



CITY OF
BAINBRIDGE ISLAND

**CITY COUNCIL REGULAR BUSINESS MEETING
TUESDAY, SEPTEMBER 11, 2018**

BAINBRIDGE ISLAND CITY HALL
280 MADISON AVENUE N.
BAINBRIDGE ISLAND, WASHINGTON

AGENDA

1. **CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE - 6:00 PM**
2. **APPROVAL OF AGENDA / CONFLICT OF INTEREST DISCLOSURE**
3. **PUBLIC COMMENT**
4. **MAYOR'S REPORT**
5. **CITY MANAGER'S REPORT**
6. **PRESENTATION(S)**
 - 6.A (6:15 PM) Proclamation Declaring September 27, 2018, as "First Responders Appreciation Day" - Mayor Medina, 5 Minutes
[First Responders Proclamation](#)
7. **PUBLIC HEARING(S)**
 - 7.A (6:20 PM) Amendments to the Shoreline Master Program (SMP) Relating to Integration of Critical Areas Regulations and Nonconforming Structures, Uses, and Lots - Planning 60 Minutes
[Staff Memo re SMP Amendment](#)
[Draft SMP Amendment - Critical Areas & Nonconforming - Public Hearing Draft - All track changes Existing SMP Nonconforming Chapter.pdf](#)
[Nonconforming Structures Summary Table.pdf](#)
8. **UNFINISHED BUSINESS**
 - 8.A (7:20 PM) Friends of the Farms Request for Funding for City Farmland Management - Executive, 10 Minutes
[Friends of the Farms Request for Funding](#)
[Friends of the Farms Funding Proposal Slides](#)

- 8.B (7:30 PM) Waterfront Park Bridge Repair Project Contract Award - Public Works, 10 Minutes
[Waterfront Park Bridge Repair Project Contract for Construction](#)
[Bid Form - Waterfront Park Bridge Repair Project](#)
[Bid Tabulation Form WFP Bridge Repair](#)

- 8.C (7:40 PM) Old Treatment Plant Pump Station Replacement Project Contract Award - Public Works, 10 Minutes
[Old Treatment Plant Pump Station Replacement Project - Contract](#)
[Bid Form - Old Treatment Plant Pump Station Replacement Project](#)
[Bid Tabulation Form](#)

- 8.D (7:50 PM) Resolution No. 2018-26, Stating the City Council's Position on City of Bainbridge Island Proposition No. 1, the Connecting Bainbridge Safe Mobility Levy - Executive, 10 Minutes
[Resolution No. 2018-26, Stating the City Council's Position on City of Bainbridge Island Proposition No. 1, the Connecting Bainbridge Safe Mobility Levy](#)

- 8.E (8:00 PM) Planning Commission Recommendations Relating to Land Use Review and Approval Roles, Responsibilities, and Procedures - Planning 20 Minutes
[Mike Walter Letter to Richland re Use of Hearing Examiner for Land Use Decision-Making.pdf](#)
[WCIA Advice re Hearing Examiners.pdf](#)
[Ted Hunter Response to Council Inquiry.docx](#)
[MRSC Response to Inquiry re Hearing Examiners.docx](#)
[Staff Memo re PC Recommendations re Land Use Review & Approvals](#)
[Haney Memo re Roles of Land Use Approval Bodies](#)
[Summary of Land Use Review & Approval Procedures](#)
[Haney Powerpoint.pptx](#)
[Presentation to Council re Process of Hearing Deciding Land Use Applications](#)
[LAND USE ROLES FOR CITY OFFICIALS](#)

9. NEW BUSINESS

- 9.A (8:20 PM) Neighborhood Matching Grant Application for A Taste of Lynwood - Executive, 10 Minutes
[A Taste of Lynwood Application.pdf](#)
[A Taste of Lynwood Presentation.pptx](#)

- 9.B (8:30 PM) Manitou Park Boulevard Shoreline Stabilization Project Professional Services Agreement - Public Works, 10 Minutes
[RFQ - Manitou Park Boulevard Shoreline Stabilization Project](#)

- 9.C (8:40 PM) Ordinance 2018-35 Amending BIMC Chapter 5 and Adopting Model Business License Code - Finance, 10 Minutes
[Ordinance No. 2018-35](#)
[MRSC - July 2018 Business License Code Update Explanation](#)
[MRSC - April 2018 Business Licensing Background](#)
[Ordinance No. 2018-21 \(Approved June 26, 2018\)](#)

- 9.D (8:50 PM) Ordinance No. 2018-37, relating to the City Water Utility and Providing for No Automatic Fee Adjustment for Monthly Water Service Rates in 2019 - Finance, 10 Minutes
[Ordinance No. 2018-37 Providing for No Automatic Annual Adjustment for Water Rates in 2019](#)
- 9.E (9:00 PM) Ordinance No. 2018-38, Providing for No Automatic Annual Adjustment for Monthly Sewer Service Utility Rates in 2019 - Finance, 10 Minutes
[Ordinance No. 2018-38 Providing for No Automatic Annual Adjustment for Sewer Rates in 2019](#)
- 9.F (9:10 PM) Interlocal Agreement Between Kitsap Public Utility District No. 1 and the City of Bainbridge Island Transferring Wireless Frequency Interface (Wi-Fi) Assets - Executive, 15 Minutes
[Interlocal Agreement Transferring Wi-Fi Assets](#)
[Exhibit A - Interlocal Agreement with KPUD Transferring WiFi Assets](#)

10. CONSENT AGENDA

- 10.A (9:25 PM) Agenda Bill for Consent Agenda, 5 Minutes
- 10.B Accounts Payable and Payroll
[Report to Council of Cash Disbursements 09-12-18.pdf](#)
[Payroll.pdf](#)
- 10.C City Council Study Session Minutes, August 21, 2018
[CCMIN 082118 STUDY SESSION](#)
- 10.D Special Joint City Council Meeting Minutes, August 27, 2018
[CCMIN 082718 SPECIAL](#)
- 10.E Special City Council Meeting Minutes, August 28, 2018
[CCMIN 082818 SPECIAL](#)
- 10.F Regular City Council Business Meeting Minutes, August 28, 2018
[CCMIN 082818 BUSINESS](#)
- 10.G Professional Services Agreement for Rockaway Beach 5-Year Hydraulic Project Approval (HPA) Requirements - Public Works, 5 Minutes
[Professional Services Agreement for Rockaway Beach 5-Year Hydraulic Project Approval \(HPA\) Requirements](#)
[August 18, 2013 Hydraulic Project Approval Permit](#)
- 10.H Resolution No. 2018-18 Reducing Speed Limits on Certain Roadways and Resolution No. 2018-23, Reducing speed Limits in Downtown Bainbridge Island/Winslow - Public Works, 5 Minutes
[Resolution No. 2018-23](#)
[Exhibit A to Resolution No. 2018-23](#)
[Resolution No. 2018-18](#)
- 10.I Interlocal Agreement and Use Agreement for RideAlong Application – Police 5 Minutes
[Interlocal Agreement for RideAlong Services](#)
[Attachment A to Interlocal Agreement - KCSO RideAlong Services Agreement](#)

Amendment No. 1 to KCSO RideAlong Services Agreement
RideAlong App Use Agreement

11. COMMITTEE REPORTS - 9:30 PM
12. FOR THE GOOD OF THE ORDER - 9:35 PM
13. ADJOURNMENT - 9:45 PM

GUIDING PRINCIPLES

Guiding Principle #1 - Preserve the special character of the Island, which includes downtown Winslow's small town atmosphere and function, historic buildings, extensive forested areas, meadows, farms, marine views and access, and scenic and winding roads supporting all forms of transportation.

Guiding Principle #2 - Manage the water resources of the Island to protect, restore and maintain their ecological and hydrological functions and to ensure clean and sufficient groundwater for future generations.

Guiding Principle #3 - Foster diversity with a holistic approach to meeting the needs of the Island and the human needs of its residents consistent with the stewardship of our finite environmental resources.

Guiding Principle #4 - Consider the costs and benefits to Island residents and property owners in making land use decisions.

Guiding Principle #5 - The use of land on the Island should be based on the principle that the Island's environmental resources are finite and must be maintained at a sustainable level.

Guiding Principle #6 - Nurture Bainbridge Island as a sustainable community by meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Guiding Principle #7 - Reduce greenhouse gas emissions and increase the Island's climate resilience.

Guiding Principle #8 - Support the Island's Guiding Principles and Policies through the City's organizational and operating budget decisions.



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CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 5 Minutes

AGENDA ITEM: (6:15 PM) Proclamation Declaring September 27, 2018, as "First Responders Appreciation Day" - Mayor Medina,

STRATEGIC PRIORITY: Safe City

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Presentation

PROPOSED BY: City Council

RECOMMENDED MOTION:

I move that we authorize the Mayor to sign the proclamation declaring September 27, 2018, as "First Responders Appreciation Day" and add this proclamation to the list of proclamations that the Mayor is authorized to sign annually without further authorization.

SUMMARY:

The attached proclamation declares September 27 as "First Responders Appreciation Day."

FISCAL IMPACT:

| | |
|------------------------------------|--|
| Amount: | |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | |

BACKGROUND:

ATTACHMENTS:

[First Responders Proclamation](#)

FISCAL DETAILS:

Fund Name(s):

Coding:



PROCLAMATION

A PROCLAMATION by the Mayor of the City of Bainbridge Island, Washington, declaring September 27, 2018, as First Responders Appreciation Day.

WHEREAS, those referred to as “first responders” are first on the scene of emergencies of all kinds without regard for their own safety; and

WHEREAS, first responders include firefighters and police who are trained and uniquely qualified to assume control of emergency situations, both expected and unexpected, dangerous and otherwise; and

WHEREAS, first responders also include other professionals and citizens who by the nature of their particular qualification and training respond to and are relied on in such situations; and

WHEREAS, first responders almost always labor outside community recognition and praise; and

WHEREAS, first responders, both men and women, consistently save lives and give comfort in times of great personal need; and

WHEREAS, Bainbridge Island’s Three Days of Preparedness is a particularly appropriate occasion to express our appreciation for the contribution and sacrifices of our community’s first responders; and

NOW, THEREFORE, with profound respect and gratitude, I, Kol Medina, Mayor of the City of Bainbridge Island, on behalf of the City Council, do hereby declare September 27, 2018, as

FIRST RESPONDERS APPRECIATION DAY

in the City of Bainbridge Island, and urge all Islanders to express their personal gratitude to those who serve us all so selflessly.

DATED this 11th day of September, 2018

Kol Medina, Mayor



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 60 Minutes

AGENDA ITEM: (6:20 PM) Amendments to the Shoreline Master Program (SMP) Relating to Integration of Critical Areas Regulations and Nonconforming Structures, Uses, and Lots - Planning

STRATEGIC PRIORITY: Green, Well-Planned Community

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Ordinance

PROPOSED BY: Planning & Community Development

RECOMMENDED MOTION:

Conduct public hearing; provide input to staff on proposed revisions.

SUMMARY:

Public hearing on SMP amendment related to integration of critical areas regulations into the SMP and nonconforming provisions.

FISCAL IMPACT:

| | |
|------------------------------------|--|
| Amount: | |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | |

BACKGROUND: See staff memo (attached).

ATTACHMENTS:

[Staff Memo re SMP Amendment](#)

[Draft SMP Amendment - Critical Areas & Nonconforming - Public Hearing Draft - All track changes](#)

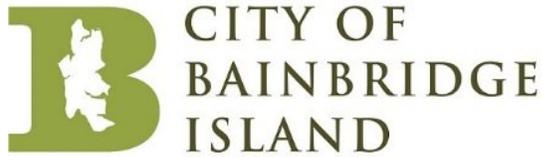
[Existing SMP Nonconforming Chapter.pdf](#)

[Nonconforming Structures Summary Table.pdf](#)

FISCAL DETAILS:

Fund Name(s):

Coding:



Department of Planning and Community Development

Memorandum

Date: September 11, 2018
To: City Council
From: Christy Carr, AICP
Senior Planner
Subject: Shoreline Master Program Amendment

I. INTRODUCTION AND BACKGROUND

The subject of the September 11, 2018 City Council public hearing is an amendment to the City's Shoreline Master Program (SMP) related to critical areas regulations and nonconforming uses, structures, and lots.

Amendments related to critical areas (SMP Section 4.1.5) focus on integrating regulations recently updated as part of the critical areas ordinance (CAO, see BIMC 16.20). The updated critical areas regulations cannot be applied within the shoreline jurisdiction until an amendment to the SMP integrating these regulations is locally adopted by City Council and approved by the Department of Ecology.

Amendments related to nonconforming uses, structures, and lots (SMP Section 4.2.1) are intended to improve clarity and implementation effectiveness of the SMP. The amendments focus on clarification of allowed actions (e.g., rebuilding) of all nonconforming structures and specific allowances for expansion of single-family residential primary structures.

II. PLANNING COMMISSION REVIEW

The Planning Commission discussed the SMP Amendment at regular and special meetings between January and the end of August, including a public hearing on May 24, continued to June 7, 2018. On August 30, 2018, the Planning Commission recommended, by unanimous vote, the amendments related to critical areas and nonconforming uses, structures, and lots for City Council consideration at their September 11, 2018 public hearing.

III. SUMMARY OF AMENDMENTS – CRITICAL AREAS

The intent of the amendment is simply to integrate recently updated critical areas regulations into the SMP consistent with procedures and policies of the Shoreline Management Act (SMA). The SMP amendment does not include any regulations that are new or different than those in the recently updated critical areas ordinance.

The City's existing SMP contains critical areas regulations in two places – Section 4.1.5 and Appendix B. Appendix B is essentially a carbon copy of BIMC 16.20, as it existed prior to the CAO update. Section 4.1.5 has some "shoreline-specific" critical areas provisions and some redundant regulations also present in Appendix B. A major housekeeping change in the draft amendment is to eliminate Appendix B and consolidate all critical areas regulations in Section 4.1.5. This improves readability of the document and eliminates redundancies and internal inconsistencies.

While regulations in the CAO and SMP do not – and cannot, due to consistency issues with the SMA – have to be exactly the same, there are distinct and important reasons for integrating the updated critical areas regulations into the SMP, including, but not limited to:

- Critical areas regulations in the existing SMP largely date from 2006 – the last time the City's CAO was comprehensively updated.
- Critical areas regulations in the existing SMP (Section 4.1.5 and Appendix B) would benefit from revisions to improve clarity, readability, and consistency with the SMA.
- New critical areas regulations include more protective standards for aquifer recharge areas, wetlands, and fish and wildlife habitat conservation areas/streams, and more rigorous review criteria (e.g., precautionary principal and mitigation sequencing).
- The aquifer recharge protection area (ARPA) requirement does not apply within shoreline jurisdiction. Notably, 42 percent of the island's R-2 parcels are within the shoreline jurisdiction.
- Relieving staff and the public from navigating two sets of regulations (e.g., referencing the correct set, using the correct application, recognizing different standards, permit types, and review requirements).

IV. Summary of Amendments – Nonconforming Uses, Structures, and Lots

The draft revisions related to nonconforming uses, structures, and lots are provided in the agenda packet as a "clean" version of SMP Section 4.2.1 since the significant number of changes and reorganization of the section would make it difficult to review a strikethrough/underline version. A strikethrough/underline version will be available at the start of the 30-day public comment period on September 10.

The majority of draft revisions are intended to improve clarity and eliminate vagueness, repetition, and/or internal conflict. In addition, the Planning Commission's draft revisions include a number of changes to allowed actions for nonconforming structures.

Proposed revisions include:

- Use of the term nonconforming. The current SMP uses the term "existing development" to refer to existing structures lawfully constructed prior to the effective date of the City's SMP. This term is confusing because "existing" development may not be "nonconforming" development; additionally, "existing development" is not used consistently throughout the SMP – it is interchanged with existing structures and nonconforming structures. During the 2014 SMP update process, the Planning Commission recommended the use of the term "nonconforming;" however, the City Council subsequently changed the term to "existing development." The Planning Commission again recommends use of the term nonconforming since it is a long-standing and well-understood land use term that has a specific definition and requirements provided in the SMA.

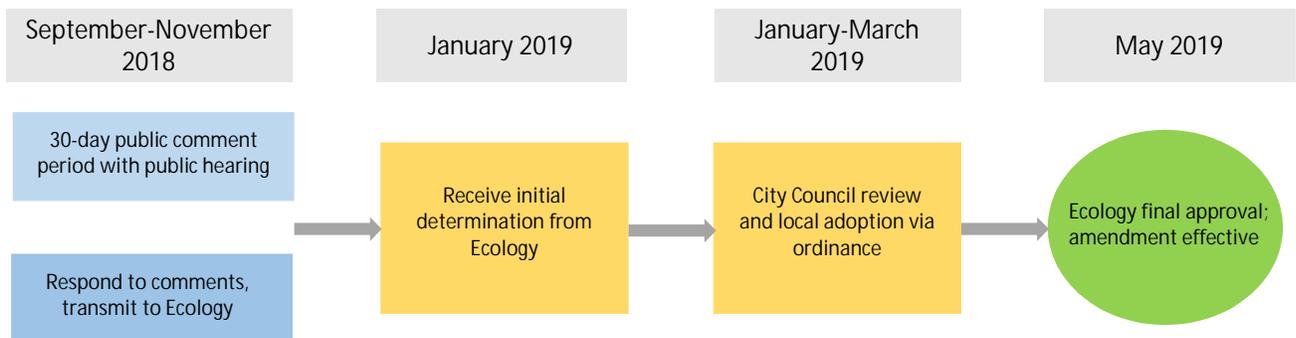
- Intentionally demolished structures. The current SMP differentiates, and has different allowances for, intentionally demolished vs. unintentionally destroyed (by natural catastrophic event) structures. The Planning Commission is recommending several changes to allowances for nonconforming structures. The intent of this change is to better align the regulations with the no net loss standard. All development within the shoreline jurisdiction is required to achieve “no net loss of shoreline ecological function and process.” Existing conditions at the time of the City’s SMP update, including nonconforming structures, are considered the baseline for the no net loss standard. If that is the case, then allowing rebuilding/reconstruction within the existing footprint – whether due to intentional demolition or unintentional destruction – would achieve no net loss. The Planning Commission’s recommended draft deletes this sentence from Section 4.2.1’s goal statement: “Residential structures that do not conform to this program should, over time, as the owner proposes changes to the structure, conform as completely as possible to this program, with due regard to unique site conditions and property rights.” The proposed change underscores that single-family residential development is a preferred shoreline use and clarifies that the SMP is not designed to “phase out” nonconforming single-family residential development over time.
 - Single-family residential primary structures: The existing language is unclear related to whether a nonconforming single-family primary structure can be rebuilt/reconstructed if it is intentionally demolished. The Planning Commission is recommending that a nonconforming single-family primary structure, whether it is intentionally demolished or destroyed by a catastrophic event (e.g.; fire), can be rebuilt/reconstructed in the same footprint and to the same height existing immediately prior to the demolition/destruction. This is a change from how the SMP is currently implemented: A nonconforming single-family primary structure may be demolished up to 50 percent of its square footage and retain any portion of the footprint that is nonconforming. If the structure is demolished over 50 percent of its square footage, the new structure must be fully conforming with present regulations. This current practice is the same as the City’s current requirements for nonconforming structures in the zoning title [See BIMC 18.30.030.C: “If a building is harmed or destroyed by more than 50 percent of its square footage, the building must be reconstructed in compliance with the requirements for the zone in which it is located.”]. The proposed change would create nonconforming shoreline regulations that are more permissive than nonconforming zoning regulations.
 - Single-family residential accessory structures: The existing language reads: “If an existing residential accessory structure is damaged, destroyed or intentionally demolished, the reconstruction shall be in conformance with all standards of the Program” – which means it does not matter if the structure is intentionally demolished or unintentionally destroyed. If, for example, you want to replace an existing boathouse that exceeds the maximum size requirement, you could a) replace up to 50 percent of the square footage and maintain the existing size or b) replace only up to the maximum size requirement, resulting in a smaller boathouse. The Planning Commission is recommending that a nonconforming accessory structure, whether it is intentionally demolished or destroyed by a catastrophic event, can be rebuilt/reconstructed in the same footprint and to the same height existing immediately prior to the demolition/destruction. This is similar to the City’s current requirements for nonconforming structures other than buildings in the zoning title [See BIMC

18.30.030.D: “Any structure other than a building that is damaged or removed to an extent that exceeds 50 percent of its square footage may be replaced or reconstructed in substantially the same location and of substantially the same design as the pre-damaged or pre-removed structure.”].

- Single-family residential essential accessory structures: The existing language allows for replacement of single-family residential essential accessory structures in the same footprint whether intentionally demolished or destroyed by a catastrophic event. Single-family residential essential accessory structures include decks attached to houses, garages, carports, wellhouses, and septic systems. The Planning Commission is recommending deleting this term.
- Residential and commercial aquatic structures: The term “aquatic structure” is vague and undefined and is proposed to be changed to overwater structure. The existing language allows for nonconforming docks, piers, and buoys to be replaced in the same footprint and to be replaced/reoriented through a shoreline conditional use permit if the new structure is more consistent with SMP provisions. Other overwater structures (e.g., covered moorage) may be replaced up to 50 percent of the footprint. The recommended change is to allow docks, piers, floats, and buoys to be replaced or reoriented, if more consistent with SMP provisions, without a shoreline conditional use permit and for other overwater structures to be replaced only if the replacement is considered repair pursuant to WAC 173-27-040(2)(b).
- Multifamily primary structures: No changes proposed; language clarification only.
- Commercial and industrial structures: The existing language allows for reconstruction after intentional demolition only in conformance with all provisions of the SMP; reconstruction after unintentional destruction may be within the same footprint. The Planning Commission recommends commercial and industrial structures demolished or destroyed by any means may be reconstructed only in conformance with the standards of the SMP; except, nonconforming commercial structures utilized wholly for water-oriented uses may be reconstructed to the same footprint.
- Public facilities and transportation: No changes proposed; language clarification only.
- Expansion of single-family primary structures. Currently, single-family primary structures are the only nonconforming structures allowed to be expanded. This is not proposed to be changed. The existing language allows for expansion of nonconforming single-family primary structures under certain provisions, including “only one such expansion may occur within the lifetime of the development” and a total limit on the amount of expansion allowed (the allowed building area for Point Monroe or encumbered lots or 25 percent of the existing building footprint). The Planning Commission’s recommendation does not include a total limit on the expansion allowed; rather, any amount of expansion would be allowed if the no net loss standard was demonstrated through use of either the Single-Family Residence Shoreline Mitigation Manual or a site-specific impact analysis. New criteria for allowing the removal of significant trees to accommodate expansion are also proposed (the existing language does not generally allow significant tree removal).

V. Next Steps

The City is developing this amendment with the Department of Ecology (Ecology) under the optional joint review process for amending shoreline master programs, which combines the local and state public comment periods. The 30-day joint public comment period runs from September 10 through October 11, 2018. After the close of the public comment period, the City forwards the amendment to Ecology with a response to any comments received during the public process, and any changes made based on those comments. Ecology makes an initial determination of consistency with the SMA and SMP guidelines. Once receiving the initial determination from Ecology, staff would present the draft amendment to City Council for review and local adoption. The locally adopted amendment would then go back to Ecology for final approval. Final approval is anticipated in spring 2019.



READER'S GUIDE

**PROPOSED AMENDMENTS ARE SHOWN IN RED
~~STRIKETHROUGH/UNDERLINE~~ TEXT.**

THE MAJORITY OF CHANGES ARE LOCATED IN:

- **SECTION 4.1.5, CRITICAL AREAS – PAGES 108-167**
- **SECTION 4.2.1, NONCONFORMING USES, NONCONFORMING STRUCTURES, AND NONCONFORMING LOTS – PAGES 178-192**
- **SECTION 8.0, DEFINITIONS – PAGES 290-337**

OTHER MINOR CHANGES ARE LOCATED THROUGHOUT THE DOCUMENT TO CREATE CONSISTENCY WITH THE CHANGES MADE IN THE ABOVE SECTIONS (SECTION TITLES, INTERNAL REFERENCES, ETC.)

OTHER SPECIFIC CHANGES RELATED TO APPLICABILITY AND CONFLICT ARE LOCATED ON PAGE 18 AND 38.

City of Bainbridge Island Shoreline Master Program

The Bainbridge Island Shoreline Master Program was prepared under the guidance of citizen Shoreline Work Groups who met regularly with the City and the project facilitator during Master Program development. The City would like to thank the citizen work groups; Bainbridge Island Planning Commission; Bainbridge Island City Council; Katharine Cook, Planning Director; Libby Hudson, Long Range Planning Manager; Ryan Ericson, Associate Planner; Theresa Rice, Department Secretary; and all other citizen and group participants for their assistance in the completion of this project. Original art was prepared by Steve Kennel, who retains all copyrights to that work. Front cover by John Owen.

Shoreline New and Existing Development Work Group

| | | |
|---------------|-----------------|--------------|
| John Anderson | Mark Dawson* | Greg Hepp |
| Andy Mueller* | Charles Schmid* | Ken Sethney* |
| Al Solonsky | | |

Shoreline Setback and Vegetation Conservation Work Group

| | | |
|----------------|-----------------|---------------|
| Kathleen Dwyer | Jeanne Huber | Lisa Macchio* |
| J. Mack Pearl* | Alice Tawresey* | Gary Tripp |
| Elise Wright | | |

Shoreline Modification Work Group

| | | |
|----------------|------------------|-----------------|
| John Barutt* | John Bomben* | Wayne Daley* |
| Stephen Ekholm | Marcia Lagerloef | David McCaughey |
| Eric Rehm | Bruce Taft | |

*Also Served on the Task Force

Planning Commission

| | | |
|-----------------------|----------------------------|---------------|
| Michael Lewars, Chair | Martin Minkoff, Vice-Chair | Martha Droge |
| Don Fisher | Maradel K. Gale | J. Mack Pearl |
| Michael Wangen | | |

City Council

| | | |
|------------|---------------|-----------------|
| Ann Blair | Sarah Blossom | Steve Bonkowski |
| Wayne Roth | Val Tollefson | Roger Townsend |
| David Ward | | |

Questions regarding this Master Program should be directed to:

City of Bainbridge Island
280 Madison Avenue North, Bainbridge Island, WA 98110
(206) 842-2552

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1.0 Introduction

1.1 Shoreline Master Program Introduction

This Shoreline Master Program (SMP) establishes regulations, enforcement procedures and policies for protection and development of Bainbridge Island’s shoreline areas. The regulations in the SMP state specific legal requirements which future development must follow. The regulations in the SMP are part of the City’s development regulations. The policies in the SMP state the underlying objectives the regulations are intended to accomplish. The policies are a component of the City’s Comprehensive Plan and guide the interpretation and enforcement of the Shoreline Master Program’s regulations. The policies are not regulations in themselves and, therefore, do not impose requirements beyond those set forth in the regulations.

1.1.1 Purpose and Intent

The Shoreline Master Program is intended to implement the Shoreline Management Act of 1971 (Chapter 90.58 Revised Code of Washington) by:

- Planning for and guiding the orderly development of the shoreline in a positive, effective, and equitable manner, protecting and restoring shoreline resources, and helping to assure public access to the shoreline;
- Promoting the health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for use and development of Bainbridge Island’s shorelines;
- Ensuring, at minimum, no net loss of shoreline ecological functions and ecosystem-wide processes;
- Planning for the restoration of shorelines that have been impaired or degraded in the past and in a manner that educates the community in the use and protection of its shorelines;
- Adhering to and fostering the policies of the Act contained in RCW 90.58.020 for shorelines of the state; and
- Improving the water quality of the Puget Sound.

1.2 Requirements of the Shoreline Management Act

In June 1971, the Washington State Legislature approved a comprehensive regulatory program for shorelines of the state with the adoption of the Shoreline Management Act of 1971 (“SMA” or “Act”). The Act carried with it provisions for a vote by the people and in November 1972, the people of the State of Washington enacted the Shoreline Management Act (Chapter 90.58 RCW). The Act’s paramount objectives are to protect and restore the valuable natural resources that shoreline represent, and to plan for and foster all “reasonable and appropriate uses”, including

single-family development, that are dependent upon a waterfront location or that offer the opportunities for the public to enjoy the state’s shoreline. With this clear mandate, the Shoreline Management Act establishes a planning and regulatory program, initiated at the local level under state guidelines.

1.2.1 Shoreline Management Act Administration

Administration of the Act is a cooperative effort balancing local and statewide interest in the management and development of shoreline areas by requiring local government to plan (via the SMP) and regulate (via permits) shoreline development. Local government actions are monitored by the Washington State Department of Ecology (Ecology), which approves new or amended SMPs, reviews substantial development permits, and approves shoreline Conditional Use permits and Variances. The SMP is essentially a shoreline comprehensive plan with distinct environmental orientation applicable to shoreline areas and customized to local circumstances. Collectively, the local master programs comprise the State SMP. By law, the City is responsible for the following:

1. Preparation of a SMP in accordance with the policies and requirements of the Act and the State Master Program Approval/Amendment Procedures and Master Program Guidelines (the “Guidelines” or “Shoreline Master Program Guidelines”; Chapter 173-26 WAC). The purpose of a SMP is to protect shoreline resources, manage the uses and activities on local shorelines, and assure continued public use of waters of the state.
2. The Act specifies that local SMPs include goals and policy statements for each of the required elements and take into account economic development, public access, circulation and transportation, and recreation. Local government is further encouraged to identify any other elements that are deemed appropriate and necessary to implement the intent of the Act, and to develop goals and policies for those additional elements.
3. Master program regulations are developed and adopted by local government to implement the goals and policies for each of the elements. These regulations address various types of shoreline development, including agriculture, aquaculture, forest management, commercial development, marinas, mining, outdoor advertising and signs, residential development, utilities, ports and water-related industries, bulkheads, breakwaters, jetties and groins, landfills, solid waste disposal.
4. Administration of a shoreline permit system to further the goals and policies of both the Act and the local SMP for proposed substantial development within two hundred (200) feet of the ordinary high water mark (OHWM) of designated water bodies. [Local government has the option to adopt the administrative process as part of the SMP or as a reference document not considered part of the SMP. This allows local government to make changes without the need of a SMP amendment. See WAC 173-26-191(2)(a)(iii)(C).]

5. Development of an inventory of natural characteristics and land use patterns along those designated water bodies. Local governments are required to prepare a detailed shoreline inventory that provides the foundation for development of a system that classifies the shoreline into distinct shoreline “environments” These environments, or designations, provide the framework for implementing shoreline policies and regulatory measures.
6. Local governments have the primary responsibility for initiating the planning program and administering the regulatory requirements. The City of Bainbridge Island SMP must be consistent with the policies and requirements of the Act and the Guidelines. The role of the Department of Ecology is to provide support and review of the SMP and subsequent shoreline development permits and approvals and ensure compliance with the policies and provisions of the Act.

1.2.2 Scope of Shoreline Management Act

The Act covers all shorelines of the state, including “shorelines” and “shorelines of state-wide significance.” Figure 1-1 illustrates shoreline jurisdiction on coastal shorelines.

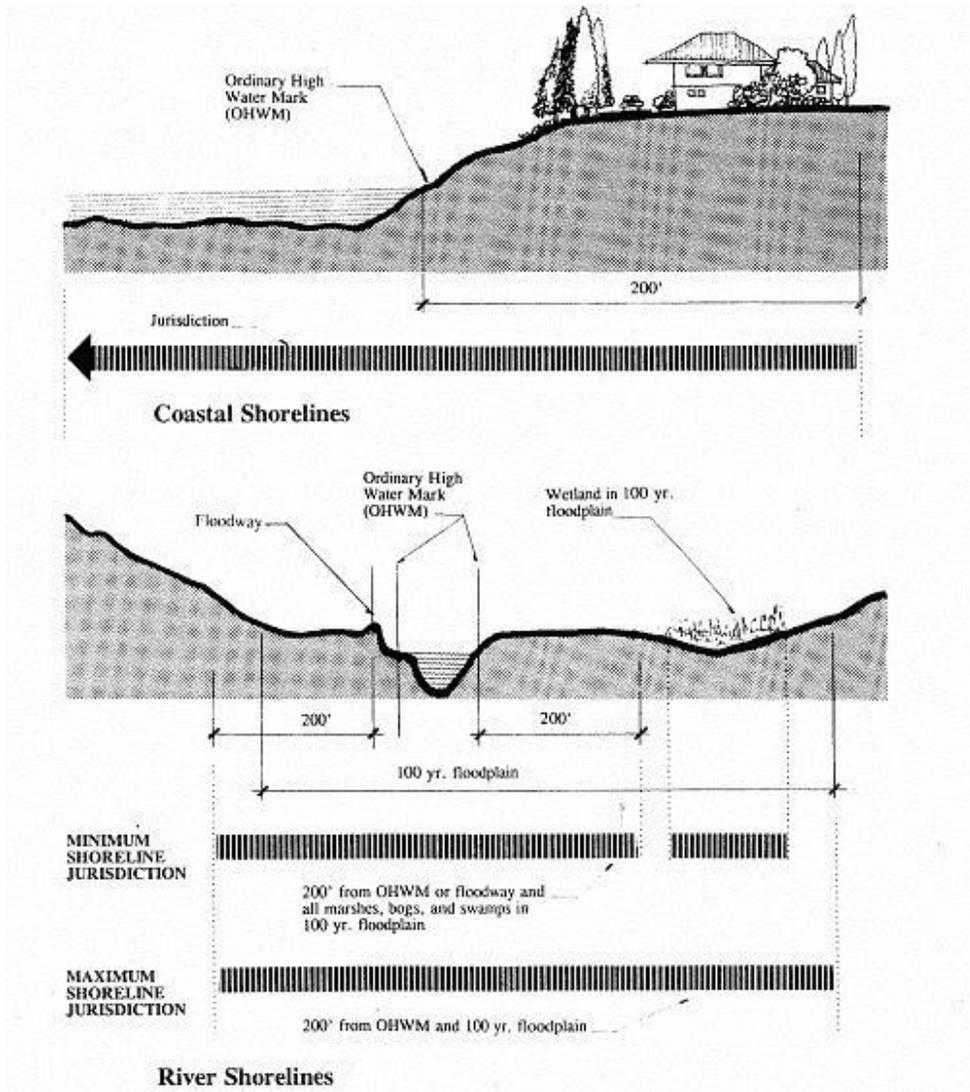


Figure 1-1 Shoreline Jurisdiction

Provisions of the Act apply to the following geographical shoreline areas:

1. All marine waters of the state, together with the lands underlying them;
2. Segments of streams and rivers where the mean annual flow is more than 20 cubic feet per second (cfs);
3. Lakes and reservoirs 20 acres and greater in area;
4. Shorelands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous flood plain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters; and
5. Shorelines of state-wide significance as defined in RCW 90.58.030 or its successor. This includes those areas of Puget Sound lying seaward from the line of extreme low tide.

1.2.3 Development of the City's Shoreline Master Program

The City of Bainbridge Island adopted a SMP in 1996 after annexation of the entire Island occurred in March 1991. Prior to annexation, Bainbridge Island's shorelines were managed under the Kitsap County SMP and the City of Winslow SMP. The goals and policies in the SMP are an element of the City's Comprehensive Plan. All other portions of the SMP, including the use of regulations, are part of the City's development regulations.

The "precautionary principle" was employed as guidance in updating the policies and regulations of this SMP. The "precautionary principle" is cited in the State Shoreline Guidelines under WAC 173-26-201(3)(g) and states, in part that "as a general rule, the less known about existing resources, the more protective shoreline master program provisions should be to avoid unanticipated impacts to shoreline resources."

1.2.4 Public Involvement

Public participation strategies were used in developing the SMP adopted in 1996, and updating the SMP in 2012.

For the 1996 SMP, the City convened a citizen committee that worked from 1991-1993 to develop the first SMP for the City of Bainbridge Island. In addition, approximately 45 citizen volunteers participated in a shoreline survey. The City used a variety of tools for public outreach, and conducted several public meetings, special topic meetings, and public hearings.

In updating this SMP, the City first developed a public participation plan with the community in March 2010. The public participation plan was accepted by the City Council in May, 2010, and the City used the plan as a guide for public involvement and notification throughout the update process. An SMP Ad Hoc Committee composed of two members from the City Council and two members from the Planning Commission also helped guide the public participation process.

The public participation plan developed with the community identified the following key challenges and opportunities:

- Build Common Understanding
- Clearly Address the Use of Science
- Engage the Community
- Allow Respectful Dialog
- Sustain Community Involvement
- Formed Ad Hoc Committee

To meet these challenges, the City developed the following outreach components:

- Set up the SMP Update web page
- Identified stakeholders in the SMP Update process
- Created community outreach list
- Developed a Shoreline Education series to inform the community and decision makers about the natural resource processes and the legal requirements of updating the SMP.

At the Shoreline Education series, experts in the field presented information related to the SMP Update and Bainbridge Island. At the end of each presentation, there was an open discussion with the presenter related to issues of the SMP Update. Each of these educational events was advertised and filmed, and the video was made available on the City’s SMP Update webpage. The education series included the following topics:

- June 3, 2010, Event #1 Ecology’s Role in the SMP Update with Department of Ecology representatives Geoff Tallent, Regional Manager, and Barbara Nightingale, the City’s Ecology Project Officer and primary contact;
- June 17, 2010, Event #2, Shoreline Processes with Hugh Shipman, coastal geologist with the Dept. of Ecology’s Shorelands and Environmental Assistance program and Jeff Adams, Marine Water Quality Specialist with Washington Sea Grant;
- June 22, 2010, Event #3, Property Rights/Listening Session with Dawn Findlay Reitan, Interim City Attorney from the firm of Inslee Best;
- July 8, 2010, Event #4, Coastal Bluffs and Beaches with Jim Johannesen, principal scientist at Coastal Geological Services; and
- July 27, 2010, Event #5, Nearshore Assessment with Ron Thom, who leads the Coastal Assessment and Restoration group at Battelle’s Marine Sciences Laboratory.

Citizen Committees

The City solicited citizen volunteers and formed topic-based workgroups to assist in drafting revisions to SMP policies and regulations that reflected the requirements of the State SMP Guidelines and community values. Four community organizations (Bainbridge Shoreline Property Owners, Bainbridge Concerned Citizens, Association for Bainbridge Communities, and

Bainbridge Island People for Puget Sound) self-selected members to represent their organization on the SMP Workgroups. The remaining volunteers were selected by the SMP Ad Hoc Committee. The three topic-based workgroups focused on major issues of the program. A fourth committee, the SMP Task Force, was formed from members selected from each of the three topic-based workgroups. The committees drafted the revisions between September 2010 and August 2011, over the course of approximately 45 public meetings. The citizen committee's recommendations were made available on the City's website for public review and forwarded to the Planning Commission in July 2011. Public comment was accepted throughout the process, and comments were posted on the City's website.

From July 2011 through March 2012, the Planning Commission reviewed the recommendations and made amendments. Public comment opportunity was provided at each of the Planning Commission's seventeen study sessions. A public hearing on the draft amendments was held on March 29, 2012. The Commission considered public comment and approved the draft on April 12, 2012, and forwarded their recommendation to the City Council for consideration.

The City Council considered the Planning Commission recommendations conducting eleven (11) study sessions from May 2012 to April 2013, and holding a public hearing on May 8, 2013. The Council approved the amendments on May 15, 2013 and forwarded the program to the Department for review on June 7, 2013. After the City held a final public hearing on the draft on July 14, 2014, the Department of Ecology approved the amended program on July 16, 2014.

1.3 Bainbridge Island's Shoreline Master Program (SMP)

1.3.1 Bainbridge Island's Shorelines

Bainbridge Island has approximately 53 miles of waterfront. (See Figure 1-2 Map of Bainbridge Island.) It has seven harbors or bays, each having a long and interesting history and a wide variety of uses. Eagle Harbor has the most activity, including a ferry landing, boatyard repair, a boatyard, numerous marinas and restaurants, a waterfront park, a Superfund site, condominiums, detached homes, and a live-aboard community. Most of the Bainbridge Island's shorelines have been developed with single-family residences, from small summer cabins to large mansions. Their locations range from below ordinary high water to high water cliffs nearly 200 feet above the water. At the north end of the island is a large sand spit called Point Monroe, while at the south end is Restoration Point, composed of raised bedrock located on the Seattle fault.

Bainbridge Island's shorelines exhibit many uses and geologic characteristics. The shoreline is home for about twenty percent of the island residents, as well as numerous species of fish and wildlife. Bald eagles, herons, seals, otters, and numerous waterfowl depend on the shoreline. There are also salmon streams and bays necessary for fish, shellfish, clams, and vegetation to survive. At the south end of the island is an aquaculture farm for salmon. In short, Bainbridge Island's shorelines support a wide variety of life.

Located on the eastern border of Kitsap County, Bainbridge Island is connected to the rest of Kitsap County by one bridge and to Seattle (King County) by a 35-minute ferry ride. Because of its proximity to Seattle, the island has close cultural and economic ties to Seattle. Approximately 23,000 people currently live on Bainbridge Island. The population increased from 15,846 in 1990 to 23,090 in 2012. Until 2008 with the national economic decline, the Island grew at a fairly steady rate of approximately 300 people each year. This increased growth, reflected in higher waterfront land values and taxes, along with a growing concern for the environment, motivated citizen participation in the update of the SMP. The program must strike a balance between imposing regulatory powers for the benefit of the community at large and the rights of the individual property holder. Fortunately, the Act and the public trust doctrine provide the guidance to create a program which recognizes both of these values.

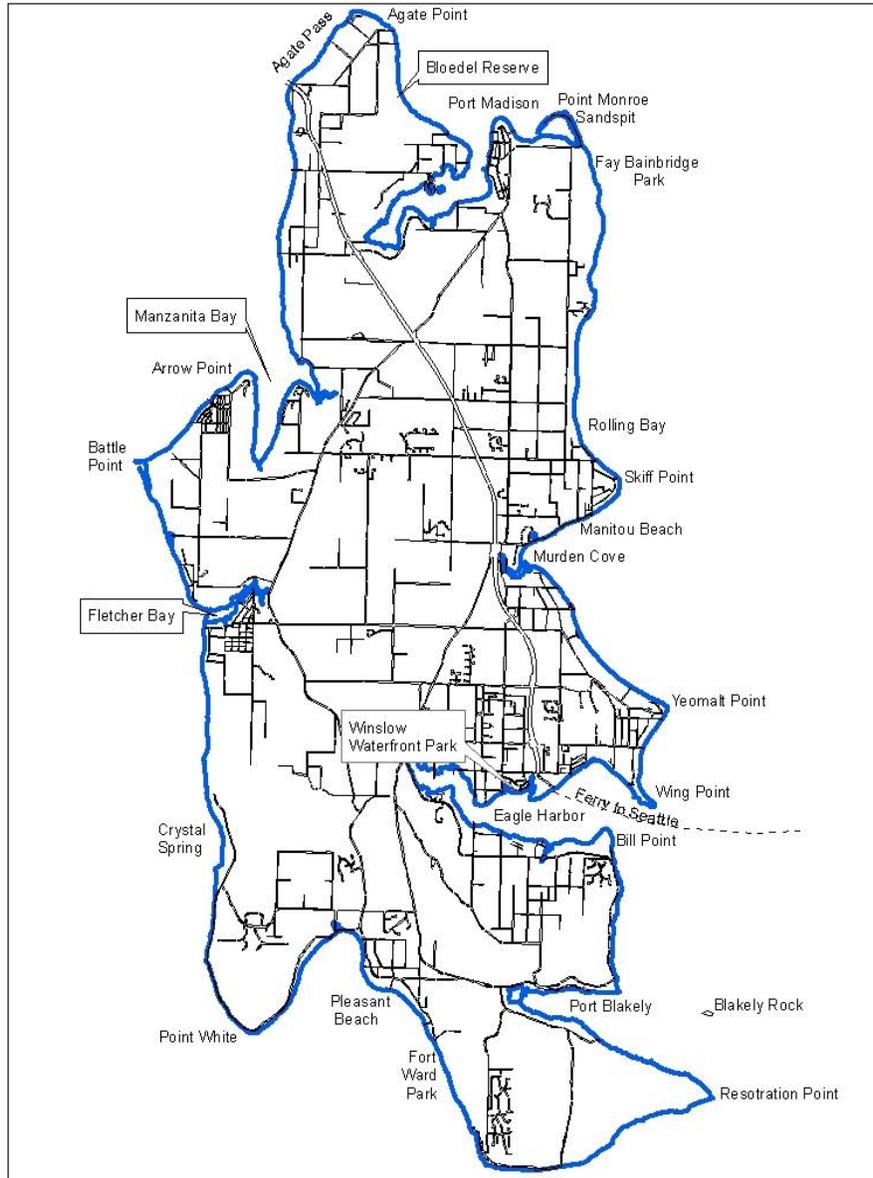


Figure 1-2 Map of Bainbridge Island

1.3.2 Title

This document shall be known as the Bainbridge Island Shoreline Master Program (“the Shoreline Master Program,” “Master Program,” “the Program”, or the “SMP”).

1.3.3 Adoption Authority

This Bainbridge Island Shoreline Master Program is adopted under the authority granted by Chapter 90.58 RCW and Chapter 173-26 WAC.

1.3.4 Relationship to Other Plans and Regulations

The Shoreline Master Program regulations are used as an overlay to other City policies and regulations for properties within shoreline jurisdiction. The following provisions apply to this program in relationship to other plans and regulations:

1. In addition to compliance with the provisions of the Shoreline Management Act of 1971 (also called “the Act”; RCW 90.58) and the State Master Program Approval/Amendment Procedures and Master Program Shoreline Guidelines (the “Guidelines” or “Shoreline Master Program Guidelines”; WAC 173-26);, this Shoreline Master Program must be consistent with local plans and policy documents, specifically, the City’s Comprehensive Plan and the City’s critical areas regulations. This Shoreline Master Program must be consistent with the regulations developed by the City to implement its plans, such as the zoning code and subdivision code, as well as regulations relating to building construction and safety.
2. Uses and developments regulated by this Program may also be subject to other provisions of the Bainbridge Island Municipal Code, the City of Bainbridge Island Comprehensive Plan, the Washington State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC), Chapter 173-27 WAC Shoreline Management Permit and Enforcement Procedures, and other local, state and federal laws.
3. Project proponents are responsible for complying with all applicable laws prior to commencing any use, development or activity.
4. Where this Program makes reference to any RCW, WAC, or other state or federal law or regulation the most recent amendment or current edition shall apply.
5. In the event of a conflict between the provisions of this program and the laws, regulations, codes or rules of any other authority having jurisdiction within the City, the regulations that provide more protection to the shoreline area shall apply, except when constrained by federal or state law, or where specifically provided otherwise in this Program.
6. Other activities that could occur along the shoreline (starting bonfires, disposing or spilling/releasing of regulated or hazardous waste products, use of pesticides, activities within wetlands) may require other permits, review, or approval not identified here.

1.3.5 Applicability of Bainbridge Island Shoreline Master Program

1. The Bainbridge Island Shoreline Master programs applies to 200 feet landward of ordinary high water mark and all marine waters out to the midline of Puget Sound, Port Madison, Agate Pass, Port Orchard and Rich Passage. The SMP does not apply to freshwater lakes or streams on Bainbridge Island.

2. The provisions of ~~the~~ this Program apply to both existing and new development, uses, lots, and activities as follows: and are not retroactive:

a. Development, uses, lots, and activities lawfully occurring, established or constructed prior to the effective date of the initial adoption of the this Program (November 26, 1996), or amendments thereto, are not required to meet this Program’s requirements, unless **new development or** changes to a development, use, lot or structure that would require review under this Program are proposed.

b. All existing legally constructed single-family residences and accessory structures, including lawns, landscaping and recreation areas, which do not meet the ~~adopted~~ standards of this ~~Shoreline Master~~ Program are allowed to continue, and are allowed to ~~may~~ be maintained, repaired, and remodeled or replaced. ~~if destroyed or damaged by natural causes as provided in Section 4.2.1 Nonconforming Uses, Nonconforming Lots, and Existing Development.~~

~~c. Residences may be expanded, provided the expansion meets the provisions of this Program, including addressing environmental impacts and meeting the standard for no net loss of ecological functions and ecosystem wide processes as provided in Section 4.1.2, Environmental Impacts. All proposed uses and development occurring within shoreline jurisdiction must conform to be consistent with Chapter 90.58 RCW, the Shoreline Management Act and this ~~Shoreline Master~~ Program.~~

~~d. All uUses and activities that do, even those not meeting the definition of development, are may be subject to the provisions and ~~development~~ regulations of this ~~Shoreline Master~~ Program, even though a permit may not be required.~~

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

4. Developments exempt from a Substantial Development Permit, which are outlined in BIMC Section 2.16.165, shall require a Letter of Exemption. A project that qualifies as “exempt development” may also require a Shoreline Conditional Use Permit, and/or a Shoreline Variance.

5. This Master Program shall apply to every individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other entity which develops, owns, leases or administers lands, wetlands, or waters that fall under the jurisdiction of the Act.
6. Applicability of this Master Program to federal lands and agencies shall be consistent with WAC 173-27-060.

1.3.6 Program provisions

1. Exempt developments shall not be undertaken within the jurisdiction of the Act and this Master Program, unless a Letter of Exemption has been obtained documenting that the development is consistent with the policies and procedures of the Act, all applicable state regulations and this Master Program.
2. The request for a Letter of Exemption shall be in writing, on forms required by the Administrator, and include the information required by the Administrator.
3. Approved shoreline restoration projects that cause a landward shift in the ordinary high water mark may be relieved from the standards of this Program pursuant to RCW 90.58.580.
4. The “policies” in this Master Program provide broad guidance and direction and will be used by the City in applying the “regulations.”

1.3.7 Bainbridge Island Shoreline Master Program Administrative Procedures

As described in the adopted Ordinance 2014-04, with the exception of specific enforcement procedures, the general administrative sections of Shoreline Master Program as listed below are included in Title 2 of the Bainbridge Island Municipal Code. The use of separate local administrative and enforcement procedures is consistent with the 2003 Washington State Shoreline Master Program Guidelines, Administrative provisions [WAC 173-26-191(2)(a)(iii)(C)]:

Local governments may include administrative, enforcement, and permit review procedures in the master program or the procedures may be defined by a local government ordinance separate from the master program. In either case, these procedures shall conform to the Shoreline Management Act, specifically RCW 90.58.140, 90.58.143, 90.58.210 and 90.58.220 and to Chapter 173-27 WAC.

This allows the City to revise local administrative procedures (fees, application meetings, authority of Administrator, etc.) without another formal SMP amendment process. These chapters must still be consistent and remain consistent with the related provisions in the Shoreline Management Act and state shoreline rules (WAC’s). In the event of a conflict, the state RCW or WAC, as amended, will prevail over the local ordinance.

The following administrative sections are part of the Bainbridge Island Municipal Code, BIMC 1.26, Code Enforcement, and BIMC 2.16.165, Shoreline Master Program Administration:

1. Permit or Exemption Required- Before Undertaking Development or Activity
2. Applications
3. Statement of Exemptions from Shoreline Substantial Development Permit
4. Shoreline Substantial Development Permit
5. Shoreline Variance
6. Shoreline Conditional Use Permits
7. Shoreline Application Appeals
8. Enforcement

1.4 Restoration Planning

To achieve island-wide improvements in ecological functions and ecosystem-wide processes as required by WAC 173-26-201(2)(f) and meet the no net loss standard of WAC 173-26-201(2)(c), the City developed a Restoration Plan that guides improvements of degraded shoreline areas over time by restoring shoreline ecological functions and processes over time. The Restoration Plan is linked to the goals and policies of Section 4.1.8, Shoreline Restoration and Enhancement, and is intended to be accomplished through voluntary and incentive-based public and private programs that restore and enhance shoreline areas identified and prioritized for improvement. The Restoration Plan can be found on the City's web page: www.ci.bainbridge-isl.wa.us.

The Restoration Plan provides the following information for shoreline improvements:

1. Identification of degraded areas and opportunities for restoration.
2. Identification of development that is adversely impacting shorelines.
3. Opportunities for protection and conservation.
4. Identification of programmatic restoration strategies.
5. A summary of ongoing and proposed restoration projects.
6. A summary of completed restoration projects.

1.5 Master Goal

The City's shorelines are among the most valuable and fragile of our natural resources and their use, protection, restoration, and preservation is of public interest to all residents of the City. The Island shorelines provide for a significant part of our way of life as a place of residence, recreational enjoyment, and occupation. It is the intent of this program to manage the shorelines of Bainbridge Island consistent with the requirements of the Shoreline Management Act, the Shoreline Master Program Guidelines, and the Growth Management Act, giving preference to

water-dependent and water-related uses, and to encourage all reasonable and appropriate development and other activities to occur in a manner which will promote and enhance the public interest and protect environmental resources. An over-arching goal of this master program is to ensure that future use and development of the City's shoreline maintain a balance between competing uses, results in no net loss of shoreline ecological functions, and achieves a net ecosystem improvement over time.

2.0 Shoreline Inventory and Characterization

2.1 Summary

To characterize the Island's 53 miles of shoreline, the City initiated a series of studies to update the Shoreline Master Program with the most current science. A shoreline structure inventory and two shoreline characterization reports were completed. The primary inventory and characterization data is found in the *Nearshore Habitat Characterization and Assessment, Management Strategy Prioritization, and Monitoring Recommendations* produced by Battelle Laboratories for the City of Bainbridge Island in 2004 (Battelle 2004). The assessment uses a conceptual model to determine potential level of impact from alterations to the nearshore environment. The conceptual model identifies nine controlling factors which represent physical, biological, and chemical attributes of the nearshore marine habitats. The integrated spread-sheet model and geographical information system developed by Battelle, quantifies existing anthropogenic impacts by converting qualitative factor values to standardized scores. The model's scoring approach uses a 5-point scale to assign qualitative categories to potential impacts for the nine controlling factors identified in the nearshore conceptual model.

The model divides the shoreline into 201 reaches, which are then grouped into nine (9) management units. The controlling factor score for each represents the predicted impacts affecting nearshore processes. To allow island-wide comparison across different types of shorelines, a normalized index was calculated called the cumulative reach index. Controlling factor scores are best used to prioritize conservation and restoration efforts in the nearshore as indicators for identifying the probability for successful conservation and restoration strategies (Battelle 2004).

The model uses ecological information collected by Washington Department of Natural Resources (WDNR) for a regional shoreline inventory. The data is available through the Department of Ecology's Coastal Atlas. Additional datasets from the City's shoreline structural inventory and other sources are listed in Table 3 in the Battelle document.

An Island-wide inventory of current geomorphic features and an accompanying analysis of historic conditions were produced for the City in 2010 by Coastal Geological Services. This study maps coastal geomorphic shore types (such as "feeder bluffs") and prioritizes restoration and conservation sites. The study includes current and historic mapping of coastal processes and process-impaired areas. Report conclusions integrate a qualitative, coastal processes-based prioritization with an objective of restoring and preserving coastal processes that sustain and maintain critical habitats.

These documents can be accessed from the City's website (www.bainbridgewa.gov).

3.0 Shoreline Designation Policies and Regulations

3.1 General

The Master Program establishes seven shoreline designations based on a combination of existing shoreline features and conditions and types of existing and potential future use. When applied to geographic areas of the island, these designations form an overlay for addressing shoreline considerations to the City's land use regulations. Uses which are consistent with a particular designation are encouraged, while uses which are in conflict are discouraged or prohibited. A conditional use process is available when further review is needed to determine whether the use is compatible with the particular designation at the proposed site. Table 4.1, Shoreline Use and Modification Table, provides a summary of uses in relation to the various shoreline designations. Legally existing uses and activities which are incompatible with their shoreline designation are subject to provisions for shoreline uses and structures which do not conform to the SMP. (See Section 4.2.1, Nonconforming Uses, NonConforming Structures, and Nonconforming Lots). ~~Non-Conforming Lots, and Existing Development~~)

Shoreline Designation Map

The official Bainbridge Island Shoreline Designation Map (Appendix A) shall be in the custody of the Department of Planning and Community Development and shall be available for public inspection during normal business hours.

The purpose of the map is to depict those areas of Bainbridge Island within the jurisdiction of the Master Program and the various shoreline designations.

Designation Boundaries

Where the shoreline jurisdiction or designation is uncertain, the official shoreline designation map shall be used to determine boundary location. If the conflict cannot be resolved using the shoreline designation map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, alleys or other roadways shall be construed to follow such center lines.
2. Boundaries indicated as approximately following lot, fractional section, or other subdivision lines shall be construed as following such subdivision lines.
3. Boundaries indicated as parallel to or extensions of features identified in subsections 1 and 2 above shall be so construed.
4. When not specifically indicated on the Shoreline Designation Map, distances shall be determined by the scale of the map.
5. If there is no designation on the map, then the Shoreline Residential Conservancy designation applies.

Where existing physical or cultural features are at variance with those shown on the Shoreline Designation Map and cannot be determined with certainty by applying subsections 1 through 4 above, the Department shall determine the location or existence of such feature utilizing any appropriate criteria contained in the Master Program.

3.2 Upland Designations

3.2.1 Urban

3.2.1.1 Purpose

The purpose of Urban is to provide for high-intensity water-oriented commercial, transportation, industrial, mixed-use, multi-family residential, public access and recreational uses while protecting existing natural resources, ecological functions and ecosystem-wide processes, and restoring ecological functions in areas that have been previously degraded.

3.2.1.2 Designation Criteria

Areas to be designated Urban should not have biophysical limitations to development such as wetlands and estuaries, floodplains, steep slopes, landslide hazard areas, and/or other sensitive areas; and must meet one or more of the following criteria:

1. Shorelines used or designated for high intensity commercial, industrial, recreational use, or for multifamily residential development.
2. Areas where adjacent land use is urban and urban services are available or areas designated for higher intensity use under the comprehensive plan.
3. Shorelines used for water-oriented and port activities.

3.2.1.3 Management Policies

1. Priority should be given to the following uses in order of preference: water-dependent, water-related, and water-enjoyment uses. Uses which derive minimal benefit from a water location should be discouraged or prohibited. Nonwater-oriented uses should be allowed only if the use is otherwise compatible with the purpose of the Urban designation and the setting, does not displace water-dependent uses, and results in no net loss of ecological functions and ecosystem-wide processes.
2. New development applications should demonstrate they will not result in a net loss of shoreline ecological functions and ecosystem-wide processes.
3. Environmental remediation and restoration priorities should be established for the shoreline that comply with relevant state and federal law.

4. Because urban use tends to preclude other shoreline uses, emphasis should be given to directing new development into already developed areas consistent with the Master Program.
5. Full utilization of existing urban areas should be achieved before additional areas are designated Urban.
6. Visual and physical public access should be required and implemented where feasible. Industrial and commercial facilities should be designed to permit pedestrian waterfront activities. Planning for the acquisition of land for permanent public access to the water in the Urban designation should be encouraged and implemented, where feasible.
7. To protect shoreline character and promote compatible development within the Urban designation, aesthetic considerations should be actively promoted by mechanisms such as sign control regulations, appropriate development siting, screening and architectural standards, flexible lot design process, and through the maintenance of Shoreline Buffer and Site Specific Vegetation Management Areas.
8. In order to make maximum use of the available shoreline resource and to accommodate future water-dependent uses, redevelopment and restoration for a net ecosystem improvement of degraded urban shoreline areas should be encouraged.
9. Developments within the Urban designation should be compatible with uses and activities in adjacent designations, including Aquatic and Priority Aquatic.

3.2.2 Shoreline Residential

3.2.2.1 Purpose

The purpose of Shoreline Residential is to provide for residential development and appurtenant structures, appropriate public access and recreational use, which are consistent with the Shoreline Management Act, while protecting existing natural resources, ecological functions and ecosystem-wide process, and restoring ecological functions in previously degraded areas.

3.2.2.2 Designation Criteria

Areas to be designated Shoreline Residential should be presently zoned, platted or developed for residential use, and should meet one or more of the following criteria:

1. Areas having the physical ability to support low to medium density residential uses and associated recreational and public service facilities; and/or
2. Areas which can provide, and have the capabilities to support, the necessary public services, utilities, and access to accommodate low to medium density residential development. Sewage disposal and water supply facilities may be provided on an individual or community basis.

3.2.2.3 Management Policies

1. Development and new uses should assure no net loss of shoreline ecological function by compliance with:
 - a. Minimum frontage width, setbacks, and buffers;
 - b. Lot coverage limitations;
 - c. Shoreline stabilization standards; and
 - d. Protective measures for vegetation conservation, critical areas and water quality.
2. New development should be permitted only in those shoreline areas that are capable of supporting the proposed use in a manner which protects or enhances the shoreline environment, and reflects the character of the surrounding area such as providing open space and maintaining shoreline vegetation buffers.
3. Public access to shorelines should be required for multi-family residences, apartments, and subdivisions. Common access for single-family residential short subdivisions should be encouraged and should be required where feasible.
4. Recreational developments should provide shoreline areas for community or public open space and public access to shorelines.
5. Access, utilities and public services should be available and adequate to serve existing needs and planned future development.
6. Developments within the Shoreline Residential designation should be compatible with uses and activities in adjacent designations, including Aquatic and Priority Aquatic.
7. Restoration of shoreline ecological functions and ecosystem-wide processes should be encouraged through non regulatory programs.

3.2.3 Shoreline Residential Conservancy

3.2.3.1 Purpose

The purpose of Shoreline Residential Conservancy is to accommodate compatible residential uses while protecting, conserving, and restoring shoreline ecological functions and processes of open space, floodplains or other-flood prone areas, and other sensitive lands. It is the further purpose to conserve and manage valuable historic and cultural resources where they exist. Due to the more sensitive characteristics of these areas, a higher level of development standards is warranted.

3.2.3.2 Designation Criteria

Areas to be designated Shoreline Residential Conservancy should include the following criteria:

1. Areas that are appropriate and planned for water-related or water-enjoyment uses that are compatible with maintaining or restoring ecological functions and processes; or
2. Areas that are not generally suitable for commercial/industrial water-dependent uses or more intensive uses due to the potential impacts these uses may have on the existing shoreline characteristics; and one or more of the following criteria:
 - a. Areas subject to severe biophysical limitations such as:
 - i. Sediment sources for littoral cell (Feeder Bluffs).
 - ii. Flood-prone areas.
 - iii. Geo-hydraulic shoreforms (e.g., accretion beaches, barrier beaches, and sand spits).
 - iv. Wetlands and estuaries
 - v. Areas important to the maintenance of surface water level groundwater flow, and water quality.
 - vi. Biodiversity maintenance.
 - b. Areas that retain important ecological functions and processes, even though partially developed.
 - c. Areas with valuable historic or cultural features.

3.2.3.3 Management Policies

1. New residential and other development that preserves the natural character of the area, maintains shoreline vegetation buffers and/or promotes preservation of open space, floodplains or sensitive lands, either directly or over the long-term, should be the principal uses. Development that enhances or results in restoration of ecological functions and ecosystem-wide processes should be encouraged if the use is otherwise compatible with the purpose of the designation, the setting, and with adjacent uses and activities, including aquatic designations.
2. Standards should be established for protecting the sensitive shoreline characteristics in this designation to assure no net loss of shoreline ecological functions and ecosystem-wide process, including measures that provide the following:
 - a. Minimum frontage width;
 - b. Setbacks;
 - c. Shoreline buffers;

- d. Lot coverage limitations;
 - e. Shoreline modification standards; and
 - f. Protective measures for vegetation conservation, critical areas and water quality.
3. Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to navigable waters, water-dependent uses should be given highest priority.
 4. Public access, common access and public recreation objectives should be implemented as required whenever feasible and significant ecological impacts can be mitigated.
 5. High intensity development should be prohibited and commercial uses should be limited to those that are water-oriented, consistent with zoning regulations.
 6. Recreational developments should provide shoreline areas for community or public open space and public access to shorelines.

3.2.4 Island Conservancy

3.2.4.1 Purpose

The purpose of Island Conservancy is to accommodate a variety of private or public recreational uses that might have a higher level of impact than would be allowed in the Natural designation. Uses should incorporate elements compatible with protecting, conserving and restoring ecological functions and ecosystem-wide processes of open space, floodplains or other flood prone areas, and other sensitive lands, and manage valuable historic and cultural resources where they exist.

3.2.4.2 Designation Criteria

Areas to be designated Island Conservancy should include the following criteria:

1. Areas that are in public ownership such as open space or parks or in private ownership which are voluntarily designated and one of the following:
 - a. Areas that are appropriate and planned for recreational or cultural development that is compatible with maintaining or restoring ecological functions and processes; or
 - b. Areas that are suitable for water-oriented recreational or cultural uses, but not generally suitable for intensive uses due to the potential impacts these uses may have on the existing shoreline characteristics.
 - c. Areas of high scenic or recreational value such as shoreline parks including urban parks, active use parks, passive use parks, and those privately held recreation areas that voluntarily agree to the designation.

2. Areas with extensive or unique historic or cultural resources.
3. Areas where intensive development or use would interfere with natural processes and result in significant damage to other resources.

3.2.4.2 Management Policies

1. New recreational uses that preserve the natural character of the area or promote preservation of open space, floodplain or sensitive lands either directly or over the long-term should be the principal uses. Uses that enhance or result in restoration of ecological functions and ecosystem-wide processes should be strongly encouraged if the use is otherwise compatible with the purpose of the designation, the setting, and with adjacent uses and activities, including aquatic environments.
2. When required by this Program or other land use covenants, public access and public recreation objectives should be implemented whenever feasible and when significant ecological impacts can be mitigated.
3. Uses in the “Island Conservancy” should be limited to those which sustain the shoreline area’s physical and biological resources and uses of a nonpermanent nature, except those preferred uses in 3.2.4.2(4) below, that do not substantially degrade ecological functions or natural character of the shoreline area.
4. Water- recreation facilities that do not deplete the resource over time, such as boating facilities, recreational fishing, wildlife viewing trails, and swimming beaches, are preferred uses, provided shoreline resources are conserved over time and significant adverse cumulative impacts to the shoreline are mitigated.
5. Commercial and industrial uses are not permitted except that low intensity, water-oriented commercial uses may be permitted in limited instances where sites possess shoreline conditions and available services to support the development.
6. Construction of new structural shoreline stabilization and flood control works should only be allowed where there is a documented need to protect an existing primary structure or park use (Section 6.2, Shoreline Stabilization) and mitigation is applied, consistent with WAC 173-26-231, Shoreline Modifications. New development should be designed and located to preclude the need for such work.
7. When allowed, new shoreline stabilization, flood control measures, vegetation removal, and other shoreline modifications should be designed and managed consistent with these guidelines to ensure that the natural shoreline functions and ecosystem-wide processes are protected. Such shoreline modification should be consistent with planning provisions for the restoration of shoreline ecological functions and processes.

3.2.5 Natural

3.2.5.1 Purpose

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 Approved by Department of Ecology 07/16/14
Draft Amendment – September 11, 2018 Public Hearing Draft*

The purpose of the Natural designation is to protect those shoreline areas where the majority of natural ecological functions and/or shoreline ecosystem-wide processes are retained, often evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, they include ecologically intact shorelines that are free of structural shoreline modifications, structures, and intensive human uses or have potential for restoration.

3.2.5.2 Designation Criteria

Areas to be designated Natural shall meet the following criteria:

1. Areas that perform irreplaceable shoreline ecological functions or ecosystem-wide process that would be damaged by human activity, including areas that contain largely undisturbed or restored shoreline features or unique natural features, such as wetlands, estuaries, unstable bluffs, coastal dunes, sand spits, and ecologically intact shoreline habitats, and one or more of the following:
 - a. Wildlife Habitats.
 - i. A shoreline area that provides food, water, or cover and protection for any rare, endangered, or diminishing species, or for significant populations of flora or fauna during critical stages of their life cycle.
 - ii. A seasonal area for concentration of native animals, fish, or fowl such as a migration route, breeding site, rearing ground, or spawning site.
 - b. Areas of Scientific and Educational Value.
 - i. Areas considered to best represent basic ecosystems and geologic types that are of particular scientific and educational interest.
 - ii. Areas which best represent undisturbed natural areas.
 - iii. Areas with established histories of scientific research.
 - c. Areas of Scenic and Recreational Value
 - i. Those areas having an outstanding or unique scenic feature in their natural state.
 - ii. Areas having a high value for wilderness experience.
 - iii. Areas which in their natural state have a high value for low intensity recreational use.
 - d. Areas with Restoration Potential.
 - i. Areas which have been degraded, but which have a high potential of being successfully restored to a natural or near natural condition, or are capable of natural regeneration if left undisturbed.

3.2.5.3 Management Policies

1. Any use that would substantially degrade the ecological functions and ecosystem-wide processes or natural character of the shoreline area should not be allowed. The following new uses should not be allowed in the Natural designation:
 - a. Residential uses.
 - b. Agriculture uses.
 - c. Commercial uses.
 - d. Industrial uses.
 - e. Nonwater-oriented recreation.
 - f. Roads, utility corridors, and parking areas that can be located outside of Natural designated shorelines.
2. Limited access should be permitted for scientific, cultural, educational, and passive recreational purposes, provided that no significant, adverse impact on the area will result.
3. Physical alterations, including new development or “significant removal of vegetation”, should only be considered when: a) they serve to protect a significant, unique, or highly valued feature which might otherwise be degraded or destroyed; and b) when alterations would not result in a net loss of shoreline ecological functions and ecosystem-wide processes; and c) alterations would not further degrade other shoreline values; and d) vegetation removal would not reduce the capability of vegetation to perform normal ecological functions and processes.
4. Uses and activities within the Natural designation should be compatible with uses and activities in adjacent, including aquatic designations.
5. A single active use area should be allowed with appropriate compensatory mitigation to accommodate cultural events and passive recreational uses near the log pond at Blakely Harbor Park.

3.3 Aquatic Designations

3.3.1 Aquatic

3.3.1.1 Purpose

The purpose of the Aquatic designation is to protect, restore and manage the sensitive and unique characteristics and resources of the waters of the Puget Sound, tidelands, and submerged intertidal areas located waterward of the ordinary high water mark. The Aquatic designation may allow either multiple water-dependent uses or specific dominant water-

dependent uses. It is intended to promote sustainable use of the natural features and resources of Aquatic areas.

3.3.1.2 Designation Criteria

Aquatic areas include:

1. All marine areas waterward of the OHWM which have not been designated Priority Aquatic.
2. All wetlands associated to the above which have not been designated priority aquatic.

3.3.1.3 Management Policies

1. Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the restoration objectives, and then only when the impacts are mitigated to assure no net loss of ecological functions and ecosystem-wide processes. Compatibility between upland and aquatic uses should be confirmed.
2. New over-water structures are allowed only for water-dependent uses, public access or ecological restoration and such structures must be limited to the minimum size necessary to support the structure's intended use while protecting and conserving aquatic resources.
3. Diverse public access opportunities should be encouraged and developed and should be compatible with the existing shoreline and aquatic uses.
4. Aquaculture practices, should be limited to those activities that can demonstrate that significant impacts to ecological functions, ecosystem-wide processes, and adjacent land uses will not occur. Aquaculture should be encouraged in those tidelands, waters and beds most suitable for such use.
5. Multiple use of over-water facilities or tidelands is preferred over a single industry use. In appropriate areas, fishing and water recreation should be protected from competing uses.
6. All developments and uses on navigable waters, tidelands or bedlands should be located to avoid and designed to minimize interference with navigation.
7. Development and uses on navigable waters, tidelands or bedlands should be located to avoid and designed to minimize impacts to public views.
8. Development and uses on navigable waters, tidelands or bedlands should be designed and located for the safe, unobstructed passage of fish and wildlife, including species whose life cycles are dependent on migration that would be impacted by in-water development.

9. Uses that accommodate deep draft vessels and/or require placement of fill, if allowed, should not occur in areas requiring extensive initial or maintenance dredging or if significant adverse environmental impacts cannot be mitigated.
10. Development of underwater pipelines and cables on tidelands should be discouraged except where adverse environmental impacts can be shown to be less than the impact of upland alternatives. When permitted, such facilities should include adequate provisions to ensure against substantial or irrevocable damage to the environment and no net loss of ecological functions and ecosystem-wide processes.
11. Abandoned and/or neglected structures which cause adverse visual impacts or are a hazard to public health, safety, and welfare should be removed or restored to a useable condition consistent with the provisions of this Program.
12. Restoration or enhancement of aquatic resources and adjacent uplands is encouraged.

3.3.2 Priority Aquatic

3.3.2.1 Purpose

The purpose of the Priority Aquatic designation is to protect, preserve, restore and manage aquatic areas of sensitive and unique ecological value that include those portions of the marine waters of the City that exist in a relatively natural state, free of human influence, or which contain resources, biological diversity, or other features that are particularly sensitive to human activity, or which contain unique, historical, archeological, cultural, or educational features that merit special protection.

3.3.2.2 Designation Criteria

A number of separate criteria are required to define the diverse character of Priority Aquatic types. Tidal lagoons and sensitive portions of tidal inlets will require protection in terms of water salinity and quality, sediment quality and quantity, native vegetation on adjacent shorelines, and remaining areas of native salt-tolerant vegetation. Other types, such as aquatic vegetation, have similar requirements. The Priority Aquatic designation requires additional restrictions than the Aquatic designation on the intensity and type of permitted uses to maintain the integrity of the shoreline environment. Two subcategories of Priority Aquatic will be established in order to recognize the level of development adjacent to the Priority Aquatic and provide an appropriate level protection for the critical habitat. Priority Aquatic shall be designated as follows:

1. Priority Aquatic Category A is more protective and intended to be the default classification.
 - a. Those areas previously designated Aquatic Conservancy are designated Priority Aquatic Category A.

2. Priority Aquatic areas located adjacent to upland areas with a high level of existing development are classified as Priority Aquatic B.

The City shall map the limits of the designations with assistance from state resource agencies and other cooperating agencies. Any aquatic area in which actions have been taken under an approved permit that create, restore, or enhance characteristics of the aquatic area that meet any of these criteria shall be designated Priority Aquatic through an amendment to this program as specified in BIMC Section 2.16.200. Where there is a conflict between the map and criteria, the criteria will prevail provided a report is prepared within three years by a qualified professional verifying that the map is in error. The report will be the responsibility of the party requesting the map change. The City may require a third party review at the applicant's expense. If areas are determined to be appropriate for designation, an amendment to this Program is required to designate Priority Aquatic and shall be processed as specified in Shoreline Master Program Administration, BIMC Section 2.16.200.

3.3.2.3 Type 1: Embayment: Barrier Estuary, Barrier Lagoons, or Closed Lagoon and Marshes

The upland boundary of Type 1 Priority Aquatic shall be the OHWM. There are two barrier lagoons currently identified on the Island; "Point Monroe Lagoon" and "Battle Point Lagoon"; two closed lagoons and marshes "Wing Point Lagoon" and "Tolo Lagoon"; and one barrier estuary "Fletcher Bay".

3.3.2.4 Type2: Salt marshes and mud flats in Open Coastal Inlets

Embayments and related intertidal areas subject to the daily influence of tides where they support salt-tolerant vegetation and/or exposed mudflats. Open coastal inlets areas should be designated Priority Aquatic if they meet either Criterion I or II below. Only those areas designated will be subject to the Priority Aquatic management policies and regulations.

This type of Priority Aquatic designation shall extend from the OHWM to six (6) feet below mean lower low water (MLLW). If the inlet is less than six hundred (600) feet wide, or less than (6) feet deep at the MLLW, the resource should be considered to be a single system encompassing both sides and the channel. In these cases, boundaries should be drawn from the OHWM to a line perpendicular to the average direction of the tidal flow where the criteria are no longer met. Parts of tidal inlets that do not fit either criterion, and do not fit other types of Priority Aquatic designation, shall be designated Aquatic.

Criterion I: The area between the OHWM and MLLW that provides a habitat for at least one quarter (1/4) acre of salt-tolerant vegetation. Vegetated patches may be smaller than one quarter (1/4) acre, but the total vegetated area must be at least one quarter (1/4) acre.

Criterion II: At least one quarter (1/4) acre of exposed flats is exhibited between OHWM and MLLW whose sediments are at least thirty (30) percent muds.

3.3.2.5 Type 3: Marine Vegetation

Areas waterward of the MLLW that support a sustainable community of kelp, or eelgrass and/or other submerged aquatic vegetation in sufficient quantities to provide special value as habitat for marine life.

Consideration for Priority Aquatic designation under Type 3 may be initiated by any interested person, group, or the City. A petition for nomination shall be submitted by an interested person or group. The following information shall be used by the City to determine when an area meets the criteria for Priority Aquatic under Type 3:

1. Delineation of proposed area, including aerial extent and bathymetric contours.
2. Inventory of submerged aquatic vegetation. Use percent coverage for macro algae and shoot density for eelgrass.
3. Further information, as determined by the Administrator, may be required in addition to the above including but not limited to:
 - a. Relationship of proposed area to nearby ecosystems.
 - b. List of species utilizing the proposed area.
 - c. Abundance and diversity of species in the proposed area.

