located where their development would reduce the quantity or quality of critical aquatic habitat or where significant ecological impacts would necessarily occur.

7. Marinas and public launch ramps shall, where feasible, be located only on stable shorelines where water depths are adequate to eliminate or minimize the need for offshore or foreshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach enhancement, and other river, lake, harbor, and channel maintenance activities.
8. Marinas and launch ramps shall be located only in areas where there is adequate water mixing and flushing and shall be designed so as not to retard or negatively influence flushing characteristics.
9. Marinas and launch ramps shall be located so as not to adversely affect flood channel capacity or otherwise create a flood hazard.

Design/Renovation/Expansion

10. Boating facilities shall be designed to avoid or minimize significant ecological impacts. The City shall apply the mitigation sequence defined in Section 4.B.4 in the review of boating facility proposals. On degraded shorelines, the City may require ecological restoration measures to account for environmental impacts and risks to the ecology.
11. Marina design shall provide thorough flushing of all enclosed water areas and shall not restrict the movement of aquatic life requiring shallow water habitat.
12. The marina design shall minimize interference with geohydraulic processes and disruption of existing shore forms.
13. The perimeter of parking, dry moorage, and other storage areas shall be landscaped to provide a visual and noise buffer between adjoining dissimilar uses or scenic areas. The permit application shall identify the size, location, and species list of landscaping that will be used, stressing native vegetation.
14. Public access, both visual and physical, shall be an integral part of all marina development and design and must be consistent with the following:
    a. Provision for the Ebey Waterfront Trail, where applicable.
    b. Covered moorage in marinas shall not be constructed.
    c. Public and private boating facilities shall provide public access as described in the Public Access regulations. See Section 4.B.7. Where the City determines that providing direct public access along the shoreline and onto the boating facilities would create a safety or security conflict, public access requirements may be met through alternate means. The City will determine what alternative means are required.
15. Foreshore marinas extending into the river channel that must involve solid bulkhead, breakwater, and/or landfill construction are prohibited.
16. Location of fueling stations on docks, floats, and/or the shore shall be considered on an individual basis in consultation with the Washington Department of Fish and Wildlife, the Department of Ecology, and, where applicable, the Department of Natural Resources.
17. Location of boat waste disposal facilities (pump-outs, dump stations, and toilets) shall conform to local and state regulations and shall be considered on an individual basis with consultation with Departments of Health, Ecology, and Parks as needed. Boating facilities shall locate stationary boat waste disposal

facilities in close proximity to boat refueling locations unless the City determines an alternate location is more desirable.

18. Washington State Water Quality Standards shall be strictly adhered to at all times. The discharge of untreated sewage and/or toxic material from boats and/or shore installations shall be prohibited within any marina. "Toxic material" is herein defined as any material damaging marine life and includes, but is not limited to, paints, varnishes, detergents, petroleum, and bilge waste water.

19. Upland facilities shall be designed and managed in compliance with storm water BMPs in order to minimize or prevent negative impacts to water quality.

20. If a marina or boating facility is to be improved or expanded beyond normal repair and maintenance, then the marina or boating facility must be brought into compliance with the provisions of this SMP.

Parking and Storage

21. Over-water parking facilities are prohibited.

22. To the maximum extent possible, marinas and accessory uses shall share parking facilities, with marina usage given preference.

Circulation and Utilities

23. Marinas and launch ramps shall provide access adequate to handle the traffic load generated by the facility and shall be designed to minimize other circulation and access conflicts. Backing of trailers on public roads shall be prohibited.

24. All pipes, plumbing, wires and cables at a marina site shall be placed at or below ground and dock levels.

25 Adequate fire protection shall be provided as required by the Washington State Fire Code.

Residential Uses

26. Moorage of floating homes is prohibited.

27. No more than ten percent of total moorage slips in a marina shall accommodate liveaboard vessels and houseboats. Where permitted, each liveaboard or houseboat mooring slip shall be connected to utilities that provide potable water and wastewater conveyance to an approved disposal facility.

Boat Launches

28. Launch ramps may be permitted on marine or riverine accretion shoreforms, provided any necessary grading is not harmful to affected resources and any accessory facilities are located out of the floodway.

29. Launch ramps shall be permitted only on stable, non-erosional banks, where no or a minimum number of current deflectors or other stabilization structures will be necessary.

30. Ramps shall be placed and kept near flush with the foreshore slope to minimize the interruption of hydrologic processes.

Covered Moorage

31. New covered moorage is prohibited.

4. Commercial Development

a. Applicability

Commercial development means those uses that are involved in wholesale, retail, service, and business trade. Examples include hotels, motels, grocery markets, shopping centers, restaurants, shops, offices, and private or public indoor recreation facilities.

Uses and activities associated with commercial development that are identified as separate uses in this program include Mining, Industry, Boating Facilities, Transportation Facilities, Utilities (accessory), and Solid Waste Disposal. Piers and docks, bulkheads, shoreline stabilization, flood protection, and other shoreline modifications are sometimes associated with commercial development and are subject to those shoreline modification regulations in addition to the standards for commercial development established herein.

b. Policy

Multi-use commercial projects that include some combination of ecological restoration, public access, open space, and recreation should be encouraged in the High-Intensity Environment consistent with the City's Comprehensive Plan.

c. Regulations

General

1. The City shall require and utilize the following information in its review of commercial development proposals:
    a. Nature of the commercial activity (e.g., water-dependent, water-related, water-enjoyment, non-water-oriented, mixed-use), including a breakdown of specific shoreline use components.
    b. The reason(s) why the project needs a shoreline location.
    c. Design measures to take advantage of the shoreline location.
    d. Provisions for ecological restoration and for public visual and physical access to the shoreline.
    e. Provisions to ensure that the development will not cause significant ecological impacts or adverse environmental impacts.
    f. Layout, size, height, and general appearance of all proposed structures.
    g. Pedestrian and vehicular circulation, public access features, pavements, landscaping, and view corridors.
    h. For mixed-use proposals, the mix of water-oriented and non-water-oriented uses and activities, structure locations, site designs and bulk considerations, enhancements for physical and visual public access to the shoreline (both public and private space), and other design measures that address the goals and policies of the master program.

2. Water-oriented commercial developments may be permitted as indicated in Chapter 3, Section C, “Shoreline Use and Shoreline Modification Matrices.” In accordance with said matrix and other provisions of this master program, non-water-oriented commercial developments may be permitted by CUP only where all three of the following can be demonstrated:

    a. A water-oriented use is not reasonably expected to locate on the proposed site due to topography, incompatible surrounding land uses, physical features, or the site’s separation from the water.

    b. The proposed development does not usurp or displace land currently occupied by a water-oriented use and will not interfere with adjacent water-oriented uses.

    c. The proposed development will be of appreciable public benefit by increasing ecological functions together with public use of or access to the shoreline.

3. Commercial development shall be designed to avoid or minimize ecological impacts, to protect human health and safety, and to avoid significant adverse impacts to surrounding uses and the area’s visual qualities. To this end, the City may adjust the project dimensions and setbacks (so long as they are not relaxed below minimum standards without a shoreline variance permit) and/or prescribe operation intensity and screening standards as deemed appropriate. Need and special considerations for landscaping and buffer areas shall also be subject to review.

4. All new commercial development proposals will be reviewed by the City for ecological restoration and public access opportunities. When restoration and/or public access plans indicate opportunities exist, the City may require that those opportunities are either implemented as part of the development project or that the project design be altered so that those opportunities are not diminished.

    All new water-related and water-enjoyment development shall be conditioned with the requirement for ecological restoration and public access unless those activities are demonstrated to be not feasible. (See definition of “feasible.”)

    All new non-water-oriented development, where allowed, shall be conditioned with the requirement to provide ecological restoration and public access.

    The City shall consult the Environmental Restoration Plan and the Ebey Waterfront Trail Plan and determine the applicability and extent of ecological restoration and/or public access required.

5. All commercial loading and service areas shall be located on the upland side of the commercial activities, or provisions must be made to set back and screen the loading and service area from the shoreline and water body.

6. Commercial development and accessory uses must conform to the setback and height standards established in Chapter 3, “Environment Designations.”

5. Industry

a. Applicability

Industrial developments and uses are facilities for processing, manufacturing, and storing of finished or semi finished goods. Included in industry are such activities as container ship terminals, log storage, log rafting, petroleum storage, hazardous waste generation, transport and storage, ship building, concrete and asphalt batching, construction, manufacturing, warehousing, lumber mills, and tug and barge operations. Excluded from this category and covered under other sections of the master program are boating facilities, piers and docks, mining (including on-site processing of raw materials), utilities, solid waste disposal, and transportation facilities.

Shoreline modifications and other uses associated with port and industrial development are described separately in this master program. These include dredging, fill, transportation facilities, utilities piers and docks, bulkheads, breakwaters, jetties and groins, shoreline stabilization and flood protection, and signs. They are subject to their own regulations in addition to the provisions for ports and industry established in this section.

b. Policies

1. Expansion or redevelopment of existing legally established industrial areas, facilities, and services to incorporate mixed-use development should be encouraged over the addition and/or location of new or single-purpose industrial facilities.
2. Joint use of piers, cargo handling, storage, parking, and other accessory facilities among private or public entities should be required or strongly encouraged in waterfront industrial areas.
3. Ecological restoration should be a condition of all non-water-oriented industrial development.

c. Regulations

General

1. Only water-dependent and water-related industrial development shall be permitted in the shoreline jurisdiction. Existing non-water-oriented uses may be expanded, provided ecological restoration is provided, as directed by the City.
2. The amount of impervious surface shall be the minimum necessary to provide for the intended use. The maximum impervious surface is 85 percent total lot area. The remaining land area shall be landscaped with native plants or treated as directed by the City.
3. Water-dependent industry shall be located and designed to minimize the need for initial and/or continual dredging, filling, spoil disposal, and other harbor and channel maintenance activities.
4. Piers, moorage, slips, floats, and launching facilities may be permitted accessory to industrial development, provided:
    a. The facility will serve a water-dependent or water-related use.
    b. The facility does not constitute a hazard to navigation.
    c. All other provisions pertaining to these uses are met. (See “Piers and Docks,” Section 5.B.3.)

