

CHAPTER 5

SHORELINE USE AND MODIFICATION POLICIES AND REGULATIONS

5.1 INTRODUCTION

This chapter provides policies and regulations applicable to uses or modifications that may be proposed within the shoreline. A use generally refers to a type of development or use of shorelines or shoreline resources. A modification is generally related to construction of a physical element. A modification may be undertaken in support of or in preparation for a shoreline use. A development proposal may contain more than one use or modification, and must comply with the policies and regulations applicable to all portions of the proposal.

The Use Regulations supplement, but do not duplicate, specific requirements of other city land use regulations. For example, floodproofing considerations are not addressed here since they are effectively covered by both state and city laws. In essence, the Use Regulations address those Shoreline Management issues which are not effectively provided for by existing federal, state, or city regulations and which must be provided for if the adopted goals and policies of this Master Program are to be implemented.

Table 5-1 indicates whether a use or modification proposed to be located within one of the shoreline environments is prohibited, permitted subject to the regulations specific to the proposed use and pursuant to the permit application procedures and other applicable policies and regulations of this Master Program, or allowed subject to the conditional use permit provisions of this Master Program.

Shoreline use activities not specifically identified and for which policies and regulations have not been developed will be evaluated on a case by case basis and will be required to satisfy the goals and general development policies of the master program, the policy of the Shoreline Management Act and shall be consistent with the management policy and character of the shoreline environment in which they propose to locate.

Policies and regulations specific to shoreline uses are discussed in Section 5.2 of this chapter. Shoreline modifications are discussed in Section 5.3. See Appendix A for location of shoreline environments.

TABLE 5.1 – SHORELINE USE AND MODIFICATION TABLE

Shoreline Environments				
	Natural	Aquatic	Urban Conservancy	Shoreline Residential
Use Activity				
Agriculture	X	X	X	X
Aquaculture	X	X	X	X
Boating Facilities	X	C	C	X
Commercial	X	X	C	X
Forest Practices	X	X	X	X
Industrial	X	X	X	X
In-Stream/Lake Structural Uses	X	C	C	X
Mining	X	X	X	X
Recreational Development	X	P	P	P
Residential	X	X	X	P
Transportation & Roads	X	X	C	P
Parking (as primary use)	X	X	X	X
Utilities	X	C	P	P
Modification				
Dredging	X	C	C	X
Landfill, Fill, and Excavation	X	C	C	C
Signs	X	X ¹	P	P
Piers & Docks	X	P	P	P
Soft Shoreline Stabilization	X	P	P	P
Hard Shoreline Stabilization	X	C	C	C

Key

P = Permitted C = Conditional X = Prohibited

Footnotes

- 1 Signs are prohibited in the Aquatic Environment except for those signs specifically exempted by this Master Program. See Section 5.2.7, Signs.

5.2 Use Policies and Regulations

As required by the Shoreline Management Act, this Master Program sets forth policies and regulations governing specific categories of uses and activities typically found in shoreline areas. The policies and regulations, which provide basic criteria for evaluating shoreline permit applications, are used to implement the broader goals, policies and intent of the Shoreline Management Act and this Program.

5.2.1 PROHIBITED USES

The following uses are prohibited in all shoreline environments:

- Agriculture
- Aquaculture
- Forest Practices
- Industrial Uses
- Mining
- Parking (as a primary use)

5.2.2 BOATING FACILITIES

INTRODUCTION

Boating facilities include public or private dry storage and wet-moorage facilities and structures; boat launch ramps, covered moorage, boat houses, mooring buoys, and marine travel lifts. Boating facilities as defined in this SMP do not apply to residential moorage facilities serving four (4) or fewer single-family residences.

Accessory uses found in boating facilities 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.

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.
2. To the extent possible, boating facilities should be located in areas of low biological productivity.
3. Boating facilities should be located and designed so their structures and operations will be aesthetically compatible with the area visually affected and will not unreasonably impair shoreline views. However, the need to protect and restore functions and to provide for water-dependent uses carries higher priority than the protection of views.
4. Boating facilities should provide physical and visual public shoreline access and provide for multiple use, including water-related use, to the extent compatible with shoreline ecological functions and processes and adjacent shoreline use.

5. Accessory uses to boating facilities should be limited to water-oriented uses, or uses that provide physical or visual shoreline access for a substantial number of the general public.
6. Location and design of boating facilities should not unduly obstruct navigable waters and should avoid adverse effects to recreation opportunities such as fishing, pleasure boating, swimming, beach walking, picnicking, and shoreline viewing.

REGULATIONS

1. Boat launch ramps may be permitted as a conditional use in the Urban Conservancy shoreline environment. All other boating facility uses are prohibited.
2. Extended moorage and live-aboard vessels are prohibited on Lake Ballinger.
3. Boating facilities shall be located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses.
4. Boating facilities shall be located and designed to ensure no net loss of shoreline ecological functions. Impacts for boat launches shall be mitigated according to mitigation sequencing as described in Critical Areas, Section 4.1.2 of this Master Program.
5. It is the applicant's responsibility to comply with all state agency policies and regulations, including all applicable health, safety and welfare requirements associated with the primary use or accessory use.
6. The traffic generated by such a facility must be safely and conveniently handled by the streets serving the proposed facility.
7. No part of a boating facility that may come in contact with the water may be treated with or consist of creosote, oil based paints, toxic chemicals, or other substances that would be harmful to the aquatic environment, unless specifically permitted and authorized by appropriate State and Federal regulatory agencies.
8. Location and design of boating facilities shall not unduly obstruct navigable waters.

5.2.3 COMMERCIAL DEVELOPMENT

INTRODUCTION

Commercial developments typically include those uses which are involved in wholesale and retail trade or business activities including business parks, restaurants, shops, and offices. Commercial developments can be intensive users of space because of extensive floor areas and because of facilities, such as parking, necessary to serve them. Primary commercial uses are prohibited in all shoreline environments subject to this Shoreline Master Program. The following policies apply to commercial uses that are accessory to permitted recreational uses.

POLICIES

1. Commercial uses should only be allowed as accessory uses to permitted recreational uses. Primary commercial uses should be prohibited.
2. Preference should be given first to water-dependent commercial uses over nonwater-dependent commercial uses; and second, to water-related and water-enjoyment commercial uses over nonwater-oriented commercial uses.
3. Strongly encourage new commercial developments on shorelines to locate in those areas where current commercial uses exist.
4. In order to minimize adverse impact, ensure that adequate assessment be made of and consideration given to, the effect a commercial structure will have on a scenic view significant to a given area or enjoyed by a significant number of people.
5. New parking facilities to serve commercial uses should be prohibited. Accessory commercial uses should make use of permitted parking facilities necessary to serve the primary use.
6. Permitted commercial development should provide physical and/or visual public access to the shoreline where appropriate.
7. Ensure that commercial development does not result in a net loss of shoreline ecological functions or have significant adverse impact to other shoreline uses, resources and values provided for in RCW 90.58.020 such as navigation, recreation and public access.

REGULATIONS

1. Nonwater-oriented commercial uses on the shoreline are prohibited unless they meet the following criteria:
 - a. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
 - b. Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.
2. Commercial development may be allowed in the Urban Conservancy environment as an accessory use to a permitted recreational use, pursuant to the conditional use permit provisions of this Master Program. Examples of limited accessory commercial uses include:
 - a. Concession stands.
 - b. Restaurants.