The City shall keep a record and review data annually to determine whether sites are appropriate for nomination under Type 3. If areas are determined to be appropriate for designation, an amendment to this program is required to designate Priority Aquatic and shall be processed as an amendment as specified in the Shoreline Master Program Administration, BIMC Section 2.16.200.

3.3.2.6 Type 4 Other areas

Areas, as designated through the Shoreline Master Program amendment process [BIMC Section 2.16.200], whose existing natural state is relatively free of human influence, or in which resources, biological diversity, or other features are particularly sensitive to human activity, or in which unique ecology, historical, archeological, cultural, or educational features merit special protection. Designation under this type shall be based on a report documenting the presence, function, and distribution of the resources in the area to be designated.

3.3.2.7 Priority Aquatic Category A Management Policies

1. The City should develop a program that identifies critical saltwater habitat appropriate for greater protection under the provisions of the Priority Aquatic designation. The program should include a process to review citizen petitions for Priority Aquatic designation.

2. Uses and activities which would potentially degrade or significantly alter the natural or visual character or ecological functions and ecosystem-wide processes of the shoreline should be severely restricted or prohibited and only allowed if adverse impacts can be mitigated to ensure no net loss of ecological functions and processes.
3. Public use and access should be permitted for scientific, cultural, educational, and recreational purposes if such use is compatible with the purposes of this designation and no significant adverse impact to the biological and visual resources of the areas will result. Motorized vessels should not be allowed.
4. In conjunction with the Island-wide shoreline restoration plan, physical alterations should only be considered when they serve to protect or enhance significant, unique, or highly valued features which might otherwise be degraded or destroyed.
5. Uses and activities adjacent to shorelines designated Priority Aquatic should be compatible with and not compromise the integrity of the Priority Aquatic designation.
6. Protection of shoreline vegetation should be established in all adjacent upland designations to protect the ecological functions, ecosystem-wide processes and characteristics of the Priority Aquatic designation. (See Section 4.1.5, Critical Areas.)
7. A management study of each area should be conducted with appropriate agencies and residents to determine possible refinements to the adopted types, changes in the boundaries of the designated areas, and/or inclusion of additional management strategies.
8. Restoration or enhancement of aquatic resources and adjacent uplands is encouraged.

3.3.2.8 Priority Aquatic Category B Management Policies

1. Implement policy number 1 in Priority Aquatic A management policies (3.3.2.7).
2. Uses and activities which would potentially degrade or significantly alter the natural or visual character or ecological functions and ecosystem-wide processes of the shoreline should be limited and only allowed when adverse impacts can be mitigated to ensure no net loss of ecological functions.
3. Public use and access should be permitted for:
 - a. Scientific, cultural, educational purposes;
 - b. Recreational shellfish harvesting of a de minimis nature;
 - c. When vessels are operated to limit wake and noise impacts; and
 - d. Uses compatible with the purpose of this designation, provided that no significant, adverse impact to the biological and visual resources of on the area will result.
4. In conjunction with the part of an Island-wide shoreline restoration plan, physical alterations should only be considered when they serve to protect or enhance significant, unique, or highly valued features which might otherwise be degraded or destroyed.

5. Protection and enhancement of shoreline buffers should be established in all adjacent upland designation to protect the ecological functions, ecosystem-wide processes and characteristics of the Priority Aquatic designation areas. (See 4.1.5 Critical Areas)
6. Restoration or enhancement of aquatic resources and adjacent uplands is encouraged.

3.4 Island Conservancy, Shoreline Residential and Shoreline Residential Conservancy Designation Strategy

In general, shoreline designations criteria are based on the existing use, characteristics of the shoreline environment, and modified by the expected land use. To ensure consistent application of shoreline residential designation criteria a framework was developed to meet natural resource management strategies recommended by the Environmental Technical Advisory Committee. The committee recommended using a broad stroke approach to manage natural resources in an attempt to avoid a piecemeal development pattern. The following rules apply:

1. For properties zoned single family residential, the default shoreline designation is Shoreline Residential.
2. Properties within the Winslow Master Plan area will be designated Shoreline Residential to accommodate the comprehensive plan policy of focusing new residential development into the plan's service area.
3. If less than ten parcels or 1,000 linear feet exist between Shoreline Residential Conservancy designations, then the properties between the two designations will also be designated Shoreline Residential Conservancy to avoid fragmented management of ecological functions and ecosystem-wide processes.
4. If a property has a conservation easement and is adjacent to either a Shoreline Residential Conservancy or Island Conservancy designation, then the property is designated Shoreline Residential Conservancy.
5. All publicly owned open space or park properties shall be designed Island Conservancy or Natural.
6. All publicly owned saltwater road ends shall be designated Island Conservancy.

4.0 General (Island-wide) Policies and Regulations

Introduction

The following general policies and regulations apply to all designations. These provisions are to be used in conjunction with the more specific shoreline use (referred to as “uses”) and shoreline modification activity (referred to as “activities”) policies and regulations found in Sections 4.0 and 5.0 respectively.

4.0.1 Regulations - General

1. All new shoreline uses and shoreline modification activities, including those that do not require a Shoreline Substantial Development Permit, must conform to all applicable goals, policies, shoreline designations (including the shoreline designation map), and regulations and use tables provided in this Master Program.
2. Shoreline modification activities must be in support of an allowable shoreline use which conforms to the provisions of the Master Program. Except as otherwise noted, all shoreline modification activities not associated with a legally existing or approved shoreline use are prohibited.
3. Shoreline uses, modification activities, and conditions listed as “prohibited” in Table 4-1 shall not be eligible for consideration as a Shoreline Variance or Shoreline Conditional Use Permit.
4. Uses, modification activities, and conditions that are not “prohibited” and not listed in Table 4-1 shall be reviewed through the Shoreline Conditional Use process.
5. The policies listed in the Master Program shall provide broad guidance and direction and shall be used by the Director in interpreting the “regulations.”
6. BIMC Title 18 Zoning or its successor also apply to shoreline parcels.
7. Where provisions of this Master Program or other provision in BIMC conflict, **liberal construction pursuant to RCW 90.58.900 shall apply to give full effect to the objectives and purposes of the Act.** ~~the more restrictive provisions shall apply unless specifically stated otherwise.~~
8. The use table (Table 4-1), shoreline setback table (Table 4-2), and the shoreline buffer table (Table 4-3) provide regulatory use and dimensional provisions for each shoreline designation.
9. An increase in the dimensional height standard (Table 4-2) for essential public facilities shall be reviewed through a Shoreline Conditional Use. Submittal requirements are in Section 4.1.2.9(2).
10. Submittal requirements for all shoreline development permits or shoreline exemptions are in BIMC Title 2 and the Administrative Manual.

EXPLANATION OF TABLE ABBREVIATIONS

- The abbreviations used in the Permitted Use Table have the following meanings:
 - “P” in a cell indicates that the use is permitted by right in that designation. Permitted uses are subject to all other applicable regulations of this Program, including the use-specific standards.
 - “C” in a cell indicates that, in the respective designation, the use is a conditional use that is allowed only if reviewed and approved in accordance with the procedures set forth in BIMC Title 2. Unless otherwise stated in this Program or in a conditional use approval, conditional uses are subject to all other applicable regulations of this Code, including the use-specific standards.
 - An “A” in a cell indicated that the use is permitted as an accessory use to a permitted use or to an approved conditional use in the same designation. In the case of approved conditional uses, accessory uses listed in the table are permitted unless the terms of the conditional use permit prohibit that accessory use.
 - A “CA” in a cell indicated that the use is permitted as an accessory use to a permitted use or to an approved conditional use, but that a conditional use permit is always required.
 - An “X” indicated that the use is prohibited in the respective designation. The use may be allowed outside the shoreline jurisdiction, see Title 18 Zoning.
 - The column headed “Use Specific Standards” identifies a subsection within BIMC 16.12 that imposes additional standards with which the use must comply. The use specific standard may limit the “P” or “C” designation to certain areas.

Table 4-1. Shoreline Use and Modification Table

| Table 4-1 Shoreline Use and Modification Table | | | | | | | | | |
|--|--------------------|-------------------------------|-----------------------------------|-----------------------|----------------------------------|---------------------|------------------|------|------------------------|
| "P" = Permitted Use | | "X" = Prohibited Use | | | "A" = Accessory Use | | | | |
| "C" = Conditional Use | | "#" = Same as Upland Property | | | "CA" – Conditional Accessory Use | | | | |
| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Natural Resource Management | | | | | | | | | |
| Agriculture | X | X | X | X | X | X | X | X | |
| Aquaculture | C[1] | X | C | C | C | C | C[1] | C[1] | |
| Aquaculture, Shellfish Garden | X | P | P | P | P | P | P[1] | P[1] | |
| Flood Hazard Management [7] | X | C | C | C | C | # | X | X | |
| Stormwater Management [7] | X | P | P | P | P | # | X | X | |
| Forest Practices | X | X | C | C | C | X | X | X | |
| Shoreline Restoration | P | P | P | P | P | P | P | P | |
| Commercial Development | | | | | | | | | |
| Boating Facilities | X | C[8] | X | C[9] | P | # | X | X | |
| Nonwater-Oriented | X | X[8] | X[22] | X | C[17] | X | X | X | |
| Water-Dependent | X | X | X[22] | C | P | # | X | X | |

Table 4-1 Shoreline Use and Modification Table

“P” = Permitted Use
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| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
|--|--------------------|--------------------|-----------------------------------|-----------------------|-------|---------------------|------------------|---|------------------------|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Water-Related or Enjoyment | X | X | X[22] | C | P | X | X | X | |
| Educational and Community Facilities | | | | | | | | | |
| Educational Facility | X | C | C | C | P | X | X | X | |
| Governmental Facility | X | X | C | C | P | X | X | X | |
| Religious Facility | X | C | C | C | P | X | X | X | |
| Cultural and Entertainment Facilities | | | | | | | | | |
| Club | X | C | C | C | P | X | X | X | |
| Commercial Amusement | X | X | C | C | P | X | X | X | |
| Cultural Facility | X | C | C | C | P | X | X | X | |
| Entertainment Facility | X | X | C | C | P | X | X | X | |
| Industrial | | | | | | | | | |
| Mining | X | X | X | X | X | X | X | X | |
| Nonwater-Oriented | X | X | X | X | X | X | X | X | |
| Solid Waste Disposal | X | X | X | X | X | X | X | X | |
| Water-Dependent | X | X | X | X | P | # | X | X | |
| Water-Related | X | X | X | X | C | # | X | X | |
| Water Enjoyment | X | X | X | X | X | X | X | X | |
| Overwater Structures | | | | | | | | | |

Table 4-1 Shoreline Use and Modification Table

“P” = Permitted Use
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“A” = Accessory Use
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| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
|--|--------------------|--------------------|-----------------------------------|-----------------------|-------|---------------------|------------------|-------|------------------------|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Boatlift | X | X | P | P | P | # | X | # | |
| Marine Railway | X | X | P | P | P | # | X | X | |
| Marine Railway, Retractable [12] | X | P | P | P | P | # | X | # | |
| Mooring Buoys | X | P | P | P | P | # | X | X | |
| Piers and Docks | X | C[16] | P | P | P | # | X | P | |
| Recreational Floats | X | X | X | P | P | # | X | X | |
| Recreational Development | | | | | | | | | |
| Golf Courses | X | C | X | C | C | X | X | X | |
| Nonwater-Oriented | X | X | X | C | C | X | X | X | |
| Recreation, Active | X | C[16] | C[19] | C | P | # | X | X | |
| Recreation, Passive | P | P | P | P | P | # | P[14] | P[14] | |
| Event: Recreation, Culture, Education | | | | | | | | | |
| Water-Oriented | X | P | P | P | P | # | X | X | |
| Residential | | | | | | | | | |
| Accessory Dwelling Unit | X | C | C[19] | C | C | X | X | X | |

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| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
|---|--------------------|--------------------|-----------------------------------|-----------------------|-------|---------------------|------------------|---|------------------------|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Subdivision | C | P | P | P | P | # | # | # | |
| Multi-family [22] | X | X | X | P | P | X | X | X | |
| Single-family | X | C | P | P | P | X | X | X | |
| Shoreline/Aquatic Modification [5] [7] | | | | | | | | | |
| Beach Nourishment (Mitigation) | C | P | P | P | P | # | # | # | |
| Beach Enhancement (non-restoration) [6] | C[12] | C[12] | C[12] | C[12] | C[12] | # | # | # | |
| Breakwaters | X | X | X | X | X | X | X | X | |
| Dredging | X | X | X | X | X | C | X | C | |
| Drift Sill | X | X | X | X | X | P | P | P | |
| Landfill | C | C | C | C | C | # | X | X | |
| Fill | X | C | X | X | C | # | X | X | |
| Repair of Shoreline Stabilization | X | P | P | P | P | # | # | # | |
| New or Replacement Shoreline Stabilization, Hard [4] | | | | | | | | | |
| New Bulkheads | X | X | P[19] | P | P | # | X | X | |
| Replacement Bulkheads | X | X | P[19] | P | P | # | # | # | |
| Gabions | X | X | X | X | X | X | X | X | |

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| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
|---|--------------------|--------------------|-----------------------------------|-----------------------|-------|---------------------|------------------|---|------------------------|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Weirs, Groins (rock or concrete) | X | X | X | X | X | X | X | X | |
| Jetties | X | X | X | X | X | X | X | X | |
| Levees/Dikes | X | X | X | X | X | X | X | X | |
| Retaining Walls and Bluff Walls | X | C | C | C | C | X | X | X | |
| Revetments | X | X | X[2] | X[2] | X[2] | # | X | X | |
| Seawalls | X | X | X | X | X | X | X | X | |
| Hybrid | X | P | P | P | P | # | # | # | |
| New or Replacement Shoreline Stabilization Non-Structural and Soft | | | | | | | | | |
| Non-Structural Stabilization, Soft-treatment | X | P | P | P | P | # | # | # | |
| Transportation | | | | | | | | | |
| Existing Road repair | X | P | P | P | P | X | X | X | |
| New Arterials | X | X | X | X | X | X | X | X | |
| New Highways | X | X | X | X | X | X | X | X | |

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“A” = Accessory Use
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| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
|--|--------------------|--------------------|-----------------------------------|-----------------------|-------|---------------------|------------------|---|------------------------|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| New Secondary Arterials | X | X | X | X | X | X | X | X | |
| Float Plane Facilities and Services | X | X | X | X | C | # | X | X | |
| Heliports | X | X | X | X | X | X | X | X | |
| Additional Bridge to Bainbridge Island | X | X | X | X | X | X | X | X | |
| Parking (primary) | X | X | X | X | X | X | X | X | |
| Public Access Facilities | | | | | | | | | |
| Public Ferry Terminal Facilities and Services | X | X | X | X | P | # | X | X | |
| Over-water Public Ferry Terminal Facilities and Services | X | X | X | X | C[10] | # | X | X | |
| Railroads | X | X | X | X | X | X | X | X | |
| Trails | P | P | P | P | P | # | # | # | |
| Utilities & Telecommunication | | | | | | | | | |
| Utilities (primary) | X | X | C[11] | C[11] | C[11] | # | X | X | |
| Signs | | | | | | | | | |
| Primary | X | X | X | X | X | P | X | X | |

| Table 4-1 Shoreline Use and Modification Table | | | | | | | | | |
|--|--------------------|-------------------------------|-----------------------------------|-----------------------|----------------------------------|---------------------|------------------|-------|------------------------|
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| "C" = Conditional Use | | "#" = Same as Upland Property | | | "CA" – Conditional Accessory Use | | | | |
| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Accessory Structures | | | | | | | | | |
| All Uses | | | | | | | | | |
| Potable Water Wells | X | A | A | A | A | X | X | X | |
| Signs | X[20] | X[20] | P | P | P | P | X[20] | X[20] | |
| Tram | X | A | A | A | A | # | X | X | |
| Underground Utilities | X | A[21] | A[21] | A[21] | A[21] | # | X | X | |
| Residential | | | | | | | | | |
| Upland appurtenant Structures | X | CA | A | A | A | # | X | X | |
| Commercial | | | | | | | | | |
| Upland appurtenant structures that support a water-dependent use [13] | X | X | X | CA | A | # | X | X | |
| Upland appurtenant structures that support a water related or water enjoyment use [13] | X | X | X | CA | A | X | X | X | |
| Upland appurtenant structures that support a non-water oriented use [13] | X | X[8] | X | X | C[17] | X | X | X | |

Table 4-1 Shoreline Use and Modification Table

“P” = Permitted Use
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| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
|---|--------------------|--------------------|-----------------------------------|-----------------------|-------|---------------------|------------------|---|------------------------|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Industrial | | | | | | | | | |
| Upland appurtenant structures that support a water-dependent use [13] | X | X | X | X | A | # | X | X | |
| Upland appurtenant structures that support a water related [13] | X | X | X | X | CA | # | X | X | |
| Upland appurtenant structures that support a water enjoyment use [13] | X | X | X | X | X | X | X | X | |
| Upland appurtenant structures that support a non-water oriented use [13] | X | X | X | X | X | X | X | X | |
| Public Park/Recreational Development | | | | | | | | | |
| Public pathways to the shoreline | A | A | A | A | A | # | # | # | |
| Public Stairway | A | A | A | A | A | # | # | # | |
| Access Roads | X | A | A | A | A | X | X | X | |
| Upland appurtenant structures that support a water-oriented Active recreational use | X | A | CA | CA | A | # | X | X | |

| Table 4-1 Shoreline Use and Modification Table | | | | | | | | | |
|--|--------------------|---|-----------------------------------|-----------------------|---|---------------------|------------------|-------|------------------------|
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| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Upland appurtenant structures that support a water oriented passive recreational use | A | A | A | A | A | # | A[14] | A[14] | |
| Upland appurtenant structures that support a non-water oriented use | X | X | X | X | X | X | X | X | |

- [1] Allowed if using native species and part of an approved shoreline restoration project.
- [2] Revetments are prohibited unless they are constructed as part of a public facilities project.
- [3] Construction of a bulkhead, revetment, or other structure for the purpose of retaining a landfill or creating dry land is prohibited, unless it is proposed in conjunction with a water-dependent or public use.
- [4] Stabilization that would cause significant impacts to adjacent or down current properties is prohibited.
- [5] Shoreline modification should not be located on feeder bluffs, except when the area is already developed with a single family primary structure, in which case stabilization may be allowed pursuant to the provisions in Section 6.2, Shoreline Stabilization.
- [6] Beach enhancement is prohibited if it interferes with the normal public use of the navigable waters of the state.
- [7] Shoreline stabilization and flood protection works are prohibited in wetlands (located in both the upland and the shoreline jurisdiction). They are also prohibited in salmon and trout spawning areas, except for fish or wildlife habitat enhancement.
- [8] Public parks only. Nonwater-oriented commercial development only for concessions as accessory use allowed as an SSDP.
- [9] Community and joint use docks providing moorage for six or more vessels are permitted with an SSDP but must comply with the provisions in BIMC 16.12.5.4, Boating facilities, as well as the provisions in BIMC 16.12.6.3, Overwater Structures.
- [10] New overwater facilities are permitted as a conditional use only in the ferry terminal district. Normal repair and maintenance of existing over-water facilities do not require a Shoreline Conditional Use Permit, but may require an SSDP.
- [11] Permitted as a conditional use if no feasible alternative exists.
- [12] If upland of Priority Aquatic designation, then the use is prohibited.
- [13] All structures are prohibited in Zone 1 upland of a Priority Aquatic Category A designation.
- [14] Passive recreational uses and activities are allowed. Development and associated structures is allowed through a Shoreline Conditional Use Permit.
- [15] As allowed by Island Conservancy designation 3.3.5.2(6)
- [16] Except in Waterfront Park a dock is permitted with a SSDP.
- [17] Mixed-use Commercial/Industrial only.
- [18] Day use only.
- [19] Prohibited or restricted in the Point Monroe District.
- [20] Allowed for Public Park, Interpretive, Information, Direction or Dedication. Temporary signs are allowed in accordance with Section 4.2.5 Signs
- [21] Conditional use when primary use is a conditional use.
- [22] Mixed use development is allowed in areas within the Mixed Use Town Center zones, when physically separated from the shoreline by another parcel in accordance with Section 5.4 Commercial Development.

Bainbridge Island Shoreline Master Program – Effective Date 07/30/2014
Approved by City Council 07/14/2014 (Ord. 2014-04)
Approved by Department of Ecology 07/16/14
Draft Amendment – September 11, 2018 Public Hearing Draft

Table 4-2 Dimensional Standards Table

Greyed out setback boxes or letter X indicate prohibited uses

| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | Use Specific Standards | |
|---------------------------------------|--|--------------------|-----------------------------------|-----------------------|-------|--|------------------|------------------------|---|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | | B |
| Natural Resource Management | | | | | | | | | |
| Aquaculture | | | | | | | | | |
| Setbacks | | | | | | | | | |
| Water-dependent | X | 0' | 0' | 0' | 0' | DOES NOT APPLY TO DEVELOPMENT BELOW OHWM | | | |
| Water-related | X | 25' | 25' | 25' | 25' | | | | |
| Nonwater-oriented | X | 150' | 115' | 100' | 100' | | | | |
| Height Limit | | | | | | | | | |
| Overwater Structures | DOES NOT APPLY TO DEVELOPMENT ABOVE THE OHWM | | | | | 3' | X | 3' | |
| Accessory use on overwater structures | | | | | | 3' | X | 3' | |
| Overwater Structure Predator Control | | | | | | 6' | X | 6' | |
| Upland | X | 30' | 30' | 30' | 30' | DOES NOT APPLY TO DEVELOPMENT BELOW OHWM | | | |

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Greyed out setback boxes or letter X indicate prohibited uses

| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | Use Specific Standards | |
|--|--|--------------------|-----------------------------------|-----------------------|-------|--|------------------|------------------------|---|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | | B |
| Aquaculture, Noncommercial for Recovery of Native Population | | | | | | | | | |
| Setbacks | | | | | | | | | |
| Water-dependent | X | 0' | 0' | 0' | 0' | DOES NOT APPLY TO DEVELOPMENT BELOW OHWM | | | |
| Water-related | X | 25' | 25' | 25' | 25' | | | | |
| Nonwater-oriented | X | 150' | 115' | 100' | 100' | | | | |
| Height Limit | | | | | | | | | |
| Overwater | DOES NOT APPLY TO DEVELOPMENT ABOVE THE OHWM | | | | | 3' | X | 3' | |
| Upland | X | 30' | 30' | 30' | 30' | DOES NOT APPLY TO DEVELOPMENT BELOW OHWM | | | |
| Commercial Development | | | | | | | | | |
| Boating Facilities | | | | | | | | | |
| Setbacks | | | | | | | | | |

Table 4-2 Dimensional Standards Table

Greyed out setback boxes or letter X indicate prohibited uses

| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
|----------------------|--------------------|--------------------|-----------------------------------|-----------------------|---------|---------------------|------------------|---|------------------------|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Accessory Structures | X | X | X | 50' | 30' | | | | |
| Water-dependent | X | X | X | 0' | 0' | | | | |
| Dry Moorage | X | X | 100' | 100' | 100' | | | | |
| Height Limit | | | | | | | | | |
| Dry moorage | X | X | 20' | 20' | 30' | | | | |
| Buildings | X | X | 20' | 20' | 30' | | | | |
| Non-water Oriented | | | | | | | | | |
| Setbacks | | | | | | | | | |
| | X | X | X | 200'[2] | 200'[2] | | | | |
| Height Limit | | | | | | | | | |
| | X | X | X | 30' | 30' | | | | |

Table 4-2 Dimensional Standards Table

Greyed out setback boxes or letter X indicate prohibited uses

| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
|---|--------------------|--------------------|-----------------------------------|-----------------------|-------|---------------------|------------------|---|------------------------|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Water-Dependent | | | | | | | | | |
| Setback | | | | | | | | | |
| | X | X | X | 0' | 0' | | | | |
| Height Limit | | | | | | | | | |
| | X | X | X | 30' | 30' | | | | |
| Water-Related and Enjoyment | | | | | | | | | |
| Setback | | | | | | | | | |
| | X | X | X | 50'[1] | 30' | | | | |
| Height Limit | | | | | | | | | |
| | X | 50'[1] | X | 30' | 30' | | | | |
| Educational and Community Facilities | | | | | | | | | |

Table 4-2 Dimensional Standards Table

Greyed out setback boxes or letter X indicate prohibited uses

| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
|-----------------------|--------------------|--------------------|-----------------------------------|-----------------------|--------|---------------------|------------------|---|------------------------|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Educational Facility | | | | | | | | | |
| Setbacks | | | | | | | | | |
| Water-dependent | X | X | 0' | 0' | 0' | | | | |
| Water-related | X | X | 50'[1] | 30'[1] | 30'[1] | | | | |
| Nonwater-oriented | X | X | 115'[1] | 30'[1] | 30'[1] | | | | |
| Height Limit | | | | | | | | | |
| Upland | X | X | 30' | 30' | 30' | | | | |
| Governmental Facility | | | | | | | | | |
| Setbacks | | | | | | | | | |
| Water-dependent | X | X | 0' | 0' | 0' | | | | |
| Water-related | X | X | 50'[1] | 30'[1] | 30'[1] | | | | |
| Nonwater-oriented | X | X | 115' | 75' | 30' | | | | |
| Height Limit | | | | | | | | | |
| Upland | 30' | 30' | 30' | 30' | 30' | | | | |

Table 4-2 Dimensional Standards Table

Greyed out setback boxes or letter X indicate prohibited uses

| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
|---------------------------------------|--------------------|--------------------|-----------------------------------|-----------------------|-------|---------------------|------------------|---|------------------------|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Religious Facility | | | | | | | | | |
| OHWM Setback | | | | | | | | | |
| Water-dependent | X | 0' | 0' | 0' | 0' | | | | |
| Water-related | X | 50'[1] | 50'[1] | 30'[1] | 30' | | | | |
| Nonwater-oriented | X | 150' | 115' | 75' | 30' | | | | |
| Height Limit | | | | | | | | | |
| Upland | X | 30' | 30' | 30' | 30' | | | | |
| Cultural and Entertainment Facilities | | | | | | | | | |
| Club | | | | | | | | | |
| Setbacks | | | | | | | | | |

Table 4-2 Dimensional Standards Table

Greyed out setback boxes or letter X indicate prohibited uses

| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
|----------------------|--------------------|--------------------|-----------------------------------|-----------------------|-------|---------------------|------------------|---|------------------------|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Water-dependent | 0' | 0' | 0' | 0' | 0' | | | | |
| Water-related | 100' | 50'[1] | 50'[1] | 30'[1] | 30' | | | | |
| Nonwater-oriented | 100' | 150' | 115' | 75' | 30' | | | | |
| Height Limit | | | | | | | | | |
| Upland | 30' | 30' | 30' | 30' | 30' | | | | |
| Commercial Amusement | | | | | | | | | |
| Setbacks | | | | | | | | | |
| Water-dependent | X | X | 0' | 0' | 0' | | | | |
| Water-related | X | X | 50'[1] | 30'[1] | 30' | | | | |
| Nonwater-oriented | X | X | 150' | 75' | 30' | | | | |
| Height Limit | | | | | | | | | |
| Upland | X | X | 30' | 30' | 30' | | | | |
| Cultural Facility | | | | | | | | | |

Table 4-2 Dimensional Standards Table

Greyed out setback boxes or letter X indicate prohibited uses

| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
|------------------------|--------------------|--------------------|-----------------------------------|-----------------------|-------|---------------------|------------------|---|------------------------|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Setbacks | | | | | | | | | |
| Water-dependent | 0' | 0' | 0' | 0' | 0' | | | | |
| Water-related | 100' | 50'[1] | 50'[1] | 30'[1] | 20' | | | | |
| Nonwater-oriented | 100' | 150' | 115' | 75' | 20' | | | | |
| Height Limit | | | | | | | | | |
| Upland | 30' | 30' | 30' | 30' | 30' | | | | |
| Entertainment Facility | | | | | | | | | |
| Setbacks | | | | | | | | | |
| Water-dependent | X | 0' | 0' | 0' | 0' | | | | |
| Water-related | X | 100'[1] | 100'[1] | 50'[1] | 30' | | | | |
| Nonwater-oriented | X | 150' | 115' | 75' | 30' | | | | |
| Height Limit | | | | | | | | | |
| Upland | X | 30' | 30' | 30' | 30' | | | | |

| Table 4-2 Dimensional Standards Table | | | | | | | | | |
|---|--------------------|--------------------|-----------------------------------|-----------------------|-------|---------------------|------------------|---|------------------------|
| Greyed out setback boxes or letter X indicate prohibited uses | | | | | | | | | |
| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Industrial | | | | | | | | | |
| Water-Dependent | | | | | | | | | |
| Setbacks | | | | | | | | | |
| | X | X | X | X | 0" | | | | |
| Height Limit | | | | | | | | | |
| Upland | X | X | X | X | 30' | | | | |
| Water-Related | | | | | | | | | |
| Setbacks | | | | | | | | | |
| | X | X | X | X | 100' | | | | |
| Height Limit | | | | | | | | | |
| Upland | X | X | X | X | 30' | | | | |
| Overwater Structures | | | | | | | | | |
| Marine Railway | | | | | | | | | |
| Setbacks | | | | | | | | | |

Table 4-2 Dimensional Standards Table

Greyed out setback boxes or letter X indicate prohibited uses

| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | Use Specific Standards | |
|----------------------------------|--------------------|--------------------|-----------------------------------|-----------------------|-------|---------------------|------------------|------------------------|---|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | | B |
| | X | X | | | 10' | | | | |
| Height Limit | | | | | | | | | |
| Upland | X | X | | | 10' | | | | |
| Marine Railway, Retractable [12] | | | | | | | | | |
| Setbacks | | | | | | | | | |
| | X | | | | 10' | | | | |
| Height Limit | | | | | | | | | |
| Upland | X | | | | 10' | | | | |
| Mooring Buoys | | | | | | | | | |
| Setbacks | | | | | | | | | |
| From Overwater Structures | | | | | 100' | | | | |

| Table 4-2 Dimensional Standards Table | | | | | | | | | |
|---|--------------------|--------------------|-----------------------------------|-----------------------|-------|---------------------|------------------|-----|------------------------|
| Greyed out setback boxes or letter X indicate prohibited uses | | | | | | | | | |
| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Piers and Docks | | | | | | | | | |
| Setbacks From Property Lines | | | | | | | | | |
| | | | 10' | | | | X | 10' | |
| Recreational Floats | | | | | | | | | |
| Setbacks | | | | | | | | | |
| | | | 100' | | | | X | X | |
| Recreational Development | | | | | | | | | |
| Height Limit | | | | | | | | | |
| Upland | X | 20' | 20' | 20' | 30' | | | | |
| Nonwater-oriented | | | | | | | | | |
| Setbacks | | | | | | | | | |
| | 200' | 200' | 200' | 200' | 100' | | | | |
| Park, Active Recreation | | | | | | | | | |
| Setbacks | | | | | | | | | |

Table 4-2 Dimensional Standards Table

Greyed out setback boxes or letter X indicate prohibited uses

| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
|---|--------------------|--------------------|-----------------------------------|-----------------------|--------|---------------------|------------------|-----|------------------------|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Water-Dependent Primary Structure | X | [2] | [2] | [2] | [2] | [2] | [2] | [2] | |
| Car/RV Camp Site | X | 100' | 100' | 100' | 50' | | | | |
| Golf Course | X | 100' | 100' | 100' | 100' | | | | |
| Play-structure | X | 100' | 100' | 100' | 50' | | | | |
| Playfields or other Intensive use areas | X | 150' | 150' | 100' | 100' | | | | |
| Height | | | | | | | | | |
| Upland | X | 20' | 20' | 20' | 20' | | | | |
| Park, Passive Recreation | | | | | | | | | |
| Setbacks | | | | | | | | | |
| Water-Dependent Primary Structure | X | [2] | [2] | [2] | [2] | [2] | [2] | | |
| Picnic Area and Related | X | 75'[1] | 75'[1] | 75'[1] | 30'[1] | | | | |

Table 4-2 Dimensional Standards Table

Greyed out setback boxes or letter X indicate prohibited uses

| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | Use Specific Standards | |
|--|--------------------|--------------------|-----------------------------------|-----------------------|-----------|---------------------|------------------|------------------------|---|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | | B |
| Kayak/Hiking and Related Camp Site | X | 50'[1] | 50'[1] | 50'[1] | 30'[1] | | | | |
| Accessory Use | | | | | | | | | |
| Setbacks | | | | | | | | | |
| Access Roads | X | 75'[1][3] | 75'[1][3] | 75'[1] | 50'[1][3] | | | | |
| Parking | X | 100'[1] | 100'[1] | 100' | 50' | | | | |
| Events, Recreation; Education; Culture | | | | | | | | | |
| Setbacks | | | | | | | | | |
| Water-Dependent | X | 0' | 0' | 0' | 0' | | | | |
| Water-related/Enjoyment | X | 50'[1] | 50'[1] | 50'[1] | 30' | | | | |

Table 4-2 Dimensional Standards Table

Greyed out setback boxes or letter X indicate prohibited uses

| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
|---|--------------------|--------------------|-----------------------------------|-----------------------|-------|---------------------|------------------|---|------------------------|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Residential | | | | | | | | | |
| Flex lot Subdivision | | | | | | | | | |
| Setbacks | | | | | | | | | |
| SUBJECT TO 30% SIDE YARD SETBACK, SHORELINE SETBACK AND ZONING AND SUBDIVISION REQUIREMENTS | | | | | | | | | |
| Height Limit | | | | | | | | | |
| Upland | X | 30' | 30' | 30' | 30' | | | | |
| Multi-family | | | | | | | | | |
| Setbacks | | | | | | | | | |
| SUBJECT TO 30% SIDE YARD SETBACK, SHORELINE SETBACK AND ZONING REQUIREMENTS AND BIMC Title 18 | | | | | | | | | |
| Height Limit | | | | | | | | | |
| Upland | X | X | 30' | 30' | 30' | | | | |
| Single-family | | | | | | | | | |

Table 4-2 Dimensional Standards Table

Greyed out setback boxes or letter X indicate prohibited uses

| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
|---|--------------------|--------------------|-----------------------------------|-----------------------|-----------|---------------------|------------------|---|------------------------|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Setbacks | | | | | | | | | |
| SUBJECT TO 30% SIDE YARD SETBACK, SHORELINE SETBACK AND ZONING REQUIREMENTS | | | | | | | | | |
| Height Limit | | | | | | | | | |
| Upland | X | 30' | 30' | 30' | 30' | | | | |
| Shoreline/Aquatic Modification [5] [7] | | | | | | | | | |
| Utilities & Telecommunication | | | | | | | | | |
| Utilities (primary) | | | | | | | | | |
| Primary Structure | X | 200' | 200' | 200' | 200' | | | | |
| Accessory Use | X | 100' | 100' | 100' | 100' | | | | |
| Telecommunication Accessory Use | X | 100' | 100' | 100' | 100' | | | | |
| Height | | | | | | | | | |
| Distribution Poles | X | X | 30'[1][5] | 30'[1][5] | 30'[1][5] | | | | |
| Buildings, storage Tanks, Accessory Uses | X | X | 30'[1][4] | 30'[1][4] | 30'[1][4] | | | | |

Table 4-2 Dimensional Standards Table

Greyed out setback boxes or letter X indicate prohibited uses

| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | Use Specific Standards | |
|---|--|--------------------|-----------------------------------|-----------------------|-------|---------------------|------------------|------------------------|---|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | | B |
| Accessory Structures | | | | | | | | | |
| Architectural Elements | | | | | | | | | |
| Setback | | | | | | | | | |
| | SUBJECT TO SETBACK REQUIREMENTS OF PRIMARY STRUCTURE | | | | | | | | |
| Height | | | | | | | | | |
| | TOTAL HEIGHT OF ARCHITECTURAL ELEMENT AND PRIMARY STRUCTURE SHALL NOT TOTAL MORE THAN 35'. | | | | | | | | |
| Residential | | | | | | | | | |
| Primary Appurtenant Structures and Non-habitable Structures (boat house, deck, patio, stairway) | | | | | | | | | |
| Setbacks | | | | | | | | | |

| Table 4-2 Dimensional Standards Table | | | | | | | | | |
|---|--|--------------------|-----------------------------------|-----------------------|-------|--------------------------------|------------------|---|------------------------|
| Greyed out setback boxes or letter X indicate prohibited uses | | | | | | | | | |
| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| | SUBJECT TO 30% SIDE YARD SETBACK, SHORELINE SPECIFIC USE SETBACK AND ZONING REQUIREMENTS | | | | | SAME AS SPECIFIC USE SETBACK | X | # | |
| Height | | | | | | | | | |
| Boat house, shed, well house, etc. | X | 12' | 12' | 12' | 12' | SHORELINE SPECIFIC USE SETBACK | X | X | |
| Commercial/Industrial | | | | | | | | | |
| Primary appurtenant structures that either support public access or are necessary to support a water-dependent use [13] | | | | | | | | | |
| Setbacks | | | | | | | | | |
| | SAME AS SPECIFIC USE | | | | | | X | # | |
| Public Park | | | | | | | | | |

Table 4-2 Dimensional Standards Table

Greyed out setback boxes or letter X indicate prohibited uses

| SHORELINE USE | UPLAND DESIGNATION | | | | | AQUATIC DESIGNATION | | | Use Specific Standards |
|--|--------------------|--------------------|-----------------------------------|-----------------------|---------|---------------------|------------------|---|------------------------|
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban | Aquatic | Priority Aquatic | | |
| | | | | | | | A | B | |
| Primary appurtenant structures that either support public access or are necessary to support a water-dependent recreational | | | | | | | | | |
| Setbacks | | | | | | | | | |
| | 15' | 75' | 75' | 75' | 50' | | | | |
| Event, Recreation; Culture; Education | | | | | | | | | |
| Setbacks | | | | | | | | | |
| | N/A | 75'[1] | 75'[1] | | 75'[1] | | | | |
| Parking | N/A | 100'[1][3] | 100'[1][3] | | 100'[3] | | | | |
| [1] Must be located outside of site specific Zone 1 [2] Same as Use specific setback [3] ADA access roads may be allowed a lesser setback than standard 5.6.5(2) | | | | | | | | | |

| Table 4-3 Shoreline Buffer Standards Table | | | | | |
|--|--------------------|--------------------|-----------------------------------|-----------------------|--------|
| Additional Use restrictions for BIMC Titles 17 and 18 may apply | | | | | |
| SHORELINE USE | UPLAND DESIGNATION | | | | |
| | Natural | Island Conservancy | Shoreline Residential Conservancy | Shoreline Residential | Urban |
| <p>The shoreline buffer consists of two management areas Zone 1 and Zone 2. Zone 1 is located closest to the water; it is a minimum of 30 feet in all designations, except in Natural and Island Conservancy the minimum is 50' and expands to include existing native vegetation. Zone 2 is the remaining area of the shoreline buffer. See figure XXX</p> | | | | | |
| <p>Category A: Low bank lots with 65% Canopy Area in Zone 1, OR spit/barrier/backshore, marsh lagoon, or rocky shores. Category B: Low bank with less than 65% Canopy Area in Zone 1, or lots with a depth < 200' or High Bluff. <i>Geomorphic Class (i.e. low bank, High Bluff) shall be determined by Battelle 2004 Nearshore Characterization and Inventory.</i></p> | | | | | |
| Developed lots | | | | | |
| Category A | 200' | 150' | 115' | 75' | 30' |
| Category B | 200' | 100'[1] | 75'[1] | 50'[1] | 30 [1] |
| Undeveloped lots | | | | | |
| | 200' | 150' | 150' | 75/150'[2] | 30' |
| <p>1. For High bluff properties the greater distance of 50' from the top of the bluff or the standard shoreline buffer. 2. If adjacent to the Priority Aquatic designation then 150' is required.</p> | | | | | |

4.1 Environmental Quality and Conservation

4.1.1 Shorelines of State-wide Significance

4.1.1.1 Purpose

The Shoreline Management Act of 1971 designated certain shoreline areas as shoreline of state-wide significance (SSWS). Because these shorelines are resources from which all people in the state derive benefit, preference is given to uses which favor public and long-range goals.

4.1.1.2 Applicability

Within the City's jurisdiction all those areas lying waterward from the line of extreme low tide are shorelines of state-wide significance. [RCW 90.58.030(2)(f)(iii) or its successor]. Development, use, or activities located within shorelines of statewide significance shall follow all the provisions of this program. Proposed development, use, and activity within shorelines of statewide significance shall be reviewed in accordance with preferred policies listed in 4.1.1.3. The Administrator may reduce, alter, or deny proposed development, use, or activity to satisfy the preferred policy.

4.1.1.3 Policies (In order of preference)

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 thereof affecting Shorelines of State-wide Significance, to state agencies, adjacent jurisdictions, citizen's advisory committees, 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, geology, limnology, aquaculture, and other scientific fields pertinent to shoreline management.
2. Preserve the natural character of the shoreline.
 - a. Designate and administer shoreline designation and use regulations to minimize damage to the ecology and environment of the shoreline as a result of man-made intrusions on the shorelines.

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 shoreline of state-wide significance for future generations and restrict or prohibit development that would irreversibly damage shoreline resources.
 - c. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or general enhancement of shoreline areas.
4. Protect the resources and ecology of the shoreline.
 - a. Minimize development activity that will interfere with the natural functioning of the shoreline ecosystem including, but not limited to, stability, drainage, aesthetic values, and water quality.
 - b. All shoreline development should be located, designed, constructed, and managed to avoid disturbance of, and to minimize adverse impacts on, fish and wildlife resources including spawning, nesting, rearing, and habitat areas and migratory routes.
 - c. Restrict or prohibit public access onto areas which cannot be maintained in a natural condition under human uses.
 - d. Shoreline materials including, but not limited to, bank substrate, soils, beach sands, and gravel bars should be left undisturbed by shoreline development.
5. Increase public access to publicly owned areas of the shorelines.
 - a. Give priority to developing paths and trails to shoreline areas, linear access along the shorelines, and to upland parking.
 - b. Locate development landward of the ordinary high water mark.
 - c. Limit public access when environmental or habitat values warrant such limitations.
6. Increase recreational opportunities for the public on the shoreline.
 - a. Plan for and encourage development of facilities for recreational use of the shorelines.

4.1.2 Environmental Impacts

4.1.2.1 Applicability

All shoreline development and activity shall be located, designed, constructed, and managed in a manner that avoids, minimizes and/or mitigates adverse impacts to the shoreline environment. The preferred mitigation sequence (avoid, minimize, rectify, reduce, or

compensate for the environmental impact) shall follow that listed in WAC 173-26-201(2)(e). See definition of “Mitigation” listed in this Master Program, in Section 8.0, Definitions.

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

4.1.2.2 Goal

Minimize impacts of shoreline development, uses and activities on the environment during all phases of development (e.g. design, construction, and management).

4.1.2.3 Policies

1. Ensure all shoreline uses, activities and developments are designed and located in a manner that prevents or mitigates adverse impacts to shoreline ecological functions and ecosystem-wide processes, including the use of the mitigation sequence (avoid, minimize, rectify, reduce, compensate); and make available flexible alternatives to accommodate preferred shoreline uses.
2. Ensure, through appropriate monitoring and enforcement measures that all required conditions are met, and improvements are installed and properly maintained.
3. Promote shoreline uses and activities within critical areas which do not cause significant adverse impacts to ecological functions and ecosystem-wide processes, such as public access on publicly owned lands.
4. In assessing the potential for new uses, activities and developments to cause adverse impacts, take into account all of the following:
 - a. Effects on ecological functions and ecosystem-wide processes, including temporal loss of functions; and
 - b. Effects that occur on-site and effects that may occur off-site; and
 - c. Direct and indirect effects and long-term effects of the project; and
 - d. Effects of the project and the incremental or cumulative effects resulting from the project added to other past, present, and reasonably foreseeable future actions; and
 - e. Compensatory mitigation actions that offset adverse impacts of the development action and/or use.

5. To provide for comprehensive management strategies for shoreline areas, integrate planning and regulatory measures, such as those within the comprehensive plan, regional watershed plans, or state and federal regulations.

4.1.2.4 Regulations-Impact Analysis and No Net Loss Standard

1. All shoreline development, use and activities, including preferred uses, and uses that are exempt from a shoreline substantial permit, shall be located, designed, constructed, and maintained in a manner that protects ecological functions and ecosystem-wide processes. All proposed shoreline development, uses and activities shall:
 - a. Utilize the required mitigation sequence of Section 4.1.2.6, Regulations – Mitigation; and
 - b. Utilize effective erosion and scour control methods during project construction and operation; and
 - c. Minimize adverse impacts to critical salt water habitat, fish and wildlife conservation areas, and/or other ecological functions and ecosystem-wide processes, such as those provided by shoreline vegetation; and
 - d. Minimize interference with beneficial natural shoreline processes, such as water circulation, sand and gravel transport movement, erosion, and accretion; and
 - e. Avoid hazards to public health and safety; and
 - f. Minimize the need for shoreline stabilization measures and flood protection in the future; and may require a geotechnical analysis to ensure that the proposed activity meets this regulation (See Section 6.2, Shoreline Stabilization); and
 - g. Result in no net loss of ecological functions and processes necessary to sustain shoreline resources, including loss that may result from the cumulative impacts of similar developments over time.
2. In reviewing and approving shoreline development, use or activity, regardless of whether a permit is required the following shall apply:
 - a. The Administrator shall condition the shoreline development, use, and/or activities such that it will:
 - i. Meet provisions in subsection 1 above; and
 - ii. Employ measures to mitigate adverse impacts on shoreline functions and, processes, if necessary; and
 - iii. Modify the site plan and/or adjust the project dimensions, intensity of use, or screening as deemed appropriate to address impacts. If impacts cannot be avoided through design modification, the Administrator shall require compensatory mitigation, pursuant to regulations in Sections 4.1.2.5,

Regulations – Revegetation Standards, and 4.1.2.6, Regulations – Mitigation; and

- b. If a proposed shoreline development, use or activity is determined by the Administrator to result in significant short-term, long-term, or cumulative adverse environmental impacts lacking appropriate compensatory mitigation, it shall be sufficient reason for the Administrator to deny a permit.
- 3. To assure that development activities contribute to meeting the no net loss provisions pursuant to subsection 1 and 2 above, an applicant is required to submit a site-specific analysis of potential impacts and a mitigation plan that includes compensatory mitigation measures when determined necessary as a result of the analysis. The site-specific analysis shall be prepared in accordance with Section 4.1.2.9, Submittal Requirements – Site-Specific Impact Analysis and Mitigation Plan.
- 4. To mitigate anticipated impacts and meet the no net loss standards in subsection 1 and 2 above, an applicant for a single family residential development or accessory structures may choose to use the Standard Residential Mitigation Manual in Appendix D in lieu of a site-specific impact analysis and mitigation plan. If an applicant uses the Single Family Residential Mitigation Manual, compensatory mitigation requirements provided in the manual shall be included in the project submittal.

4.1.2.5 Regulations – Revegetation Standards

- 1. Vegetation replanting is required for all development, uses or activities within the 200-foot shoreline jurisdiction that either alters existing native vegetation or any vegetation in the required Shoreline Buffer or Vegetation Management Areas, whether a permit is required or not. This includes invasive species removal. Minimum requirements for planting plans can be found in the City’s Administrative Vegetation Management Manual. The following information shall be submitted for approval prior to vegetation disturbance as part of a project proposal or clearing permit pursuant to BIMC 15.18, Land Clearing:
 - a. Residential, Industrial and Commercial Development.
 - i. Vegetation disturbance of 200 square feet or less requires submittal of an annotated list of proposed plants and their spacing specifications and location.
 - ii. Vegetation disturbance-greater than 200 square feet requires that the planting plan shall be completed by a qualified professional or the applicant may use the single-family residential mitigation manual.
 - b. Public Park and City Maintained Areas.
 - i. Vegetation disturbance of 2,500 square feet or less requires submittal of an annotated list of proposed plants and their spacing specifications and location.
 - ii. Vegetation disturbance greater than 2,500 square feet requires that the planting plan shall be completed by a qualified professional.

2. For vegetation mitigation in the Shoreline Buffer or Site-specific Vegetation Management Areas, all new plantings shall meet the provisions in Section 4.1.3.5(5), except for the Point Monroe District which shall meet special provisions in subsection 6,
3. If the Shoreline Buffer is altered or reduced pursuant to provisions of Section 4.1.3, Vegetation Management or Section 4.2.1, Nonconforming Uses, ~~Nonconforming Structures, and Nonconforming Lots~~ ~~Non-Conforming Lots, and Existing Development~~ ~~Nonconforming Structures, Uses~~, the following shall occur in Zone 1:
 - a. Retain existing native vegetation; and
 - b. Plant the entire area of Zone 1. Obtain 65% vegetation canopy coverage within 10 years.
4. When vegetation mitigation is required for new upland development, uses, or activities the mitigation plan shall include new plantings that are protective of views from the primary structure of the subject property and in proportion to the identified impact. Mitigation shall be located in the following sequence, except for the Point Monroe District which shall meet special provisions in subsection 6,
 - a. Within Zone 1, plant vegetation to obtain a minimum of 65% native vegetation canopy coverage;
 - b. In Zone 2, plant to increase canopy coverage, in a manner that promotes contiguous native vegetation or in areas nearest the shoreline;
 - c. In the Shoreline Buffer, plant in a manner that promotes a contiguous native vegetated corridor that connects to the shoreline;
 - d. Outside of the Shoreline Buffer, plant in a manner that promotes a contiguous native vegetated corridor to the shoreline;
 - e. Outside of the Shoreline Buffer; or
 - f. At an off-site location approved by the Administrator, within Zone 1, plant to meet the standard of subsection a.
5. When mitigation is required for shoreline stabilization projects due to site disturbance, the required planting plan shall also include the following, unless an alternative planting plan is approved by the Administrator:
 - a. Replant 75% of the shoreline area located along the upland edge of the shoreline stabilization structure to a minimum depth of ten (10) feet, unless demonstrated to be infeasible to the Administrator;
 - i. The depth may be reduced to five (5) feet to allow for landscape design variation, provided that the total square footage of the area planted equals the required 75% of the shoreline;

- b. Planting plans shall meet provisions in Section 4.1.3.5(5), and shade bearing plants shall be provided at suitable-fish spawning sites; and
 - c. Include plantings equivalent to one tree per ever 20 linear feet of shoreline and one shrub per ever five linear feet, which may be planted with due consideration of views from the primary structure of the subject property.
6. Special Mitigation Provisions for Point Monroe District. When vegetation mitigation is required for new development, uses, or activities in the Point Monroe District, the mitigation plan shall include new vegetation communities appropriate for dune, sand spit, barrier beach, barrier estuary, or barrier lagoon, including salt marsh that shall be installed within the spit-specific vegetation management area (SVMA) as defined in Section 4.1.3.5(9), thirty (30) foot setback between the OHWM and the primary structure, or where area is available on the site.

4.1.2.6 Regulations – Mitigation

1. Mitigation Sequence: Mitigation shall include the following actions in order of priority (a-e), and (f) is required for all mitigation activities:
 - 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.
2. When compensatory mitigation is necessary to offset impacts, mitigation measures in the immediate vicinity of the impact shall be the preferred mitigation option. Property owners may be required to perform the balance of compensatory mitigation off-site if the property cannot support required mitigation or when off-site mitigation can be demonstrated to the satisfaction of the Administrator to be more beneficial to shoreline ecological functions and processes. For example, off-site mitigation may be the better choice if large, cohesive

areas are available off-site while only small fragmented areas are available on-site for mitigation.

3. Mitigation actions shall not have a significant adverse impact on other preferred shoreline uses promoted by the policies of the Shoreline Management Act.
4. When compensatory mitigation measures are required, all of the following shall apply:
 - a. The quality and quantity of the replaced, enhanced, or substituted resources shall be the same or better than the affected resources; and
 - b. The mitigation site and associated vegetative planting shall be nurtured and maintained such that healthy native plant communities can grow and mature over time; and
 - c. Unless the Single-family Residential Mitigation Manual is being used for single-family residential development and accessory structures pursuant to Section 4.1.2.4(4), the mitigation shall be informed by pertinent scientific and technical studies, including but not limited to the Shoreline Inventory and Characterization Report, the Shoreline Restoration Plan and other background studies prepared in support of this Program; and
 - d. The mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values, pursuant to Section 4.1.2.7, Surety Regulations.
5. To encourage shoreline property owners to remove bulkheads and perform other beneficial shoreline restoration actions in advance of shoreline development or redevelopment, the City may give mitigation credit to any beneficial restoration action that occurred within 10 years of the proposed development/redevelopment activity provided that:
 - a. The applicant/property owner declares the intent of the restoration or enhancement project as mitigation credit at the time of the restoration permit application; and
 - b. The City can confirm via site inspection, photographs, or other evidence that the restoration actions have improved shoreline conditions.
6. Where feasible, replacement compensatory mitigation should be required prior to impact and, if applicable, prior to final inspection and approval of building occupancy; and to ensure no net loss, the mitigation shall replace the functions as quickly as possible following the impact.

4.1.2.7 Regulations – Surety

1. The applicant/property owner shall provide assurance to the satisfaction of the Administrator, that the restoration area (including off-site mitigation) will be maintained in perpetuity. The assurance can be in the form of notice on title, conservation easement, or similar mechanism as approved by the City Attorney.

2. Except for projects undertaken by public entities, performance and/or maintenance bonds or other security shall be required by the City to assure that work is completed, monitored, and maintained. The bond/surety shall be refunded to the depositor upon completion of the mitigation activity and any required monitoring.

4.1.2.8 Regulations – Monitoring and Maintenance

1. When mitigation is required, a periodic monitoring program shall be included as a component of the required mitigation plan. To ensure the success of the required mitigation, monitoring shall occur for a minimum duration of five years from the date of the completed development. The monitoring plan may also require that periodic maintenance measures be included as recommended by a qualified professional. The duration of monitoring may be extended if the project performance standards set forth in the approved mitigation plan fail to be accomplished, or, due to project complexity, the approved mitigation plan requires a longer period of monitoring.
2. Monitoring programs may be forwarded for review and comment to state and/or federal resource agencies and affected tribes with jurisdiction.
3. Monitoring programs shall meet the requirements established in [Section 4.1.5.14, Critical Area Reports-Monitoring Requirements, Appendix B, B-6\(C\)\(2\)\(e\)](#).
4. All new and replacement shoreline stabilization projects shall complete and submit a minimum five-year monitoring and maintenance program that addresses the shoreline stabilization mitigation measures, and shall at a minimum include:
 - a. An annual site visit by a qualified professional for each of the five (5) years to assess the effectiveness of the mitigation; and
 - b. A progress report submitted to the Administrator annually, which includes any monitoring or maintenance recommendations of the qualified professional.

4.1.3 Vegetation Management

4.1.3.1 Applicability

Vegetation management is required for protection and conservation within the shoreline jurisdiction. Dimensional and other development standards, including buffers, are established based on site-specific development and conditions or as specified for that particular shoreline designation. The purpose of vegetation management is to protect and enhance the Island's natural character, water quality, native plant communities, and wildlife habitat within the shoreline jurisdiction. Vegetation management activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.4, Land Modification; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater

Management; ~~Appendix B~~; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

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

The Vegetation Management provisions apply to all shoreline development, and regulated uses and activities, including those that do not require a shoreline permit. Similar to other master program provisions, vegetation standards do not apply retroactively to existing uses and structures unless changes or alterations are proposed. Standards for vegetation management are established using current scientific and technical information pursuant to WAC 173-26-221(5)(b) and 173-26-201(2)(a), and are based on the use category, shoreline characterization and the designation. Standards are provided in Section 4.0, and Tables 4-2 and 4-3.

4.1.3.2 Goal

Protect and restore shoreline vegetation to maintain and enhance ecological functions and processes, shoreline views and vistas, human safety, and personal property.

4.1.3.3 Policies

1. Maintain existing shoreline vegetation to protect ecological functions and/or processes from adverse impacts of uses, activities and developments within the shoreline jurisdiction.
2. Emphasize the use of native vegetation species to maintain the ecological functions and/or processes and mitigate the direct, indirect, and/or cumulative impacts of shoreline development, uses and activities.
3. Provide flexible dimensional standards for buffers and setbacks that are based on performance standards designed to protect ecological functions and ecosystem-wide processes, including considering alternatives to planting native vegetation species if it can be demonstrated that the equivalent ecological functions can be provided.
4. Use monitoring programs to ensure the protection of shoreline ecological functions and ecosystem-wide processes, particularly when non-native vegetation species are used as an alternative to native vegetation.
5. Encourage the restoration or enhancement of shoreline vegetation through incentive programs.
6. Establish buffers immediately upland of OHWM for each shoreline designation, recognizing the pattern of development, shoreline ecological functions and ecosystem-wide processes, and using current science and technical information, as described in WAC

173-26-201(2)(a). In establishing buffers, consideration should be given to the land use patterns to minimize the number of existing structures that would not conform to buffer dimensional standards.

7. At the time of a proposal, allow site-specific dimensional standards for vegetation management areas for shoreline development, use or activity. Dimensional standards must protect shoreline ecological functions and ecosystem-wide processes.
8. Implement a public education program emphasizing the importance of shoreline vegetation management.
9. Allow selective vegetation clearing for views for new development and to maintain views from existing residences when slope stability and ecological functions and ecosystem-wide processes are not compromised. Trimming and pruning are generally preferred over removal of native shoreline vegetation.
10. Develop specific regulations for Point Monroe, based on vegetation and management practices appropriate for dune communities, sand spits, barrier beaches, barrier estuaries or barrier lagoons.

4.1.3.4 Regulations – Exceptions

1. Vegetation management standards shall not apply retroactively to existing lawfully established conforming and nonconforming uses and developments, including maintenance of existing residential landscaping, such as lawns and gardens. Property owners are strongly encouraged to voluntarily improve shoreline vegetation conditions over the long term.
2. Existing buffers and setbacks that have been established through previously approved subdivisions and indicated on the face of an approved plat shall be recognized and adhered to.
3. The following shall be exempt from the provisions of Section 4.1.3.
 - a. Maintenance trimming of vegetation that has a main stem or supporting structure which is less than three (3) inches in diameter; except that tree topping or other vegetation removal is not exempt.
 - b. Buffer enhancement through the removal of noxious or invasive weeds, provided the following are met:
 - i. The vegetation removal is based on consultation with the Kitsap County Noxious Weed Board or the species being removed are on the Washington State Noxious Weed List (WAC 16-750, or its successor); and
 - ii. The vegetation removal is conducted in a manner consistent with best management practices (BMP); and
 - iii. Replanting occurs in the disturbed area in accordance with Section 4.1.2.5, Revegetation Standards.

- c. Removal of hazard trees, ~~as defined in Appendix B~~, where a report by an arborist or other qualified professional demonstrates to the satisfaction of the Administrator that trimming is not sufficient to address the hazard provided:
 - i. Mitigation is provided in accordance with Section 4.1.2, Environmental Impacts, including:
 - A. Requiring that the downed tree be retained on the site to provide or enhance wildlife or marine habitat; and/or
 - B. When possible, require that the hazard tree be topped for safety and remain as a wildlife snag; or
 - ii. When a hazard tree is located in a geologically hazardous area, the applicant shall submit ~~a Bluff Management Plan~~ documentation of compliance with development standards pursuant to Section 4.1.5.10.4, Critical Areas. The hazard tree may be removed prior to the approval of the plan if it is necessary to protect life and property.
- d. Commercial forest practices and the removal of trees pursuant to a Forest Practices Permit (Class II, III and IV-S only) issued by the Washington State Department of Natural Resources under the Washington State Forest Practices Act (RCW 76.09), except where such activities are associated with a conversion to other uses or other forest practice activities over which local governments have authority. For the purposes of this Program, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered a forest practice and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this Program, ~~including Appendix B~~, and shall be limited to the minimum necessary to accommodate an approved use.

4.1.3.5 Regulations - General

1. Development within the shoreline jurisdiction shall be located and designed to protect existing native vegetation from disturbance to the fullest extent possible, to mitigate impacts to existing vegetation, and to meet the standard of no net loss of ecological functions and processes, Section 4.1.2, Environmental Impacts.
2. Vegetation clearing, or grading, may not be undertaken within the shoreline jurisdiction without prior review and approval by the Administrator, unless otherwise exempt under Section 4.1.3.4, Regulations – Exceptions, or as provided in subsection 7 below, with an approved Standard Operation Procedure (SOP) manual. Clearing and grading may be subject to Section 4.1.4, Land Modification.
3. Two alternative methods may be used to meet the goals and policies of the Vegetation Management Section, as provided below, except the Point Monroe District shall meet the special provisions provided in subsection 9:
 - a. Site-Specific Vegetation Management Areas

- i. As an alternative to the Shoreline Buffer dimensions provided in subsection b, below, an applicant may propose specific dimensional standards that meet the Vegetation Management goals and policies as determined through a Habitat Management Plan ~~prescribed in Appendix B, Section B-4~~, provided that the plan demonstrates the following:
 - A. The proposed development is for a residential use.
 - B. The site-specific proposal assures there is no net loss of the property’s specific shoreline ecological functions and associated ecosystem-wide processes pursuant to Section 4.1.2, Impact Analysis and No Net Loss; and
 - C. The site-specific proposal uses the scientific and technical information* compiled to support the Shoreline Buffer standards of Section 4.1.3.5(3)(b), and/or other appropriate technical information which, as determined by a qualified professional, demonstrates how the proposal protects ecological functions and processes and how it meets the goals and policies of this Section.
- ii. The Habitat Management Plan shall be reviewed by the Administrator in accordance with provisions in Section 4.1.5.14 Appendix B. The Administrator may approve, approve with conditions, or deny the request. The Administrator shall have the Habitat Management Plan reviewed by an independent third party, the cost of which will be borne by the applicant.
- iii. If the Site-specific Vegetation Management Area is approved, prior to permit issuance, the applicant shall record with the County Auditor a notice on title, or other similar document subject to the approval of the Administrator.

*Footnote: Scientific and technical information supporting the Shoreline Buffer standards is provided in the following documents available at the City of Bainbridge Island’s Department of Planning and Community Development: *Documentation of Marine Shoreline Buffer Recommendation Discussions*, Memorandum, 2011, Herrera Environmental; *Addendum to Summary of Science*, 2011, Herrera Environmental; *Bainbridge Island Current and Historic Coastal Geomorphic/Feeder Bluff Mapping*, 2010, Coastal Geologic Services, Inc.; *Best Available Science*, 2003, Battelle; *Bainbridge Island Nearshore Habitat Characterization and Assessment*, 2004 Battelle.

- b. As an alternative to a Site-specific Vegetation Management Area, a Shoreline Buffer shall be maintained immediately landward of the OHWM and managed according to provisions of this section. The Shoreline Buffer shall meet the

location and design standards of Section 4.1.3.6, Regulations – Shoreline Buffer – Location and Design Standard. The Shoreline Buffer shall be composed of two zones:

- i. Zone 1, an inner protective buffer area located immediately abutting the OHWM; and
 - ii. Zone 2, the remaining portion of the Shoreline Buffer located immediately abutting Zone 1.
4. The Shoreline Buffer or Site-specific Vegetation Management Area shall be maintained in a predominantly natural, undisturbed and vegetated condition. Unless specifically allowed by this program, the following standards shall apply:
 - a. All existing native groundcover, shrubs and significant trees located within the Shoreline Buffer or Site-specific Vegetation Management Area shall be retained;
 - b. All activities shall be performed in compliance with the applicable standards contained in the Vegetation Management Section, unless the applicant demonstrates that alternate measures or procedures are equal or superior in accomplishing the purpose and intent of the Vegetation Management Section, including no net loss of ecological functions and ecosystem-wide processes.
 - c. The use of pesticides are prohibited unless specifically allowed in Section 4.1.6, Water Quality and Stormwater Management.
5. New vegetation planted in the Shoreline Buffer or Site-specific Vegetation Management Area, unless otherwise provided for in zone-specific requirements Section 4.1.3.6 (6), shall be:
 - a. Native species using a native plant-community approach of multi-storied, diverse plant species that are native to the Central Puget Lowland marine riparian zone.
 - b. Other plant species may be approved that are similar to the associated native species in diversity, type, density, wildlife habitat value, water quality characteristics, and slope stabilizing qualities, excluding noxious/invasive species provided that, as submitted by a qualified professional, it is demonstrated to the satisfaction of the Administrator that the selected ornamental plants can serve the same ecological function as native plant species.
6. Significant trees located outside the Shoreline Buffer or Site-specific Vegetation Management Area but within the shoreline jurisdiction, shall be retained unless allowed to be removed under the exceptions or other provisions of this program provided:
 - a. The Administrator may require alterations of a site plan in order to retain significant trees outside the Shoreline Buffer or Vegetation Management Area. This may include

minor adjustments to the location of building footprints, the location of driveways and access ways, or the location of walkways, easements or utilities.

7. Vegetation clearing and maintenance activities, except those which are part of new construction, are allowed consistent with an approved SOP manual for vegetation maintenance and management of public parks, public trails, public rights-of-way or easements, publicly-owned property, and/or other areas normally maintained by the City. A shoreline substantial development permit may be required for the SOP manual. The SOP manual shall include the following prescriptive elements:
 - a. Procedures for maintaining vegetation on shoreline properties, shoreline trails or shoreline rights-of-way and easements, including procedures for noxious weed removal;
 - b. Procedures for maintaining vegetation in Critical Areas, Shoreline Buffers, or Site-specific Vegetation Management Areas, or other sensitive land areas, including areas with cultural resources;
 - c. Procedures for mitigation and vegetation replanting including appropriate species list; and
 - d. Procedures for review and approval of allowed activities occurring under the scope of the SOP, including procedures for documenting activities.

8. Minor vegetation removal outside the shoreline buffer or site-specific vegetation management area on a developed property not associated with new construction may be allowed, as provided in this program with an approved clearing permit provided:
 - a. The Administrator may grant approval of minor vegetation clearing if it meets the provisions of this Program and the following:
 - i. The minor vegetation clearing allowed within a three (3) year period will include an area no greater than 200 square feet in area and/or no more than 3 non-significant trees per 20,000 square feet up to a maximum of six (6) trees; and
 - ii. Native vegetation will not be removed from the Shoreline Buffer or Vegetation Management Area; and
 - iii. All applicable standards of an approved Vegetation Management Plan are met; and
 - iv. The replanting is performed pursuant to Section 4.1.2.5, Revegetation Standards; and
 - v. ~~A Bluff Management Plan is provided pursuant to Documentation of compliance with the development standards in Section 4.1.5.10.4 provided by a licensed geotechnical engineer Section 4.1.5, Critical Areas~~ for any vegetation alteration in a geologically hazardous area.

- b. Proposed clearing must meet the provisions of Sections 4.1.2, Environmental Impacts and 4.1.4, Land Modification.

9. **Special Provisions for Point Monroe District.** Shoreline Buffers or Site-specific Vegetation management Areas are not required for properties located in the Point Monroe District; the following specific vegetation provisions shall apply:

- a. All properties in the Point Monroe District shall retain existing native vegetation and shall be subject to a Point Monroe vegetation management area (PVMA).
- b. The PVMA shall include areas that are:
 - i. Within thirty (30) feet of the OHWM and within the required side yard and the salt marsh fringe; and
 - ii. Outside any designated development area as approved pursuant to Section 5.9.6(2).
- c. The PVMA shall be managed and maintained in vegetation communities appropriate to dune, sand spit, barrier beach, barrier estuary, or barrier lagoon, including salt marsh.
- d. Developed properties shall retain existing native vegetation (including dune grass and salt marsh plant communities) in those areas that are not developed with legally established impervious surfaces.
- e. Any new development or alterations and expansion of existing development shall assess impacts to existing vegetation and meet the no net loss standard pursuant to Section 4.1.2, Environmental Impacts.

4.1.3.6 Regulations – Shoreline Buffer – Location and Design Standard

- 1. The total depth of the Shoreline Buffer is based on the shoreline designation and the physical and most predominant geomorphic characteristics of the property. The depth of the Shoreline Buffer will be determined by the Administrator according to criteria below.
 - a. Property-specific physical and geomorphic characteristics of the particular lot will determine the maximum width (Category A) or minimum width (Category B) of the Shoreline Buffer, as follows:
 - i. Shoreline Buffer Category A: The property contains or abuts a spit/barrier/backshore, or marsh, or lagoon; or

The property contains or abuts a low bank and the existing native tree and shrub vegetation cover is at least 65% of the area of Shoreline Buffer Zone 1.
 - ii. Shoreline Buffer Category B: The property is shallow (200 feet in depth or less, as measured landward), or located on a high bluff, or does not meet any of the characteristics of Category A.
 - b. Shoreline Buffer standard depth in Table 4-3

- c. As determined by the Administrator, buffers do not extend beyond an existing public paved street or an area which is determined by the Administrator to be functionally isolated from the shoreline or critical area. In these limited instances the no net loss of shoreline ecological function and processes still apply to properties within the shoreline jurisdiction.
2. The total area of the Shoreline Buffer shall be the equivalent of the length of the property along the shoreline, multiplied by the required buffer depth as prescribed for the specific shoreline designation in which the property is located. See Figure 4-1.
3. The Shoreline Buffer consists of two zones. The depth of each of the two zones within the Shoreline Buffer is determined as follows:
 - a. Zone 1 shall extend from the ordinary high water mark (OHWM) a minimum of 30 feet, or to the limit of existing native vegetation whichever is greater. The native vegetation limit is determined through a site-specific analysis of existing conditions, and in no case shall Zone 1 be greater than the depth of the Shoreline Buffer.
 - b. Zone 2 shall be established immediately landward of the Zone 1 and extend no further than the depth of the Shoreline Buffer.
4. The following zone specific planting regulations apply to the Shoreline Buffer:
 - a. New lawns are not permitted in Zone 1.
 - b. In Zone 2, one-third (1/3) of the area may be planted in a combination of grass lawns and approved structures provided:
 - i. Significant native trees are not removed to establish such use, or
 - ii. The buffer has been reduced through view provisions of Section 4.1.3.11.
 - c. The remaining two-thirds (2/3) of Zone 2 shall be maintained in a native vegetative state.
 - d. Planted areas in which fertilizers might be applied shall be located as far landward of Zone 1, as feasible.

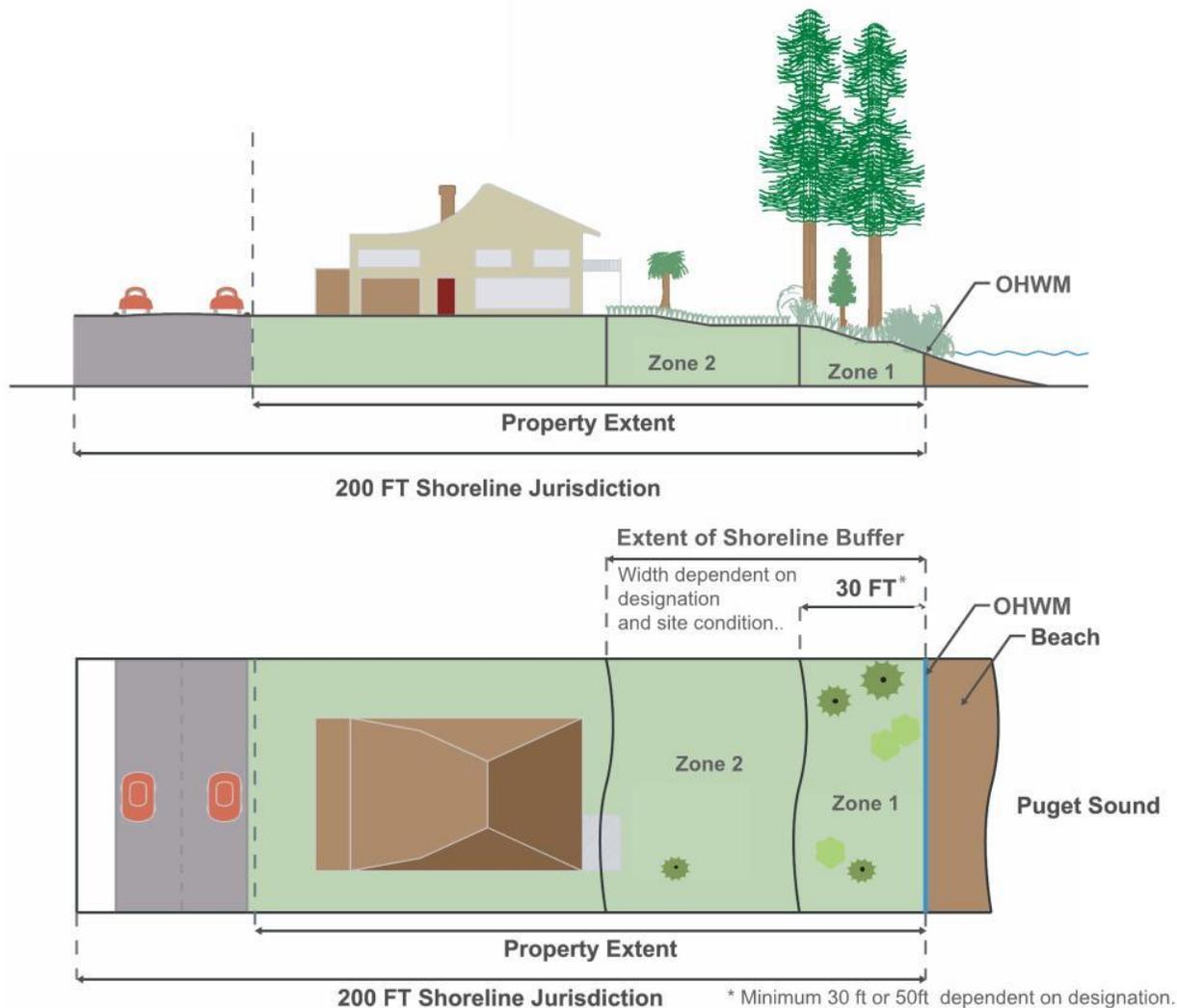


Figure 4-1 Dual Shoreline Buffer

4.1.3.7 Regulations – General Vegetation Alterations in Shoreline Buffers or Site-specific Vegetation Management Areas

1. The following activities are allowed within the Shoreline Buffer and Site-specific Vegetation Management Area with an approved clearing permit. Such activities shall meet the standards of Section 4.1.4, Land Modification.
 - a. Existing landscape areas may be retained within the Shoreline Buffer or Site-specific Vegetation Management Area. However, any changes from the existing landscape to a different landscaping use or activity will require that the modified

area comply with the provisions of 4.1.3, Vegetation Management, and the intent of providing native vegetation to maintain ecological functions and processes.

- b. **Minor Pruning.** Tree pruning, including thinning of lateral branches to enhance views, or trimming, shaping, thinning or pruning necessary for plant health and growth and which does not harm the plant, is allowed consistent with the following standards:
 - i. All pruning shall meet the American National Standard Institute (ANSI) tree pruning standards;
 - ii. In no circumstance shall removal of more than one-fourth (1/4) of the original crown be permitted within a three year period;
 - iii. Pruning shall not include topping, stripping of branches or creation of an imbalanced canopy; and
 - iv. Pruning shall retain branches that overhang the water.
- c. **Vegetation Removal Related to Construction.** Tree or vegetation removal within the Shoreline Buffer or Site-Specific Vegetation Management Area that is associated with new construction may be allowed, but must retain significant trees and shall meet the requirements of Section 4.1.2, Environmental Impacts, including replanting provisions.
- d. **Vegetation Removal Related to Public Facility Maintenance.** Tree or vegetation removal within the Shoreline Buffer or Site-specific Vegetation Management Area that is associated with maintenance of existing public facilities (including: roads, paths, bicycle ways, trails, bridges, sewer infrastructure facilities, storm drainage facilities, fire hydrants, water meters, pumping stations, street furniture, potable water facilities, and other similar public infrastructure), may be approved by the Administrator if no significant trees are removed, the requirements of Section 4.1.2, Environmental Impacts are met, and the maintenance is measures meet the goals and policies of Section 4.1.3, Vegetation Management, or as approved in a SOP manual as provided in Section 4.1.3.5(7). The following activities are exempt from this requirement:
 - i. Removal of vegetative obstructions required for sight distance and visual clearance at street intersections provided in the Public Works Design and Construction Standards and Specifications.
- e. **Underground Utilities.** Utilities that run approximately perpendicular to the buffer (for example, a stormwater tightline to the water to protect a slope or a sewer line to a marina), may be allowed within the Shoreline Buffer or Site-specific Vegetation Management Area, provided that disturbance is minimized and the disturbed area is revegetated after construction; and

- f. Other Approved Development in the Shoreline Buffer or Site-specific Vegetation Management Area.
 - i. Potable water wells; and
 - ii. Approved shoreline stabilization;
2. Shoreline Buffer Reductions.
- a. When the prescriptive buffer depth is reduced or dimensions altered through provisions of this Program, the applicant shall record a notice on title, or other similar document with the County Auditor prior to permit issuance, subject to the approval of the Administrator.
 - b. If the required depth of a Shoreline Buffer for a single-family residential property is reduced in accordance with the Shoreline Structure Setback provisions of Section 4.1.3.11 or other reductions allowed through this Program, Zone 1 must be restored in accordance with provisions of Section 4.1.2.5.
3. Stairways to the shoreline shall not exceed 300 square feet for private use, the minimum necessary for public use and are not included in the total square footage allocations prescribed in subsections 4.1.3.8(3) of this Program.
- a. Larger stairways serving a single-family residence may only be allowed through approval of a Shoreline Variance.
 - i. As an alternative to a stairway larger than 300 square feet and to reduce environmental impacts, a tram may be allowed without a variance.
 - b. Stairway design shall meet the following minimum criteria:
 - i. International Codes for:
 - A. Hand Railings;
 - B. Stairway width; and
 - C. Tread Depth.
 - ii. Landings are required, unless demonstrated not to be necessary, and shall be determined by:
 - A. Existing site topography;
 - B. Personal safety; and
 - C. Slope stability.