5. Storage and/or disposal of industrial wastes is prohibited within shoreline jurisdiction; PROVIDED, that wastewater treatment systems may be allowed in shoreline jurisdiction if alternate, inland areas have been adequately proven infeasible.
6. At new or expanded industrial developments, the best available facilities practices and procedures shall be employed for the safe handling of fuels and toxic or hazardous materials to prevent them from entering the water, and optimum means shall be employed for prompt and effective cleanup of those spills that do occur. The City may require specific facilities to support those activities as well as demonstration of a cleanup/spill prevention program.
7. All new or expanded upland industrial development shall be set back from the shoreline at least 70 feet and buffered from adjacent shoreline properties which are used for non-industrial purposes according to the standard described in the environment designation matrix. Industrial buildings, parking lots, storage areas, and work areas shall be set back from side property lines at least 10 feet and planted with native vegetation as directed by the City or as otherwise outlined in MMC 19.12.040 and 19.16.090.
8. Consistent with other provisions of this master program, ports and/or industry shall provide public access to the shoreline and/or provide opportunities for public viewing of the industrial activity according to Section 4.B.7, "Public Access."
9. Display and other exterior lighting shall be designed, shielded, and operated to minimize glare, avoid illuminating nearby properties, and prevent hazards for public traffic.
10. Storm water BMPs shall be followed. See the City's storm water management ordinance.

<u>Log Storage</u>

11. Unpaved storage areas underlain by permeable soils shall have at least a three-foot separation between the ground surface and the highest seasonal water table.
12. Berms, dikes, grassy swales, vegetated buffers, retention ponds, or other means shall be used to ensure that surface runoff is collected and discharged from the storage area at one point, if possible. New development shall be conditioned with the requirement that it be demonstrated that state water quality standards and/or criteria will not be violated by such runoff under any conditions of flow leaving the site and entering into nearby water courses. If such demonstration is not possible, treatment facilities for runoff shall be provided, meeting state and federal standards.
13. Offshore log storage, when allowed, shall be located where natural tidal or current flushing and water circulation is optimal to disperse polluting wastes.
14. Log storage shall not be permitted in public waters where water quality standards cannot be met at all times or where these activities are a hindrance to other beneficial water uses, such as small craft navigation.
15. The free-fall, violent dumping of logs into water shall be prohibited. Easy let-down devices shall be employed for placing logs in the water.

16. Positive bark and wood debris control, collection, and disposal methods shall be employed at log dumps, raft building areas, and mill-side handling zones. This shall be required for both floating and sinking particles.
17. Log dumps shall not be located in rapidly flowing waters or other water zones where bark and debris controls cannot be effectively provided.
18. Bark and other debris shall be kept out of the water and immediately removed if accidentally allowed to enter the water.
19. Logs shall not be dumped, stored, or rafted where grounding will occur.
20. Where water depths will permit the floating of bundled logs, they shall be secured in bundles on land before being placed in the water. Bundles shall not be broken again except on land or at millside.

Ship and Boat Building and Repair Yards

21. Ship and boat building and repair yards shall employ best management practices (BMPs) concerning the various services and activities they perform and their impacts on the surrounding water quality. Standards for BMPs are found in Water Quality Manual: Best Management Practices.

6. In-Stream Structures

a. Applicability

In-stream structures are constructed waterward of the OHWM and either cause or have the potential to cause water impoundment or diversion, obstruction, or modification of water flow. They typically are constructed for hydroelectric generation and transmission (including both public and private facilities), flood control, irrigation, water supply (both domestic and industrial), recreational, or fisheries enhancement. Both the structures themselves and their support facilities are covered by this section. This applies to their construction, operation, and maintenance, as well as the expansion of existing structures and facilities.

b. Policies

In-stream structures should provide for the protection, preservation, and restoration of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas. Within the City of Marysville, in-stream structures should be allowed only for the purposes of environmental restoration.

c. Regulations

1. In-stream structures are permitted only for the purposes of environmental restoration.
2. In-stream structures may be required to provide public access, provided public access improvements do not create significant ecological impacts or other adverse environmental impacts to and along the affected shoreline nor create a safety hazard to the public. Public access provisions shall include, but not be limited to, any combination of trails, vistas, parking, and any necessary sanitation facilities. Required public access sites shall be dedicated for public

use through fee acquisition or recorded easement. The public access provisions in Section 4.B.7 apply.

7. Recreational Development

a. Applicability

Recreational development includes public and commercial 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, golf courses, and other outdoor recreation areas. 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.

Recreational uses and development can be part of a larger mixed-use project. For example, a resort will probably contain characteristics of, and be reviewed under, both the "Commercial Development" and the "Recreational Development" sections. Primary activities such as boating facilities, subdivisions, and motels are not addressed directly in this category.

Uses and activities associated with recreational developments that are identified as separate use activities in this program, such as "Boating Facilities," "Piers and Docks," "Residential Development," and "Commercial Development," are subject to the regulations established for those uses in addition to the standards for recreation established in this section.

b. Policies

1. The coordination of local, state, and federal recreation planning should be encouraged to satisfy recreational needs. Shoreline recreational developments should be consistent with all adopted park, recreation, and open space plans. State-owned shorelines, being particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses, should be given special consideration for park and recreational uses.
2. Recreational developments and plans should promote the primacy of preserving the natural character, resources and ecological functions and processes
3. A variety of compatible recreational experiences and activities should be encouraged to satisfy diverse recreational needs.
4. Water-dependent recreational uses, such as angling, boating, and swimming, should have priority over water-enjoyment uses, such as picnicking and golf. Water-enjoyment uses should have priority over non-water-oriented recreational uses, such as baseball or soccer.
5. The linkage of shoreline parks, recreation areas, and public access points with linear systems, such as hiking paths, bicycle paths, easements, and/or scenic drives, should be encouraged. Recreational facilities should be integrated with public access systems.
6. Where appropriate, non-intensive recreational uses may be permitted in floodplain areas. Non-intensive recreational uses include those that do not do any of the following:
   - Adversely affect the natural hydrology of the river.

- Create any flood hazards.
- Damage the shoreline environment through modifications such as structural shoreline stabilization or vegetation removal.

c. Regulations

1. Water-oriented recreational developments may be permitted as indicated in Chapter 3, Section C, "Shoreline Use and Shoreline Modification Matrices." In accordance with said matrix and other provisions of this master program, non-water-oriented recreational developments may be permitted only where it can be demonstrated that:

   a. A water-oriented use is not reasonably expected to locate on the proposed site due to topography, surrounding land uses, physical features, or the site's separation from the water.

   b. The proposed use does not usurp or displace land currently occupied by a water-oriented use and will not interfere with adjacent water-oriented uses.

   c. The proposed use will be of appreciable public benefit by increasing ecological functions together with public use, enjoyment, or access to the shoreline.

2. Accessory parking shall not be located in shoreline jurisdiction unless the City determines there is no other feasible option.

3. All new recreational development proposals will be reviewed by the City for ecological restoration and public access opportunities. When restoration and/or public access plans indicate opportunities exist, the City may require that those opportunities are either implemented as part of the development project or that the project design be altered so that those opportunities are not diminished.

   All new non-water-oriented recreational development, where allowed, shall be conditioned with the requirement to provide ecological restoration and public access.

   The City shall consult the Environmental Restoration Plan and the Ebey Waterfront Trail Plan and determine the applicability and extent of ecological restoration and/or public access required.

4. Substantial structures, such as restrooms, recreation halls and gymnasiums, recreational buildings and fields, access roads, and parking areas, shall be set back from the OHWM at least 70 feet unless it can be shown that such facilities are essentially water-dependent or there is no feasible alternative. These areas may be linked to the shoreline by walkways.

5. For recreation developments that require the use of fertilizers, pesticides, or other toxic chemicals, such as golf courses and play fields, the applicant shall submit plans demonstrating the methods to be used to prevent these applications and resultant leachate from entering adjacent water bodies. Buffer strips and, if practical, shade trees shall be included in the development. The City shall determine the maximum width necessary for buffer strips, but in no case shall the buffer strip be less than 50 feet. The proponent shall also be required to leave a chemical-free swath at least 100 feet in width next to water bodies and wetlands.

6. Snags and living trees (i.e., large cottonwoods) shall not be removed within the 50-foot setback unless a professional forester or horticulturalist determines them to be extreme hazards and likely to fall into a park use area. Snags and living trees within the setback which do not present an extreme hazard shall be retained.

8. Residential Development

a. Applicability

Residential development means one or more buildings, structures, lots, parcels or portions thereof which are designed for and used or intended to be used to provide a place of abode for human beings, including single-family residences, duplexes, other detached dwellings, floating homes, multi-family residences, apartments, townhouses, mobile home parks, other similar group housing, condominiums, subdivisions and short subdivisions, together with accessory uses and structures normally applicable to residential uses including but not limited to garages, sheds, tennis courts, swimming pools, parking areas, fences, cabanas, saunas and guest cottages. Residential development does not include hotels, motels or any other type of overnight or transient housing, recreational vehicle parks, or camping facilities.

The Shoreline Management Act identifies single-family residences as a priority use when (and only when) developed in a manner consistent with the control of pollution and prevention of damage to the natural environment. Although some owner-occupied single-family residences are exempt from the substantial development permit process, they still must comply with all of the provisions of this section and of the master program. Subdivisions and short subdivisions must also comply with all of the provisions of this section and the master program. All development is subject to the variance and conditional use requirements and permit processes, when indicated.