- c. Sale or rental of sports equipment.
 - d. Booths or other facilities associated with festivals sponsored by the City, or private parties or receptions and banquets, that are permitted as temporary uses pursuant to City regulations governing such temporary uses and special events. (See Chapter 10.20 MTMC, Special Events, and Title 19 MTMC, Zoning code).
3. Primary commercial uses are prohibited in all shoreline environments.
 4. Public access and ecological restoration shall be considered as potential mitigation of impacts to shoreline resources and values for all water-related or water-dependent commercial development unless such improvements are demonstrated to be infeasible or inappropriate.
 5. Where commercial use is proposed for location on land in public ownership, public access shall be required.
 6. Overwater commercial development is prohibited.
 7. Commercial development shall only be permitted where it can be demonstrated to result in no net loss of shoreline ecological functions.

5.2.4 IN-STREAM/LAKE STRUCTURAL USES

INTRODUCTION

“In-Stream/lake structure” means a structure placed by humans within a stream or lake waterward of the ordinary high water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream/lake structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, stormwater outfall structures, the existing hypolimnetic injection system, weirs, or other purpose. Breakwaters and jetties are marine structures that are not appropriate for this shoreline and are prohibited.

A weir is a fence or enclosure set in a waterway for the purpose of taking fish or a dam in a stream or river for the purpose of raising the water level or diverting its flow. Lake Ballinger’s outlet is controlled by a weir that conveys water out of the lake into McAleer Creek. The weir regulates the lake level at an elevation set by superior court order. A weir also exists in the inlet to Lake Ballinger, Hall Creek. The modification or replacement of these weirs or the construction of any new weirs shall be subject to the policies and regulations contained in this Master Program.

POLICIES

1. In-stream/lake structures should provide for the protection and preservation 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.

2. The location and planning of in-stream structures should give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns.
3. Any modification or replacement of the existing weir or construction of a new weir should be consistent with relevant basin planning documents such as the 2009 Lake Ballinger/McAleer Creek Strategic Action Plan or successors.

REGULATIONS

1. In-stream/lake structures shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.
2. Any modification or replacement of existing in-stream/lake structures or construction of a new structure should be located and designed to ensure no net loss of shoreline ecological functions or processes.
3. In-stream/lake structures shall be designed to protect critical areas and shall provide for mitigation according to the sequence defined in WAC 173-26-201(2)(e).
4. In-stream structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters.
5. In-stream structures shall allow for normal ground water movement and surface runoff.
6. In-stream structures shall preserve valuable recreation resources and aesthetics values.
7. Any modification or replacement of the existing weir or construction of a new weir must maintain a lake level consistent with the 1982 readjudicated Superior Court Order or any subsequent court orders that modify that level.

5.2.5 RECREATIONAL DEVELOPMENT

INTRODUCTION

Recreation is the refreshment of body and mind through forms of play, amusement, or relaxation. Water related recreation accounts for a very high proportion of all recreational activity in the Pacific Northwest. The recreational experience may be an active one involving boating, swimming, fishing or hunting or the experience may be passive such as enjoying the natural beauty of a vista of a lake or stream. Recreational development includes commercial and public facilities designed and used to provide recreational opportunities to the public and privately owned shoreline facilities intended for use by the public or a private club, group, association, or individual.

POLICIES

1. Give priority to development which provides recreational uses and other improvements facilitating public access to shorelines.

2. Prevent concentration of use pressure at a few points by encouraging the development of a combination of area and linear access (parking areas and easement for example), when providing public access to recreational locations such as fishing streams.
3. Strongly encourage the linkage of shoreline parks and public access points through the use of linear access. Many types of connections can be used such as hiking paths, bicycle trails and/or scenic drives.
4. Carefully consider the total effect the development of a recreation site will have on the environmental quality and natural resources of an area.
5. Develop guidelines for the preservation and enhancement of scenic views and vistas.
6. Avoid wasteful use of the limited supply of recreational shoreline areas by locating parking areas inland away from the immediate edge of the water and recreational beaches. Safe access should be provided by walkways or other methods.
7. Encourage a variety of recreational facilities which will satisfy the diversity of demands from groups in nearby populated centers.
8. Allow intensive recreational developments only where sewage disposal and vector control can be accomplished to meet public health standards without adversely altering the natural features attractive for recreational use.
9. Minimize surface runoff from recreational facilities.
10. Recreational development shall be located, designed, and operated in a manner consistent with the purposes of the environment designation in which they are located and such that no net loss of shoreline ecological functions or ecosystem-wide processes results.
11. Locate and design recreational facilities to minimize adverse impacts including those related to stormwater runoff, water quality, visual qualities, public access, and vegetation and habitat maintenance.

REGULATIONS

1. Recreation facilities shall be designed to take maximum advantage of and enhance the natural character of the shoreline area.
2. Private and public recreation areas shall protect existing native vegetation in the shoreline area and restore vegetation impacted by development activities. Recreational use and development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard.

3. Motor vehicle use, to include two- and three-wheeled vehicles, shall not be permitted on beaches or fragile shoreline areas EXCEPT as necessary for official maintenance or the preservation of public health and safety.
4. The construction of swimming facilities, piers, moorages, floats and launching facilities waterward of the OHWM shall be governed by the regulations relating to overwater structure construction and boating facilities in this chapter.
5. Stairways and landings shall be located upland of existing bulkheads, banks, and the ordinary high water mark unless integral to a water-dependent use or overwater structure permitted by this chapter.
6. Low intensity recreational uses shall be permitted in the Urban Conservancy Environment, subject to the following regulations:
 - a. A recreation facility or structure which changes or detracts from the character of the Urban Conservancy Environment (by building design, construction technique, or intensity of use that is attracted) shall be prohibited;
 - b. Parking and roads shall be set back 100 feet from the ordinary high water mark. Trail access should be provided to link upland facilities to the shoreline;
 - c. Playing fields, and other large areas devoted to athletic activities, with the exception of existing golf courses, will not be permitted.
 - d. Only use of organic fertilizer, weed and pest control is permitted within the shoreline jurisdiction. If used, an integrated pest management approach is required.
 - e. Golf course development may be permitted upon the issuance of a conditional use permit and compliance with local rules, regulations, statutes and ordinances, provided all of the following broad parameters are met:
 - i. Shoreline native vegetation buffers are established along the creek, lake shore, and associated marsh, bog, and swamp areas, provided shoreline access points, utility and emergency road access, and limited golf cart and pedestrian path crossings may be authorized by permit, and
 - ii. Forested wetlands are to be avoided altogether, adjacent natural buffers retained to the greatest extent possible, and adverse impacts thereto minimized to the greatest extent feasible, provided, that where the existing vegetative buffer is decreased to less than 200 feet in width that an equivalent buffer based on performance be substituted and that the functions and values, including habitat values and acreage, are compensated for in a demonstrable

and significant increase at a different location, preferably on-site but definitely within the project area.

- iii. Stormwater improvements shall be required in order to optimize water quality treatment prior to discharge into adjacent water bodies, including wetlands.
- iv. For the purpose of habitat acreage compensation, areas restored and/or enhanced as part of d.i above may be included in the replacement ratio required in d.ii based on a site specific analysis, and their establishment shall be expedited.

5.2.6 RESIDENTIAL DEVELOPMENT

INTRODUCTION

Single-family residences are identified by the SMA as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, stormwater runoff, septic systems, introduction of pollutants, and vegetation modification and removal. Residential development includes the creation of new residential lots through land division as well as accessory uses and structures when allowed by the underlying zoning.