4.1.3.8 Vegetation Alterations Standards – Residential Development

Minor clearing, grading or construction may be allowed within the Shoreline Buffer or Site-specific Vegetation Management Plan for a residential development with approval of the

Administrator pursuant to Section 4.1.3.7(1)(a), and only for the following activities as prescribed below and pursuant to Section 4.1.4, Land Modification:

1. Maintenance of existing residential landscaping is allowed subject to Sections 4.1.3.5(8) and 4.1.3.7. 2. One (1) hand installed pervious trail to the shoreline not more than four (4) feet in width, which may include hand installed steps, and shall be designed to minimize environmental impacts. No significant trees shall be removed. The trail may be wider when required for handicapped or public access. For single-family residential development vegetation trimming is limited to two (2) feet on either side of the trail.
3. Non-habitable structures appurtenant to a single-family use, such as a boat house, deck/patio and/or stairway may be allowed consistent with the following standards, except that all structures are prohibited in Zone 1 when upland of a Priority Aquatic –_Category A designation.
 - a. For Site-specific Vegetation Management Areas, the total square footage of all buildings or structures must not exceed 300 square feet in area.
 - b. For Shoreline Buffer areas, the total square footage of all buildings or structures must not exceed 400 square feet or 10% of the Shoreline Buffer area, whichever is less.
 - c. For Shoreline Buffer areas, only 10% of the total allowed square footage or 300 square feet, whichever is less, can be located in Zone 1, except when upland of Priority Aquatic B, the total allowable square footage is 5% of Zone 1 or 150 square feet, whichever is less.
 - d. All structures must be designed to not significantly impact views from adjoining property primary buildings.
 - e. All structures must meet the following standards:
 - i. Only water-related structures are allowed within 30 feet of the OHWM or in Zone 1, including a boathouse, permeable deck, boat storage, or staircase.
 - ii. Shall not exceed 12 feet in height above existing grade.
 - iii. Decks and/or patios shall be permeable and shall not exceed 30 inches in height above existing grade.
4. View Maintenance – Single-family Residential Only.

Shoreline residential use and development shall use all feasible techniques to maximize retention of existing native shoreline vegetation within the Shoreline Buffer and the Site-specific Vegetation Management Area.

 - a. Limited removal of existing trees or vegetation located on the same property as a single-family residence may be allowed for maintenance of a pre-existing

view from the primary structure, or to establish a view for a new primary structure provided the following are met:

- i. The applicant demonstrates to the satisfaction of the Administrator that the vegetation removal is the minimum necessary to re-establish or establish a view of the water similar to that enjoyed by other residences in the area and that pruning methods are not sufficient to provide an adequate view of the water similar to that enjoyed by other residences in the area; and
- ii. Existing significant native trees are not removed within the Shoreline Jurisdiction, unless exempt; and
- iii. In no instance, including accounting for other approved alterations as provided in Section 4.1.3, shall vegetation removal exceed twenty (20) percent of the required Shoreline Buffer area or Site-specific Vegetation Management Area or reduce the vegetation canopy coverage to less than 65% in the Shoreline Buffer or Vegetation Management Area.

A. Vegetation removal occurring adjacent to the shoreline shall also be limited to fifteen (15) linear feet of the water frontage; and

- iv. ~~The applicant shall obtain an approved Bluff Management Plan pursuant to Section 4.1.5, Critical Areas~~ Documentation of compliance with the development standards in Section 4.1.5.10.4 provided by a licensed geotechnical engineer for any vegetation alteration in a geologically hazardous area. The cost and preparation of the plan is the responsibility of the applicant; and
- v. All vegetation removal complies with other applicable requirements of this Program (such as clearing and grading, forest practices, and protection standards for fish and wildlife habitat), including the no net loss and/or revegetation standards in Section 4.1.2.

- b. The Administrator may deny a request or condition approval for vegetation alteration proposals for view maintenance if it is determined that the action will result in an adverse effect to any of the following:

- i. Slope stability;
- ii. Habitat value;
- iii. Health of surrounding vegetation;
- iv. Risk of wind damage to surrounding vegetation;
- v. Nearby surface or ground water; or
- vi. Water quality of a nearby water body.

4.1.3.9 Vegetation Alteration Standards – Commercial and Industrial Development in Shoreline Buffers

Minor clearing, grading, or construction may be approved within the Shoreline Buffer for a commercial or industrial development with approval of the Administrator pursuant to Section 4.1.3.7(1)(a) and only for the following activities as prescribed below and pursuant to Section 4.1.4, Land Modification:

1. Primary appurtenant structures to a commercial use that either support public access or are necessary to support a water-dependent use shall be allowed within the buffer when the applicant has demonstrated a need for the shoreline location, except that all structures are prohibited in Zone 1 when upland of a Priority Aquatic designation.
2. When appurtenant structures are allowed they must be the minimum necessary to meet the needs of the water-dependent use or public access requirements of Section 4.2.4, Public Access.

4.1.3.10 Vegetation Alteration Standards – Public Park Development in Shoreline Buffers

Minor clearing, grading, or construction may be allowed within the Shoreline Buffer for a public park development with approval of the Administrator consistent with the following or pursuant to Section 4.1.3.7:

1. Vegetation clearing and maintenance is allowed in accordance with an approved SOP manual that meets Section 5.1.3.5(7) and the standards of this Program.
2. Maintenance of existing public trails, provided the vegetation trimming is limited to four (2) feet on either side of the trail and no significant trees are removed.
3. Alterations that are included in a Park Development or Concept Plan. Minor clearing, grading, or construction for which the size and extent of proposed disturbed areas located within the Shoreline Buffer have been determined as part of a park development plan or concept park plan, with due consideration of the intended park use; and provided all proposed disturbance areas meet the no net loss standards pursuant to in accordance with Section 4.1.2. Environmental Impacts; and provided appropriate permits are obtained, including those pursuant to Section 4.1.4, Land Modification;
4. Alterations that are not part of a Park Development or Concept Plan. The following minor clearing, grading, or construction activities may be allowed without an approved park development plan or conceptual park plan:
 - a. Maintenance of existing public trails is allowed, provided maintenance is limited to the existing size of the trail, any vegetation trimming is limited to four (4) feet on either side of the trail, and no significant trees are removed.

- b. New public pathways or trails to the shoreline provided it is demonstrated that the size and extent of the public pathways has been determined with due consideration of the intended park use.
- c. Structures.
 - i. Primary appurtenant structures to a public park and recreational use that either support public access or are necessary to support a water-dependent recreation use shall be allowed within the Shoreline Buffer when a need for the shoreline location is demonstrated, except that all structures are prohibited in Zone 1 when upland of a Priority Aquatic designation. When appurtenant structures are allowed, they must be the minimum necessary to meet the needs of the water-dependent use or public access requirements of Section 4.2.4, Public Access.
 - ii. The total square footage of all buildings or structures must not exceed 6,000 square feet or 10% of the Shoreline Buffer area, whichever is less.
 - A. Only 10% of the total allowed square footage or 1,000 square feet, whichever is less, can be located in Zone 1.
 - iii. All structures must be designated to not significantly impact views from adjoining property primary buildings.
 - iv. All structures must meet the following standards:
 - A. Only water-related recreational furniture, amenities and structures are allowed in Zone 1, including but not limited to, picnic tables, benches, interpretive kiosks, viewing platforms, boardwalks, pervious trails or staircases, recreational furniture, signs, pervious trails, and staircases are not included in the maximum square footage allocations prescribed in subsection 4.c.ii, above;
 - B. Accessory recreation buildings, including restrooms, picnic pavilions and service roads that serve such structures may be allowed in Zone 2 and buildings shall not exceed 12 feet in height above existing grade;
 - C. Stairways may exceed 300 square feet, provided that it is demonstrated that a greater area is necessary to meet public access and public use demands. Stairways shall conform to the standards of the Building Code as adopted in BIMC Chapter 15.04.; and
 - D. Boat ramps and other boating facilities may be allowed pursuant to Section 5.4, Boating Facilities.

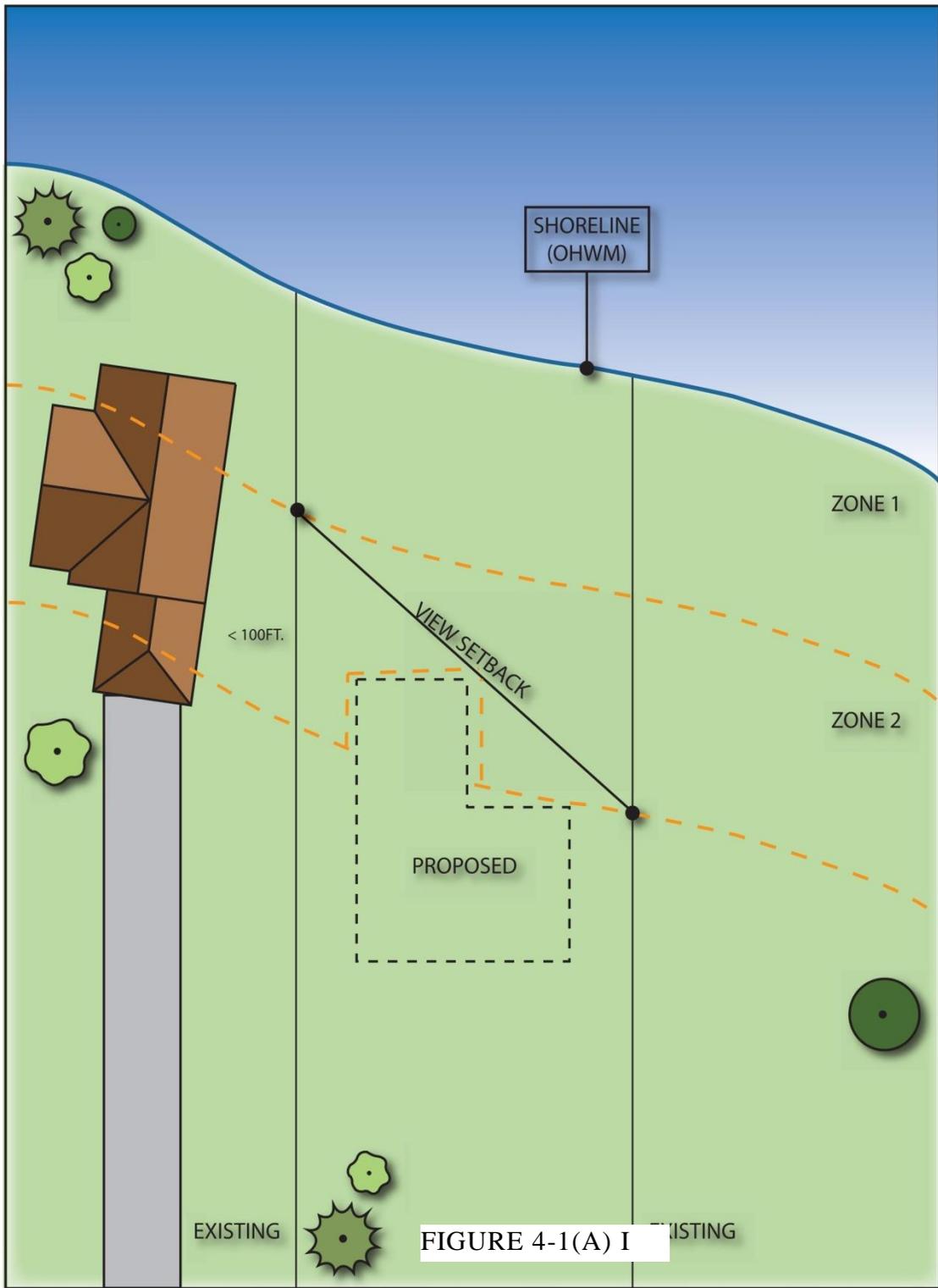
4.1.3.11 Regulations – Shoreline Structure Setback View Requirement

1. To protect existing predominate shoreline views and accommodate shoreline views for a new single-family primary residential structure or addition to a primary residential structure, the Administrator may allow Zone 2 of the Shoreline Buffer to be altered when there is an existing primary residential structure located within 100 feet of the property line of the subject property and topographical or other relevant information indicates that the view of the shoreline from the subject property or the adjacent residence would be impacted by existing or proposed development. The shoreline structure setback line may also require that new structures be set farther away from the shoreline to preserve existing views enjoyed by an adjoining single-family primary structure that was established earlier. These provisions apply to single-family residences only, except in the Point Monroe District.
 - a. Setbacks for the purpose of this subsection are based on the location of primary residential structure(s) existing at the time a new primary residential building permit is submitted. A primary residential structure constructed in compliance with the required shoreline setback is not made nonconforming by the later construction of a primary residential structure in a different location on an adjoining lot.
 - b. The shoreline structure setback provisions apply only to primary single-family residential structures located within the 200-foot shoreline jurisdiction, where an existing primary single-family residential structure is located within 100 feet of the subject property line. All measurements are to the closest primary residential structure on either side of the subject property as measured parallel to the shoreline.
 - c. In determining the shoreline structure setback line, the Administrator may also consider topography or other physical property constraints in addition to the provisions of subsection 4 and 5, below. Applicants may submit detailed information regarding how property constraints impact the predominate shoreline views from either the subject property's proposed primary residential structure or adjoining properties' primary residential structure(s).
2. The Shoreline Buffer on the subject property may be reduced below the depth requirements identified in Table 4-3 to allow a new primary residential structure to be located within Zone 2 provided the conditions in Section 4.1.3.7(2) are met.-Mitigation of proposed residential development shall be required pursuant to Section 4.1.2, Environmental Impacts.
3. In no case shall the subject property be permitted to locate a new primary residential structure within the site's specified Zone 1 of the Shoreline Buffer, unless a Shoreline Variance is granted.

4. Adjoining Development Located Within Shoreline Buffer. The setback requirement for the subject property shall be based on the location of the adjoining properties' primary residential structure(s) as described in subsections (a) through (d) below.
 - a. Primary Residential Structure Located on One Side. When an existing primary residential structure is located on one side of the subject property, the shoreline structure setback line shall be determined as follows:
 - i. If the adjoining primary residence is partially or wholly located within Zone 2, the shoreline setback line is determined by drawing a line from the most waterward point of the adjoining primary residential structure to the point at which the subject property's Shoreline Buffer boundary intersects the subject property's opposite property line. (See Figure 4.1.a below).
 - ii. If the adjoining primary residence is located partially or wholly in Zone 1, the shoreline structure setback line shall be determined by drawing a line from the point of intersection of the subject property and the adjoining property's Zone 1 boundary, to the point at which the subject property's Shoreline Buffer boundary intersects the subject property's opposite property line. (See Figure 4.1.b, below).
 - b. Primary Residential Structure Located on Both Sides. When existing primary residential structures are located on both sides of the subject property, the shoreline structure setback line shall be determined as follows:
 - i. If both the adjoining primary residential structures are located partially or wholly in Zone 2, then the shoreline structure setback line shall be determined by drawing a line between the most waterward points of each of the adjoining primary residential structures. (See Figure 4.1.b, below)
 - ii. If one of the adjoining primary residences is partially or wholly in Zone 1, and the other adjoining primary residence is partially or wholly in Zone 2, the shoreline structure setback line shall be determined by drawing a line from the point of intersection of the subject property and the adjoining property's Zone 1 boundary (for that adjoining residence located in Zone 1), to the most waterward point of the other adjoining primary residential structure located in Zone 2. (See Figure 4.1.b, below).
 - iii. If both of the adjoining primary residences are located partially or wholly within Zone 1, the shoreline structure setback line shall be determined by drawing a line from the point of intersection of the subject property's Zone 1 boundary and the adjoining property's Zone 1 boundary to the same intersection point on the subject property's opposite property line. (See Figure 4.1.c. below)
 - c. Primary Residential Structure Located on a Shoreline Forming a Cove or Headland. The Administrator shall make the determination whether a shoreline

forms a cove or headland. When existing primary residential structures are located on a cove or headland, the shoreline structure setback line shall be determined as follows:

- i. If there is a primary residential structure on only one side of the subject property, then the shoreline structure setback line for the subject property shall be either the distance from the OHWM to the most waterward portion of the primary residence structure of the adjoining property, or the subject property's Zone 1, whichever is greater.
 - ii. If there are adjoining primary residential structures located on both sides of the subject property, the shoreline structure setback line shall be determined by averaging the distance from OHWM to the most waterward portion of the two adjoining property's primary residential structures. (See Figure 4-1(c) ii, below)
5. **Adjoining Development Located Outside the Shoreline Buffer.** The setback requirement for the subject property shall be based on the location of the adjoining properties' primary residential structure(s) as described in subsections (a) and (b) below.
- a. **Primary Structure Located on One Adjoining Property, Outside Shoreline Buffer.** When an existing primary residential structure is located on one side of the subject property, the shoreline structure setback line shall be determined by drawing a line from the most waterward point of the primary residential structure of the adjoining property to a point at which the subject property's Shoreline Buffer boundary intersects the subject property's opposite property line. (See Figure 5-1(a), below).
 - b. **Primary Structures Located on Both Adjoining Properties, Outside the Shoreline Buffer.** When existing primary residential structures are located on both sides of the subject property, the shoreline structure setback line shall be determined by drawing a line between the most waterward points of each of the adjoining primary residential structures. (See Figure 5-1(b), below).
 - c. **Primary Structures Located on Both Adjoining Properties, Outside the Shoreline on a Cove or Headland.** When existing primary residential structures are located on both sides of the subject property, the shoreline structure setback line shall be determined by averaging the distance from OHWM to the most waterward portion of the two adjoining property's primary residential structures. (See Figure 5-1(c), below).



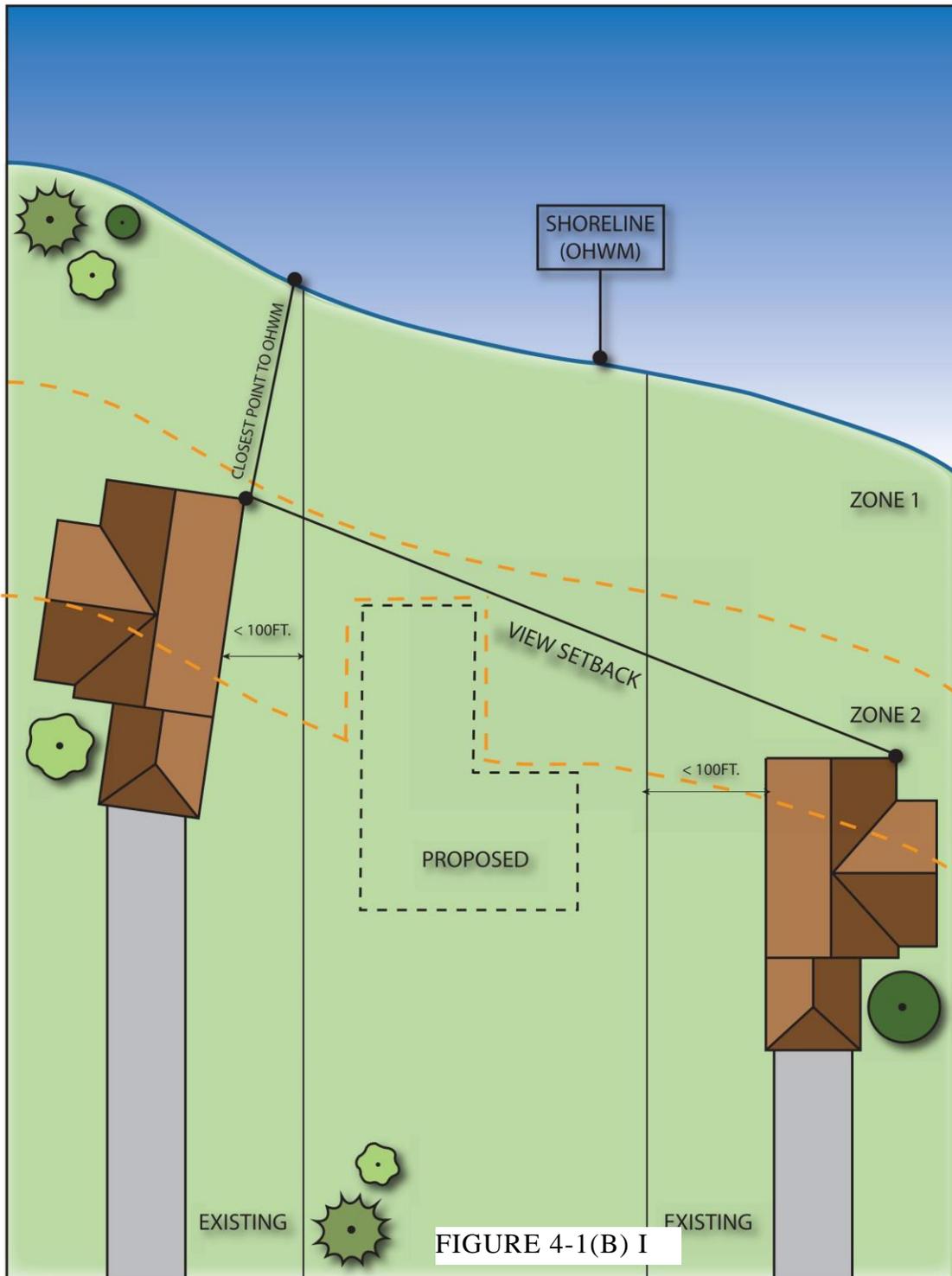


FIGURE 4-1(B) I

Approved by Department of Ecology 07/16/14
Draft Amendment – September 11, 2018 Public Hearing Draft

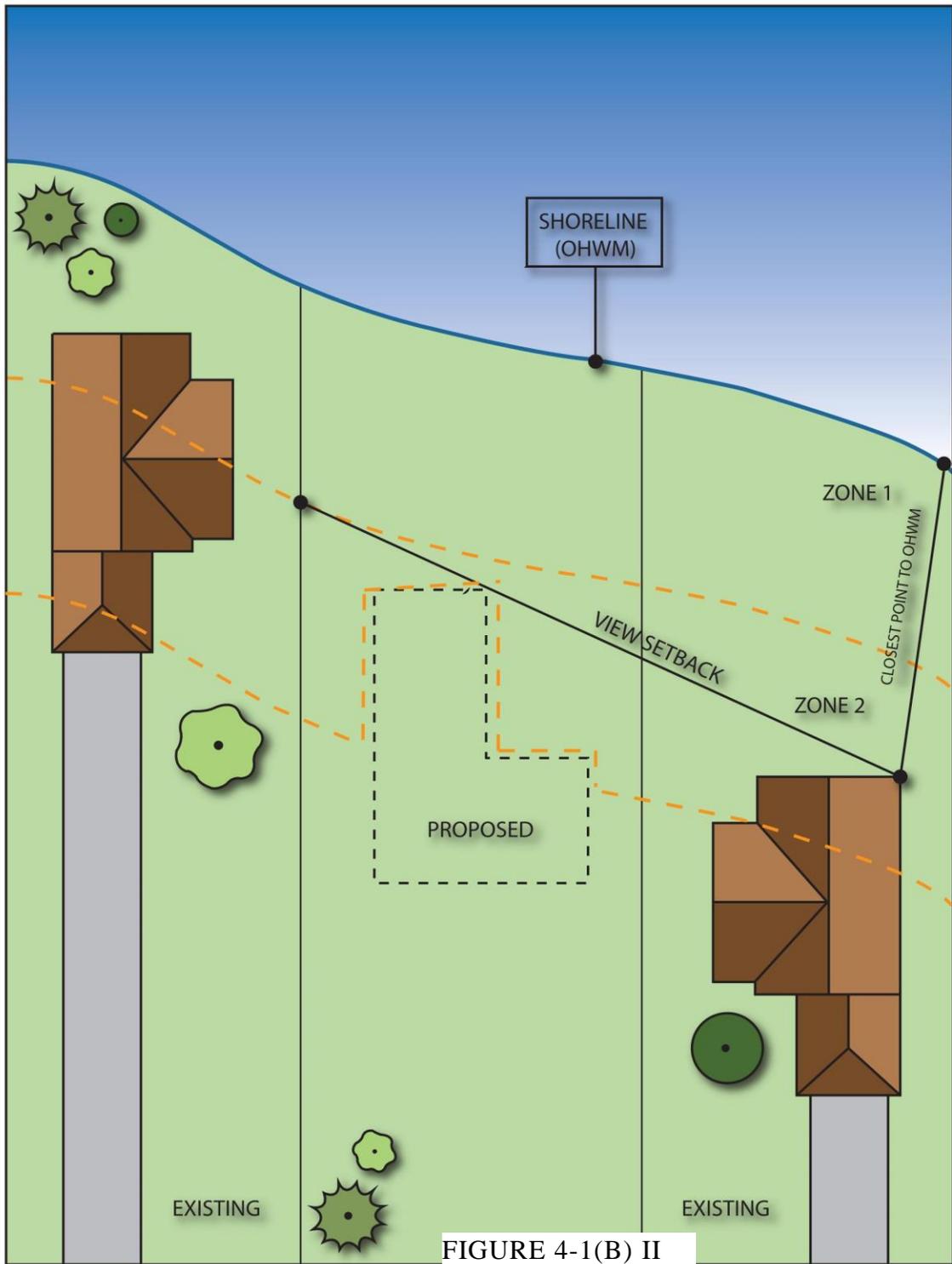


FIGURE 4-1(B) II

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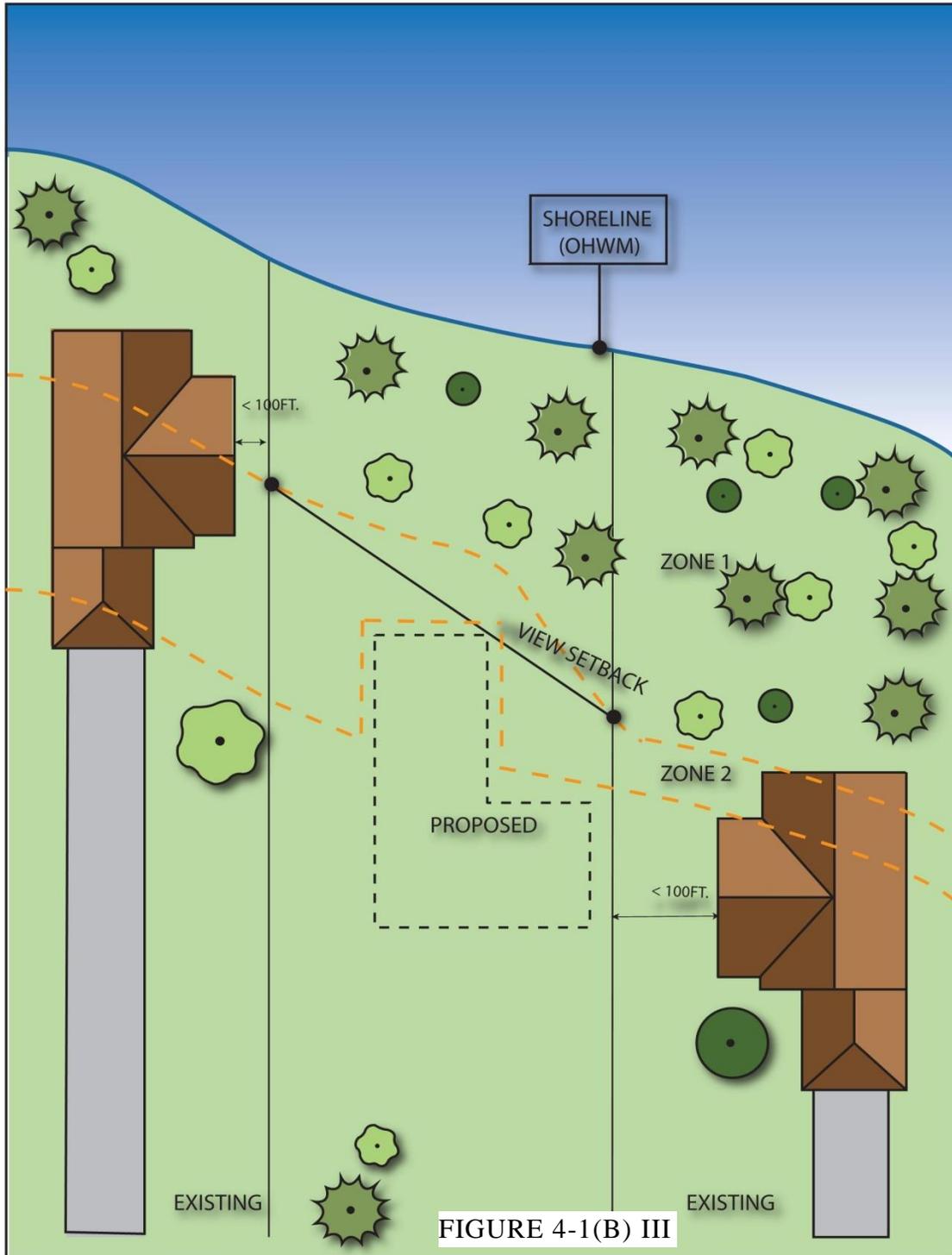
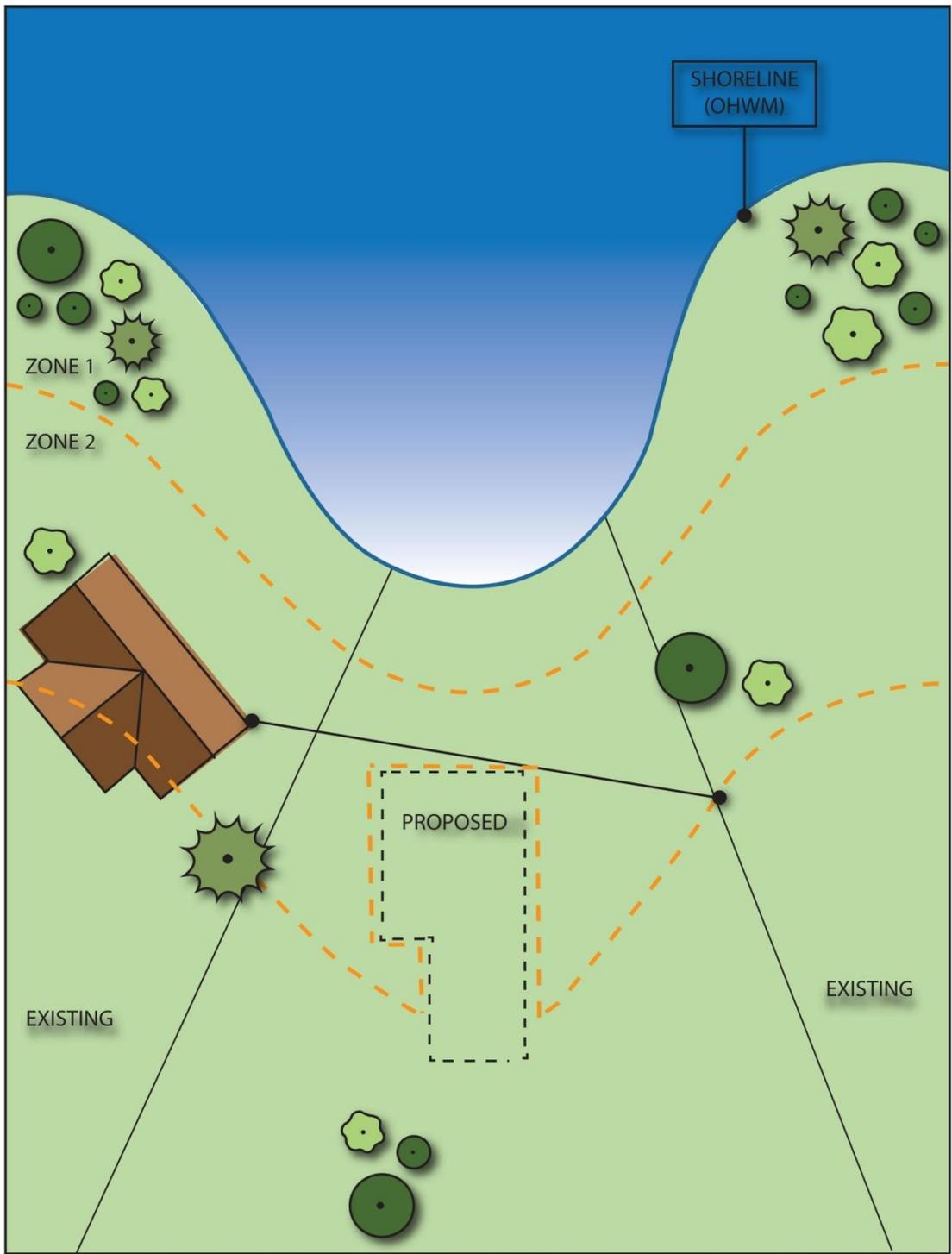


FIGURE 4-1(B) III

Approved by City Council 07/16/14 (07/16/14 07/16/14)
Approved by Department of Ecology 07/16/14
Draft Amendment – September 11, 2018 Public Hearing Draft



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Approved by City Council 07/14/2014 (Ord. 2014-04)
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Draft Amendment – September 11, 2018 Public Hearing Draft

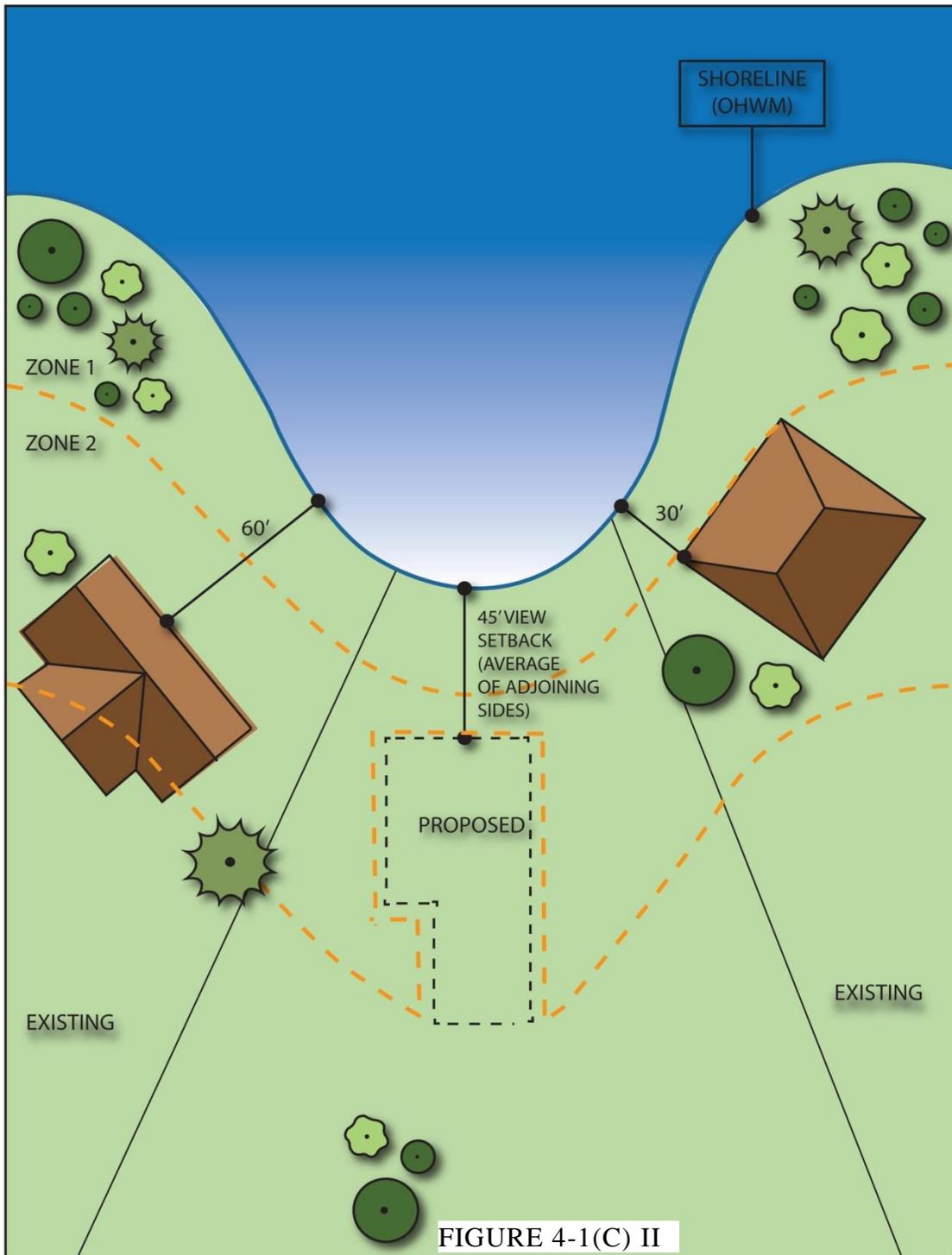


FIGURE 4-1(C) II

Approved by City Council 07/14/2014 (Ord. 2014-04)
Approved by Department of Ecology 07/16/14
Draft Amendment – September 11, 2018 Public Hearing Draft

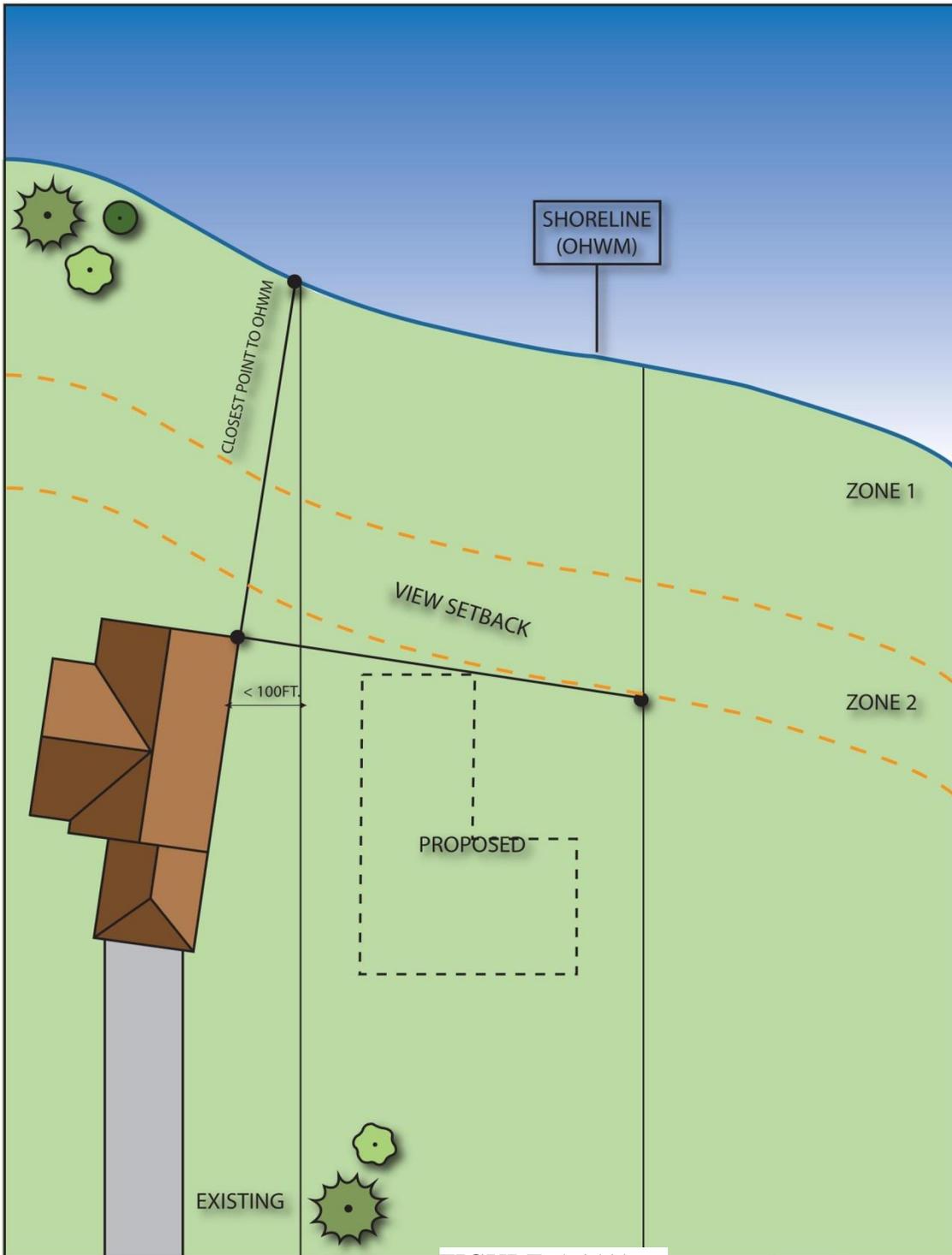


FIGURE 5-1(A)

Approved by City Council 07/17/2017 (Ord. 2017-07)
 Approved by Department of Ecology 07/16/14
Draft Amendment – September 11, 2018 Public Hearing Draft

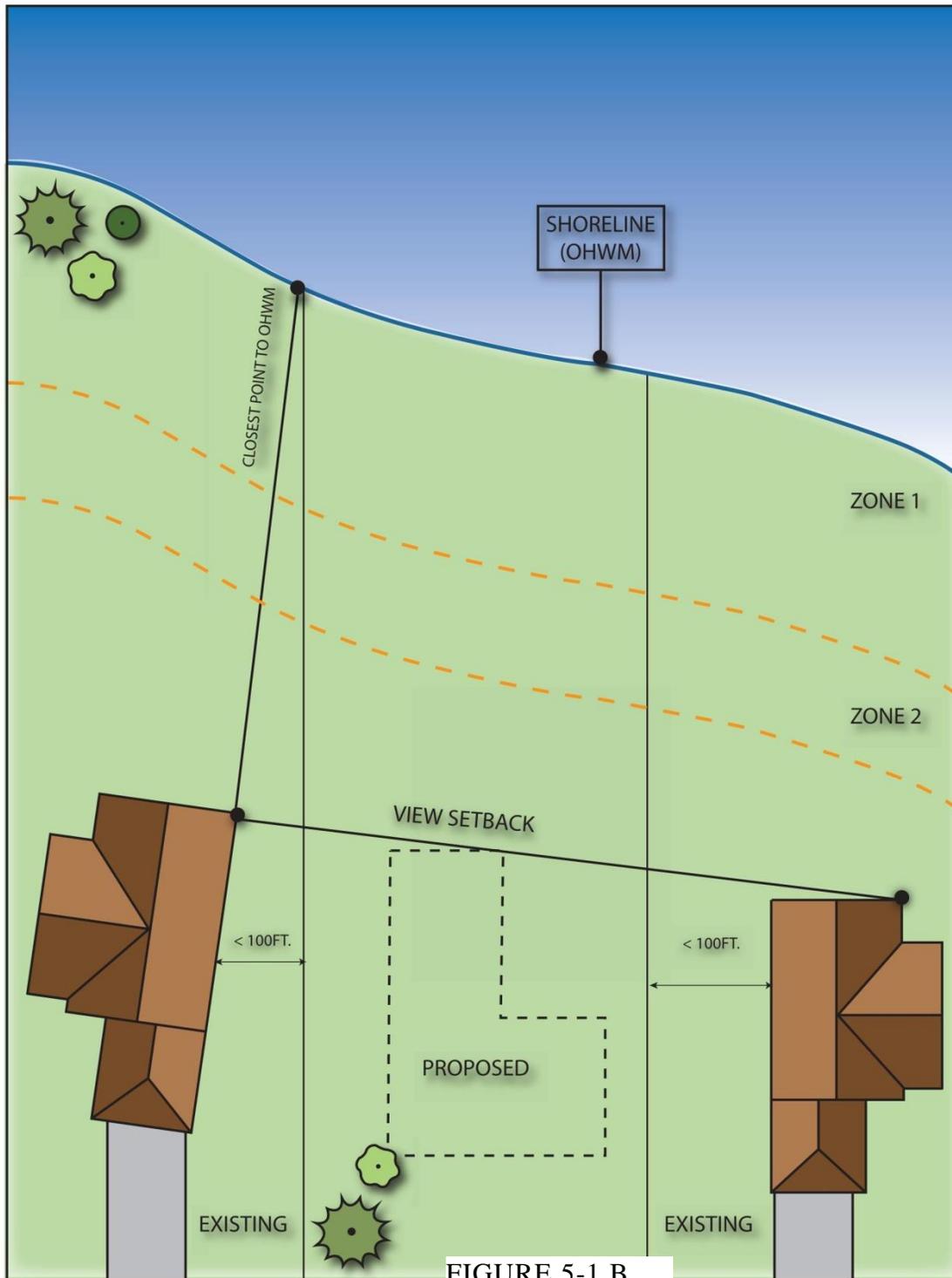


FIGURE 5-1 B

Approved by City Council 07/14/2014 (Ord. 2014-04)
Approved by Department of Ecology 07/16/14
Draft Amendment – September 11, 2018 Public Hearing Draft

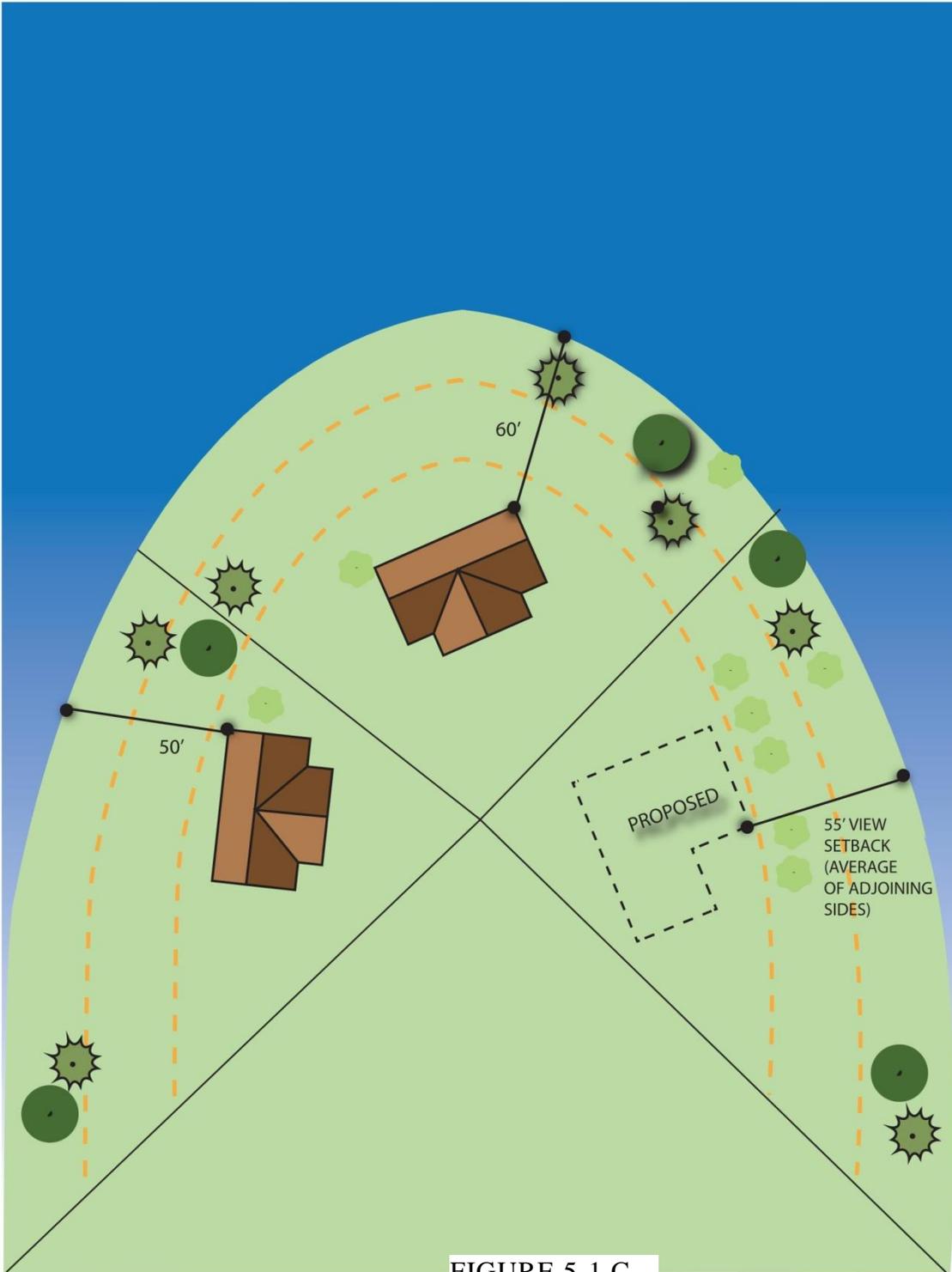


FIGURE 5-1 C

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 Approved by Department of Ecology 07/16/14
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4.1.4 Land Modification

4.1.4.1 Applicability

All shoreline uses and activities must conform to the clearing and grading provisions herein, including development which does not require a shoreline permit. Shoreline development and land modification activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island Wide) Policies and Regulations; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater Management; Section 4.1.3, Vegetation Management; ~~Appendix B~~; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.1.4.2 Policies

1. Allow alteration of the natural landscape only in association with existing legal uses or new permitted or allowed shoreline use/or development. Prohibit speculative clearing, grading, or vegetation removal.
2. Avoid and minimize potential adverse impacts from land surface modification activities through proper site planning, construction timing practices, and use of erosion and drainage control methods. Generally, these activities should limit alteration of the natural landscape to the minimum extent necessary to accommodate the proposed use, and should be designed and located to protect shoreline ecological functions and ecosystem-wide processes.
3. Assure clearing and grading activities are consistent with the Stormwater Manual to prevent adverse impact to wildlife habitat, streams, lakes, and wetlands from erosion.
4. For clearing and grading proposals, provide a clearing and grading plan addressing vegetation removal, erosion and sedimentation control, and protection of critical areas and shoreline vegetation conservation and management zones. Use low impact development techniques to minimize adverse impacts to natural hydrologic conditions, such as soil compaction and transpiration.
5. Promptly replant disturbed areas following project completion. Replanting with native shoreline vegetation should be a priority, however, flexible planting plans that incorporate non-native plant species which provide similar functions and ecosystem-wide processes can be considered.

4.1.4.3 Regulations – Prohibited

1. All clearing and/or grading not associated with an approved development, use or activity, unless specifically provided for in this program.

4.1.4.4 Regulations - General

1. Clearing and/or grading within shoreline jurisdiction shall require an approved clearing or grading permit in association with an existing legal use or a new permitted or allowed shoreline use or development. Such activities shall meet the mitigation and revegetation provisions in Section 4.1.2, Environmental Impacts and Section 4.1.3, Vegetation Management.
2. Upon completion of development, use or activity, the remaining cleared areas shall be replanted within the first applicable planting season.
3. All vegetation that is intended to be retained but may likely be disturbed by the clearing and grading activity shall be protected in accordance with the standards of BIMC Chapter 18.15.010, Landscaping, Screening, and Tree Retention, Protection and Replacement.
4. Land alteration (clearing, grading, and filling) shall be limited to the minimum extent necessary for the proposed development, use or activity. All land alteration must meet the standards of BIMC Chapter 15.20 Surface and Storm Water Management.

4.1.5 Critical Areas

4.1.5.1 Applicability

~~This section provides policies and regulations that apply to critical areas including critical saltwater and freshwater habitats as defined by WAC 173-26-221(2)(c)(iii) and (iv), including those portions of streams and wetlands, and flood plains or other flood prone areas within the shoreline jurisdiction. These policies and regulations apply in addition to the critical areas protection standards for fish and wildlife habitat conservation areas found in Appendix B. All shoreline uses and activities, including development which does not require a shoreline permit, must conform to these provisions. Shoreline development and activities associated with critical areas will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island wide) Policies and Regulations; Section 4.1.6, Water Quality and Stormwater Management; Section 4.1.3, Vegetation Management; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.~~

This section applies to all development, uses and activities within areas or adjacent to areas designated as critical areas. No action shall be taken by any person, company, agency, governmental body (including the city), or applicant, which results in any alteration of a critical area except as consistent with the goals, policies, purposes, intent, requirements, and development standards of this section.

4.1.5.2 Goal

Comprehensively manage shoreline uses and activities to protect, enhance, and restore existing ecological functions and ecosystem-wide processes of critical areas by utilizing the most current, accurate, and complete scientific and technical information. **By avoiding and limiting adverse impacts to and alteration of critical areas, this section seeks to protect the Island's special character and accomplish the following goals:**

1. To conserve the biodiversity of plant and animal species, protect, maintain and restore healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including, but not limited to, ground and surface waters, wetlands, fish and wildlife and their habitats;
2. Direct development, uses and activities to less environmentally sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas;
3. Prevent cumulative adverse environmental impacts to water quality, water quantity, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, aquifer recharge, and habitat conservation areas;
4. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, or flooding; and
5. Alert owners, potential purchasers, real estate agents, appraisers, lenders, builders, developers and other members of the public to natural conditions that pose a hazard or otherwise limit development.

4.1.5.3 Purpose and intent

1. The purpose of this section is to designate and classify ecologically sensitive and hazardous areas as critical areas and to protect, maintain and restore these areas and achieve no net loss of their functions and values and allow for reasonable use of public and private property.
2. This section is intended to implement the goals, policies, guidelines, and requirements of the city comprehensive plan and the Growth Management Act (Chapter 36.70A RCW).

3. Critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the city and its residents. Critical areas may also pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation of flood waters, ground water recharge and discharge, erosion control, wave attenuation, and protection from hazards and the impacts of climate change. Groundwater recharge is of particular concern for the city because the Island’s drinking water is supplied solely by groundwater.
4. This section is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this section to make a parcel of property unusable by denying its owner reasonable use of the property or to prevent the provision of public facilities and services necessary to support existing development.

4.1.5.4 Protection of Critical Areas

1. All proposed development, uses and activities subject to this section shall utilize mitigation sequencing pursuant to Section 4.1.2.6.
2. The precautionary principle shall be applied in the review of any action, taken or proposed, that does not conform to the requirements of this section. The burden of proof that the action will cause no net loss or harm to persons or property falls on the applicant or the property owner.

4.1.5.35 Policies

1. Provide a level of protection to critical areas that protects, maintains and restores these areas, achieves no net loss of their functions and values and allows for reasonable use of public and private property assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.
- ~~1.—Protect shoreline resource areas, including but not limited to critical areas, including:

 - a.—Critical Aquifer Recharge Areas
 - b.—Fish and Wildlife Habitat Conservation Areas
 - c.—Frequently Flooded Areas
 - d.—Geologically Hazardous Areas
 - e.—Wetlands
 - f.—Critical Saltwater and Freshwater Habitat Areas
 - g.—Critical Habitat~~

2. Encourage development proposals to include elements of preservation, conservation, restoration, or enhancement of critical areas, including saltwater habitat and fish and wildlife conservation areas, through incentives and ecosystem-wide restoration planning.
- ~~3. Locate, design, construction, and manage all shoreline uses and activities in ways that assure no net loss of shoreline ecological functions and ecosystem-wide processes, and protect critical saltwater habitat, including fish and wildlife habitat conservation areas.~~
34. Locate and design shoreline uses, activities, and/or development to avoid risks to people and property. See also Section 3.0, Shoreline Designation Policies and Regulations, for additional provisions.
- ~~5. Ensure that proposed shoreline uses, activities and/or development proposed adjacent to critical areas or their buffers, will not adversely impact shoreline ecological functions and/or ecosystem-wide process or critical areas, fish and wildlife habitat conservation areas and critical saltwater habitat.~~
46. Promote and manage water-related shoreline uses and activities, such as public access and recreation, that are compatible with critical areas, provided they do not result in a net loss of critical area functions and values.~~adversely impact ecological function.~~
- ~~7. Monitor critical areas, including critical saltwater habitats, and fish and wildlife habitat conservation areas, to assure that these areas are not being adversely impacted by approved development or restoration projects.~~

4.1.5.46 Allowed Activities within Critical Areas

1. The following activities are allowed within critical areas and do not require review for compliance with critical area regulations. Any activity not subject to critical areas regulations that constitutes development pursuant to Section 8, Definitions, is subject to applicable review under this Program.
 - a. Normal and routine yard and garden activities including, but not limited to, cutting and mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden plants and crops, incidental vegetable gardening, and pruning and planting of noninvasive ornamental vegetation, intended to maintain the general condition and extent of such areas; provided, that such activities are limited to legally existing yard and garden areas, do not further expand into critical areas or associated buffers, do not significantly alter topography, and do not diminish water quality or quantity. Normal and routine activities cannot result in a change to the location, size at the ground level or configuration of existing yard and garden areas.
 - b. Class I, II and III forest practices regulated pursuant to Chapter 76.09 RCW.

- c. Minor site investigative work. Work necessary for land use review submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require a clearing permit pursuant to Section 4.1.3 or construction of new roads. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored. Minor site investigative work may include educational and scientific research activities.
 - d. Activities within the improved right-of-way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, when such facilities are located within the improved portion of the public right-of-way or easement of a private street, except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater.
 - e. The installation of low impact fencing within critical area buffers provided the location does not result in restricting wildlife movement, the location and installation is the least impactful to the critical area and buffer as possible, and there is no alternative to fencing to achieve the purpose of the fence.
 - f. Signs for marking critical area boundaries, interpretive signs and survey markers or property boundaries.
 - g. Development, uses or activities within critical aquifer recharge areas that do not have the potential to generate a pollutant identified as a potential source of drinking water contamination pursuant to Section 4.1.9 and are outside an Aquifer Recharge Protection Area (ARPA) if one has been designated pursuant to Section 4.1.9 and any other critical area or its buffer or setback.
2. The following activities are allowed within critical areas only after review and authorization by the city. Review and authorization may occur over-the-counter and will require a written letter of approval. Any activity not subject to critical areas regulations that constitutes development pursuant to Section 8, Definitions, is subject to applicable review under this Program.
- a. Activities within a portion of a wetland buffer or fish and wildlife habitat conservation area buffer separated from the critical area by an existing permanent substantial development, use or activity which serves to eliminate or greatly reduce the impact of the proposed activity on the critical area are exempt from establishing the full required buffer width; provided, that impacts to the critical area do not increase. The director shall review the proposal to determine the likelihood of associated impacts and may require the applicant to provide a critical areas report prepared by a qualified professional that demonstrates through a site assessment or

functional analysis that the interrupted buffer area is functionally isolated from the critical area. The director shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the physical separation.

4.1.5.47 Regulations – General

- ~~1. Development, uses, and activities proposed within shorelines of the state shall meet the requirements of the City's shoreline specific Critical Areas Regulations as contained in Appendix B, in addition to the requirements found elsewhere in the Master Program.~~
 - ~~2. Development, uses, and activities adjacent to critical areas, including critical saltwater habitats and fish and wildlife habitat conservation areas, proposed within shorelines of the state shall be monitored to assure that these areas are not being adversely impacted by approved development or restoration projects, consistent with Section 4.1.2 monitoring and mitigation requirements and the monitoring and mitigation requirements in Appendix B.~~
 - ~~3. Special Reports. For development proposed on property with marine bluffs, steep slopes, erosion hazard areas and/or landslide hazard areas, a geotechnical report shall be required to assess potential hazards and propose measures to mitigate such hazards consistent with the requirements of this Master Program and attached appendices.~~
1. Any proposed development or activity within a critical area or its buffer or setback requiring review under this Program shall be reviewed based on the proposal's ability to comply with all of the following criteria:
 - a. The proposal minimizes the impact on critical areas in accordance with mitigation sequencing (SMP 4.1.2.6);
 - b. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
 - c. The proposal is consistent with the general purposes of this section and the public interest;
 - d. Any alterations permitted to the critical area are mitigated in accordance with mitigation requirements in SMP 4.1.2.6;
 - e. The proposal protects the critical area functions and values consistent with best available science and results in no net loss of critical area functions and values;
 - f. The proposal addresses cumulative impacts of the action; and
 - g. The proposal is consistent with other applicable regulations and standards.
 2. The city may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this section.

3. Except as provided for by this section, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences in SMP 4.1.2.6 shall be denied.
4. Support Information Requirements. Any application for proposed development or activity requiring review under this Program shall include the following:
 - a. A site plan drawn to scale identifying locations of critical areas and their buffers, location of proposed development, uses and activities, location and estimated quantity of earthwork and vegetation clearing and location and type of drainage features or infrastructure.
 - b. Any critical area report or study required by this section. Such reports or studies shall be prepared by qualified professionals in the area of concern as defined in Section 8.0, Definitions, and in accordance with the requirements provided in Section 4.1.5.14 (Critical Areas Reports) as follows:
 - i. Aquifer recharge study: Hydrogeologist;
 - ii. Geological hazard assessment: Engineering geologist; geotechnical engineer, provided that:
 - i. An engineering geologist may provide a study, including interpretation, evaluation, analysis, and application of geological information and data and may predict potential or likely changes in types and rates of surficial geologic processes due to proposed changes to a location, provided it does not contain recommended methods for mitigating identified impacts, other than avoidance, structural impacts to, or suitability of civil works; and
 - ii. Engineering geologists may not provide engineering recommendations or design recommendations, but may contribute to a complete geotechnical report that is co-sealed by a geotechnical engineer.
 - a. Stream buffer enhancement plan: Biologist with stream ecology expertise; fish or wildlife biologist; a civil engineer may provide studies for drainage, surface and subsurface hydrology, and water quality;
 - b. Wetland buffer enhancement plan, wetland critical area report, wetland mitigation plan: Wetlands specialist.
 - c. Habitat Management Plans: Wildlife biologist and/or fisheries biologist.
 - d. The director is authorized to retain experts at the applicant's expense and request review from other jurisdictional agencies to assist in the review of application materials; and
3. Any additional information determined as relevant by the director.

5. Notice on Title

- a. The owner of any property with field-verified presence of critical area or buffer on which a development proposal is submitted shall file for record with the Kitsap County auditor a notice approved by the director in a form substantially as set forth in Subsection 2 of this Section. Such notice shall provide notice in the public record of the presence of a critical area and buffer, the application of this section to the property, and that limitations on actions in or affecting such areas may exist. The applicant shall submit proof that the notice has been filed for record before the city shall approve any development proposal for such site. The notice shall run with the land and failure to provide such notice to any purchaser prior to transferring any interest in the property shall be in violation of this section.
- b. Form of Notice.

Critical Areas
and/or
Critical Areas Buffer Notice

Legal Description: _____

Present owner: _____

NOTICE: This property contains critical areas or their buffers as defined by the City of Bainbridge Island Ordinance No. _____ . The property _____ was the subject of a development proposal for

_____ (type of permit) application # _____ filed on _____ (date) _____. Restrictions on use or alteration of the critical areas or their buffers may exist due to natural conditions of the property and resulting regulations. Review of such application has provided information on the location of critical areas or critical area buffers and restrictions on their use through setback areas. A copy of the plan showing such setback areas and other restrictions or required enhancements is attached hereto.

Signature of owner _____

STATE OF WASHINGTON)
COUNTY OF _____)

On this day personally appeared before me to me known to be the individual(s) described in and who executed the within and foregoing instrument and acknowledged that they signed the same as their free and voluntary act and deed for the uses and purposes therein stated.

Given under my hand and official seal this _____ day of _____, _____. NOTARY PUBLIC in and for the state of Washington, residing at _____.

4.1.5.58 Regulations – ~~Fish and Wildlife Habitat Conservation Areas and Critical Saltwater Habitat~~

1. Water-dependent development and uses, including marinas, docks, piers, mooring areas, underwater parks, utility crossings, and shoreline modifications, shall not intrude into or be built over critical saltwater habitat unless:
 - a. The applicant can show that all of the following criteria can be met:
 - i. The use preferences of Section 4.1.1 shall be utilized for uses in Shorelines of State-wide Significance; and
 - ii. The need for such a structure is clearly demonstrated and an alternative alignment or location on the property that would avoid impacts to critical saltwater habitats is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose, as demonstrated through an alternatives analysis. The analysis should include in part, shoreline bathymetry, shoreline features at the site, and substrate composition;
 - iii. It can be demonstrated that the project is consistent with the state’s interest in resource protection and species recovery; and
 - iv. Impacts to critical saltwater habitat functions and processes are mitigated to result in equal or better ecological function; or
 - b. The proposal is for private, non-commercial, residential docks for single use, community, or joint-use, which may be authorized, provided that:
 - i. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible; and
 - ii. The project, including any required mitigation, will result in no net loss of ecological functions and processes associated with critical saltwater habitat.
 - c. New or expanded overwater structures shall be located the greater or most protective of:
 - i. A horizontal distance of 25 feet from the outside edge of the structure to native aquatic vegetation attached to or rooted in substrate;
 - ii. A horizontal distance equal to the maximum distance shade will be cast by the structure and vessel;
 - iii. A 4-foot vertical distance from eelgrass or relevant submerged aquatic vegetation;
 - iv. A distance the diameter of the turning circle, if the structure is to be utilized for motorized vessels. The turning circle is defined as 3.5 times the length of the longest vessel to use the structure.
 - v. Alternative measures that demonstrate no net loss of ecological functions.
 - d. For projects within WDFW documented Pacific herring spawning locations, in-water activities that would affect herring spawn should be restricted to WDFW’s approved

work window for Bainbridge Island (May 1 through January 14). For aquaculture projects, the City may consider alternative methods that are contained in federal and/or state aquaculture permits for reducing impacts to herring spawning habitat and other forage fish spawning habitat.

- e. For projects other than commercial aquaculture within WDFW documented sand lance and surf smelt spawning locations, no activities should occur during spawning windows as identified by WDFW. For commercial aquaculture projects within WDFW documented sand lance and surf smelt spawning locations, no harvesting may occur during the surf smelt or sand lance spawning seasons until a spawning survey is conducted. If surf smelt or sand lance spawn are present in the growing area to be harvested or adjacent tidelands, then no harvest activities may occur until the eggs are hatched. Extreme caution should be taken to avoid impact and minimize disturbance of sand lance and surf smelt larvae that are present.
2. Aquatic herbicide treatments, mechanical removal of vegetation or aquatic pesticide treatments shall not be used on critical saltwater habitats, except for approved habitat restoration or enhancement measures that meet the provisions of Section 4.1.6, Water Quality and Stormwater Management.
 3. Sand, gravel or other materials shall not be added or removed from critical saltwater habitat, unless approved as part of a restoration effort or beach nourishment program or as allowed in 1, above.
 4. New outfalls (including stormwater and sewer outfalls) and discharge pipes shall not be located in critical saltwater habitats or areas where outfall or discharge will adversely affect critical saltwater habitat, unless the applicant can show that all of the following can be met:
 - a. There is no feasible alternative location for the outfall or pipe; and
 - b. The outfall or pipe is placed below the surface of the beach or bed of the water body; and
 - c. The discharge point(s) on the outfall or discharge pipe is located so the discharges, including nutrients and flow, do not adversely affect critical saltwater habitats; and
 - d. For public sewage outfalls:
 - i. The outfall discharges waterward of the intertidal zone.
 - ii. The disturbed area will be revegetated with native vegetation.
 5. The use of existing outfalls shall be maximized to limit the need for additional outfalls, provided the existing outfall meets the standards of this section, or unless an alternatives analysis demonstrates the dispersal is less impacting to the shoreline environment.
 - ~~6. For activities adjacent to fish and wildlife habitat conservation areas the maximum prescribed buffer shall apply. These buffers can be modified on a case by case basis through a habitat management plan, pursuant to Section B-4 contained in Appendix B. In~~

order to determine the need or extent of a buffer, a critical area report shall be required for all development in or adjacent to a habitat conservation area.

a. ~~In addition to the requirements in Appendix B, the Habitat Management Plan shall:~~

i. ~~Describe actions that will be implemented to ensure that buffer areas provide ecological functions and processes equivalent to a dense native plant community to the extent possible given the area that is feasibly available; and~~

ii. ~~Demonstrate that no net loss of ecological functions and processes in critical saltwater habitat and other critical areas will occur, as specified in WAC 173-26-201(3)(d) and WAC 173-26-221(2)(c)(iii).~~

7. Until an inventory of critical saltwater habitat is completed, all over water and near-shore development shall conduct an inventory of site and adjacent beach sections to assess the presence of critical saltwater habitat and/or functions and processes. The inventory shall occur prior to construction and the methods and extent of the inventory shall be consistent with accepted research methodology. New studies shall be required only when existing information is out dated or does not exist.

~~4.1.5.6 Regulations – Frequently Flooded Areas~~

1. ~~All new development and new uses within the jurisdiction of this Master Program shall comply with the provisions of Section B 11, Frequently Flooded Areas located in Appendix B of this Master Program.~~

4.1.5.9 Aquifer Recharge Areas

1. Applicability. Aquifer recharge areas are areas that have a critical recharging effect on groundwater used for potable water supplies and/or that demonstrate a high level of susceptibility or vulnerability to groundwater contamination from land use activities. In accordance with WAC 365-190-100, the entirety of Bainbridge Island is classified as an aquifer recharge area to preserve the volume of recharge available to the aquifer system and to protect groundwater from contamination.

2. Prohibited Activities and Uses. The following activities and uses are prohibited within critical aquifer recharge areas due to the probability or potential magnitude of their adverse effects on groundwater:

- a. Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste, and inert and demolition waste landfills;
- b. Underground Injection Wells. Class I, III, and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells;

- c. Chemical wood preservation and/or treatment facilities;
- d. Storage, Processing, or Disposal of Radioactive Substances. Facilities that store (other than minor sources such as medicinal uses or industrial testing devices), process, or dispose of radioactive substances;
- e. Hazardous liquid transmission pipelines;
- f. Commercial mining and chemical washing of metals, hard rock, sand, and gravel;
- g. Hydrocarbon extraction, reprocessing, refinement, and storage;
- h. Electroplating/metal finishing;
- i. Facilities that treat, store, process, or dispose of hazardous waste; and
- j. Other Prohibited Uses or Activities.
 - i. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source; and
 - ii. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a stream.

3. Development standards – general

- a. No development, use or activity may exceed water quality standards or otherwise violate the anti-degradation requirements specified in WAC Chapter 173-200.
- b. Any development or activity that is not excluded in Section 4.1.5.8.4.a shall ensure sufficient groundwater recharge, defined as maintaining 100 percent of the annual average pre-construction groundwater recharge volume for the site. The primary means to ensure sufficient groundwater recharge shall be through the designation of an Aquifer Recharge Protection Area in accordance with Section 4.1.5.8.4.

4. Development standards – Aquifer Recharge Protection Area (ARPA)

- a. Any proposed development or activity requiring a site assessment review (SAR) pursuant to BIMC 15.19 and 15.20 located within the R-0.4, R-1 or R-2 zoning designations requires designation of an ARPA; except, designation of an ARPA is not required for the following:
 - i. Removal of invasive species;
 - ii. Construction of public trails provided the standards set forth in Section 5.8 are met;

- iii. Replacement of hard surfaces; and
- iv. Development and activities located on properties protected in perpetuity by a legal instrument acceptable to the City Attorney wherein at least 65 percent of the site meets the development standards for aquifer recharge protection areas of this section.

5. ARPA general requirements

- a. The location and configuration of the ARPA shall be determined through completion of a Site Assessment Review (SAR) in accordance with BIMC 15.19. The city may require a professional forester, ISA-certified arborist or landscape architect to determine the location and configuration of the ARPA if needed to ensure the ARPA design standards set forth in Section 4.1.5.8.6.a through c. are met;
- b. The ARPA shall include all existing native vegetation on a site, up to a maximum of 65 percent of the total site area. A lower percentage is allowed if necessary to achieve a development area of at least 12,500 square feet on a parcel;
- c. The maximum area of the required ARPA may be reduced to 50 percent for public schools and public parks allowed in the underlying zoning district;
- d. The location and configuration of the ARPA may change over time; however, the total area required pursuant to b., above, shall be retained once established. Any alteration to the location or configuration of the ARPA shall be approved by the director and documented on a site plan included with a notice to title in accordance with Section 4.1.5.6. The city may require a ARPA stewardship plan prior to approving a change to the location and configuration of the ARPA.

6. ARPA design standards

- a. Healthy, existing trees and vegetation should be retained to the maximum extent possible. Healthy significant trees shall be priority trees for retention. Trees shall be retained in one or more stands or clusters.
- b. The ARPA shall be delineated to include:
 - i. A low perimeter-to-area ratio;
 - ii. A minimum width of 12 feet; and
 - iii. The critical root zone of all significant trees.
- c. The ARPA shall be contiguous with abutting, off-site areas of other ARPAs, open space or critical areas to the extent feasible.

- d. The ARPA may include landscaping or open space requirements pursuant to BIMC 18.15.010.D and E and BIMC 17.12, respectively, and other critical areas and their buffers or setbacks pursuant to other provisions of this section.
4. ARPA use standards. The following developments and activities are allowed within a designated ARPA located outside the required shoreline buffer or Site-Specific Vegetation Management Area. Development and activities within any portion of an ARPA located within the required shoreline buffer or Site-Specific Vegetation Management Area is subject to applicable sections of this Program.
- a. Any structure or activity as long as the new structure or activity is shown to not negatively impact the amount of groundwater recharge on the site. Specifically, any structure or activity is allowed as long as the structure or activity (including mitigation measures, if any are needed) maintains 100 percent of the annual average groundwater recharge volume that existed on the site prior to the structure or activity as demonstrated by the 2012 Western Washington Hydrology Model (WWHM2012) recharge module, as amended.
- b. Tree and vegetation activities specified in BIMC 16.20.090.B.4.
- c. Installation of native plants.
- d. Removal of invasive plant species.
- e. Passive recreation, including pervious trails.
- f. Potable water wells and well houses.
- g. Low impact fencing or signs marking the ARPA boundary.
- h. On-site sewage drainfield facilities, if construction of the system will not require the use of heavy equipment or removal of significant trees.
- i. Storm drainage facilities if the applicant can demonstrate that (a) the system meets the low impact design (LID) standards of BIMC 15.20, and (b) construction of the system will not require the use of heavy equipment or removal of significant trees.
- j. Accessory solar panels, small wind energy generators, composting bins, rainwater harvesting barrels, and cisterns, as defined in BIMC 18.36.

- k. Other structures or hard surfaces with a total footprint of no greater than 200 square feet.
 - l. Driveways may be allowed to pass through the ARPA if (a) siting of the driveway within the ARPA is determined by the director to be necessary to achieve greater native vegetation retention and use of non-structural low impact design practices, (b) site utilities are installed within the footprint of the driveway, (c) siting of the driveway avoids removal of significant trees to the maximum extent feasible and (d) the total area required pursuant to Section 4.1.5.8.5 is achieved, which may require replanting of areas comprised of non-native vegetation.
 - m. Removal of any significant tree, other than hazard tree removal, with City review and pre-approval of an Aquifer Recharge Protection Area stewardship plan prepared in accordance with Section 4.1.5.14.
5. ARPA protection
- a. The ARPA, including the critical root zone of significant trees, shall be protected during construction as provided in BIMC 18.15.010.C.4 or as specified by an ISA-certified arborist.
 - b. The ARPA shall be documented on a site plan included with a notice to title in accordance with Section 4.1.5.6.