Uses and facilities associated with residential development which are identified as separate use activities or shoreline modifications in this program, such as Boating Facilities, Piers, Shoreline Stabilization and Flood Protection, Utilities, Landfill and Clearing and Grading, are subject to the regulations established for those modifications in addition to any special conditions relating to residential areas established in this section.

b. Policies

1. Recognizing the single-purpose, irreversible, and space-consumptive nature of shoreline residential development, new development should provide adequate setbacks and natural buffers from the water and ample open space between structures to provide space for outdoor recreation, to protect and restore ecological functions and ecosystem-wide processes, to preserve views, and to minimize use conflicts.
2. New residential development should be designed so as to not cause significant ecological impacts or significant adverse impacts to shoreline esthetic characteristics, views, and improve public use of the shoreline and the water.
3. New residential development should be located and designed so as to minimize conflicts or incompatibilities with water-oriented uses. Residential

development should not be allowed where occupants would be exposed to noise, bright lights, or other necessary impacts of water development uses, such as water-dependent-industrial activities.

c. Regulations

1. In accordance with the SMA, Chapter 90.58 RCW, the following categories of development on single-family residential properties do not require a shoreline substantial development permit.
   - Construction in shoreline jurisdiction by an owner, lessee, or contract purchaser of a single-family residence for his own use or for the use of his family that does not exceed a height of 35 feet above average grade level and meets all of the requirements of this master program and other applicable local, state, and federal laws.
   - "Appurtenances" to single-family residences located landward of the OHWM and the perimeter of a wetland, including such structures as garages, decks, driveways, utilities, fences, installation of a septic tank and drainfield, and grading that does not exceed 250 cubic yards and that does not involve placement of fill in any wetland or waterward of the OHWM.
   - The construction of shoreline stabilization, including vegetation enhancement, beach enhancement, upland drainage control, revetments, bulkheads, and seawalls.

   HOWEVER, all of the development described above shall meet the provisions of this master program. In order to implement the objectives of the Shoreline Management Act, RCW 90.58.020, the City shall review development proposals for such actions. Persons intending to carry out the types of single-family development described above shall apply for a "letter of exemption." Piers, docks and mooring floats accessory to single family residences are not allowed.

2. Residential development, including appurtenances and accessory uses, shall be prohibited within floodways, channel migration zones, wetlands, critical wildlife habitats, and other hazardous areas, such as steep slopes and areas with unstable soils or geologic conditions.

3. New residential development is not allowed in the Urban Conservancy Environment. Existing residential development constructed and occupied prior to the adoption of this master program may be allowed to be altered or expanded, provided the new development does not increase the nonconformance and meets the requirements of the City's Critical Area Ordinance, adopted May 2, 2005, and this master program.

   New residential development may be allowed on lots along Quilceda Creek existing prior to the adoption of this SMP, provided the proposal meets the Marysville Critical Area Ordinance and the "Critical Areas" section of this SMP.

4. Appurtenances, as defined in this master program consistent with Chapter 173-27 WAC (or in the definitions; see also Regulation 2 above), shall be subject to the same conditions as primary residences, except that for the protection of human health and safety and ecological functions further restrictions may apply.

5. Accessory uses that are not appurtenant structures shall be reasonable in size and purpose and compatible with on-site and adjacent structures, uses, and natural features.

   Accessory structures that are not water-dependent are prohibited waterward of the principal residence.

6. The creation of new lots shall be prohibited unless all of the following can be demonstrated.

   a. A primary residence can be build on each new lot without any of the following being necessary:
      - New structural shoreline stabilization.
      - New development or clearing and grading within 50 feet of the OHWM.
      - New structures in the required shoreline setback, 100-year floodplain, geohazardous areas, wetland, required wetland buffer, critical habitat, or critical habitat buffer.
      - Causing significant erosion or reduction in slope stability.
      - Causing increased flood hazard or erosion in the new development or to other properties.

   b. Adequate sewer, water, access, and utilities can be provided.

   c. The intensity and type of development is consistent with the City comprehensive plan and development regulations.

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

7. Over-water residences and floating homes are prohibited.

8. Multiunit development, including the subdivision of land into more than four parcels, shall be required to provide public access according to Section 4.B.7, “Public Access,” and the Ebey Waterfront Trail Program.

The City will determine whether or not a proposed development meets the above conditions.

9. Transportation and Parking

a. Applicability

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, bikeways, trails, railroad facilities, ferry terminals, float plane terminals, airports, heliports, and other related facilities.

The various transport facilities that can impact the shoreline cut across all environmental designations and all specific use categories. The policies and regulations identified in this section pertain to any project, within any environment, that is effecting some change in present transportation facilities.

b. Policies

1. Circulation system planning to and on shorelands should include systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the master program.
2. Trail and bicycle paths should be encouraged along shorelines and should be constructed in a manner compatible with the natural character, resources, and ecology of the shoreline. P.77,9b.4: Trail and bicycle paths should be encouraged along shorelines and should be constructed in a manner that does not reduce or substantially impact shoreline resources or ecological functions.
3. When existing transportation corridors are abandoned, they should be reused for water-dependent use or public access.
4. Abandoned or unused road or railroad rights-of-way that offer opportunities for public access to the water should be acquired and/or retained for such use.

c. Regulations

General

1. Applications for new or expanded transportation facilities development in shoreline jurisdiction shall include the following information:
   - Demonstration of the need for the facility.
   - An analysis of alternative alignments or routes, including where feasible, alignments or routes outside shoreline jurisdiction.
   - An analysis of potential impacts complying with the State Environmental Policy Act, including an analysis of comparative impacts of feasible alternative routes. (See the definition of "feasible" in Chapter 7.)
   - Description of construction, including location, construction type, and materials.
   - If needed, description of mitigation and restoration measures.
2. New non-water-dependent transportation facilities shall be located outside shoreline jurisdiction, if possible. In determining the feasibility of a non-shoreline location, the City will apply the definition of "feasible" in Chapter 7 and weigh the action's relative public costs and benefits, considered in the short- and long-term time frames.
3. All new and expanded transportation facilities development shall be conditioned with the requirement to mitigate significant adverse impacts consistent with Section 4.B.4 of this master program. New or expanded transportation facilities development that cause significant ecological impacts shall not be allowed unless the development includes shoreline mitigation/restoration that increases the ecological functions being impacted to the point where:
   - Significant short- and long-term risks to the shoreline ecology from the development are eliminated.
   - Long-term opportunities to increase the natural ecological functions and processes are not diminished.

   If physically feasible, the mitigation/restoration shall be in place and functioning prior to project impacts. The mitigation/restoration shall include a monitoring and adaptive management program.

4. All roads and railroads, if permitted parallel to shoreline areas, shall be adequately set back from water bodies (see Section 3.c) and shall provide buffer areas of compatible, self-sustaining vegetation. Shoreline scenic drives and viewpoints may provide breaks periodically in the vegetative buffer to allow open views of the water.
5. New transportation facilities shall be located and designed to prevent or to minimize the need for shoreline protective measures such as riprap or other bank stabilization, fill, bulkheads, groins, jetties, or substantial site grading. Transportation facilities allowed to cross over water bodies and wetlands shall utilize elevated, open pile, or pier structures whenever feasible. All bridges must be built high enough to allow the passage of debris and provide three feet of freeboard above the 100-year flood level.
6. All new and expanded transportation facilities development in shoreline jurisdiction shall be consistent with the City's comprehensive plan and applicable capital improvement plans.
7. New and expanded transportation facilities development shall include provisions for pedestrian, bicycle, and public transportation where appropriate as determined by the City. Circulation planning and projects shall support existing and proposed shoreline uses that are consistent with the master program.
8. Transportation facilities and services shall utilize existing transportation corridors whenever possible, P.79: Expansions, additions or modifications shall be designed and/or conditioned to eliminate or minimize adverse impacts consistent with Section 4.B.4.
9. Transportation and primary utility facilities shall be required to make joint use of rights-of-way and to consolidate crossings of water bodies if practicable, where adverse impact to the shoreline can be minimized by doing so.
10. Fills for transportation facilities development are prohibited in water bodies, wetlands, and accretion beaches; EXCEPT, when all structural and upland alternatives have been proven infeasible and the transportation facilities are necessary to support uses consistent with this program, such fill may be permitted as a CUP.
11. New and expanded transportation facilities development shall not diminish but may modify public access to the shoreline, as described in Section 4.B.7.
12. Waterway crossing shall be designed to provide minimal disturbance to banks.
13. Roads and railroads shall be located to minimize the need for routing surface waters into and through culverts.
14. Culverts and similar devices shall be designed with regard to the 25-year storm frequencies and allow continuous fish passage. Culverts shall be located so as to avoid relocation of the stream channel.
15. Bridges, crossings, debris grates, culverts, and similar devices used by fish shall meet all requirements set by the State Department of Fish and Wildlife.
16. All transportation facilities shall be designed, constructed, and maintained to contain and control all debris, overburden, runoff, erosion, and sediment generated from the affected areas. Relief culverts and diversion ditches shall

not discharge onto erodible soils, fills, or sidecast materials without appropriate BMP's.

17. Bridge abutments and necessary approach fills shall be located landward of wetlands or the OHWM for water bodies without wetlands; PROVIDED, bridge piers may be permitted in a water body or wetland as a conditional use.

18. All shoreline areas disturbed by transportation facility construction and maintenance shall be replanted and stabilized with compatible, self-sustaining vegetation by seeding, mulching, or other effective means immediately upon completion of the construction or maintenance activity. Such vegetation shall be maintained until established by the agency or developer constructing or maintaining the road. The vegetation restoration/replanting plans shall be as approved by the City.

10. Utilities

a. Applicability

Utilities are services and facilities that produce, transmit, carry, store, process, or dispose of electric power, gas, water, sewage, communications, oil, and the like. The provisions in this section apply to primary uses and activities, such as solid waste handling and disposal, sewage treatment plants and outfalls, public high-tension utility lines on public property or easements, power generating or transfer facilities, and gas distribution lines and storage facilities. See Section 4.B.10, "Utilities," for on-site accessory use utilities.

Solid waste disposal means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste on any land area or in the water.