POLICIES

1. Single-family residences and their appurtenant structures are a preferred shoreline use when developed in a way that controls pollution and prevents damage to the shoreline environment.
2. Accessory structures such as accessory dwelling units, swimming pools, sport courts and other structures should be located and designed to minimize impervious surface and be visually and physically compatible with adjacent shoreline features.
3. Property owners wishing to expand or modify existing residences within shoreline jurisdictions should enhance shoreline vegetation and/or improve shoreline conditions in a manner that offsets the impacts of the proposed expansion or modification.
4. Prohibit residential development over water.
5. Do not allow new residential development on shorelines that would be dependent on future structural shoreline stabilization.
6. Residential development should result in no net loss of shoreline ecological functions.
7. Measures to conserve native vegetation along shorelines should be required for all residential development. Vegetation conservation may include avoidance or minimization of clearing or grading, restoration of areas of native vegetation, and/or control of invasive species.

8. Residential development should provide adequate setbacks and natural buffers from the water and ample open space among structures to protect natural features, preserve views and minimize use conflicts.
9. Residential development should be designed so as to preserve existing shoreline vegetation, control erosion and protect water quality using best management practices, using low impact development technologies, where feasible.
10. The City encourages the use of joint-use piers and docks in lieu of individual piers and docks for each waterfront lot to protect the ecological functions of the lake.

REGULATIONS

1. Residential development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard.
2. Residential development over water shall be prohibited.
3. Clearing and grading associated with a single-family residence may be exempted from the shoreline substantial development permit requirement, provided the following conditions are met:
 - a. The clearing and grading activity is confined to the construction site; and
 - b. Grading does not exceed 250 cubic yards.
4. The stormwater runoff for all new or expanded pavements or other impervious surfaces shall be directed to infiltration systems and other low impact development techniques shall be incorporated into new development as feasible, consistent with Chapter 16.20 of MTMC and the Low Impact Development Technical Guidance Manual for Puget Sound.
5. Structures or other development accessory to residential uses are permitted in shoreline jurisdiction, if allowed under all other applicable standards in this SMP and subject to the provisions of the City's zoning code.
6. All additions to residential structures must comply with all standards in this SMP, including required shoreline setbacks.
7. Residential development and normal appurtenances, such as garages, decks, driveways, and fences shall be located sufficiently landward of the ordinary high water mark to preclude the need for new structural shoreline stabilization during the useful life of the structure.

5.2.7 SIGNS

INTRODUCTION

Signs are publicly displayed boards whose purpose is to provide information, direction, or advertising. Signs may be pleasing or distracting, depending upon their design and location. A sign, in order to be effective, must attract attention; however, a message can be clear and distinct without being offensive. There are areas where signs are not desirable, but generally it is the design that is undesirable, not the sign itself.

POLICIES

1. Prohibit off-premise outdoor advertizing signs in all shoreline areas.
2. Establish size, height, density, and lighting limitations for signs.
3. Prevent degradation of vistas and viewpoints and impairment of visual access to the water from such vistas by the placement of signs.
4. Require, whenever feasible, that signs be constructed against existing buildings to minimize visual obstructions of the shorelines.

REGULATIONS

1. All signs shall comply with the City's sign regulations as contained in applicable sections of Chapter 19.135, Sign Regulations and Chapter 19.75 Recreation and Park District) of the MTMC.
2. Off-premises, outdoor advertising signs shall not be permitted in any area subject to the jurisdiction of the Shoreline Management Act.
3. Animated signs are prohibited.
4. Freestanding signs shall not be allowed when they would significantly degrade a vista or viewpoint or impair the visual access to the water from such vistas.
5. Applications for freestanding signs shall demonstrate that it is infeasible or impracticable to locate or mount the requested sign flush on the building. Failure to satisfactorily meet this requirement shall be sufficient grounds for denial of the application.
6. The maximum allowable height for all signs shall be six (6) feet from the ground level to sign top. Flush mounted signs may be placed on a wall higher than five (5) feet above ground as long as the height of the sign itself does not exceed three (3) feet.

5.2.8 TRANSPORTATION

INTRODUCTION

Transportation facilities are those structures and developments that aid in land and water surface movement of people, animals, goods, and services. They include roads and streets, railroads,

bridges, bikeways, trails, parking and other related facilities. A road is a linear passageway, usually for motor vehicles, and a railroad is a surface linear passageway with tracks for train traffic. Their construction can limit access to shorelines, impair the visual qualities of water-oriented vistas, expose soils to erosion and retard the runoff of flood waters.

Parking is the temporary storage of automobiles or other motorized vehicles, and is only allowed as an accessory to a permitted shoreline use. Parking as a primary use and parking which serves a use not permitted in shoreline jurisdiction is prohibited.

POLICIES

1. New transportation facilities should be located away from shorelines whenever feasible. If allowed, transportation facilities should be designed to be the minimum width necessary.
2. All new or expanded roadways should be designed and located to minimize impacts to shoreline ecological functions including riparian and nearshore areas, and the natural landscape.
3. Design and maintain roads to minimize erosion and permit a natural movement of surface runoff.
4. Provide safe pedestrian and other nonmotorized travel facilities in public shoreline areas.
5. Circulation system planning shall 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.
6. New road construction in the shoreline jurisdiction should be minimized, and allowed by conditional use only when related to and necessary for the support of permitted shoreline activities.
7. Parking is not a preferred use in shorelines and should only be allowed to support authorized uses where no feasible alternatives exist.
8. Parking facilities in shoreline areas should be located and designed to minimize adverse impacts including those related to stormwater runoff, water quality, visual qualities, public access, and vegetation and habitat maintenance, and shall result in no loss of ecological functions.
9. Parking in shoreline areas should not restrict access to the site by necessary public safety vehicles, utility vehicles, or other vehicles requiring access to shoreline properties.

REGULATIONS

General

1. New road construction in shoreline jurisdiction shall be minimized and allowed only when related to and necessary for the support of permitted shoreline activities.

2. Expansion of existing roadways within the shoreline jurisdiction shall be allowed only when the proponent demonstrates that:
 - a. No alternative route is feasible;
 - b. The roadway is constructed and maintained to cause the least possible adverse impact on the land and water environment; and
 - c. The roadway is found to be in the public interest.
3. Streets within shoreline jurisdiction shall be designed with the minimum pavement area required. Gravel and more innovative materials shall be used where feasible for pathways and road shoulders to minimize the amount of impermeable surfaces and help to maintain a more natural appearance.
4. Transportation and parking facilities shall be planned, located, and designed so that routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.
5. Road routes shall make provisions for pedestrian, bicycle, and other non-motorized modes of travel whenever feasible.

Parking

6. Parking facilities are not a water-dependent use and shall only be permitted within the shoreline to support an authorized use where it can be demonstrated that there are no feasible alternative locations away from the shoreline.
7. Parking facilities shall be located outside of shoreline jurisdiction or as far landward from the ordinary high water mark as feasible. When located within shoreline jurisdiction, the location and design of parking facilities shall:
 - a. Minimize visual and environmental impacts to adjacent shoreline and critical areas.
 - b. Provide for pedestrian access through the facility to the shoreline; and
 - c. Facilitate public access to and enjoyment of the shoreline.
8. Parking, storage, loading and service areas and facilities serving commercial uses shall minimize their visual impact on the shorelines, utilize low impact development techniques and be placed outside of the shoreline, wherever possible.
9. Off-street parking facilities shall be set back from the ordinary high water mark a sufficient distance, to be determined on a case-by-case basis, so as not to require the creation of or the protection of new land by shore protection measures.