4.1.5.10 Fish and Wildlife Habitat Conservation Areas

1. Fish and Wildlife Habitat Conservation Areas include:

- a. Streams. Within the city of Bainbridge Island, streams shall include those areas which meet the definitions in Section 8.0, Definitions. Streams shall be classified in accordance with the Washington Department of Natural Resources water typing system (WAC 222-16-030), which is hereby adopted in its entirety by reference and summarized as follows:
 - i. Type F: streams which contain fish habitat pursuant to Section 8.0 (Definitions);
 - ii. Type Np: perennial non-fish habitat streams; and
 - iii. Type Ns: seasonal non-fish habitat streams.
- b. Habitats recognized by federal or state agencies for federal- and/or state-listed endangered, threatened, sensitive and candidate/monitored species which presence is documented in maps or databases available to City of Bainbridge Island.

- c. Areas that contain habitats and species of local importance. Any person may nominate for designation a species or habitat of local importance. Nominations will be processed pursuant to definitions in Section 8.0, Definitions and nomination criteria developed by the director.
- d. Biodiversity areas and corridors as defined in the 2008 Washington Department of Fish and Wildlife Priority Habitat and Species List, or as amended.
- e. All areas within the city of Bainbridge Island meeting one or more of the preceding criteria in this Section, regardless of any formal identification or mapping, are hereby designated critical areas and are subject to the provisions of this section and shall be managed consistent with the best available science, such as the Washington Department of Fish and Wildlife's most recent Management Recommendations for Priority Habitat and Species.

2. Mapping

The location and extent of all mapped critical areas shown on the city of Bainbridge Island critical area maps are approximate and shall be used as a general guide only. The type, extent and boundaries shall be determined in the field by a qualified professional according to the requirements of this section. The critical area maps are adopted as part of this section and are incorporated herein by this reference. Washington Department of Natural Resource (DNR) and Washington Department of Fish and Wildlife maps are not the only source of data. Any request to change the city's existing map shall be accompanied by a report from a qualified professional that includes a description of the critical area and a summary of how it meets the definitions in Section 8.0, Definitions. The inventory and cited resources are to be used as a guide for the city, project applicants, and/or property owners and may be continuously updated as new or altered critical areas are identified.

3. Development Standards – Streams

- a. All designated streams require a buffer pursuant to Table 4-4. Buffers shall remain as undisturbed or enhanced vegetation areas for the purpose of protecting the integrity, function, and value of stream resources. Any buffer modification proposed shall be through an approved Buffer Enhancement Plan. No uses or activities shall be allowed within the buffer unless allowed by this Section. If the buffer has previously been disturbed, the director may require the disturbed buffer area be enhanced, including revegetation with native plant species, pursuant to an approved Buffer Enhancement Plan meeting the requirements of Section 4.1.5.14. No refuse, including but not limited to household trash, yard waste and commercial/industrial refuse, shall be placed in the buffer.

- b. The required minimum buffers listed in Table 4-4 are based on the assumption that the buffer is well vegetated with native species appropriate to the site. If the buffer does not consist of vegetation adequate to provide stream protection and buffer functions, the director may require that the buffer be planted to achieve such protection and function.

Table 4-4. Stream Buffers

| <u>Stream Type</u> | <u>Buffer Width</u> |
|------------------------------------|---------------------|
| <u>F</u> | <u>200</u> |
| <u>Np</u> | <u>100</u> |
| <u>Ns (connected to F or Np)</u> | <u>75</u> |
| <u>Ns (not connected to F, Np)</u> | <u>50</u> |

- c. Buffer distances shall be measured from the ordinary high water mark (OHWM) or from the top of each bank where the OHWM cannot be identified.
- d. The buffer width shall be increased to include streamside wetlands which provide overflow storage for stormwater, feed water back to the stream during low flow, or provide shelter and food for fish. In braided channels, the ordinary high water mark or top of bank shall be defined to include the entire stream feature.
- e. Streams in Ravines - Buffers. For streams in ravines outside the Mixed Use Town Center with ravine sides 10 feet or greater in height, the buffer width shall be the greater of:
 - i. The buffer width required for the stream type; or
 - ii. A buffer width which extends 25 feet beyond the top of the ravine.
- f. Increased buffer provisions. The director may increase buffer widths, up to 50 percent greater than the applicable buffer set in this section for critical areas with known locations of endangered, threatened, or state monitor or priority species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species. Such determination shall be based on site-specific and project-related conditions.
- g. Structure or hard surface setback. A structure or hard surface setback line of fifteen feet is required from the edge of any stream buffer. Minor structural or impervious surface intrusions into the areas of the setback, such as but not limited to fire escapes, open/uncovered porches, landing places, outside walkways, outside stairways, retaining walls, fences and patios, may be permitted if the department determines upon review of an analysis of buffer functions submitted by the applicant, that construction and/or maintenance of such intrusions will not encroach into the stream buffer or adversely impact the stream. The functional analysis shall include a functional methodology

supported by best available science. The setback shall be identified on a site plan and filed as an attachment to the notice on title as required by Section 4.1.5.6 (Notice on Title).

- h. Buffer Modification. Modification to buffer widths may be allowed provided the applicant demonstrates the need for modification through mitigation sequencing pursuant to Section 4.1.2.6.
 - i. Buffer Width Averaging. The width of a required buffer may be averaged if the applicant can demonstrate that averaging can provide equal or greater functions and values as would be provided under the required buffer and all of the following conditions are met:
 - A. The total area of buffer after averaging is equal to the area required without averaging.
 - B. Averaging does not result in the any portion of the buffer being reduced more than 25 percent of its required width.
 - ii. Any request for buffer modification outlined above shall be reviewed in conjunction with the underlying land use or construction permit. Requests for buffer reduction shall include a buffer enhancement plan prepared by a qualified consultant that meets the requirements of Section 8.0, Definitions.
 - iii. The city may request technical review of a buffer enhancement plan from other agencies to ensure consistency with state, federal or tribal management recommendations.
 - iv. Any other buffer modification, other than non-compensatory enhancement, requires a shoreline variance.

9. Development Standards – Other Fish and Wildlife Habitat Conservation Areas

- a. All development, uses and activities within known fish and wildlife habitat conservation areas require submittal and approval of a Habitat Management Plan (HMP) as specified in Section 4.1.5.14, Critical area reports. The HMP shall consider measures to retain and protect the fish and wildlife habitat and shall consider the effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of existing native vegetation.
- b. In the case of bald eagles, the HMP shall comply with the federal Bald and Golden Eagle Protection Act (16 USC 668) to avoid impacting eagles and their habitat.

10. Standards for specific development, uses and activities. The following development, uses and activities may be allowed within fish and wildlife habitat conservation areas and their buffers.

Any proposal for the following development shall comply with the standards of this Section, other applicable sections of this Program, and other applicable state, federal and local regulations. The director may require submittal of a Habitat Management Plan unless project impacts are demonstrated to be de minimis through mitigation sequencing pursuant to Section 4.1.2.6.

- a. Stream Crossings. Any private or public road or driveway expansion or construction proposed to cross streams classified within this section shall comply with the following minimum development standards. All other state and local regulations regarding water crossing structures shall apply, and the use of the *Water Crossing Design Guidelines* (WDFW, 2013), or as amended, is encouraged.
 - i. Bridges or bottomless culverts shall be required for all Type F streams. Other alternatives may be allowed upon (i) submittal of a Habitat Management Plan which demonstrates that other alternatives would not result in significant impacts to the fish and wildlife conservation area and (ii) as determined through the Hydraulic Project Approval (HPA) process administered by the Washington Department of Fish and Wildlife. The plan must demonstrate that fish habitat will not be reduced in area or function.
 - ii. Crossings shall not occur in fish-bearing streams unless no other feasible crossing site exists. For new development proposals, if existing crossings are determined to adversely impact salmon spawning or passage areas, new or upgraded crossings shall be located as determined necessary through coordination with Washington Department of Fish and Wildlife;
 - iii. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative placement exists;
 - iv. Crossings shall not diminish flood carrying capacity;
 - v. Crossings shall serve multiple properties whenever possible;
 - vi. Where there is no reasonable alternative to providing a conventional culvert, the culvert shall be the minimum length necessary to accommodate the permitted activity.
- b. Stream Relocations. Stream relocations may be allowed only for the purpose of flood protection and/or fisheries restoration and only when consistent with a Washington Department of Fish and Wildlife Hydraulic Project Approval (HPA) process and the following minimum performance standards:
 - vii. The channel, bank, and buffer areas are replanted with native or equivalent vegetation that replicates a natural, undisturbed riparian condition;
 - viii. For those waters designated as Frequently Flooded Areas pursuant to BIMC 15.16, a professional engineer licensed in the State of Washington provides information demonstrating that the equivalent base flood storage volume and function will be maintained; and

- ix. Relocated stream channels are designed to meet or exceed the functions and values of the stream to be relocated.

- c. Pesticides, Fertilizers and Herbicides. No pesticides, herbicides or fertilizers may be used in fish and wildlife conservation area or their buffers, except those approved by the U.S. Environmental Protection Agency (EPA) and approved under a Washington Department of Ecology Water Quality Modification Permit for use in fish and wildlife conservation area environments and applied by a licensed applicator in accordance with the safe application practices on the label.

- d. Land Divisions and Land Use Permits. All land divisions and land uses proposed on a site that includes Fish and Wildlife Habitat Conservation Areas shall comply with the following procedures and development standards:
 - i. The open water area of lakes, streams, and tidal lands shall not be permitted for use in calculating minimum lot area.
 - ii. Land division approvals shall be conditioned so that all required buffers are designated as an easement or covenant encumbering the buffer. Such easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan.
 - iii. In order to avoid the creation of nonconforming lots, each new lot shall contain at least one building site that meets the requirements of this section, including buffer requirements for fish and wildlife habitat conservation areas. Each lot must also have access and a sewage disposal system location that are suitable for development that do not adversely impact the fish and wildlife conservation area.
 - iv. After preliminary approval and prior to final land division approval, the director may require that the common boundary between a required buffer and the adjacent lands be identified using permanent signs. In lieu of signs, alternative methods of buffer identification may be approved when such methods are determined by the director to provide adequate protection to the aquatic buffer.

- e. Utilities. Placement of utilities within designated fish and wildlife conservation area may be allowed pursuant to the following standards:
 - i. Construction of utilities may be permitted in fish and wildlife conservation area or their buffers, only when no practicable or reasonable alternative location is available and the utility meets the requirements for installation, replacement of vegetation and maintenance outlined below.
 - ii. Sewer or on-site Sewage Utility. Construction of sewer lines or on-site sewage systems may be permitted in fish and wildlife conservation area or their buffers when the applicant demonstrates it is necessary to meet state and/or local health code requirements; there are no other practicable alternatives available;

and construction meets the requirement of this Section. Joint use of the sewer utility may be allowed.

- iii. New utilities shall not be allowed in fish and wildlife conservation area with known locations of federal or state listed endangered, threatened or sensitive species, heron rookeries or nesting sites of raptors which are listed as state candidates except in those circumstances where an approved Habitat Management Plan indicates that the utility will not significantly impact the conservation area;
 - iv. New Utility Construction. Utility construction and maintenance shall protect the environment of fish and wildlife conservation area and their buffers.
 - A. New utilities shall be aligned whenever possible to avoid cutting or root damage to trees greater than 12 inches in diameter at breast height (four and one-half feet) measured on the uphill side.
 - B. Any area of disturbance shall be revegetated with appropriate native or equivalent vegetation at not less than pre-construction vegetation densities or greater, immediately upon completion of construction or as soon thereafter as possible due to seasonal growing constraints. The utility or landowner responsible for installation shall ensure that such vegetation survives.
 - C. Any additional access for maintenance shall be provided wherever possible at specific points rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than 15 feet; and shall be contiguous to the location of the utility corridor on the side away from the conservation area.
 - v. Utility maintenance shall include the following measures to protect the environment of regulated fish and wildlife habitat conservation areas.
 - A. Utility towers shall not be sandblasted or spray-painted. Lead-based paint is prohibited.
 - B. Pesticides, fertilizers and herbicides: No pesticides or fertilizers may be used in fish and wildlife habitat conservation areas or their buffers, except those applied by a licensed applicator in accordance with the safe application practices on the label.
- f. Bank Stabilization.
- i. A stream channel and bank may be stabilized when naturally occurring earth movement threatens existing structures (defined as requiring a building permit pursuant to the applicable building code), public improvements, unique natural resources, public health, safety or welfare, or the only feasible access to property,

- and, in the case of streams, when such stabilization results in maintenance of fish and wildlife habitat, flood control, and improved water quality.
- ii. Where bank stabilization is determined to be necessary, bioengineering or other non-structural methods should be the first option for protection. Structural methods, or hard stabilization, may only be utilized where it can be demonstrated by a professional engineer licensed in the State of Washington that an existing primary residential structure or essential public facility cannot be safely maintained without such measures, and that the resulting hard stabilization is the minimum length necessary to provide a stable building area for the structure. The director may require that bank stabilization be designed by a professional engineer licensed in the State of Washington with demonstrated expertise in hydraulic actions of shorelines. Bank stabilization projects may also require a City of Bainbridge Island clearing or grading permit and Hydraulic Project Approval from the Washington Department of Fish and Wildlife.
 - iii. Nonstructural streambank protective techniques are preferred to bulkheads or other types of streambank armoring. Nonstructural techniques include but are not limited to vegetation plantings and bioengineering.
- g. Fencing and Signs. Prior to approval or issuance of permits for land divisions or other new development, the director may require that the common boundary between a required buffer and the adjacent lands be identified using fencing or permanent signs. In lieu of fencing or signs, alternative methods of buffer identification may be approved when such methods are determined by the director to provide adequate protection to the buffer.
 - h. Forest Practice, Class IV General and Conversion Option Harvest Plans (COHPs). All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this chapter, and the Stormwater Management standards in Chapters 15.20 and 15.21 BIMC, including the maintenance of buffers, where required.
 - i. Road/Street Repair and Construction. Any private or public road or street expansion or construction which may be allowed in a Fish and Wildlife Habitat Conservation Area or its buffer shall comply with the following minimum development standards:
 - i. No other reasonable or practicable alternative exists and the road or street crossing serves multiple properties whenever possible;
 - ii. Expansion or construction of any private or public road shall only be allowed when adverse impacts can be avoided;
 - iii. Public and private roads should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.; and
 - iv. The road or street construction is the minimum necessary, as required by the Department of Public Works, and shall comply with the Department of Public Works' guidelines to provide public safety and mitigated stormwater impacts.
 - v. Construction time limits shall be determined in consultation with Washington Department of Fish and Wildlife in order to ensure habitat protection.

4.1.5.711 Regulations – Geologically Hazardous Areas

- ~~1. All new development and new uses within the jurisdiction of this Master Program shall comply with regulations for Geologically Hazardous Areas as set forth in the shoreline-specific Critical Areas Regulations contained in Section B-9 of Appendix B of this Master Program.~~
- ~~2. Additional standards for marine bluffs (i.e., slopes greater than 40 percent that exceed a vertical height of 10 feet within the marine shorelines jurisdiction) are provided in section 4.1.5.8, Special Reports and Determination of Buffers, and 4.1.5.9, Regulations—Bluff Drainage, below.~~

1. Applicability. This section applies to all geologically hazardous areas classified pursuant to SMP 4.1.5.10.2.

2. Classification.

- a. Geologically hazardous areas include erosion hazard areas, landslide hazard areas, and seismic hazard areas (including fault and liquefaction hazard areas). Zone of influence areas are not considered geologically hazardous areas.
- b. Geologically hazardous areas shall be classified based upon landslide history and the presence of unstable soils, steepness of slopes, erosion potential, and seismic hazards. Areas in this category are a potential threat to public health, safety, and welfare when construction is allowed. While some potential risk due to construction can be reduced through engineering design, construction in these areas should be avoided when the potential risk cannot be reduced to a level comparable to the risk if the site were initially stable prior to construction. Classification and rating shall be based upon the risk to the environment and to development in geologically hazardous areas.

3. Review procedures. Applications for proposed activities in geologically hazardous areas shall include:

- a. Indemnification. An indemnification or hold harmless agreement shall be required for all projects in geologically hazardous areas, except erosion hazard areas and landslide hazard area setbacks. The form of the agreement shall be approved by the city and executed prior to the commencement of construction or any land disturbing activity.
- b. Notice. A notice of intent to construct on a landslide hazard area or reduce the standard setback in a landslide hazard area shall be given pursuant to BIMC 2.16.020.H.2. The notice of intent shall be issued within 14 days of a complete application pursuant to BIMC 2.16.020.K. The notice shall include a 21-day comment period and no permits or approval of reduced setbacks shall be issued before the end of the comment period.

- c. Geological Hazards Assessment. A geological hazards assessment is required for all projects in geologically hazardous areas and landslide hazard area setbacks in accordance with Section 4.1.5.14, Critical area reports. To protect public health, safety and welfare, the director may require third party review of any geological hazards assessment or geotechnical report in cases where there may be potential for substantial damage to life, property or the environment should the proposed engineering solution fail. When a third-party review is required, costs incurred for a qualified third party geologist or geotechnical engineer to perform the review shall be borne by the applicant.
4. Regulations – Development Standards – General. The following development standards apply to all activities within any geologically hazardous area or associated landslide hazard area setback:
- a. The proposed activity shall not create a net increase in geological instability, either on- or off-site, which is defined as follows:
- i. The subject parcel shall not be less stable after the planned development than before; and
- ii. The adjacent parcels shall not have greater risk or be less stable after the planned development than before.
- b. The proposed activity shall not increase the risk of life safety due to geological hazards above professionally acceptable levels.
- c. The proposed activity shall not increase the risk due to geological hazards above professionally acceptable levels for:
- i. Property loss of any habitable structures or their necessary supporting infrastructure on-site or;
- ii. Risk to any off-site structures or property of any kind; and
- d. Proposed buildings shall be constructed using appropriate engineering methods that respond to the geologic characteristics specific to the site in order to achieve a high standard of safety and meet professional practice standards and codes.
- e. The proposed activity shall not further degrade the values and functions of the associated critical areas.
- f. Unless allowed pursuant to Section 4.1.2 or Section 4.1.3 or as part of an approved building permit, removal of vegetation from an erosion or landslide hazard area or setback is prohibited.

5. Development Standards -- Landslide Hazard Areas. The following requirements shall apply to any land disturbing activity or construction within a landslide hazard area or its setback as described herein:
- a. Prohibited activities. Development of habitable structures and critical facilities is prohibited in landslide hazard areas and landslide hazard area setbacks.
 - b. Allowed activities. The following minor development may be allowed in landslide hazard areas on slopes forty (40) percent or greater and landslide hazard area setbacks if the development standards of this Section are met:
 - i. Surface water management, including outfalls
 - ii. Septic facilities, including drainfields
 - iii. Trails and stairs
 - iv. Cable lifts and trams
 - v. Public or private utilities or streets
 - vi. Seismic or other safety upgrades to protect existing habitable structures
 - vii. Other non-habitable structures
 - c. Any land disturbing activity or construction within a landslide hazard area or its setback shall meet the following requirements:
 - i. All development proposals shall be designed to avoid impacts to geologically hazardous areas. The development shall be designed to minimize the footprint of building in other disturbed areas, minimize removal of vegetation, minimize topographic change, and retain open space to the maximum extent practicable;
 - ii. Development design shall utilize clustering, under-structure parking, multi-level construction, and tiered foundations to the extent feasible to minimize impervious lot coverage, slope disturbance, and changes to the natural topography;
 - iii. Access shall be in the least sensitive part of the site, and common access drives and utility corridors are required to the extent feasible;
 - iv. Roads, walkways and parking areas shall be designed to parallel the natural contours to the extent feasible;
 - v. Cut and fill slopes shall be prepared and maintained to control against erosion and instability; and
 - vi. Drainage and stormwater designs in zones of influence shall incorporate elements of low impact design, add examples to the extent feasible, and shall be designed in such a manner that stormwater outlet discharges do not create additional impacts.
 - d. Factors of safety. Factors of safety in accordance with Table 4-5 are required. Analysis of dynamic conditions shall be based on the minimum horizontal acceleration for the

probabilistic maximum considered earthquake as established by the currently adopted version of the International Building Code.

Table 4-5. Factors of safety and standard setbacks

| <u>Structure, use or activity</u> | <u>Static factor of safety</u> | <u>Dynamic (seismic) factor of safety</u> | <u>Standard setback</u> |
|--|--|--|--|
| <u>Habitable structure</u> | <u>1.5</u> | <u>1.0</u> | <u>Top of slope: Height of slope up to maximum of 75 feet Bottom of slope: Height of slope</u> |
| <u>High-risk non-habitable structure</u> | <u>1.3</u> | <u>As determined by geological hazards assessment.</u> | <u>Top of slope: Height of slope up to maximum of 75 feet Bottom of slope: Height of slope</u> |
| <u>Lower-risk non-habitable structures</u> | <u>As determined by geological hazards assessment.</u> | <u>As determined by geological hazards assessment.</u> | <u>Height of slope up to 75 feet.</u> |
| <u>Other structure or use</u> | <u>As determined by geological hazards assessment.</u> | <u>As determined by geological hazards assessment.</u> | <u>Height of slope up to 75 feet.</u> |
| <u>Tree and vegetation activities in accordance with Section 4.1.3</u> | <u>n/a</u> | <u>n/a</u> | <u>25 feet only from top of slope.</u> |

- e. Setback requirement. Setbacks from landslide hazard areas are required. A setback shall be established from all edges of a landslide hazard area as follows:
 - i. A standard setback in accordance with Table 4-5; or
 - ii. A setback established by the findings of a geological hazards assessment prepared by a licensed geologist or geotechnical engineer that protects and minimizes the risk of property damage, death or injury resulting from a potential landslide impact. The geological hazards assessment shall require a third-party independent review by a qualified geologist or geotechnical engineer at the cost to the applicant;
 - iii. A setback less than 20 feet is prohibited for habitable structures;
 - iv. The setback for tree and vegetation activities in accordance with Section 4.1.3 is 25 feet only from the top of slope.
 - v. No setback is required for slopes forty (40) percent or greater with a vertical elevation change of up to twenty (20) feet, if compliance with development standards in Section 4.1.5.10.4 and 5 is documented by a geotechnical engineer licensed in the State of Washington;
 - vi. The setback may be increased beyond that specified in subsection (a) above if the director determines a larger setback is necessary to prevent risk of damage to proposed adjacent development and the associated critical areas.

- f. For the purposes of establishing the factors of safety and setback using Table 4-5, the following categories shall apply:
 - i. Habitable structure: residences, accessory dwelling units, garages;
 - ii. High-risk non-habitable structure: decks, patios, pool/hot tub, driveways, trams, cable lifts, carports;
 - iii. Lower-risk habitable structure: storage shed, boathouse, stairs, pathways, structures intended for short-term use;
 - iv. Other structures or uses: septic facilities including drainfields, drainage outfalls, bulkheads, landscape walls, other utilities; and
 - v. If a proposed structure, use or activity is not included in Section 4.1.5.10.5.f, the category shall be determined by the City Engineer.

- g. Zone of influence. A zone of influence shall be established 300 feet upslope from slopes greater than 40 percent and 200 feet upslope from slopes greater than 15 percent but less than 40 percent that are determined to be geologically hazardous areas to assess changes in land use and hydrology that may affect the stability of the geologically hazardous area.
 - i. The applicant shall have the stormwater pollution prevention plan (erosion control plan) for the project reviewed by a geotechnical engineer to determine if there are any potentially adverse impacts to the landslide hazardous area. The report shall contain

- recommendations to avoid adverse impacts to the geologically hazardous area. Concentrated discharge of stormwater shall only be allowed where specifically recommended in the report and authorized by the City Engineer.
- ii. If the geotechnical engineer or the City Engineer determines that there are potential adverse impacts, the applicant shall provide a geotechnical analysis containing information specified by the City Engineer which analyzes the potential impacts to the geological hazard from the proposed development in the zone of influence and meets the standards of this section.
- h. Field marking requirements. Proposed clearing and work limit lines and landslide hazard setbacks shall be marked in the field for inspection and approval by the city prior to start of any land disturbing activity. Field marking shall remain in place until construction is completed and final inspection is completed by the city.

~~4.1.5.8 — Special Reports and Determination of Buffers~~

- ~~1. Applicants proposing development adjacent to a marine bluff shall submit a geotechnical engineering report prepared in accordance with the requirements of this Master Program and the shoreline specific Critical Areas regulations contained in Appendix B. In terms of this regulation, “adjacent” means development proposed either within 50 feet from the crest of a marine bluff or within a distance equal to the height of the slope from the crest (measured from the top), whichever is greater.~~
- ~~2. The geotechnical engineering report shall be prepared by a Washington State licensed professional civil engineer with a specialty in geotechnical engineering or an engineering geologist with a Washington State specialty license in engineering geology as specified in RCW 18.220, Geologists. The report shall be based upon the most appropriate and current science, existing and proposed uses, risks of slope failure, and coastal erosion rates over at least 100 years, if applicable.~~
- ~~3. All proposed development on the face of a marine bluff or in the required buffer area shall be prohibited, except:

 - ~~a. Development may be allowed as specified in Appendix B; Subsection B-9(E)(3)(a)(i)(F) of this Master Program;~~
 - ~~b. Minor development for public access (e.g., public trails, stairs, or view points) may be allowed, provided that environmental impacts are mitigated and the development can meet the factor of safety in Appendix B; subsection B-9(E)(1); and~~~~

- ~~e. Minor development permitted in the Shoreline Buffer and Site-specific Vegetation Management Area pursuant to Sections 4.1.3.8 through 4.1.3.11 such as boathouses, decks, stairs, ramps, piers, and docks except at the toe of unstabilized feeder bluffs and the development can meet the factor of safety in Appendix B; subsection B-9(E)(1).~~
- ~~4. All alterations to the vegetation within a geological hazardous area shall provide a Bluff Management Plan developed by qualified professional(s) to address vegetation management for slope stability and ecological functions and processes for a ten-year period. The plan at a minimum shall include:

 - ~~a. A geotechnical analysis of slope stability as defined in B-9, Geologically Hazardous Areas of Appendix B.~~
 - ~~b. A site plan showing existing vegetation location and species.~~
 - ~~c. An analysis of identified vegetation appropriate for removal or alteration.~~
 - ~~d. An analysis of vegetation management strategies for slope stability.~~
 - ~~e. A mitigation plan developed according to Section 4.1.2, Environmental Impacts and Section 4.1.3, Vegetation Management.~~
 - ~~f. The Administrator may include additional conditions for a site-specific analysis and require a third party review by a qualified professional at the cost of the applicant.~~~~

4.1.5.912 Regulations – Bluff Drainage

1. Surface drainage shall be directed away from landslide hazard areas ~~marine bluffs~~. When no other solution is feasible, surface drainage piping may be located on the face of a steep slope when contained in a tight line (closed, non-leaking pipe) and in such a way that erosion will not be increase at the base of the bluff and provided that physical access along the shoreline is not degraded. Furthermore, conditions may be applied to mitigate the aesthetic impacts of the proposed drainage systems as viewed from public areas.

4.1.5.1013

Regulations – Wetlands

1. Applicability. This section applies to:
 - a. All wetlands designated pursuant to Section 4.1.5.12.2.
 - b. All wetland buffers as shown in the tables in Section 4.1.5.12.8.
2. Identification and designation.

- a. Identification of wetlands and delineation of their boundaries pursuant to this section shall be done in accordance with the federal wetland delineation manual and applicable regional supplements (as updated), as required by WAC 173-22-035. All areas within the city meeting the wetland designation criteria, regardless of any formal delineation, are hereby designated as wetlands and are subject to provisions of this section unless not included in the definition of wetland provided in Section 8.0, Definitions.
 - b. Wetland delineations shall be conducted by a qualified professional, in accordance with Section 4.1.5.6.4.
 - c. The wetland boundary shall be marked in the field and surveyed by a licensed surveyor. The surveyed wetlands shall be sized and mapped on a scaled site plan. The director may require the wetland delineation to be verified in the field by the Army Corps of Engineers or the Washington State Department of Ecology when there is uncertainty in the wetland boundary or there was unauthorized wetland disturbance. The requirement for a licensed surveyor to survey the wetland boundaries may be waived in limited circumstances, such as when there is no access to the wetland property or there is no proposed impact to the wetland and wetland buffer, with authorization from the director.
 - d. Wetland delineations shall be valid for five years from the date of the delineation.
 - e. A wetland delineation shall be required for any proposed development within 300 feet of a designated wetland. If any portion of the designated wetland is on a different site than the proposed development, the location of the wetland boundary may be determined using best professional judgement.
3. Wetland Categories. Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington – 2014 Update (Ecology Publication No. 14-06-029, October 2014), as revised. The wetland categories determined by the rating are as follows:
- a. Category I wetlands are:
 - i. Relatively undisturbed estuarine wetlands larger than one acre;
 - ii. Wetlands that are, or may be in the future, identified by scientists of the Washington Natural Heritage Program/Department of Natural Resources as wetlands of high conservation value;
 - iii. Bogs;
 - iv. Mature forested wetlands larger than one acre;

- v. Wetlands in coastal lagoons; and
 - vi. Wetlands that perform many functions well and score 23 points or more in the wetland rating. These wetlands are those that represent a unique or rare wetland type, are more sensitive to disturbance than most wetlands, or are relatively undisturbed and contain ecological attributes that are impossible to replace within one human lifetime.
- b. Category II wetlands are:
- i. Wetlands with a moderately high level of functions and score 20 to 22 points in the wetland rating.
 - ii. Estuarine wetlands smaller than one acre or disturbed estuarine wetlands larger than one acre.
- c. Category III wetlands are:
- i. Wetlands with a moderate level of functions and score between 16 to 19 points in the wetland rating.
- d. Category IV wetlands are:
- i. Wetlands with a low level of functions, scoring less than 16 points in the wetland rating.
- e. Date of Wetland Rating. The wetland rating categories in this Section shall be applied to wetland studies including but not limited to delineations, on or after the date of adoption of the ordinance codified in this section. The wetland rating shall be valid for five years unless the state rating system changes or the wetland and/or the wetland buffer have been altered since the rating.
- f. A wetland rating pursuant to Section 4.1.5.12.3 shall be required for any proposed development within 300 feet of a designated wetland. If any portion of the designated wetland is on a different site than the proposed development, the rating may be determined using best professional judgement.
- g. Illegal modifications. Wetland rating categories shall not change due to illegal modifications.

4.

Mapping

The location and extent of all mapped critical areas shown on the City of Bainbridge Island critical area maps are approximate and shall be used as a general guide only. The type, extent and boundaries shall be determined in the field by a qualified professional according to the requirements of this section. The critical area maps are adopted as part of this section and are incorporated herein by this reference. In addition, the National Wetlands Inventory and Soil Maps produced by the U.S. Department of Agriculture, National Resources Conservation Service may be useful in helping to identify potential wetland areas. The inventory and cited resources are to be used as a guide for the city, project applicants, and property owners, and may be continuously updated as new or altered critical areas are identified.

5.

Protection of Wetlands

- a. Any action taken pursuant to this section shall result in equivalent or greater functions and values of the wetlands and wetland buffers associated with the proposed action, as determined by the best available science. All actions and developments shall be designed and constructed in accordance with mitigation sequencing as described in Section 4.1.6 and WAC 197-11-768.
- b. Applicants must first demonstrate an inability to avoid or reduce impacts, before compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.
- c. Permanent protection of critical areas that are part of an approved mitigation plan or buffer enhancement plan shall be achieved through a Notice to Title recorded at the Kitsap County Auditor’s Office, or similar means of protection in perpetuity.

6.

Prohibited activities

- a. The following development, uses and activities are prohibited in all wetlands:
 - i. Draining, excavation, placement of fill material and flooding not associated with an exempt or regulated use
 - ii. Forest Practices – Class IV General or Conversion Option Harvest Plan
 - iii. New or expanded agriculture
 - iv. On-site sewage facility

b. The following development, uses and activities are prohibited in Category I and II wetlands:

- i. Fish hatchery
- ii. Golf course
- iii. Mineral extraction
- iv. Public facility
- v. Public communications tower
- vi. New public road/street
- vii. New private access road or driveway
- viii. Stormwater retention/detention facility
- ix. Primary utility

7. Standards for specific development, uses and activities. The following development, uses and activities may be allowed within wetlands and their required buffers. Any proposal for the following development shall comply with the standards of this Section, other applicable sections of this Program, and other applicable state, federal and local regulations.

a. Road/street repair and construction: Any private or public road or street repair, maintenance, expansion or construction may be allowed within a wetland or its required buffer only when all of the following conditions are met:

- i. No other reasonable or practicable alternative exists and the road or street crossing serves multiple properties whenever possible;
- ii. Publicly owned or maintained road or street crossings should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.; and
- iii. The road or street repair and construction are the minimum necessary to provide safe roads and streets.
- iv. Mitigation shall be performed in accordance with specific project mitigation plan requirements.

b. Land Divisions and Land Use Permits. All land divisions and land uses proposed on a site that includes regulated wetlands shall comply with the procedures and standards listed below. When a parcel contains a wetland, city policy shall always be to primarily protect the functions and values of the wetland, while recognizing the value of the development rights provided to the property by its zoning.

- i. Density Calculation

- A. The actual density that will allowed to be built upon a parcel containing a wetland shall ultimately be determined during the site specific review of the parcel’s planned development.
 - B. In determining the actual density of a parcel based on a specific site plan, the site plan shall locate all buildings outside of any wetland and its required buffers;
 - C. The number of development rights allowed for any residentially-zoned parcel shall be its size in square feet divided by the number of square feet per home that is required by its zoning;
 - D. If the land can be subdivided such that all setbacks, buffers, and other zoning requirements can be observed, and no zoning variances are requested, the density from the wetland, except the area with permanent open water, can be transferred within the property;
 - E. To the extent that the number of allowable development rights cannot be used on-site, they may be sold, traded, or transferred by the property owner through the transfer of development rights program pursuant to Chapter 18.37 BIMC;
 - F. Property owners may voluntarily extinguish development rights that are provided by the underlying zoning, but the city shall not extinguish any of these rights outside the aforementioned transactions.
- ii. Land division approvals shall be conditioned to require that wetlands and wetland buffers be designated as an easement or covenant encumbering the wetland and wetland buffer. Such easement or covenant shall be recorded together with the land division and represented on the final plat or binding site plan, and title.
 - iii. In order to implement the goals and policies of this section, to accommodate innovation, creativity, and design flexibility, and to achieve a level of environmental protection that would not be possible by typical lot-by-lot development, the use of the clustered development or similar innovative site planning is strongly encouraged for projects with regulated wetlands on the site.
- c. Surface Water Management. Surface water structures or discharges from stormwater facilities may be allowed within wetlands and their required buffers only when the applicant has an approved Site Assessment Review (SAR) pursuant to the requirements of BIMC 15.20 and the proposal meets criteria in Appendix I-D, Guidelines for Wetlands when Managing Stormwater, from Washington State Department of Ecology’s 2012 Stormwater Management Manual for Western Washington, as amended in 2014.
 - d. Trails and Trail-Related Facilities. Construction of public and private trails and trail-related facilities, such as benches and viewing platforms, are allowed in wetlands or wetland buffers only when the following standards are met:

- i. Trails and related facilities shall be placed on existing road grades, utility corridors, or any other previously disturbed areas if present at the site and consistent with trail planning objectives.
 - ii. Trails and related facilities shall be planned to minimize removal of trees, soil disturbance, and maintain existing hydrological characteristics, shrubs, snags, and important wildlife habitat.
 - iii. Viewing platforms and benches, and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected wetland. Viewing platforms shall be limited to one hundred (100) square feet in size, unless demonstrated through a wetland critical areas report and mitigation plan that a larger structure will not result in a net loss of wetland functions.
 - iv. Trail planning shall utilize mitigation sequencing in Section 4.1.2.6.1 to first avoid siting trail and trail-related facilities within wetlands and their required buffers. Trails and trail-related facilities are allowed within wetlands or wetland buffers if there are no reasonable alternatives for meeting an applicant’s trail planning objectives and it is demonstrated through a wetland critical areas report and mitigation plan that the proposal will not result in a net loss of wetland functions.
 - v. Trails shall be limited to non-motorized use. Trail width shall not exceed six feet unless there is a demonstrated need, subject to review and approval by the director. Trails shall be constructed with pervious materials unless otherwise approved by the director.
- e. Utilities. Installation of utilities within wetlands or their required buffers may be allowed when the following standards are met:
- i. Construction of new utilities outside the road right-of-way or an existing utility corridor may be permitted in wetlands or wetland buffers, only when no reasonable alternative location is available and the utility meets the requirements for installation, replacement of vegetation and maintenance outlined below, and as required in the filing and approval of applicable permits and special reports required by this section.
 - ii. Sewer or On-site Sewage Utility. Construction of sewer lines or on-site sewage systems may be permitted in wetland buffers only when:
 - A. The applicant demonstrates it is necessary to meet state and/or local health code minimum design standards (not requiring a variance for either horizontal setback or vertical separation); and/or
 - B. There are no other practicable or reasonable alternatives available and construction meets all other applicable requirements of this Section. Joint use of the sewer utility corridor by other utilities may be allowed.
 - iii. New utilities shall not be allowed when the wetland or buffer has known locations of federal or state listed endangered, threatened, monitored or sensitive species, heron

- rookeries or nesting sites of raptors which are listed as species of concern, except in those circumstances where an approved Habitat Management Plan indicates that the utility corridor will not significantly impact the wetland or wetland buffer;
- iv. New utility construction and maintenance shall protect the wetland and buffer environment by utilizing the following methods:
- A. New utilities shall be aligned to avoid tree removal to the greatest extent practicable.
 - B. Any area of disturbance resulting from installation of a utility shall be revegetated with appropriate native or equivalent vegetation at preconstruction densities or greater, immediately upon completion of construction, or as soon thereafter as possible, if due to seasonal growing constraints. The utility or landowner responsible for installation shall ensure that such vegetation survives.
 - C. Any access for maintenance shall be provided as much as possible at specific points, rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than 15 feet; and shall be contiguous to the location of the utility corridor on the side away from the wetland. Mitigation will be required for any additional access through restoration of vegetation in disturbed areas.
 - D. The director may require additional mitigation measures.
 - E. Utility maintenance shall include the following measures to protect the wetland and buffer environment:
 - 1. Painting of utility equipment such as power towers shall not be sprayed or sandblasted. Lead-based paints are prohibited.
 - 2. No pesticides, herbicides or fertilizers may be used in wetland areas or their buffers except those approved by the U.S. Environmental Protection Agency (EPA) and Washington Department of Ecology and applied by a licensed applicator in accordance with the safe application practices on the label.
- f. Parks. Development of public park and recreation facilities may be allowed; provided, that no alteration of wetlands or wetland buffers is allowed except as allowed in Section 4.1.5.6 (Allowed Activities within Critical Areas) and Section 4.1.5.12.7 (Allowed Activities within Wetlands).

8.

Wetland Buffers

- a. Buffers shall remain as undisturbed or enhanced vegetation areas for the purpose of protecting the integrity, function, and value of wetland resources. Any buffer

modification proposed shall be through an approved Buffer Enhancement Plan meeting the requirements of Section 4.1.5.14. No uses or activities shall be allowed within the buffer unless allowed by this Section. If a buffer on a site subject to land use review or a building permit application has previously been disturbed, the director may require the disturbed buffer area be enhanced, including revegetation with native plant species, pursuant to an approved Buffer Enhancement Plan meeting the requirements of Section 4.1.5.14. No refuse, including but not limited to household trash, yard waste and commercial/industrial refuse, shall be placed in the buffer.

- b. All regulated wetlands shall be surrounded by a buffer, based upon Appendix 8-C, Section 8C.2.3 of Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands (Ecology Publication #05-06-008), as amended. Standard buffer widths are shown in Tables 1 through 4. If a wetland meets more than one of the criteria listed in each table, the buffer needed to protect the wetland is the widest one.
- c. Standard buffer widths are based on impact of land use, which is categorized as follows:
 - i. High impact land use includes commercial development, industrial development, institutional development, residential (all residential zoning classifications other than R-0.4, R-1 and R-2) development, new agriculture (high-intensity such as dairies, nurseries, greenhouses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), forestry activities, and high-intensity recreation such as golf courses and ballfields.
 - ii. Moderate impact land use includes residential development (R.0-4, R-1 and R-2 residential zoning classifications), new agriculture (moderate-intensity such as orchard and hay fields), paved trails, and construction of temporary logging roads.
 - iii. Low impact land use includes low-intensity open space such as passive recreation, natural resources preservation, and unpaved trails.
- d. The required minimum buffers listed in Tables 4-6 through 4-9 are based on the assumption that the buffer is well vegetated with native species appropriate to the site. If the buffer does not consist of vegetation adequate to provide wetland protection and buffer functions, the director may require that the buffer be planted to achieve such protection and function.

Table 4-6: Category I Wetlands - Buffers

| <u>Wetland Characteristics</u> | <u>Impact of Land Use</u> | <u>Buffer Width</u> | <u>Other Protection</u> |
|----------------------------------|---------------------------|---------------------|--|
| <u>Natural Heritage Wetlands</u> | <u>Low</u> | <u>125 ft</u> | <u>No additional discharge of surface water.</u> |
| | <u>Moderate</u> | <u>190 ft</u> | <u>No septic systems within 300 ft.</u> |
| | <u>High</u> | <u>250 ft</u> | <u>Restore degraded parts of the buffer</u> |

| <u>Wetland Characteristics</u> | <u>Impact of Land Use</u> | <u>Buffer Width</u> | <u>Other Protection</u> |
|--|--|---|--|
| <u>Bogs</u> | <u>Low</u> <u>Moderate</u> <u>High</u> | <u>125 ft</u> <u>190 ft</u> <u>250 ft</u> | <u>No additional surface discharges.</u> <u>Restore degraded parts of the buffer.</u> |
| <u>Forested</u> | <u>Low</u> <u>Moderate</u> <u>High</u> | <u>125 ft</u> <u>190 ft</u> <u>250 ft</u> | <u>If forested wetland scores high for habitat, maintain connectivity to other natural areas.</u> |
| <u>Estuarine</u> | <u>Low</u> <u>Moderate</u> <u>High</u> | <u>100 ft</u> <u>150 ft</u> <u>200 ft</u> | <u>N/A</u> |
| <u>Wetlands in Coastal Lagoon</u> | <u>Low</u> <u>Moderate</u> <u>High</u> | <u>100 ft</u> <u>150 ft</u> <u>200 ft</u> | <u>N/A</u> |
| <u>High level of function for habitat (score for habitat is 8-9 pts.)</u> | <u>Low</u> <u>Moderate</u> <u>High</u> | <u>150 ft</u> <u>225 ft</u> <u>300 ft</u> | <u>Maintain connectivity to other natural areas.</u> <u>Restore degraded parts of the buffer.</u> |
| <u>Moderate level of function for habitat (score for habitat is 5-7pts.)</u> | <u>Low</u> <u>Moderate</u> <u>High</u> | <u>75 ft</u> <u>110 ft</u> <u>150 ft</u> | <u>N/A</u> |
| <u>High level of function for water quality improvement and low for habitat (score for water quality pts.; habitat less than 5 pts.)</u> | <u>Low</u> <u>Moderate</u> <u>High</u> | <u>50 ft</u> <u>75 ft</u> <u>100 ft</u> | <u>No additional discharges of untreated runoff.</u> |
| <u>Not meeting any of the above criteria.</u> | <u>Low</u> <u>Moderate</u> <u>High</u> | <u>50 ft</u> <u>75 ft</u> <u>100 ft</u> | <u>N/A</u> |

Table 4-7: Category II Wetlands - Buffers

| <u>Wetland Characteristics</u> | <u>Impact of Land Use</u> | <u>Buffer Width</u> | <u>Other Protection</u> |
|--|--|---|--|
| <u>High level of function for habitat (score for habitat is -9 pts.)</u> | <u>Low</u> <u>Moderate</u> <u>High</u> | <u>150 ft</u> <u>225 ft</u> <u>300 ft</u> | <u>Maintain connectivity to other natural areas.</u> |

| | | | |
|--|--|--|------------|
| <u>Moderate level of function for habitat (score for habitat is 5-7pts.)</u> | <u>Low</u> <u>Moderate</u> <u>High</u> | <u>75 ft</u> <u>110 ft</u> <u>150 ft</u> | <u>N/A</u> |
| <u>Estuarine</u> | <u>Low</u> <u>Moderate</u> <u>High</u> | <u>75 ft</u> <u>110 ft</u> <u>115 ft</u> | <u>N/A</u> |
| <u>Not meeting any of the above criteria</u> | <u>Low</u> <u>Moderate</u> <u>High</u> | <u>50 ft</u> <u>75 ft</u> <u>100 ft</u> | <u>N/A</u> |

Table 4-8: Category III Wetlands - Buffers

| <u>Wetland Characteristics</u> | <u>Impact of Land Use</u> | <u>Buffer Width</u> | <u>Other Protection</u> |
|--|--|--|-------------------------|
| <u>Moderate level of function for habitat (score for habitat is 5-7pts.)</u> | <u>Low</u> <u>Moderate</u> <u>High</u> | <u>75 ft</u> <u>110 ft</u> <u>150 ft</u> | <u>N/A</u> |
| <u>Not meeting above criterion</u> | <u>Low</u> <u>Moderate</u> <u>High</u> | <u>40 ft</u> <u>60 ft</u> <u>80 ft</u> | <u>N/A</u> |

Table 4-9: Category IV Wetlands - Buffers

| <u>Wetland Characteristics</u> | <u>Impact of Land Use</u> | <u>Buffer Width</u> | <u>Other Protection</u> |
|--------------------------------|--|--|-------------------------|
| <u>All</u> | <u>Low</u> <u>Moderate</u> <u>High</u> | <u>25 ft</u> <u>40 ft</u> <u>50 ft</u> | <u>N/A</u> |

9. Buffer Measurement. All buffers shall be measured on a horizontal plane from the delineated wetland edge as marked in the field a qualified professional.
10. Fencing and Signs. This section applies to those wetlands and their buffers that are within 200 feet of regulated development activities.
 - a. Wetland buffers shall be temporarily fenced or otherwise suitably marked between the area where the construction activity occurs and the buffer. Fences shall be made of a durable protective barrier and shall be highly visible. Silt fences and plastic construction fences may be used to prevent encroachment on wetlands or their buffers

- by construction. Temporary fencing shall be removed after the site work has been completed and the site is fully stabilized per city approval.
- b. The director may require that permanent signs and/or fencing be placed on the common boundary between a wetland buffer and the adjacent land. Such signs will identify the wetland buffer. The director may approve an alternate method of wetland and buffer identification, if it provides adequate protection to the wetland and buffer.
11. Structure or hard surface setback. A structure or hard surface setback line of fifteen feet is required from the edge of any wetland buffer. Minor structural or impervious surface intrusions into the areas of the setback, such as but not limited to fire escapes, open/uncovered porches, landing places, outside walkways, outside stairways, retaining walls, fences and patios, may be permitted if the department determines upon review of an analysis of buffer functions submitted by the applicant, that construction and/or maintenance of such intrusions will not encroach into the wetland buffer or adversely impact the wetland. The functional analysis shall include a functional methodology supported by best available science. The setback shall be identified on a site plan and filed as an attachment to the notice on title as required by Section 16.20.070 (Notice on Title).
12. Buffer Modification. Modifications to buffer widths may be allowed provided the applicant demonstrates the need for modification through mitigation sequencing pursuant to Section 4.1.2.6.
- a. Buffer Width Averaging. The width of a required buffer may be averaged if the applicant can demonstrate that averaging can provide equal or greater functions and values as would be provided under the required buffer and all of the following conditions are met:
- i. The total area of buffer after averaging is equal to the area required without averaging.
 - ii. Averaging cannot result in the any portion of the buffer being reduced more than 25 percent of its required width.
- b. The required buffer widths for proposed land uses with high-intensity impacts to wetlands may be reduced to those required for moderate-intensity impacts under the following conditions:
- i. For wetlands that score moderate or high for habitat (5 points or more for the habitat function), the width of the buffer may be reduced if both of the following criteria are met:
 - ii. A relatively undisturbed, vegetated corridor at least 100-foot wide is provided if the wetland contains any priority habitats as defined by the Washington

Department of Fish and Wildlife. “Relatively undisturbed” and “vegetated corridor” are defined in the Western Washington Wetland Rating System. The corridor must be protected for the entire distance between the wetland and the priority habitat by some type of legal protection, such as a Notice to Title.

- iii. Measures to minimize the impacts of different land uses on wetlands, such as the examples in Table 5, are applied.
 - iv. For wetlands that score less than 5 points for habitat, the buffer width may be reduced to that required for moderate land use impacts by applying measures to minimize the impacts of different land uses on wetlands, such as the examples in Table 4-10.
- c. Any request for buffer modification outlined above shall be reviewed in conjunction with the underlying land use or construction permit. Requests for buffer averaging or buffer reduction shall include a Buffer Enhancement Plan prepared by a qualified professional that meets the requirements of Section 4.1.5.14. Buffer enhancement plans shall be reviewed pursuant to the criteria in Section 4.1.5.6.
- d. Any other buffer modification resulting in a reduced buffer area, other than non-compensatory enhancement, requires a shoreline variance.

Table 4-10: Examples of measures to minimize impacts to wetlands from different types of activities.

| <u>Examples of Disturbance</u> | <u>Examples of Measures to Minimize Impacts</u> | <u>Activities that Cause the Disturbance</u> |
|--------------------------------|---|---|
| <u>Lights</u> | <ul style="list-style-type: none"> • <u>Direct lights away from wetland.</u> | <u>Parking lots, warehouses, manufacturing, residential</u> |
| <u>Noise</u> | <ul style="list-style-type: none"> • <u>Locate activity that generates noise away from wetland.</u> • <u>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source.</u> • <u>For activities that generate relatively continuous, potentially disruptive noise, such as heavy industry or manufacturing, establish an additional 10-foot heavily vegetated buffer strip immediately adjacent to the outer wetland buffer.</u> | <u>Manufacturing, residential</u> |

| | | |
|--|---|---|
| <u>Toxic runoff*</u> | <ul style="list-style-type: none"> • <u>Route all new runoff away from wetland.</u> • <u>Establish covenants limiting use of pesticides within 150 feet of wetland.</u> • <u>Apply integrated pest management.</u> | <u>Parking lots, roads, manufacturing, residential areas, application of agricultural pesticides, landscaping</u> |
| <u>Stormwater runoff</u> | <ul style="list-style-type: none"> • <u>Retrofit stormwater detention and treatment for roads and existing adjacent development.</u> • <u>Prevent channelized flow from lawns that directly enters the buffer.</u> • <u>Use Low Impact Development techniques consistent with BIMC 15.20.</u> | <u>Parking lots, roads, manufacturing, residential areas, landscaping</u> |
| <u>Change in water regime</u> | <u>Infiltrate or treat, detain, and disperse new runoff into buffer.</u> | <u>Impermeable surfaces, lawns, tilling</u> |
| <u>Pets and human disturbance</u> | <ul style="list-style-type: none"> • <u>Plant buffer with dense, impenetrable native vegetation appropriate for region.</u> • <u>Install low impact fencing at buffer perimeter.</u> • <u>Place wetland and its buffer in separate open space tract or protect with conservation easement.</u> | <u>Residential areas</u> |
| <u>Dust</u> | <u>Utilize best management practices to control dust.</u> | <u>Tilled fields</u> |
| <p><u>* These examples are not necessarily adequate to meet the rules for minimizing toxic runoff if threatened or endangered species are present at the site.</u></p> | | |

13. Wetland mitigation requirements

- a. Mitigation sequencing. All development, uses and activities proposed to impact wetlands shall be mitigated according to this Section and the mitigation sequencing steps outlined in Section 4.1.2.6. The applicant shall demonstrate to the satisfaction of the director that each step of mitigation sequencing has been adequately addressed prior to approval of impacts to wetlands.
- b. Compensatory mitigation shall be required for development, uses or activities that result in the loss of wetland acreage or in the reduction of wetland functions or values.

- c. Mitigation report. Where mitigation is required under the sequencing in subsection (1), a mitigation plan is a required component of a critical areas report meeting the requirements in Section 4.1.5.14, Critical area reports.
- d. Wetland replacement
 - i. The ratios shown in Table 4-11 shall be used to determine the required amount of wetland mitigation. The first number specifies the amount of wetland area to be restored, rehabilitated, created or enhanced, and the second number specifies the amount of wetland area lost. The director may decrease these ratios when there are findings of special studies coordinated with agencies with expertise which demonstrate that no net loss of wetland function or value is attained under the decreased ratio.
 - ii. Mitigation requirements may also be determined using the credit/debit tool described in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report (Ecology Publication #10-06-011, March 2012), or as revised) consistent with Table 4-11.

Table 4-11: Replacement Ratios for Wetlands

| <u>Category and Type</u> | <u>Re-establishment or Creation</u> | <u>Rehabilitation</u> | <u>1:1 Re-establishment or Creation (R/C) and Enhancement (E)</u> | <u>Enhancement Only</u> |
|---|-------------------------------------|-----------------------|---|-------------------------|
| <u>I – Mature Forested</u> | <u>6:1</u> | <u>12:1</u> | <u>1:1 R/C and 10:1 E</u> | <u>24:1</u> |
| <u>I – Based on functions</u> | <u>4:1</u> | <u>8:1</u> | <u>1:1 R/C and 6:1 E</u> | <u>16:1</u> |
| <u>I – Bog or Natural Heritage Site</u> | <u>Not considered possible</u> | <u>6:1</u> | <u>Case by Case</u> | <u>Case by Case</u> |
| <u>II</u> | <u>3:1</u> | <u>6:1</u> | <u>1:1 R/C and 4:1 E</u> | <u>12:1</u> |
| <u>III</u> | <u>2:1</u> | <u>4:1</u> | <u>1:1 R/C and 2:1 E</u> | <u>8:1</u> |
| <u>IV</u> | <u>1.5:1</u> | <u>3:1</u> | <u>1:1 R/C and 2:1 E</u> | <u>6:1</u> |

- e. Approaches to compensatory mitigation.
 - i. Compensatory mitigation may occur at the site of the allowed impacts or at an off-site location. Considerations for determining whether off-site mitigation is preferable include, but are not limited to one or more of the following:
 - A. On-site conditions do not favor mitigation success due to soil conditions, hydrology or adverse impacts of adjacent land uses;
 - B. On-site conditions are isolated from other aquatic or riparian habitats;
 - C. An off-site location is beneficial to larger ecosystem or watershed functions;
 - D. An off-site location has greater likelihood of success or will provide greater functional benefits;
 - E. The proposal for an off-site location uses a watershed approach consistent with Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Ecology Publication #09-06-32, December 2009).
 - ii. Off-site compensatory mitigation may include the use of a wetland mitigation bank or an in-lieu fee program, if such instruments are available within the city limits.
 - iii. Advanced mitigation. Compensatory mitigation in advance of proposed impacts may be allowed on a case-by-case basis for projects with pre-identified impacts consistent with Interagency Regulatory Guide: Advance Permittee-Responsible Mitigation (Ecology Publication #12-06-015, December 2012).
- ~~1.—All development, development proposals and alterations that are located within or adjacent to shoreline jurisdictional wetlands or their buffers, or that are likely to significantly impact shoreline jurisdictional wetlands shall prepare a wetland analysis pursuant to Subsection B-4.7 10 of Appendix B, of this Master Program. The wetland analysis shall include the wetland rating (using the Washington State Wetland Rating System for Western Washington (2006) or as revised by Ecology), a functional assessment of potential buffers (based on Ecology’s best available science for wetlands), and noting of any water features and other critical areas and their related buffers in the proximity of the proposed development.~~
 - ~~2.—Wetlands will be delineated using the Regional Supplement to the Army Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region or the current Washington State Department of Ecology methodology. The wetland buffer for shoreline wetlands shall be established pursuant to the provisions of Subsection B-10 in Appendix B of this Master Program.~~
 - ~~3.—Alteration of wetlands and their buffers is prohibited, unless:~~

- a. ~~Such a prohibition is deemed a violation of constitutional or statutory limitations on regulations of private property; or~~
 - b. ~~The proponent can conclusively demonstrate to the satisfaction of the Administrator that the impacts are unavoidable.~~
4. ~~In either case of subsection 3.a or 3.b, above, the proponent shall provide mitigation to achieve no net loss of wetland functions and values, according to an approved mitigation plan prepared consistent with this Master Program, including Section B-4 and B-6 of Appendix B, shoreline specific Critical Areas Regulations.~~

4.1.5.14 The Winslow Ravine – Special Rules in Mixed Use Town Center

A portion of the “Winslow Ravine” which contains a ravine, a Type F stream, and several wetlands, is located in the Mixed Use Town Center (MUTC) zoning designation. In order to accommodate more dense development within the MUTC, and recognizing the significant distance from the top of the ravine to the stream and its adjacent wetlands, in lieu of the buffer and setback rules provided for streams (Section 4.1.5.10) and wetlands (Section 4.1.5.12), an applicant may select the prescriptive option or the mitigated option with respect to the Winslow Ravine within the MUTC as described below:

Table 4-12. “Option A” - Prescriptive Standards

| <u>CATEGORIES</u> | <u>BUFFER WIDTH STANDARD</u> | <u>MINIMUM STRUCTURE AND HARD SURFACE SETBACK</u> | <u>OTHER DEVELOPMENT STANDARDS</u> |
|--|--|---|---|
| <u>Streams and wetlands associated with the Winslow Ravine within the MUTC</u> | <u>50 feet measured from the top of the Winslow Ravine</u> | <u>15 feet beyond the buffer</u> | <u>No development, uses or activities are allowed within the buffer. Refuse, including but not limited to household trash, yard waste and commercial/industrial refuse, shall not be located in the buffer and shall be removed if present.</u> |

Table 4-13. “Option B” - Mitigated Standards. The applicant shall demonstrate by submittal of necessary studies and proposed mitigation, that measures can and will be taken to ensure that the functions and values provided by the buffers prescribed under “Option A” are retained or improved.

| <u>CATEGORIES</u> | <u>BUFFER WIDTH STANDARD</u> | <u>MINIMUM STRUCTURE AND HARD SURFACE SETBACK</u> | <u>OTHER DEVELOPMENT STANDARDS</u> |
|--|--|---|---|
| <u>Streams and wetlands associated with the Winslow Ravine within the MUTC</u> | <u>25 feet measured from the top of the Winslow Ravine</u> | <u>15 feet beyond the buffer</u> | <u>No development, uses or activities are allowed within the buffer other than for public access meeting the standards in Section 5.8. If the buffer has previously been disturbed, the disturbed buffer area shall be revegetated pursuant to an approved Buffer Enhancement Plan meeting the requirements of Section 4.1.5.14. Refuse, including but not limited to household trash, yard waste and commercial/industrial refuse, shall not be located in the buffer and shall be removed if present.</u> |

4.1.5.15 Critical area reports

A. Aquifer recharge areas hydrogeological site assessment.

1. The hydrogeological site assessment shall include:
 - a. A site map drawn to scale which indicates the location of known or geologically representative wells (abandoned and active), springs, and surface water features within 1,000 feet of the project property boundary;
 - b. A description of the site-specific hydrogeological characteristics. At a minimum this will include a description of the lithology, depth and static water level of known underlying aquifer(s) and depiction of groundwater flow direction and patterns on the site map;
 - c. A description of the proposed land use and activities specifically detailing water consumption; an inventory of all chemical use, storage, transportation, production (including process wastewater), and disposal; and any potential pollutant identified by the U.S. EPA as a potential source of drinking water contamination (Appendix A of

- the Washington State Critical Aquifer Recharge Area Guidance Document) or known to be deleterious to the environment or human health; and
- d. A general discussion of surface and groundwater quality and quantity in the area and the identification of the potential adverse quality and quantity impacts to groundwater and surface water features within 1,000 feet of the project.
2. In-depth Site Assessment Elements. The required elements of the in-depth site assessment for a given development or re-development will be based on the initial site assessment review by the city, the Kitsap Public Health District, affected Tribes, and affected public water purveyors.

One or more of the elements listed below may be required based upon the proposed project activity, complexity of underlying hydrogeological conditions, and the perceived potential to adversely impact groundwater or surface water quality or quantity. One or more of these elements may also be required if the applicant chooses to demonstrate that mitigation measures are not necessary to protect the quantity or quality of groundwater or surface water or that the project does not pose a risk of detriment to groundwater or surface water. Additional in-depth site assessment elements may include:

- a. Lithologic characteristics and stratigraphic relationships of the affected aquifer(s) and overlying geologic units and soil types including thickness, horizontal and vertical extent, permeability, and infiltration rates of surface soils.
- b. Delineation of identified structural features such as faults, fractures, and fissures.
- c. Aquifer characteristics including determination of recharge and discharge areas, transmissivity, storage coefficient, hydraulic conductivity, porosity, and estimate of groundwater flow direction, velocity and patterns for the affected aquifer(s).
- d. Estimate of precipitation and evapotranspiration rates for the project area.
- e. Preparation of appropriate hydrogeological cross sections depicting underlying lithology and stratigraphy, aquifer(s), and potential or probable contaminant pathways to both surface and groundwater from a chemical release.
- f. Determination of background or existing groundwater quality underlying the project area and water quality of surface water bodies.
- g. Contaminant fate and transport including probable migration pathways and travel time of potential contaminant release(s) from the site through the unsaturated zone to the aquifer(s) and through the aquifer(s), and how the contaminant(s) may be attenuated within the unsaturated zone and the aquifer(s) with consideration to advection, dispersion, and diffusion of contaminants in the groundwater.
- h. Delineation of areas potentially affected by contaminant migration on the ground surface and/or through potentially affected aquifer(s).
- i. Determination of the degree of continuity between groundwater and nearby surface water including potential impacts to baseflow in streams from proposed groundwater

- withdrawals, and potential impacts to surface water quality from site runoff or contaminated groundwater discharge.
- j. Assessment of the potential for pumping-induced seawater intrusion.
 - k. Nitrate Loading Assessment. For projects that have the potential to adversely impact groundwater quality by nitrate loading, the applicant shall test existing wells and/or required test wells for nitrate as nitrogen and calculate the current and projected future groundwater nitrate concentrations at full project build-out, at appropriate point(s) of compliance, as determined by project characteristics, and in a methodology approved by the city. If the calculated nitrate loading in the intended water supply equals or exceeds 5 milligrams per liter nitrate as nitrogen, the applicant shall develop a mitigation plan with the point(s) of compliance determined based on project characteristics.
 - l. Multiple-stage (or phased) development must consider impacts of the total build-out of the project to allow for an assessment of the cumulative impacts of the entire development on critical aquifer recharge areas.

B. Aquifer Recharge Mitigation Plan.

For proposals requiring aquifer recharge area impact mitigations, the applicant shall develop for approval by the city a mitigation plan for the proposed development. Affected public water purveyors (Group A & B), affected Tribes, and the Kitsap Public Health District will be notified and invited to comment on all mitigation plans. The city will consider all recommendations submitted by these entities when developing appropriate permit conditions.

The city may, based on performance criteria and monitoring results, require additional amendments to the plan. The city reserves the right to submit mitigation plans for a third-party review at the applicant's expense and to reject any proposed land use or activity that poses significant risk to groundwater or surface water quality or quantity that cannot be satisfactorily mitigated.

1. The mitigation plan shall contain the project's permit conditions and, as applicable:
 - a. A description of the mitigation measures to be taken, how they will be implemented, and performance criteria.
 - b. A groundwater and surface water monitoring program to measure potential impacts of the development to underlying aquifer(s) and surface water. The monitoring plan will describe monitoring, maintenance, and reporting requirements.
 - c. A contingency plan describing spill response and corrective actions to be taken if a release of a pollutant occurs or monitoring results indicate that mitigation measures are not effectively protecting groundwater and surface water resources and human health. The city shall have the authority to impose additional required corrective actions where such measures are necessary to protect groundwater and surface water

- resources or human health. Where appropriate contingencies are not feasible and result in an activity posing unacceptable risk to groundwater or surface water resources or human health, the city shall deny the proposal.
- d. Multiple-stage (or phased) development must consider mitigation for each phase of development as well as the total build-out of the project to allow for an assessment of the cumulative impacts of the entire development on critical aquifer recharge areas.
 - e. Conditions that would arise that warrant ceasing the project operation altogether.
 - f. Wellhead Protection Mitigation. Where a wellhead protection plan addressing the project area exists, the city shall use the recommendations contained in the wellhead protection plan as a basis for formulating required mitigation measures. In the absence of such a mitigation plan, the city shall contact the owner of the public water system (Group A and B) impacted by the proposed project and jointly develop mitigation measures, a summary of which shall be signed by the applicant and recorded with the applicant's property title.
 - g. Nitrate Loading Mitigation.
 - i. General Requirements. If a calculated nitrate loading concentration for a project at the designated point(s) of compliance is equal to or greater than 5 milligrams per liter nitrate as nitrogen, then the applicant shall be required to place a notification on the documents of title for the property affected. A monitoring plan shall be developed to monitor the nitrate level and include a contingency plan to be implemented if the nitrate level exceeds 10 milligrams per liter nitrate as nitrogen.
 - ii. Land Divisions. If the calculated nitrate loading concentration for a land division at the designated point(s) of compliance is equal to or greater than 5 milligrams per liter nitrate as nitrogen, then the applicant shall:
 - (A) Develop a mitigation plan to minimize the nitrate loading rate; and
 - (B) Develop a contingency plan to be implemented if the nitrate concentration exceeds 10 milligrams per liter nitrate as nitrogen; and
 - (C) Submit the contingency plan with the final plat application. The contingency plan must be approved by the city, and then recorded with the Kitsap County Auditor as part of the final plat. Conditions of the contingency plan shall be listed on the face of the plat.
 - ii. Mitigation of nitrate in groundwater from on-site septic systems may include decreasing the density of septic system drainfields.

2. Recording of Mitigation Plan Summaries.

- a. General Requirements. The city may require that the applicant record a city-approved summary of the mitigation plan on the property title. A copy of the recorded summary shall be provided to the city in hard copy and electronic format. If a property owner

- can demonstrate, to the satisfaction of the city, that mitigation measures are no longer necessary, the city shall approve the addition of language on the title for the property nullifying the mitigation requirements.
- b. Land Divisions. The mitigation plan must be approved by the city, and then recorded with the Kitsap County Auditor as part of the final plat. Conditions of the mitigation plan shall be listed on the face of the plat.
3. Performance Surety. The director may require that the applicant provide a performance surety to ensure conformance with mitigation requirements of the Aquifer Recharge Mitigation Plan pursuant to Section 4.1.5.14.

C. Habitat management plan.

1. A habitat management plan (HMP) is a detailed report that outlines and documents the location of fish and wildlife conservation areas, any planned incursions or habitat impacts and a strategy for limiting impacts.
2. HMP review. All HMPs shall be submitted to the Washington State Department of Fish and Wildlife habitat biologist and to the Suquamish Tribe for review and comment within 14 days of a complete application pursuant to BIMC 2.16.030. If the HMP recommends mitigation involving federally listed threatened or endangered species, migratory waterfowl or wetlands, the U.S. Fish and Wildlife Service shall receive a copy of the draft HMP. Within that same time frame, the city's Environmental Technical Advisory Committee shall be asked to review the HMP and provide comments.
3. Map. The HMP shall contain a map prepared at an easily readable scale, showing:
 - a. The location of the proposed development site;
 - b. Property boundaries;
 - c. The relationship of the site to surrounding topographic and aquatic features and any connectivity to other wildlife habitat and corridors;
 - d. Proposed building locations;
 - e. A legend which includes acreage of the parcel, scale, north arrow, and date of map revision.
4. Report. The HMP shall contain a report that includes:
 - a. A description of the nature and intensity of the proposed development
 - b. Identification of existing habitat functions and values;
 - c. An analysis of the effect of the proposed development, activity or land use change upon the wildlife species and habitat features and processes identified for protection;

- d. Any review comments received from a habitat biologist from the Washington State Department of Fish and Wildlife, and the Suquamish Tribe and U.S. Fish and Wildlife Service;
 - e. Demonstration of consistency with current Washington State Department of Fish and Wildlife Habitat Management Recommendations for the applicable habitat or species. If the recommendations are not followed, the HMP report should identify the best available science guidance that is being followed or applied;
 - f. A description of proposed seasonal activity restrictions in accordance with the Washington State Department of Fish and Wildlife Habitat Management Recommendations;
 - g. An analysis of the feasibility to maintain wildlife corridors and connectivity, if applicable;
 - h. A plan identifying proposed measures to mitigate any adverse impacts to wildlife habitats created by the proposed development. Proposed mitigation measures shall be specific to the affected habitat or species; and
 - i. A schedule for periodic monitoring, and a contingency plan with corrective actions if conservation or mitigation actions do not lead to the desired outcome.
5. HMP adequacy. If there is a disagreement between the director and the applicant as to the adequacy of the HMP, the issue of plan adequacy shall be resolved by consulting with the Washington Department of Fish and Wildlife. If the Washington Department of Fish and Wildlife is not available to review the HMP in a timely manner, the applicant may choose to have the city refer the HMP to a third party consultant at the expense of the applicant. After consultation with such State departments or third party consultant, the director shall make a final decision on the adequacy of the HMP.
 6. Timing. An HMP must be developed and approved prior to issuance of a building permit or underlying land use application and must be implemented before the city grants a certificate of occupancy, as applicable.
 7. Performance Surety. The director may require that the applicant provide a performance surety to ensure conformance with mitigation requirements of the habitat management plan pursuant to Section 4.1.2.7.

D. Buffer Enhancement Plan

1. As part of a buffer modification request, the applicant shall submit a buffer enhancement plan that assesses the functions and values of the buffer and the effects of the proposed modification on those functions and values.

2. The buffer enhancement plan shall clearly demonstrate that equal or greater protection of the functions and values of critical areas and their buffers can be achieved through the buffer modification than could be achieved through providing the required buffer using an appropriate function assessment methodology.
3. The buffer enhancement plan shall identify how the applicant proposes to mitigate any adverse impacts to the critical area or buffer created by the proposed development.
4. The buffer enhancement plan shall be prepared in accordance with the applicable requirements of Section 4.1.5.14, Critical areas reports.

E. Geological Hazards Assessment

1. A geological hazards assessment shall contain the following site- and proposal-related information at a minimum:
 - a. Site and Construction Plans. The report shall include a copy of the site plans for the proposal showing:
 - i. The type and extent of geologic hazard areas, any other critical areas, and buffers on, adjacent to, or within a zone or distance of potential significant influence as determined by a professional engineer/ geologist;
 - ii. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available;
 - iii. The topography, as determined by a professional engineer or geologist, of the project area and all hazard areas addressed in the report; and
 - iv. Clearing limits.
 - b. Assessment of Geological Characteristics. The report shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:
 - i. A description of the surface and subsurface geology, including complexes, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;
 - ii. A detailed overview of the field investigations, published data, and references; data and conclusions from past assessments of the site; and site specific

- measurements, test, investigations, or studies that support the identification of geologically hazardous areas; and
- iii. A description of the vulnerability of the site to seismic and other geologic events.
 - c. Analysis of Proposal. The report shall contain a hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties.
 - d. Minimum Buffer and Building Setback. The report shall make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis. Where the recommended buffers are less than the standard setbacks set forth in Section 4.1.5.10, the rationale and basis for the reduced buffer shall be clearly articulated and demonstrate that the protection standard set forth in that section has been met.
 - e. A review of, and recommendations relating to, the low impact development (LID) infeasibility criteria in the 2014 Stormwater Management Manual for Western Washington, as amended, demonstrating reasonable consideration of all applicable LID practices.
2. Landslide Hazard and Erosion Hazard Areas. In addition to the basic geologic hazards assessment, an assessment for an erosion hazard or landslide hazard area shall include the following information at a minimum:
- a. Erosion Control. An erosion control plan prepared by a civil engineer shall be submitted to the city prior to the issuance of a building permit.
 - b. The applicant shall provide a geotechnical analysis containing the following information:
 - i. Site Plan. The critical area report shall include a copy of the site plan for the proposal showing:
 - A. The height of slope, slope gradient, and cross-section of the project area;
 - B. The location of springs, seeps, or other surface expressions of ground water on or a zone or distance of potential significant influence as determined by a professional engineer/ geologist; and
 - C. The location and description of surface water run-off features.
 - c. Hazards Analysis. The hazards analysis component of the critical areas report shall specifically include:
 - i. A description of the extent and type of vegetative cover;
 - ii. A description of subsurface conditions based on data from site-specific explorations;

- iii. Descriptions of surface and ground water conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
 - iv. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;
 - v. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one hundred-year storm event;
 - vi. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;
 - vii. A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
 - viii. Recommendations for building siting limitations; and
 - ix. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion; and
 - x. A description of the potential modes of failure.
3. Geotechnical Engineering Report. The technical information for a project within a landslide hazard area shall include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:
- a. Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;
 - b. Recommendations for drainage and subdrainage improvements;
 - c. Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and
 - d. Mitigation of adverse site conditions including slope stabilization measures for seismically unstable soils, surface water management, location and methods of erosion control, a vegetation management and/or replanting plan, and/or other means for maintaining long-term soil stability if appropriate.
4. Seismic Hazards Areas. In addition basic geologic hazards assessment, an assessment for a seismic hazard area shall also meet the following requirements:
- a. Fault Hazard. The applicant shall provide a geologic/geotechnical analysis containing information specified by the City Engineer that documents the presence or absence of any surface deformation on the site in areas mapped by the city. If deformation is located, the applicant shall provide a geotechnical analysis containing information specified by the City Engineer, which concludes that the development proposal as mitigated meets the standards of this section.

- b. Liquefaction Hazard. The applicant shall provide a geotechnical analysis containing information specified by the City Engineer that meets the standards of this section (as mitigated).
 - c. Seismic Landslide Hazard. The applicant shall provide the same analysis and plan as required for landslide hazard areas.
5. Tsunami Hazards. The city shall provide applicants for development in low lying shoreline areas and other areas where flood elevation is controlled by tide level with information on tsunami hazards.

F. Wetland critical areas report.

A wetland critical areas report shall include, but not necessarily be limited to, the following:

1. A site plan showing the following:

- a. Surveyed wetland boundaries based upon a delineation by a wetland specialist or wetland boundaries recorded using a differential global positioning system, based upon a delineation by a wetland specialist.
- b. Location of required buffers pursuant to Section 4.1.5.11 or as proposed through buffer modification.
- c. Site boundary property lines and roads;
- d. Internal property lines, rights-of-way and easements;
- e. Existing physical conditions of the site, including buildings, fences and other structures, existing hard surfaces, utilities, etc.
- f. Contours at the smallest readily available intervals;
- g. Hydrologic mapping showing patterns of surface water movement and known subsurface water movement into, through, and out of the site;
- h. Location of all test holes and vegetation sample sites, numbered to correspond with flagging in the field and field data sheets; and
- i. An aerial photograph with overlays displaying the site boundaries and wetland delineation.

2. A report including the following:

- a. Vicinity map
- b. Location information (parcel number and address)
- c. General site conditions including topography, size and surface area of all wetlands identified and water bodies within one-quarter mile of the site
- d. Analysis of functional values of existing wetlands
- e. Summary of proposed development, use or activities and potential impacts to wetlands

- f. Copies of rating forms and maps from the Wetland Rating System for Western Washington – Revised (2014) or as amended.
- g. Required buffers pursuant to Section 4.1.5.11.
- h. Complete U.S. Army Corps of Engineers wetland determination data forms
- i. National Wetland Inventory map
- j. Wetland mitigation plan, if compensatory mitigation is required.