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.

b. Policies

1. New utility facilities should be located so as not to require extensive shoreline protection works.
2. Utility facilities and corridors should be located so as to protect scenic views. Whenever possible, such facilities should be placed underground or alongside or under bridges.
3. Utility facilities and rights-of-way should be designed to preserve the natural landscape and to minimize conflicts with present and planned land uses.

c. Regulations

1. Applications for new or expanded utility facilities development in shoreline jurisdiction shall include the following:
   a. Demonstration of the need for the facility.

b. An analysis of alternative alignments or routes, including where feasible, alignments or routes outside shoreline jurisdiction.

c. An analysis of potential impacts complying with the State Environmental Policy Act, including an analysis of comparative impacts of feasible alternative routes. (See the definition of “feasible” in Chapter 7.)

d. Description of construction, including location, construction type, and materials.

e. Location of other utility facilities in the vicinity of the proposed project and any plans to include the facilities of other types of utilities in the project.

f. Plans for reclamation of areas disturbed during construction .

g. Plans for control of erosion and turbidity during construction and operation.

h. Identification of any possibility for locating the proposed facility at another existing utility facility site or within an existing utility right-of-way.

2. All utility facilities shall be designed and located to minimize harm to shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth. The City may require the relocation or redesign of proposed utility development in order to avoid significant ecological impacts or significant adverse impacts.

3. Utility production and processing facilities, such as power plants or parts of those facilities that are non-water-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available. In such cases, significant ecological impacts shall be avoided.

4. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located to cause minimum harm to the shoreline and shall be located outside of the shoreline area where feasible. Utilities should be located in existing rights-of-way and corridors whenever possible.

5. Development of pipelines and cables on tidelands, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance or that cause significant ecological impacts shall not be allowed unless no other feasible option exists. When permitted, those facilities shall include adequate provisions to protect against significant ecological impacts.

6. Restoration of ecological functions shall be a condition of new and expanded non-water-dependent utility facilities.

7. Utility development shall, through coordination with local government agencies, provide for compatible, multiple use of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety or create a significant and disproportionate liability for the owner.

8. New solid waste disposal sites and facilities are prohibited. Existing solid waste disposal and transfer facilities in shoreline jurisdiction shall be expeditiously phased out and rehabilitated.

9. New electricity, communications and fuel lines shall be located underground, except where the presence of bedrock or other obstructions make such placement infeasible or if it is demonstrated that above-ground lines would have a lesser impacts. Existing above ground lines shall be moved underground during normal replacement processes.
10. Transmission and distribution facilities shall cross areas of shoreline jurisdiction by the shortest, most direct route feasible, unless such route would cause significant environmental damage.
11. Utility developments shall be located and designated so as to avoid or minimize the use of any structural or artificial shore defense or flood protection works.
12. Utility production and processing facilities shall be located outside SMA jurisdiction unless no other feasible option exists. Where major facilities must be placed in a shoreline area, the location and design shall be chosen so as not to destroy or obstruct scenic views.
13. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, unless no other feasible alternative exists. In those limited instances when permitted by conditional use, automatic shut-off valves shall be provided on both sides of the water body.
14. Filling in shoreline jurisdiction for utility facility or line development purposes is prohibited, except where no other feasible option exists and the proposal would avoid or minimize impacts more completely than other methods. Permitted crossings shall utilize pier or open pile techniques.
15. If allowed, power-generating facilities shall require a conditional use permit.
16. Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and upon project completion any disturbed areas shall be restored to their pre-project condition.
17. Telecommunication towers, such as radio and cell phone towers, are specifically prohibited.

CHAPTER 7
Definitions

Accessory use. Any structure or use incidental and subordinate to a primary use or development.

Act. The Shoreline Management Act (Chapter 90.58 RCW).

Adjacent lands. Lands adjacent to the shorelines of the state (outside of shoreline jurisdiction).

Administrator. The City of Marysville Community Development Director or his/her designee, charged with the responsibility of administering the shoreline master program.

Appurtenance. A structure or development which is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and also of the perimeter of any wetland. (On a state-wide basis, normal appurtenances include a garage, deck, driveway, utilities, fences and grading which does not exceed two hundred fifty cubic yards.)

Aquatic. Pertaining to those areas waterward of the ordinary high water mark.

Aquaculture. The cultivation of fish, shellfish, and/or other aquatic animals or plants, including the incidental preparation of these products for human use.

Archaeological. Having to do with the scientific study of material remains of past human life and activities.

Average grade level. See "base elevation."

Base elevation. The average elevation of the approved topography of a parcel at the midpoint on each of the four sides of the smallest rectangle that will enclose the proposed structure, excluding eaves and decks. The approved topography of a parcel is the natural topography of a parcel or the topographic conditions approved by the City prior to August 10, 1969, or as approved by a subdivision, short subdivision, binding site plan, shoreline substantial development permit, filling and grading permit, or SEPA environmental review issued after August 10, 1969. An approved benchmark will establish the relative elevation of the four points used to establish the base elevation.

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

Beach enhancement/restoration. Process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation, drift sills and other non-intrusive means as applicable.

Berm. A linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the line of ordinary high tide. Also, a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.

Bioengineering. The use of biological elements, such as the planting of vegetation, often in conjunction with engineered systems, to provide a structural shoreline stabilization measure with minimal negative impact to the shoreline ecology.

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

Bog. A wet, spongy, poorly drained area which is usually rich in very specialized plants, contains a high percentage of organic remnants and residues and frequently is associated with a spring, seepage area, or other subsurface water source. A bog sometimes represents the final stage of the natural process of eutrophication by which lakes and other bodies of water are very slowly transformed into land areas.

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

Building height. The vertical distance from the base elevation of a building to the highest point of the roof, exclusive of building appurtenances.

Bulkhead. A solid wall erected generally parallel to and near the ordinary high water mark for the purpose of protecting adjacent uplands from waves or current action.

Buoy. An anchored float for the purpose of mooring vessels.

Channel. An open conduit for water, either naturally or artificially created; does not include artificially created irrigation, return flow, or stock watering channels.

City. The City of Marysville Washington.

Clearing. The destruction or removal of vegetation ground cover, shrubs and trees including, but not limited to, root material removal and/or topsoil removal.

Conditional use. A use, development, or substantial development which is classified as a conditional use or is not classified within the applicable master program.

Covered moorage. Boat moorage, with or without walls, that has a roof to protect the vessel.

Department of Ecology. The Washington State Department of Ecology.

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 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 at any stage of water level. “Development” does not include dismantling or removing structures if there is no other associated development or re-development.

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

Director. City of Marysville Community Development Director.

Dock. A structure which abuts the shoreline and is used as a landing or moorage place for craft. A dock may be built either on a fixed platform or float on the water. See also "development" and "substantial development."

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

Dredging. Excavation or displacement of the bottom or shoreline of a water body.

Ecological functions (or shoreline functions). 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.

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.

EIS. Environmental Impact Statement.

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 and facilities from the elements. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to Chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and the local master program. As a general matter, flooding or seasonal events that can be anticipated and may occur but that are not imminent are not an emergency. (RCW 90.58.030(3eiii).)

Enhancement. Alteration of an existing resource to improve or increase its characteristics, functions, or processes without degrading other existing ecological functions. Enhancements are to be distinguished from resource creation or restoration projects.

Erosion. The wearing away of land by the action of natural forces.

Exception developments not required to obtain shoreline permits or local reviews. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other reviews to implement the Shoreline Management Act do not apply to the following:

(a) 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 pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts remedial action under Chapter 70.105D RCW.

(b) Boat yard 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.

(c) 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.

(d) Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

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

Exemption. Certain specific developments as listed in WAC 173-27-040 are exempt from the definition of substantial developments are 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); WAC 173-27-040.) The external retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 USC Sec. 12010 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities. (See also "development" and "substantial development.")

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

Feasible. For the purpose of this master program, 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, or studies or tests have demonstrated 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.

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

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

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

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

Floats. An anchored, buoyed object.

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

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.

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 impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified engineers or geologists who are knowledgeable about the regional and local shoreline geology and processes.

Grade. See “base elevation.”

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.

Guidelines. Those standards adopted by the Department of Ecology into the Washington Administrative Code (WAC) 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 also provide criteria for local governments and the Department of Ecology in developing and amending master programs.

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

Height. See “building height.”

Hydrological. Referring to the science related to the waters of the earth including surface and ground water movement, evaporation and precipitation. Hydrological functions in shoreline include, water movement, storage, flow variability, channel movement and reconfiguration, recruitment and transport of sediment and large wood, and nutrient and pollutant transport, removal and deposition,

Letter of exemption. A letter or other official certificate issued by a local government to indicate that a proposed development is exempted from the requirement to obtain a shoreline permit as provided in WAC 173-27-050. Letters of exemption may include conditions or other provisions placed on the proposal in order to ensure consistency with the Shoreline Management Act, this chapter, and the applicable master program.

Littoral. Living on, or occurring on, the shore.

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

May. Refers to actions that are acceptable, provided they conform to the provisions of this master program and the Act.

Mitigation (or mitigation sequencing). The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal, including the following listed in the order of sequence 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.

(f) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Multi-family dwelling (or residence). A building containing two or more dwelling units, including but not limited to duplexes, apartments and condominiums.

Must. A mandate; the action is required.

Nonconforming development. A shoreline use or structure which was lawfully constructed or established prior to the effective date of the applicable master program provision, and which no longer conforms to the applicable shoreline provisions.

Non-point pollution. Pollution that enters any waters of the state from any dispersed land-based or water-based activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

Non-water-oriented uses. Those uses that are not water-dependent, water-related, or water-enjoyment.

Normal maintenance. Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. See also “normal repair.”

Normal protective bulkhead. 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.

Normal repair. To restore a development to a state comparable to its original condition, including, but not limited to, its size, shape, configuration, location, and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. (WAC 173-27-040.) See also "normal maintenance" and "development."

Off-site replacement. To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by a regulated activity.

OHWM. See "ordinary high water mark."

Ordinary high water mark (OHWM). That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology. See RCW 90.58.030(2)(b).