10. Upland parking facilities within the jurisdiction of this Master Program shall be designed and landscaped to minimize adverse impacts on adjacent shorelines and abutting properties. Landscaping shall be appropriate materials and vegetation, be planted within one year after completion of construction and be providing effective screening five years after planting, where applicable.
11. Upland parking facilities within the jurisdiction of this Master Program for shoreline activities shall provide safe and convenient pedestrian circulation within the parking area and to the shorelines.
12. Parking layouts must be designed efficiently to use the minimum amount of space necessary to provide the required parking and safe and reasonable access.
13. Parking areas serving individual buildings on the shoreline shall be located landward from the primary building being served, EXCEPT when the parking facility is within or beneath the structure and adequately screened or in cases when an alternate orientation would have less adverse impact on the shoreline.
14. Parking facilities shall comply with federal and state water quality laws and regulations with regard to surface water runoff.
15. Parking facilities shall not be permitted over water.

5.2.9 UTILITIES

INTRODUCTION

Utilities are services that produce and carry electric power, gas, sewage, water, communications, and oil. At this time, the most feasible methods of transmission are the linear ones of pipes and wires. The installation of this apparatus necessarily disturbs the landscape but can usually be planned to have minimal visual and physical effect on the environment. On-site utility features serving a primary use, such as water, sewer, or gas lines to a residence, are “accessory utilities” and shall be considered a part of the primary use.

POLICIES

1. Design and location of utilities should provide for no net loss of ecological functions and values.
2. Ensure that upon completion of utility installation or maintenance projects on shorelines, all areas be restored to pre-project configuration, replanted with native species and, provided with maintenance care until the newly planted vegetation is established.
3. Locate utility trunk lines and facilities outside shoreline areas, to the maximum extent feasible.
4. Locate utility lines and facilities, when they must be placed in a shoreline area, so as not to obstruct or destroy scenic views. Whenever feasible, these facilities should be placed underground, or designed to do minimal damage to the aesthetic qualities of the shoreline area.

5. To the maximum extent feasible, local governments should incorporate major transmission line rights-of-way on shorelines into their program for public access to and along water bodies.
6. Locate utilities to meet the needs of future populations in areas planned to accommodate this growth.
7. Combine utility rights-of-way in shoreline areas to the maximum extent possible.
8. Require that major utility development be consistent with adopted City comprehensive plans for utilities, where they exist, for provision of the respective utility service to the City's residents.
9. Solid waste disposal activities and facilities are prohibited in shoreline areas.
10. Utilities serving new development should be located underground, wherever feasible.

REGULATIONS

General

1. Applications for installation of utility facilities shall include the following (at a minimum):
 - a. Reasons why utility facility must be in a shoreline area;
 - b. Alternative location(s) considered and reasons for their elimination;
 - c. Location of other utility facilities in the vicinity of the proposed project to include the facilities of other types of utilities;
 - d. Proposed method(s) of construction;
 - e. Plans for reclamation of areas disturbed during construction;
 - f. Landscape plans (where appropriate);
 - g. Documentation that major utility developments are consistent with adopted City comprehensive plans for utilities, where such plans exist.
2. Utility transmission lines shall be underground (underwater) wherever practical and where not significantly detrimental to the environment.
3. Utility distribution lines, service lines, and connections shall be underground (underwater) wherever practical PROVIDED that such systems designed to serve floodplain development need not be so located.
4. Utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities, that are nonwater-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.

5. Where utility systems cross shoreline areas, clearing necessary for installation or maintenance shall be kept to a minimum width necessary to prevent interference by trees and other vegetation with the proposed systems.
6. Outfall pipelines and diffusers are water-dependent, but should be located only where there will be no net loss in shoreline ecological functions and processes or adverse impacts upon shoreline resources and values.
7. Temporary storage of solid waste in suitable receptacles is permitted as an accessory use to a primary permitted use, or for litter control.
8. Solid waste disposal sites and facilities are prohibited in the shoreline environment.
9. The location and construction of outfalls shall comply with all appropriate federal, state, county and city regulations.
10. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
11. Utilities shall be located in existing rights-of-way or corridors wherever practicable.

Underground Utility Lines

1. Such facilities shall minimize crossings of water bodies.
2. Banks and dikes where such facilities enter or leave a body of water shall be returned to their preconstruction configuration, shall be thoroughly compacted and protected against erosion, and shall be maintained in a safe conditions by the utility.
3. Utility lines entering or leaving a body of water, other than a river, shall be buried below the surface of the water body's bed out to a minimum water depth of minus ten feet (-10'), measured from mean lower low water PROVIDED that, where the utility consists of a flexible cable and the bottom material is soft, such cable need only be buried to a depth of minus five feet (-5'), measured from mean lower low water; and PROVIDED FURTHER that, if such cable does not bury itself to a minimum depth of ten (10) feet below mean lower low water within one year of installation, the permittee shall bury the cable to such depth.
4. Underground utility lines shall be completely buried under the river bed in all stream crossings except where such lines are permanently affixed to a bridge structure.

Surface Utility Lines

1. Surface utility lines shall be avoided wherever possible.

2. When paralleling a water body or highway surface, utility rights-of-way shall be separated from them by a visual buffer of natural vegetation wherever available.
3. Surface utility lines shall cross shoreline jurisdictional areas by the shortest, most direct route feasible, unless such a route would cause significant environmental damage.
4. Surface utility lines shall minimize crossings of shoreline areas.

Aerial Utility Lines

1. Aerial utility lines shall minimize crossings of shoreline areas.
2. Aerial utility lines shall cross shoreline jurisdictional areas by the shortest, most direct route feasible, unless such a route would cause significant environmental damage.
3. Rights-of-way for aerial utility lines shall not be clearcut, but shall leave low-growing shrubs and bushes except as necessary for access roads.
4. Low areas between towers shall not be cleared where the projected growth of vegetation in such areas would not endanger the utility lines.
5. Aerial utility lines shall make maximum use of topography to minimize visual contrast with the environment.
6. When paralleling a water body, aerial utility rights-of-way shall be separated from said bodies by a visual buffer of natural vegetation wherever available, except where located in highway rights-of-way.
7. Bends shall be the preferred location for river crossings of aerial utility lines.

5.3 Modification Policies and Regulations

Shoreline modification activities are those actions that modify the physical configuration or qualities of the shoreline area. Shoreline modification activities are, by definition, undertaken in support of or in preparation for a permitted shoreline use. A single use may require several different shoreline modification activities.

Shoreline modification activity policies and regulations are intended to assure, at a minimum, no net loss of ecological functions necessary to sustain shoreline natural resources and to prevent, reduce and mitigate the negative environmental impacts of proposed shoreline modifications consistent with the goals of the Shoreline Management Act. A proposed development must meet all of the regulations for both applicable uses and activities as well as the general and environment designation regulations.

5.3.1 DREDGING

INTRODUCTION

Dredging is the removal of earth from the bottom of a stream, river, lake, bay or other water body for the purposes of deepening a navigational channel or to obtain use of the bottom materials for landfill. A significant portion of all dredged materials are deposited either in the water or immediately adjacent to it, often resulting in problems of water quality. Upland disposal of dredge spoils in the shoreline shall be subject to the policies and regulations for landfill.