G. Wetland mitigation plan.

1. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans – Version 1 (Ecology Publication #06-06-011b, March 2006), as revised, and, if applicable, Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington)(Ecology Publication 09-06-032, December 2009) and meet the following standards:
 - a. All critical area restoration, creation and/or enhancement projects required pursuant to this section either as a permit condition or as a result of an enforcement action shall follow a mitigation plan prepared by an expert approved by the director. The applicant or violator shall receive written approval of the mitigation plan by the director prior to commencement. Compensatory mitigation is not required for allowed activities which utilize best management practices to protect the functions and values of regulated critical areas.
 - b. Purpose of Mitigation Plan. The mitigation plan shall provide information on land acquisition, construction, maintenance and monitoring of the replaced critical area. The mitigation plan shall recreate as nearly as possible the original critical area in terms of its acreage, function, geographic location and setting.
 - c. Mitigation Plan Submittal Requirements. A complete mitigation plan shall consist of plot plans, a written report, and performance bonds, as required below. The plot plans and written report shall be prepared by qualified professionals approved by the director.
2. Plot Plan Requirements. The following information shall be submitted on one or more plot plans (as determined by the director):
 - a. A legal description and a survey (boundary and topography) prepared by a licensed surveyor of the proposed development site, compensation site, and location of existing critical area(s) on each. This shall include wetland delineation and existing wetland acreage.
 - b. Scaled plot plan(s) indicating:
 - i. Proposed construction:
 - A. Zoning setback and critical area buffer requirements;
 - B. Construction phasing and sequence of construction;

- C. Site cross-sections, percent slope, existing and finished grade elevations;
 - D. Soil and substrate conditions;
 - E. Grading and excavation plan, including erosion and sediment control plans needed for construction and long-term survival; substrate stockpiling locations and techniques, and source controls needed for critical area construction and maintenance;
 - F. Landscape plans indicating species, types, quantities, locations, size, spacing or density of planting; planting season or timing; planting instructions, watering schedule and nutrient requirements; source of plant materials or seeds; and, where appropriate, measures to protect plants from destruction or predation; and
 - G. Water control structures and water-level maintenance practices needed to achieve the necessary hydrocycle/hydroperiod characteristics, etc.
3. Written Report Requirements. A written report shall accompany the plot plan(s) and shall provide the additional information required below. In addition, the report should be used as needed to clarify or explain elements of the plot plan(s).
- a. Baseline Information.
 - i. Wetland delineation and existing wetland acreage;
 - ii. Vegetative, faunal and hydrologic characteristics;
 - iii. Soil and substrate conditions;
 - iv. Relationship within watershed and to existing streams, wetlands, ponds, or saltwater;
 - v. Existing and proposed adjacent site conditions; and
 - vi. Existing and proposed ownership.
 - b. Environmental Goals and Objectives. The report shall contain a description of the environmental goals and objectives to be met by the compensation plan. The goals and objectives shall be related to the functions and values of the original critical area or, if out-of-kind wetland mitigation, the type of wetland to be emulated. This analysis shall include, but is not limited to the following:
 - c. Site selection criteria;
 - i. Identification of compensation goals;
 - ii. Identification of functions and values;
 - iii. Dates for beginning and completion of the project and compensation plan;
 - iv. A complete description of the relationship between and among structures and functions sought;
 - v. Review of available literature and/or known like-projects to date in restoring or creating the type of critical area proposed;
 - vi. Likelihood of success of the proposed compensation project at duplicating the original critical area. This shall be based on experiences of comparable projects identified in the literature review or existing projects, if any; and

- vii. Likelihood of the ability of the created or restored critical area to provide the functions and values of the original critical area. This shall be based on such factors as surface water and groundwater supply and flow patterns; dynamics of the ecosystem; sediment or pollutant influx and/or erosion, periodic flooding and drought, etc.; presence of invasive flora or fauna; potential human or animal disturbance; and previous comparable projects, if any.
- d. Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and objectives of the project are met and for beginning remedial action or contingency measures. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance, and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.
- e. Detailed Specifications. Written specifications and descriptions of compensation techniques shall be provided. These shall include, but not be limited to, items in Subsection C.2 of this Section.
- f. Monitoring Program. A program outlining the approach for monitoring construction of the compensation project and for assessing a completed project shall be provided. Monitoring may include, but is not limited to:
 - i. Establishing vegetation plots to track changes in plant species composition and density over time;
 - ii. Using photo stations to evaluate vegetation community response;
 - iii. Sampling surface and subsurface waters to determine pollutant loading, and changes from the natural variability of background conditions (pH, nutrients, heavy metals);
 - iv. Measuring base flow rates and storm water runoff to model and evaluate water quality predictions, if appropriate;
 - v. Measuring sedimentation rates, if applicable; and
 - vi. Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity.
 - vii. A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the compensation project. A monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than seven years.
 - viii. Contingency Plan. Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.
 - A. Performance and Maintenance Surety and Demonstration of Competence. A demonstration of financial resources, administrative, supervisory, and technical competence and scientific expertise to successfully execute the compensation project shall be provided. A compensation project manager

shall be named and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects. In addition, a surety ensuring fulfillment of the compensation project, monitoring program, and any contingency measure shall be posted pursuant to Section 4.1.2.7.

4. City Consultation. The city may consult with and solicit comments from any federal, state, regional, or local agency, including tribes, having any special expertise with respect to any environmental impact prior to approving a mitigation proposal which includes critical areas compensation. The compensation project proponents should provide sufficient information on plan design and implementation in order for such agencies to comment on the overall adequacy of the mitigation proposal.
5. Permit Conditions. Any compensation project prepared pursuant to this section and approved by the director shall become part of the application for the permit.

H. Aquifer Recharge Protection Area (ARPA) Stewardship Plan.

1. An ARPA stewardship plan may be completed by the property owner. The city may request additional information or technical review from qualified professionals or other agencies at the applicant's expense to ensure no net loss in critical area functions and values.
2. The basic components of an ARPA stewardship plan are a site plan and narrative report:
 - a. The site plan shall include:
 - i. Location and dimensions of proposed development within ARPA
 - ii. Limits of construction and existing and proposed grade changes
 - iii. Location of trees and critical root zones of all trees within the limits of construction and area of grade changes
 - iv. Location and species of tree(s) proposed for removal and replanting, if required.
 - b. The narrative report shall include:
 - i. Project narrative (Step 2 from the SAR Guidesheet, revised as needed)
 - ii. Description of measures taken to avoid, minimize and reduce adverse impacts to the ARPA
 - iii. Description of proposed development within ARPA including any decrease in native vegetative area and increase in hard surfaces
 - iv. Assessment of any potential damage to tree(s) whose critical root zone is within the limits of construction and area of grade changes (e.g., windthrow, root damage)

- v. Description of tree(s) and vegetation proposed for removal and replanting, if required, including size, species and condition
- vi. Description of protection measures for trees and vegetation to be retained
- vii. Description of measures to preserve forest litter and surface topography to most closely mimic natural hydrology
- viii. Planting plan including location, species and size of trees and vegetation to be replanted, if required.
- ix. Description of performance standards and monitoring actions (e.g., plant survival count, percent canopy coverage estimate) sufficient to document success of any required replanting.

4.1.6 Water Quality and Stormwater Management

4.1.6.1 Principles

Water quality is affected in numerous ways by human activity. Impervious surfaces that accompanies development increases surface water runoff; which causes scouring and erosion of stream banks. Erosion increases suspended solid levels and a greater amount of stormwater carries heavy metals, household wastes, and excess nutrients into the waters of the state. Increased nutrient enrichment depresses dissolved oxygen levels. Degradation of water quality adversely impacts wildlife habitat and public health. The purpose of these provisions is to minimize water quality impacts of shoreline uses and activities. Shoreline master programs shall, as stated in RCW 90.58.020, protect against adverse impacts to the public health, to the land and its vegetation and wildlife, and to the waters of the state and their aquatic life, through implementation of the following principles:

- (i) Prevent impacts to water quality and stormwater quantity that would result in a net loss of shoreline ecological functions and processes, or a significant impact to aesthetic qualities, or recreational opportunities.
- (ii) Ensure mutual consistency between shoreline management provisions and other regulations that address water quality and stormwater quantity, including public health, stormwater discharge standards. The regulations that are most protective of ecological functions and processes shall apply.

4.1.6.2 Applicability

These provisions apply to all shoreline development, including that which does not require a Shoreline Substantial Development Permit. The use of pesticides, herbicides or fertilizers within the shorelines jurisdiction, including applications of herbicides to control noxious aquatic vegetation, shall comply with regulations of Section 4.1.5, Critical Areas and responsible federal and state agencies. Shoreline development and activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5,

Critical Areas; Section 4.1.3, Vegetation Management; ~~Appendix B~~; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.1.6.3 Goal

Maintaining high water quality standards and restoring degraded systems is mandated in the Shoreline Management Act (RCW 90.58.020 or its successor). The purpose of these provisions is to maintain existing water quality, restore impaired water bodies and minimize water quality impacts of shoreline uses and activities.

4.1.6.4 Policies

1. Require all shoreline uses and activities, and developments to be located, designated, constructed, and maintained to avoid or minimize adverse impacts to water quality, quantity, or hydrology.
2. Ensure that shoreline uses, activities, and developments are consistent with the City's Stormwater Management Plan and stormwater ordinances. Protect ecological functions and/or ecosystem-wide processes by avoiding and minimizing adverse impacts to water quality through shoreline vegetation management and stormwater management.
3. Use effective public education programs, site planning and best management practices to avoid or minimize the need for chemical fertilizers, pesticides, herbicides, and fungicides that could contaminate surface or ground water or cause adverse effects of shoreline ecological functions and ecosystem-wide processes.
4. Encourage the use of low impact development techniques as water quality treatment of surface water runoff, unless precluded by soil conditions, slope or other sensitive area conditions.

4.1.6.5 Prohibited

1. Wood that is treated with creosote, copper chromium arsenic (CCA) or pentachlorophenol (PCP) in or above shoreline water bodies, unless otherwise approved in Section 6.3, Overwater Structures.
2. Use of pesticides within a Shoreline Buffer and Site-specific Vegetation Management Areas, except as follows:
 - a. All shoreline developments and activities shall comply with the following standards in the application of pesticides or herbicides.
 - i. As part of an integrated pest management plan which is administered by a qualified professional to control rodents.
 - ii. When it is the accepted practice to successfully eradicate aquatic or upland invasive/noxious vegetation species and Department of Ecology has approved a method of application.

4.1.6.6 Regulations – General

1. All shoreline development shall minimize any increase in surface runoff through control, treatment, and release of surface water runoff so that the receiving water quality, shore properties, and features are not adversely affected, and through compliance with the standards established in the City’s adopted Stormwater Management Manual in BIMC 15.20.
2. Shoreline use and development shall incorporate measures to protect and maintain surface and ground water quantity and quality in accordance with all applicable laws.
3. Low impact development techniques shall be considered and implemented consistent with the City’s adopted Low Impact Development Manual cited in BIMC 15.20.050.C unless the site is demonstrated to the satisfaction of the Administrator to be unsuitable for low impact development techniques.
 - a. When a direct discharge pipe is demonstrated to be necessary, the conveyance shall consist of the following:
 - i. A continuous heat welded high density polyethylene (HDPE) pipe; and
 - ii. Devices to keep the pipe stationary and set off bank; and
 - iii. An energy dissipation pad or water dissipater installed at the end of the pipe. The dissipation pad shall extend the minimum distance necessary to protect the beach substrate.
4. All proposals for bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or a permanent basis, shall require adequate secondary containment and an emergency spill response plan in place when appropriate. It shall be the responsibility of property owners to fund and implement the approved spill containment and cleanup plans and to complete the work by the deadline established in the plans according to BIMC 15.22.
5. Allowances to alter stormwater management standards of BIMC 15.20 may be approved by the City, provided it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive regional stormwater management plan.
6. Best management practices (BMP’s) for control of erosion and sedimentation shall be implemented for all development in shorelines through an approved Stormwater Pollution Prevention Plan (SWPPP), as required by BIMC 15.20, Surface and Storm Water Management, or administrative conditions.
7. To avoid water quality degradation by malfunctioning or failing septic systems located within shoreline jurisdiction, on-site sewage systems shall be located landward of any new residence or business or if determined to be infeasible, in a location approved by the Administrator and designed to meet all applicable water quality, utility, and health

standards. The owner must be in compliance with the Kitsap Health District, and any state and federal laws.

8. New residences or businesses on the shoreline located within two hundred (200) feet of an existing sewer line and/or within an established sewer service area shall be connected to the sewer system.
9. All materials that may come in contact with surface water or stormwater shall be constructed of materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. To avoid discharge of pollution, decking material or other structural components shall be approved by applicable state agencies for contact with water.
10. As a condition of permit approval, the Administrator may apply the following conditions to protect water quality:
 - a. Shoreline uses and activities shall apply Best Management Practices (BMP's) to minimize any increase in surface runoff and to control, treat and release surface water runoff so that receiving properties, receiving waters, wetlands or streams, and are not adversely affected, consistent with the City's adopted Stormwater Management Manual.
 - b. All types of BMPs shall be regularly maintained to continue to function as intended, according to the BIMC 15.21, Storm Water Facilities Maintenance Program. Such measures may include, but are not limited to:
 - i. Vegetated shoreline buffers and setbacks.
 - ii. Low Impact Development techniques for infiltration (rain gardens, pervious surfaces).
 - iii. Methods described in the City's adopted Stormwater Manual (catch basins or settling ponds, oil interceptor drains, grassy swales).
 - iv. The release of oil, chemicals (including pesticides and herbicides), fertilizer or hazardous materials, and others listed in BIMC 15.262 onto land or into the water is prohibited within the shoreline jurisdiction.
 - v. Equipment for the transportation, storage, handling, or application of such materials shall be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
11. The use of fertilizer is allowed within the Shoreline Buffer and Site-specific Vegetation Management Area when measures are taken to protect the waters of the state.
 - a. Minimize or prevent the runoff of chemical laden into adjacent water bodies.
 - b. The direct runoff of fertilizer chemicals into adjacent water bodies is prohibited.

- c. Application of fertilizer shall utilize BMPs outlined in the City's adopted Stormwater Management Manual.

4.1.7 Flood Hazard Management

4.1.7.1 Applicability

These provisions apply to primary flood hazard projects or programs. They also apply to construction, maintenance, repair, modification and/or expansion of flood hazard management systems. Provisions applicable to individual properties are in Section 6.0, Shoreline Modification Policies and Regulations. Shoreline development and activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater Management; Section 4.1.3, Vegetation Management; ~~Appendix-B~~; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.1.7.2 Policies

1. Base flood hazard management planning on applicable watershed management plans, critical area ordinances, and other comprehensive planning efforts. Coordinate flood hazard management among affected property owners and public agencies by considering the system-wide impacts of individual projects, cumulative impacts of individual projects, and ensuring that flood hazard protection measures do not result in a net loss of ecological function.
2. Allow removal of gravel for flood control should only if a biological and geomorphological study demonstrates a long-term benefit to flood hazard reduction and that no net loss of ecological functions and ecosystem-wide processes will result. Removal must be part of a comprehensive flood management solution.
3. Ensure flood hazard management works are located, designed, constructed, and maintained to provide:
 - a. Protection of shoreline ecological functions and ecosystem-wide processes which may be damaged by interruptions of the geo-hydraulic system;
 - b. Protection of water quality and natural ground water movement;
 - c. Protection of fish, vegetation and other life forms and their habitat vital to the aquatic food chain; and
 - d. Protection of recreation resources and aesthetic values such as point and channel bars, islands, and other shore features and scenery.
4. Give preference to non-structural methods over structural flood control methods wherever feasible, including prohibiting or limiting development in historically flood prone areas,

regulating structural design, and limiting increases in peak-flow runoff from new upland development. Structural solutions to reduce shoreline damage should be allowed only after it is demonstrated that nonstructural solutions would not sufficiently reduce the damage.

4.1.7.3 Prohibited

1. Flood control works are prohibited on estuary or embayment shores, on point and channel bars, and in salmon spawning areas, except for the purpose of fish or wildlife habitat enhancement or restoration or as approved for a foundation for redevelopment of a legally established primary residential structure in the Point Monroe District.
2. Flood control structures and stream channelization projects that damage fish and wildlife resources, recreation or aesthetic resources, or create high flood stages and velocities shall be prohibited.

4.1.7.4 Regulations – General

1. Flood hazard management shall be a conditional use in the Shoreline Residential Conservancy, Island Conservancy, Shoreline Residential, Urban and Aquatic designations and prohibited in the Natural and Priority Aquatic designations, except in the Point Monroe District.
2. The City shall require the applicant to provide the following information during its review of shoreline flood management projects and programs.
 - a. Channel hydraulics and floodway characteristics up and downstream from the project area;
 - b. Existing shoreline stabilization and flood protection works within the area;
 - c. Physical, geological and soil characteristics of the area;
 - d. A biological resource inventory and analysis prepared by a qualified professional biologist that describes the anticipated effects of the project on fish and wildlife resources; and
 - e. A hydraulic analysis prepared by a licensed professional engineer that describes anticipated effects of the project on hydraulics including:
 - i. Potential increases in base flood elevation; and
 - ii. Geo-hydraulic processes leading to erosion or adverse effects to shoreline resources and uses; and
 - iii. Potential for redirection of the normal flow of the affected stream; and
 - iv. Predicted impact upon adjacent properties and shoreline and water uses; and
 - v. Analysis of alternative flood protection measures, both structural and nonstructural; and

- vi. An analysis of the flood frequency, duration and severity and expected health and safety risks as a rationale and justification for the proposed structure; and
 - vii. Proposed provisions for accommodating public access to and along the affected shoreline, as well as any proposed on-site recreational features; and
 - viii. A description of any proposed plans to remove vegetation and revegetate the site following construction.
3. The City shall require flood control structures to be professionally engineered and designed prior to final approval. The design shall be consistent with the Department of Fish and Wildlife Aquatic Habitat Guidelines and other applicable guidance and regulatory requirements.
 4. Flood control structures shall be permitted only when there is credible engineering and scientific evidence that:
 - a. They are necessary to protect existing, lawfully established development; and
 - b. They are consistent with BIMC 15.16, Flood Damage Prevention and the City Comprehensive Plan; and
 - c. Non-structural flood hazard reduction measures are infeasible; and
 - d. Proposed measures are consistent with an adopted comprehensive flood hazard management plan, if available.
 5. When permitted, flood control structures shall be:
 - a. Constructed and maintained in a manner that does not degrade the quality of affected waters or the habitat value associated with the in stream and riparian area; and
 - b. Placed landward of the OHWM except for weirs, current deflectors and similar structures to protect public bridges and roads; and
 - c. Placed landward of associated wetlands and designated habitat conservation areas, except for structures with a primary purpose of improving ecological functions and processes; and
 - d. Designed based on engineering and scientific analyses that provide the highest degree of protection to shoreline ecological functions or processes; and
 - e. Designed to allow for normal ground water movement and surface runoff. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless they are actually causing bank erosion or higher flood stages; and

- f. Designed to allow streams to maintain point bars and associated aquatic habitat through normal accretion so that the stream can maintain normal meander progression and maintain most of its natural storage capacity.
6. No flood control structure shall be installed or constructed without first having obtained all applicable federal, state, and local permits and approvals, including but not limited to a hydraulic project approval (HPA) from the Department of Fish and Wildlife and Federal Emergency Management Agency (FEMA) requirements for National Flood Insurance Program (NFIP) communities pertaining to flood prone areas. Conditions of the hydraulic project approval permit (HPA) issued by Washington State Department of Fish and Wildlife shall be incorporated into permits issued for flood protection.
 7. Removal of beaver dams to control or limit flooding shall be allowed provided that the project proponent coordinates with the Department of Fish and Wildlife and obtains all necessary permits and approvals from the state.
 8. Flood protection measures that alter, reroute, or change the shoreline may be approved as a conditional use only if it is demonstrated that other flood protection and planning measures would be insufficient. Alternative measures shall be considered in the following sequence:
 - a. No action
 - b. Non-structural measures such as vegetation enhancement or comprehensive planning
 - c. Increase building setbacks and/or relocate structures to a feasible location and/or elevate the structures.
 - d. Implement flexible/natural materials and methods, beach nourishment, protective berms, bioengineered solutions or other soft-treatment measures.
 - e. Apply development restrictions.

4.1.8 Shoreline Restoration and Enhancement

4.1.8.1 Applicability

This section provides for restoration and enhancement of ecologically impaired areas or areas with the goal of achieving a net gain in shoreline ecological functions and ecosystem-wide processes above the baseline conditions as of the adoption of this shoreline master program. Restoration and enhancement provisions apply to activities and projects proposed and conducted specifically for the purpose of establishing, restoring, or enhancing ecological functions and ecosystem-wide processes within shoreline upland, beach and/or aquatic areas measured below the ordinary high water mark (OHWM). Shoreline restoration activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater; Section 4.1.3,

Vegetation Management; ~~Appendix B~~; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.1.8.2 Goal

Over time, create net ecosystem-wide improvement in the shoreline environment by improving impaired shoreline ecological functions and ecosystem-wide processes that have been degraded or diminished. This will be accomplished through voluntary and incentive-based public and private programs and actions that restore and enhance shoreline areas prioritized through a restoration plan.

4.1.8.3 Policies

1. Improve shoreline ecological functions and ecosystem-wide processes through restoration and enhancement actions designed using principles of landscape and conservation ecology with the primary goal being to restore and/or enhance physical and biological ecosystem-wide processes that create and sustain shoreline habitat structures and functions.
2. Encourage and facilitate cooperative shoreline restoration and enhancement programs between local, state, and federal agencies, tribes, non-profit organizations, and landowners to address shorelines with impaired ecological functions and/or ecosystem-wide processes.
3. Target restoration and enhancement actions to improve habitat requirement of priority species, such as Chinook and other species and/or locally important plant, fish and wildlife species; and/or other populations or habitats for which a prioritized restoration of recovery plan is available.
4. Integrate restoration and enhancement with other natural resources management efforts such as Puget Sound Salmon recovery planning, West Sound Watershed planning and Water Resource Inventory Area(WRIA) 15 Watershed Management planning.
5. As feasible, include provisions for shoreline vegetation restoration, fish and wildlife habitat enhancement, and low impact development techniques in projects located within the shoreline through project mitigation and incentive-based restoration.
6. Seek funding from state, federal, private and other sources to implement restoration and enhancement, and provide support to restoration work by identifying shoreline restoration priorities and organizing information on available funding sources for restoration implementation.
7. Encourage restoration and enhancement projects by developing project permitting and processing guidelines that will streamline the review of restoration-only projects.
8. Identify and encourage the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs as they are developed, to encourage restoration and enhancement of shoreline ecological functions and ecosystem-wide processes and to protect habitat for fish, wildlife and plants.

9. Avoid adverse impacts to existing critical saltwater habitat areas, fish and wildlife habitat conservation areas, water quality and flood holding capacities.
10. Restore or enhance Island shorelines in conjunction with shoreline stabilization, recreational enhancement, and aquatic habitat creation or restoration. Do not allow creation of new land area along the shoreline below the OHWM to raise the elevation to create dry upland areas.
11. Encourage supplementary beach nourishment where existing shoreline stabilization has the potential to decrease existing beach materials at or down-drift from the project site and should be coordinated with an Island-wide shoreline restoration plan.
12. Promote shoreline stabilization that incorporates beach restoration or enhancement in accordance with the restoration provisions of this Master Program.

4.1.8.4 Objectives

1. Encourage and facilitate cooperative restoration and enhancement programs between local, state and federal public agencies, tribes, non-profit organizations, and landowners to address shorelines with impaired ecological functions and/or ecosystem-wide processes.
2. Restore and enhance shoreline ecological functions and processes as well as shoreline features through voluntary and incentive-based public and private programs.
3. Target restoration and enhancement towards improving habitat requirements of priority and/or locally important wildlife species.
4. Ensure restoration and enhancement is consistent with and, where practicable, prioritized based on the biological recovery goals for Chinook and bull trout populations and other species and/or populations for which a recovery plan is available.
5. Seek funding for various restoration actions and programs from local sources and by working with the Bainbridge Island Metropolitan Park and Recreation District and other jurisdictions in the WRIA 15 and stakeholders to seek federal, state, grant and other funding opportunities.
6. Continue to develop and implement the City's Shoreline Stewardship Program as a public education program to inform private property owners in the shoreline jurisdiction and in the remainder of the City about the effects of land management practices and other unregulated activities (such as vegetation removal, pesticide/herbicide use, car washing) or fish and wildlife habitats.

4.1.8.5 Regulations – Restoration

1. Restoration activities are permitted in all designations, and shall be carried out in accordance with the objectives of an approved shoreline restoration plan and in accordance with the policies and regulations of this Program.

4.1.8.6 Beach Nourishment and Enhancement

4.1.8.6.1 *Policies*

1. All beach enhancement projects should ensure that aquatic habitat, existing water quality levels and flood-holding capacities are maintained.
2. Beach restoration/enhancement utilizing self-sustaining systems should be required where;
 - a. The length and configuration of the beach will accommodate such systems;
 - b. Such protection is a reasonable solution to the needs of the specific site; and
 - c. Beach restoration/enhancement will accomplish one or more of the following objectives:
 - i. Recreate or enhance natural conditions.
 - ii. Create or enhance natural habitat.
 - iii. Mitigate erosion.
 - iv. Enhance access to the shoreline.
3. Supplementary beach nourishment should be encouraged where existing shoreline stabilization is likely to increase impoverishment of existing beach material at or down drift from the project site.

4.1.8.6.2 *Regulations – Prohibited*

1. Dikes, levees, jetties, groins, gabions and breakwaters, are prohibited. Drift sills for enhancement or restoration projects may be allowed.
2. Beach nourishment is prohibited unless part of an approved mitigation plan or restoration project within spawning, nesting, or breeding habitat and/or where littoral drift of the enhancement materials enhances shoreline and does not adversely affects shoreline ecological functions and shoreline ecosystem-wide processes or adjacent properties.

4.1.8.6.3 *Regulations – General*

1. Mitigation/enhancement/restoration proposal design alternatives shall include the best available technology.
2. Mitigation/enhancement/restoration proposals shall not:
 - a. Detrimentially interrupt littoral drift, or redirect waves, current or sediments to other shorelines;

- b. Result in any exposed groin-like structures, provided that small “drift sill” groins may be used as a means of stabilizing restored sediment as part of a permitted beach restoration program;
 - c. Extend waterward more than the minimum amount necessary to achieve the desired stabilization;
 - d. Result in contours sufficiently steep to impede easy pedestrian passage, or to trap drifting sediments;
 - e. Create additional dry land mass; or
 - f. Disturb valuable shallow-water fish/wildlife habitat as determined by the Department of Fish and Wildlife, unless such habitat is immediately replaced by new habitat that is comparable or better.
3. Beach Restoration Construction Standards:
- a. The size and/or mix of new material to be added to a beach shall be as similar as possible to the undisturbed bluff sediment and Washington Department of Fish and Wildlife approved material (i.e. “Fish mix, or smaller grain size). The material shall not predominately consist of grain size similar to clay or silt.
 - b. The restored beach shall approximate, and may slightly exceed, the natural beach width, height, bulk, or profile (but not so as to obviously create additional dry land mass).

4.1.8.6.4 Specific Regulations – Beach Enhancement

- 1. Beach enhancement shall be a conditional use in all environments and shall be undertaken only for restoration, enhancement and maintenance of natural resources, or to enhance public access to the shoreline. Beach enhancement is prohibited if undertaken upland of Priority Aquatic designation.

4.2 General Use

4.2.1 Nonconforming ~~Uses, Non-Conforming Lots, and Existing Development~~ Nonconforming Structures, and Nonconforming Lots

4.2.1.1 Applicability

This section applies to shoreline uses and/or structures that were lawfully established or constructed prior to the effective date of the initial adoption of the Master Program (November 26, 1996) or ~~its amendments, but which do not conform to present regulations or standards of the Master Program.~~ amendments thereto, and which do not conform to current regulations or standards of this Program. This section does not apply to shoreline modification or shoreline stabilization.

Nonconforming uses, lots and structures are not required to meet this Program’s requirements, unless new development or changes to a use, lot or structure that would require review under this Program are proposed.

4.2.1.2 Definitions

1. Nonconforming Use. A nonconforming use means an existing shoreline use that was lawfully established prior to the effective date of this Program (November 26, 1996), as amended, but which does not conform to present use regulations due to subsequent changes to the Program.

2. Nonconforming Lot. A nonconforming lot means a lot that met dimensional requirements of the applicable SMP at the time of its establishment (November 26, 1996), as amended, but now contains less than the required width, depth or area due to subsequent changes in the Program.

3. Nonconforming Structures. A nonconforming structure means an existing structure that was lawfully constructed prior to the effective date of this Program (November 26, 1996), as amended, but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the Program.

4.2.1.23 Goal

~~It is the purpose of this program to recognize legally established primary residential structures, and to allow them to be maintained, repaired, remodeled, replaced and in some cases expanded in conformance with these rules. Residential structures that do not conform to this program should, over time, as the owner proposes changes to the structure, conform as completely as possible to this program, with due regard to unique site conditions and property rights.~~

~~It is further the purpose of this program to ultimately, over time, have uses and commercial structures conform to the provisions of this program. Over time, uses and commercial structures that do not conform to the standards of this program should be phased out as uses cease or redevelopment of structures occurs.~~

~~Note: Existing structures and uses that do not conform to this Program are not required to meet its requirements, unless the owner proposes changes to a structure or use that would require review under this Program.~~

It is the purpose of this section to recognize legally established uses, lots, and structures, and to allow them to be maintained, repaired, remodeled, replaced, and, in some cases expanded, in conformance with Section 4.2.1.5 through 4.2.1.8 of this Program with due regard to unique site conditions and property rights.

4.2.1.34 Policies

- ~~1. Lawfully constructed commercial and industrial structures shall be allowed to be repaired, maintained, and remodeled provided that the alteration does not increase the nonconformity.~~
- ~~2. Lawfully constructed structures, established uses, public facilities, transportation structures, and/or lots of record located within the shoreline jurisdiction prior to the effective date of the Master Program but which do not conform to the present policies, regulations or standards, shall be allowed to continue and be repaired and maintained.~~
- ~~3. Lawfully constructed residential structures may be repaired, maintained and remodeled provided the alteration meets the goals and provisions of this program.~~
- ~~4. Lawfully constructed residential structures may be expanded in some circumstances, provided the expansion will not result in adverse impacts to shoreline ecological functions and processes, and mitigation is provided.~~
- ~~5. Once discontinued, re-establishment of nonconforming uses located in the shoreline jurisdiction shall be restricted.~~
- ~~6. Lawfully constructed commercial structures that are located in the shoreline jurisdiction are to be phased out over time. Depending on the extent and intensity of the nonconformity, a primary residential structure and primary appurtenance, may be allowed certain alteration or expansion, provided that adverse impacts to shoreline ecological functions and shoreline processes are mitigated or restored.~~
- ~~7. Lawfully constructed structures that are destroyed by fire, explosion, flood, or other casualty may be restored or replaced without increasing or expanding the nonconformity, and are encouraged to decrease nonconformity. Legally established overwater structures that are destroyed may be reconstructed to the same size, but the configuration may be altered to reduce the impact to the shoreline environment provided the size of the nonconformity is not increased. Such redevelopments may be permitted provided that impacts to shoreline functions and processes are mitigated or restored, and the reconstruction application is submitted within two years of the date of destruction.~~
- ~~8. Provisions for reconstruction of a lawfully constructed residential house shall allow certain expansions of the existing structure when it can be demonstrated that the expansion will not result in adverse impacts to shoreline ecological functions and shoreline processes are mitigated or restored.~~

- ~~9. Legally created nonconforming lots of record may be developed provided that adverse impacts to shoreline ecological functions and shoreline processes are mitigated or restored.~~
- ~~10. Redevelopment of nonconforming public rights of way and associated existing transportation structures may be permitted for purposes of facilitating essential public access, development of public trails and/or public shoreline access.~~
1. Nonconforming structures may be replaced, repaired, maintained, or remodeled and, in some cases, nonconforming structures may be expanded provided the alteration change meets the current regulations and standards of this Program. Decreases in nonconformity should be encouraged.
2. Once discontinued, reestablishment of nonconforming uses and nonconforming commercial structures located in the shoreline jurisdiction should be restricted or phased out over time.
3. Nonconforming overwater structures may be reconstructed to the same size and modified, reoriented or altered within the same general location to be more consistent with the provisions of this Program.
4. Nonconforming lots of record may be developed consistent with the standards and regulations of this Program.
5. Redevelopment of nonconforming public rights-of-way and associated existing transportation structures may be permitted for purposes of facilitating essential public access, development of public trails and/or public shoreline access.

4.2.1.45 Regulations – General

- ~~1. Nonconforming uses and developments and/or existing buildings and structures that were lawfully constructed or existed prior to the effective date of initial adoption of this Program (November 26, 1996), or its amendments, but which do not meet the specific standards of this Program, may be continued subject to the provisions of this section; provided that shoreline modifications shall conform to Section 6.1, General Shoreline Modification Provisions, and Section 6.2, Shoreline Stabilization.~~
- ~~2. A complete application for any reconstruction under this section must be submitted within two (2) years of the date of damage or removal, and upon approval of the application, redevelopment must be completed within one (1) year of the commencement of reconstruction. A one (1) year extension may be granted, provided that a written request~~

~~is submitted no later than twenty-one (21) days prior to either deadline and provided that the owner is not responsible for the delay.~~

- ~~3. An existing use designated by the adoption of an applicable amendment hereto as a conditional use that lawfully existed prior to the adoption of the Program or the adoption of an applicable amendment hereto and which has not obtained a conditional use permit, shall be considered a legal nonconforming use and may be continued subject to the provisions of this section without obtaining a conditional use permit.~~
- ~~4. A structure for which a variance has been issued but which does not comply with applicable requirements of this Program as amended shall be considered a legal existing structure and the requirements of this section shall apply.~~
- ~~5. Any permitted remodel or expansion shall not cause adverse impacts to shoreline ecological functions and/or processes.~~

1. Nonconforming uses, lots, and structures may continue subject to the provisions of this section.
2. Any alterations to nonconforming uses or structures shall meet the no net loss standard pursuant to Section 4.1.2.4. The current condition of the shoreline, including nonconforming uses and structures, shall be the starting point or baseline for determining compliance with the no net loss standard.

4.2.1.56 Regulations - Nonconforming Uses

1. Nonconforming uses shall not be altered or expanded in any way that increases the nonconformity.
2. If a nonconforming use is discontinued for twelve (12) consecutive months, any subsequent use shall be conforming; except that if a nonconforming use is operated within a nonconforming structure that is accidentally damaged or destroyed and reconstruction is proposed under Section 4.2.1.~~6-1(3)7~~, then the use may be re-established within the same time period as the reconstruction for the nonconforming structure pursuant to Section 4.2.1.~~4(2)7.1(7)~~.
3. A nonconforming use cannot be changed to another nonconforming use.
4. Change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status, provided that all provisions are met.

4.2.1.67 Regulations – ~~Existing Development~~ Nonconforming Structures

4.2.1.67.1 General Provisions – Nonconforming Structures

- ~~1. Existing structures may be maintained, repaired, renovated, or remodeled provided all the following is met:~~

- ~~a. Changes to the structure that would alter or increase the nonconformity are not permitted;~~
 - ~~i. Any vertical or horizontal extension of a wall must meet the provisions of this program.~~
 - ~~ii. Adding to the footprint of an existing structure is permitted as long as the addition meets the requirements of this program.~~
- ~~b. There is no further encroachment into the buffers unless allowed by this program or through an approved variance;~~
- ~~c. Renovations or remodels are entirely contained within the building;~~
- ~~d. If moved, the structure shall be made to conform to regulations of this program.~~
- ~~2. If an existing primary structure is damaged or destroyed by fire, explosion, earthquake, flooding or other casualty, it may be reconstructed to the bulk dimension existing immediately prior to the catastrophic event, provided the use is conforming or meets the provisions of Section 4.2.1.4, Regulations General, and 4.2.1.5, Regulations Nonconforming Uses, above.~~
 - ~~a. This provision shall not apply to structures that are destroyed due to a criminal act initiated by the property owner; and~~
 - ~~b. The replacement structure shall not warrant new shoreline stabilization for the life of the new structure.~~
 - ~~c. The replacement structure meets geologically hazard provision for existing development in Section 4.1.5, Regulations Nonconforming Uses, and Appendix B.~~
- 1. All nonconforming structures may be maintained, repaired, renovated, remodeled, or rebuilt. In some cases, nonconforming structures may be expanded subject to the specific provisions of this Program.
- 2. Nonconforming structures shall not be reconstructed, altered, or expanded in any way that increases the nonconformity.
- 3. No further encroachment into the shoreline buffer established in accordance with Section 4.1.3 is allowed unless permitted by this Program.
- 4. Any nonconforming structure that is relocated must conform to regulations of this Program.

5. The enlargement or replacement of a structure shall not warrant new shoreline stabilization for the life of the new structure; and
6. A replacement structure, or portion thereof, must meet geologically hazardous provisions in Section 4.1.5.
7. A complete application for any reconstruction under this section must be submitted within three (3) years of the date of damage or removal and must include documentation of site conditions and building configuration existing immediately prior to the time the structure was demolished or destroyed. Upon approval of the application, redevelopment must be completed within one (1) year of the commencement of reconstruction. A one (1) year extension may be granted, provided that a written request is submitted no later than twenty-one (21) days prior to either deadline and provided that the owner is not responsible for the delay.

Note: Commercial and Industrial structures moved to Section 4.2.1.7.6

~~4.2.1.6.2 Existing Structures – Commercial and Industrial (Primary and Accessory)~~

- ~~1. Existing commercial structures shall not be altered or expanded in any way that increases the nonconformity without first obtaining a variance.~~
- ~~2. Reconstruction of existing commercial structures and buildings intentionally demolished or destroyed in any other manner than described in Section 4.2.1.6.1(2), shall be in conformance with all standards of the Program.~~

~~4.2.1.6.3~~ 4.2.1.6.37.2 Existing Structures – Nonconforming Structures – Residential Single-Family: Primary Structures

- ~~1. If an existing primary residential structure is damaged or destroyed as described in Section 4.2.1.6.1(2), the existing primary residential structure configuration may be altered or expanded pursuant to subsections 4.2.1.6.3(2-4).~~
- ~~2. An existing primary residential structure may be altered or expanded to the extent allowed by this Program, provided:

 - ~~a. Enlargement or expansion of the building configuration, including any new impervious surfaces located within the Shoreline Buffer shall be located landward of the existing or original building footprint, only one such expansion may occur within the lifetime of the development, and the expansion shall not exceed:~~
 - ~~i. The allowed building area for Point Monroe District, Section 5.9.6(2).~~~~

- ii. ~~The allowed building area for encumbered lots, Section 4.2.1.7.~~
 - iii. ~~For structures not meeting i or ii; twenty five percent (25%) of the existing building footprint.~~
 - b. ~~Any vertical expansion must meet height requirements of this Program;~~
 - c. ~~Remnant foundation and/or impervious surfaces located within the Shoreline Buffer shall be removed;~~
 - d. ~~Mitigation of the shoreline buffer is provided in accordance with Section 4.1.2, Environmental Impacts;~~
 - e. ~~The remodel or expansion shall not cause adverse impacts to shoreline ecological functions and/or processes; and~~
 - f. ~~All other applicable standards and provisions are met, including regulations of this Program, the Bainbridge Island Municipal Code, the septic system requirements of the Kitsap Health District, and any state and federal laws.~~
- 3. ~~Permitted expansion of an existing structure shall not substantially impact the existing views of the water from primary waterfront residences or public rights of way to any greater degree than a fully conforming structure.~~
- 4. ~~Increases in structure footprint outside of the Shoreline Buffer shall be allowed, even if all or a portion of the existing footprint is within the Shoreline Buffer. In such case, the addition or enlargement shall be treated as a separate building or structure in determining conformity to all of the requirements of this Program.~~
- 1. A nonconforming primary residential structure located within the shoreline buffer may be altered, expanded, or rebuilt, provided:
 - a. If an existing primary residential structure is damaged or destroyed by any means, it may be reconstructed to the same footprint and bulk dimensions existing immediately prior to the demolition or destruction.
 - b. Any enlargement or expansion of the building, including any new impervious surfaces, shall be located landward of the existing or original building footprint.
 - c. No enlargement or expansion shall be located within Zone 1 of the shoreline buffer.
 - d. For structures not within an encumbered lot, enlargement or expansion may be allowed as follows:
 - A. If the total footprint of any remaining portion of the existing primary structure, the proposed additional footprint, and any existing and proposed hard surfaces is less than or equal to four thousand square

- feet expansion is allowed with mitigation as required in the Single Family Shoreline Mitigation Manual.
- B. If the total footprint of any remaining portion of the existing primary structure, the proposed additional footprint, and any existing and proposed hard surfaces is greater than four thousand square feet expansion is allowed with submittal of a site-specific impact analysis and approval of a shoreline conditional use permit.
 - e. No exceptional trees as defined in BIMC 16.18 shall be removed to accommodate the enlargement or expansion.
 - f. No significant trees shall be removed to accommodate the enlargement or expansion unless the Administrator determines all of the following are met:
 - A. The use of mitigation sequencing pursuant to Section 4.1.2.6 is demonstrated prior to removal of the tree.
 - B. The healthy trees remaining on the property are able to maintain existing shoreline ecological function and processes.
 - C. Reasonable and feasible alternatives that would allow for the preservation of the tree are not available.
 - g. Permitted expansion of a nonconforming structure shall not substantially impact the existing views of the water from primary residences or public rights-of-way to any greater degree than a fully conforming structure in accordance with Section 4.1.3.11.
 - h. All other applicable standards and provisions are met, including regulations of this Program, the Bainbridge Island Municipal Code, the septic system requirements of the Kitsap Health District, and any state and federal laws.

Note: Multifamily primary structures moved to Section 4.2.1.7.5

~~4.2.1.6.4 Existing Structures – Multifamily Residential: Primary Structures~~

- ~~1. If an existing primary multifamily residential structure is damaged or destroyed by fire, explosion, earthquake, flooding or other casualty, it may be reconstructed to the bulk dimension existing immediately prior to the catastrophic event, including building height and footprint of the structure.~~
 - ~~a. This provision shall not apply to structures that are destroyed due to a criminal act involving the property owner; and~~

- ~~b. The replacement structure shall not warrant new shoreline armoring for the life of the new structure; and~~
- ~~c. The reconstruction shall not cause adverse impacts to shoreline ecological functions and processes.~~
- ~~d. The replacement structure meets geologically hazard provision for existing development in Section 4.1.5, Critical Areas, and Appendix B.~~
- ~~2. An existing primary multifamily residential structure or portion thereof may be reconstructed, altered, or expanded, including the footprint and/or the height increased, to the extent allowed by this Program, if the following are met:~~
 - ~~a. Public access is provided pursuant to Section 4.2.4.6, Regulations – Public Access Design and Location Standards; and~~
 - ~~b. Mitigation of the shoreline buffer is provided to meet no net loss, as detailed in Section 4.1.2, Environmental Impacts, including revegetation standards in Section 4.1.2.5(3).~~

~~4.2.1.6-57.3~~ Existing Nonconforming Structures – Residential: Accessory Structures

- ~~1. If an existing residential accessory structure is damaged, destroyed or intentionally demolished, the reconstruction shall be in conformance with all standards of the Program, except:~~
 - ~~a. An existing essential single family residential accessory structure may be reconstructed as follows:~~
 - ~~b. Replacement structure is the same bulk dimension as the existing structure.~~
 - ~~c. Replacement structure may be located within Zone 2 provided mitigation occurs in accordance with 4.1.2.5, Regulations – Revegetation Standards.~~
 - ~~d. Attached decks essential to a single family residence may be replaced in the same location.~~
 - ~~e. All other applicable standards and provisions are met, including regulations of this Program, the Bainbridge Island Municipal Code, the septic system requirements of the Kitsap Health District, and any state and federal laws.~~
- 1. If an existing residential accessory structure, including accessory dwelling units, is damaged or destroyed by any means, it may be reconstructed to the same footprint and bulk dimensions existing immediately prior to the demolition or destruction.

Note: Encumbered and nonconforming lots moved to Section 4.2.1.8

4.2.1.7 Regulations – Encumbered and Nonconforming Lots

1. ~~Single family development and redevelopment, except in the Point Monroe District, that is proposed on a legal nonconforming lot located in the shoreline jurisdiction or proposed for a shoreline property that is significantly encumbered by shoreline or critical area buffers, may be allowed without a shoreline variance when the following criteria are met:~~
 - a. ~~A lot contains a building area of 2,500 square feet or more available for a single-family residence and normal appurtenances and unrestricted by buffers from shorelines or critical areas shall comply with the provisions of this Program. The building area means the entire area that will be disturbed to construct the home, normal appurtenances (except drainfields), and landscaping; or~~
 - b. ~~A lot that does not meet the requirement of subsection 1.a above, shall meet the following:~~
 - ~~i. Landslide hazard provisions of Section 4.1.5, Critical Areas, and Appendix B and provide the maximum buffer dimension feasible for critical areas; and~~
 - ~~ii. Provide a building area not to exceed 2,500 square feet with maximum lot coverage of 1,200 square feet. The building area shall be located on the portion of the lot providing the maximum Shoreline Buffer dimension with consideration given to view; and~~
 - ~~iii. All single-family residential development approved under this section shall meet the shoreline structure view setback provisions in Section 4.1.3.11, Regulations – Shoreline Structure Setback View Requirement; and~~
 - c. ~~The area between the structure and the shoreline and/or critical area shall comply with revegetation standards in Section 4.1.2.5(3), the vegetation conservation standards of Section 4.1.3, Vegetation Management, and provisions of Section 4.1.5 Critical Areas, and Appendix B; and~~
 - d. ~~Development may not take place waterward of the ordinary high water mark; and~~
 - e. ~~Facilities such as a conventional drainfield system may be allowed outside of the building area specified above, and allowed within buffer areas, except wetlands buffers. Such facilities shall not be located closer than 75ft to OHWM; and shall be subject to regulations of Section 4.1.5, Critical Areas.~~

4.2.1.7.4 Nonconforming Structures – Residential and Commercial Overwater Structures

1. ~~Existing docks floats, and buoys may be repaired and replaced in the same foot print and shall comply with this Program’s requirements for materials and standards, to the extent practicable.~~
 - a. ~~Except that as a conditional use, an existing dock may be modified, reoriented or altered within the same general location to be more consistent with the provisions of this Program.~~

Nonconforming docks, piers, floats, and buoys may be replaced in the same footprint and shall comply with this Program’s requirements for materials and standards, to the extent practicable.
2. Nonconforming docks, piers, floats, and buoys may be modified, reoriented or altered within the same general location without a substantial development permit if the resulting structure is more consistent with this Program’s requirements for materials and standards.
3. ~~Except for docks and floats, repair and replacement up to 50% of the footprint of any existing aquatic structures, including shoreline modifications, or buildings or portions thereof within the Aquatic or Priority Aquatic designations, shall only be done once within any five year period. Such replacements shall comply with this Program’s requirements for materials and standards to the extent practicable. If the structure is composed of several components, then the 50% shall be calculated independently for each component. Replacement of nonconforming overwater structures other than docks, piers, floats, and buoys may be replaced if such replacement is authorized as normal repair consistent with WAC 173-27-040(2)(b).~~
3. ~~The replacement shall meet Section 4.1.2, Environmental Impacts, including the mitigation sequencing standards of Section 4.1.2.6, Regulations Mitigation, to meet the standard of no net loss of shoreline ecological functions and/or processes. Shoreline stabilization shall also meet the alternative analysis provision of Section 6.2.8(1).~~

4.2.1.7.5 Nonconforming Structures – Multifamily Residential: Primary Structures

1. ~~If an existing primary multifamily residential structure is damaged or destroyed by fire, explosion, earthquake, flooding or other casualty, it may be reconstructed to the bulk dimension existing immediately prior to the catastrophic event, including building height and footprint of the structure.~~
 - a. ~~This provision shall not apply to structures that are destroyed due to a criminal act involving the property owner; and~~
 - b. ~~The replacement structure shall not warrant new shoreline armoring for the life of the new structure; and~~

- ~~e. The reconstruction shall not cause adverse impacts to shoreline ecological functions and processes.~~
- ~~d. The replacement structure meets geologically hazard provision for existing development in Section 4.1.5, Critical Areas, and Appendix B.~~
- ~~2. An existing primary multifamily residential structure or portion thereof may be reconstructed, altered, or expanded, including the footprint and/or the height increased, to the extent allowed by this Program, if the following are met:~~
 - ~~a. Public access is provided pursuant to Section 4.2.4.6, Regulations – Public Access Design and Location Standards; and~~
 - ~~b. Mitigation of the shoreline buffer is provided to meet no net loss, as detailed in Section 4.1.2, Environmental Impacts, including revegetation standards in Section 4.1.2.5(3).~~
- 1. A nonconforming primary multifamily residential structure, or any portion thereof, may be reconstructed only in conformance with the current regulations and standards of this Program, including provisions for public access (Section 4.2.4.6) and residential development (Section 5.9).
- 2. A nonconforming primary multifamily residential structure, or any portion thereof, that is damaged or destroyed by a natural catastrophic event, may be reconstructed to the footprint and bulk dimensions existing immediately prior to the catastrophic event.

4.2.1.7.6 Nonconforming Structures – Commercial and Industrial (Primary and Accessory)

~~**4.2.1.6.2 Existing Structures – Commercial and Industrial (Primary and Accessory)**~~

- ~~1. Existing commercial structures shall not be altered or expanded in any way that increases the nonconformity without first obtaining a variance.~~
- ~~2. Reconstruction of existing commercial structures and buildings intentionally demolished or destroyed in any other manner than described in Section 4.2.1.6.1(2), shall be in conformance with all standards of the Program.~~
- 1. Nonconforming commercial and industrial structures, or any portion thereof, demolished or destroyed by any means may be reconstructed only in conformance with the current regulations and standards of this Program; except, nonconforming commercial structures utilized wholly for water-oriented uses may be reconstructed to the same footprint and bulk dimensions existing immediately prior to destruction by catastrophic event or intentional demolition.

4.2.1.87.7 Regulations – Nonconforming Public Facilities & Transportation

1. Nonconforming public facilities shall be allowed to continue and to be repaired, maintained, or remodeled.
2. Redevelopment of nonconforming public rights-of-way and associated transportation structures ~~are~~ is allowed for purposes of facilitating essential public access, development of public trails, and/or public shoreline access, provided that no other alternative is feasible and redevelopment shall be otherwise consistent with the provisions of this Program, including but not limited to the provisions for public access and no net loss of shoreline ecological functions and processes.

~~4.2.1.8 Regulations – Existing Residential and Commercial Aquatic Structures and Accessory Aquatic Structures~~

- ~~1. Existing docks floats, and buoys may be repaired and replaced in the same foot print and shall comply with this Program's requirements for materials and standards, to the extent practicable.

 - ~~a. Except that as a conditional use, an existing dock may be modified, reoriented or altered within the same general location to be more consistent with the provisions of this Program.~~~~
- ~~2. Except for docks and floats, repair and replacement up to 50% of the footprint of any existing aquatic structures, including shoreline modifications, or buildings or portions thereof within the Aquatic or Priority Aquatic designations, shall only be done once within any five year period. Such replacements shall comply with this Program's requirements for materials and standards to the extent practicable. If the structure is composed of several components, then the 50% shall be calculated independently for each component.~~
- ~~3. The replacement shall meet Section 4.1.2, Environmental Impacts, including the mitigation sequencing standards of Section 4.1.2.6, Regulations Mitigation, to meet the standard of no net loss of shoreline ecological functions and/or processes. Shoreline stabilization shall also meet the alternative analysis provision of Section 6.2.8(1).~~

4.2.1.78 Regulations – Encumbered and Nonconforming Lots

1. Single-family development and redevelopment, except in the Point Monroe District, that is proposed on a legal nonconforming lot ~~located in the shoreline jurisdiction~~ or proposed for a shoreline property that is significantly encumbered by ~~shoreline or critical area buffers~~ critical areas, critical areas buffers or setbacks, or shoreline buffers, may be allowed without a shoreline variance when the following criteria are met:
 - a. If a lot contains a building area of 2,500 square feet or more that is unrestricted by critical areas, critical areas buffers or setbacks, or shoreline buffers, development of a single-family residence and normal appurtenances shall occur

within that unrestricted development area and comply with the provisions of this Program. The development area means the entire area that will be disturbed to construct the home, normal appurtenances (except drainfields), and landscaping.

~~A lot contains a building area of 2,500 square feet or more available for a single-family residence and normal appurtenances and unrestricted by buffers from shorelines or critical areas shall comply with the provisions of this Program. The building area means the entire area that will be disturbed to construct the home, normal appurtenances (except drainfields), and landscaping; or~~

- b. ~~A lot that does not meet the requirement of subsection 1.a above, shall meet the following~~ If a lot does not contain a development area of 2,500 square feet or more available for a single-family residence and normal appurtenances that is unrestricted by critical areas, critical areas buffers or setbacks, or shoreline buffers, development shall meet the following provisions:
 - i. Landslide hazard provisions of Section 4.1.5, Critical Areas, ~~and Appendix B~~ and provide the maximum buffer dimension feasible for critical areas; and
 - ii. Provide a **building development** area not to exceed 2,500 square feet with maximum lot coverage of 1,200 square feet. The **building development** area shall be located on the portion of the lot providing the maximum Shoreline Buffer dimension with consideration given to view; and
 - iii. All single-family residential development approved under this section shall meet the shoreline structure view setback provisions in Section 4.1.3.11, Regulations – Shoreline Structure Setback View Requirement; and
- c. The area between the structure and the shoreline and/or critical area shall comply with revegetation standards in Section 4.1.2.5(3), the vegetation conservation standards of Section 4.1.3, Vegetation Management, and provisions of Section 4.1.5 Critical Areas, ~~and Appendix B~~; and
- d. Development may not take place waterward of the ordinary high water mark; and
- e. Facilities such as a conventional drainfield system may be allowed outside of the development area specified above, and allowed within buffer areas, except wetlands buffers. Such facilities shall ~~not be located closer than 75ft to OHWM~~ be located a minimum of 75 feet from the ordinary high water mark; and shall be subject to regulations of Section 4.1.5, Critical Areas.

4.2.2 Cultural Resources

4.2.2.1 Applicability

The following provisions apply to cultural, archaeological and historic resources that are either recorded by the State Historic Preservation Office, affected Indian tribes 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 development or uses that may impact such sites shall comply with Chapter 25-48 WAC (archaeological excavation and removal permit) as well as the provisions of this Master Program. Shoreline development and activities associated with cultural resources will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater Management; Section 4.1.3, Vegetation Management; ~~Appendix B~~; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.2.2.2 Policies

1. Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or damage to, any site having historical, cultural, scientific or educational value as identified by the appropriate authorities, including affected Indian tribes, and the Washington State Department of Archaeology and Historic Preservation.
2. Ensure that public or private uses and activities are compatible with any site having historic, prehistoric, cultural, scientific or educational purpose or value as identified by the appropriate authorities.
3. Develop guidelines to direct private and public development with regard to historic structures and areas. Require on-site interpretive signs, plaques or other interpretive and educational measures when a project impacts or retains cultural resources, unless prohibited by law.
4. Coordinate with the Metropolitan Park District to ensure Comprehensive Plan's consistency with cultural resource management policies.

4.2.2.3 Regulations - General

1. New or expanded shoreline use and development, including preferred uses, restoration projects and uses exempt from permit requirements shall:
 - a. Preserve and protect cultural resources that are recorded by the Washington State Department of Archaeology and Historic Preservation or local registry and resources that are inadvertently discovered during use or development activities; and

- b. Consult the City, the Washington State Department of Archaeology and Historic Preservation and affected tribes prior to beginning development so there is ample time to assess the site and make arrangements to preserve cultural resources; and
 - c. Comply with all state and federal regulations pertaining to archaeological sites.
- 2. Significant cultural resources shall be permanently preserved for scientific study, education, and public observation. Employ all feasible means to ensure that data, structures, and sites having historical, archaeological, cultural, scientific, or educational significance are preserved, extracted, or used in a manner commensurate with importance. Unless an alternate period is agreed to by the applicant, or if a different federal or state law supersedes this SMP, the City may postpone development activities a maximum of 90 days to allow for the:
 - a. Development of a Cultural Resource Management Plan and/or retrieval and preservation of significant artifacts.
 - b. Investigation of public acquisition potential, including:
 - i. Consulting with Historic Preservation Commission on grant opportunities; and
 - ii. Informing City Council of opportunity.
- 3. When determining potential impacts to cultural resources, the project area shall be limited to proposed development use pattern, including associated areas, such as paths, equipment storage and appurtenances.
- 4. Archaeological excavations may be permitted subject to the provisions of this program.

4.2.2.4 Regulations - Procedure

- 1. When reviewing a permit, the City will use the following methods to determine probability of cultural resources occurrence:
 - a. Predictive models;
 - b. Local and State Inventory; and
 - c. Registries:
 - i. National Register of Historic Places
 - ii. Washington Heritage Register
 - iii. Heritage Barn Register
- 2. The following shall be required of the City when permits or statements of exemptions are issued in areas known to contain, or to have a significant probability of containing cultural resources:

- a. The Washington State Department of Archaeology and Historic Preservation and affected tribes shall be notified of the proposed activity, including timing, location, scope, and resources affected; and
 - b. The applicant shall provide a Cultural Resource Site Assessment and a Cultural Resource Management Plan, for review and approval pursuant to subsection 3, below; and
 - c. Costs for the Cultural Resource Site Assessment and Cultural Resource Management Plan are the responsibility of the applicant; and
 - d. The applicant shall identify areas and fence off known or suspected archaeological middens and areas of cultural significance according to the Cultural Resource Management Plan, prior to site development or proposed activities.
3. If a Cultural Resource Assessment identifies significant cultural resources, the applicant shall be required to submit a Cultural Resource Management Plan (CRMP) which shall include:
- a. An analysis of actions to be taken by the property owner, applicant, archaeologist, or historic preservation professional in the event that an inadvertent discovery of historic, archaeological, or cultural sites or artifacts occurs during site development; and
 - b. An explanation of why the proposed activity requires a location on, or access across and/or through, a significant cultural resource; and
 - c. A description of the cultural resources affected by the proposal; and
 - d. An assessment of the cultural resource and an analysis of the potential adverse impacts as a result of the activity; and
 - e. Measures recommended to prevent adverse impacts or to address review comments from the City, Washington State Department of Archaeology and Historic Preservation, and affected tribes;
 - f. Measures recommended for mitigation; and
 - g. Measures for identification and education. Interpretive signs, plaques, or other interpretive and educational measures of historical and archaeological features shall be provided, unless the identification of the location of the cultural resource is protected by state or federal laws. (See Applicability for laws governing Archaeological sites.)
4. If archaeological resources are inadvertently uncovered during construction or other activities, the property owner(s) shall immediately stop work and comply with the provisions of Subsection 2, and the following:

- a. The applicants(s) must first receive permission from the State Office of Archaeology and Historic Preservation and the City, prior to further site disturbance (RCW 27.53.060 or its successor).
5. Identified historical or archaeological resources shall be considered during project planning for all park, open space, public access and projects with access to such areas. Projects shall be designed and managed to give maximum protection to retain cultural resources and surrounding environment.
6. The project may be exempt from shoreline permit requirements in the event that unforeseen factors constituting an emergency (as defined in RCW 90.58.030 or its successor) necessitate rapid action to retrieve or preserve artifacts or data. When such a waiver is provided, the City shall notify the Washington State Department of Ecology, the State Attorney General's Office, and the Washington State Department of Archaeology and Historic Preservation.

4.2.3 Parking

4.2.3.1 Applicability

The following should apply only to parking that is accessory to a permitted shoreline use. Additional parking regulations in the BIMC Title 18, Zoning, may also apply. Shoreline development and activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater Management; Section 4.1.3, Vegetation Management; ~~Appendix B~~; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.2.3.2 Policies

1. Allow parking that directly serves a shoreline use and that is sensitive to adjacent shorelines and properties. Encourage accessible parking for road ends; limit accessory motorized parking within the shoreline jurisdiction, except for ADA parking services; and encourage parking facilities for non-motorized transportation.
2. Ensure parking facilities are located, designed, constructed, and operated to minimize adverse impacts to water quality, aesthetics, public access, vegetation and habitat, stormwater runoff, noise, and glare. Low impact development techniques, such as permeable surfaces and/or rain gardens (bio-retention cells), should be required of all parking, including single-family residences where suitable site conditions exist.
3. Design and locate parking to serve more than one use (e.g., recreational use on weekends, commercial uses on weekdays).

4.2.3.3 Regulations – Prohibited Uses

1. Parking as a principal use (i.e., not accessory to an authorized use) except when provided as part of a public road end or scenic vista.
2. Parking shall be prohibited over water except at the publicly-owned ferry terminal in the Urban designation.

4.2.3.4 Regulations – General

1. Parking in the shoreline jurisdiction shall directly serve a shoreline use and shall require a conditional use permit in the Natural designation.
2. Parking supporting specific land use activities within the shoreline jurisdiction is subject to the requirements and standards set forth in BIMC 18.15.020, in addition to the specific use regulations of this section.
3. Parking shall be prohibited over water except at the publicly-owned ferry terminal in the Urban designation.
4. Parking areas shall serve multiple facilities unless shown to the satisfaction of the Administrator not to be feasible.

4.2.3.5 Regulations – Location and Design

Parking shall comply with the following design standards as applicable (e.g. item 1 would not apply to over-water ferry terminal parking):

1. Parking facilities shall be located upland of the water-oriented portions of the development and where feasible, landward of the principal buildings unless contained within a permitted structure, and set back from the OHWM as established in Section 4.0, Table 4-2, Shoreline Setback.
2. The design and construction for single-family residential parking and parking facilities shall assure that surface water runoff will not pollute adjacent waters or cause soil or beach erosion, and shall meet the standards of Section 4.1.6. Water Quality and Stormwater Management. Oil separators and detention facilities shall be required for new parking facilities. Alternatives to conventional stormwater treatment, such as use of pervious materials, shall be considered where appropriate in order to minimize impacts of runoff and/or the need for stormwater treatment.
3. Security lighting associated with parking facilities shall be beamed, hooded, or directed so as to not cause a nuisance glare.
4. Parking facilities shall be separated from residential, recreation, and natural areas (e.g., the shoreline) by landscaping and/or screening in accordance with the landscaping requirements of BIMC Title 18, Zoning.

5. Parking facilities shall be designed and landscaped to minimize adverse impacts to adjacent shorelines and properties. Landscaping shall be designed and installed pursuant to BIMC 18.15.010(F), Parking Lot Landscaping, and shall provide screening within three (3) years of planting. Plantings shall be maintained for the life of the parking facility. The requirement for screening may be waived or modified by the Administrator, where screening would impact shoreline views from public property or public roadway or to address public safety concerns. Landscape areas shall not be used for the storage of materials or parking of automobiles or other vehicles.
6. Parking facilities shall provide safe and convenient pedestrian circulation within the parking area, and to the shoreline and building entrances. Pedestrian connections must be at least five (5) feet wide and shall either be a raised sidewalk or composed of a different material than the parking lot material. Parking facilities shall meet ADA standards.
7. Surface parking areas shall be developed using low impact development techniques whenever possible, including but not limited to the use of permeable surfacing materials.
8. Parking facilities contained in buildings that face a public pedestrian walkway, public use area, or public park must incorporate vegetation and/or building surface treatment to mitigate the visual impacts of the structured parking.

4.2.3.6 Regulations – Use Specific Parking and Circulation

1. See Table 4-1, Shoreline Use and Table 4-2, Shoreline Setback, for restrictions related to specific uses and the following regulations.

4.2.3.7 Specific Regulations – Boating Facilities Parking

1. Short-term loading areas may be located at ramps or near berthing areas. Long-term parking that is greater than 24 hours, and long-term paved storage areas shall be separated from the OHWM by a native vegetation buffer and setback at least one-hundred (100) feet, unless demonstrated to the satisfaction of the Administrator not to be feasible.
2. To the maximum extent possible, marinas and accessory uses shall share parking facilities, giving preference to marina use.
3. Parking facilities shall be provided according to the following schedule

| | |
|-------------------------|-----------------------------|
| First 50 moorage slips: | 1 vehicle space per 2 slips |
| Slips 51 to 100: | 1 vehicle space per 3 slips |
| Slips over 100: | 1 vehicle space per 4 slips |
4. Additional parking space shall be provided as follows:

- a. An additional space for every four hundred (400) square feet of interior floor space devoted to accessory retail sales or services.
 - b. Where live-aboards are permitted, additional parking shall be provided at a rate of 1 vehicle per live-aboard vessel or houseboat allowed, except open water moorage and anchorage areas shall follow (c) and (d) below.
 - c. Live-aboard tenants of open water moorage and anchorage areas shall provide either:
 - i. Evidence of access to one legal vehicle parking space per anchorage/moorage space for the duration of the anchorage/moorage period; or
 - ii. An affidavit stating that no vehicle is owned or used by the tenant.
 - d. Two load/unload parking spaces shall be provided for transient users of open water moorage and anchorage areas.
5. Marinas and launch ramps shall be located where access streets are 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 discouraged and appropriate signage shall be provided.
 6. Roads between marinas and arterial routes shall be satisfactory to the City for marina access including:
 - a. All-weather surfacing;
 - b. Width;
 - c. Safety;
 - d. Alignment;
 - e. Sign distance;
 - f. Grade; and
 - g. Intersection controls.
 7. Marinas and boat launches shall be designed so that existing or potential public access along beaches is not unnecessarily blocked nor made dangerous, and so that public use of the surface waters below the OHWM is not unduly impaired.
 8. At each public or quasi-public launch ramp, at least ten (10) car and trailer spaces measuring at least ten (10) feet by forty (40) feet shall be provided for each ramp lane.

4.2.3.8 Specific Regulations – Road Ends and Scenic Viewpoints Parking Facilities

1. Road ends shall contain a minimum number of two parking stalls, if feasible, which shall be designed pursuant to BIMC 18.15.020.
2. Trailheads shall contain a minimum number of two parking stalls, if feasible, which shall be designed pursuant to BIMC 18.15.020.

4.2.4 Public Access – Visual and Physical

4.2.4.1 Principles

The provisions of this section are intended to:

1. Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.
2. Protect the rights of navigation and space necessary for water-dependent uses.
3. To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.
4. Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.

4.2.4.2 Applicability

Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and shoreline from adjacent locations. Public access provisions apply to all shoreline as prescribed by this program. Development, uses, and activities shall be consistent with Section 4.1.3, Vegetation Management. Public access provisions must be consistent with the Non-motorized Transportation Plan, a component of the Transportation Element of the Comprehensive Plan. Shoreline development and activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater Management; **Appendix B**; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.2.4.3 Goal:

Provide, maintain and enhance a safe, convenient and balanced system of visual and physical public access to the shoreline which includes a diversity of opportunities for the public to enjoy the shorelines of the state, including ADA access to the extent feasible, while recognizing or acknowledging the fragile natural features of the shoreline and the rights of private property ownership.

4.2.4.4 Policies

1. Develop, adopt and implement a comprehensive shoreline public access plan that incorporates public access into new shoreline development, unifies individual public access points into a system plan, and seeks new waterfront access points to increase visual and physical shoreline access through enhancement of publicly held land, incentives, easements, land acquisition, and other appropriate means.
2. Locate, design, manage and maintain public access in a manner that protects shoreline ecological functions and ecosystem-wide processes and the public health and safety.
3. Preserve and enhance physical and visual shoreline access. Shoreline development, uses, and activities should not unreasonably impair or detract from the public's physical and visual access to the water. Development provisions, such as height limits, setbacks and view corridors, should be utilized to minimize impacts to existing views from public property or substantial numbers of residences. Physical public access shall have priority over maintenance of views from adjacent properties, unless there is a compelling reason to the contrary. View enhancement should not adversely impact the ecological functions of shoreline vegetation.
4. Expand the amount and diversity of public shoreline access opportunities and promote public access to the water via road rights-of-way ("road ends") and public utility corridors and easements (where possible), with a goal of providing comparable access in all neighborhoods.
5. New commercial use development or development by public entities must include public access to the shoreline as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. Where feasible, public access should be provided parallel to the beach (such as a walking/bicycling path or promenade) and waterward of all buildings in all commercial and all Urban designation.
6. The Winslow Waterfront Trail should be completed and protected through acquisition, easement dedication, or other appropriate means.
7. Require public access, both visual and physical, as a condition of approval for any new private shoreline development which diminishes existing public access or increases demand for public access commensurate with the impacts of such development and the corresponding benefit to the public. In such cases, public access should be required unless health, safety, or environmental protection needs cannot be met.
8. Public access should be designed to avoid or minimize adverse impacts to the shoreline environment; to minimize impacts to private property and individual privacy; to distinguish between public and private property; and to ensure public safety.
9. City-owned shorelines should be reserved for water-dependent or public recreational uses, or maintained as open space.

10. Shoreline and water views from public upland areas should be preserved and enhanced where it would not risk environmental damage. However, vegetation alteration or removal to achieve a filtered view should not be excessive.

4.2.4.5 Regulations - General

1. New development increasing demand for public access and/or reducing existing access by blocking or discouraging its use, shall incorporate provisions for visual and/or physical public access into any shoreline development that meets one or more of the following tests:
 - a. Any uses, except for single-family residential development with four or fewer dwelling units or building lots located in the Urban designation;
 - b. Includes commercial, industrial or any nonresidential uses located in any shoreline designations;
 - c. Includes residential development and/or residential land division that provides five or more dwelling units or building lots located in any shoreline environments.
2. When public access provisions are required for development, the Administrator shall prepare written findings demonstrating consistency with the principles of nexus and proportionality and the test stated in regulation (1), above. The determination shall include:
 - a. Project-specific expected impacts;
 - b. Specific reasoning for determination of need for public access requirements;
 - c. How the suitable public access options are related to the specific project.
3. Public access will not apply as prescribed in regulation (1) above, if the determination does not demonstrate the need or the applicant demonstrates to the satisfaction of the City one or more of the following:
 - a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means.
 - b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions.
 - c. The cost of providing the access, easement, or an alternative public access amenity on or off the development site is unreasonably disproportionate to the total long-term cost of the proposed development.
 - d. Environmental impacts which cannot be adequately mitigated will result from the public access.

- e. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.
4. Prior to deciding public access is not required pursuant to regulation (2) or (3) 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 glazing, hedges, other landscaping).
 - c. Provision(s) for access on a site geographically separate from the proposal such as a road end, vista, tideland or trail system.
 5. Development, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public’s existing physical and visual access to the water and shorelines; and shall balance the public’s visual access to the shoreline with the retention of existing shoreline vegetation so as not to adversely impact the ecological functions and processes of existing shoreline vegetation.
 - a. The public’s physical shoreline access is a priority over maintenance of adjacent shoreline properties shoreline views.
 - b. Where a development or use will interfere with an existing public access, the development or use shall apply mitigation sequencing principles and provide public access in proportion to the impact.
 - c. Public upland properties may preserve and enhance public shoreline views through limited vegetation pruning and/or vegetation removal to achieve a filtered view as described in the filtered screen landscaping provisions of BIMC 18.15.010, provided that it is demonstrated to the satisfaction of the Administrator that such visual enhancement measures
 - i. Do not adversely impact the environment, including the ecological functions of shoreline vegetation; and
 - ii. Meet the standards of Section 4.1.3, Vegetation Management of this Master Program.
 6. The public’s visual and physical access provided by shoreline road ends, public utilities, and rights-of-way shall not be diminished. [RCW 35.79.035 or its successor and RCW 36.87.130 or its successor]. Submerged public rights-of-way shall be preserved for public access.
 7. Publicly owned shoreline properties shall be reserved for public water-dependent uses, public recreational uses, or public open space.

8. Development by public entities shall include public access to the shoreline, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

4.2.4.6 Regulations – Public Access Design and Location Standards

1. Public access shall consist of a dedication of land, easement, and/or a physical improvement such as a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, boat launching ramp, dock or pier area, or other area serving as a means of view and/or physical approach to public waters and may include interpretive centers and displays.
2. The minimum width of public access easements shall be 10 feet, unless the Administrator determines that undue hardship would result. In such cases, easement widths may be reduced only to the extent necessary to relieve hardship.
3. Public access shall incorporate the following location and design standards:
 - a. A public pedestrian access walkway located generally parallel to the ordinary high water mark of the property and waterward of buildings shall be required in the Urban designation, or for new commercial developments or where open space is provided along the shoreline, provided that the public access can be designed in a manner that will not adversely impact shoreline ecological functions and/or processes.
 - i. The walkway shall be buffered from sensitive ecological features and provide limited and controlled access to sensitive features and the water's edge where appropriate.
 - ii. Fencing may be provided temporarily to control damage to plants and other sensitive ecological features and permanently where appropriate.
 - iii. Trails should be constructed of materials, such as permeable material or elevated structures appropriate for conditions to limit impacts to ecologically sensitive areas and should be limited to 4 feet in width to reduce impacts to ecologically sensitive resources.
 - b. Public access where applicable should be designed to:
 - i. Be located adjacent to other public areas, accesses or connecting trails;
 - ii. Connect to the nearest public street and include connections to the Winslow Waterfront Trail and other planned trails as required and specified in the City's Non-Motorized Transportation Plan or Metropolitan Park District Comprehensive Plan; and
 - iii. Include provisions for handicapped and physically impaired persons where feasible and consistent with applicable state and federal law.

- c. Where views of the water or shoreline are available and physical access to the water's edge is not present or appropriate, a public viewing area shall be provided.
- d. Design shall minimize intrusions on privacy by avoiding locations adjacent to windows and/or private open spaces or by screening or other separation techniques.
- e. Public amenities that are appropriate to the level of expected use shall be provided to serve the users of a public access area, such as benches, picnic tables and sufficient public parking. Vista parking facilities shall include a significant public view and provide recreational opportunities such as picnic tables or viewing benches.
- f. Public facilities, public uses and commercial developments that attract a substantial number of people, and developments by government/public entities may be required to provide public restrooms, facilities for disposal of animal waste, and other appropriate public facilities.

4.2.4.7 Regulations – Public Access Permit Requirements

1. Development with public access requirements shall meet the following:
 - a. The required public access shall be fully developed and available for public use at the time of occupancy of the use or activity in accordance with conditions of approval, or in accordance with other provisions for guaranteeing installation within a 5-year period through a monetary performance assurance as approved by the City Attorney.
 - b. Public access easements and conditions of approval shall be recorded on the deed of title and/or on the face of the plat or short plat as a condition running with the authorized land use. Recording with the County Auditor's office shall occur at the time of permit approval. [RCW 58.17.110 or its successor].
 - c. The standard state-approved logo or other approved sign(s) that indicate the public's rights of access and hours of access shall be constructed, installed, and maintained in conspicuous locations at public access sites. In accordance with regulation 4.2.4.6(3)(a) above, the City may control or restrict public access as a condition of permit approval.
 - d. Public access facilities shall be maintained over the life of the use or development unless the City approves amending access to provide equal or greater public access than currently provided. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.

2. When properties are subdivided, owners of newly created lots which do not have frontage on the water shall be provided common access to the water, to the extent feasible and provided that it will not cause unacceptable environmental harm which cannot be adequately mitigated.

4.2.5 Signs

4.2.5.1 Applicability

Signs are regulated primarily through BIMC 15.08, Sign Code. The following provisions apply to all signs within the jurisdiction of the Shoreline Master Program, including signs used for the purpose of providing information related specifically to enhancing the public enjoyment of the shorelines through education and/or noting areas of special cultural or historical significance. These provisions do not apply to publicly owned signs where the purpose is to provide information regarding safety, direction, directions, and the like. Shoreline development and activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater Management; Section 4.1.3, Vegetation Management; ~~Appendix B~~; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.2.5.2 Policies

1. Signs should be designed and placed so they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses.
2. Signs should not block or otherwise interfere, during daylight or non-daylight hours, with visual access to the water or shorelands.
3. Signs should be of a permanent nature, should serve an approved use, and should be located on the property approved for such use.

4.2.5.3 Regulations - General

1. Signs for specific land use activities within the shoreline jurisdiction are subject to the requirements and standards set forth in the Bainbridge Island Municipal Code, Chapter 15.08, Sign Code, in addition to the regulations of this section.
2. Overwater signs or signs on floats or pilings shall be prohibited, except when related to navigation or as approved as part of a water-dependent use.
3. The following types of signs may be permitted, subject to the provisions contained within this section:
 - a. Water navigational signs and highway and road signs necessary for operation, safety and direction;

- b. Public information/interpretive signs directly relating to a shoreline resource, use or activity;
- c. Off-premise, free-standing signs for community identification, information, or directional purposes;
- d. Signs with changing messages, provided that the information displayed on a non-lighted sign is limited to displaying time, temperature or date or public non-commercial messages. Commercial electric signs with changing messages are prohibited;
- e. National, state or institutional flags or temporary decorations customary for special holidays and similar events of a public nature; and
- f. Temporary directional signs to public or quasi-public events if removed within ten (10) days following the event and permitted in accordance with BIMC Chapter 15.08.

4.2.5.4 Regulation – Public Access Signs

1. Signs indicating the public’s right to access shoreline areas shall be installed and maintained in conspicuous locations at recreational facility points of access and entrances.
2. The location of new public access sites shall be clearly identified. Signs with the appropriate agency’s logo shall be constructed, installed and maintained by the project proponent in conspicuous locations at the public access sites and/or along common routes to public access sites. The signs shall indicate the public’s right of access, the hours of access, and other information.