Party of record. All persons, agencies, or organizations who have submitted written comments in response to a notice of application, made oral comments in a formal public hearing conducted on the application, or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail.

Periodic. Occurring at regular intervals.

Person. An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated. (RCW 90.58.030(1d).)

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

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.

Qwuloolt or Qwuloolt/Portinga site. Lowland area surrounding the mouths of Allen Creek and Jones Creek and bounded by 47th Avenue NE, Sunnyside Boulevard, and existing upland development.

RCW. Revised Code of Washington.

Residential development. Development which is primarily devoted to or designed for use as a dwelling(s).

Restore (restoration). To significantly re-establish or upgrade shoreline ecological functions through measures such as revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic sediments. To restore does not necessarily imply returning the shoreline area to aboriginal or pre-European settlement condition.

Revetment. Facing of stone, concrete, etc., built to protect a scarp, embankment, or shore structure against erosion by waves or currents.

Riprap. A layer, facing, or protective mound of stones placed to prevent erosion, scour, or sloughing of a structure or embankment; also, the stone so used.

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 (State Environmental Policy Act). SEPA requires state agencies, local governments and other lead agencies to consider environmental factors 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.

Setback. A required open space, specified in shoreline master programs, measured horizontally upland from and perpendicular to the ordinary high water mark.

Shall. A mandate; the action must be done.

Shorelands. All lands within Shoreline Management Act jurisdiction lying upland or higher in elevation of the OHWM.

Shoreline areas (and shoreline jurisdiction). The same as "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

Shoreline environment designations. The categories of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. Shoreline designations in Marysville include: Aquatic, High Intensity, Urban Conservancy and Shoreline Residential.

Shoreline functions. See “ecological functions.”

Shoreline jurisdiction. The term describing all of the geographic areas covered by the SMA, related rules and the applicable master program. Also, such areas within a specified local government's authority under the SMA. See definitions of "shorelines", "shorelines of the state", "shorelines of state-wide significance" and "wetlands." See also the “Shoreline Management Act Scope” section in the “Introduction” of this master program.

Shoreline master program, *master program*, or *SMP.* This Shoreline Master Program, as adopted by the City of Marysville and approved by the Washington Department of Ecology.

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, dock, weir, dredged basin, fill, bulkhead, or other shoreline structures. They can include other actions, such as clearing, grading, or application of chemicals.

Shoreline permit. A substantial development, conditional use, revision, or variance permit or any combination thereof.

Shoreline property. An individual property wholly or partially within shoreline jurisdiction.

Shoreline restoration, *restoration*, or *ecological restoration*. The re-establishment 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. Shoreline restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

Shorelines. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of state-wide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

Shorelines of the state. The total of all "shorelines" and "shorelines of state-wide significance" within the state.

Shorelines Hearings Board (SHB). A six member 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 Department of Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA.

Shorelines of state-wide significance. A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special policies apply.

Should. The particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this shoreline master program, against taking the action.

Sign. A board or other display containing words and/or symbols used to identify or advertise a place of business or to convey information. Excluded from this definition are signs required by law and the flags of national and state governments.

Significant ecological impact. An effect or consequence of an action if any of the following apply:

(a) The action measurably or noticeably reduces or harms an ecological function or ecosystem-wide process.

(b) Scientific evidence or objective analysis indicates the action could cause reduction or harm to those ecological functions or ecosystem-wide processes described in (a) of this subsection under foreseeable conditions.

(c) Scientific evidence indicates the action could contribute to a measurable or noticeable reduction or harm to ecological functions or ecosystem-wide processes described in (a) of this subsection as part of cumulative impacts, due to similar actions that are occurring or are likely to occur.

Significant vegetation removal. The removal or alteration of native 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, non-native, or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

Single-family residence (SFR). A detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance.

SMA. The Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

Storm water. That portion of precipitation that does not normally percolate into the ground or evaporate but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or constructed infiltration facility.

Stream. A naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty cubic feet per second and b) the water is contained within a channel. See also “channel.”

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

Subdivision. The division or redivision of land, including short subdivision for the purpose of sale, lease or conveyance.

Substantial development. Any development of which the total cost or fair market value exceeds the dollar threshold established in RCW 90.58.030(e), or any development that materially interferes with the normal public use of the water or shorelines of the state; except as specifically exempted pursuant to RCW 90.58.030(3)(e). See also definition of "development" and "exemption".

Substantially degrade. To cause damage or harm to an area's ecological functions. An action is considered to substantially degrade the environment if:

(a) The damaged ecological function or functions significantly affect other related functions or the viability of the larger ecosystem; or

(b) The degrading action may cause damage or harm to shoreline ecological functions under foreseeable conditions; or

(c) Scientific evidence indicates the action may contribute to damage or harm to ecological functions as part of cumulative impacts.

Swamp. A depressed area flooded most of the year to a depth greater than that of a marsh and characterized by areas of open water amid soft, wetland masses vegetated with trees and shrubs. Extensive grass vegetation is not characteristic.

Terrestrial. Of or relating to land as distinct from air or water.

Transportation (Facilities). A structure or development(s), that aid in the movement of people, goods or cargo by land, water, air or rail. They include but are not limited to highways, bridges, causeways, bikeways, trails, railroad facilities, ferry terminals, float plane – airport or heliport terminals, and other related facilities.

Upland. Generally described as the dry land area above and landward of the ordinary high water mark.

Utility. A public or private agency which provides a service that is utilized or available to the general public (or a locationally specific population thereof). such services may include, but are not limited to, storm water detention and management, sewer, water, telecommunications, cable, electricity, and natural gas.

Utility (Accessory). Utilities are small-scale distribution services connected directly to the uses along the shoreline and are not carrying significant capacity to serve other users that are not located in the shoreline jurisdiction.

Variance. A means to grant relief from the specific bulk, dimensional, or performance standards set forth in this master program and not a means to vary a use of a shoreline. Variance permits must be specifically approved, approved with conditions, or denied by the Administrator and the Department of Ecology.

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

WAC. Washington Administrative Code.

Water-dependent. A use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include fishing, boat launching, swimming, and storm water discharges.

Water-enjoyment. A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a generalcharacteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to:

(a) Parks with activities enhanced by proximity to the water.

(b) Docks, trails, and other improvements that facilitate public access to shorelines of the state.

(c) Restaurants with water views and public access improvements.

(d) Museums with an orientation to shoreline topics.

(e) Scientific/ecological reserves.

(f) Resorts with uses open to the public and public access to the shoreline; and any combination of those uses listed above.

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

Water quality. The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impervious surfaces and storm water handling practices. Water quantity, for purposes of this master program, does

not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

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

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

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

Weir: A structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment of other moving objects transported by water.

Wetland or wetlands. Areas that are inundated or saturated by surface water 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 marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland 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 non-wetland areas to mitigate the conversion of wetlands.

Zoning. The system of land use and development regulations in Title 22 and related provisions of the Marysville Municipal Code.

In addition, the definitions and concepts set forth in RCW 90.58.030, as amended, and implementing rules shall also apply as used herein.

CHAPTER 8

Restoration Plan

A. Restoration Goals and Objectives

1. Goals

a. Goal 1: Assure preservation, protection and restoration of salmon habitat to a sufficient extent and quality to support the productivity and diversity of all wild salmon stocks in the Snohomish River basin at a level that will sustain fisheries and non-consumptive salmon-related cultural and ecological values (SBSRF 2001).

Objectives (excerpted from SBSRF 2001):

1. Maintain and restore natural streambank conditions and achieve a net increase in the amount of natural streambank functions while protecting critical public facilities and infrastructure. Stabilize erosion areas using bioengineering techniques.
2. Protect natural watershed functions in the channel migration zone and floodplain and decrease hazards to people, critical facilities, and infrastructure associated with natural channel migration and natural flooding.
3. Retain adequate quantity and quality of large woody debris in streams to support salmon populations and watershed processes. Install large woody debris where feasible, and increase density of native conifers in riparian areas to increase future recruitment potential.
4. Eliminate man-made barriers to anadromous fish passage, prevent the creation of new barriers, and provide for transport of water, sediment and organic matter at all stream crossings.
5. Achieve no net loss in area, functions and values of wetlands, and achieve a net increase in wetland area, functions and values where historic loss of wetlands adversely affects watershed processes or fish habitat.
6. Protect and restore riparian areas sufficiently to support salmon populations and watershed processes.
7. Avoid adverse habitat impacts to streams, riparian corridors, and wetlands.

b. Goal 2: Assure preservation, protection and restoration of all ecological functions.

Objectives:

1. Strive to control non-indigenous plants or weeds that are proven harmful to native and/or beneficial vegetation or habitats. In particular, Himalayan blackberry, Japanese knotweed, nightshade, and reed canary grass should be targeted.

2. Make efforts to meet and maintain state and county water quality standards in Ebey and Steamboat Sloughs and Quilceda Creek, and their contributing waters, through effective stormwater management of new developments and redevelopments, and through reductions in landscape chemical usage in City parks and other facilities.

3. Modify and regulate public access on the public-owned shorelines to insure that ecological functions are not unduly damaged by public use. Applies to downtown Waterfront Park and existing and future trail system components, particularly in the vicinity of the Poortinga restoration area.

4. Educate private property owners in the shoreline zone about the effects of vegetation removal and chemical use on fish and wildlife habitats.

5. Encourage reconnection of fragmented habitats, in particular the implementation of the Qwuloolt/Poortinga Estuarine Restoration Project which will include the removal of the existing tide gates at the mouths of Jones and Allen Creeks and the restoration of tidal flux to approximately 355 acres of formerly active estuary area now functionally separated from the estuary by dikes.

6. Continue involvement in WRIA 7 and related planning processes to understand the watershed context and the City's role in maximizing long-term achievement of WRIA 7 goals.

2. List of Existing and Ongoing Projects and Programs

a. Qwuloolt/Poortinga Estuarine Restoration Projects.