POLICIES

1. Regulate and control dredging to minimize damage to existing ecological systems and natural resources of both the area to be dredged and the area for deposit of dredged materials.
2. Identify soil deposit sites in water areas with the assistance of the State Departments of Natural Resources, and Fish and Wildlife.
3. Allow deposition of dredge materials in water areas, except as provided for under Landfills, only for habitat improvements, to correct problems of material distribution adversely affecting fish resources or where the alternative of depositing materials on land is more detrimental to shoreline resources than depositing it in water areas.
4. Dredging of bottom materials for the single purpose of obtaining fill material should not be allowed except when the material is necessary for the restoration of ecological functions and where placement of the material is waterward of the ordinary high water mark.
5. Encourage utilization of a spoil transfer site which can be used on a continuing basis.
6. Approve new dredging projects only when accompanied by an acceptable plan for the long-range disposal of dredge spoils created by the project and its continued maintenance.
7. Provide for a periodic review of existing dredging projects.
8. Prohibit dredging in or the disposal of spoils on archaeological sites which are listed on the Washington State Register of Historic Places until such time as they are released.
9. Dredging should be sited and designed to avoid or, if avoidance is not possible, minimize the need for new or maintenance dredging.

REGULATIONS

1. Dredging and disposal of dredge material shall avoid, and minimize significant ecological impact; impacts that cannot be avoided shall be mitigated to achieve no net loss of ecological processes and functions.
2. Dredging may be permitted as a conditional use activity only:

- a. When necessary to support a permitted water-dependent use.
 - b. For maintenance dredging for the purpose of restoring a lawfully established development.
 - c. As part of mitigation actions, environmental restoration, or habitat enhancement projects.
 - d. When technical information demonstrates water circulation, aquatic life and water quality will not be substantially impaired.
 - e. When other solutions would result in greater environmental impact.
 - f. As part of an approved habitat improvement project.
 - g. If it improves water quality.
 - h. To remove silt or sediment deposited because of severe and unusual erosion or resulting from the existence of a bulkhead on nearby property.
 - i. To mitigate conditions which could endanger public safety.
 - j. Provided applicable permits of other local, state, and federal agencies have been obtained.
3. Maintenance dredging associated with a water dependent use shall be restricted to maintaining the previously dredged and/or existing authorized location, depth and width.
 4. Dredging for the primary purpose of obtaining fill or construction material is prohibited, except for projects associated with MTCA (Model Toxics Control Act, Chapter 70.105.D RCW) or CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as Superfund, to cleanup sites with hazardous substances), habitat restoration, or any other significant restoration effort approved by a shoreline conditional use permit. When dredging is allowed for fill materials, placement of fill must be waterward of the OHWM.
 5. Dredging may be permitted in McAleer Creek for removal of gravel, sediment, or buried wood debris for flood management purposes consistent with a City-adopted flood hazard reduction plan and only after a biological and geomorphological study demonstrates that extraction has a long term benefit to flood hazard reduction, does not result in a long-term degradation of fish habitat, and is part of a comprehensive flood management solution.
 6. Excavations on beaches below the OHWM in lands covered by water constitute dredging and shall include precautions to prevent the migration of fine grain sediments, disturbed by the excavation, onto adjacent beach areas. Excavations on beaches shall be backfilled promptly using material of similar composition and similar or coarser grain size.

7. Dredging shall be timed so that it does not interfere with aquatic life.
8. Dredging shall utilize techniques (such as hydraulic dredging instead of agitation dredging) that cause minimal dispersal and broadcast of bottom material.
9. Limitations may be imposed on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.
10. Dredge spoil disposal is prohibited on Lake Ballinger shorelines or beds; except that, dredge spoil may be used in approved projects for the restoration or enhancement of shoreline ecological functions and processes, such as beach nourishment.
11. Applications for dredging and dredged material disposal shall include the following information (at a minimum):
 - a. A description of the purpose of the proposed dredging and an analysis of compliance with the policies and regulations of this Program.
 - b. A detailed description of the existing physical character, shoreline geomorphology and biological resources provided by the area proposed to be dredged, including:
 - i. A site plan map outlining the perimeter of the proposed dredge area. The map must also include the existing bathymetry depths based on Mean Lower Low Water (MLLW) and have data points at a minimum of 2-foot depth increments.
 - ii. A habitat survey must be conducted and Washington State Department of Fish and Wildlife (WDFW) must be contacted to ensure the survey is conducted according to the most recent WDFW eelgrass/macroalgae survey guidelines.
 - iii. Information on stability of bedlands adjacent to proposed dredging and spoils disposal.
 - c. A detailed description of the physical, chemical and biological characteristics of the dredge spoils to be removed, including:
 - i. Physical analysis of material to be dredged: material composition and amount, grain size, organic materials present, source of material, etc.
 - ii. Chemical analysis of material to be dredged: volatile solids, chemical oxygen demand, (COD), grease and oil content, mercury, lead and zinc content, etc.
 - iii. Biological analysis of material to be dredged.
 - d. A description of the method of materials removal, including facilities for settlement and movement.

- e. Dredging procedure: length of time it will take to complete dredging, method of dredging and amount of materials removed.
- f. Frequency and quantity of project maintenance dredging.
- g. Hydraulic modeling studies sufficient to identify existing geo-hydraulic patterns and probable effects of dredging.

5.3.2 LANDFILL, FILL, AND EXCAVATION

INTRODUCTION

“Landfill” means the creation of or addition to, a dry upland area (landward of the OHWM) by the addition of rock, soil, gravels and earth or other material. “Landfill” does not include solid or hazardous waste. 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. Landfills and fills also occur to replace shoreland areas removed by wave action or the normal erosive processes of nature. However, most landfills and fills destroy the natural character of land, create unnatural heavy erosion and silting problems and diminish the existing water surface. Disposal of dredged material is subject to the dredging requirements of this SMP.

The policies contained herein are intended to focus on the aspects of natural systems affected by dredging and the disposal of dredge material, man-made fill, cuts, excavations and site grading actions, while at the same time recognizing the community's needs.

POLICIES

1. Sanitary Landfills should be prohibited in all shoreline environments.
2. Landfill should only be permitted to the minimum extent necessary to accommodate an approved shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes. Enhancement and voluntary restoration of landforms and habitat are encouraged.
3. Shoreline landfills should be designed and located so that there will be no significant damage to existing ecological systems or natural resources, and no alteration of local currents, surface and subsurface drainage, or flood waters which would result in hazard to adjacent life, property, or natural resource systems.
4. Where permitted, landfill coverage should be the minimum necessary to provide for the proposed use. Landfills should be permitted only when tied to a specific development proposal that is permitted by the master program.
5. In evaluating landfill projects, factors such as current and potential public use of the shoreline and water surface area, water flow and drainage, water quality and habitat should be considered and protected to the maximum extent feasible. Further, the City should assess the

overall value of the landfill site in its present state versus the proposed shoreline use to be created to ensure consistency with the Shoreline Management Act and this Master Program.

6. The perimeter of landfills should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial fill activities and over time. Natural appearing and self-sustaining control methods are preferred over structural methods.
7. Fill waterward of the OHWM should be prohibited, except as part of an approved habitat restoration or enhancement project.
8. Allow deposition of dredge materials in water areas only for habitat improvements, to correct problems of material distribution adversely affecting fish resources or where the alternative of depositing materials on land is more detrimental to shoreline resources than depositing it in water areas.