4.2.6 Transportation Facilities

4.2.6.1 Applicability

Transportation facilities are also subject to Section 4.0, General (Island-wide) Policies and Regulations, including Tables 4-1 through 4-3; Section 3.0, Shoreline Designation Policies and Regulations; Section 4.1.5, Critical Areas ~~and Appendix B~~; Section 4.1.6, Water Quality and Stormwater Management; Section 6.0, Shoreline Modification Policies and Regulations; Section 6.4, Dredging and Dredge Material Disposal; and Section 6.5, Fill. Construction and maintenance activities related to transportation facilities may require a Vegetation Management Plan and/or a Stormwater Pollution Prevention Plan (SWPP) pursuant to BIMC Chapter 15.20, Surface and Storm Water Management, and Master Program Sections 4.1.3, Vegetation Management, and 4.1.6, Water Quality and Stormwater Management. Transportation facility development and activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts and may also be reviewed under BIMC

Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.2.6.2 Policies

1. Plan, locate and design proposed transportation and parking facilities where routes will have the least possible adverse effect on unique or fragile shoreline features, and will not result in a net loss of shoreline ecological functions and ecosystem-wide processes or adversely impact existing or planned water-dependent uses.
2. In planning for new transportation systems, give priority to transportation modes favoring multimodal systems. New roads and bridges should not be allowed, except access roads (including driveways) or when a bridge provides the least adverse impact to ecological functions and ecosystem-wide process.
3. Encourage trail and bicycle systems as a preferred access to and along the shoreline. Road reconstruction projects should include non-motorized transportation facilities.
4. When existing transportation corridors are vacated, acquire them for water-dependent use or public access.
5. Encourage joint use of transportation and utility rights-of-way within shoreline jurisdiction for roads and utilities.
6. Encourage state highway and public street modifications that promote stream restoration or mitigate existing environmental damage.
7. Encourage the completion of the Eagle Harbor Waterfront Trail.
8. Locate nonwater-oriented and water-related transportation facilities outside the shoreline jurisdiction.
9. Promote public views from roads and encourage projects to incorporate ADA compliant shoreline access opportunities.
10. Allow reconstruction of public roads located in the shoreline that are in danger of loss or substantial damage and which serve as the primary means of access to a substantial number of residents, if no feasible alternative is possible for relocating the road out of danger or where it would cause more ecological damage to do so, and where mitigation of impacts avoids a net loss of shoreline ecological functions and ecosystem-wide processes.

4.2.6.3 Regulations – Prohibited

1. The following transportation facilities are prohibited:
 - a. New highways, arterials, secondary arterials, railroad facilities, and heliports;
 - b. Additional bridges over Puget Sound waters to and from Bainbridge Island;
 - c. In the Priority Aquatic designation all transportation facilities, except trails; and

- d. New transportation facilities in front of feeder bluffs, over driftways or on accretion shoreforms.
- 2. Fills for transportation facility development are prohibited in water bodies, wetlands, marshes, bogs, swamps and on accretion beaches except when there is a demonstrated purpose and public need that supports the uses consistent with this program, and alternatives to accomplish the same purpose have been shown to be infeasible. Such fill may be permitted by a conditional use permit and must comply with the provisions of Section 6.5, Fill.
- 3. Herbicides for roadside brush control on city roads in the shoreline jurisdiction, except when a city-approved integrated pest management plan is implemented. See Section 4.1.6, Water Quality and Stormwater Management.

4.2.6.4 Regulations – General

- 1. Pervious trails shall be permitted in upland shoreline designations.
- 2. Publicly-owned ferry terminals and services, except over-water facilities, are allowed as a permitted use in the Urban designation and in the adjacent aquatic environment. New over-water facilities in conjunction with a permitted ferry terminal are a conditional use in the Urban designation and in the adjacent aquatic environment and are prohibited in all other environments.
- 3. Float plane facilities and services are a conditional use in the Urban designation.
- 4. New access roads shall be allowed only where required because of one of the following:
 - a. Other means of access are demonstrated to the satisfaction of the Administrator to be infeasible or environmentally unacceptable; or
 - b. The road is needed for ferry service.
- 5. Transportation facilities and services shall utilize existing transportation corridors whenever possible, provided that facility additions and modifications will not adversely impact shoreline resources and are otherwise consistent with this program. Expansion of the existing corridor shall meet the provisions of Section 4.1.3, Environmental Impacts.
- 6. Shoreline road ends may not be vacated except in compliance with RCW 35.79.035 or its successor and RCW 35.79.035 or its successor.
- 7. Transportation facilities including, but not limited to, ferry terminals, and/or float plane terminals shall meet the height and setback standards in Table 4-2.

4.2.6.5 Regulation – Design, Construction and Maintenance

4.2.6.5.1 Construction and Maintenance

1. Waste material from both construction and maintenance activities, including drainage ditch clearing, shall not be deposited into or cast on the side of roads within a shoreline, water body, wetland, estuary, tideland, accretion beach, and other unique natural area. Such materials shall be deposited in stable locations where re-entry and erosion into such areas is prevented.
2. No machinery shall be operated within or along a stream bed, marine shoreline, lake, wetland or pond except in compliance with a hydraulics permit approval (HPA) issued by the Washington State Department of Fish and Wildlife. If an HPA is not required, operation of machinery may be approved by the Administrator.
3. Existing roads corridors shall be adequately maintained with site-appropriate native vegetation where feasible to provide slope stability and to enhance shoreline function. Shoreline scenic drives and viewpoints may provide breaks periodically in the vegetative buffer to allow open views of the water.

4.2.6.5.2 Road Design

1. Transportation facilities shall employ low impact development techniques according to the provisions of Section 4.1.6, Water Quality and Stormwater Management.
2. Transportation and primary utility facilities shall be required to make joint use of rights-of-way and to consolidate crossings of water bodies; where doing so minimizes adverse impacts to the shoreline.
3. Roadway design shall include facilities for bicycle and pedestrian routes as prioritized in the Non-Motorized Transportation Plan.
4. Culverts, bridges and similar devices shall be designed to pass water, sediment, and debris loads anticipated under appropriate hydraulic analysis in compliance with the stormwater regulations of BIMC 15.20, Surface and Storm Water Management, and shall not impede the migration of anadromous fish.
5. The use of hard shoreline stabilization in transportation facility design shall be employed only when it is demonstrated to the Administrator that alternatives are impracticable or infeasible.

4.2.7 Utilities (Primary and Accessory)

4.2.7.1 Applicability

These provisions apply to services and facilities that produce, convey, store, or process power, gas, sewage, communications, oil, waste, and the like. On-site utility features serving a principal use, such as water, sewer or gas line to a residence, are “accessory utilities” and shall be considered a part of the principal use. Shoreline development and activities will be

reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater Management; Section 4.1.3, Vegetation Management; Section 6.0, Shoreline Modification Policies and Regulations; ~~Appendix B~~; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

4.2.7.2 Policies – Primary Utility

1. Design and locate utility facilities to assure no net loss of shoreline ecological functions and ecosystem-wide processes, 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.
2. Ensure utilities utilize existing transportation and utility sites, rights-of-way, and corridors whenever possible, rather than creating new corridors. Joint use of rights-of-way and corridors should be encouraged.
3. Do not allow utility production and processing facilities, such as power plants, sewage treatment plants, and solid waste disposal activities and facilities, or parts of those facilities that are nonwater-oriented in shoreline areas unless it can be demonstrated that no other feasible option is available.
4. Do not allow new utilities where shoreline stabilization is required.
5. Ensure utilities and utility corridors locations do not obstruct or otherwise affect scenic views. Whenever feasible, such facilities should be placed underground or alongside or under bridges.
6. Locate transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, outside of the shoreline area where feasible, and when necessarily located within the shoreline area, assure such facilities demonstrate no net loss of shoreline ecological function. Communication towers shall be prohibited in the shoreline area.
7. Discourage development of pipelines and cables on tidelands, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance which disrupt shoreline ecological functions and ecosystem-wide processes, except where no other feasible alternative exists. When permitted, provisions shall assure that the facilities do not result in a net loss of shoreline ecological functions and ecosystem-wide processes or significant impacts to other shoreline resources and values.

4.2.7.3 Policies – Accessory Utilities

1. On-site utilities and rights of way should be:

- a. Located outside of the shoreline area to the maximum extent possible. When utility lines require a shoreline location, they should be placed underground.
- b. Designed and located in a manner which preserves the shoreline ecology, water quality and the natural landscape to avoid and minimize adverse affects to shoreline ecological functions and ecosystem-wide processes, and minimizes conflicts with existing or planned land uses.

4.2.7.4 Regulations - Prohibited

1. The following uses associated with utilities shall be prohibited within shoreline jurisdiction:
 - a. New solid waste disposal sites and facilities;
 - b. Primary radio, cellular phone and microwave towers;
 - c. Utilities requiring withdrawal of water from streams, and
 - d. Primary power-generating facilities including solar power and wind generation that are not considered accessory structures in BIMC 18.09, except public facilities necessary to serve a public system, such as sewer lift stations or similar facilities which must be located within the shoreline area due to the system design of the existing public facility.
 - e. Land filling in shoreline jurisdiction for utility or utility line development purposes is prohibited.

4.2.7.5 Regulations - General

1. Primary utilities may be allowed as a conditional use in the Shoreline Residential Conservancy, Shoreline Residential, Urban, and Aquatic designations. They are prohibited in Natural, Island Conservancy and Priority Aquatic designations.
2. Utility development shall comply with required setbacks. (See Section 3.0, Shoreline Designation Policies and Regulations and Table 4-2.) Primary Utilities shall provide screening of facilities from water bodies and adjacent properties. Type of screening required shall be determined by the City on a case-by-case basis.
3. All utilities shall meet the height and setback standards in Table 4-2.
4. Utilities shall be located and designed so as to avoid the use of any shoreline stabilization or flood protection works.
5. Where utilities own rights-of-way in fee title, utility development shall, through coordination with local government agencies, provide for compatible, multiple use of sites and rights-of-way, provided such uses will not unduly interfere with utility operations, endanger public health and safety, or create a significant and disproportionate liability for the owner. Such uses include shoreline access points, trail systems, and other forms of recreation and transportation.

6. Utility lines, such as transmission and distribution, shall:
 - a. Utilize existing rights-of-way, corridor and/or bridge crossings whenever possible and shall avoid duplication and construction of new parallel corridors in all shoreline areas. Proposals for new corridors or water crossings must fully substantiate the infeasibility of existing routes.
 - b. Be completely buried under the stream bed in all in-stream crossings except for appropriate water or sewage treatment plant intake pipes or outfalls.
 - c. Cross areas of shoreline jurisdiction by the shortest, most direct route feasible, unless such route would cause significant environmental damage.
 - d. Be designed to minimize impacts to scenic shoreline views and located where major facilities must be placed in a shoreline area-
7. Permitted crossings shall utilize pier or open pile techniques.
8. Clearing of native vegetation for the installation or maintenance of utilities shall be kept to a minimum. Upon project completion, disturbed vegetation areas shall be replanted according to the provisions of Section 4.1.3, Vegetation Management. Other disturbed areas shall be replanted with native or other approved species. Replanted areas shall be regularly maintained until established.

4.2.7.6 Regulations – Primary Utility Location and Design

4.2.7.6.1 Water Systems

1. Components of water systems which are not water-dependent shall be located outside shoreline jurisdiction, except waterlines serving shoreline uses or unless alternative locations, including alternative technology, are demonstrated to be infeasible to the Administrator and the facilities do not result in a net loss of shoreline ecological functions and processes or significant adverse impacts to other shoreline resources and values such as parks and recreation facilities, public access or archaeological, historic and cultural resources, or aesthetic resources.
2. Private and public intake facilities, and wells in the shoreline jurisdiction should be located where there will be no net loss in ecological functions and processes or adverse impacts upon shoreline resources, values, natural features, or other uses. Construction and maintenance activities shall follow best management practices and meet provisions of Section 4.1.6, Water Quality and Stormwater Management.
3. Desalinization facilities shall be located consistent with critical area regulations and buffers in [Section 4.1.5, Critical Areas Appendix B](#), except for water-dependent components such as water intakes.

4.2.7.6.2 Sewage Systems

1. Sewage trunk lines, interceptors, pump stations, treatment plants and other components that are not water-dependent shall be located outside shoreline jurisdiction unless alternative locations, including alternative technology, are demonstrated to be infeasible to the Administrator and the facilities do not result in a net loss of shoreline ecological functions and processes or significant impacts to other shoreline resources and values such as parks and recreation facilities, public access or archaeological, historic and cultural resources, or aesthetic resources.
2. 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.

4.2.7.6.3 *Natural Gas Transmission*

1. Natural gas pipelines, except local service lines, shall not be located in shoreline jurisdiction unless alternatives are demonstrated to be infeasible to the Administrator. Application materials shall include analysis of alternative routes avoiding aquatic lands and including alternative technology.
2. Natural gas local service lines shall not be located in shoreline areas unless serving approved shoreline uses. Crossings of water bodies shall not be approved unless alternatives are demonstrated to be infeasible to the Administrator. Application materials shall include an analysis of alternative routes avoiding aquatic lands, including an analysis of alternative technology.
3. Application for natural gas pipelines shall demonstrate that the facilities do not result in a net loss of shoreline ecological functions and processes or significant impacts to other shoreline resources and values.
4. Developers and operators of pipelines and related appurtenances for natural gas are to be required to demonstrate adequate provisions for preventing spills or leaks, as well as established procedures for mitigating damages from spills or other malfunctions and shall demonstrate that periodic maintenance will not disrupt shoreline ecological functions and processes.
5. Utilities for new development within the shoreline shall be installed underground.

4.2.7.6.4 *Electrical Energy and Communication Systems*

1. Energy and communication systems including substations, towers, transmission and distribution lines have critical location requirements, but are not normally water-dependent. System components that are not water-dependent shall not be located in shoreline jurisdiction, except lines serving shoreline uses or unless alternatives are demonstrated to be infeasible to the Administrator. Application materials for such facilities shall include an analysis of alternative routes avoiding aquatic lands, including an analysis of alternative technology.

2. Underground placement of lines shall be required for new or replacement lines that are parallel to the shoreline, and do not cross water or other critical areas regulated in Section 4.1.5, Critical Areas ~~and defined in Appendix B~~, provided that maintenance of existing aerial lines may be permitted above ground where alternatives are demonstrated to be impractical and/or infeasible to the Administrator.
3. New or replacement lines that cross water bodies or other critical areas regulated in Section 4.1.5, Critical Areas ~~and defined in Appendix B~~, may be required to be placed underground depending on impacts on ecological functions and processes and visual impacts; provided that maintenance of existing aerial lines may be permitted above ground where alternatives are demonstrated to be impractical and/or infeasible to the Administrator.
4. Poles or other supports treated with creosote or other wood preservatives that may leach contamination in water shall not be used along shorelines or associated wetlands. No new overhead wiring shall be installed between the road and OHWM, where road rights-of-way or easements are within 150 feet and also are parallel to shoreline for more than 500 feet.
5. Utilities for new development within the shoreline shall be installed underground.

4.2.7.6.5 Tidal Energy

1. System components of tidal energy or tidal power-generating facilities which are nonwater-dependent shall be located outside shoreline jurisdiction unless alternative locations, including alternative technology, are demonstrated to the Administrator to be infeasible, and that the facilities do not result in a net loss of shoreline ecological functions and processes or significant adverse impacts to other shoreline resources and values such as parks and recreation facilities, public access or archaeological, historic and cultural resources, or aesthetic resource.

4.2.7.6.6 Fire Protection Facilities

1. Storage and handling facilities for water borne fire fighting or rescue equipment may be permitted on shoreline jurisdiction at locations which are demonstrated to the Administrator to be suitable considering the purpose of the proposal and the policies of this Program.

4.2.7.6.7 Other Essential Public Utility Facilities

1. Other utility processing facilities, such as power plants, that are nonwater-oriented shall not be allowed in shoreline jurisdiction unless no other feasible alternative is available.

4.2.7.6.8 Site Coverage

1. Maximum site coverage for utility development including parking and storage areas shall not exceed standards in the underlying zoning in BIMC Title 18, and shall not exceed fifty percent (50%) in Urban, and thirty-five percent (35%) in Shoreline Residential and Shoreline Residential Conservancy.

4.2.7.7 Regulations – Accessory Utility Location and Design

1. Accessory utility must be subordinate to principal use, such as utilities serving a residential use, and shall meet BIMC 18.09, Use Regulations, in addition to the provisions below.
 - a. Temporary storage of solid waste in suitable receptacles is permitted as an accessory use to a primary permitted use, or for litter control.
 - b. New residences or businesses on the shoreline within two hundred (200) feet of an existing sewer line and/or within an established sewer service area shall be connected to the sewer system. Existing residences shall be connected when the on-site sewage system has reached the end of its useful life.
 - c. On-site sewage systems shall be located on the landward side of any new residence or business or in a location approved by the Administrator and designed to meet all applicable water quality, utility, and health standards.
 - d. Accessory utilities shall be located outside of the shoreline area unless no suitable location is feasible. When utility lines require a shoreline location, they shall be placed underground.

5.0 SPECIFIC SHORELINE USE AND DEVELOPMENT POLICIES AND REGULATIONS

Introduction

This section contains policies and regulations for the following shoreline uses: agriculture, aquaculture, boating facilities, commercial development, forest practices, industrial development, mining, residential, recreational development, and residential development. The policies and regulations developed for each shoreline use, or category, are the primary set of criteria for evaluating proposed shoreline development. Some proposals will be subject to provisions of more than one use. Proposed development must also comply with Section 4.0, General (Island-wide) Policies and Regulations and Section 6.0, Shoreline Modification Policies and Regulations provisions.

While not all shoreline uses require a shoreline permit, no development shall be undertaken on the shorelines of Bainbridge Island except those which are consistent with the Shoreline Management Act (Act), applicable state guidelines, and the Master Program.

Shoreline uses which are not specifically identified shall be evaluated on a case-by-case basis for consistency with the Act and the requirements of the Master Program, and shall require a conditional use permit.

5.1 Agriculture

5.1.1 Applicability

These provisions apply to activities which are primarily commercial including cultivation of soil, production of crops, or the raising of livestock. Gardening activities primarily for on-site consumption and maintenance of household pets shall be considered accessory to residential uses.

5.1.2 Policies

1. Agriculture shall not be allowed in the shoreline jurisdiction.

5.1.3 Regulation - General

1. Agriculture is prohibited in the shoreline jurisdiction.

5.2 Aquaculture

5.2.1 Applicability

These provisions apply to the commercial cultivation and harvesting of fish, shellfish or other aquatic animals or plants, and also to non-commercial harvesting, and to the incidental preparation of fish and shellfish for human consumption, or cultivation for restoration purposes. Aquaculture is dependent on the use of the water, and when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. When properly managed, aquaculture can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Aquaculture activities may be subject to the regulations found in Section 6.4, Dredging and Dredge Material Disposal, depending on site-specific circumstances. Aquaculture activities will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.5, Critical Areas; and Section 4.1.6, Water Quality and Stormwater Management; ~~and Appendix B, when applicable~~. Other portions of this Program may also apply.

5.2.2 Policies

1. Identify and encourage aquaculture activities which may provide opportunities for creating ecosystem improvements and result in no net loss of ecological functions.
2. Allow experimental forms of aquaculture involving the use of new species, new growing methods, or new harvesting techniques, when they are consistent with applicable state and federal regulations and this Program. Experimental aquaculture projects should be limited in scale and should be approved for a limited period of time. When feasible, limit or restrict new development and uses in areas that affect existing experimental aquaculture.
3. Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adversely impact eelgrass or macroalgae, or significantly conflict with navigation and other water dependent uses.
4. Aquaculture facilities should be designed and located to not spread disease to native aquatic life, establish new non-native species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.
5. Impacts to ecological functions should be mitigated according to WAC 173-26-201(2) (e) and Section 4.1.2, Environmental Impacts.
6. Give preference to those forms of aquaculture that have less environmental and/or visual impacts. Preference is given to those projects that require fewer submerged or intertidal structures, fewer land-based facilities, limited substrate modification, and that don't rely on artificial feeding.

7. Ensure aquaculture does not cause cumulative impacts.

5.2.3 Regulations - Prohibited

1. Aquaculture is prohibited in the Natural and Priority Aquatic designations, except as provided in Section 5.2.4 (1), below.
2. Aquaculture that uses or releases herbicides, pesticides, antibiotics, fertilizers, parasites, pharmaceuticals, genetically modified organisms, feed or other materials known to be potentially harmful into surrounding waters is prohibited, unless:
 - a. When conducted for native population recovery in accordance with government/Tribal approved plan and all state and federal regulations; or
 - b. If approved by all appropriate state and federal agencies and proof thereof is submitted to the City.
3. Mechanical and/or hydraulic harvesting or other activities that involve substantial substrate modification shall be prohibited in existing kelp beds or in beds of native eel grass (*Zostera marina*).

5.2.4 Regulations - General

1. Aquaculture may be allowed as follows:
 - a. Aquaculture as a conditional use in Shoreline Residential, Urban, and adjacent Aquatic designations.
 - b. Community Shellfish Gardens are allowed as a conditional use in the Island Conservancy, Shoreline Residential Conservancy, Shoreline Residential, and Urban designations, and in adjacent Aquatic designations.
 - c. Individual Shellfish Gardens are allowed in the Island Conservancy, Shoreline Residential Conservancy, Shoreline Residential and Urban shoreline designations and in adjacent Aquatic designation Priority B. They also are allowed in Aquatic Priority A when for the recovery of native populations, restoration, or personal use.
2. When a shoreline conditional use permit is issued for a new aquaculture use or development, that permit shall apply to the initial siting, construction, and/or planting or stocking of the facility or farm, and shall be valid for the period specified in the permit.
3. Aquaculture shall avoid:
 - a. A net loss of ecological functions or processes;
 - b. Adverse impacts to eelgrass and macro algae;
 - c. Significant conflicts with navigation and water-dependent uses;
 - d. The spread of disease to native aquatic life;

- e. Establishing new non-native species that cause significant ecological impacts;
- f. Significant impacts to shoreline aesthetic qualities; and/or
- g. Significant modifications of the substrate.

5.2.5 Regulations – Design Standards

1. Floating and submerged aquaculture structures shall be located to avoid or minimize interference with navigation and the normal public use of the surface waters. Floating structures shall remain shoreward of principal navigation channels. Other restrictions on the scale of aquaculture activities to protect navigational access may be necessary based on the size and shape of the affected water body. Netting and fencing shall be the minimum necessary to deter targeted predators and shall not exceed six (6) feet in height, as measured from water surface.
2. Aquacultural structures and activities that are not water-dependent (e.g., warehouses for storage of products, parking lots) shall be located landward of the OHWM, upland of water-dependent portions of the project, and shall avoid or minimize detrimental impacts to the shoreline.
3. Hatchery and other aquaculture operations shall be required to maintain a vegetated buffer zone along the affected stream as prescribed in [Section 4.1.5 Appendix B](#), provided that clearing of vegetation shall be permitted for essential water access points.
4. Onshore support structures shall meet the height and setback standards established in Table 4-2, Site Development Dimensional Standards Table, except that reduced setbacks may be permitted through a shoreline variance where necessary for the operation of hatcheries and rearing ponds.
5. The following shall be limited to the minimum size or number necessary for approved aquaculture development, uses, and activities:
 - a. Submerged or intertidal structures.
 - b. Land-based facilities.
 - c. Structures which modify substrate.
6. Floating/hanging aquaculture facilities and associated equipment, except navigation aids, shall use colors and materials that blend into the surrounding environment in order to minimize visual impacts. All materials, including those used for incidental aquaculture for personal consumption, shall be marked with owners' contact information to provide identification after storm disturbance. All floating and submerged aquaculture facilities in navigable waters shall comply with all applicable state and federal requirements.
7. Floating aquaculture facilities may require a visual impact analysis consisting of information comparable to that found in the Department of Ecology's Aquacultural Siting Study (1986), as updated. Such analysis may be prepared by the applicant without

professional assistance, provided that it includes an adequate assessment of impacts, as determined by the Administrator.

8. For aquacultural projects using over-water structures, storage of necessary tools and apparatus waterward of the OHWM shall be limited to containers of not more than three (3) feet in height, as measured from the surface of the raft or dock, provided that, in locations where the visual impact of the proposed aquaculture structures will be minimal, the City, based upon written findings and without requiring a variance, may authorize storage containers of greater height. In such cases, the burden of proof shall be on the applicant. Materials which are not necessary for the immediate and regular operation of the facility shall not be stored waterward of the ordinary high water mark. A temporary sanitation station may be allowed on fixed overwater pier structures when utilities are not available within a reasonable distance.
9. Shellfish Gardens for personal consumption are allowed on private lands provided the following can be met:
 - a. They comply with all state and federal regulations, including transfer and harvest permits required by WDFW.
 - b. The cultivation and harvesting is limited to native species of shellfish acquired from a licensed source consistent with state law; and
 - c. The operation may utilize bottom culture or off-bottom culture bags if in accordance with best management practices and it does not significantly alter the tidal bed.

5.2.6 Regulations – Operational Standards

1. Aquaculture structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures and equipment shall be removed or repaired promptly by the owner. Aquaculture operations that do not conform with this master program are considered discontinued if the use has ceased for a period of more than five (5) years.
2. Operational monitoring may be required if and to the extent that is necessary to determine, ensure, or confirm compliance with predicted or required performance, including periodic benthic analysis or noise pollution monitoring in accordance with BIMC Chapter 16.16. Such monitoring requirements shall be established as a condition of the permit and shall be conducted at the applicant's (operator's) expense.
3. No processing of any aquacultural product, except for the sorting or culling of the cultured organisms and the washing or removal of surface materials or organisms, shall occur in or over the water after harvest, unless specifically approved by permit. All other processing and processing facilities shall be located on land and shall be governed by

these provisions and the policies and regulations of other applicable sections of the Master Program, in particular, provisions addressing commercial and industrial uses.

4. Aquaculture wastes shall be disposed of in a manner that will ensure compliance with all applicable governmental waste disposal standards. No garbage, wastes, or debris shall be allowed to accumulate at the site of any aquaculture operation [BIMC Chapter 8.16].
5. Predator control shall not involve the killing or abusive harassment of birds or mammals. Approved controls include, but are not limited to, double netting for seals, overhead netting for birds, fencing or netting for otters. The use of other nonlethal, non-abusive predator control measures shall be contingent upon receipt of written approval from the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service, as required.
6. All nets shall be maintained in accordance with all applicable state and federal requirements. If a state or federal permit is not required, cleaning of nets and other apparatus shall be accomplished by air drying, spray washing or hand washing, rather than chemical treatment and applications.

5.2.7 Commercial Geoduck Requirements

1. In addition to other provisions in Section 5.2, commercial geoduck aquaculture will be administered consistent with WAC 173-26-241(3)(b)(ii), (iii), and (iv). Where there is inconsistency between the provisions in 5.2.1, 5.2.2., 5.2.3, 5.2.4, 5.2.5, 5.2.6 or 5.2.7 and the geoduck provisions, the specific commercial geoduck provisions apply.
2. A conditional use permit is required for all new commercial geoduck aquaculture and conversions from existing non-geoduck aquaculture to geoduck aquaculture. CUPs for new commercial geoduck and conversions will be administered consistent with WAC 173-26-241(3)(b)(ii), (iii), and (iv).

5.3 Boating Facilities

5.3.1 Applicability

Boating facilities include marinas (both backshore and foreshore, dry storage, and wet moorage and open water types), boat launch ramps, covered moorage, marine railways, and marine travel lifts (Refer to Section 8.0, Definitions). Community, yacht club, camp, and resort moorage facilities must comply with boating facility requirements if they provide moorage for six (6) or more vessels. Both marina and non-marina boating facilities, including single-family, must comply with Section 4.0, General (Island-wide) Policies and Regulations, including the standards in Table 4-1 through 4-3, Section 3.0, Shoreline Designation Policies and Regulations, and Section 6.3, Overwater Structures. Boating facilities development will be reviewed under the “no net loss” provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed

under Section 4.1.3, Vegetation Management; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater Management; ~~Appendix B~~; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

Accessory uses found in marinas may include fuel docks and storage, boating equipment sales and rental, repair services, boat launches, bait and tackle shops, potable water, waste disposal, administration, parking, and grocery and dry good shops. Uses which are not clearly accessory are also subject to the respective provisions in this section. (Examples might include commercial, industrial, or transportation facilities.)

Regulations governing boating activities in the bays and harbors of Bainbridge Island are contained in BIMC Chapters 12.24, Waterfront Park and Other City Harbors, and 12.40, Watercraft and Floating Homes, and may also apply. See Section 6.3.7.7 and 8, for regulations governing mooring buoys. Boating facility development and/or renovation shall comply with all other applicable state and federal agency policies and regulations including, but not limited to, the Department of Fish and Wildlife, Washington Department of Natural Resources, Federal Marine Sanitation standards (Environmental Protection Agency 1972) requiring water quality certification from the U.S. Army Corps of Engineers (33 USC § 403), U.S. Army Corps of Engineers dredging standards (33 USC § 404), and state and federal standards for the storage of fuels and toxic materials.

5.3.2 Goal

Boating facilities, including marinas and boat launch ramps, are priority water-dependent uses and should be located, designed, and operated with appropriate mitigation to avoid and minimize adverse effects on shoreline functions and processes; prevent conflicts with navigation and other allowed uses; and provide public access and enjoyment of water of the state.

5.3.3 Policies

1. Locate new or expanding boating facilities only where suitable environmental conditions are present. Avoid:
 - a. Critical saltwater habitat, including kelp beds, eelgrass beds, spawning areas for forage fish (such as herring, surf smelt and sandlance);
 - b. Subsistence, commercial and recreational shellfish beds;
 - c. Mudflats or intertidal habitats with vascular plants;
 - d. Areas with which priority species have a primary association;
 - e. Areas which have been identified as hazardous due to storm tides, high winds, or flooding; and
 - f. Embayments with poor flushing action.

2. Design and locate boating facilities to minimize adverse effects upon shoreline processes such as erosion, littoral or riparian transport, and where feasible, enhance degraded, scarce, and valuable shore features including accretion shoreforms.
3. Design, locate, construct, and maintain boating facilities to:
 - a. Avoid adverse proximity impacts such as noise, light and glare; and
 - b. Assure that their structures and operations will be aesthetically compatible with the area visually affected, and will not unreasonably impair shoreline views from adjacent shoreline properties or the public's visual access to the shore;
 - c. Assure vegetation screening should be utilized to reduce visual impacts of associated parking and storage
4. Consider regional as well as local needs when determining the location of marinas and boat launches. Identify potential sites near high-use or potentially high-use areas.
5. Minimize displacement of limited shoreline resources by considering:
 - a. Expanding existing marinas over adding new marina sites;
 - b. Developing marinas and launch ramps over developing individual docking facilities for private, noncommercial pleasure craft; and
 - c. Utilizing launching ramps and water-dependent dry storage or other new technologies over year-round wet-moorage.
6. Ensure the location and design of boating facilities does not unduly obstruct navigable waters, and avoids adverse effects to recreational opportunities or the use and enjoyment of the water or beach of adjoining properties.
7. Design, locate and construct new marina facilities to accommodate public access and enjoyment of the shoreline, including provisions for walkways, view points, restroom facilities, and other recreational uses according to the scale of the facility.
8. Encourage innovative construction techniques and methods of foreshore marinas to prevent degradation of fish and/or shellfish resources and habitat.
9. Require the installation and maintenance of sewage disposal (pump-out) facilities or services. These should be conveniently available to all users of marina facilities.
10. Prohibit floating houses. Allow live-aboard vessels only in those limited circumstances where their environmental and use impacts can be substantially avoided, minimized, or mitigated.
11. Ensure transient moorage is made available, with most of this need being met through use of short-term vacancies.

12. Work with the City Harbor Commission to establish regulations governing a uniform speed code, harbor safety, and harbor navigation through amendments to the municipal code.

5.3.4 Regulations - Prohibited

1. Boating facilities in the Shoreline Residential Conservancy, Island Conservancy, Natural, and Priority Aquatic designations, except that boating facilities may be permitted as a conditional use in public parks designated Island Conservancy.
2. Backshore marinas involving the creation of a basin for wet moorage.
3. Covered moorage.
4. Floating homes.

5.3.5 Regulations - General

1. Boating facilities, including marinas, shall be allowed as follows:
 - a. Boating facilities shall be permitted in the Urban designation and allowed as a conditional use in the Shoreline Residential designation.
 - b. Boating facilities in the Aquatic designation are allowed as-permitted in the adjacent upland designation pursuant to Table 4-2.
 - c. One (1) public open water moorage and anchorage area shall be a permitted in the Aquatic designation located in Eagle Harbor.
2. Accessory uses at a marina or public launch ramp shall be limited to those which are water-dependent, related to boating, necessary for marina operation, or which provide physical or visual shoreline access to a substantial numbers of the general public. Accessory uses shall be consistent in scale and intensity with the marina and/or launch ramp and surrounding uses.
3. All marina developments shall provide boater education addressing boater impacts on water quality and other shoreline resources, and boater safety and requirements for boater use of sewage pump-outs to their marina users.
4. Live-aboard vessels, including houseboats, shall be permitted only in marinas. No more than 10% of the surface area of a marina or 10% of its slips, whichever is less, shall be devoted to live-aboard vessels, including houseboats, except that the percentage of live-aboard vessels in marinas may be increased through an approved conditional use permit. [WAC 332-30-171 or its successor]

5.3.6 Regulations - Location

1. When new marina sites are considered, sufficient evidence must be presented to show there is a regional demand and existing marinas are inadequate and cannot be expanded to meet regional demand.
2. Marinas shall be sited to prevent any restrictions in the use of commercial and recreational shellfish beds or commercial aquaculture operations. The specific distance shall be determined in conjunction with the Washington State Department of Health Services, the Washington State Department of Ecology, and other agencies with expertise. Criteria for determining the specific distance may include:
 - a. The size and depth of the water body;
 - b. Tidal flushing action in the project area;
 - c. Size of the marina and projected intensity of use;
 - d. Whether fuel will be handled or stored;
 - e. Location of a sewer hook-up; and
 - f. Expected or planned changes in adjacent land uses that could result in additional water quality impacts or sanitary treatment requirements.
3. Marinas shall be allowed only on stable shoreline areas where water depth is adequate to eliminate or minimize the need for channel dredging (for construction or maintenance), soil disposal, filling, beach enhancement, and other harbor and channel maintenance activities.
4. Marinas shall be located only in areas where there is adequate water mixing and flushing and shall be designed so as not to reduce or negatively influence flushing characteristics.
5. Boating facilities shall not require fixed breakwaters.
6. Marinas shall be clearly separated from beaches commonly used for swimming and shall provide signage and provide protection measures to insure the safety of swimmers.
7. Marinas shall not be located at or along:
 - a. Significant littoral drift cells, including resource material areas, such as feeder bluffs and accretion beaches, barrier beaches, points, sand spits and hooks; or
 - b. Wetlands, marshes, bogs, swamps and lagoons; or
 - c. Mud flats and salt marshes; or
 - d. Fish and shellfish spawning and rearing areas.
8. Marinas shall not extend waterward farther than the following limits:

- a. The Construction Limit Line or the Harbor Structure Limit Line as depicted in Appendix E; except the public open water moorage and anchorage areas shall be allowed waterward of the Construction Limit Line.
- b. Where no limit line is depicted, not more than two hundred (200) feet beyond extreme low tide, the 18 MLLW depth contour, or the line of navigation whichever is closer to the shore. However, the distance from shore may be less in locations where it is necessary to protect the navigational rights of the public. [WAC 332-30-122(1)(ii) or its successor]

5.3.7 Regulations – Design/Renovation/Expansion

1. Proposals for marinas shall include public launch facilities unless the applicant can demonstrate that providing such facilities is not feasible.
2. Boating facilities shall be designed, constructed and maintained to:
 - a. Provide thorough flushing of all enclosed water areas and shall not restrict the movement of aquatic life requiring shallow water;
 - b. Minimize interference with geo-hydraulic processes and disruption of existing shore forms;
 - c. Be aesthetically compatible with existing shoreline features and uses;
 - d. Avoid adverse proximity impacts such as noise, light and glare;
 - e. Include vegetative screening for parking, and upland storage areas and facilities consistent with landscaping standards for parking lots as prescribed in BIMC Section 18.15.010, Development Standards and Guidelines; Landscaping, Screening, and Tree Retention, Protection, and Replacement; and
 - f. Include public restrooms, accessory parking or other recreational uses according to the scale of the facility.
3. Short-term loading/unloading areas and hand-launch storage areas may be located at ramps or near berthing areas and should be constructed of pervious material. Long-term parking and dry moorage and all other storage areas shall be set back at a distance of one-hundred (100) feet from the OHWM.
4. Public access, both visual and physical, such as viewpoints or walkways, shall be an integral part of all marina design and development commensurate with the particular proposal and must meet the standards of Section 4.2.4, Public Access.
5. Innovative construction techniques and construction methods of foreshore marinas may be allowed when demonstrated to the satisfaction of the Administrator that the design will prevent degradation of fish migration, critical saltwater habitat and/or shellfish resources.

5.3.8 Regulations - Utilities

1. All marinas shall have accessible boat sewage disposal systems or other pump-out services available on site. Existing marinas shall comply within one (1) year of the effective date of this regulation.
2. The marina shall provide facilities for the adequate collection and dumping of marina originated materials, including but not limited to, sewage, solid waste, and petroleum waste.
3. All marinas shall provide restrooms for boaters' use, including upland or floating facilities supporting open water moorage and anchorage areas. Upland restrooms shall be located within seventy-five (75) feet of the landward end of the dock or pier and floating restroom facilities shall be located to conveniently serve the tenants. Restrooms shall be identified by signs and be accessible to tenants twenty-four (24) hours a day.
 - a. Marinas with fewer than ten (10) slips shall provide one (1) toilet and hand washing facility
 - b. Marinas with ten (10) to one hundred (100) slips shall provide one (1) toilet and hand washing facility for each gender.
 - c. Marinas exceeding one hundred (100) slips shall provide an additional toilet and lavatory for each gender
 - d. Existing marinas shall comply within one (1) year of the effective date of this regulation.
4. Distribution systems for plumbing and wiring at a marina site shall be placed at or below ground and dock levels, in accordance with national marine standards.
5. Public boat launch facilities shall provide and maintain at least one restroom or portable toilet; required number may increase based on projected level of service.
6. Public boat launch facilities that also include a public dock shall provide and maintain a dump station.

5.3.9 Regulations - Management and Operations

1. The discharge of sewage and/or toxic material from boats and/or shore installations is prohibited. The responsibility for the adequate and approved collection and disposal of marina originated sewage, solid waste, and petroleum waste is that of the marina operator. An emergency spill kit and use instructions shall be provided for tenants in an easy to access are and be accessible twenty-four (24) hours a day.
2. Commercial fish or shellfish processing discharge or discarding of unused bait, scrapfish, or viscera shall be prohibited.
3. Swimming shall be prohibited within marina facilities unless the swimming area is adequately separated, protected, and posted.

4. If dredging at marina entrances changes the littoral drift processes and adversely affects adjacent shores, the marina operator shall be required to periodically replenish these shores with the appropriate quantity and quality of aggregate as determined by a geo-hydraulic study, paid for by the operator or owner and completed to the satisfaction of the Administrator.
5. Temporary vacant moorage spaces shall be made available for “transient moorage” (less than two-week stay) when at least one of the following applies:
 - a. The marina is owned, operated, or franchised by a governmental agency for use by the public;
 - b. The marina provides more than three thousand (3,000) lineal feet of moorage; or
 - c. The marina is part of a mixed-use development which includes restaurants or other water-enjoyment uses.
6. Additional transient moorage requirements may be established for Eagle Harbor in the Winslow Master Plan.
7. Marina operators shall execute a lease, contract, or deed which establishes permission to use a slip for a stated period of time and which establishes conditions for use of the slip, including the requirement that all boats meet applicable sanitation regulations.
8. Live-aboard vessels must comply with all marine regulations, policies and procedures of the Coast Guard, federal and state governments which pertain to health, safety and/or environmental protection. Proof of seaworthiness of the vessel and the adequacy of the mooring arrangement must be provided and laws governing all the citizens of Bainbridge Island must be obeyed.
9. New marinas shall meet the following before occupancy, and existing marinas shall comply with the following within one (1) year from adoption of this program:
 - a. Marinas which dispense fuel shall have adequate facilities and establish posted operational procedures for fuel handling and storage to prevent/minimize accidental spillage.
 - b. Marinas shall have facilities, equipment, such as emergency spill kits, and established posted procedures for containment, recovery, and mitigation of spilled petroleum, sewage, and toxic products.
 - c. Marina operators shall post signs where they are readily visible to all marina users describing regulations:
 - i. Pertaining to handling and disposal of waste, wastewater, toxic materials, and recycling;
 - ii. Prohibiting the use of marine toilets (i.e., no untreated sewage discharge);
 - iii. Prohibiting the disposal of fish and shellfish cleaning wastes; and

- iv. Describing best management practices (BMPs) for boat maintenance and repairs on site.
- d. Garbage or litter receptacles shall be provided and maintained by the marina operator at several locations convenient to users in sufficient numbers to properly store all solid waste generated on site.
- e. Marina docks shall be equipped with adequate lifesaving equipment such as:
 - i. Life rings, hooks, ropes and ladders, or equivalent, on the end of fingers; and/or
 - ii. One ladder (per side) either every one hundred (100) linear feet of the dock, or every six (6) slips whichever is greater. This regulation does not apply to a float which is less than one hundred (100) feet from a shoreline; or
 - iii. At least one ladder to serve a float with six (6) or more slips and is one hundred (100) linear feet in length or less.

5.3.10 Regulations – Boat Launches (includes marine railways)

5.3.10.1 Regulations - Prohibited

1. Boat launches are prohibited in
 - a. Significant littoral drift cells, including resource material areas such as feeder bluffs and accretion beaches, points, spits and hooks; except for a public launch as provided for in section 5.3.10.2(2).
 - b. Wetlands, marshes, bogs, swamps, and lagoons;
 - c. Mud flats and salt marshes; and
 - d. Fish spawning and rearing areas and commercial or recreational shellfish areas.

5.3.10.2 Regulations – Design and Location

1. Launch ramps shall be:
 - a. Located on stable shorelines where water depths are adequate to eliminate or minimize the need for:
 - i. Offshore or foreshore channel construction dredging; or
 - ii. Maintenance dredging; or
 - iii. Spoil disposal; or
 - iv. Filling; or
 - v. Beach enhancement; or
 - vi. Other harbor and channel maintenance activities.

- b. Located in areas where there is adequate water mixing and flushing; and
 - c. Designed so as not to retard or negatively influence flushing characteristics.
2. For public launch ramps, innovative or hinged boat launches may be permitted on marine accretion shoreforms, provided that continual grading is not required. When grading is permitted it must not adversely affect ecological functions and ecosystem-wide processes. Accessory facilities shall be located out of critical areas.
 3. Public boat launches may be allowed on stable banks where current deflectors or other stabilization structures will not be necessary.
 4. Boat launches shall not be permitted where the upland within twenty-five (25) feet of the OHWM has a slope that exceeds twenty-five percent (25%) grade and/or where substantial cutting, grading, filing, or defense works is necessary.
 5. Boat launches, minor accessory buildings, and haul-out facilities shall be designed to be in character and scale with the surrounding shoreline.
 6. Boat launches shall be built from flexible, hinge-segmented pads which can adapt to changes in beach profiles, unless a solid structure is demonstrated to be more appropriate for the intended level of use.
 7. Boat launches shall be placed and kept near flush with the foreshore slope to minimize the interruption of geo-hydraulic processes and critical saltwater habitat.
 8. Marine railways for boat launching shall be located the minimum distance necessary above existing grade to minimize impact on littoral drift and navigation along the shoreline.
 9. Boat launch facilities shall be clearly separated from beaches commonly used for swimming and shall provide signage and provide protection measures to insure the safety of swimmers.

5.4 Commercial Development

5.4.1 Applicability

Uses associated with commercial development which are identified as separate uses in the Master Program are also subject to those regulations. Examples are industry, boating facilities, transportation facilities, and utilities. Commercial development and related shoreline modification activities, such as piers, docks, and bulkheads, will be reviewed under the no net loss provision of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 3.0, Shoreline Designation Policies and Regulations, including the standards in Tables 4-1 through 4-3. Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.3, Vegetation Management; Section 4.1.4, Land Modification; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater Management; Section 6.0, Shoreline Modification Policies and Regulations; ~~Appendix B~~; and BIMC Chapter 15.18, Land Clearing, as applicable. Other portions of this Program may also apply.

5.4.2 Policies

1. Design and operate commercial uses, activities, and developments to avoid or minimize adverse impacts to ecological functions and ecosystem-wide processes. Encourage restoration of impaired ecological functions and ecosystem-wide process as mitigation for commercial development.
2. Give priority to those commercial developments that are dependent on shoreline locations or that allow a substantial number of people to actively or passively enjoy the shoreline; preference should be given to water-dependent uses, over water-related and water-enjoyment uses.
3. Discourage non-water-oriented commercial uses unless the use contains a mix of commercial and residential development that also includes either a public use benefit (open space, shoreline access, recreation), or a water-enjoyment commercial use.
4. Prohibit commercial developments over water unless the use is water-dependent and requires overwater development.
5. Locate new commercial development in shoreline areas with existing, compatible commercial uses and in a manner that will promote infill.
6. Provide physical or visual access to the shoreline as part of all new commercial development. Existing development should be required to provide public access amenities when building improvements are proposed. Incentives should be provided for commercial use proposals to include additional public amenities
7. Ensure commercial development is aesthetically and acoustically compatible with the surrounding areas.
8. View protection, both to the water and from the water, should be considered in the design and review of commercial development.

5.4.3 Prohibited

1. Nonwater-oriented commercial uses, except as provided in Section 5.4.4.

5.4.4 Regulations- General

1. Commercial uses should be located on shorelines with existing compatible commercial uses and regulated in the shoreline designations as follows:
 - a. Water-oriented commercial use and development shall be permitted in the Urban designation-and may be allowed under a conditional use permit in the Shoreline Residential designation.
 - b. Water-dependent commercial development that requires an over-water location may be permitted in the Aquatic designation when permitted in the upland environment.

- c. Nonwater-oriented commercial uses are prohibited in the shoreline except as provide in d. or as follows:
 - i. As a conditional use in the Urban designation when located on a site physically separated from the shoreline by another property in separate ownership or by a public-right-of-way such that water access is precluded, provided that the property conditions were lawfully established prior to the effective date of this Program; and
 - ii. As a permitted use if located in a mixed-use development in the Urban designation as subordinate to a more dominant water-oriented commercial, residential or recreational use contained in the same development, and which also provides significant public benefit amenities such as public open space or recreation, public access, or shoreline restoration.
 - iii. The requirements of this section shall not apply to those nonwater-oriented commercial uses located on a site physically separated from the shoreline where access to the land/water interface is precluded.
 - d. Water-Oriented and non-water oriented commercial uses may be permitted in a mixed-use development within the Mixed Use Town Center districts provided:
 - i. The site is physically separated from the shoreline by another property in separate ownership or by a public-right-of-way such that water access is precluded, provided that the property conditions were lawfully established prior to the effective date of this Program; and
 - ii. Water-oriented commercial or non-water oriented commercial development is subordinate to the residential use.
2. A use or development shall not be considered water-dependent, water-related or water-enjoyment until the Administrator makes the determination that the proposed design, layout and operation of the use or development meets the definition and intent of the water-dependent, water-related or water-enjoyment designation.
 3. Where commercial development is allowed, it shall be located, designed and constructed in a manner that minimizes adverse impacts to shoreline resources and shall include mitigation to ensure no net loss of shoreline ecological functions and processes pursuant to Section 4.1.2, Environmental Impacts.
 4. New commercial development and redevelopment shall provide public access in conformance with the Public Access requirements of Section 4.2.4.
 5. When permitted, proposals that include nonwater-oriented commercial uses shall provide a significant public benefit in addition to any required public access, as follows:
 - a. Additional public access in the form of unrestricted open space. The Administrator shall determine the amount of access on a case-by-case basis in

accordance with the provisions of Section 4.2.4, Public Access – Visual and Physical.

- b. If no water-oriented commercial uses are located on or adjacent to the water as part of a mixed use development, eighty percent (80%) of the shoreline and associated buffers shall be preserved or restored to provide shoreline ecological functions and processes that approximate the functions provided by the site in natural conditions.
- c. The requirements in regulation (a) and (b) may be modified when:
 - i. The site is designated as a public access area by a shoreline public access plan, in which case public access consistent with that plan element shall be provided; or
 - ii. Specific findings are made demonstrating that the size of the parcel and the presence of adjacent uses preclude restoration of shoreline ecological functions and processes. Where on-site restoration is infeasible, equivalent off-site restoration shall be provided consistent with the policies and regulations of this Program.
- d. Where restoration is proposed, buffers shall be designed as appropriate to protect shoreline resources based on a specific restoration plan and may differ from the standard buffer dimensions provided in Table 4-3, provided that the building envelope for the proposed nonwater-oriented use shall be based on current site conditions.

5.4.5 Regulations – Design and Location

1. The design and location of commercial facilities shall meet the following:
 - a. Those portions of the commercial development which are accessory to and not considered water-dependent and/or do not require direct contact with the water shall be set back from the shoreline at a sufficient distance to minimize impacts to water quality, to other shoreline uses and to the shoreline as a scenic view. (See Section 3.0, Shoreline Designations Policies and Regulations, Section 4.1.6, Water Quality and Stormwater Management, and Dimensional Standards Table 4-2.)
 - b. Water-dependent commercial development shall be designated and operated to promote joint-use of overwater and accessory facilities such as:
 - i. Piers;
 - ii. Docks;
 - iii. Storage;
 - iv. Restrooms; and

- v. Parking.
- c. When demonstrated, to the satisfaction of the Administrator, not to be feasible the requirements of Section 5.4.5 (1)(a) and (b) may be reduced in scope or waived.

5.5 Forest Practices

5.5.1 Applicability

Forest Practices are primarily regulated by the Washington Department of Natural Resources under WAC Title 222 or its successor pursuant to the Forest Practices Act (RCW 76.09 or its successor). This section supplements those regulations. Activities which are not regulated under the Forest Practices Act are subject to clearing and grading provisions in Section 4.1.4, Land Modification. Forest Practices are subject to Section 3.0, Shoreline Designation Policies and Regulations, Section 4.0, General (Island-wide) Policies and Regulations, and Section 6.0, Shoreline Modification Policies and Regulations of this Program. Forest Practices and related activities will be reviewed under the “no net loss” provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.1.3, Vegetation Management; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater Management; ~~Appendix B~~; and BIMC Chapter 15.18, Land Clearing, and BIMC Chapter 16.22, Vegetation Management, when applicable. Other portions of this Program may also apply.

5.5.2 Policies

1. Rely on the Forest Practices Act and rules implementing the act and the Forest and Fish Report as adequate management of commercial operations within the shoreline jurisdiction.
2. Ensure timber harvesting is conducted in a manner that does not cause adverse impacts to shoreline ecological functions or ecosystem-wide processes and avoids impacts to navigation, recreation, and public access.
3. Limit timber harvesting in all shoreline areas to selective cutting which protects the shoreline as a scenic value. Shorelines having outstanding scenic or habitat qualities should be left in a substantially natural condition.
4. Accomplish revegetation in shorelines as quickly as possible in accordance with the provisions of the Forest Practices Act. Provisions for forest conversion proposals (Class IV Permits regulated under the Forest Practices Act and locally) are in Section 4.1.3.4, Vegetation Management; Regulations – Exceptions of this Program.

5.5.3 Regulations - General

1. Under the authority of planning and zoning granted to the city under RCW 76.09.240, the city of Bainbridge Island considers all forested areas within its jurisdiction as “lands with a likelihood of future conversion” from forest use as defined under WAC 222-16-060.

2. Conversion of forest land to non-forestry uses (Class IV – General Forest Practice Permit) shall be reviewed in accordance with the provisions for the proposed non-forestry use and the provisions in the Shoreline Master Program and shall be subject to any permit requirements associated with the non-forestry use.
 - a. Timber harvesting shall not be permitted until local plat approval or other applicable land use authorization has been given, and any required shoreline permits have been issued for the land division(s) or intended use(s).
3. All timber harvesting and forest practices except conversions conducted with a Class IV— General permit shall comply with the current rules and regulations adopted under the Forest Practices Act and the Timber, Fish, and Wildlife agreement or their successors.
4. Timber harvesting and forest practices conducted under a Class II, III, or IV Special permit from the Department of Natural Resources shall not be regulated by this Program and shall not require a shoreline permit. These permit categories shall only be authorized for lands that meet the definition DNR forestland, including any policies of DNR relating to proximity of structures to hazard trees.
5. Site preparation by burning and scarification piles shall be prohibited within shoreline jurisdiction.
6. When timberland is to be converted to another use, such conversion shall be clearly indicated on the Forest Practices application. Failure to indicate the intent to convert the timberland to another use on the application will result in subsequent conversion proposals being reviewed as conditional use applications. Such failure to declare intent to convert on the application may provide adequate grounds for denial of subsequent conversion proposals for a period of six (6) years from the date of the Forest Practices application approval, [RCW 76.09.060(3)(b)(i) or its successor].
7. Commercial timber cutting within the shoreline jurisdiction shall be by selective harvest and shall not exceed thirty percent (30%) of the merchantable trees in any ten-year period as required by WAC 222-30-110.

5.6 Industrial Development

5.6.1 Applicability

Industrial development, uses and activities that are identified as separate uses but associated with industrial development or use, are subject to the following provisions; Examples include transportation facilities, utilities, dredging, landfill, piers and docks, and bulkheads. Industrial development-will be reviewed under the no net loss provisions of Section 4.1.2, Environmental Impacts, Section 3.0, Shoreline Designation Policies and Regulations, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.3, Vegetation Management; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater Management; Section 6.0 Shoreline Modification Policies and Regulations; [Appendix B](#); and

BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

5.6.2 Policies

1. Review new industrial proposals with consideration of regional and state-wide needs for industrial facilities, as well as in allocating shorelines for such development. Coordinate with port districts, adjacent counties and cities and the state in order to minimize new industrial development that would unnecessarily duplicate under-utilized facilities elsewhere in the region, or result in unnecessary adverse impacts on other jurisdictions.
2. Encourage expansion or redevelopment of existing, legally established industrial areas, facilities, and services with the possibility of incorporating mixed-use development in lieu of the addition and/or location of new or single-purpose industrial facilities.
3. Strongly encourage joint use of piers, cargo handling, storage, parking and other accessory facilities among private or public entities in waterfront industrial areas.
4. Design and locate industrial development to avoid or minimize adverse impacts to ecological functions and ecosystem-wide processes.
5. Require new industrial development to provide physical and/or visual access to shorelines and visual access to facilities whenever possible, when such access does not cause significant interference with operations or hazards to life and property.
6. Preference should be given to locating new industrial development on those parts of the shoreline where industrial development is already permitted. Industrial uses and redevelopment are encouraged to locate where environmental cleanup and restoration can be accomplished.
7. Limit new industrial uses to existing industrial or water dependent commercial sites, such as marinas, where that use is consistent with the shoreline designation. Preferred industrial sites should be limited to water-oriented uses, and should encourage the development of preferred industrial uses, such as small boat haul-out and repair facilities, vessel fueling facilities and water-oriented industry serving local boating needs.
8. Discourage nonwater-oriented uses unless the use is located in a mixed-use development containing a public use benefit such as open space or recreation use, and includes a water-oriented commercial use.

5.6.3 Regulations – Prohibited

1. Storage and/or disposal of industrial wastes within shoreline jurisdiction.
2. Log storage in water.
3. Nonwater-oriented industrial development.

5.6.4 Regulations - General

1. Water-dependent industry shall be permitted in the Urban designation, and those portions of the Aquatic designation which are waterward of the Urban designation, and shall be prohibited in all other designations. Water-related industry shall be a conditional use in the Urban designation and prohibited in all other designations. Nonwater-oriented industry shall be prohibited in all designations.
2. Where industrial development is allowed, it shall be located, designed and constructed in a manner that minimizes adverse impacts to shoreline resources and shall include mitigation to ensure no net loss of shoreline ecological functions and ecosystem-wide processes.
 - a. Water-dependent industrial uses, such as small boat haul-out and repair facilities, or vessel fueling facilities, shall be given preference over water-related and water-enjoyment industrial and port uses.
 - b. A use or development shall not be considered water-dependent, water-related or water-enjoyment until the Administrator makes the determination that the proposed design, layout and operation of the use or development meets the definition and intent of the water-dependent, water-related or water-enjoyment designation.
3. Proposed industrial development shall be consistent with any applicable comprehensive waterfront and/or long-range harbor development plans, and should be coordinated with applicable adopted regional and state plans.
4. New industrial development shall be compatible with existing adjacent uses of the shoreline designation in which it is located.
5. Proposed industrial development shall:
 - a. Be located to maximize the use of legally established, existing industrial facilities; and
 - b. Be located in areas where environmental cleanup and restoration can be accomplished; and
 - c. Avoid duplication of pier and dock facilities before expanding into undeveloped areas or building new facilities.
6. Water-related industrial development shall be set back from the OHWM a sufficient distance to avoid disturbance of the Shoreline Buffer or Shoreline Vegetation Management Area. (See and Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.3 Vegetation Management; and Tables 4-1 through 4-3, for dimensions.)
7. Accessory industrial development which does not require a location at or near the water's edge shall be located upland of the water-dependent portions of the development, and

outside of the Shoreline Buffer or Vegetation Management Area as established in Section 4.0, General (Island-wide) Policies and Regulations and Table 4-3.

8. New industrial development that includes offshore facilities, floating docks and deep-water port expansion, shall be permitted by conditional use permit, and only when it can be demonstrated that:
 - a. Such development is fundamental for the allowed industrial operation; and
 - b. Such development results in no net loss of shoreline ecological functions or ecosystem-wide processes.
9. At new or expanded port and/or industrial developments the best available facilities practices and procedures, as specified by state and local agencies, 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 clean-up of those spills that do occur.

5.6.5 Regulations - Design and Location

1. The design and location of industrial facilities shall meet the following:
 - a. Those portions of the industrial development that are accessory to and not considered water-dependent and/or do not require direct contact with the water shall be set back from the shoreline at a sufficient distance to minimize impacts to water quality, to other shoreline uses and to the shoreline as a scenic view. (See Section 3.0, Shoreline Designation Policies and Regulations; Section 4.1.6, Water Quality and Stormwater Management; and Tables 4-1 through 4-3.)
 - b. Industrial facilities shall be designed and operated to promote joint use of over-water and accessory facilities, whenever practicable, such as:
 - i. Piers
 - ii. Docks
 - iii. Storage
 - iv. Restrooms; and
 - v. Parking.
 - c. Consistent with provisions in Section 4.2.4, Public Access – Visual and Physical, ports and/or water-dependent industry shall provide public access to the shoreline.
 - d. Documentation of compliance with noise standards of BIMC 16.16.
2. Display and other exterior lighting shall be designed and operated to minimize glare impacts to nearby properties and local traffic, and shall meet the lighting standards of BIMC Section 18.15.040.

5.6.6 Regulations – Ship and Boat Building and Repair Yards

1. Boatyards and mobile services shall employ best management practices (BMPs) concerning the various services and activities performed and to address potential impacts on the surrounding water quality. Standards for BMPs shall be found in the Washington State Department of Ecology’s most recent editions of the “*Boatyard General Permit, National Pollution Discharge Elimination System (NPDES)*” and the “*Storm Water Pollution Prevention Plan for Facilities Covered Under the Boatyard General Permit*”.

5.7 Mining

5.7.1 Applicability

Mining is the removal and primary processing of naturally occurring materials from the earth for economic use. For purposes of this definition, “processing” includes screening, crushing, stockpiling, all of which utilize materials removed from the site where the processing activity is located. Mining activities also include in-water dredging activities related to mineral extraction. Processing does not include general manufacturing, such as the manufacture of molded or cast concrete or asphalt products, asphalt mixing operations, or concrete batching operations.

5.7.2 Policies

1. Mining is prohibited within the shoreline jurisdiction.

5.7.3 Regulations - General

1. Mining, including the excavation of sand, gravel, and other minerals, shall be prohibited within the shoreline jurisdiction.
2. Impacts to shorelands and water bodies due to mining operations upland of the shoreline jurisdiction shall be minimized and meet “no net loss” provisions of Section 4.1.2, Environmental Impacts.

5.8 Recreational Development

5.8.1 Applicability

These provisions apply to recreational development, not to casual use of undeveloped open space. They also apply to both publicly- and privately-owned facilities intended for use by the general public, private clubs, groups, associations, or individuals. Recreational development will be reviewed under the “no net loss” provisions of Section 3.0, Shoreline Designation Policies and Regulations; Section 4.0, General (Island-wide) Policies and Regulations; Tables 4-1 through 4-3; Section 4.1.2, Environmental Impacts; and may also be reviewed under Section 4.1.3, Vegetation Management; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater Management; Section 6.0, Shoreline Modification Policies and Regulations; ~~Appendix B~~; and BIMC Chapter 15.18, Land Clearing, Chapter 16.16 Noise

Impacts and BIMC Section 18.15.040 Lighting Impacts, when applicable. Other portions of this Program may also apply.

5.8.2 Goal

Provide substantial recreational opportunities for the public along the shoreline and manage the development of recreational uses to assure that shoreline ecological functions and ecosystem-wide processes are not adversely impacted.

5.8.3 Policies

1. Recognize public recreation on public lands as a preferred use of the shoreline. Water-dependent recreational uses, such as swimming, boating and fishing, are priority uses and should be encouraged.
2. Encourage the coordination of local, state, and federal recreation planning to mutually satisfy recreational needs. Shoreline recreational developments should be consistent with all adopted park, recreation, and open space plans.
3. Encourage a variety of compatible recreational experiences and activities to satisfy diverse recreational needs. The location and design of shoreline recreational development should relate to local population characteristics, density, and special activity demands. Acquisition priorities should consider these needs, demands, and special opportunities, as well as public transit access and access for the physically impaired, where planned or available.
4. Identify shoreline areas with potential for recreation or public access. Acquire identified areas through lease, purchase, or easement, and incorporate these areas into the public park and open space system.
5. Where feasible, link shoreline parks, recreation areas, and public access points as linear systems, such as hiking paths, bicycle paths, easements, and/or scenic drives.
6. Locate, design and operate recreational development to facilitate appropriate use of shoreline resources while also conserving those resources by minimizing adverse impacts to ecological functions and ecosystem-wide processes. Design recreational development to preserve, enhance or create scenic shoreline views and vistas.
7. Where appropriate, passive recreational uses may be permitted in floodplain areas.
8. Encourage the use of shoreline road-ends and publicly-owned lands for public shoreline access and promote the development of shoreline recreational opportunities in suitable areas.
9. Limit or prohibit shoreline use of off-road recreational vehicle or recreational water equipment, such as jet skis and wake boards, where needed to protect the ecological functions or ecosystem-wide processes of the shoreline or protect sensitive wildlife habitat areas.

10. Ensure all recreational developments make adequate provisions for:
 - a. Vehicular and pedestrian access, both on-site and off-site;
 - b. Proper wastewater and solid waste disposal methods;
 - c. Security and fire protection;
 - d. The prevention of overflow and trespass onto adjacent properties, including but not limited to, landscaping, fencing, posting of property and screening (through native vegetation or shoreline buffers) of such development from adjacent private property.
11. Ensure trails and pathways on landslide hazard areas are located, designed, and maintained to protect bank stability.
12. Protect and restore publicly-owned natural resource areas located within the shoreline area and include public access and public use as appropriate for the particular resource area.
13. Promote shoreline conservation through acquisition, preservation, and rehabilitation of important natural areas and manage natural areas of public shoreline parks to protect and restore ecological functions, values and features.
14. Use best management practices and low impact development technologies in the construction, maintenance or renovation of recreational grounds or facilities of public shoreline parks.
15. Incorporate opportunities for educational and interpretive information regarding shoreline ecological functions and ecosystem-wide processes in the design and operation of public recreation facilities and other amenities such as nature trails.

5.8.4 Regulations – Prohibited

1. Motorized vehicular access on all beaches and spits, except at approved boat launching facilities (Section 5.3, Boating Facilities).
2. Golf courses in the Natural designations.
3. Golf course fairways which cross streams.
4. Use of fertilizers, pesticides, or other toxic chemicals is prohibited unless an exception is provided pursuant to Section 4.1.6, Water Quality and Stormwater Management.
5. The use of jet skis and similar recreational equipment shall be prohibited in the Priority Aquatic Categories A and B designations.

5.8.5 Regulations - General

1. Water-oriented recreational development is a priority use of the shoreline, and the primary focus shall be to provide access to and enjoyment of the water and shorelines of

the state and shall be consistent with the development regulations for the shoreline designation in which it occurs. Valuable shoreline resources and fragile or unique areas such as marshes, bogs, swamps, estuaries, wetlands, and accretion shoreforms (such as sand spits or accretion beaches), shall be used only for passive and nondestructive recreational activities.

- a. Active water-oriented recreational uses shall be consistent with the shoreline designation in which it is being proposed and shall be permitted in the Island Conservancy, Shoreline Residential Conservancy, Shoreline Residential, Urban, and Aquatic designation. Active recreational development is prohibited in the Priority Aquatic designation; however, vessels shall be allowed:
 - i. As provided in BIMC 12.40.060; or
 - ii. In Priority Aquatic Category B when:
 - A. Operated at 5 knots or less or such that a wake is not created; and
 - B. Operated at a noise decibel that does not cause adverse impact to wildlife.
 - b. Recreational development to accommodate passive (non-intensive) water-dependent and/or water-oriented recreational or educational uses shall be allowed as a conditional use in the Natural designation, except public trails and public stairways are permitted as a shoreline substantial development or shoreline exemption, when designed to minimize adverse environmental impacts in accordance with Section 4.1.2 Environmental Impacts.
 - c. Passive recreational development shall be allowed in the Priority Aquatic designation;
2. Water-oriented recreational use and/or development shall be allowed when the proponent demonstrates that it will not result in a net loss of shoreline ecological functions or processes or have adverse impacts on other shoreline uses, resources and/or values such as navigation and public access, and will provide mitigation in accordance with Section 4.1.2, Environmental Impacts.
 3. Activities provided by recreational facilities must have a substantial relationship to the shoreline, or provide physical or visual access to the shoreline. Facilities for water-dependent recreation such as fishing, clamming, swimming, boating, and wading, and water-related recreation such as picnicking, hiking, and walking should be located near the shoreline, while non-water-related recreation facilities shall be located upland.
 - a. Within the Natural Designation a single active use area shall be allowed with appropriate compensatory mitigation to accommodate water oriented and non-water oriented cultural events and water related passive recreational uses near the log pond at Blakely Harbor Park, as shown in Appendix E.

4. Recreational development on the shoreline shall provide physical or visual public access consistent with this Program, and Section 4.2.4, Public Access – Visual and Physical.
5. Recreational development on the shoreline shall protect existing shoreline vegetation consistent with this Program, and Section 4.1.3, Vegetation Management.
6. The City shall consult applicable state and local health regulations when issuing shoreline permits for recreational facilities (Title 248 WAC or its successor).
7. Recreational development is required to comply with local and regional recreation plans and link to linear open space, recreational, or scenic systems as provided in the State Comprehensive Outdoor Recreation Planning (SCORP) document, Bainbridge Island Metropolitan Park and Recreation District Comprehensive Park, Recreation, and Open Space Plan, the City of Bainbridge Island’s Winslow Master Plan, and the City of Bainbridge Island’s Non-Motorized Transportation Plan.
8. The use of motor vehicles including unlicensed off-road vehicles is permitted only on roads and trails specifically designated for such use. Such use is prohibited on tidelands, backshore beaches, streams, or wetlands, except as necessary for public health and safety or maintenance or as provided in Section 5.8.7(1), Regulation-Operations (1), below.

5.8.6 Regulations – Design and Location

1. Recreational development shall be located, designed and constructed to maintain, enhance, or restore scenic views, aesthetic values, and public access, as appropriate. Through the site planning and permit review process, the City may adjust and/or prescribe project dimensions or location of on-site project components, intensity of use, screening, parking requirements, and setbacks as deemed appropriate to meet the recreational needs of the project and the standards of this Program.
2. Recreational developments shall provide vehicular access and parking in accordance with Section 4.2.3, Parking, and shall provide facilities for non-motorized access to the shoreline, such as bicycle and/or pedestrian paths, as prescribed in the City’s Non-Motorized Transportation Plan.
3. Shoreline trails and pathways shall be located, designed, constructed and maintained to protect bank stability.
4. All permanent active recreational structures and facilities shall be located outside officially mapped floodplains and floodways. Passive recreation structures, such as picnic tables, benches, viewing platforms may be allowed provided mitigation is provided.
5. Substantial accessory use facilities, such as restrooms, recreation halls and gymnasiums, commercial services, across roads and parking areas, shall be set back from the OHWM according to Table 4-2. These areas may be linked to the shoreline by walkways.
6. Trails utilized for motorized vehicles, including golf carts, shall be set back two hundred (200) feet from OHWM, unless these are combined with a public access trail system. If

combined with a public access trail, trails shall be located at least one hundred (100) feet from OHWM.

7. The removal of on-site vegetation shall be limited to the minimum necessary for recreational development areas and pursuant to Section 4.1.3, Vegetation Management.
8. Recreational buildings or structures shall not be built over water, except as provided in Section 5.3, Boating Facilities, and Section 6.0, Shoreline Modification Policies and Regulations.
9. Proposals for recreational development shall include adequate facilities for water supply and sewage and garbage disposal and recycling commensurate with the intensity of the proposed use. Where sewage treatment facilities are not available, the appropriate reviewing authority shall limit the intensity of development to meet local and state on-site sewage disposal requirements. On-site sewage disposal systems shall be located landward of the development, unless not feasible due to site or development constraints and provided that the location of the on-site disposal system is consistent with requirements of the reviewing and permitting authority.
10. Recreational facilities shall incorporate appropriate mitigation to minimize light and noise impacts on adjacent and nearby public and private property through the use of screening, native vegetation, fences, signs and related measures.
11. Recreational proposals for publicly-owned shoreline parks shall provide the following:
 - a. Recreational development and activities shall provide appropriate public recreational opportunities and promote the ecological restoration of the shoreline environment. Public shoreline areas are intended to provide access to, and enjoyment and use of the water and shorelines while conserving ecological functions and processes, and protecting shoreline resources and fragile areas.
 - b. Best management practices (BMPs) and low impact development (LID) techniques shall be incorporated into the design, construction, and operation of public recreation proposals in order to reduce erosion impacts and prevent harmful concentrations of chemicals and sediments from entering water bodies and meet the standards of Section 4.1.6, Water Quality and Stormwater Management.
 - c. Educational and historical interpretation specific to the site's shoreline ecology and local history shall be incorporated into the design and operation of a public shoreline recreational development through site amenities such as interpretive signs or other amenities.

5.8.7 Regulations – Operations

1. Operation of motorized vehicles, including utility and maintenance vehicles, shall only be allowed in designated areas specifically designed for vehicular use.

2. The use of jet skis and similar recreational equipment shall be restricted in critical saltwater habitat areas.
3. A chemical management plan designed to eliminate the possibility of damage to riparian vegetation, wildlife, and surface and ground water quality shall be prepared and implemented for golf courses located in shoreline jurisdiction.
4. Recreational fires in commercial uses, public parks and common areas shall only be allowed in accordance with Fire Code regulations in Title 20.12, Burning Restrictions, and within designated barbeque\fire pits, which shall be designed and spaced to facilitate the control of fires both within recreational facilities, between adjacent properties, and on public lands.

5.8.8 Regulations – Golf Courses – Design & Location

1. Golf courses shall be a conditional use requiring both a conditional use permit and a substantial development permit in the upland shoreline designations of Island Conservancy, Residential Conservancy, Residential, and Urban designations.

5.9 Residential Development

5.9.1 Applicability

All development in the shoreline jurisdiction must comply with the Shoreline Management Act (Chapter 90.58 RCW or its successor) and the Master Program. While an individual owner-occupied, single-family residence and its “normal appurtenances” are exempt from the requirement that a Shoreline Substantial Development Permit (SSDP) be obtained from the local government (WAC 173-27-040, or its successor), it must comply with this section and other provisions of the Master Program. Subdivisions and short plats must also comply with all applicable provisions.

Residential development, when permitted by BIMC Title 18, Zoning, and this Master Program, will be reviewed under the “no net loss” provisions of Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.2, Environmental Impacts; and may also be reviewed under Section 4.1.3, Vegetation Management; Section 4.1.4, Land Modification; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater; Section 4.2.4, Public Access, 4.2.7 Utilities Primary; ~~Appendix B~~; and Accessory. Other portions of this Program may also apply.

5.9.2 Goal

Promote residential development opportunities along the shoreline that are consistent with controlling pollution and preventing damage to the natural environment, recognizing that single-family residential development is a priority use in the shoreline and that impacts to other shoreline priority uses such as, shoreline views, aesthetics, and access, should be considered and minimized.

5.9.3 Policies

1. Consider single-family residential use as a priority use in the shoreline. Develop single-family residences in a manner consistent with producing no net loss of shoreline functions or ecosystem-wide processes, and in conformance with the requirements of this Shoreline Master Program.
2. Locate residential development where there are suitable provisions for utilities, circulation and access, and require development to be designed to:
 - a. Maintain or improve shoreline ecological functions and ecosystem-wide processes to assure no net loss;
 - b. Provide building setbacks;
 - c. Be visually compatible with adjacent cultural and shoreline features, reasonable in size and purpose;
 - d. Preserve and enhance shoreline vegetation;
 - e. Protect water quality;
 - f. Control erosion and provide stormwater management; and
 - g. Preserve shoreline open space, views from the shoreline, and vistas of the shoreline, and provide ample open space in side setbacks to preserve views from both the land and water.
3. Ensure the overall density of development, location of structures and access, lot coverage, and height are consistent with Bainbridge Island Comprehensive Plan goals and policies, the provisions of BIMC Title 18, Zoning, and this Program. Development should be appropriate to the physical capabilities and characteristics of the site.
4. Restrict the development of side yards in order to preserve vegetation between developments, mitigate the effect of a “wall” of structures along the shoreline, and enhance public and private view potential.
5. When waterfront properties are divided, ensure common access to the water is provided to all resulting lots.
6. Prohibit new residential development and accessory uses from locating in critical areas including critical saltwater habitat, wetlands, steep or unstable slopes, floodways, migratory routes and marine vegetation areas.
7. Ensure existing legally established overwater residences do not increase intensity of use.
8. Configure new residential land subdivisions within the shoreline to:
 - a. Prevent the loss of shoreline ecological functions and ecosystem-wide processes at full build-out of the subdivision;

- b. Reduce the impacts to shoreline processes by preventing the need for new shoreline stabilization or flood hazard reduction measures;
 - c. Maintain waterfront areas for the common use of all property owners within the development, and,
 - d. If creating more than four lots, provide public access to the shoreline, and minimize individual docks and promote community docks.
9. Ensure new multi-family residential development provides public access to the shoreline.
 10. Promote residential development that includes measures to protect existing native vegetation and/or restore vegetation along shorelines. Conservation measures should require that residential development avoid, minimize, mitigate, or restore shoreline vegetation functions and achieve no net loss of shoreline ecological functions and ecosystem-wide processes. Vegetation conservation may include avoidance or minimization of clearing or grading, restoration of shoreline vegetation, and/or control of invasive or non-native vegetation.
 11. For new residential development and alterations to existing residential development, use non-regulatory methods when possible to protect, enhance, and restore shoreline ecological functions and ecosystem-wide processes and other shoreline resources. Such methods may include voluntary alternatives to address impacts to shoreline ecological functions and ecosystem-wide processes, low impact development techniques, voluntary protection and enhancement projects, habitat management planning, education, or other incentive programs. Such programs must be supported by current scientific and technical information, as described in WAC 173-26-201(2)(a).

5.9.4 Regulations - Prohibited

1. New overwater residential development, including floating homes.
2. New land subdivision that would require shoreline stabilization [WAC 173-26-231(3)(a)(iii)(A)].
3. Increase in intensity, including height or bulk, for any existing legally established overwater residence, or for those portions of a residence that are located over the water.
4. New accessory dwelling units in the Point Monroe District.

5.9.5 Regulations - General

1. Residential development shall be permitted in the Shoreline Residential, Shoreline Residential Conservancy, and Urban designations; shall be conditional uses in the Island Conservancy designation; and shall be prohibited in the Natural, Aquatic, and Priority Aquatic designations.