The primary element of the City's Shoreline Restoration Plan is its participation in the Qwuloolt/Poortinga Estuarine Restoration Project. A working group known as The Natural Resource Trustees (Trustees) was formed in the mid 1990s, after the Tulalip Landfill downstream was declared a Superfund Site. The Trustees have since been meeting regularly and otherwise working towards the implementation of a large-scale, approximately 355-acre, project to restore tidal and other estuarine habitat functions to previously drained and farmed tidal lands in and adjoining the City of Marysville, as compensation for impact related to the Landfill. The project area includes 18 acres of City-owned property. This area is still functionally separated from the estuary by a system of dikes and is drained, through tide gates, by a system of ditches constructed to facilitate use of the land for agriculture. Allen and Jones Creeks flow through the prospective restoration area, and the anadromous fish using them must also move in and out through the existing tide gates.

The Trustees include the Tulalip Tribes, National Oceanic and Atmospheric Administration (NOAA), USFWS, and Ecology. Other notable participating agencies and groups include the City of Marysville, the Natural Resource Conservation Service (NRCS), and others. The activities of the Trustees and other participants to date, geared towards formulation of the restoration plan and its eventual implementation, have included significant land acquisitions, preparation of a Technical Report by the U.S. Army Corps of Engineers, consideration of various conceptual design alternatives, and various permitting, funding,

implementation, and monitoring considerations. Sound Transit is considering assisting the trusties with some yet-needed land acquisitions as a way of fulfilling their mitigation requirements associated with rail line construction and improvements in the coming years.

In 1994, the City of Marysville implemented a similarly functioning estuarine restoration project for which a 400-foot section of dike was breached, allowing intertidal flow to return to a 13-acre area that had been in agricultural production for about 100 years. The project was implemented to satisfy mitigation requirements for improvements to the City's wastewater treatment facility and is located near the southeast corner of the City's sewage treatment lagoon and adjoining the Qwuloolt/Poortinga site. A required 10-year monitoring program for this City of Marysville restoration project has recently been completed. Monitoring results indicate that estuarine plant communities including Lyngby's sedge, hardstem bulrush, and cattail have become established and that waterfowl and juveniles of various salmonid fish species, including chinook salmon, are increasingly making use of the area. Sedimentation rates within the restoration project area have averaged 1.1 inches per year over the 10-year monitoring period (Jones and Stokes 2004).

This implemented City of Marysville estuarine restoration project is serving well as a prototype for the proposed Qwuloolt/Poortinga Estuarine Restoration Project, and will likely be incorporated into it. It may provide a basis for modifications to the project approach, for example, helping to decide whether tidal channels should be actively excavated or if they should be allowed to form on their own. The type and extent of the monitoring program proposed could also be benefited by the experience gained. The now well-established Marysville project serves to demonstrate a reasonable range of expectations for the completed Qwuloolt/Poortinga Estuarine Restoration Project.

Once the dike along Ebey Slough is breached, the location of the ordinary high water mark (OHWM) of Ebey Slough in the restoration area will change. SMA jurisdiction extends a minimum of 200 feet from the OHWM or floodway. The elevation of OHWM in this area is approximately 9 feet in elevation. To approximate the new shoreline area after the dike is breached, the 9-foot elevation was mapped using City point data, and a new line drawn 200 feet landward of that elevation (Figure 22). This Potential Shoreline Boundary line extends beyond the 100-year floodplain in some areas of the Qwuloolt/Poortinga site. Since the Potential Shoreline Boundary line reflects the minimum extent of the shoreline (i.e. the OHWM plus 200 feet), any change in the location of the OHWM would change the shoreline boundary as well.

The design for the Qwuloolt/Poortinga site has not been completed, and the timeline for breaching the dike on Ebey Slough has not yet been determined. However, it is clear that in some areas new dikes are likely to be needed, as some properties with established businesses will be flooded without the benefit of a dike. New dikes will change the location of the OHWM from the estimate made during this inventory, and hence change the potential shoreline boundary. Given the uncertainties in both the location and timing of potential new shoreline boundaries,

those areas that are not shoreline now, but may become shoreline once the dike is breached, are not covered in detail in this inventory.

b. Participation in Watershed and Basin Programs

The City is participating in the Snohomish Basin Salmon Recovery Forum. In July 2004, this Forum issued the *Draft Snohomish River Basin Salmon Conservation Plan*. One of the actions listed in the plan is the restoration of estuarine habitat at the Qwuloolt/Poortinga site in Segment C. The City is also an active member of the team that is planning that restoration project. Three studies have been commissioned so far on this restoration project. The City funded a study titled *Restoration Project – Potential Impacts to City-Owned Properties*. A Coastal Zone Management grant funded a study called *Allen Creek Enhancement At and Near Jennings Park – Conceptual Design Report*. Also funded by the Coastal Zone Management Grant was a study titled *Geotechnical Report Marysville Wastewater Treatment Plant – Stability Analysis Eastern Dike of the South Lagoon*.

The City is also part of the Allen/Quilceda Watershed Action (AQWA) Team. This group of citizens and local government staff has prepared a brochure called *A Citizen's Guide to Reporting Water Quality Problems*, which has been adopted for use by Snohomish County. The AQWA Team is currently planning a restoration project on Jones Creek, a tributary of Allen Creek, which will help to correct historic problems with dissolved oxygen levels on Allen Creek. The AQWA Team is also working on a community newsletter, and sponsoring various restoration and pollution prevention activities.

c. Stilly-Snohomish Fisheries Enhancement Task Force Projects

The City has partnered with the Stilly-Snohomish Fisheries Enhancement Task Force (SSFETF) on several projects in the Allen Creek watershed. A streamside restoration and buffer enhancement project was completed on Allen Creek in 2002 with the help of the SSFETF and volunteers. An ongoing effort between the City, the SSFETF and the school district provides environmental education opportunities for elementary students in the Allen Creek watershed. This education initiative includes classroom lessons and in-field activities on a piece of property that the school district has set aside as an environmental education site. The SSFETF and the City have jointly applied for a grant from the State Department of Natural Resources to continue to enhance environmental education opportunities in the watershed.

d. Critical Areas Regulations

The City of Marysville adopted a substantially revised update of the critical areas regulations on 25 April 2005. The updated regulations are based on “best available science,” and provide a high level of protection to critical areas in the City, particularly streams, wetlands, and fish and wildlife habitat conservation areas. Management of the City’s critical areas using these regulations will ensure that ecological functions and values are not degraded, and that any impacts to critical areas are fully mitigated. These critical areas regulations are one of several

important tools that will help the City meet its restoration goals. Category I wetlands within the shorelines of Marysville will be specifically protected by the updated Shoreline Master Program.

e. Stormwater Planning

In 2003, the City and Otak, Inc. produced the *City of Marysville Surface Water Management Plan and Surface Water Rate Study*. The intent of this plan is:

> "to ensure that needed public storm and surface water (stormwater) facilities, as well as other stormwater-related programmatic services and capabilities, are available to address existing drainage problems and allow continued future development throughout the city. This includes effective use of existing revenue sources and the creation of adequate revenues sources to accommodate future growth and development."

The plan identifies and prioritizes 16 projects that address needs in basin planning, conveyance/flooding, water quality treatment, retention/detention, and habitat. These projects are listed below:

1. Prepare Master Drainage Basin Plans for the Smokey Point/North Marysville, Lakewood, and Central Business District areas.

2. 136th Street NE and Smokey Point Creek West culvert replacement: replace existing box culvert with two 13-foot span by 5-foot rise concrete box culverts with flared wingwalls. This would mitigate flooding problems and provide passage for juvenile and adult salmon to upstream spawning and rearing habitat.

3. Grove Street and 70th Street NE conveyance: increase the conveyance capacity of the storm sewer system to accommodate up to 25-year storm events to reduce flooding.

4. State Avenue conveyance: increase the capacity of selected portions of the downtown Marysville conveyance system in order to reduce flooding frequency.

5. Jennings Park flood reduction and habitat improvements: dredge and reconstruct the Allen Creek channel and associated floodplain, revegetation the riparian corridor with trees, and install in-stream habitat structures. The project will reduce Jennings Park flood frequencies and reduce the spread of reed canary grass.

6. RR/Smokey Point Creek West culvert replacement.

7. 45th Avenue NE/Smokey Point Creek West culvert replacement.

8. 43rd Avenue NE/Smokey Point Creek culvert replacement.

9. East and West Field access culvert removal and bridge installation.

10. Marina outfall water quality improvement.

11. Smokey Point Creek/RR detention facility.

12. Munson Creek at North-Point Park habitat improvement: dredge and reconstruct the channel and associated floodplain, revegetate the riparian corridor with trees, and install in-stream habitat structures. The project will reduce the spread of reed canary grass.

13. 84th Street culvert replacement on Grace Creek.

14. 67th Avenue NE/52nd Street NE.

It also identifies potential funding sources for these projects between 2003 and 2008 by incrementally raising the City-wide surface water utility fee and supplementing that revenue with increased developer fees, impact fees for new development, forming special service districts, partnering with neighboring agencies, and pursuing outside funding in the form of grants and loans. Additionally, the plan recommends updating the City's flood ordinance to include compensatory storage for all new future development, re-evaluating the use of fill in low-lying areas, and partnering with the County, developers and other parties to develop regional detention and conveyance systems and enhancements.

f. Other Comprehensive Plan Policies

The *Environmental Element* chapter of the City of Marysville's 2004 draft Comprehensive Plan contains a number of general and specific goals and policies that direct the City to permit and condition development in such a way that the natural environment is preserved and enhanced. Techniques suggested by the various policies to protect the natural environment include requiring setbacks from sensitive areas, preventing adverse alterations to water quality and quantity, preserving existing vegetation, educating the public, and mitigating necessary sensitive area impacts, among others. The Comprehensive Plan policies also recognize the "amenity and utilitarian functions" of the shoreline and natural areas such as public access for visual enjoyment and recreation, water quality, and flood storage.

g. Additional Projects

The following is a summary of the specific potential projects identified in the *Opportunity Areas* sections of the individual Shoreline Inventory Segment Reaches above (see Figure 21). The list of potential projects for each shoreline segment was created after assessing conditions in each segment, and is intended to contribute to improvement of impaired functions.