REGULATIONS

1. Sanitary landfills or the location of solid waste disposal sites within any area subject to the jurisdiction of the Shoreline Management Act is strictly prohibited.
2. Fills waterward of the ordinary high-water mark shall be allowed only when necessary to support: mitigation action, environmental restoration, beach nourishment, or enhancement project. All other fills waterward of the ordinary high water mark are prohibited.
3. Landfills shall be permitted only when used as preparation for an activity otherwise permitted by this program for the Environment in which it is located and for permitted mitigation actions, environmental restoration projects, or beach nourishment, or enhancement projects. Such landfills shall also be subject to the regulations for the proposed use.
4. Landfills and fills shall be permitted only where it is demonstrated that:
 - a. The project has been located, designed, and constructed in a manner that minimizes impacts to ecological processes and functions and where impacts cannot be avoided, mitigation is provided to achieve no net loss.
 - b. The landfill or fill does not result in significant damage to water quality, fish, aquatic habitat, and/or wildlife habitat.
 - c. The landfill or fill does not adversely alter natural drainage and circulation patterns, or significantly reduce flood water holding capabilities.
 - d. The landfill or fill will not result in erosion of the shoreline or undermine stability of neighboring properties.
 - e. The landfill or fill is the minimum necessary to reasonably accomplish the purpose for the fill.

- f. Where existing public access will be reduced, equivalent public access has been provided on or off site as part of the project.
 - g. Fill material consists only of soil, sand, rock, or gravel. The fill material must not contain organic or inorganic materials that would be detrimental to water quality or existing habitats.
 - h. Placement of landfill or fill will be timed so as to minimize damage to water quality and aquatic life.
- 5. The perimeter of all landfills shall be provided with some means to control erosion, such as vegetation, retaining walls, or other mechanisms.
 - 6. Any placement or removal of materials landward of the OHWM shall comply with the provisions of Vegetation Conservation (Clearing and Grading) of this SMP.
 - 7. Landfills, fills, and excavation shall be designed to blend physically and visually with existing topography whenever possible, so as not to interfere with long term appropriate use including lawful access and enjoyment of scenery.
 - 8. A temporary erosion and sediment control (TESC) plan shall be provided for all proposed landfill and excavation activities.
 - 9. The landfill or fill shall be designed and supervised by a civil engineer or similarly qualified professional. The professional shall certify that the landfill or fill meets the following requirements:
 - a. The landfill or fill is designed and executed to minimize adverse impacts on neighboring properties and the environment, and is fully integrated into an otherwise approved facility.
 - b. The landfill or fill is designed and executed to provide permanent structural integrity for the fill and surrounding areas.
 - 10. Applications which include landfill or fill shall include the following information:
 - a. Physical, chemical, and biological character of fill material demonstrating that the fill is of such quality that significant water quality, ecological impacts, and public health problems would not occur from its placement;
 - b. Source of fill material;
 - c. Method of placement and compaction;
 - d. Type of proposed surfacing;

- e. Method of perimeter erosion control, and schedule for implementation;
- f. Proposed use of filled area.
- g. Assessment of water quality impacts.
- h. Type of surfacing and run-off control and treatment devices.
- i. Location of the landfill relating to natural or existing drainage patterns.
- j. Location of the perimeter of the landfill or fill relating to the ordinary high water mark and any critical areas.

5.3.3 OVERWATER STRUCTURES: PIERS, DOCKS, AND FLOATS

INTRODUCTION

Docks are fixed structures floating upon water bodies. Piers are fixed, pile-supported structures. Floats are floating structures that are moored, anchored, or otherwise secured in the water that are not connected to the shoreline. Docks, piers, and floats that serve four or fewer boats regularly moored are reviewed as recreational facilities. Proposals for five or more boats are considered marinas and are regulated under Boating Facilities. Floating docks generally have less of a visual impact than piers on pilings. However, in the nearshore, docks can interrupt littoral drift of sediments and other suspended materials, and significantly shade the aquatic environment throughout their length. Pile piers can provide diverse habitat for both desirable and undesirable aquatic life. Excavated moorage involves dredging and will disturb bottom sediments and aquatic life. Docks and piers alike create impediments to boat traffic and fish travel. Pier construction requires regulation to protect navigation, to protect shoreline aesthetics, and to maintain the useable water surface and aquatic lands for life forms characteristic and important to those areas.

POLICIES

1. Give priority to the use of community piers and docks in all new major waterfront subdivisions. In general, encouragement should be given to the cooperative use of piers and docks.
2. New piers and docks should be allowed only for public access and/or water-dependent uses.
3. New piers and docks should be restricted to the minimum size necessary and permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent use.
4. A dock associated with a single family residence is considered a water-dependent use provided that it is designed and intended as a facility for access to watercraft and otherwise complies with the provisions of this section.

5. New pier or dock construction, excluding docks accessory to single-family residences, should be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent use.
6. When permitted, new residential development of more than two dwellings should provide joint use or community docks, rather than individual docks 7. Piers and docks, including that accessory to single-family residences, shall be designed and constructed to avoid or to minimize and mitigate the impacts to ecological functions, critical areas resources such as eelgrass beds and fish habitats and processes such as currents and littoral drift.
8. Preference should be given to fixed-pile piers elevated above the OHWM. Floating docks should be allowed if the applicant can demonstrate why a fixed pile pier is not feasible or will result in greater impacts.
9. Recreational floats should be allowed where they are intended to support public or private recreational uses, or in lieu of fixed piers adjacent to residential land uses.
10. New moorage covers should not be allowed.
11. Overwater structures, including piers, should only be authorized after consideration of:
 - a. The effect such structures have on wildlife and aquatic life, water quality, scenic and aesthetic values, environmental sensitive resources, submerged lands, and submerged vegetation.
 - b. The effect such structures have on water circulation, recreational boating, sediment movement and littoral drift and shoreline access.
12. Lighting facilities should be limited to the minimum extent necessary to locate the pier or dock at night.
13. Over-water structures should be designed to avoid the need for maintenance dredging. The moorage of a boat larger than provided for in the original moorage design shall not be grounds for approval of dredging.

REGULATIONS

General

1. Covered moorage is prohibited in all shoreline environments.
2. Mooring buoys are prohibited in all shoreline environments.
3. Piers and docks may not be larger than is necessary to provide safe and reasonable moorage for the boats which can reasonably be expected to be moored. The city will specifically review the size and configuration of each proposed pier or dock to ensure that:

- a. The pier or dock does not extend waterward beyond the point necessary to provide reasonable draft for the boats to be moored; and
 - b. The pier or dock is not larger than is necessary to moor the specified number of boats; and
 - c. The pier or dock will not interfere with the public use and enjoyment of the water or create a hazard to navigation; and
 - d. The pier or dock will not adversely affect nearby uses; and
 - e. The pier or dock will not have a significant long-term adverse effect on aquatic habitats.
4. In order to minimize impacts on nearshore areas and avoid reduction in ambient light level:
- a. The width of piers, docks, and floats shall be the minimum necessary. Piers and docks shall not exceed four (4) feet in width, except where special accommodation is needed for accessibility (ADA) or for safety reasons in which case residential piers and docks shall not exceed six (6) feet, and public piers and docks shall not exceed eight (8) feet in width. Floats shall not exceed eight (8) feet in width and 20 feet in length unless authorized by a variance.
 - b. Dock surfaces designed to allow maximum light penetration shall be used on walkways or gangplanks in nearshore areas.
 - c. Piers, docks and floats shall be located along a north/south orientation to the maximum extent feasible.
 - d. The surface of new piers, docks and floats shall provide at least 50% functional grating.
5. Waterward of the ordinary high water mark, pier and dock height may not exceed a height of five (5) feet above water level, except that public piers may exceed the height limit an additional three (3) feet, and except pilings may extend a reasonable amount above dock height to provide for fluctuating water level conditions.
6. Prohibited substances. No part of a pier, dock or other components that may come in contact with the water may be treated with or consist, in whole or in part, of creosote, oil based paints, toxic chemicals, or other substances that would be harmful to the aquatic environment, unless specifically permitted and authorized by appropriate state and federal regulatory agencies.
7. If the subject property provides moorage for not more than two boats, the following setbacks apply:
- i. No moorage structure may be within 25 feet of another moorage structure not on the subject property.