2. Multifamily development shall be permitted in the Shoreline Residential and Urban designations, and prohibited in the Shoreline Residential Conservancy, Island Conservancy and Natural designations.
3. Accessory dwelling units shall be allowed as a conditional use in the Shoreline Residential Conservancy Shoreline Residential and Urban designations and prohibited in the Point Monroe District, Natural designation, and Island Conservancy designation.
4. Land subdivision, consistent with BIMC Title 17, is permitted in the Shoreline Residential, Shoreline Residential Conservancy, and Urban designations, and shall be allowed as a conditional use in the Natural and Island Conservancy designations.
5. Residential development shall meet setback and height standards in Table 4-2 and dimensional provisions of BIMC Title 18, Zoning.
6. Residential development shall meet all provisions of the Section 4.1.2, Environmental Impacts, such that the development results in “no net loss” to shoreline environmental functions and processes.
7. The buffer dimensional requirements in Table 4-1 of this Program shall apply to residences and appurtenances, except when a site-specific analysis is provided in accordance with Section 4.1.3, Vegetation Management, or for new development proposed for the Point Monroe District, which shall meet vegetation requirements of Section 4.1.3.5(9), Vegetation Management; Special Provisions for Point Monroe District. Residential development shall retain and protect existing native vegetation, or restore and enhance native vegetation according to the Vegetation Management and Land Modification provisions of Sections 4.1.3 and Section 4.1.4.
8. Side setbacks, except in the Urban designation and the Point Monroe District, shall total at least thirty percent (30%) of the lot width. Side setback requirement for the Point Monroe District shall total at least fifteen percent (15%) of the lot width. These yards shall remain free of buildings and impervious surfaces as described below.
 - a. **Building.** The minimum side setback shall be established by BIMC Title 18, Zoning. Setbacks for each accessory building shall conform to the side setbacks required of, or established by, the primary residential building. Structures in the side setbacks may not exceed four feet in height from existing grade, except that fences on the side property line may have an additional two feet (2’) of non-screening material for a total of six feet (6’). Approved Shoreline Stabilization measures may be installed within the side setbacks.
 - b. **Impervious Surfaces.** No more than a total of two hundred (200) square feet of impervious surface is allowed in the side yard setback outside of the Shoreline Standard Buffer, Site-specific Vegetation Management Area or Point Monroe Vegetation Management Area.

- c. Average Lot Width Measurement. In determining allowed setback for this subsection, lot width shall be measured as depicted BIMC Chapter 18.12, Dimensional Standards.
- 9. All residential development shall meet BIMC Chapter 15.20, Surface and Storm Water Management, and Section 4.1.6, Water Quality and Stormwater Management of this Program.
- 10. Home occupations meeting the criteria of BIMC Title 18 shall be considered a residential use.

5.9.6 Regulations – Primary Residential Design and Location

- 1. Residential Development, except in the Point Monroe District (5.9.6 (2)) below, shall follow the provision for Shoreline Exemptions pursuant to the Shoreline Master Program Administrative Section, BIMC Section 2.16.165, and shall:
 - a. Be located and designed to avoid the need for shoreline stabilization and flood protection works for the life of the structure, as provided for in Section 6.2.9 Shoreline Stabilization; Regulations – Subdivisions and Section 4.1.7, Flood Hazard Management.
 - b. Be located and designed to protect existing ecological function in accordance with Section 4.1.2, Environmental Impacts, and Section 4.1.3, Vegetation Management, and use low impact development techniques of Section 4.1.6.6(3) to:
 - i. Minimize area of disturbance as provided in Section 4.1.4, Land Modification; and
 - ii. Minimize soil compaction; and
 - iii. Infiltrate stormwater runoff when the site is suitable for infiltration.
 - c. Provide a stormwater conveyance that is designed according to the provisions of Section 4.1.6, Water Quality and Stormwater Management.
 - d. Be located to protect existing views from primary structures on adjacent properties.
 - i. Primary Structures shall meet the provisions for structure setback line as provided in Section 4.1.3, Vegetation Management, and shall follow the provisions for Shoreline Exemption permit in the Shoreline Master Program Administration Section of BIMC Section 2.16.165.
 - e. Designed to provide a physical separation to reinforce the distinction between public and private space. Including but not limited to:
 - i. Providing vegetation screening in a landscape plan approved by the Administrator and developed in accordance with requirements in Section

4.1.3, Vegetation Management, and BIMC Section 18.15.010, Development Standards and Guidelines; Landscaping, Screening and Tree Retention, Protection, and Replacement.

- ii. Providing an open space setback recorded on plat or title; or
- iii. Fencing or other means.

2. Special Provisions for Point Monroe District – Primary and Accessory Structures.

Residential development within the Point Monroe District shall follow the provisions for Shoreline Exemption permit in BIMC 16.12 Part VII, Shoreline Master Program Administration, and shall meet provisions of subsection 5.9.6(1)(a)-(c)&(e) and the following:

- a. Each lot is permitted a development area that is intended to accommodate the primary residence, garage, accessory structure, parking and driveway that does not exceed fifty percent (50%) of the upland lot area, up to a maximum development area of fourteen hundred (1400) square feet. On-site septic systems may be located outside of this development area.
- b. All new primary structures shall be located a minimum of thirty feet (30’) from the OHWM.
- c. Stabilization and flood protection works may be allowed provided the need is demonstrated as specified in Section 6.2.8.1 or 6.2.8.2, Shoreline Stabilization, and 4.1.7, Flood Hazard Management.
- d. Overwater structures may be allowed pursuant to Sections 4.1.2, Environmental Impacts and 6.3.4, in Overwater Structures.

5.9.7 Regulations – Accessory Design and Location

- 1. Except in the Point Monroe District, accessory uses and structures proposed within the Shoreline Buffer or site-specific vegetation management areas shall meet the standards of Section 4.1.3, Vegetation Management.
 - a. Accessory structures allowed in the Shoreline Buffer in Table 4-1 shall follow the provision for a Shoreline Exemption in the Shoreline Master Program Administration, BIMC Section 2.16.165.
- 2. In the Point Monroe District accessory structures, except approved docks or shoreline stabilization, shall be located a minimum of fifteen feet (15’) from the OHWM.

5.9.8 Regulations – Residential Subdivisions (Single-Family and Multifamily, including ADU)

- 1. Subdivision of properties in water designations, Aquatic and Priority Aquatic, shall be regulated the same as the adjacent upland.

2. Land subdivision shall be designed to assure future development will not require shoreline stabilization for one hundred (100) years from date of submittal as demonstrated by a geotechnical report.
3. All new subdivisions shall provide for vegetation management to mitigate cumulative impacts of intensification of use and open space to assure establishment and continuation of a vegetation community pursuant to Section 4.1.3, Vegetation Management.
4. Accessory dwelling units are conditional uses for all lots wholly or partially within the shoreline jurisdiction.
5. New subdivisions or all multifamily residential developments shall provide a community recreation and/or open space area for the benefit of all residents or property owners in the development; provided that, such provisions shall not apply to lot line adjustment, lot consolidation, and subdivision of land into four (4) or fewer lots.
6. New subdivisions or all multifamily residential development of less than four (4) lots and shall provide a common physical or visual access for the benefit of all residents or property owners in the development, which also-meets the provisions of No Net Loss in Sections 4.1.2, Environmental Impacts. An access easement shall be recorded on the face of the plat or title report.
 - a. If one or more dwelling unit exists prior to the division of land or further residential development, the feasibility of providing a common access shall be determined by the Administrator.
7. New or altered residential developments of more than four (4) dwelling units adjacent to the waterfront, shall dedicate, improve, and maintain public access area sufficient to ensure usable access to the shoreline for all residents of the development and the general public. The amount and configuration of public access shall depend on the proposed use(s), provisions in Section 4.2.4, Public Access – Visual and Physical, and the following criteria:
 - a. Subdivisions within the shoreline jurisdiction that have views of water areas shall provide a public pedestrian viewing area.
 - b. Subdivisions adjacent to public waterways and marine waters shall provide visual and physical access to public waterways, public marine waters, and public tidelands that are physically accessible at low tide or low water.
 - c. Subdivisions subject to requirements for dedication of land to provide open space or mitigate recreation demands of the development shall dedicate such land on or adjacent to public waterways or marine shorelines, as applicable, unless the ecological sensitivity of such land precludes public access. Portions of the dedicated area may be fenced or otherwise restricted to limit public access to ecologically sensitive areas.

5.9.9 Regulations – Residential Development Overwater

1. Live-aboard vessels, shall be allowed only at marinas or in the public open water marina in Eagle Harbor in accordance with Section 5.3, Boating Facilities.
2. All subdivisions shall record a prohibition on new single use private docks on the face of the plat. Shared moorage with less than 6 slips shall meet provisions for community docks in Section 5.3, Boating Facilities. Shared moorage with six (6) or more slips shall meet provisions in Section 5.3
3. An existing overwater primary residential use may continue, and the structure may be repaired, maintained, increased in height and remodeled in accordance with Section 4.2.1, Nonconforming Uses, Nonconforming Structures, and Nonconforming Lots ~~Non-Conforming Lots, and Existing Development~~ Nonconforming Structures, Uses but the use may not be intensified and the overwater structure may not be enlarged or expanded over water.
4. The upland portion of an existing primary residential structure that is partially located over water may be repaired, maintained, remodeled or expanded to the extent allowed by this program and in accordance with Section 4.2.1. ~~6.37.2, Existing Structures~~ Residential Single-Family: Primary Structure Nonconforming Structures – Residential Single-Family: Primary Structures.

6.0 SHORELINE MODIFICATION POLICIES AND REGULATIONS

6.1 General Shoreline Modification Provisions

6.1.1 Applicability

Shoreline modifications are generally related to construction of a physical element such as residential development, a dike, bulkhead, dredged basin, pier or fill, but they can include other actions such as clearing, grading, application of chemicals, or vegetation removal. Shoreline modifications usually are undertaken in support of or in preparation for a shoreline use; for example, fill (shoreline modification) required for a ferry terminal (industrial use) or dredging (shoreline modification) to allow for a marina (boating facility use).

The provisions in this section apply to all shoreline modifications within the shoreline jurisdiction. They also apply to projects in which the chief intent is to protect the shoreline of a particular property for which the permit applies such as shoreline stabilization, flood control projects, and flood control programs. Shoreline modification proposals will be reviewed under the “no net loss” provisions of Section 4.1.2, Environmental Impacts; Section 4.0, General (Island-wide) Policies and Regulations; and may also be reviewed under Section 4.1.3, Vegetation Management; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater Management; Section 4.1.7, Flood Hazard Management; **Appendix B**; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

6.1.2 Goal

Manage shoreline modifications and flood protection to avoid, minimize or mitigate adverse impacts and assure that individually and cumulatively, shoreline modifications do not result in a net loss of ecological function.

6.1.3 Policies

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

4. Give preference to those types of shoreline modifications that have a lesser impact on ecological functions and ecosystem-wide processes. Require mitigation of identified impacts resulting from shoreline modifications.
5. Plan for the enhancement of impaired ecological functions and ecosystem-wide processes where feasible and appropriate while accommodating permitted uses. As shoreline modifications occur, incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes
6. Avoid and reduce significant ecological impacts according to the mitigation sequence in Section 4.1.2.6.
7. Ensure shoreline modification projects provide for long-term multiple use and shoreline public access, where appropriate.
8. Ensure natural features such as snags and stumps which support fish and other aquatic systems, and which do not intrude on navigational uses or threaten other permitted uses, are left undisturbed except in cases of an approved beach stabilization project.

6.1.4 Regulations – Prohibited Uses

1. Shoreline modifications in or adjacent to wetlands (located in both the upland and the shoreline jurisdiction) and in salmon and trout spawning areas, except for fish or wildlife habitat enhancement.
2. Beach enhancement when it interferes with the normal public use of the navigable waters of the state.
3. Shoreline Modification located on feeder bluffs, except when the area is already developed with a primary residential structure, an essential public facility or transportation facility, in which case stabilization may be allowed pursuant to the provisions in Section 6.2, Shoreline Stabilization.

6.1.5 Regulations - General

1. A pre-application meeting shall be required prior to submitting an application for a replacement, repair or new shoreline modification project.
2. All shoreline modification activities must 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, except shoreline stabilization may be allowed as a shoreline use provided it can be demonstrated that it is necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.
3. All applicable federal and state permits, including the Army Corps of Engineers and the Washington Department of Fish and Wildlife, Washington Department of Natural Resources shall be obtained and complied with in the construction and operation of shoreline stabilization and flood protection works.

4. All new development activities, including additions to existing structures, shall be located as allowed in Section 4.1.5.7, ~~Regulations—Geologically Hazardous Areas or Appendix B~~, and located or designed to prevent the need for shoreline stabilization for the life of the development or one hundred (100) years, whichever is greater.
5. All new, replacement, and repair modification activities shall be limited to the minimum footprint necessary to protect an allowed primary structure or legally existing shoreline use.
6. All applications for new, replacement and repair modification activities shall examine and implement alternatives as specified in their specific use sections.
7. All applications for new, replacement and repair modification activities shall be designed, located, sized, and constructed to assure no net loss of ecological functions and processes pursuant to Section 4.1.2, Environmental Impacts.
8. Shoreline stabilization shall be designed in a manner that minimizes:
 - a. Scouring of the beach at the toe of the structure; and
 - b. Erosion of the waterward beach; and
 - c. Impact to adjacent properties; and
 - d. The need for mitigation measures.
9. Upon project completion, all disturbed shoreline areas shall be restored and replanted pursuant to Section 4.1.2.5, Regulations – Revegetation Standards.
10. Publicly financed or subsidized works should provide for long-term multiple use and public pedestrian shoreline access.

6.2 Shoreline Stabilization

6.2.1 Principles

Shorelines are by nature unstable, although in varying degrees. Erosion and accretion are natural processes that provide ecological functions and thereby contribute to sustaining the ecology of the shoreline. Human use of the shoreline has typically led to hardening of the shoreline for various reasons including, reducing erosion, providing useful space at the shore, or for access to docks and piers. The impacts of hardening on any one property may be minimal, but cumulatively the impact of this type of shoreline modification is significant.

Shoreline hardening typically results in adverse impacts to shoreline ecological functions and habitat degradation, such as:

- Starvation and/or impoundment of beach sediment which diminishes longshore sediment transport;
- Loss of shoreline vegetation and large woody debris;

- Ground water and hydraulic impacts; and
- Exacerbation of erosion.

There are nonstructural and structural methods of shoreline stabilization. Nonstructural methods include building setbacks, relocation of the structure to be protected, groundwater management, and planning and regulatory measures to avoid the need for structural stabilization. Structural stabilization methods can be “hard” or “soft”. “Hard” structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while “soft” structural measures rely on less rigid materials, such as bioengineering vegetation or beach enhancement. Generally, the harder the construction measure the greater the impact on shoreline processes, such as sediment transport, geomorphology, and biological functions.

The range of non-structural and structural measures varying from soft to hard:

“Soft”

- Upland drainage control;
- Vegetation enhancement;
- Beach enhancement;
- Bioengineering measures;
- Anchor trees; and
- Gravel placement.

“Hard”

- Rock revetments;
- Gabions;
- Groins (rock or concrete);
- Retaining walls and bluff walls;
- Bulkheads; and
- Seawalls.

6.2.2 Applicability

Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures resulting from natural processes, such as currents, flood tides, wind, or wave action. These actions include structural and nonstructural methods. Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, and planning and regulatory measures to avoid the need for structural stabilization. The provisions of this section apply to the construction, replacement and repair of structures intended to stabilize shorelines for protection of primary structures and

primary appurtenances from shoreline erosion caused by wind, waves, and currents. For this section, repair, replacement and new stabilization are defined in Section 8.0, Definitions. Even when exempt from the shoreline substantial development process, however, these structures must comply with all applicable Master Program regulations. A statement of exemption, shoreline conditional use, or shoreline substantial development permit must be obtained from the City before commencing construction of any shoreline stabilization. All proposed shoreline stabilization will be reviewed under the “no net loss” provisions of Section 4.1.2, Environmental Impacts; Section 4.0, General (Island-wide) Policies and Regulations; Section 4.2.1 **Non-Conforming Development Nonconforming Uses, Nonconforming Structures, and Nonconforming Lots**; Section 6.1, Shoreline Modification and may also be reviewed under Section 4.1.3, Vegetation Management; Section 4.1.5, Critical Areas; Section 4.1.6, Water Quality and Stormwater Management; **Appendix B**; and BIMC Chapter 15.18, Land Clearing, when applicable. Other portions of this Program may also apply.

6.2.3 Policies

1. Discourage shoreline stabilization, particularly “hard” structural stabilization, through application of appropriate shoreline designations, development standards, and public education.
2. Design, locate, size and construct new, repaired or replacement shoreline stabilization to minimize and mitigate adverse impacts on shoreline ecological functions and shoreline ecosystem-wide processes. An evaluation of the proposal should consider causes and effects of erosion, including upland erosion, and beach dynamics, such as sediment conveyance, geo-hydraulic processes and ecological relationships, and address these on a reach-specific basis.
3. Design and locate new development, including the creation of new lots, in a manner that prevents the need for shoreline stabilization and armoring.
4. Permit structural shoreline stabilization only when it has been demonstrated that shoreline stabilization is necessary for the protection of existing legally established primary structures, principal uses or public improvements in danger of loss, and when it can be demonstrated that there are no alternative options to the proposed shoreline stabilization that have less impact on the shoreline environment.
5. Allow existing “hard” shoreline stabilization structures to be replaced if there is a demonstrated need to protect the principal use or primary structure from erosion and the replacement structure is designed, located, sized and constructed to assure no net loss of ecological functions and ecosystem-wide processes.
6. Give preference to those types of shoreline stabilization that have a lesser impact on ecological functions and ecosystem-wide processes. To protect ecological functions and ecosystem-wide processes, alternatives to shoreline stabilization should be considered and be based on the following sequencing of solutions:

- a. Avoidance (allow the shoreline to retreat naturally, increase building setbacks or relocate structures);
 - b. Flexible defense works constructed of natural materials including, “soft” shore protection, bioengineering, beach nourishment, protective berms or vegetative stabilizations;
 - c. Combination of “soft” and structural “hard” shoreline stabilization or hybrid design measures, which excludes structural stabilization below the ordinary high water mark;
 - d. “Hard” structural stabilization or rigid works constructed of artificial materials, such as riprap or concrete;
7. Select materials used for construction of shoreline stabilization for long term durability, ease of maintenance and compatibility with local shore features, including aesthetic values and flexibility for future uses.
 8. Ensure that publically financed or subsidized shoreline stabilization 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 or ecosystem-wide processes. Where feasible, incorporate ecological restoration and public access improvements into the project.
 9. Avoid shoreline stabilization that is constructed waterward of feeder bluffs.
 10. Encourage neighboring property owners within an entire drift cell or shoreline reach to coordinate planning and development of shoreline stabilization or other solutions to avoid erosion of down-drift properties and to address ecological and geo-hydraulic processes, sediment conveyance, and beach management.
 11. Where feasible, remove any failing, harmful, unnecessary or ineffective structures and restore shoreline ecological functions and ecosystem-wide processes consistent with the priorities of an ecosystem-wide restoration plan, and replace structures using shoreline stabilization measures that result in less impact to ecological functions and ecosystem-wide processes.
 12. Encourage non-structural stabilization using non-regulatory methods to protect, enhance and restore shoreline ecological functions and ecosystem-wide processes, and other shoreline resources. Non-regulatory methods should include incentive programs to utilize low impact development techniques and encourage habitat/resource planning, voluntary enhancement and restoration projects, or programs that provide technical assistance and education to shoreline property owners.
 13. Promote shoreline stabilization that incorporates beach restoration or enhancement in accordance with the restoration provisions of Section 4.1.8, Shoreline Restoration and Enhancement, and this Program.

6.2.4 Regulations – Prohibited

1. Gabions, groins, vertical, concave, and flat (hard) faced structures not including near-vertical rock riprap bulkheads in shoreline stabilization construction. Sheet pile style hard stabilization may be allowed for remediation and hybrid shoreline stabilization projects in accordance with Section 6.2.5.
2. Revetments for any purpose unless part of a public facilities project.
3. Construction of a bulkhead, revetment, or other structure for the purpose of retaining a landfill or creating dry land; unless it is proposed in conjunction with an approved commercial or industrial water-dependent use or public use.
4. Shoreline stabilization proposed on shores where valuable geo-hydraulic or biological processes are sensitive to interference or critical to shoreline conservation, such as: feeder bluffs; barrier estuaries, barrier lagoons, wetlands; or accretion shore forms such as sand spits, hooks, bars, or barrier beaches. Except that stabilization proposals to protect a primary single-family residence, primary appurtenance or primary public or transportation facilities, may be allowed on feeder bluffs and spits provide provisions of this Program are met.
5. The use of hard structural stabilization or the hard portions of hybrid stabilization intended to protect a vacant platted lot or to protect a developed lot where a primary structure or primary appurtenance is not in danger from erosion as demonstrated through a geotechnical report.
6. Stabilization that would cause significant impacts to adjacent or down current properties.

6.2.5 Regulations - General

1. All shoreline stabilization proposals shall meet applicable provision of Section 6.1, Shoreline Modifications, and assurance of no net loss of ecological functions and processes, Section 4.1.2, Environmental Impacts.
2. Soft-treatment stabilization shall be used to the maximum extent feasible.
3. New or replacement shoreline stabilization measures are a conditional use for the following:
 - a. Proposed shoreline stabilization is adjacent to a feeder bluff.
 - b. The nearest adjacent existing shoreline stabilization is greater than one hundred (100) feet of the subject property.
 - c. Sheet pile style hard stabilization may be used in:
 - i. Remediation projects to contain contaminated soils or sediments when demonstrated to the satisfaction of the Administrator to be the most appropriate solution; or

- ii. Hybrid stabilization when used as a stop-gap measure at or near extreme high water.

6.2.6 Regulations – Location and Design of Shoreline Stabilization

1. Shoreline stabilization shall not be approved in any known or probable midden site without the written permission of the Director of the State Office of Archaeology and Historic Preservation (the State Historic Preservation Officer) (RCW 27.53.060 or its successor).
2. On all shorelines, hard structural stabilization or hard portions of hybrid stabilization shall be located landward of the OHWM. Other structural stabilization shall be located landward of protective berms (artificial or natural), and generally parallel to the natural shoreline except as allowed below:
 - a. On high bluffs where no other shoreline stabilization structures are adjoining, hard structural stabilization or hard portions of hybrid stabilization shall be as close to OHWM as feasible to accommodate the design of the shoreline stabilization. However, a revetment footing may extend waterward only the minimum extent necessary to dissipate wave energy.
 - b. Shoreline stabilization shall connect flush with existing stabilization on adjoining properties, except when the action will create dry land, in which case the location requirements of the above shall apply.
 - c. Soft-treatment stabilization may be permitted waterward of the OHWM if the stabilization measures provide restoration of shoreline ecological functions and processes.
3. Hard structural stabilization, including hard portions of hybrid stabilization, shall be limited to the areas of the site where the stabilization is demonstrated to be necessary, according to Section 6.2, Shoreline Stabilization.
 - a. When allowed on feeder bluffs, hard structural stabilization, including hard portions of hybrid stabilization shall be located landward of the OHWM.
 - b. Hard structural stabilization, including hard portions of hybrid stabilization located in a shoreline area that does not include a feeder bluff, shall be constructed landward of the ordinary high water mark and shall follow the natural contours of the shoreline; unless it is demonstrated to the satisfaction of the Administrator to be infeasible to locate the entire hard structural stabilization landward.
4. Replacement stabilization structures may be constructed in the same location if placement landward of OWHM is infeasible as demonstrated to the satisfaction of the Administrator.

5. Shoreline stabilization shall be designed to allow the passage of surface or ground water without causing ponding or saturation of retained soil materials and meet the following design criteria:
 - a. The size and quantity of the material shall be limited to only that necessary to withstand the estimated energy intensity of the hydraulic system;
 - b. Filter cloth or adequate smaller filter rock shall be used to aid drainage and help prevent settling; and
 - c. Provide adequate toe protection to ensure future mitigation or hard structural stabilization measures are not required.
6. Revetments shall be sited and designed consistent with appropriate engineering principles. Professional, geologic, site studies or design shall be required.
- 7- When a hard structure is required at a public access site, provision for safe access to the water shall be incorporated into the design for stabilization.
8. Stairs or other permitted upland structures may attach to existing hard structural stabilization, but shall not extend waterward, unless it is demonstrated to the satisfaction of the Administrator to be infeasible to locate the entire stairway landward.
9. Overwater structures may attach to existing hard structural stabilization.
10. Hard shoreline stabilization construction shall utilize stable, non-erosion prone, homogeneous materials such as concrete, wood, rock riprap, or other suitable materials which will accomplish the stabilization needs with the maximum preservation of natural shoreline characteristics. See Section 4.1.6, Water Quality and Stormwater Management for additional provisions related to material.

6.2.6.1 Regulations – Location Specific for Replacement of Hard Structural Stabilization

1. Replacement of hard structural stabilization shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the primary structure requiring protection was constructed prior to January 1, 1992, and there is overriding safety or environmental concerns if the stabilization measure is moved landward of the OHWM. In such cases, the replacement structure shall be constructed to abut the existing shoreline stabilization structure. All other replacement structures shall be located landward of the existing shoreline stabilization structure.

6.2.7 Regulations – Repair of Existing Shoreline Stabilization

1. The Administrator shall allow repair or maintenance of soft-treatment stabilization.
2. Repair of existing structural stabilization shall be allowed as follows:

- a. Existing shoreline stabilization which no longer adequately serves its intended purpose shall be considered a replacement.
- b. Damaged structural stabilization may be repaired up to fifty percent (50%) of the linear length within a Five (5) year period. Repair area that exceeds fifty percent (50%) shall be considered a replacement. Stabilization repair applications shall consider cumulative approvals of each successive application within a five year period
- c. Stabilization repairs may require mitigation pursuant to Section 4.1.2, Environmental Impacts.

6.2.8 Regulations – New or Replacement Shoreline Stabilization

1. When evaluating the need for new, expanded or replacement stabilization measures, the applicant shall provide an analysis from a qualified professional that examines and implements preferred alternatives in the following sequence:
 - a. No action (allow the shoreline to retreat without intervention).
 - b. Non-structural measures such as vegetation enhancement or addressing upland drainage concerns.
 - c. Increase building setbacks and/or relocate structures to a feasible location and/or elevate the structures.
 - d. Implement flexible/natural materials and methods, beach nourishment, protective berms, bioengineered stabilization or other soft-treatment measures.
 - e. Hybrid structure.
 - f. Exclusively hard stabilization materials.
2. An analysis for these alternatives shall be submitted with each replacement or new stabilization application.
3. Point Monroe District properties shall also meet provisions in Section 6.2.8.3, Specific Regulations for Point Monroe District.

6.2.8.1 Specific Regulations: Replacement of Existing Structural Stabilization

1. Replacement of existing structural stabilization is allowed to protect public transportation infrastructure, essential public facilities, and primary structures when all the following apply:
 - a. The replacement is located landward of OHWM, unless demonstrated to the satisfaction of the Administrator to be infeasible, then it may be located in the same location, except as provided in subsection (3), below; and

- b. The danger of loss or substantial damage from shoreline erosion is caused by tidal action, current, and waves rather than landslides, sloughing or other forms of shoreline erosion unrelated to water action at the toe of the slope and such has been identified through a geotechnical report except as provided in subsection (c), below; and
 - c. A geotechnical report demonstrates a need to protect the primary structure and primary appurtenance from danger of loss or substantial damage within five (5) years due to shoreline erosion, (b) above, in the absence of hard structural stabilization; except the following is not required to identify danger of loss or substantial damage through a geotechnical report:
 - i. An existing primary single-family residence located within ten feet (10') or less from the OHWM; or
 - ii. An existing primary single-family residence located within ten feet (10') or less from the top of a high bluff (greater than fifteen feet (>15))~~(top of bluff as defined in Appendix B)~~; or
 - iii. An existing primary single-family residence located with the Point Monroe District may use the *Spit Science Summary – Point Monroe*, Herrera Environmental, 2012, to substitute for a site-specific geotechnical report.
 - d. The replacement structure is designed, located, sized and constructed to assure no net loss of ecological functions and processes; and
 - e. Hard structural shoreline stabilization, including hard partitions of hybrid stabilization, is limited to the 'zone of impact' for protecting a primary structure and its primary appurtenances. See Section 8.0 for 'zone of impact' definition.
2. When a geotechnical report confirms a need to prevent potential loss of or damage to a primary structure, but the need is not as immediate as five (5) years, the report may be used to justify more immediate authorization to protect against erosion using soft-treatment stabilization or hybrid structural measures.

6.2.8.2 Specific Regulations: New Shoreline Stabilization

- 1. The City may approve new or enlarged structural stabilization measures to protect non-water-dependant public transportation infrastructure, essential public facilities, and primary structures when all the following apply:
 - a. The danger of loss or substantial damage from shoreline erosion is caused by tidal action, current, and waves rather than landslides, sloughing or other forms of shoreline erosion unrelated to water action at the toe of the slope and such has been identified through a geotechnical report except as provided in subsection (b), below.

- b. A geotechnical report demonstrates there is significant possibility that the primary structure or primary appurtenance structures will be damaged within three (3) years as a result of shoreline erosion, (a) above, in the absence of hard structural stabilization measures; except the following is not required to identify danger of loss or substantial damage through a geotechnical report:
 - i. an existing primary single-family residential structure located within ten feet (10') or less from the OHWM; or
 - ii. An existing primary single-family residential structure located within ten feet (10') or less from the top of a high bluff (greater than fifteen feet (>15)~~(top of bluff as defined in Appendix B)~~).
 - c. The new or expanded structure is designed, located, sized and constructed to assure no net loss of ecological functions and/or processes; and
 - d. Hard structural shoreline stabilization, including hard portions of hybrid stabilization, is limited to the 'zone of impact' for protecting a primary structure and/or its primary appurtenances.
2. Where a geotechnical report confirms a need to prevent potential loss of or damage to a residential primary structure, but the need is not as immediate as three (3) years, the report may be used to justify more immediate authorization to protect against erosion using soft-treatment structural measures.

6.2.8.3 Specific Regulations for the Point Monroe District

1. New foundations and redevelopment of existing foundations that impede the natural overwash process with the Federal Emergency Management Administration (FEMA) flood zone are considered flood protection works and shall meet provisions in Section 5.9, Residential Development.
2. New hard shoreline stabilization measures are prohibited in Area I, II, and IV of the Point Monroe District, as depicted in the Point Monroe District Map in Appendix E.
3. A conditional use permit shall be required for hybrid structural stabilization within Area III of the Point Monroe District, as depicted in the Point Monroe District Map, Appendix E.

6.2.9 Regulations – Subdivisions

1. Land subdivision shall be designed to assure future development will not require shoreline stabilization for the next one hundred (100) years from date of building permit approval as demonstrated by a geotechnical report.

6.2.10 Submittal Requirements for Shoreline Stabilization Project Applications

1. In addition to the general submittal requirements for all applications specified in BIMC Section 2.16.020(H), the following shall be submitted to the City. Applications for repair of existing stabilization will be required to submit only the first six (6) items. The Administrator may waive some or all of the following based on specific project requirements:
 - a. Purpose of the project including a calculation that demonstrates the amount proposed to be repaired and past amounts repaired and a summary of replacement and/or repair materials proposed; and
 - b. Plan and cross section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWM, including an indication of the amount of area proposed to be repaired; and
 - c. Documentation of pre-construction shoreline characteristics; and
 - d. Description of physical, geological and/or soil characteristics of the site including existing and proposed slope profiles; and
 - e. A description of any waste and debris disposal sites for materials generated during construction; and
 - f. For repair of shoreline stabilization, the design recommendations for minimizing impacts and ensuring the new construction, replaced or repaired stabilization measure is designed, located, sized and constructed to assure no net loss of ecological functions and processes; and
 - g. Examination and implementation of alternatives in the order of preference as described in Section 6.2.8, Specific Regulations: Replacement of Existing Structural Stabilization, including a description of cost, mitigation cost, maintenance needs and success in protecting the primary structure; and
 - h. Existing shoreline stabilization within the reach of the proposed project; and
 - i. Any outreach efforts to coordinate with property owners within the shoreline reach to address an ecosystem-wide restoration plan; and
 - j. A description of any waste and debris disposal sites for materials generated during construction; and
 - k. A discussion of the cause of shoreline erosion including assessment of ecosystem-wide processes occurring both waterward and landward of the OHWM and an analysis of on-site and/or adjacent upland drainage.
 - l. Impact analysis and mitigation report as specified by Section 4.1.2, Environmental Impacts; and

- m. Geotechnical report including the estimated rate of erosion and eminent danger within the time threshold as provided in Section 6.2 and the following:
 - i. Proof of a geotechnical design of the structural stabilization; and
 - ii. Washington State licensed civil engineer with a specialty in coastal engineering or a qualified Washington State licensed geologist with a specialty in coastal geology and a qualified marine habitat biologist shall evaluate the cumulative effects of stabilization methods within a drift cell; and
 - iii. Maintenance, Monitoring and Planting Plan as required by Section 4.1.2, Environmental Impacts.

6.3 *Overwater Structures*

6.3.1 *Applicability*

Uses which may employ a pier or dock are subject to the provisions herein as well as to the provisions contained in Section 5.0, Specific Shoreline Use and Development Policies and Regulations. Single use, community, or joint-use docks which provide moorage for six (6) or more vessels also must comply with the provisions of Section 5.3, Boating Facilities.

Pursuant to RCW 90.58.030(3)(e)(vii), or its successor, and WAC 173-27-040(2)(h), or its successor, certain activities are exempt from obtaining a Shoreline Substantial Development Permit (SSDP). For the benefit of the lot owner, surrounding properties, and water body users, the City will review all proposals for piers and docks to determine whether:

1. The proposal is or is not exempt from the requirements for a shoreline permit;
2. The proposal is suitably located and designed and that all potential impacts have been recognized and mitigated; and
3. The proposal is consistent with the intent, policies, and regulations of the Act (RCW 90.58.140(1) or its successor) and this Program.

Activities that are exempt from a shoreline substantial development permit must still meet the provisions of the Master Program. A pier, dock or float associated with a single-family residence is considered a water-dependent use provided that it is designed and intended as a facility for to tie up watercraft. Overwater structure activities will be reviewed under the “no net loss” provisions of Section 4.1.2, Environmental Impacts and Section 4.0, General (Island-wide) Policies and Regulations; Section 4.4.1 Shorelines of Statewide Significance, and may also be reviewed under Section 4.1.5, Critical Areas; and Section 4.1.6, Water Quality and Stormwater Management, ~~and Appendix B, when applicable~~. Other portions of this Program may also apply.

6.3.2 Goal

Limit the number and size of piers, docks, and floats to the extent necessary to accommodate the proposed use and avoid adverse impacts to shoreline ecological functions and ecosystem-wide processes. Allow overwater structures only when part of a permitted water-dependent use or for public access. Ensure consistency with federal and state regulations.

6.3.3 Policies

1. Encourage multiple-use and expansion of existing conforming piers, docks, and floats over the addition of new facilities. Joint-use facilities are preferred over new, single-use piers, docks and floats.
2. Mooring buoys are preferred to either piers or docks. Locate and design buoy installation to avoid or minimize adverse impacts on ecological functions and ecosystem-wide processes.
3. Locate and design piers, floats, and docks to avoid and minimize possible adverse impacts on ecological functions and ecosystem-wide processes, including fish and wildlife habitat, and impacts to ecosystem-wide shoreline processes such as littoral drift and sand movement. Ensure that piers, floats and docks are:
 - a. Designed in consideration of the proposed intensity of use, the shoreline characteristics, tidal action, aesthetics and minimization of impacts to adjacent land and public use of the waters of the state.
 - b. Prohibited at locations where physical limitations exist, such as shallow, sloping tidelands bottoms; high littoral drift areas; landslide-prone areas and/or feeder bluffs.
 - c. Designed and maintained to mitigate adverse impacts to the environment such as eelgrass beds and fish habitats, shoreline aesthetics, and water quality, and to minimize interference with navigable waters and the public's use of the water and shoreline. Design considerations should:
 - i. Limit pier and float length & width to extent necessary for the intended use;
 - ii. Provide functional grating for light penetration;
 - iii. Configure pier and float orientation to minimize shading;
 - iv. Prohibit auxiliary structures on piers and floats;
 - v. Provide a mechanism to prevent floats from resting on tidelands;
 - vi. Encapsulate floatation to prevent to breakup and loss of material; and
 - vii. Use a site-specific distance between piles to avoid adverse impacts to salt water critical habitat.

- d. Designed, constructed, and maintained to provide a reasonable level of safety to users.
4. Encourage proponents of commercial pier, float, and dock projects to provide for public docking, launching, or recreational access.
5. Encourage the development of public docks with floats at appropriate road-end locations. Local programs and coordinated efforts among private and/or public agencies should be initiated to develop new public access docks, and to remove or repair failing, hazardous, or nonfunctioning piers and docks and restore such facilities and/or shore resources to a natural and/or safe condition.
6. Encourage the use of natural materials in pier and dock construction. Chemical wood treatments, such as creosote or pentachlorophenol are prohibited on all new structures or repair projects. Plastics and other non-biodegradable materials may be used; however, precautions should be taken to ensure their containment as provided in Section 4.1.6, Water Quality and Stormwater Management.
7. Implement an education program for boat owners and operators on best management practices for use of boat and overwater structure maintenance products.
8. Limit the development of new docks and piers in harbors and encourage public docks and private community docks, except that in Blakely Harbor:
 - a. New docks shall be prohibited between Restoration Point and the most eastern point along the north shore of Blakely Harbor; except
 - i. Two community docks should be allowed, one along each the north and south shores, provided that all residents along each shore are provided a non-extinguishable option to access the community dock located along their respective shore; and
 - ii. One small public dock and/or pier for the mooring of dinghies and loading or unloading of vessels should be allowed for daytime use.

6.3.4 Regulations - Prohibited

1. Overwater structures in the Priority Aquatic designations and adjacent to the Natural designation except:
 - a. New individual, community or joint-use residential docks or piers are permitted in the Priority Aquatic B designation, only in areas where salt marsh vegetation, such as pickleweed (*Salicornia* sp.), does not exist.
 - b. Two mooring buoys per parcel are allowed for public access when upland property is owned by a public entity.
2. Overwater Structures at locations where critical physical limitations exist, such as shallow sloping tidelands with gradients of 3% or less; or areas mapped for high levels

of accretion; or geological hazardous areas located outside of harbors and/or feeder bluffs, except when specifically allowed in Section 4.2.4, Public Access – Visual and Physical, or Section 5.3, Boating Facilities.

3. Development of new docks and piers within all shoreline designations within Blakely Harbor between Restoration Point and the most eastern point along the north shore of Blakely Harbor (sometimes referred to as “Pigott Point” or “Jasmine Point”), except as provided in this section.
4. New docks and piers within Murden Cove as shown on the Shoreline Designation Map.
5. New boat houses and/or new covered moorage on either existing or new piers or docks.
6. Hydraulic water jets cannot be used to remove piling.
7. Use of arsenate compounds or creosote-treated members.
8. Over-water field applications of paint, preservative treatment, or other chemical compounds, except in accordance with best management practices set forth in the Boating Facility section of the Master Program or when allowed by a current National Pollution Discharge Elimination System (NPDES) permit from the Department of Ecology.
9. Bulk storage for gasoline, oil and other petroleum products for any use or purpose on piers and docks. Bulk storage means non-portable storage in fixed tanks.

6.3.5 Regulations - General

1. Except for the provisions contained in this chapter, new piers and docks shall be a permitted use in the Urban, Shoreline Residential, and Aquatic designations, and shall be a conditional use in the Shoreline Residential Conservancy and Island Conservancy designations.
2. Mooring buoys are a preferred use, over docks, where feasible.
3. Piers and docks shall be located and designed to minimize interference with the use of navigable waters and may be limited in length or prohibited, where necessary, to protect navigation, public use, or habitat values including critical saltwater habitat.
4. If a bulkhead-like base is proposed for a fixed pier or dock the base shall be built landward of the ordinary high water mark or protective berg and is considered shoreline stabilization and must meet provisions of Section 6.2 Shoreline Stabilization.
5. Structures on piers and docks shall be strictly limited in size to avoid impacting shoreline views.
6. Piers and docks shall require a building permit and shall meet standards set by the building official, except public ferry terminals as part of the state highway system.
7. Lighting shall:
 - a. Satisfy the provisions of BIMC 18.15.040;

- b. Be the minimum necessary, or as required by the Coast Guard, to locate the dock at night; and
 - c. Should minimize glare.
8. Mitigation requirements of Section 4.1.2, Environmental Impacts, may be met through mitigation standards for the United States Army Corps of Engineers (USACE) permit process.
 9. New docks and piers shall be allowed only for water-dependent uses or public access. As used here, a dock associated with a single-family residence is a water-dependent use and may be permitted, provided that it is designed and intended as a facility for access to watercraft and otherwise complies with the provisions of the Act and this Program.
 10. Piers and dock construction shall adhere to Fish Window provisions found in WAC 220-110 by the Washington Department of Fish and Wildlife

6.3.6 Regulations – Location, Design and Construction Standards – Pier, Dock, Float

1. A single use dock consists of pier, ramp, float, and one boat lift. An additional boat lift may be added per dwelling unit for joint-use docks.
2. When plastics or other non-biodegradable materials are used in float, pier, or dock construction, precautions shall be taken to ensure their containment.
3. Overhead wiring or plumbing is not permitted on overwater structures.

6.3.7 Regulations – Specific

6.3.7.1 Piling Regulations

1. Principle: Piles are physical barriers to fish migration and have the potential to leach contaminants into aquatic and nearshore environments. Piling installed close together can cause floating debris to accumulate, which can lead to increased shading and predator protection. The fewest number of pilings necessary should be installed and spacing between piling should be maximized. Projects must be designed to minimize abrasion between the pier, ramp and float caused by tidal fluctuations because this can result in the deposition of contaminants into the water and over time will cause a loss of structural integrity requiring additional maintenance by the applicant.
 - a. Replacement or new piling shall be steel, concrete, plastic or untreated or approved treated wood, if approved by USACE. Any piling subject to abrasion (and subsequent deposition of material into the water) must incorporate design features to minimize contact between all of the different components of overwater structures during all tidal elevations.

- b. New piling associated with a new pier, except large water-dependent ferry terminals, must be spaced at least twenty feet (20') apart (lengthwise along the structure) unless the length of structure itself is less than twenty feet (20'). If the structure itself is less than twenty feet (20') in length, piling can only be placed at the ends of the structure. Piles in forage fish spawning areas need to be spaced at least forty feet (40') apart.
- c. If the project includes the replacement of existing piling, they should be either partially cut with a new piling secured directly on top, fully extracted, or cut 2-feet below the mudline. If treated piling are fully extracted or cut, the holes or piles must be capped with clean, appropriate material.
- d. A maximum of two moorage pilings may be installed to accommodate the moorage of boats exceeding the length of the floats.
- e. Piles, floats, or other components in direct contact with water shall not be treated or coated with biocides such as paint or pentachlorophenol. In saltwater areas characterized by shellfish populations or in shallow embayments with poor flushing characteristics, untreated wood, used pilings, precast concrete, or other nontoxic alternatives shall be used. In all cases where toxic-treated products are allowed, products, methods of treatment, and installations shall be limited to those that are demonstrated as likely to result in the least possible damage to the environment based on current information.
- f. Piling employed in piers or any other structure shall have a minimum vertical clearance of 18 inches above extreme high water.

6.3.7.2 Pier Regulations

1. Principle: In the Puget Sound, the intertidal and sub-tidal substrate supports a complex web of plant and animal species. Juvenile salmon, called “salmonids,” young and adult bull trout, and juvenile rockfish use nearshore marine areas for feeding, rearing, and as migratory corridors. Their predators are generally located in deeper waters that young fish tend to avoid. As they mature they become less dependent on shallow areas and begin preying on forage fish, many of which spawn on the intertidal substrate around eelgrass, kelp beds and macroalgae. Piers create shadows that can impact the viability of marine vegetation that require sunlight to grow. This subsequently adversely impacts the habitat of fish that so many other species (including human beings) rely upon. In addition, large shaded areas provide cover for predators so for these reason the amount of shade created by piers must be minimized.
 - a. The width of the modified portion of a pier or proposed new pier must not exceed four (4) feet for single use or six (6) feet for joint use. Pier width for marinas or public use docks may exceed these restrictions if they provide mitigation, which may include artificial lighting under the pier during daytime hours.

- b. Functional grating resulting in a total open area of a minimum of thirty percent (30%) must be installed on all new or replacement piers that are four to six feet (4-6') wide. For example, this can be achieved by installing grating with sixty percent (60%) open area on at least fifty percent (50%) of the pier or by grating a larger percentage of the pier with grating with openings of less than sixty percent (60%). Site conditions may require pier to be one hundred (100%) or fully grated.
- c. For all sections of the pier that span upper intertidal areas with obligate vegetation, that pier section shall be fully grated with grating having sixty percent (60%) open area.

6.3.7.3 Float Regulations

1. Principle: Sharp shadows cast by floats and float tubs have been shown to discourage salmonids and other young fish from passing underneath, forcing them into deeper water where their chance of being preyed upon is increased and water temperature and conditions are different. In the case of rockfish, they give birth to live larval young that spend several months being passively dispersed by tidal fluctuations, as they mature they move out to deeper water but initially are at a high risk of predation. Manmade shade creates artificial pockets of opportunity for the predators of young fish and unlike the shade from overhanging vegetation the negative impacts outweigh the benefits. Finally, to prevent damage to the substrate, benthic invertebrate communities and vegetation, floats should not rest on substrate low tide and should be fully encased to prevent the deterioration and dispersion of floatation materials.
 - a. For a single-use structure, the float width must not exceed eight (8) feet and the float length must not exceed thirty feet (30'). Functional grating must be installed on at least fifty percent (50%) of the surface area of the float.
 - b. For a joint-use structure, the float width must not exceed eight (8) feet and the float length must not exceed sixty feet (60'). Functional grating must be installed on at least fifty percent (50%) of the surface area of the float.
 - c. To the maximum extent practicable, floats must be installed with the length in the north-south direction.
 - d. If the float is removed seasonally, the applicant needs to indicate this in their application along with the proposed storage location. Floats should be stored above mean high/high water/ordinary high water line at a City approved location. City authorization may be required if the float will be stored within City jurisdiction (even within a marina).
 - e. Flotation for the float shall be fully enclosed and contained in a shell (e.g., polystyrene tubs not shrink wrapped or sprayed coatings) that prevents breakup or loss of the flotation material into the water and is not readily subject to damage by

ultraviolet radiation and/or abrasion caused by rubbing against piling and/or waterborne debris.

- f. Flotation components shall be installed under the solid portions of the float, not under the grating.
- g. If the float is positioned perpendicular to the ramp, a small float may be installed to accommodate the movement of the ramp due to tidal fluctuations. The dimensions of the small float cannot exceed six (6) feet in width and ten (10) feet in length.

6.3.7.3.1 Float Stop Regulations

1. Principle: Floats need to be above the substrate, the preferred and least impacting option is to suspend the float above the substrate by installing float stops on pilings designed to anchor floats, installing a few stub pilings, or in certain situations it could be appropriate to install float feet. In all cases, the stops must be able to fully support the entire float during all tidal elevations.
 - a. Floats need to be suspended a minimum of one foot (1') above the tidal substrate at all tide levels.
 - b. To suspend the float above the substrate, the preferred and least impacting option is to suspend the float above the substrate by installing float stops (stoppers) on piling anchoring new floats. The stops must be able to fully support the entire float during all tidal elevations.
 - c. If float stops attached to pilings are not feasible, then up to four 10 inch diameter stub pilings can be installed instead, except an additional two may be installed for joint-use floats.
 - d. Float feet attached to the float may be considered an option only under these circumstances:
 - i. In coarse substrate, D252 of 25mm or larger for a grain size sample taken from the upper one foot of substrate;
 - ii. For elevations of minus 3 MHHW and lower at D25 of 4mm or larger for a grain size sample taken from the upper one foot of the substrate (intent is to exclude muck);
 - iii. For repair or replacement of existing float feet if the following two conditions are met: (1) substrate looks like it contains mostly gravel (no analysis needed, picture sufficient), and if (2) proposed replacement or repair includes other improvements of the environmental baseline like the removal of creosote-treated piling and increased amounts of grating.
 - e. Floats can be held in place with lines anchored with a helical screw or “duckbill” anchor, piling with stoppers and/or float support/stub pilings.

- i. For a single-use float, a maximum of four (4) pilings (not including stub piling), helical screws, or “duckbill” anchors can be installed to hold the float in place.
- ii. For a joint-use float, a maximum of eight (8) piling or helical screw or “duckbill” anchors can be installed to hold the float in place.
- iii. If anchors and anchor lines need to be utilized, the anchor lines shall not rest on the substrate at any time.
- iv. In rocky substrates where a helical screw or “duckbill” anchor cannot be used, if the applicant submits a rationale why these types of anchors cannot be used and the Administrator concurs with this rationale, an approved anchor of another type (i.e., concrete block) may be permitted.

6.3.7.4 Regulations – Residential Community and Joint-use Piers and Docks

1. Any hotel, motel, and/or multifamily residential development proposing to provide moorage facilities shall be required to construct a single, joint-use moorage facility. The Administrator may authorize more than one joint-use moorage facility if a single facility would be inappropriate or undesirable, given the specific conditions of the site. Facilities for moorage of six (6) or more vessels are considered a marina and must meet regulations in Section 5.3, Boating Facilities.
2. Proposals for community or joint-use piers and docks shall demonstrate, by proof of recording of a covenant binding current and future parties, that adequate maintenance of the structure and the associated upland area will be provided by identified responsible parties. The proposed covenant shall be filed as part of the permit application and recorded after final approval. An access easement to joint use dock shall be granted for all lots or dwelling units.
3. In Blakely Harbor:
 - a. A total of two (2) community docks shall be a conditional use within the upland, and aquatic designations with no more than one along each the north and south shores, respectively, provided that all residents along each shore shall have a non-extinguishable option to access the community dock located along their respective shore;
 - b. One day time use public dock and/or pier for the mooring of dinghies and loading or unloading of vessels shall be a conditional use within the upland and aquatic designations; and
 - c. Such community and public docks shall comply with this master program and other applicable laws; shall be the minimum size necessary; and shall be sited and designed to mitigate adverse impacts to navigation, views, scenic character, and natural resources as much as possible. Such community and public docks shall

also be reasonably passable to swimmers, beach walkers, and human-powered water craft.

6.3.7.5 Regulations – Commercial/Industrial Facilities Piers and Docks

These standards apply to piers and docks intended for any commercial or industrial use other than commercial moorage of boats in marinas. (See also Section 5.3, Boating Facilities, Section 5.4, Commercial Development, and Section 5.6 Industrial Development.)

1. Substantial development permits for docks or piers serving single commercial or industrial enterprises shall not be granted until the access needs of adjacent commercial and/or industrial enterprises have been determined.
2. Commercial or industrial piers or docks shall not extend offshore farther than the most shoreward of the following:
 - a. The average length of the piers on the two adjoining properties;
 - b. In Eagle Harbor, the Constriction Limit Line;
 - c. Elsewhere, the distance necessary to obtain a depth of four feet (4.0') of water as measured at extreme low tide at the landward limit of the moorage slip; or
 - d. The line of navigation; and
 - e. In no case shall piers and their associated ramps and floats extend greater than 15% of the perpendicular shore-to-shore distance across a water body, except where a navigational study has been submitted for City review and approval.
3. 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.
4. Spill clean-up facilities shall be available for prompt response and application at all piers and docks involved in oil and hazardous products transfer.

6.3.7.6 Regulations – Residential (Joint, Community and Individual) Piers and Docks

1. New subdivisions and short subdivisions with shoreline frontage shall be required to provide community docks rather than individual, private docks.
2. Size.
 - a. Maximum width of a pier or dock shall be the minimum necessary to accomplish moorage for the intended boating use. (See 6.3.7.1 Regulations – Specific, above, for additional restrictions.); and
 - b. The length shall not extend beyond the average length of adjacent docks, within five hundred feet (500') of the proposed location or the distance necessary to

obtain a depth of nine feet (9') of water as measured at mean lower-low water (MLLW) at the landward limit of the moorage slip, whichever is closer to shore. A dock shall not extend beyond the adjoining property dock or the line of navigation and in no case shall piers and their associated ramps and floats extend greater than 15% of the perpendicular shore-to-shore distance across a water body, except where a navigational study has been submitted for City County review and approval; and

- c. In Eagle Harbor, a pier or dock shall not extend beyond the Construction Limit Line; and
 - d. A pier or dock shall not extend beyond the Harbor Structure Limit line shown in Appendix E.
3. Side-yard Setbacks.
- a. Docks, piers and floats shall be set back a minimum of ten feet (10') from side property lines, except that community piers, docks, and floats may be located adjacent to or upon a side property line when mutually agreed to by covenant with the owners of the adjacent property. A copy of the covenant must be recorded with the County Auditor and filed with the application of the permit.
4. Community docks and piers shall include no more than one (1) moorage space per dwelling unit or lot.

6.3.7.7 Regulations – General Mooring Buoys and Recreational Floats

1. Mooring buoys and recreational swim floats use shall be permitted in the Aquatic environment offshore from Island Conservancy, Shoreline Residential, Shoreline Residential Conservancy, and Urban designations.
2. Mooring buoys for commercial use shall be permitted only as conditional uses offshore from the Urban designation. Mooring buoys for public open water moorage and anchorage areas shall be permitted in the Aquatic designation offshore of all upland designations.
3. No more than one structure may be installed for each ownership. However, properties that contain at least two hundred (200) linear feet as measured along the shoreline may be permitted more installations on a case by case basis as determined by the City and the State Department of Natural Resources [WAC 332-30-148(3) or its successor], Properties where the waterfront lot is owned in community, may be permitted, additional mooring buoys with the total not more than one (1) per one hundred (100) linear feet of shoreline ownership.
4. Mooring buoys for commercial vessels adjacent to commercial or industrial zones are a Shoreline conditional use. One buoy is allowed per ownership.

5. A contractor doing waterfront work involving floating equipment may have one (1) temporary mooring buoy provided it is the responsibility of the contractor to ensure that all necessary permits are obtained from all agencies with jurisdiction.

6.3.7.8 Regulations – Location, Design and Construction Standards Mooring Buoys and Recreational Floats

1. In order to protect shellfish beds, new moorings buoys shall not be permitted where density will exceed one buoy per one hundred (100) linear feet.
2. Buoys shall not interfere with navigation, shall be visible in daylight one hundred (100) yards away, and shall have reflectors for night visibility.
3. If a buoy is located offshore of the extreme low tide line, the owner shall obtain a lease for the bed of navigable waters from the Department of Natural Resources. [RCW 79.105.430 or its successor].
4. Buoys shall lie between the waterfront property side lot lines extended beyond the shoreline, except those on state waters. Buoys shall not swing across the extended side lot lines. Where the configuration of the waterfront lot precludes these requirements, authorization from the affected adjacent waterfront property owners must be obtained. This provision shall not apply to buoys for public open water moorage and anchorage areas.
5. Mooring buoys shall be installed at least sixty (60) feet from other permitted piers, docks, or floats.
6. Buoys shall be located:
 - a. At a minimum depth of nine feet (9') MLLW with a standard single mid line float; the minimum depth may be reduced with an alternate system approved by the Administrator; and
 - b. Landward of the Construction Limit Line in Eagle Harbor;
 - c. Landward of the Harbor Structure Limit Line shown in Appendix E;
 - d. Elsewhere not more than two hundred feet (200') beyond extreme low tide, the -18 feet MLLW depth contour, or the line of navigation, whichever is appropriate. The placement of rafts and buoys beyond the -18 feet MLLW contour or 200 feet will be evaluated on a case by case basis. [WAC 332-30-148(2) or its successor]; and
 - e. Buoys for public open water moorage and anchorage areas shall be allowed waterward of the Construction Limit Line in Eagle Harbor.
7. Recreational floats shall be located as close to shore as possible. and no farther waterward than the following limits:
 - a. In Eagle Harbor, the Construction Limit Line; or

- b. Elsewhere, the distance necessary to obtain a depth of four feet (4') of water as measured at extreme low tide at the landward end of the float, or the line of navigation, whichever is closer to shore.
8. Recreational floats must be built so that the deck surface is one foot (1') above the water's surface and shall have reflectors for night visibility.
9. Recreational floats shall not exceed eight feet (8') by feet (8').
10. All recreational floats shall include stops, or device or system approved by the Administrator, which serve to keep the floats off the bottom of tidelands at low tide, see Section 6.3.7.3.1, Float Stop Regulations.
5. Survey of littoral boundary lines;
6. Location, width, height, and length of piers or docks on adjacent properties within five hundred feet (500') of proposed structure;
7. Agreements, if any, for cooperative use; and
8. Method of removing piling, if applicable.

6.4 Dredging and Dredge Material Disposal

6.4.1 Applicability

Dredging is the removal of material from the bottom of a water body. The purposes of dredging might include: deepening a navigational channel, berth, or basin; streambed maintenance; use of dredged material for fill or habitat enhancement (effective reuse); and removal of contaminated sediments. Dredged material disposal on land is also subject to the fill policies and regulations of this program. Pursuant to WAC 173-27-040 or its successor, certain activities, such as those associated with normal maintenance and repair, are exempt from the requirements for a SSDP, but may still require a letter of exemption, shoreline conditional use permit or variance.

All actions are required to comply with the Shoreline Management Act and all provisions of the Master Program. Department of Ecology and US Army Corps of Engineers notifications of dredging proposals will be reviewed by the City to determine whether the activity is exempt from the requirements for a substantial development permit and to ensure compliance with regulations of the Act and the Master Program.

Dredging activities will be reviewed under the "no net loss" provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.0, General (Island-wide) Policies and Regulations; Section 4.1.3, Vegetation Management; Section 4.1.4, Land Modification; Section 4.1.5, Critical Areas; and Section 4.1.6, Water Quality and Stormwater Management; Section 6.5 Fill; ~~and Appendix B, when applicable~~. Other portions of this Program may also apply.

6.4.2 Goal

Minimize dredging and dredge material disposal within the shoreline jurisdiction.

6.4.3 Policies

1. Design and locate new development to avoid dredging and discourage operations, including disposal of dredge materials. When dredging cannot be avoided, the operations and dredged material disposal shall be located and conducted in a manner which minimizes damage to the ecology and natural resources of both the area to be dredged and the disposal site.
2. Prohibit dredging for the primary purpose of obtaining fill material except for projects associated with state or federal environmental remediation operations or authorized habitat restoration.
3. Plan and conduct dredging operations to minimize interference with navigation and adverse impacts to other shoreline uses, properties, and values.
 - a. Dredging for the purpose of establishing, expanding, relocating or reconfiguring a navigation channel should be allowed where necessary to assure safe and efficient accommodation of existing or proposed navigational uses and then only when ecological impacts are minimized and mitigation is provided to offset adverse impacts.
 - b. Maintenance dredging of established navigation channels should be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

6.4.4 Regulations – Prohibited

1. New dredging activity is prohibited in the following:
 - a. In environmentally sensitive habitats (e.g., stream mouth estuaries, wetlands) except by shoreline conditional use permit.
 - b. Along net-positive drift cells and/or where geo-hydraulic processes are active and accretion shoreforms would be damaged, altered, or irretrievably lost.
 - c. In shoreline areas with bottom materials that are prone to significant sloughing and refilling due to currents or tidal activity, thus resulting in the need for continual maintenance dredging.
 - d. In habitats identified as critical to the life cycle of officially designated or protected fish, shellfish, or wildlife.
 - e. In areas where concentrations of environmental pollutants or toxic chemicals are present in the bottom of sediments and would be released in dredging operations, except as part of a permitted environmental enhancement or remediation program.

- f. For the primary purpose of obtaining material for landfill, upland construction, or beach nourishment is prohibited.
 - g. On or in archaeological sites
2. Dredging shall be prohibited in the Priority Aquatic Category A designation.

6.4.5 Regulations - General

1. Dredging is a conditional use in the Aquatic designation if permitted in the upland designation and shall be for the restoration, enhancement, or maintenance of natural resources and navigational channels or for publically-owned ferry terminals. Dredging shall be permitted as a conditional use in the Priority Aquatic Category B designation as part of an approved restoration proposal.
2. Proposals for dredging and dredge spoil disposal, when permitted, shall:
 - a. Be kept to the minimum necessary to accommodate the proposed use;
 - b. Comply with applicable federal, state, and other local regulations;
 - c. Employ appropriate measures to protect public safety and prevent adverse impacts on other approved shoreline uses;
 - d. Taken appropriate measures to ensure the activity will not interfere with fishing or shellfish harvesting;
 - e. Employ appropriate best management practices to protect marine, estuarine, freshwater and terrestrial species and critical saltwater habitats and to minimize adverse impacts such as turbidity, release of nutrients, heavy metals, sulfides, organic materials, or toxic substances, depletion of oxygen, disruption of food chains, loss of benthic productivity, and disturbance of fish runs and important localized biological communities;
 - f. Be scheduled so as to not materially interfere with the migratory movements of anadromous fish;
 - g. Not adversely alter natural drainage and circulation patterns, currents, and tidal flows, or significantly reduce flood water capacities.
 - h. Utilize techniques that cause minimum dispersal and broadcast of bottom material; hydraulic dredging shall be used wherever feasible in preference to agitation dredging;
 - i. Not interfere with geohydraulic processes;
 - j. Be found, through analysis by a qualified professional, to be minimally or nonpolluting; and

- k. Revegetate land disposal sites with native vegetation species and other approved plants shall be required according to Section 4.1.2.5, Regulations – Revegetation Standards.

6.4.6 Regulations – Specific Dredging

1. Dredging, when allowed in Section 6.4.5, Regulations – General, shall support the following uses and developments:
 - a. Approved harbors, marinas, ports, and water-dependent industries;
 - b. Development or maintenance of essential public infrastructure and facilities;
 - c. Environmental clean-up activities required by the Model Toxics Control Act (MTCA) or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA);
 - d. Underground utility installation requiring trenches when boring, directional drilling, and other installation methods are not feasible;
 - e. Maintenance dredging for the purpose of restoring a lawfully established industrial or commercial water-dependent development;
 - f. Maintaining, establishing, expanding, relocating or reconfiguring navigation channels and basins where necessary to assure the safety and efficiency of existing navigational uses;
 - g. Ecological restoration and enhancement projects benefiting water quality and/or fish and wildlife habitat; or
 - h. Public access and public water-oriented recreational developments/uses, including construction of public piers and docks.
2. New development shall be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
3. Maintenance dredge options shall occur in the same location, depth, and width as previously permitted.

6.4.7 Regulations – Dredge Material Disposal

1. All unconfined, open water dredge disposal activities shall comply with the Puget Sound Dredged Disposal Analysis (PSDDA) criteria and guidelines and other applicable local, state and federal regulations.
2. When consistent with this Program, disposal of dredged materials in water areas other than PSDDA sites may only be allowed for the following reasons:
 - a. To restore or enhance habitat;
 - b. To reestablish substrates for fish and shellfish resources;

- c. To nourish beaches that are starved for sediment; or
- d. To remediate contaminated sediments.

6.5 Fill

6.5.1 Applicability

Fill is the placement of soil, sand, rock, gravel, existing sediment, or other material (excluding solid waste) along the shoreline below the OHWM, or on wetland or upland of the OHWM. Fill activities shall only be allowed as part of an approved shoreline use and/or development activity and shall be subject to the requirements of the principal use/development. Speculative fill activity is prohibited. Any fill activity conducted within shoreline jurisdiction must comply with the following policies and regulations. Beach nourishment as defined in the Shoreline Master Program shall not be considered fill. Excavation waterward of the ordinary high water mark is regulated under Section 6.4, Dredging and Dredge Material Disposal. Fill activities will be reviewed under the “no net loss” provisions of Section 4.1.2, Environmental Impacts, and may also be reviewed under Section 4.1.4, Land Modification; Section 4.1.5, Critical Areas; ~~and Section 4.1.6, Water Quality and Stormwater Management; and Appendix B, when applicable.~~ Other portions of this Program may also apply.

6.5.2 Policies

1. Allow fill waterward of the OHWM only when necessary to facilitate commercial or industrial water-dependent and/or public access uses, and/or cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan, and is a conditional use.
2. Permit landfill landward of OHWM when necessary to support permitted uses, and when significant impacts can be avoided or mitigated.
3. Limit fills to the minimum extent necessary to accommodate an approved shoreline use or development and ensure fills are designed and located so that there will be no significant damage to existing natural resources, including surface water drainage systems, and with assurance of no net loss of shoreline ecological functions and ecosystem-wide processes.
4. Ensure the evaluation of fill projects addresses the following factors:
 - a. Impacts to shoreline ecological functions and ecosystem-wide processes;
 - b. Conflict with potential and current public use of the shoreline and water surface area as identified in adopted City plans, policies, and programs; and
 - c. Navigation restriction.
5. Ensure fill projects are designed to avoid or eliminate erosion and sedimentation impacts, both during initial landfill activities and over time.

6.5.3 Prohibited

1. Speculative fill activity.
2. Fill that will result in significant adverse impacts that cannot be avoided or mitigated.
3. Fill in the Priority Aquatic designations.

6.5.4 Regulations - General

1. Fill is allowed as a conditional use as follows:
 - a. In the Urban, Shoreline Residential, and Shoreline Residential Conservancy designations.
 - b. In the Island Conservancy and Natural designations only for the restoration, enhancement, or maintenance of natural resources. See Section 4.1.8, Shoreline Restoration and Enhancement for additional requirements and permit requirements.
 - c. In the Aquatic designation, for commercial or industrial water-dependent or essential public facilities, or as part of a permitted environmental enhancement or remediation project.
2. When allowed in (1) above, fill waterward of the OHWM shall be necessary for:
 - a. Approved marinas, ports, and other water-dependent industries where upland alternatives or structural solutions including pile or pier supports are infeasible.
 - b. Development or maintenance of essential public infrastructure and facilities.
 - c. Environmental clean-up activities required by MTCA and CERCLA.
 - d. Maintenance of a lawfully established use or development.
 - e. Ecological restoration and enhancement projects benefiting water quality and/or fish and wildlife habitat.
 - f. Public access and public water-oriented recreation projects benefiting substantial numbers of people.
3. 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 the pile or pier supports are demonstrated to be infeasible.

6.5.5 Regulations – Location, Design and Construction

1. When allowed in 6.5.4, above, filling and/or excavation shall be located, designed, and carried out in a manner that;
 - a. Minimizes adverse impacts on the shoreline environment including significant damage to water quality, critical saltwater habitat;

- b. Blends in physically and visually with natural topography, so as not to interfere with appropriate use, impede public access, or degrade the aesthetic qualities of the shoreline;
 - c. Does not require shoreline stabilization to protect materials placed unless it is part of an approved shoreline restoration project and shoreline stabilization measures are needed to keep the material in place; and
 - d. Does not adversely alter natural drainage and circulation patterns, currents, river and tidal flows, or significantly reduce flood water capacities.
2. Where fills are permitted, the fill shall be the minimum necessary to accommodate the proposed use. Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes.
 3. Where fills reduce public access, compensatory public access shall be provided as part of the development project.
 4. Fill proposals shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area. Perimeters of permitted fill projects shall be designed and constructed with silt curtains, vegetation, retaining walls, or other mechanisms, and appropriately sloped to prevent erosion and sedimentation both during initial landfill activities and afterwards. Such containment practices shall occur during the first growing season following completion of the landfill.
 5. Fill materials shall be sand, gravel, soil, rock, or similar material. Use of contaminated dredge material is prohibited. (See Section 5.6, Industry and Section 6.4 Dredging and Dredge Disposal)
 6. The timing of any fill construction shall be regulated to minimize damage to water quality and aquatic life within the time restraints recommended by the Washington State Department of Fish and Wildlife.

7.0 VIOLATIONS, ENFORCEMENT, AND PENALTIES

7.1 General

The Administrator and the Department of Ecology are authorized to adopt such rules as are necessary and appropriate to carry out the provisions of the Shoreline Management Act (RCW 90.58.200) and Chapter 173-27, Part II, WAC. The act calls for a cooperative program between local government and the state. It provides for a variety of means of enforcement, including civil and criminal penalties, orders to cease and desist, orders to take corrective action, and permit rescission. The following should be used in addition to other mechanisms available to the City in accordance with WAC 173-27-240 through WAC 173-27-300, or its successor. The City and/or the Department of Ecology shall have the authority to serve upon a person a cease and desist order if an activity being undertaken on shorelines of the state is in violation of chapter 90.58 RCW or the this Master Program, in accordance with WAC 173-27-270, or its successor.

When joint-enforcement actions between the state and the city are under taken, the provisions in RCW 90.58.210-230 and WAC 173-27-240-300 shall apply.

7.2 Regulations

7.2.1 Site Investigations

The Administrator is authorized to make site inspections and take such actions as are necessary to enforce this Master Program in accordance with BIMC Chapters 1.16, Right of Entry for Inspection, and 1.26, Code Enforcement.

7.2.2 Violations -- General

It is unlawful for any person to initiate or maintain, or cause to be initiated or maintained, the use, construction, placement, removal, alteration, or demolition of any structure, land, vegetation or property within the city contrary to the provisions of this Master Program.

7.2.3 Violations -- Specific

It is unlawful for any person to:

1. Initiate or maintain, or cause to be initiated or maintained, the use, construction, placement, removal, alteration, or demolition of any structure, land, vegetation or property within the city without first obtaining permits or authorizations required by this Master Program, or in a manner that violates the terms or conditions of such permits or authorizations.
2. Misrepresent any material fact in any application, plans or other information submitted to obtain permits or authorizations under this Master Program.

3. Remove or deface any sign, notice, complaint, or order required by or posted in accordance with this Master Program.

7.2.4 Stop Work Order

The city shall have the authority to issue a stop work order to cease all development work, and order restoration, rehabilitation, or replacement measures, including applicable sureties, at the owner's or other responsible party's expense to compensate for the use, construction, placement, removal, alteration, or demolition of any structure, land, vegetation or property within the city contrary to the provisions of this Master Program.

7.2.5 After the Fact Permit Fee

After the fact application fees shall be triple the amount established by City Council resolution.

7.2.6 Violation Mitigation/Restoration Plan

Any Mitigation/Restoration Plan (Plan) required for a disturbance not authorized by this shoreline management program or approved by the City shall meet the provisions in Sections 4.1.2, Environmental Impact; 4.1.5 Critical Areas ~~including Appendix B~~; and 6.0, Shoreline Modification Policies and Regulations, and provide an analysis of lost functions over the period of violation.

All development work shall remain stopped until a Plan is approved by the Administrator. The Plan must be prepared at the expense of the violator, and submitted by the owner or other responsible party for approval by the Administrator. Such a Plan shall be prepared by a qualified professional using the best available science. The Administrator may, at the violator's expense, seek expert advice, including an independent third party review, in determining the adequacy of the Plan. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal.

Any person, party, firm, corporation, or other legal entity that willfully refuses to complete a required restoration plan pursuant to this section, shall be guilty of a misdemeanor and provide shoreline restoration, in accordance with provision of this program, at a rate of 200% (ratio of 2 to 1) the impacted area.

7.2.7 Civil Infraction

Except as provided in subsection 7.2.8, Misdemeanor, conduct made unlawful by the city under this Master Program shall constitute a civil infraction and is subject to enforcement and fines as provided in BIMC 1.26.035. A civil infraction under this section shall be processed in the manner set forth in BIMC Chapter 1.26, Code Enforcement and in compliance with WAC 173-27-280.

7.2.8 Misdemeanor

Any person who again violates this Master Program within 12 months after having been found by the Bainbridge Island Municipal Court to be in violation of this Program, commits a misdemeanor and any person who is convicted of that violation shall be punished as provided in BIMC 1.24.010.A.

7.2.9 Civil Penalty

In addition to any civil infraction fine, criminal penalty, and/ or other available sanction or remedial procedure, any person who shall fail to conform to the terms of a permit or exemption issued under this shoreline master program or who shall undertake development on the shorelines of the state without first obtaining any permit or exemption required under this shoreline master program shall also be subject to a civil penalty in the amount not to exceed \$1,000 per day for each violation, each permit violation or each day of continued development without a required permit shall constitute a separate violation [RCW 90.58.210 or successor]; from the date set for compliance until the date of compliance. Any such civil penalty shall be collected in accordance with BIMC 1.26.090

7.2.10 General Penalties

In addition to incurring civil liability under section 7.2.9 Civil Penalty, any person, party, firm, corporation, or other legal entity found to have willfully engaged in activities on the shorelines of the state in violation of the provisions of this shoreline master program's rules, or regulations as adopted shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than twenty-five nor more than one thousand dollars or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment: PROVIDED, That the fine for the third and all subsequent violations in any five-year period shall be not less than five hundred nor more than ten thousand dollars [RCW 90.58.220, or successor].

7.2.11 Additional Remedies

In addition to any other remedy provided by this chapter or under the Bainbridge Island Municipal Code, the City may initiate injunction or abatement proceedings or any other appropriate action in courts against any person who violates or fails to comply with any provision of this Master Program to prevent, enjoin, abate, and/or terminate violations of this Master Program and/or to restore a condition that existed prior to the violation. In any such proceeding, the person violating and/or failing to comply with any provisions of this Master Program shall be liable for the costs and reasonable attorneys' fees incurred by the city in bringing, maintaining and/or prosecuting such action.

7.2.12 Conflicts

In the event and to the extent the language of this section conflicts with language of the codes and/or appendices adopted by reference in this Master Program, the language of this section shall prevail over the language it conflicts with in any said code and/or appendix.

7.2.13 Financial Surety Procedure

After reviewing any application or exemption for a shoreline development, the Administrator may require the posting of a financial surety to ensure continued compliance with any conditions imposed, including the construction of improvements, the adherence to city standards, and/or maintenance, repair or replacement of such improvements in accordance with Section 4.1.2.7, Bonding. The financial surety shall be in a form acceptable to the city attorney. In the event a condition occurs warranting the use of financial surety, the Administrator may act under such financial surety or may perform the work required at city expense, which expense shall be a lien against the property, enforceable as would be a judgment thereon.

8.0 DEFINITIONS

Abutting –Bordering or touching, such as by sharing a common lot line. Lots that are separated by a street or right-of-way are not abutting.

Accessory Structure or Building – A subordinate building or structure that is incidental to the primary or principal building or structure on the same lot, or an abutting lot that meets the requirements in BIMC Section 18.09.030(I)(14)(c). Accessory structures include, but are not limited to, solar panels, small wind devices, barns and sheds. Accessory dwelling units are not considered accessory buildings or structures.

Accessory Dwelling Unit – Accessory dwelling unit means separate living quarters containing kitchen facilities, where the living quarters are contained within or detached from a single-family dwelling on a single lot.

Accessory Development – Any development incidental to and subordinate to a principal use of a shoreline site and located on adjacent thereto.

Accessory Use – A use that is customarily incidental and related to the principal use on the same lot. Accessory dwelling units are not considered accessory uses.

Accretion – The growth, expansion, build up, or deposit of material associated with a natural fluid flow process.

Accretion Beach – A place where sediment, usually sand, falls out or accumulates, causing the beach to widen. These sinks are usually, but not always, at the terminal end of littoral drift cell.

Accretion Shoreform – The growth of a beach by the addition of material transported by wind and/or water. A shoreline with a relatively stable berg and backshore that has been built up by long term deposition of sand and gravel transported by wind and/or water from a feeder bluff or other material source. Examples of accretion shoreforms includes shoreline features such as barrier beaches, accretion beaches, points, sand spits, hooks, and tombolos.

Act – The Shoreline Management Act of 1971, Chapter 90.58 RCW, or its successor [WAC 173-26-020(1), or its successor].

Activity – Human activity associated with the use of land or resources **regulated by this Program.**

Adjacent –That which is near or close; for example, a property located across the road or highway shall be considered as adjacent.

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

Adjoining – Immediately abutting or separated only by a street right-of-way.

Administrator – Director of the Department of Planning and Community Development, or designee, charged with responsibility for administering the Shoreline Master Program.

Anthropogenic – Landscape alteration relating to, or from human development, use, action or activity.

Adverse Impact – An impact that can be measured or is tangible and has a reasonable likelihood of causing moderate or greater harm to ecological functions or processes or other elements of the shoreline environment.

Agricultural Land – Land primarily devoted to agricultural operations.

Agriculture Operations – Any facility or activity for the production for production for commercial or family use purposes of dairy, apiary, livestock, camelids, ratites, vegetable or animal products, and crop products including, but not limited to, ornamental crops. Incidental vegetable gardening, landscaping and keeping common pets are not defined as agriculture. Agriculture operations include upland fish farms which are self-contained, meaning they do not connect with waters of the state such as: natural or channelized stream, tributary, wetland, or marine water body.

Agricultural Activities – Agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

Alteration – Any human induced change in an existing condition of a shoreline, critical area and/or its buffer. Alterations include, but are not limited to grading, filling, channelizing, dredging, clearing (vegetation), draining, construction, compaction, excavation, or any other activity that changes the character of the area.