1. Opportunity Area A-1 (*Fish Passage*): Provide appropriate hydraulic conditions at the State Avenue crossing (culvert replacement or bridge).

2. Opportunity Area A-2 (*Fish Passage*): Provide appropriate hydraulic conditions at the railroad crossing of Quilceda Creek just downstream of State Avenue (culvert replacement or bridge).

3. Opportunity Area A-3 (*Fish Habitat*): Place log structures in and along the Creek in the short and intermediate term and plant appropriate tree species along the stream banks to establish the kinds of forest plant communities that will provide for large woody debris recruitment in the long term. Remove non-native, invasive plant species.

4. Opportunity Area B-1 (*Fish Habitat*): As feasible, work with the County and the industries involved to reduce the extent and impacts of log rafting and to provide alternative means of transporting and storing logs.

5. Opportunity Area C-1: Restore (as a partner) approximately 355 acres on and around the Qwuloolt/Poortinga property through dike breaching and other activities.

6. Opportunity Area D-1: Preserve Segment D.

In general, all shoreline areas that are protected from flooding and/or tidal influences, have been cleared of native vegetation, and have been covered with impervious surfaces or over-water structures are degraded and have impaired ecological functions. Ideally, redevelopment proposals should include a site-specific plan to improve and restore some level of lost ecological function. For example, projects could provide bands of native vegetation along the waterward edge of the property, reduce impervious surfaces through innovative use of pervious materials and reduce the impact of impervious surfaces through stormwater management that focuses on runoff quantity and quality, pull back or remove berms and other barriers that separate the site from tidal and flood influences, and minimize the amount and impact of over water cover through size minimization and use of light-transmitting decking materials.

h. Public Education

The draft 2004 Comprehensive Plan includes a number of policies specifically targeting public education as a priority of the City. As mentioned above, the City works with the SSFETF and the school district to provide environmental education opportunities to elementary school children in the Allen Creek watershed. The school district has set aside property on Allen Creek to serve as a field site for this initiative. Other education initiatives include:

Junk Tire Round-up - In conjunction with Les Schwab Tires, junk tires from Marysville were collected for proper disposal. Brochures advertising this round-up, and additional information about West Nile Virus, were included in the utility bills of all City customers.

Pet Waste Management – The City has prepared and distributed fliers to educate citizens on proper management of pet waste.

Water Quality Test Kits – The City sought and received a grant to purchase a turbidity meter, a dissolved oxygen meter, and a pH meter. This equipment is

available to the school district free of charge to assist teachers with their science curriculum.

Clean Water Car Wash Kits – This kit was compiled and is available free of charge to groups wishing to raise money by holding a car wash. Included in the kit are educational materials on how to protect water quality.

i. Proposed Implementation Targets and Monitoring Methods

Table 7
Implementation Schedule and Funding for Restoration Projects, Programs and Plans

Restoration Project/Program	Schedule	Funding Source or Commitment
8.3.1 Qwuloolt/Poortinga Estuarine Restoration Project	Design ongoing – implementation not scheduled	To date, a substantial amount of staff time and approximately 18 acres of City land have been invested in the project.
8.3.2 Participate in Watershed and Basin Programs	Ongoing	To date, staff time is the only resource commitment. Additional funds or commitments may be identified if specific projects or programs in the City are recommended during those processes (other than the Qwuloolt/Poortinga project listed above).
8.3.3 Stilly-Snohomish Fisheries Enhancement Task Force Projects	Ongoing	Currently, staff time and materials are the only City resource commitments. In addition, the City works with SSFETF to obtain grants.
8.3.4 Critical Areas Management ordinance	To be adopted in April 2005	The City makes a substantial commitment of staff time in the course of project and program reviews to determine consistency and compliance with the Critical Areas Management ordinance.
8.3.5 Stormwater Planning (see Section 9.2.5 for additional discussion)	Ongoing	Resources for stormwater plan implementation are derived from surface water utility fees, developer fees, impact fees for new development, forming special service districts, partnering with neighboring agencies, and pursuing grants and loans.
Quilceda Creek/ Tributary Projects		
Project 4	2004	City funds
Project 8	2005	Other funds (Snohomish County and others)
Project 9	2008	Other funds (Snohomish County and others)
Project 10	2008	Other funds (Snohomish County and others)

Table 7 Implementation Schedule and Funding for Restoration Projects, Programs and Plans		
Restoration Project/Program	**Schedule**	**Funding Source or Commitment**
Project 11	2004	Other funds (Snohomish County and others)
Project 13	2006	Other funds (Snohomish County and others)
Ebey Slough/ Tributary Projects		
Project 5	2003	City funds
Project 6	2008	City funds
Project 7	2006	City funds
Project 12	2005	City funds
Project 15	2003	City funds
Project 16	2003	City funds
8.2.6 Comprehensive Plan Policies	To be adopted in April 2005	The City makes a substantial commitment of staff time in the course of project and program reviews to determine consistency and compliance with the Comprehensive Plan.
8.2.7 Additional Projects	As opportunity and funding allows.	Projects identified in Opportunity Areas discussions would likely be implemented either when grant funds are obtained, when partnerships are formed between the City and other agencies or non-profit groups, or as may be required by the State or other agencies in the course of road improvement projects.
8.2.8 Public Education	Ongoing	Staff time and materials are the only City resource commitments. In addition, the City seeks out grants for public education-related projects.

Monitoring of project implementation and results should be tracked by the Community Development Department, with input from other departments as needed. The Community Development Department should annually assemble a memo quantitatively or qualitatively, as appropriate, outlining implementation of various restoration actions (by the City or other groups) in or affecting the City's shorelines. When available, the memo should include a description of the success of actions accomplished in prior years. If staffing and funding are limited, the Community Development Department should investigate partnerships with local environmental groups, other state or county agencies, or tribes to implement projects and conduct follow-up monitoring and reporting. Most of the projects implemented under the auspices of the Critical Areas Management ordinance would be implemented on private property in either a critical area or its buffer, and

are likely mitigation for a project that required a permit. Under the new Critical Areas Management ordinance, up to five years of monitoring is required for mitigation projects. The City should annually assemble a memo outlining projects implemented that year in the shoreline zone, and attach monitoring reports submitted by the property owner. Restoration projects implemented by private property owners are dependent on volunteers or on submittal of a land use permit application.

EXHIBIT D

Chapter 22E.050
SHORELINE MANAGEMENT MASTER PROGRAM

Sections:

22E.050.010 Adoption.
22E.050.020 Compliance Required.
22E.050.030 Permit Required.
22E.050.040 Permit – Fees.
22E.050.050 Application – Form.
22E.050.060 Review Process.
22E.050.070 Notice Publication.
22E.050.080 Decision.
22E.050.090 Filing With Department Of Ecology.
22E.050.100 Appeals.
22E.050.110 Commencement Of Construction – Time Lapse.
22E.050.120 Time Requirements Of Permit.
22E.050.130 Scope Of Chapter.
22E.050.140 Burden Of Proof.
22E.050.150 Permit Rescinded.
22E.050.160 Rescission – Hearing.
22E.050.170 Director's Authority.
22E.050.180 Revisions To Permit.
22E.050.190 Nonconforming Uses.
22E.050.200 Documentation Of Project Review Actions And Changing Conditions In Shoreline Areas.
22E.050.210 Amendments To Shoreline Master Program.
22E.050.220 Violation – Penalty.

22E.050.010 Adoption.

The city council hereby adopts the 2020 Shoreline Master Plan as an element of, and amendment to, the Marysville Growth Management Comprehensive Plan, subject to the modifications set forth in the Department of Ecology's required changes, which are attached to Ordinance No. ____ as Exhibit B. A copy of the comprehensive plan amendment, entitled Marysville Shoreline Master Program, is attached to Ordinance No. ____ as Exhibit C and is hereby incorporated by this reference.

22E.050.020 Compliance required.

No developments shall be undertaken on the shorelines of the city except those which are consistent with the policies of this chapter and, after adoption or approval, as appropriate, the applicable guidelines, regulations, or master program.

22E.050.030 Permit required.

No substantial development shall be undertaken on the shorelines of the city without first obtaining a permit from the city.

22E.050.040 Permit – Fees.

All persons desiring such a permit shall make application by paying a fee as set out in Chapter 22G.030 MMC and filing an application with the community development department.

22E.050.050 Application – Form.
Applications for permits shall be made on forms prescribed by the community development department, and shall contain the name and address of the applicant, a description of the development, the location of the development, and any other relevant information deemed necessary by the community development department.

22E.050.060 Review process.
(1) The community development department will review the substantial development permit proposals for consistency with:
(a) The legislative policies stated in RCW 90.58.020, the Shoreline Management Act;
(b) The shoreline management master program of the city of Marysville.
(2) Conditional Use Permits. The purpose of the conditional use permit is to allow greater flexibility in administering the use regulations of the master program in a manner consistent with the policies of the SMA. Conditional use permits may also be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in the SMA. The criteria for granting conditional use permits is the following:
(a) The uses which are classified or set forth in the master program as conditional use permits may be authorized, provided the applicant can demonstrate all of the following:
(i) That the proposed use will be consistent with the policies of the SMA and the policies of the master program;
(ii) That the proposed use will not interfere with the normal public use of public shorelines;
(iii) That the proposed use of this site and design of the project will be compatible with other permitted uses within the area;
(iv) That the proposed use will cause no unreasonably adverse effects to the shoreline environment designation in which it is to be located;
(v) That the public interest suffers no substantial detrimental effect.
(b) Other uses which are not classified or set forth in the master program may be authorized as conditional uses provided the applicant can demonstrate, in addition to the criteria set forth in Subsection a of this section, that extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of the master program;
(c) In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests or like actions in the area.
(3) Variances. The purpose of a variance is strictly limited to granting relief to specific bulk, dimensional, or performance standards set forth in the master program where there are extraordinary or unique circumstances relating to the properties such that the strict implementation of the master program would impose unnecessary hardships on the applicant or thwart the policies set forth in the SMA. The criteria for granting variances shall be consistent with WAC 173-27-170 and include the following:
(a) Variances should be granted in a circumstance where denial of the permit would result in a thwarting of the policy enumerated in the SMA. In all instances, extraordinary circumstances should be shown, and the public interest shall suffer no substantial detrimental effect.
(b) Variances for development that will be located landward of the ordinary high water mark may be authorized provided the applicant can demonstrate all of the following:
(i) That the strict application of the bulk, dimensional, or performance standards as set forth in the master program precludes or significantly interferes with a reasonable permitted use of the property.
(ii) That the hardship is specifically related to the property and is the result of unique conditions, such as irregular lot shape, size, or natural features, in the application of the master program and not, for example, from deed restrictions or the applicant's own actions.