- ii. The side property line setback is 10 feet for moorage structures, provided that joint or shared moorage facilities may be located within the setback from the lot with whom the facility is shared.
8. If the subject property provides moorage for more than two boats, the following setbacks apply:
 - i. No moorage structure on private property may be within 100 feet of a public park.
 - ii. No moorage structure may be within 25 feet of another moorage structure not on the subject property.
 - iii. The side property line setback is 10 feet.
9. Moorage structures and facilities may only be permitted and used accessory to detached dwelling units on waterfront lots. Use of the moorage structure and facilities is limited to the residents and guests of the waterfront lots to which the moorage is accessory. Moorage space may not be leased, rented, sold, or otherwise made available to other than the residents and guests of the waterfront lots to which the moorage is accessory.
10. Accessory uses are not permitted in conjunction with a moorage structure.
11. All new, reconstructed, repaired, or modified overwater structures must comply with all regulations contained in this SMP and all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.
12. Mitigation shall be provided for all reconstructed, repaired, or modified overwater structures, if necessary to ensure no net loss of ecological function.
13. Where a permitted overwater structure would adversely impact the ecological functions of critical freshwater habitats, the impacts shall be mitigated according to the sequence described in WAC 173-26-201(2)(e) as necessary to assure no net loss of ecological functions.
14. All float tubs shall be fully encapsulated and the decks shall be fully grated except for the float tubs, designed with a ramp section connecting to the upland and are prohibited from resting on the substrate.
15. Floating docks are required to be designed to not ground during low water conditions.
16. All overwater structures shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe overwater structures shall be removed or repaired promptly by the owner.
17. Residential Dock, Pier or Float (Moorage Structure) Development Standards:

- i. Shared moorage. When permitted, new residential development of more than two dwellings shall be required to provide joint use or community docks, rather than individual docks.
 - ii. Height. The height of a residential dock or pier shall not exceed five feet above the ordinary high water mark. The height of attendant pilings shall not exceed five feet above the ordinary high water mark or that height necessary to provide for temporary emergency protection of floating docks as determined in accord with generally accepted engineering practices.
 - iii. Length. The length of any residential dock or pier shall not exceed the lesser of 50 feet or the length of the existing dock, pier or float.
 - iv. Setbacks. All residential docks or piers shall observe a minimum 10-foot side yard setback from a property line or a storm drainage outfall. Joint use docks or piers may be located on the side property line; provided that the abutting waterfront property owners shall file a joint use maintenance agreement with the Snohomish County auditor in conjunction with, and as a condition of, the issuance of a building permit. Joint use docks or piers shall observe all other regulations of this subsection. If such joint maintenance agreement is terminated, the dock or pier shall be brought into compliance with the bulk and setback provisions of this Master Program.
 - v. Number. Each residential lot shall be allowed one dock or pier or portion thereof located on the lot, and one float.
 - vi. Size. No residential dock or pier shall exceed 400 square feet. No float shall exceed 160 square feet. The area of the float shall be counted as part of the overall dock or pier area.
 - viii. Covered Buildings. No covered building shall be allowed on any residential dock or pier.
18. Community or Public Dock, Pier or Float (Moorage Structure) Development Standards:
- i. Width. The width of community or public docks or piers shall be the minimum necessary. Piers and docks shall not exceed four (4) feet in width, except where special accommodation is needed for accessibility (ADA) or for safety reasons, and shall not exceed eight (8) feet.
 - ii. Height. The height of a community or public dock or pier shall not exceed eight feet above the ordinary high water mark. The height of attendant pilings shall not exceed eight feet above the ordinary high water mark or that height necessary to provide for temporary emergency protection of floating docks as determined in accord with generally accepted engineering practices.

- iii. Length. The length of any community or public dock or pier shall not exceed the lesser of 120 feet or the existing length.
- iv. Setbacks. All community or public docks or piers shall observe a minimum 25-foot side yard setback from a property line or a storm drainage outfall. Joint use docks or piers may be located on the side property line; provided that the abutting waterfront property owners shall file a joint use maintenance agreement with the Snohomish County auditor in conjunction with, and as a condition of, the issuance of a building permit. Joint use docks or piers shall observe all other regulations of this subsection. If such joint maintenance agreement is terminated, the dock or pier shall be brought into compliance with the bulk and setback provisions of this Master Program.
- v. Number. A maximum of one community dock, pier and/or float may be located on a single lot. Up to three public dock/piers may be built on a single parcel of public land, except that one community pier, dock or float combination is allowed at Ballinger Boat Launch Park.
- vi. Size. The maximum size of a new or replaced community or public dock shall not exceed the existing size or 800 square feet. The area of a float shall not exceed 160 square feet and shall be counted as part of the overall dock or pier area.
- viii. Covered Buildings. No enclosed structures shall be allowed on a community or public dock or pier.
- ix. One shelter, up to 120 square feet in area and up to 10 feet in height, shall be permitted when associated with a public dock or pier.

5.3.4 SHORELINE STABILIZATION

INTRODUCTION

Shoreline stabilization includes actions taken to protect property and dwellings, businesses, or structures from erosion impacts caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods. Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, planning and regulatory measures to avoid the need for structural stabilization.

“Soft” structural measures rely on less rigid materials, such as biotechnical vegetation measures or beach enhancement, while “Hard” structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads. Measures ranging from soft to hard include:

- Vegetation enhancement
- Upland drainage control
- Biotechnical measures
- Beach enhancement

- Anchor trees
- Gravel placement
- Rock revetments
- Gabions
- Concrete groins
- Retaining walls and bluff walls
- Bulkheads

Bulkheads are structures erected parallel to and near the high water mark for the purpose of protecting adjacent uplands from the action of waves or currents. Bulkheads have historically been constructed of poured-in-place or precast concrete, concrete blocks, wood, steel or aluminum sheet piling, wood or wood and structural steel combinations, and boulders. Bulkheads may be either thin structures penetrating deep into the ground or more massive structures resting on the surface.

Human use of the shoreline has typically led to hardening for various reasons including reduction of erosion or providing useful space at the shore or providing access to docks and piers. The impacts of hardening any one property may be minimal, but cumulatively the adverse impacts to shoreline ecological functions can be significant. Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. Such impacts include:

- Beach starvation
- Habitat degradation
- Sediment impoundment
- Exacerbation of erosion
- Ground water impacts
- Hydraulic impacts
- Loss of shoreline vegetation
- Loss of large woody debris

The following policies are applicable to all shoreline stabilization measures, including bulkheads.

POLICIES

1. Discourage new development requiring structural shoreline stabilization.
2. Relocating existing structures out of harm’s way is preferable to construction of structural stabilization.
3. Allow structural stabilization methods only:
 - a. After it is demonstrated that nonstructural solutions would not be able to reduce the potential damage sufficiently, and

- b. Where it has been demonstrated to be necessary to support a legally established, inhabited structure or when necessary for reconfiguration of the shoreline for hazardous substance remediation or restoration of ecological functions.
4. Structural stabilization will not be permitted for the indirect purpose of creating land by filling.
5. Encourage “soft” stabilization and protection works over “hard” structural means. Furthermore, designs that do not interrupt net drift or migration of anadromous fish are preferred.
6. Consider the effect that proposed shore stabilization has on ecosystem-wide processes and functions. Make provisions to avoid and minimize impacts where feasible. Mitigation should be provided if necessary to achieve no net loss of shoreline ecological functions.

REGULATIONS

General

1. For the purposes of this section, standards on shoreline stabilization, “replacement” means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately service its purpose. Addition to or increases in size of existing shoreline stabilization measures shall be considered new structures.
2. Shoreline stabilization proposals shall avoid and reduce significant ecological impacts according to the mitigation sequence in WAC 173-26-201(2)(e).
3. New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Subdivision of land shall be regulated to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur, using geotechnical analysis of the site and shoreline characteristics.
4. New development that would require shoreline stabilization which causes significant negative impacts to adjacent or down-current properties and shoreline areas shall not be allowed.
5. Preference shall be given to those types of shoreline modifications that have a lesser impact on ecological functions. "Soft" shoreline modification measures shall be preferred over "hard" shoreline modification measures. “Hard” shoreline modifications shall only be allowed as provided in (7) below.
6. Structural stabilization methods shall be permitted when necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.
7. New structural stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:

- a. To protect existing primary structures:
 - i. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.
 - ii. The erosion control structure will not result in a net loss of shoreline ecological functions.
- b. In support of new non-water-dependent development, including single-family residences, when all of the conditions below apply:
 - i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
 - ii. Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal action, currents, and waves.
 - iv. The erosion control structure will not result in a net loss of shoreline ecological functions.
- c. In support of water-dependent development when all of the conditions below apply:
 - i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
 - ii. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.

- iv. The erosion control structure will not result in a net loss of shoreline ecological functions.
 - d. To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to Chapter 70.105D RCW when all of the conditions below apply:
 - i. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - ii. The erosion control structure will not result in a net loss of shoreline ecological functions.
- 8. All shoreline stabilization measures shall be designed and constructed so that downstream banks will not be adversely affected. Shoreline stabilization measures, including riprap, shall be designed and constructed in a manner consistent with Natural Resources Conservation Service, Corps of Engineers, and/or other engineering and design specifications deemed appropriate by the City Shoreline Administrator, and said designs shall be reviewed and confirmed by the City Shoreline Administrator as being consistent therewith.
- 9. Shoreline stabilization measures shall not be designed and constructed in such a manner as to result in channelization of normal stream flows.
- 10. Within the discretion of the permit granting authority, and considering the reasonableness of the conditions and the technological state of the art, applications for shoreline stabilization measures shall include the following (at a minimum):
 - a. Purpose of project;
 - b. Geotechnical report or analysis;
 - c. Hydraulic characteristics of stream or lake within one-half mile on each side of proposed project;
 - d. Existing shoreline stabilization and flood protection devices within one-half mile on each side of proposed project;
 - e. Construction material and methods;
 - f. Resultant hydraulic characteristics of stream or lake.
- 11. Shoreline stabilization measures are allowed in floodways and density fringe areas of the base (100-year frequency) flood only when their purpose is to protect existing development or to prevent serious impairment of channel function. Provided, that where the detailed information

referenced in Regulation 10 above is not required due to waiver or exemption from a permit, stabilization measures shall be reviewed and approved by the City Shoreline Administrator, with said approval to confirm that measures mitigate or avoid the potential for adverse impacts to adjacent shoreline consistent with Regulation 7 above. Provided further, that vegetative and/or other nonstructural shoreline stabilization measures may be used in hydraulic floodways for any purpose otherwise consistent with the Master Program, the Shoreline Management Act and its administrative guidelines.

12. Streambank vegetation shall be preserved to the maximum extent feasible consistent with safe construction requirements.
13. Cut-and-fill slopes and backfill areas shall be revegetated with natural grasses, shrubs and/or trees and keeping with existing river bank vegetation.
14. Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.
15. Geotechnical reports required pursuant to this section shall address the need for shoreline stabilization and shall include the following:
 - a. A scaled site plan showing:
 - i. The location of existing and proposed shore stabilization, structures, fill, and vegetation, with dimensions indicated distances to the ordinary high water mark.
 - ii. Existing site topography with two foot contours.
 - b. A description of the processes affecting the site, and surrounding areas that influence or could be influenced by the site, including areas in which lake or marine geomorphic processes affect the site, including, but not limited to:
 - i. Soil erosion, deposition, or accretion;

- ii. Evidence of past or potential erosion due to tidal action and/or waves;
 - iii. Littoral drift; and
 - iv. An estimate of shoreline erosion rates.
 - c. A description and analysis of the urgency and risk associated with the specific site characteristics.
16. When any structural shoreline stabilization measures are demonstrated to be necessary, pursuant to above provisions:
- a. Limit the size of stabilization measures to the minimum necessary. Use measures designed to assure no net loss of shoreline ecological functions. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.
 - b. Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. Where feasible, incorporate ecological restoration and public access improvements into the project.
 - c. Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems.
17. If hard stabilization methods are employed the following design criteria shall be met:
- a. The size and quantity of the material shall be limited to that the minimum necessary to withstand the estimated energy intensity of the hydraulic system;
 - b. Filter cloth must be used to aid drainage and help prevent settling;
 - c. The toe reinforcement or protection must be adequate to prevent a collapse of the system wave action; and
 - d. Fish habitat components shall be considered in the design subject to Hydraulic Project Approval by the Washington Department of Fish and Wildlife.

18. Shoreline stabilization and modification projects shall avoid and then minimize adverse impacts to the environment to the greatest extent feasible, and where such impacts cannot be avoided, mitigation shall be provided to achieve no net loss of shoreline ecological functions.
19. Structural stabilization shall not be permitted for the indirect purpose of creating land by filling.
20. Professional design (as approved by the City) of all shoreline stabilization is required. All shoreline modification activities shall be in support of a permitted shoreline use that 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.
21. All shoreline modification activities must comply with all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.
22. All construction and planting activities shall be scheduled to minimize impacts to water quality and fish and wildlife aquatic and upland habitat, and to optimize survival of new vegetation.
23. New bulkheads shall be allowed only for existing structures when evidence is presented through a report prepared by a geotechnical engineer or other qualified professional that conclusively demonstrates that use of natural materials and processes (soft structural solutions) and alternative site designs, including increased shoreline setbacks (nonstructural solutions), are either not feasible or will not provide the necessary protection for existing development.
24. Bulkheads and other shoreline protection structures shall be located landward of the ordinary high water mark and generally parallel to the natural shoreline unless geotechnical evaluation demonstrates the necessity for alternative design. In addition:
 - a. On shorelines where no other bulkheads are adjacent, the construction of a bulkhead shall tie in with the contours of the adjoining shorelines, as feasible, such that the proposed bulkhead would not cause erosion of the adjoining properties.
 - b. Bulkheads may tie in flush with existing bulkheads on adjoining properties, provided that the new bulkhead does not extend waterward of OHWM, except that which is necessary to make the connection to the adjoining bulkhead. In such circumstances, the remaining portion of the bulkhead shall be placed landward of the existing OHWM such that no net loss of lake occurs and the design complies with all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.
 - c. Replacement bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

25. An existing bulkhead or other shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect primary uses or structures from erosion caused by currents, tidal action, or waves.
 - a. The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.
 - b. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residential structure to which it is appurtenant was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure may abut the existing shoreline stabilization structure.
26. Stairs or other permitted structures may be built into a bulkhead, but shall not extend waterward of a bulkhead.