(iii) That the design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment designation.

(iv) That the variance authorized does not constitute a grant of special privilege not enjoyed by other properties in the area, and will be the minimum necessary to grant relief.

(v) That the public interest will suffer no substantial detrimental effect.

(c) Variances for development that will be located waterward of the ordinary high water mark may be authorized provided the applicant can demonstrate all of the criteria specified in Subsection b of this section. The applicant must also demonstrate that the public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance, and that the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property.

(d) In granting of all variances, consideration shall be given to the cumulative impact of additional requests or like actions in the area.

22E.050.070 Notice publication.

Upon receipt of an application for a permit, the city shall cause notice of application to be published at least once a week for two consecutive weeks in a newspaper of general circulation within the city. The second notice shall be published not less than 30 days prior to action by the community development department. The city shall also cause notice of the application to be mailed to each property owner of record within 300 feet of the proposed development. The date of the mailing shall not be less than seven days in advance of the department action.

22E.050.080 Decision.

The following decision making process shall apply to all substantial development, conditional use and variance permits:

(1) Exemption. Certain developments are exempt from the requirement to obtain a substantial development permit. Such developments still may require a variance or Conditional Use permit, and all development within the shoreline is subject to the requirements of the SMP, regardless of whether a substantial development permit is required. Developments which are exempt from obtaining a substantial development permit are identified in WAC 173-27-040 or as subsequently amended. Application shall be made to the Community Development Department for a shoreline exemption.

(2) Administrative Action. The community development director shall make a decision on applications for substantial development permits, recommendations on applications for conditional use and variance permits based upon:

(a) the Shoreline Master Plan (SMP) for the city; and

(b) the policies and procedures of the Shoreline Management Act (SMA) and related sections of the Washington Administrative Code (WAC).

In the event the community development director determines the substantial development is consistent with the above criteria, the community development director shall so state in written findings, and such findings shall be filed with the Department of Ecology. In the event the community development director determines the substantial development is inconsistent with the above criteria the application shall be denied. The permit shall issue upon the terms and conditions hereinafter prescribed and as prescribed by the community development director.

(3) Hearing Examiner action. The Hearing Examiner shall review an application for a shoreline variance and conditional use permit and make decisions as authorized by this Chapter, and as consistent with the SMP; SMA (RCW 90.58.100(5) and WAC 173-27-160). The permit shall issue upon the terms and conditions hereinafter prescribed by the Hearing Examiner.

(4) Exceptions - Requirements to obtain shoreline permits or local reviews. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

(a) 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 pursuant to Chapter 70.105D RCW, or to the department of ecology when it conducts remedial action under Chapter 70.105D RCW.

(b) Boat yard 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.

(c) 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.

(d) Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

22E.050.090 Filing with Department of Ecology.

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 or digitally send the permit using return receipt for documentation of date of receipt to the Department of Ecology and the Office of the Attorney General. Projects that require both Conditional Use Permits and/or Variances shall be mailed simultaneously with and Substantial Development Permits for the project.

(a) The permit and documentation of the final local decision will be mailed or digitally transferred 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 filing date, which is defined below:

(i) For projects that only require a Substantial Development Permit (SDP): the date that Ecology receives the city decision.

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

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

22E.050.100 Appeals.

Shoreline Hearings Board. Any decision made by the community development director on a substantial development permit, or by the Hearing Examiner on a Conditional Use or variance permit shall be final unless an appeal is made. Persons aggrieved by the grant, denial, recission or modification of a permit may file a request for review to the Shoreline Hearings Board in accordance with the review process established by RCW 90.58.180 or as subsequently amended, and with the regulations of the Shoreline Hearings Board contained in Chapter 46-1-08 WAC or subsequently amended. The request for review must be filed with the Hearings Board within twenty-one (21) days of the date of filing.

22E.050.110 Commencement of construction – Time lapse.

No one who is issued a permit hereunder shall be authorized to commence construction until twenty-one (21) days have elapsed from the date that the permit is filed with the Washington State

Department of Ecology, or until all review proceedings are terminated if such proceedings were initiated within said 21-day period, per WAC 173-27-190.

22E.050.120 Time requirements of permit.

The following time requirements shall apply to all substantial development, conditional use and variance permits:

(1) Construction or substantial progress toward construction of a project for which a permit has been granted must be undertaken within two years after the approval of the permit. Substantial progress toward construction shall include, but not be limited to, the letting of bids, making of contracts, and purchase of materials involved in development, but shall not include development or uses which are inconsistent with the Shoreline Management Act or the city's master program. In determining the running of the two-year period hereof, there shall not be included the time during which a development was not actually pursued by construction and the pendency of litigation reasonably related thereto made it reasonable not to so pursue; provided, that the community development director may, at his/her discretion, extend the two-year time period for a reasonable time based on factors, including the inability to expeditiously obtain other governmental permits which are required prior to the commencement of construction.

(2) If a project for which a permit has been granted has not been completed within five years after the approval of the permit by the city, the community development director shall review the permit and, upon a showing of good cause, do either of the following:

(a) Extend the permit for one year; or

(b) Terminate the permit.

Provided, that the running of the five-year period shall not include the time during which a development was not actually pursued by construction and the pendency of litigation reasonably related thereto made it reasonable not to so pursue; provided further, that nothing herein shall preclude the city from issuing permits with a fixed termination date less than five years.

22E.050.130 Scope of chapter.

Nothing in this chapter shall authorize the issuance of a permit upon conditions or terms which are specifically contrary to the laws of the state of Washington.

22E.050.140 Burden of proof.

All applicants for permits shall have the burden of proving that a proposed development is consistent with the criteria which must be met before the permit is issued.

22E.050.150 Permit rescinded.

Any permit issued hereunder may be rescinded by the hearing examiner upon a finding that a permittee has not complied with the conditions of a permit, subject however to a hearing as hereinafter provided.

22E.050.160 Rescission – Hearing.

Before such permit is rescinded by the hearing examiner, the community development director shall set a date for a public hearing to determine whether the permittee has not complied with the conditions of the permit. This hearing will be held upon notice to the permittee by mailing such to permittee's address as shown on the application, by posting one notice at the development, and by notice in a newspaper of general circulation within the city at least 10 days prior to the hearing.

22E.050.170 Director's authority.

The community development director shall have the authority to immediately stop any work under a permit which the community development director believes, in good faith, is not in compliance with the permit and is likely to cause immediate and irreparable harm. Upon such a stop order

being issued, the permittee shall immediately cease and desist such portion of the development which is ordered stopped by the community development director, but may continue working on the other portions of the development. As soon as it is practical thereafter, a hearing will be held before the hearing examiner of the city to determine whether the conditions of the permit were being violated, and if so, whether to cancel the permit or determine what other action should be taken. Notice of hearing shall be in the form and manner prescribed hereinabove as to a hearing on cancellation of a permit.

22E.050.180 Revisions to permit.

When an applicant seeks to revise a substantial development, conditional use or variance permit, the city community development department shall request from the applicant detailed plans and text describing the proposed changes in the permit. If the community development director determines that the proposed changes are within the scope and intent of the original permit, the revision shall be automatically approved. "Within the scope and intent of the original permit" means the following:

(1) No additional over-water construction will be involved;

(2) Lot coverage and height may be increased a maximum of 10 percent from provisions of the original permit; provided, that revisions involving new structures not shown on the original site plan shall require a new permit;

(3) Landscaping may be added to a project without necessitating an application for a new permit;

(4) The use authorized pursuant to the original permit is not changed;

(5) No additional significant adverse environmental impact will be caused by the project revision.

If the revision, or the sum of the revision and any previously approved revisions, will violate the criteria specified above, the city shall require the applicant to apply for a new substantial development, conditional use or variance permit, as appropriate, in the manner provided for herein.

22E.050.190 Nonconforming Uses.

The provisions of Chapter 22C.100 MMC, specifically sections 22C.100.010 thru 22C.100.050, relating to nonconforming uses are hereby incorporated into the Shoreline Master Plan as though fully set forth therein. All references to provisions contained in the Marysville Unified Development Code shall be construed as referring to the Shoreline Master Plan (including shoreline permits), and all references to zoning districts and classifications shall be construed as referring to environments established by the Shoreline Master Plan. Sections 22C.110.10 thru 22C.110.050 dealing with temporary use shall not be considered part of the Shoreline Master Plan.

22E.050.200 Documentation of project review actions and changing conditions in Shoreline areas.

The City will keep on file documentation of all projects, including applicant submissions and records of decisions, relating to shoreline management provisions in the Shoreline Master Program.

22E.050.210 Amendments to Shoreline Master Program.

If the city or ecology determines it necessary, the City will review shoreline conditions and update this SMP within seven years of its adoption.

22E.050.220 Violation – Penalty.

In addition to incurring civil liability, any person found to have willfully engaged in activities on the shorelines within the city in violation of the provisions of this chapter or any of the master programs, rules or regulations adopted pursuant thereto shall be guilty of a misdemeanor and shall be subject to Section MMC 4.02.040 Penalties and enforcement.