Alteration, structure -- a change, modification, expansion or adjustment.

Anadromous Fish – Species such as salmon, which are born in freshwater, spend most of their life cycle in saltwater, and return to freshwater to reproduce.

Applicant – An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency, or the state or local governmental unit, however designated [RCW 90.58.030(1)(d) or its successor].

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 OHWM and/or the perimeter of a wetland. An appurtenance can include a garage, boat house, deck, driveway, utilities, fences, and grading which does not exceed two hundred fifty (250) cubic yards (except to construct a conventional drainfield) [WAC 173-27-040(2)(g), or its successor].

Appurtenance, Primary – A structure or development connected to a single-family residence and considered essential to the principal residential use when protecting the appurtenant structure from danger from active shoreline erosion. An attached garage or one detached garage and a septic drainfield are primary residential appurtenances. [WAC 173-26-231(3)(a)(ii), or its successor].

Aquaculture – The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state-managed wildstock geoduck fishery. Upland finfish rearing facilities are included in the definition of agriculture and are not considered aquaculture for the purpose of this SMP. Aquaculture activities include, but are not limited to, the hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals, and the maintenance and construction of necessary equipment and buildings. Cultivation methods include, but are not limited to, fish pens, shellfish rafts, racks and long lines, seaweed floats and nets, and the planting and harvesting of clams and oysters.

Aquaculture, Shellfish Garden – The cultivation, harvesting, and incidental preparation of shellfish for personal human use and consumption on public and private tidelands

Aquaculture Practices – Any activity directly pertaining to growing, handling, or harvesting of aquaculture produce including, but not limited to, propagation, stocking, feeding, disease treatment, waste disposal, water use, development of habitat and structures. Excluded from this definition are related commercial or industrial uses such as wholesale and retail sales, or final processing and freezing.

Aquaculture Processing – A commercial or industrial activity that involves preparing, fish or shellfish for human use or consumption by packaging, canning, freezing or other means of final wholesale or retail production.

Aquifer recharge protection area -- A portion of a development site comprised of native or equivalent vegetation in which existing vegetation, topography and supporting soils are free of development, uses or activities detrimental to the aquifer recharge of the total site area.

Arborist -- An individual engaged in the profession of arboriculture who, through experience, education, and related training, possesses the competence to provide for or supervise the management of trees and other woody plants. Must be concurrently an International Society of Arboriculture (ISA) Certified Arborist to perform any role required of a Certified Arborist.

Arborist, ISA Certified -- An arborist holding a current International Society of Arboriculture (ISA) Certified Arborist credential.

Arborist, Tree Risk Assessment Qualified (TRAQ) -- An arborist who has successfully completed the International Society of Arboriculture (ISA) TRAQ training course and assessment and holds a valid ISA TRAQ credential.

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

Archeological Resource – Any material remains of human life or activities which are at least fifty (50) years old and which have potential to provide new information in the fields of history and archaeology. This shall include all sites, objects, structures, artifacts, implements and locations of prehistoric or archeological interest. This shall include but not be limited to burial grounds, campsites, dwellings, and implements, such as projectile points, basketry, grinding stones or pestles, carvings and paintings. This shall include material remains of human life or activities from historic periods that are located at least partially below the ground surface necessitating the use of archeological methods for study or recovery. “Significant” is that quality in American history, architecture, archaeology, engineering, and culture that is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and;

- a. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- b. That are associated with the lives of significant persons in our past; or
- c. That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic value, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- d. That have yielded or may be likely to yield, information in history or prehistory.

Archaeologist, Professional – A person who meets the minimum qualifications of the secretary of the interior’s standards for a professional archaeologist [WAC 27.53.030, or its successor] and the following: who has designed and executed an archaeological study as evidenced by a thesis or dissertation and has been awarded an advanced degree such as an M.A., M.S., or Ph.D. from an accredited institution of higher education in archaeology, anthropology, or history or other germane discipline with a specialization in archaeology; has a minimum of one (1) year of field experience with at least twenty-four (24) weeks of field work under the supervision of a professional archaeologist, including no less than twelve (12) weeks of survey or reconnaissance work, and at least eight (8) weeks of supervised laboratory experience. Twenty (20) weeks of field work in a supervisory capacity must be documentable with a report produced by the individual on the field work.

Architectural Element – Aesthetic components of a primary building or structure that accents the overall design of the structure. A chimney may be considered an architectural element.

Associated Wetlands – Wetlands that are in proximity to tidal water, lakes, rivers or streams that are subject to the Shoreline Management Act and either influence or are influenced by such waters. Factors used to determine proximity and influence include, but are not limited to: location contiguous to a shoreline water body, formation by tidally influenced geo-hydraulic

processes, presence of a surface connection including through a culvert or tide gate, location in part or whole within the one hundred (100) -year floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.

Aquatic – Those areas waterward of the ordinary high water mark.

Average Grade Level – The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure, provided that, in case of structures to be built over water, average grade level shall be the elevation of ordinary high water. Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure [WAC 173-27-030(3) or its successor]. Note: This definition of “average grade level” differs from the definition in the City of Bainbridge Island Zoning Code (Chapter 18 of the City of Bainbridge Island Municipal Code). Structures within shoreline jurisdiction shall comply with the definition contained herein.

Backshore – The accretion or erosion zone, located landward of the line of ordinary high water, which is normally wetted only by storm tides. A backshore may take the form of a more or less narrow storm berg (ridge of wave-heaped sand and/or gravel) under a bluff, or it may constitute a broader complex of berms, marshes, meadows, or dunes landward of the line of ordinary high water. It is part of the littoral drift process along its waterward boundary.

Backshore Marina – See Marina

Bank stabilization -- Modification used for the purpose of preventing erosion, protecting channels, and retaining uplands.

Barrier Beach – A linear ridge of sand or gravel extending above high tide, built by wave action and sediment deposition seaward of the original coast line; includes a variety of depositional coastal landforms.

Barrier Estuary – estuary isolated from open bodies of water by a barrier, with tidal exchange occurring through a narrow entrance channel. Usually but not always associated with a significant fresh water source.

Barrier Lagoon – barrier built lagoons that lack significant freshwater source, only coincidentally associated with streams of significant upland catchment areas. See Lagoon and Tidal Lagoon.

Bathymetry – Depth of a water body relative to sea level, may include underwater features and shapes.

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

Beach Face – The steep part of the beach profile below the berg, which is normally exposed to the swash of waves and generally composed of gravel, although it can contain sand or boulders.

Beach Enhancement – The alteration of terrestrial, tidal shorelines or submerged shorelines for the purposes of habitat improvement, creation, recreational enhancement, or soft-treatment stabilization. The materials used depend upon the intended use. The following are examples of materials which may be used in enhancement projects:

- a) Various grades of clean sand or pea gravel to create a beach for recreational purposes.
- b) A combination of a rock matrix and sand or other materials to restore or recreate a shore feature or an underwater aquatic environment (e.g. a reef).
- c) Use of native vegetation to restore marine riparian habitat functions native vegetation.

Beach Nourishment – The process of replenishing a beach by artificial means; e.g., by delivery of selected materials excavated from elsewhere and depositing it at one or several locations in the updrift portion of a drift cell. The material is then naturally transported by waves or currents downdrift to stabilize or restore accretion shoreforms and other berms, which may be eroding due to artificial obstructions in the shore process corridor.

Beach Profile – A vertical cross section of a beach measured perpendicular to the shoreline.

Beach Restoration – The alteration of terrestrial and tidal shorelines or submerged shorelines for the purposes of aquatic habitat, re-establishing ecological function and ecosystem wide processes such that the ecosystem is self-sustaining.

Beach Scarp – A steep slope formed in response to the lowering of the beach profile and landward expansion of the beach face into the backshore as a result of wave erosion. A beach scarp is normally associated with a beach berg.

Bedlands – Those submerged lands below the line of extreme low water in marine waters.

Benthic Community – A grouping of benthic organisms that live in and on the bottom of the ocean floor.

Benthic Organisms – Organisms that live in or on the bottom of a body of water.

Berm (Beach Berm) – The nearly horizontal portion at the beach or backshore formed by the deposition of sediments by waves. Some beaches have more than one berm at slightly different levels, separated by a scarp. A berm is also, a soft-treatment form of shoreline stabilization or a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.

Best Available Technology – The most effective method, technique, or product available which is generally accepted in the field, and which is demonstrated to be reliable, effective, and (preferably) low maintenance.

Best available science (BAS) -- Scientifically valid information derived in accordance with WAC 365-195-900 through 925, or as amended, that is used to develop and implement critical areas policies or regulations.

Best Management Practice (BMP) – Industry-established guidelines that are advised to reduce or eliminate anticipated adverse impacts to the environment from construction, development or other human activity.

BIMC – Bainbridge Island Municipal Code.

Biocide – See pesticide

Biodiversity areas and corridors -- Areas of habitat that are relatively important to various species of native fish and wildlife.

- a. Biodiversity areas.
 - i. The area has been identified as biologically diverse through a scientifically based assessment conducted over a landscape scale (e.g., ecoregion, county- or city-wide, watershed, etc.). Examples include but are not limited to WDFW Local Habitat Assessments, Pierce County Biodiversity Network, and Spokane County’s Wildlife Corridors and Landscape Linkages; or
 - ii. The area is within a city or an urban growth area (UGA) and contains valuable fish or wildlife habitat and is mostly comprised of native vegetation. Relative to other vegetated areas in the same city or UGA, the mapped area is vertically diverse (e.g., multiple canopy layers, snags, or downed wood), horizontally diverse (e.g., contains a mosaic of native habitats), or supports a diverse community of species as identified by a qualified professional who has a degree in biology or closely related field and professional experience related to the habitats or species occurring in the biodiversity area. These areas may have more limited wildlife functions than other priority habitat areas due to the general nature and constraints of these sites in that they are often isolated or surrounded by highly urbanized lands.
- b. Corridors. Corridors are areas of relatively undisturbed and unbroken tracts of vegetation that connect fish and wildlife habitat conservation areas, priority habitats, areas identified as biologically diverse, or valuable habitats within the city.

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

Biological Diversity; Biodiversity – The range of physical (habitat) and biological (species, communities) components, the ways that species interact with the physical environment, and the processes necessary to maintain these interactions through time.

Bioengineering – See Shoreline Stabilization, Bioengineered

Biophysical – Physics of biological functions and ecosystem-wide processes.

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

Bluff, Marine – A high, steep bank or cliff.

BMP – See Best Management Practices.

Boat House – A building used primarily for boat storage.

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

Boat Lift – An in-water structure used for the dry berthing of vessels above the water level and lowering of vessels into the water. A boat lift as herein defined is used to berth and launch a single vessel, suspended over the water’s surface. A boat lift is a manufactured unit without a canopy cover and may be placed in the water adjacent to a dock, attached to the dock, or as stand-alone structure. A boat lift may be designed either for boats or personal watercraft. A boat lift with a canopy cover shall be considered moorage for the purposes of this Program.

Boating Facilities – Includes marinas, boat launch facilities, dry storage facilities, marine travel lifts, and fixed marine railways serving commercial, industrial uses or serving five or more single-family residences.

Boat Storage Deck – A deck used for the storage of boats.

Bog – A low-nutrient, acidic wetland with organic soils and characteristic bog plants, as described in Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-29, October 2014).

Breakwater – Offshore structure, usually aligned parallel to shore, sometimes shore-connected, that provides protection from waves. The primary purpose is to protect harbors, moorages and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave caused erosion.

Buffer – An area of land that is designed and designated to permanently remain vegetated in a predominantly undisturbed and natural condition and/or an area that may need to be enhanced to support ecological processes, or ecosystem-wide functions and to protect an adjacent aquatic or wetland area from upland impacts and to provide habitat for wildlife. Buffer widths vary depending on the relative quality and sensitivity of the area being protected. The “Shoreline Buffer” is a buffer protecting the ecology and resources of and along the Puget Sound. A buffer may be used to protect any sensitive area, including geological hazardous areas.

Building – Any structure having a roof, designated for shelter of persons, animals or property.

Bulkhead – A wall erected generally parallel to and located at or close to the ordinary high water mark for the purpose of containing and preventing the loss of soil due to shoreline erosion caused by tidal action, current or waves. Bulkheads are usually constructed of hard materials and may be built of concrete, large rocks (riprap), or other materials. See also Seawall.

Canopy Area – See canopy coverage.

Canopy Coverage – The crown area of native shrubs and trees as measured from plan view.

Central Puget Lowland – The low areas between the Olympic and Cascade Mountain ranges extending from Admiralty Inlet and the Tacoma Narrows.

Channel – An open conduit for water either naturally or artificially created, but not including artificially created irrigation, return flow, or stock watering channels. [WAC 173-22-030(8b) or its successor]. See also Stream.

Channel Migration Zone (CMZ) – The area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

City – The City of Bainbridge Island.

Clean Water Act – The primary federal law providing water pollution prevention and control. This was previously known as the Federal Water Pollution Control Act. (See 33 USC 1251 et seq.)

Clearing – Clearing means the destruction or removal of vegetation or plant cover including, but not limited to, root material removal by manual, mechanical, or chemical means. Clearing includes, but is not limited to, actions such as cutting, felling, thinning, flooding, killing, poisoning, girdling, or uprooting.

Coastal Dune – A transitional zone between the marine and the continental processes and are a part of the sand sharing system between the dune, the beach, and the offshore bars.

Coastal Landform, Depositional – See accretion shoreform.

Coastal Processes – Collective term including the action of natural forces on the shoreline, and the nearshore seabed.

Coastline – The line where terrestrial processes give way to marine processes – tidal currents, wind waves, etc.

Commercial Development – Those developments whose principal use is for retail, personal and professional service or other commercial business activities. Included in this definition are developments such as hotels, motels, shops, restaurants, banks, professional offices, grocery stores, and laundromats. Not included, marinas, home occupations, utilities, and related utility development.

Commercial Fish – Those species of fish that are classified under the Washington Department of Fish and Wildlife Food Fish Classification as commercial fish (WAC 220-12-010).

Community Structure – A building, dock, or other structure which is intended for the common use of the residents of a particular subdivision or community. It is not intended to serve as a public facility.

Community or Joint-use Dock – A structure or structures which consists of a system of piers, buoys, or floats that is intended for the common use of the residents of adjoining parcels or subdivision, short subdivision or community located on adjacent uplands. A community dock is

not a commercial endeavor or for the purpose of serving the public. If a community or joint-use dock is designed to accommodate six (6) or more vessels, it is no longer considered a community or joint-use dock, and it shall be considered a marina.

Compensatory Mitigation – A project for the purpose of mitigating, at an equivalent or greater level, unavoidable impacts that remain after all appropriate and practicable avoidance and minimization measures have been implemented. Compensatory mitigation includes, but is not limited to, wetland creation, restoration, enhancement, and preservation; stream restoration and relocation, rehabilitation; and buffer enhancement.

Conditional Use – A use or the expansion of a use permitted on shorelines which, because of certain characteristics, requires a special degree of review and consideration, and may require special conditions to assure that it is consistent with the intent and provisions of the Act and these regulations, and compatible with other uses permitted on shorelines.

Conditional Use Permit – A permit for a use, development or substantial development listed in the regulations as being permitted only as a conditional use, or not classified in this Program. Conditional uses are subject to review and approval pursuant to the provisions of BIMC Section 2.16.165(H), regardless of whether or not the proposal requires a substantial development permit.

Conservation Easement – A legal agreement that the property owner enters into to restrict uses of the land for purposes of natural resources conservation. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property.

Construction Limit Line – In Eagle Harbor, defined on U.S. Army Corps of Engineers, Drawing, File No. E-8-5-6, dated December 22, 1939, approved by the Secretary of War, July 2, 1940. Used in the Master Program for local regulatory purposes.

Contaminant – Any chemical, physical biological, or radiological substance that does not occur naturally in ground water, air, or soil or that occurs at concentrations greater than those in the natural levels [WAC 173-200-020(7)].

Coppicing – Managing of strongly-regenerative species of trees and shrubs by an initial heading cut (leaving a stump) and allowing new shoots to grow to maintain live roots. Shoots may be reduced to their point of origin at appropriate intervals of time without disturbing the resulting coppice head (stump).

Council – Legislative body of the City of Bainbridge Island.

Covered Moorage – A roofed floating or fixed offshore structure with or without walls, for boat moorage or moorage of other water craft or float planes, designed to protect a vessel or vessels.

Critical Aquifer Recharge Area – Areas designated by WAC 365-190-080(2) that are determined to have critical recharging effect on aquifers (i.e., maintain the quality and quantity of water) use for portable water as defined by WAC 365-196-485(1)(d).

Critical Areas – The following areas are designated as critical areas:

- a. Critical Aquifer Recharge Areas
- b. Fish and Wildlife Habitat Conservation Areas
- c. Frequently Flooded Areas
- d. Geologically Hazardous Areas
- e. Wetlands
- f. Critical Saltwater and Freshwater Habitat Areas
- g. Critical Habitat

Critical facilities – Facilities that are essential to the health and welfare of the community, including services that protect life and property. Such facilities include, but are not limited to, hospitals, emergency clinics, police and fire stations, emergency vehicle and equipment storage facilities, emergency operations centers, aviation control centers, and utility facilities such as sewage treatment plants and electric transmission substations.

Critical Habitat – Habitat areas identified by U.S. Fish and Wildlife Service or the National Marine Fisheries Service as habitat necessary for survival of endangered or threatened species.

Critical Saltwater Habitat - Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association [WAC 173-26-221(2)(c)(iii)].

Cultural Resource – Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:

- a. Archaeological resources. Physical evidence of ruins of human occupation or activity that are located on or below the surface of the ground and are at least 50 years old.
 - i. Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material by-products from tool and utensil-making activities; and graves, human remains, and associated artifacts.
- b. Historic buildings and structures. Standing or above-ground buildings and structures that are at least 50 years old.
 - i. Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways, and tunnels.

- c. Traditional cultural properties. Locations, buildings, structures, and objects that are associated with cultural beliefs, customs, or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community.
 - i. Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history; a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees, and rock outcrops.

Cumulative Effects – The combined environmental impacts that accrue over time and space from a series of similar or related individual actions, contaminants, or projects. Although each action may seem to have negligible effect, the combined effect can be significant.

Cutting, vegetation – The removal of the main trunk or stem of a small tree for the purposes of controlling aggressive or weedy species.

Dam – A barrier across a stream or river to confine or regulate flow or raise water levels for purposes such as flood or irrigation water storage, erosion control, power generation, or collection of sediment or debris.

Davit – A fixed crane intended to lift boats or cargo.

Degrade – To scale down in desirability or salability, to impair in respect to some physical property, or to reduce in structure or function.

Department – The city's Department of Planning and Community Development.

De Minimis – Minor or trivial impact which cannot be measured or is not quantifiable.

Deposition – The deposit of sediment in an area though natural means such as wave action or currents; may also be done through mechanical means by humans.

Development – A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or materials; bulkheading; pile driving; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any state of water level, subject to RCW Chapter 90.58 or its successor [RCW 90.58.030(3)(d) or its successor]. This term may include activities related to subdivisions and short subdivisions; clearing activity; land modification (grade and fill work); building or construction; and activities that are exempt from the substantial development permit process or that require a shoreline variance or conditional use.

Development Area – the approved portion of a project site that is developed, including the building pad and all graded slopes, all structures, landscaped areas, driveway and parking areas.

Development Regulations – The controls placed on development or land uses by the 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 RCW Chapter 90.58 , and subdivision ordinances together with any amendments thereto.

Dike – an artificial embankment placed at a stream mouth or delta area to hold back sea water for purposes of creating and/or protecting land from flooding.

Director – The director of the department city’s Planning and Community Development Department or his/her designee.

Dock – A fixed platform structure anchored in and floating upon a water body that abuts the shore intended to provide landing which may include a ramp, pier, and float; generally used as a landing for water-dependent recreation or moorage for commercial and/or pleasure craft. Excluded are boat launch or boat ramps.

Dock, Joint or Community – A dock, pier and/or float for pleasure craft moorage or water recreation for exclusive personal use of multiple waterfront lot owners.

Downdrift – The direction of predominant alongshore sediment transport.

Dredge – To excavate or deepen a water body by removing aquatic substrate material. Also mechanical or hydraulic equipment used for excavation.

Dredge Spoil – The material removed by dredging. Same as dredge material.

Dredged Material Disposal – Depositing of dredged materials on land or into water bodies.

Dredging – Removal or displacement of earth or sediments such as gravel, sand, mud or silt, and/or other materials or debris from any stream, river, lake or marine water body, and associated shorelines and wetlands. Dredging is normally done for specific purposes or uses such as constructing and maintaining navigation channels, turning basins, harbors and marinas; installing submarine pipelines or cable crossing; or repairing and maintaining dikes or drainage systems. Dredging can be accomplished with mechanical or hydraulic machines. Most dredging is done to maintain channel depths or berths for navigational purposes; other dredging is for shellfish harvesting or cleanup of polluted sediments.

Drift Cell or Drift Sector – Drift cell, drift sector or littoral cell means a particular segment or reach of marine shore in which littoral sediment movement or drift may occur without significant interruption, and which contains any and all natural sources of such drift as well as any shoreform(s) accreted by such drift. Each normal drift cell contains these shore process elements: a feed source that supplies the sediments (feeder bluff or estuary), a driftway, along which the sediment can move, and accretion terminal where the drift material is deposited (accretion shoreform).

Drift Sills – Small groins which hold sediments in place without blocking longshore drift.

Driftway – That portion of the shore process corridor, primarily that lower backshore and the upper intertidal area, through which sand and gravel are transported by the littoral drift process. It is the critical link between the feeder bluff and the accretion shoreform.

Dune – A hill or ridge of sand piled up by the wind and/or wave action.

Ecologically Intact – Those shoreline areas that retain the majority of their natural processes as evidenced by the shoreline configuration and the presence of vegetation or retain the ability to support vegetation. These areas may be partially developed.

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. See WAC Section 173-26-201(2)(c). Functions include, but are not limited to, habitat diversity and food chain support for fish and wildlife, ground water recharge and discharge, high primary productivity, low flow stream water contribution, sediment stabilization and erosion control, storm and water quality enhancement through biofiltration and retention of sediments, nutrients, and toxicants. These beneficial roles are not listed in order of priority.

Ecology (Washington State Department of Ecology) – Use of “Ecology” or “Washington State Department of Ecology”.

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.

Educational or scientific activities – Controlled and/or supervised scientific activities or educational activities that are associated with an educational or scientific program that result in no adverse impacts to critical areas or their buffers.

Embankment – An artificial bank such as a mound or dike, generally built to hold back water or carry a roadway.

Embayment - A broad term for an inlet or indentation in the coastline. In this Program, it is restricted to features partly isolated from the rest of Puget Sound by their configuration and sufficiently small to limit wave action and beach processes. Also included are wetlands or other back-barrier water bodies isolated from direct tidal influence (surface exchange). Embayments include barrier estuaries and lagoons and may include some stream mouths and the heads of small bays.

Emergency – An unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a timer too short to allow full compliance with the Master Program. Emergency construction is construed narrowly as that which is necessary to protect property from the elements and 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, pursuant to the Master Program and RCW 90.58.030(3)(e)(iii); WAC 173-27-040(2)(d), or its successor. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not considered an emergency.

Engineering geologist – A practicing engineering geologist who has at least four years of professional employment as an engineering geologist with experience in landslide evaluation, and a Washington State specialty license in engineering geology as specified in Chapter 18.220 RCW.

Enhancement – An action or alteration performed within an existing degraded shoreline, critical area, habitat and/or buffer to intentionally improve, increase or augment one or more functions or values of the existing area without degrading other functions. Enhancement actions include, but are not limited to, increasing plant diversity and cover, increasing wildlife habitat and structural complexity (snags, woody debris), installing environmentally compatible erosion controls, or removing non-indigenous plant or animal species. Enhancements are to be distinguished from wetland/habitat creation or restoration projects by the need for on-going assistance to maintain the improved function.

Envelope – The enclosing shell of a building’s volume.

Erosion – The wearing a way of land by the action of natural forces, such as wind, rain, water and other natural agents that mobilize, transport, and deposit soil particles; On a beach, the carrying away of beach material by wave actions, tidal currents, or littoral currents.

Erosion Hazard Area – A landform or soil type subject to being worn away by the action of water, wind, freeze-thaw, or ice, including areas rated in the Soil Survey of Kitsap County Area, Washington, USDA (1980), as having severe hazard of water erosion; areas classified in the Department of Ecology Coastal Zone Atlas as Class 3, unstable, Class 3, unstable old slides, or Class 5, unstable recent slide; soils identified by the U.S. Department of Agriculture Natural Resource Conservation Service (NCRS) as having “severe” or “very severe” erosion hazards; and/or soils subject to impacts from shoreline retreat.

Estuary – A semi-enclosed coastal body of water in which fresh water and salt water mingle and affect the ~~total~~ land and water habitat. See also Pocket Estuary.

Estuary, Pocket – see **Pocket Estuary**

Essential Public Facility – Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140; regional transit authority facilities as defined in RCW 81.112.020; state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.[RCW 36.70A.200, or its successor]

~~**Essential Single-Family Residential Accessory Structure**—An accessory structure that contains a use or is intended for a use that is essential to a single-family residential principal use. The following structures shall be considered an essential residential structure: a garage or carport, one septic system (including one tank and one on-site septic drainfield), one well house and associated well head, and existing decks attached to the primary structure.~~

~~**Estuarine, wetland** – A vegetated wetland that is predominantly tidal, as described in Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-29, October 2014).~~

Estuarine Zone, Estuary – The zero-gradient sector of a stream where it flows into a standing body of water, together with associated wetlands. Tidal flows reverse flow in this zone twice daily, determining its upstream limit. It is characterized by low bank channels branching off the main streamway to form a broad, near-level delta. The bank, bed, and delta materials are typically silt and clay. Banks are stable with vegetation ranging from marsh to forest, and the water is usually brackish due to daily mixing and layering of fresh and salt water. Estuarine shores are rich in aquatic and other bird and animal life, and in their natural condition are the most productive of all shoreline habitats in terms of the marine food chain.

Excavation –The disturbance, displacement and/or disposal of unconsolidated earth material such as silt, sand, gravel, soil, rock or other material from all areas landward of OHWM.

Exemption or Exempt Development – Certain developments as listed in WAC 173-27-040 and Chapter 90.58 RCW are exempt from the definition of substantial developments and, therefore, are exempt from the substantial development permit process of the Shoreline Management Act. An activity that is exempt from the substantial development provisions of the Shoreline Management Act 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 be required even though the activity does not need a substantial development permit. [RCW 90.58.030(3)(e) or its successor; WAC 173-27-030(7) and WAC 173-27-040, or its successor].

~~**Existing Development** –Legally established structures which do not conform to the provisions in the 1996 Shoreline Master Program, as amended by ordinance 2013 on xx xx, 2013. Development that was lawfully constructed, approved or established.~~

Extreme High Tide – The highest tide level reached in a nineteen (19) year tidal cycle.

Extreme Low Tide – The lowest line on the land reached by a receding tide [RCW 90.58.030(2)(a) or its successor]. For the purposes of the Shoreline Master Program, it is the contour 4.5 feet below Mean Lower Low Water (datum Plane 0.0) [WAC 332-30-106 (18), or its successor].

Fair Market Value – The expected price at which the development can be sold to a willing buyer. For developments which involve nonstructural operations such as dredging, drilling, dumping, or filling, the fair market value is the expected cost of hiring a contractor to perform the operation, or where no such value can be calculated, the total of labor, equipment use,

transportation, and other costs incurred for the duration of the permitted project [WAC 173-27-030(8), or its successor].

Feasible – When an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions: (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (b) The action does not physically preclude achieving the project’s primary intended legal use. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action’s infeasibility, the reviewing agency may weigh the action’s relative public costs and public benefits, considered in the short- and long-term time frames.

Feasible Location – A location that accommodates a development in a manner that achieves its intended purpose consistent with the constraints of the applicable land use regulations and characteristics of the property, including but not limited to lot size, configuration, presence/absence of critical areas and compatibility with adjacent land use/development. Feasibility shall take into account both short and long-term monetary and non-monetary costs and benefits.

Feeder Bluff, Erosional Bluff – Any bluff (or cliff) experiencing periodic erosion from waves, sliding, or slumping, whose eroded earth, sand, or gravel material is naturally transported (littoral drift) via a driftway to an accretion shoreform. These natural sources of beach material are limited and vital for the long-term stability of driftways and accretion shoreforms.

Fetch – The distance over unobstructed open water on which waves are generated by a wind having constant direction and speed.

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

Fill Material – Any solid or semi-solid material, including rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure that, when placed, changes the grade or elevation of the receiving site.

Fish – Species of the vertebrate taxonomic groups *Cephalospidomorphi* and *Osteichthyes*

Fish and Wildlife Habitat Conservation Areas – Areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation

~~canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company. A seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These include areas of relative density or species richness, breeding habitat, winter range, and movement corridors. These also include habitats of limited availability or high vulnerability to alteration, such as cliffs, streams and wetlands.~~

Fish habitat – Habitat which is used by any fish at any life stage at any time of the year, including potential habitat likely to be used by fish which could be recovered by restoration or management and includes off-channel habitat.

Fisheries – All species of fish and shellfish commonly or regularly originating or harvested commercially or for sport in Puget Sound and its tributary freshwater bodies, together with the aquatic plants and animals and habitat needed for continued propagation and growth of such species.

Fisheries biologist – A person with experience and training in fisheries who is able to submit substantially correct reports on fish population surveys, stream surveys and other related data analyses of fisheries resources. “Substantially correct” means that technical or scientific errors, if any, are minor and do not delay or affect the site plan review process. Qualifications of a fisheries biologist include:

- a. Either:
 - i. Certification by the American Fisheries Society, or;
 - ii. Bachelor of Science degree in fisheries or the biological sciences from an accredited institution and five years of professional fisheries experience; and
- b. The prior successful completion of at least three habitat management plans.

Fisheries Enhancement – Actions taken to rehabilitate, maintain or create fisheries habitat, including but not limited to hatcheries, spawning channels, lake rehabilitation, planting of fisheries stocks. Fisheries Enhancement differs from Aquaculture in that the increase in fisheries stocks eventually becomes available for public harvest.

Float – A floating platform that moves vertically with a tide and is anchored or attached to a fixed or anchored overwater structure or an anchoring system.

Float, Recreational – A float used primarily for swimming, diving, water skiing, or other recreational purpose and not for the moorage of watercraft.

Floating Aquaculture Facility – Open water aquaculture facility which is consists of a mooring system and/or floats.

Floating house - any floating structure that is designed, or has been substantially and structurally remodeled or redesigned, to serve primarily as a residence. "Floating houses" include house boats, house barges, or any floating structures that serve primarily as a residence and do not qualify as a vessel as provided in subsection (74) of this section. A floating structure that is used

as a residence and is capable of navigation, but is not designed primarily for navigation, nor normally is capable of self propulsion and use as a means of transportation is a floating house, not a vessel.

Flood or Flooding, Coastal – A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

Flood Protection Measures – All development on water bodies, usually rivers and streams, designed to retard bank erosion, to reduce flooding of adjacent lands, to control or divert stream flow, or to create a reservoir, including but not limited to revetments, dikes, levees, channelization, dams, vegetative stabilization, weirs, flood and tidal gates. Excluded are water pump apparatus.

Flood Hazard; Flood Hazard Management – A long term program or major project carried out on a single parcel or coordinated on a series of parcels for the primary purpose of preventing or mitigating damage to life and property and to minimize public expenses due to flooding through a comprehensive system of planning development regulations, building standards, structural works, and monitoring and warning systems. Flood hazard management projects or programs may employ physical and/or regulatory controls.

Floodplain – Synonymous with one hundred-year floodplain, this is the land area susceptible to being inundated by stream-derived waters with a one percent chance of being equaled or exceeded in any given year. The limits of this area are based on flood regulation and ordinance maps or a reasonable method that meets the objectives of the Shoreline Management Act [WAC 173-26-020(17) or its successor].

Floodway – Those areas or portions of the areas as identified in the Master Program that are either (a) established in federal emergency management agency flood insurance rate maps or floodway maps or (b) those portions of a river valley lying streamward from the outer limits of a watercourse, and upon which flood waters are carried during periods of flooding that occur with reasonable regularity, through not necessarily annually. The floodway is identified, under normal conditions, by changes in surface soil conditions, or changes in types or quality of vegetative ground cover conditions. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state. The limits of the floodway are based on flood regulation ordinance maps or by a reasonable method which meets the objectives of the Shoreline Management Act. [RCW 90.58.030(2)(g) or its successor].

Foreshore – In general terms, the intertidal area between mean higher high water and mean lower low water.

Foreshore Marina – See Marina.

Forest Practice – Any activity conducted on, or directly related to, forest land and relating to growing, harvesting, or processing timber. This includes (1) site preparation and regeneration, (2) protection from insects, fire, and disease, (3) silvicultural practices such as thinning,

fertilization, and release from competing vegetation, and (4) harvesting. Forest practices do not include log storage. (See industrial use.) These activities include, but are not limited to, road and trail construction, final and intermediate harvesting, pre-commercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control. See WAC 222-16-010 or its successor.

Forest Land – All land which is capable of supporting a merchantable stand of timber and is not being actively used in a way which is incompatible with timber growing [WAC 222-16-010 or its successor].

Frequently Flooded Areas – Lands subject to a one percent or greater chance of flooding in any given year, as determined by the Federal Emergency Management Agency. These areas include, but are not limited to, floodplains adjacent to streams, lakes, coastal areas, and wetlands. (Also see BIMC Chapter 15.16, Flood Damage Prevention.)

Functional Grating – A floor or decking material which is permeable.

Functions and values – The natural processes and beneficial roles performed or provided by critical areas including, but not limited to, water quality and quantity protection and enhancement, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, providing flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, protecting aesthetic value, and providing recreational and educational opportunities. These roles are not listed in order of priority.

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

Geologically Hazardous Areas – Areas susceptible to significant erosion, sliding, or other geological events. They pose a threat to the health and safety of citizens when used as sites for incompatible commercial, residential or industrial development. Geologically hazardous areas include erosion hazard areas, landslide hazard areas, and seismic hazard areas.

Geomorphology – The shape or form of a natural surface or object. Also, the study of the forms of the land surface and the processes producing them.

Geotechnical Engineer – Practicing geotechnical/civil engineer who has a valid Washington State engineering license and a valid certificate of registration in civil engineering, at least four years of professional employment as a geotechnical engineer with experience in landslide evaluation, and appropriate training and experience as specified in RCW Chapter 18.43.

Geotechnical report or geotechnical analysis – A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed

development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

Grading – An activity associated with land modification or maintenance; grading means the physical 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 stormwater runoff through biofiltration.

Groins – This is a rigid, barrier-type structure extending on an angle waterward from the shore into the intertidal zone. Their purpose is to build or preserve an accretion shoreform or berg on their updrift side by trapping littoral drift to protect a shoreline and adjacent upland by influencing the movement of water and/or deposition of materials. Groins are relatively narrow in width but vary greatly in length. Groins are sometimes built in series as a system, and may be permeable or impermeable, high or low, and fixed or adjustable.

Growth Management Act – RCW 36.70A, as amended

Guidelines – Those standards adopted by the Washington State Department of Ecology under WAC 173-26, intended to implement the policy of the Shoreline Management Act, RCW Chapter 90.58, for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards 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.

Habitat Function – The use and benefits of physical and biological factors to associated biological communities of organisms.

Habitat Management Plan (HMP) – A report prepared by a professional wildlife biologist or fisheries biologist which discusses and evaluates critical fish and wildlife habitat functions and identifies and evaluates measures necessary to maintain, enhance and improve terrestrial and/or aquatic habitat on a proposed development site.

Habitat of Local Importance – An area representing either high quality habitat for native terrestrial or aquatic species or habitat which is of limited availability, highly vulnerable to alteration, or provides landscape connectivity which contributes to the integrity of the surrounding landscape and which is not adequately protected by other city, state or federal policies, laws, regulations, or non-regulatory tools that prevent degradation of the habitat or its associated species. These may include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors such as breeding areas or human-made ponds.

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

Harbor Structure Limit Line – A line defined in a harbor to demarcate the limits of overwater structures in aquatic areas and maintain navigation, as recommended by the Harbor Commission and approved by the City of Bainbridge Island City Council.

Hazard Tree – A tree that has significant structural defects that are likely to lead to failure and possibly cause injury or damage as identified in a report from an International Society of Arboriculture (ISA) Tree Risk Assessment Qualified (TRAQ) arborist with structural defects likely to cause failure of all or part of the tree, which could strike a “target.” A target can be a building or a place where people gather such as a park bench, picnic table, street, or backyard. In the case of steep slopes, a hazard tree can also be a tree that is a hazard to the stability of the slope, as determined by a geotechnical engineer.

Hazardous Materials – Any substance containing such elements or compounds which, when discharged in any quantity in shorelines, present to imminent and/or substantial danger to public health or welfare; including but not limited to: fish, shellfish, wildlife, water quality, and other shoreline features and property.

Hazardous Substance – Any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in WAC 173-303-090 or 173-303-100.

Hedge – A line of closely-spaced trees and/or shrubs intentionally planted and/or maintained along a property boundary or landscape border for privacy, screening, safety, or similar function, which typically requires ongoing pruning or shearing to maintain its intended function and/or reasonable use of nearby developed areas.

Height – The distance measured from the average grade level to the highest point of a structure. Television antennas, chimneys, and similar structures or appurtenances shall not be used in calculating height except where they obstruct the view of residences adjoining such shorelines. Temporary construction equipment is excluded in this calculation [WAC 173-27-030(9) or its successor]. For all over-water structures, height shall be measured from ordinary high water mark.

High Bluff – An area with slope greater than 40%; height greater than fifteen feet (15’), often unstable or with visible face sediment source often from backshore. This term is used to identify geomorphic classes for the 2004 Nearshore Assessment completed by Battelle for the City.

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

HPA – Hydraulic Project Approval. The permit issued by the Washington State Department of Fish and Wildlife pursuant to the State Hydraulic Code Revised Code of Washington Chapter 75.20, or its successor.

Hydric Soils – Soils which are, saturated flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part or have had a history of being, wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of plants [WAC 173-22-030(5) or its successor]. The presence of hydric soil shall be determined following methods identified by the Department of Ecology.

Hydrogeologist – A practicing hydrogeologist who has at least four years of professional employment as a hydrogeologist with experience in the specific subject area in which they are providing a report, and a Washington specialty license in hydrogeology as specified in RCW Chapter 18.220.

Hydrophytes – Those plants capable of growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following methods identified by the Department of Ecology.

Infeasible – Not feasible, see feasible

Impact – An action producing a significant causal effect of the whole or part of a given area.

Impoundment – The retention or trapping of sediment in a location, either by natural or structural means.

Industrial Development – Facilities for processing, manufacturing, fabrication or storage of goods or materials, including but not limited to oil, metal or mineral product refining, power generating facilities, including hydropower, ship building and major repair, storage and repair of large trucks and other large vehicles or heavy equipment, related storage of fuels, commercial storage and repair of fishing gear, warehousing construction contractors' offices and material/equipment storage yards, wholesale trade or storage, and log storage on land or water, together with necessary accessory uses such as parking, loading, and waste storage and treatment. Excluded from this definition are mining, including on-site processing of raw materials, and off-site utility, solid waste, road or railway development, and methane digesters that are accessory to an agricultural use.

Industrial Use – Uses intended primarily to provide for heavy commercial water-dependent uses such as ship and boat building, haul out and repair and related uses serving boating needs.

In-kind Compensation – To replace wetlands, biota, or other organisms with substitute flora or fauna whose characteristics closely match those destroyed, displaced, or degraded by an activity.

Inshore – The zone of the beach profile extending waterward from the foreshore to just beyond the breaker.

Intertidal – The substream area exposed at low tides and inundated at high tides, situated from the extreme low water of spring tides (mean lower-low water, MLLW) to the upper limit of spray or influence of ocean-driven salts (mean higher-high water, MHHW).

Invasive Species – 1) non-native (or alien) to the ecosystem under consideration and 2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health, or as amended by the United States Department of Agriculture National Invasive Species Information Center (NISIC). A species that is (1) non-native (or alien) to the Puget Sound or the Central Puget Lowland region and (2) whose introduction causes or is likely to cause economic or environmental harm, or harm to human health. Invasive species can be plants, animals, and other organisms (e.g., microbes). Human actions are the primary means of invasive introductions.

Jetty – A structure that is generally perpendicular to shore extending through or past the intertidal zone. It is built at harbor entrances or river mouths mainly to prevent shoaling or accretion from littoral drift in entrance channels, which may or may not be dredged. A jetty also serves to protect a channel from storm waves or cross currents, and stabilize inlets through barrier beaches. On the West Coast and in this region, most jetties are riprap mound construction.

Lagoon – A shallow body of water, such as a pond or a lake, isolated from Puget Sound by a barrier beach or other narrow body of land. Lagoons may or may not have a permanent tidal connection to the sea. See also Tidal Lagoon and Barrier Lagoon.

Land disturbing activity – Any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

Land divisions – Any division of land subject to the city’s subdivision design standards (BIMC Chapter 17.12).

Landfill – The placement of soil, sand, rock, gravel, existing sediment or other material (excluding solid waste) in upland areas, landward of OHWM, generally to raise the elevation.

Landslide – A general term covering a wide variety of mass movement landforms and processes involving the downslope transport, under gravitational influence of soil and rock material en masse; included are debris flows, debris avalanches, earthflows, mudflows, slumps, mudslides, rock slides, and rock falls.

Landslide Hazard Areas – Areas that, due to a combination of site conditions like slope inclination and relative soil permeability, are susceptible to mass wasting, as designated in Appendix B-1(28). Areas

which are at risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. Landslide hazard areas include the following:

- a. Areas characterized by slopes greater than 15 percent having springs or groundwater seepage and having impermeable soils (typically silt and clay) overlain or frequently interbedded with permeable granular soils (predominantly sand and gravel);
- b. Any area potentially unstable due to rapid stream incision or stream bank erosion;
- c. Any area located on an alluvial fan, debris flow deposit, or in a debris flowpath, presently or potentially subject to impacts or inundation by debris flows or deposition of stream-transported sediments;
- d. Any area with a slope of 40 percent or greater and with a vertical relief of 10 or more feet except areas composed of competent consolidated rock;
- e. Any area designated or mapped as class U, UOS, or URS by the Department of Ecology Coastal Zone Atlas and/or mapped as a landslide or scarp on the USGS Surface Geology Map of Bainbridge Island (Haugerud, 2001).

Landslide hazard area setback – An area contiguous to a landslide hazard area sufficient in depth to meet the development standards set forth in Section 4.1.5.10 as determined by a geological hazards assessment prepared in accordance with Section 4.1.5.14, Critical area reports.

Land Use – The development or activities that occur or are allowed to occur on a particular property.

Landward – In a direction toward shoreland areas.

Launch – see boat launch

Large Woody Debris (LWD) – Generally naturally occurring material that is recruited from during storms from downed trees in rivers, streams or other waters.

Levee – A large dike or embankment, often having an access road along the top, which is designed as part of a system to protect land from floods.

Limited Utility Extension – The extension of natural gas, electricity, telephone, water, or sewer service where all of the following are met: (1) the extension is categorically exempt under the Washington State Environmental Policy Act (SEPA) (See WAC 197-11-800 (24 or its successor) for the utility improvements which are categorically exempt under SEPA), (2) the extension will serve existing uses that are in compliance with the Shoreline Management Act, and (3) the project does not involve the construction of more than twenty-five hundred (2,500) linear feet of utility lines or pipes within shoreline jurisdiction.

Liquefaction – A process in which a water-saturated soil, upon shaking, suddenly loses strength and behaves as a fluid.

Littoral – of or pertaining to the shore.

Littoral Cell – See Drift Cell.

Littoral Drift – The natural process of sediment movement, particularly sand and gravel along the shoreline in the nearshore zone by waves and currents (see also Drift Cell and Driftway).

Littoral Transport – see Longshore Transport

Live-aboard Vessel – A vessel licensed and designed for use as a mobile structure with adequate self-propulsion and steering equipment to be operated as a vessel, but which is principally used as an over-water residence. Principal use as an over-water residence means essentially full-time occupancy within the City’s jurisdiction for a total of more than sixty (60) days, whether or not consecutive, in any calendar year.

Longshore Current – The littoral current in the breaker zone moving essentially parallel to the shore.

Longshore Transport – Transport of sedimentary material parallel to the shore.

Low Bank – An area with a slope often greater than fifteen percent (15%) and less than ~~fourty~~ percent (40%), height fifteen feet (15’) or less, generally narrow beach with high water line at or on the bank. Bedrock terrace considered low bank if characterized by a sand and gravel beach; backed by low scarp. This term is used to identify geomorphic classes for the 2004 Nearshore Assessment completed by Battelle for the City.

Low Impact Development (LID) – A stormwater and land use management strategy that strives to mimic predisturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

~~A stormwater management strategy that emphasizes conservation and use of existing natural site features integrated with distributed, small-scale stormwater controls to more closely mimic natural hydrologic patterns in residential, commercial, and industrial settings. LID employs principles such as preserving and recreating natural landscape features and minimizing impervious surfaces to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product. Practices that adhere to these LID principles include bioretention facilities, rain gardens, vegetated rooftops, rainwater harvesting (rain barrels and cisterns), and permeable pavements.~~

Low impact development best management practices (LID BMPs) – Distributed stormwater management practices, integrated into a project design, that emphasize predisturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to: bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, minimal excavation foundations, vegetated roofs, and water reuse.

Maintenance – See Normal Maintenance and Normal Repair.

Marina – A facility with the primary purpose of providing moorage for six (6) or more vessels, which consists of a system of piers, docks, buoys, or floats. Foreshore marinas are located landward of OHWM. 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, dry moorage, which has upland storage with a hoist, marine travel lift, or ramp for water access. Open water marinas, including open water moorage and anchorage areas, are generally located in the center of a water body to provide moorage in addition to any marinas and docks along the edge of the water body.

Marine Bluffs – see Bluff, Marine

Marine Travel Lift – A mechanical device that can hoist vessels off trailers and transport them into the water. Often associated with dry land moorage.

Marine Railway – A fixed set of rails running from the upland area into the water upon which a cart or dolly can carry a boat to be launched.

Marine Riparian Zone – The transition zone between the nearshore and terrestrial ecotones. See also Riparian Vegetation.

Marshes, Bogs, and Swamps – Lands transitional between terrestrial and aquatic systems where saturation with water is the dominant factor determining plant and animal communities and soil development. Such lands must have one or more of the following attributes: a) at least periodically, the land predominately supports hydrophytes, and/or 2) the substrate is predominantly undrained hydric soil. [WAC 173-22-030(10) or its successor]. See Hydrophyte, Hydric Soil.

Marsh/Lagoon – Protected embayment often fluvial sediment sources, substrate is composed of fines, diagnostic salt marsh vegetation, lagoons may empty completely at low tide (extensive tide flats) and may have a residual basin that holds water at low tide. This term is used to identify geomorphic classes for the 2004 Nearshore Assessment completed by Battelle for the City.

Mean Higher-High Water (MHHW) – The plane of the arithmetic mean of the higher of two (2) daily high tides calculated from the most recent 19-year tidal cycle.

Mean Low Water (MLW) – The plane of the arithmetic mean of all low tides calculated from the most recent 19-year tidal cycle.

Mean Lower-Low Water (MLLW) – The plane of arithmetic mean of the lower of two (2) daily low tides calculated from the most recent 19-year tidal cycle (datum plane 0.0).

Mean Sea Level – The average height of the surface of the sea for all stages of the tide over a 19-year period, usually determined from hourly height readings.

Midden – An ancient refuse heap. Often a source of archaeological material.

Mining – Removal and primary processing of naturally occurring materials from the earth for economic use. “Processing” includes screening, crushing, stockpiling – all of which utilize materials removed from the site where the processing activity is locate. Processing does not include the manufacture of molded or cast concrete, or asphalt products, asphalt mixing operations, or concrete batching operations.

Mitigation – Measures used to avoid, minimize or alleviate adverse impacts of development on ecological functions or ecosystem-wide processes. Mitigation must follow mitigation sequencing requirements of WAC 173-26-201(2)(e) and includes:

- a. Avoiding, minimizing or compensating for adverse impacts, in the following order of preference:
 - i. Avoiding the impact altogether by not taking a certain action or parts of an action.
 - ii. 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;
 - iii. Rectifying the impacts by repairing, rehabilitating or restoring the affected environment;
 - iv. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
 - v. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
 - vi. Monitoring the impact and the compensation project and taking appropriate corrective measures. Mitigation for individual action may include a combination of the above measures; and
- b. The following specific categories:
 - i. Mitigation, compensatory: replacing project-induced critical area losses or impacts, including, but not limited to, establishment, re-establishment, rehabilitation or enhancement.
 - ii. Mitigation, establishment: mitigation performed to intentionally establish a critical area (e.g., wetland) at a site where it does not currently exist.
 - iii. Mitigation, re-establishment: the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former critical area.
 - iv. Mitigation, rehabilitation: the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural of historic functions and processes to a degraded critical area.
 - v. Mitigation, enhancement: the manipulation of the physical, chemical, or biological characteristics of a biological wetland to heighten, intensify or improve specific function(s) or to change for specific purposes such as water quality improvement, flood water retention, or wildlife habitat.

Mitigation Sequence – Individual action that may include a combination of the following measures, listed in order of preference:

- a. Avoiding the impact altogether by not taking a certain action or parts of actions;
- b. Minimizing impacts by limiting the degree of magnitude of an action and its implementation;
- c. Rectifying impacts by repairing, rehabilitating, or restoring the affected environment;
- d. Reducing or eliminating an impact over time by preservation and maintenance operations;
- e. Compensating for an impact by replacing enhancing, or providing substitute resources or environments; and
- f. Monitoring the impact and compensation projects and taking appropriate corrective measures when necessary.

Mitigation Plan – A detailed plan indicating actions necessary to mitigate adverse impacts of development.

Monitoring – Evaluating the impacts of development proposals over time on the biological, hydrological, pedological, and geological elements of ecosystem functions and processes and/or assessing the performance of required mitigation measures through the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features compared to a baseline or pre-project conditions and/or reference sites.

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

Muds – Sediments in which the size of the particles is smaller than 0.0625mm.

Mudflat – Low, unvegetated mud substrate that is flooded at high tide and uncovered at low tide.

Multi-family Dwelling or Residence – A building containing two or more dwelling units or more than one dwelling unit on one lot, including, but not limited to, duplexes, apartments, and condominiums.

Natural Riparian Habitat Corridor – The waterside environment maintained in its natural state, primarily for fisheries and wildlife habitat, and water quality improvements, and, secondarily, for flood control works, while allowing controlled access to avoid damage to the resource.

Native Vegetation – Plant species typically found on an undeveloped marine shoreline that are indigenous to the Central Puget Lowland eco-region and suitable to the specific site conditions.

Native Vegetation Equivalent – Plant species that are equivalent in providing the same site-specific functional arrays as would a native species. Functional arrays may include forage, floodwater restraint, hiding habitat, or other physical or biologic roles in the ecosystem, that individually or in combination correspond to those of the native species. As with natives, the

role and mix of an alternative species may vary depending on the site and its surrounding ecosystem. Invasive/exotic species shall not be considered equivalent species.

Nearshore or Nearshore Zone – The area of marine and estuarine shoreline, generally extending from the top of the shoreline bank or bluff to the depth offshore where light penetrating the water falls below a level supporting plant growth, and upstream in estuaries to the head of the tidal influence. It includes bluffs, beaches, mudflats, kelp and eelgrass beds, salt marshes, gravel spits, and estuaries.

Not Net Loss – As a public policy goal, the maintenance of the aggregate total of the City’s shoreline ecological functions at its current level of environmental resource productivity. As a development and/or mitigation standard, no net loss requires that the impacts of a particular shoreline development and/or use, whether permitted or exempt, be identified and prevented or mitigated, such that it has no resulting adverse impacts on shoreline ecological functions or ecosystem-wide processes. Each project shall be evaluated based on its ability to meet the no net loss standard commensurate with its scale and character.

Nonconforming Development – A shoreline use or structure which was lawfully constructed or established prior the effective date of the applicable Shoreline Management Act/SMP provision, and which no longer conforms to the applicable shoreline provisions [WAC 173-27-080(1), or its successor].

Nonconforming Lot. A nonconforming lot means a lot that met dimensional requirements of the applicable SMP at the time of its establishment (November 26, 1996), as amended, but now contains less than the required width, depth or area due to subsequent changes in the Program.

Nonconforming Structure. A nonconforming structure means an existing structure that was lawfully constructed prior to the effective date of this Program (November 26, 1996), as amended, but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the Program.

Nonconforming Use. A nonconforming use means an existing shoreline use that was lawfully established prior to the effective date of this Program (November 26, 1996), as amended, but which does not conform to present use regulations due to subsequent changes to the Program.

Nonwater-oriented – Nonwater-oriented uses serve to describe those uses which have little or no relationship to the shoreline and are not water-dependent, water-related, or water-enjoyment, or considered priority uses under the Shoreline Management Act. Nonwater-oriented uses, means those uses that are not water-dependent, water-related, or water-enjoyment. Nonwater-oriented use examples include professional offices, automobile sales or repair shops, storage facilities, and automobile gas stations.

Normal Appurtenance – See Appurtenance.

Normal Maintenance – Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. [WAC 173-27-040(2)(b), or its successor]. (See Normal Repair.) Normal maintenance does not include:

- a. Use of fertilizer or pesticide application in wetlands, fish and wildlife habitat conservation areas, or their buffers;
- b. Re-digging ditches in wetlands or their buffers to expand the depth or width beyond the original ditch dimensions;
- c. Re-digging existing drainage ditches to drain wetlands on lands not classified as existing and ongoing agriculture under BIMC 16.20.040 (Exemptions).

Normal Repair – To restore a structure or development to a lawfully established state comparable to its original condition within a reasonable period after decay or partial destruction, except where repair involves total replacement which is not common practice, or causes substantial adverse effects to the shoreline resource or environment. This does not include any activities that change the character, scope or size of the original structure or development beyond the original design. [WAC 173-27-040(2)(b), or its successor]. (See Normal Maintenance).

Normal Protective Bulkhead – See Bulkhead.

Obligate Vegetation – The sum total of macrophytic plant life that occurs in areas where the frequency (>99% of the time in wetlands) and duration of inundation or soil saturation produce permanently or periodically saturated soils of sufficient duration to exert a controlling influence on the plant species present. USACE 1987 Wetland Delineation Manual.

OHWM, Ordinary High Water Mark – That mark that will be formed 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, that the soil has a character distinct from that of the abutting upland in respect to vegetation as that condition existed on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or Washington State Department of Ecology, provided that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high water and the ordinary high water mark adjoining fresh water shall be the line of mean high water. [See RCW 90.58.030(2)(b), or its successor and WAC 173-22-030(6), or its successor].

Offshore – The area waterward of the breaker zone, extending in a direction waterward from the shore.

Oil/Water Separator – Specialized catch basins that are designed to trap oil and other materials lighter than water in the basin while allowing the water to escape through the drainage system.

Open Coastal Inlets - These describe inlets or estuaries whose size or configuration precludes significant wave action, but where the inlet itself is not significantly enclosed by a barrier or other restriction.

Open Space – See BIMC Title 18.

Open Water Moorage and Anchorage Area – A designated area of state-owned aquatic lands leased for the moorage and anchorage of vessels that does not abut uplands and does not include a built connection to the uplands. Open water moorage and anchorage areas are leased only by municipalities in accordance with WAC 332-30-139 and subject to the restrictions therein.

Outfall – A structure extending into a body of water for the purpose of discharging an effluent (sewage, storm runoff, cooling water).

Overwash - The flow of marine waters and associated sediment over the top of a barrier beach, usually when storms coincide with high tides. Leads to deposition of sediment in backshore areas and the gradual shifting of a barrier beach landward.

Overwater structures – Human-made structures that extend over all or part of the surface of a body of water, such as a pier.

Parking – The temporary storage of automobiles or other motorized vehicles.

Periodic – Occurring at regular intervals.

Person(s) – Includes organizations and corporations.

Pier – A platform structure or anchored device that is fixed above the water extending waterward from ordinary high water, and which is generally used as a landing or moorage place for industrial, commercial, and/or pleasure craft; including but not limited to ; wharves and quays.

Plant Community – Association of plants in a given area or region in which various species are more or less dependent upon each other.

Pocket Beach – An isolated beach, existing usually, without benefit of littoral drift from sources elsewhere. Pocket beaches are produced by erosion of immediately adjacent bluffs or banks and are relatively scarce and therefore valuable shoreforms on the Island; they are most common between rock headlands and may or may not have a backshore.

Pocket Estuary – Term used in the Puget Sound region to describe small estuaries and lagoons, partially isolated by their configuration from the main body of Puget Sound.

Point – A low profile shoreline Promontory of more or less triangular shape, the top of which extends waterward.

Primary Structure – A structure that includes the principal use of a property, or is intended to be occupied with the principal use of the property.

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

- a. Comparatively high fish or wildlife density;
- b. Comparatively high fish or wildlife species diversity;
- c. Fish spawning habitat;

- d. Important wildlife habitat;
- e. Important fish or wildlife range;
- f. Important fish or wildlife movement corridor;
- g. Rearing and foraging habitat;
- h. Important marine mammal haul-out;
- i. Refugia habitat;
- j. Limited availability;
- k. High vulnerability to habitat alteration;
- l. Unique or dependent species; or
- m. Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows).

A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

Priority Species –Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

- a. Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014, or its successor), threatened (WAC 232-12-011, or its successor), or sensitive (WAC 232-12-011, or its successor). State proposed species are those fish and wildlife species that will be reviewed by the Department of Fish and Wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.
- b. Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or state-wide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.
- c. Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.
- d. Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

Pruning – The selective removal of plant parts to achieve defined objectives.

Pruning amount – The quantity of plant parts removed at one pruning, expressed in terms of a number of branches or other parts removed, and/or percentage of the crown or buds removed on an entire tree or specific branches.

Public Access – The public’s right to get to and use the state’s public waters, both saltwater and freshwater, the water/land interface and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and/or visual access facilitated by means such as scenic roads and overlooks, viewing platforms, decks or towers and other public sites or facilities.

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 including, but not limited to , an effect on public property or on health, safety, or general welfare resulting from adverse effects of a use or development.

Puget Lowland, Central – The low area between the Olympic and Cascade Mountain ranges.

Puget Sound – All marine water contained south and east of Admiralty Inlet and Deception Pass.

Qualified Professional or Qualified Consultant – A person with experience and training with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must possess the required education and experience stipulated for that profession pursuant to this Program and/or BIMC 16.20.020 for the following:

- a. Fisheries Biologist (BIMC 16.20.020(17));
- b. Geotechnical Engineer (BIMC 16.20.020(21));
- c. Hydrogeologist (BIMC 16.20.020(27));
- d. Wetland Specialist (BIMC 16.20.020(56));
- e. Wetland Biologist (BIMC 16.20.020(57));
- f. Professional Archeologist (RCW 27.53.030(11), or successor)
- g. Certified Arborist (BIMC 16.20)

RCW – Revised Code of Washington.

Ravine – A V-shaped landform generally having little to no floodplain and normally containing steep slopes, which is deeper than 10 vertical feet as measured from the centerline of the ravine to the top of the slope. Ravines are typically created by the wearing action of streams. The top of the slope is determined where there is a significant change in the slope to generally less than a 15 percent slope.

Recharge – The process involved in the absorption and addition of water from the unsaturated zone to ground water.

Recreation – An experience or activity in which an individual engages for personal enjoyment and satisfaction through forms of play, sports, relaxation, amusement or contemplation, Most shore-based recreation included outdoor recreation such as: fishing, hunting, clamming, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling, horseback riding, camping, picnicking, watching or recording activities such as photography, painting, bird watching or viewing or water or shorelines, nature study and related activities.

Recreational Development, Active – activities that generally require the use of constructed facilities such as playgrounds, athletic fields, boat ramps, and marinas, and/or the use of specialized equipment.

Recreational Development, Passive – activities that require a minimum of facilities such as swimming, picnicking, hiking, canoeing and fishing, and other low impact activities.

Recreational Fishing –Fishing for personal use as allowed by Personal Fishery Chapter 220-56 WAC.

- a. Hand Line or Angling - shall be identical in meaning and, except as provided in WAC 220-56-115, shall be defined as the use of not more than one line with three hooks attached to a pole held in hand while landing fish, or the use of a hand operated line without rod or reel, to which may be attached not more than three hooks. When fishing for bottom fish, "angling" and "jigging" shall be identical in meaning [WAC 220-56-100(17), or its successor].
- b. Spear Fishing - means an effort to take fish or shellfish by impaling the fish or shellfish on a shaft, arrow or other device [WAC 220-56-100(29), or its successor].
- c. Bow and Arrow Fishing - any method of taking, or attempting to take, fish by the use of an arrow equipped with a barbed head and a line attached, and propelled by a bow, as in the sport of archery, while the fisher is above the surface of the water [WAC 220-56-100(6), or its successor]

Redevelopment – On a site that is already substantially developed (i.e., has 35 percent or more of existing impervious surface coverage), the creation or addition of impervious surfaces; the expansion of a building footprint or addition or replacement of a structure; construction, installation or expansion of a building or other structure; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities.

Removal, vegetation – To eliminate the presence or hazard of unwanted vegetation.

Repair – See “Normal Repair”

Residential Development – Construction or alteration, earth modification, subdivision and use of land primarily for human residence; including but not limited to single-family residences and

multifamily dwellings, accessory uses, and structures normally associated with residential uses and structures. Residential development includes land divisions, including short plats, of residentially zoned land. It also includes all modifications to land and vegetation associated with construction, preparation, or maintenance of residential structures or accessory structures.

Restoration or Ecological Restoration – To revitalize, reestablish or upgrade ecological shoreline functions and/or natural processes of a degraded shoreline resource to a condition that sustains the ecological functions and process at a state of equilibrium.

This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic materials.

Retaining Wall – A built structure designed to retain an earth bank from sliding or to resist the lateral pressure of soil when there is a desired change in ground elevation.

Revetment – A sloping structure built to protect a scarp, embankment, or shore against erosion by waves or currents. Usually built of riprap, with heavy armor layer, one or more filter layers of smaller rock or filter cloth, and “toe” protection. A revetment slopes shoreward and has a rough or jagged facing. Its sloping face absorbs wave energy and differentiates it from a bulkhead, which is a vertical structure.

Riparian – Of, pertaining to, or situated or living on the banks of a river or other body of water, including tidewater.

Riparian Management Zone – The area adjacent to a water body (stream, lake or marine water) that contains vegetation that influences the aquatic ecosystem, nearshore area and/or fish and wildlife habitat. The zone include terrestrial habitat and riparian vegetation.

Riparian Vegetation – Vegetation that tolerates and/or requires moist conditions and periodic free flowing water thus creating a transitional zone between aquatic and terrestrial habitats which provides cover, shade and food sources for aquatic and terrestrial insects for fish species. Riparian vegetation and their root systems stabilizes banks, attenuates high water flows, provide wildlife habitat and travel corridors, and provide a source of limbs and other woody debris to terrestrial and aquatic ecosystems.

Riprap – A layer, facing, or protective mound of stones placed to prevent erosion, scouring, or sloughing of a structure or embankment.

Rock Weir – See Groin.

Runoff – Water that is not absorbed into the soil, but rather flows along the ground surface following the topography.

Salish Sea – Broadly defined as the confined water body inland from Cape Flattery, including Puget Sound, the Strait of Juan de Fuca and the Strait of Georgia.

Salmon and Steelhead Habitats – Gravel bottom streams, creeks, and rivers used for spawning; streams, creeks, rivers, side channels, ponds, lakes, and wetlands used for rearing, feeding, cover and refuge from predators and high water; streams creeks, rivers, estuaries, and shallow areas of

saltwater bodies used as migration corridors; and salt water bodies used for rearing, feeding, and refuge from predators and currents.

Salt Tolerant Vegetation – Vegetation which is tolerant of interstitial soil salinities greater than or equal to 0.5 parts per thousand. [WAC 173-22, or its successor].

Seawall – Structure separating land and water areas primarily to prevent erosion and other damage by wave action. Generally more massive and capable of resisting greater wave forces than a bulkhead or revetment.

Sediment – The material, such as sand, silt, or clay, suspended in or settled on the bottom of a water body, generally deposited by erosion, water or wind.

Sediment Transport – The movement of sediment along a current pathway.

Seismic Hazard Areas – Areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, or surface faulting. While ground shaking is the principal risk because the entire island will shake significantly, severe damage will occur where slope failure, liquefaction, and settlement are induced by the shaking and surface rupture is created by fault movement. The following areas are considered seismic hazard areas:

- a. Seismic Landslide Hazard Areas. Slopes which are stable in non-earthquake periods, but fail and slide during ground shaking;
- b. Liquefaction Hazard Areas. Areas of non-cohesive, loose or soft, saturated soils of low density in association with a shallow groundwater table that are subject to settlement and/or liquefaction from ground shaking; or
- c. Fault Hazard Areas. Areas of known surface rupture or significant surface deformation as a result of an active fault movement, including fifty feet (50') on either side.

Sensitive Areas – See Critical Areas

Sensitive Land – See Critical Areas

Setback – The required space that is left open and unoccupied between the nearest projection of a structure and the property line of the lot on which the structure is located, and that are required to remain unobstructed from the ground to the sky except for modification to setbacks and height specifically allowed by code.

Shall – A mandate; the action that must be done.

Shared Moorage – Moorage for pleasure craft and/or landing for water sports for use in common by shoreline residents of a certain subdivision or community within shoreline jurisdiction or for use by patrons of a public park or quasi-public recreation area, including rental of non-powered craft. If a shared moorage provides commercial services of six or more slips, it shall be considered a marina.

Shellfish – Invertebrates of the phyla Arthropoda (class Crustacea), Mollusca (class Pelecypoda) and Echinodermata.

Shellfish Habitat Conservation Area – All public and private tidelands suitable for shellfish, as identified by the Washington Department of Health classification of commercial growing areas, and those recreational harvest areas as identified by the Washington Department of Ecology are designated as Shellfish Habitat Conservation Protection District created under RCW 90.72 is also a Shellfish Habitat Conservation Area.

Shoreland Areas – Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands, including river deltas associated with streams, rivers and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology.

Shorelands – See “Shoreland areas.”

Shoreline Armoring – Structural protection from erosion caused by tidal action, current or waves, including but not limited to, revetments, bulkheads, sea walls, gabions.

Shoreline Designation – The categories of shorelines established by the Shoreline Master Programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. [WAC 173-16-040(4), or its successor].

Shoreline Jurisdiction (Associated Wetlands [Jurisdictional]) – The proper term describing all of the geographic areas covered by the Shoreline Management Act, related rules, and the applicable master program. Those lands extending landward for two hundred feet (200’) in all directions, as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; and all marshes, bogs, swamps and deltas associated with the streams, lakes, and tidal waters subject to the Shoreline Management Act. See RCW 90.58.030(2)(f), or its successor; WAC 173-16-030(17), or its successor; and WAC 173-22-030(10), or its successor. Also, such areas within a specified local government’s authority. See definitions of shorelines, shorelands, shorelines of the state, and Shorelines of State-wide Significance, and wetlands, jurisdictional.

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

Shoreline Master Program or Master Program – The comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city’s comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city’s development regulations.

Shoreline Modifications – Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike,

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

Shoreline Permit – A substantial Development, Conditional Use, Revision, Variance, or any combination thereof [WAC 173-27-030(13), or its successor].

Shoreline Stabilization and Flood Protection – Structural or non-structural modifications to the existing shoreline intended to reduce or prevent erosion impacts to property and dwellings, businesses, or structures of upland beaches or reduce adverse impacts caused by natural processes, such as current, flood, tides, wake, wind, or wave action. These are generally located parallel to the shoreline at or near the OHWM. Examples of specific structural and nonstructural shoreline modification activities include revetments, riprap, bulkheads, and bank stabilization.

Shoreline Stabilization, Bioengineered – Biostructural and biotechnical alternatives to hardened structures (bulkheads, walls) for protecting slopes or other erosive features including soft – treatment techniques. Bioengineered stabilization uses Vegetation Reinforced Soil Slopes (VRSS), which uses vegetation arranged embedded in the ground to prevent shallow mass-movements and surficial erosion.

Shoreline Stabilization, Hard structure – Shore erosion control practices using hardened structures that armor and stabilize the shoreline landward of the structure from further erosion.

Shoreline Stabilization, Hybrid structure – An approach to erosion control that combines soft-treatment shoreline treatment placed waterward of more conventional structural shoreline stabilization elements. The soft treatment preserves natural beach contours and mimics habitat structure in order to preserve ecological functions. The hard structure provides long-term stability to the upland site, but is located sufficiently landward of the OHWM as not to impair ecological processes.

Shoreline Stabilization, New – Placement of shoreline stabilization where no such structure previously existed, including additions to or increases in size of existing shoreline stabilization measures are considered new structures.

Shoreline Stabilization, Non-structural – This is a soft treatment which does not use driftwood, logs, geotextile fabric, or other organic or non-organic structural materials. Examples include:

- a. Addressing upland drainage issues;
- b. Planting stabilization vegetation without fill, grading, or use of non-biodegradable geotextile fabric, gabions other stabilizing structures to provide temporary erosion control;

Shoreline Stabilization, Replacement – The construction of a new structure to perform a shoreline stabilization function of an existing legally-established shoreline stabilization structure which can no longer adequately serve its purpose.

Shoreline Stabilization, Soft-treatment – Shore erosion control and restoration practices using only plantings or organic materials to restore, protect or enhance the natural shoreline environment. This technique mimics natural conditions for ecological functions and ecosystem-

wide processes. When used organic/biodegradable structural components are to be placed to avoid significant disruption of sediment recruitment, transportation, and accretion. Examples include:

- a. Bioengineered Shoreline Stabilization;
- b. Beach Nourishment/Replenishment;
- c. Vegetated Soil Stabilization Retention Methods;
- d. Driftwood;
- e. Coir fiber logs or other natural materials;
- f. Nonstructural Shoreline Stabilization.
- g. Beach Berm.

Shoreline Stabilization, Structural – Shoreline stabilization which includes a footing, foundation, or anchors. Materials are typically hardened structures which armor the shoreline. See also Shoreline Stabilization, Hard structure and Shoreline Stabilization, Hybrid structure.

Shoreline Substantial Development Permit – A mechanism through which the City determines whether a proposed development or activity complies with the State of Washington Shoreline Management Act (RCW Chapter 90.58, or its successor) and the Master Program.

Shorelines – All of the water areas of the state, including reservoirs and their associated wetlands, together with the lands underlying them, except those areas excluded under RCW 90.58.030(2)(d) or its successor and shorelines of state-wide significance.

Shorelines Hearings Board (SHB) – A quasi-judicial body which hears appeals by any aggrieved party on the issuance of a shoreline permit and appeals by local government on Washington State Department of Ecology approval of master programs, rules, regulations, guidelines, or designations under the Shoreline Management Act. [RCW 90.58.170, or its successor; RCW 90.58.180, or its successor; and WAC 173-04-01, or its successor].

Shorelines of State-wide Significance – A select category of shorelines of the state, defined in RCW 90.58.030(2)(e) or its successor, where special preservation policies apply and where greater planning authority is granted by the Shoreline Management Act [RCW 90.58.020 or its successor]. Within the City's jurisdiction all those areas lying seaward from the line of extreme low tide are shorelines of state-wide significance [RCW 90.58.030(1)(e)(iii) or its successor].

Shorelines of the State – Shorelines and shorelines of state-wide significance.

Shoreward – See landward

Should – A particular action is required unless there is demonstrated, compelling reason, based on policy of the Shoreline Management Act and this Program, against taking the action.

Shrub – A woody perennial plant, usually with several stems that may be erect or close to the ground, generally smaller than a tree.

Sign – Any letter, figure, design, symbol, trademark or other device which is intended to attract attention to any activity, service, place, political office, subject, firm, corporation or merchandise, except traffic signs or signals, public or court notices, signs not visible from the public right-of-way or adjacent properties, signs on moving vehicles, newspapers, leaflets or other printed materials intended for individual use or individual distribution to members of the public, government flags, flags and bunting exhibited to commemorate national patriotic holidays and temporary banners announcing charitable or civic events.

Significant Removal of Vegetation – The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. The approved removal of trees determined to be hazardous does not apply. Tree pruning, not including tree topping, where it does not affect ecological functions, does not contribute significant vegetation removal in the Washington State Shoreline Master Program Guidelines, Chapter 173-26 WAC 99 of 100.

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 normal appurtenance [WAC 173-27-040(2)(g), or its successor].

Site – The entire lot, series of lots, or parcels on which a development is located or proposed to be located, including all contiguous undeveloped lots or parcels under common ownership.

Soil Bioengineering – An applied science that combines structure, biological, and ecological concepts to construct living structures that stabilize the soil to control erosion, sedimentation, and flooding using live plant materials as a main structural component.

Solid Waste Disposal – Discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste, including hazardous waste, on land or in the water.

Solid Waste – Solid and semi – solid wastes, including garbage, rubbish, ashes, industrial wastes, wood wastes, and sortyard 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 wastewater, dredge material, agricultural, or other commercial logging wastes not specifically listed above. See landfill and dredging material.

Species of local importance – Those species that are of local concern due to their population status or their sensitivity to habitat alteration.

Spit – An accretion shoreform which extends seaward from and parallel to the shoreline. They are usually characterized by a wave-built berg on the windward side and more gently sloping, muddy, or marshy shore on the leeward side. A curved spit is normally called a hook.

Spit/Barrier/Backshore – An area with a wide beach face and slope of less than fifteen percent (15%), distinguishable backshore. This term is used to identify geomorphic classes for the 2004 Nearshore Assessment completed by Battelle for the City.

Spur Dock – See Groin.

SSDP – Shoreline Substantial Development Permit.

Starvation – See Impoundment

Statement of Exemption or Letter of Exemption – A written statement by the Administrator that a particular development proposal is exempt from the substantial development permit requirement and is generally consistent with this Program including the policy of the Act [RCW 90.58.020, or its successor].

Steep Slope – A forty percent (40%) or greater slope. See also Landslide Hazard

Storm Surge – A rise above normal water level on the open coast due to the action of wind forces on the water surface or to atmospheric pressure reduction.

Stormwater Management – The control of stormwater drainage through a systematic design that performs a particular function, or multiple functions, and includes but not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catch basins, oil/water separators, sediment basins and modular pavement.

Streams – Those areas in the City of Bainbridge Island where the surface water flows are sufficient to produce a defined channel or bed. A defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes but is not limited to bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices, or other artificial watercourses unless they are used by fish or used to convey streams naturally occurring prior to construction.

Stream Types – A stream classification system based on fish usage and perennial or seasonal water regime as found in WAC 222-16-030 and meeting the standards listed below.

- a. “Type F Stream” means a stream that has fish habitat. Waters having the following characteristics are presumed to meet the physical criteria for fish use: Stream segments having a defined channel of 2 feet or greater within the bankfull width and having a gradient of 16 percent or less. Also, stream segments having a defined channel of 2 feet or greater within the bankfull width and having a gradient greater than 16 percent and less than or equal to 20 percent, and having greater than 50 acres in contributing basin size based on hydrographic boundaries.
- b. “Type Np” means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np Waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.

- c. “Type Ns” means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to marine waters, Type F, or Np Waters.

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. [WAC 173-27-030(15) or its successor].

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

Substantial Development – Any development of which the total cost or fair market value exceeds the amount specified in WAC 173-26-040(2)(a); or any development which materially interferes with the normal public use of the water or shorelines of the state, except as specifically exempted pursuant to RCW 90.58.030(3)(e), or its successor, and WAC 173-27-040, or its successor. See definitions for Development and Exemption.

Substantial Progress – Substantial progress toward completion of a permitted activity includes all of the following, where applicable: the making of contracts, signing of notice to proceed, completion of grading and excavation and the laying of major utilities; or, where no construction is involved, commencement of the activity [WAC 173-27-090, or its successor].

Subtidal – The area of the marine environment below extreme low tide.

Sub-estuary – See Pocket Estuary

Sustainable Development – Development which maintains a balance between the health of the natural environment and the needs of the human community which lives within it.

Surface Water – Water that travels across the surface of the ground, rather than infiltrating.

Swell – Wind-generated waves that have traveled out of their generating area. Swell characteristically exhibits a more regular and longer period and has flatter crests than waves with their fetch.

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

Tidal Inlet – A shore feature subject to the daily influence of the tides, whose mouth is narrower than its length. The inlet is considered to be all lands and waters seaward of the ordinary high water mark, and extending to its mouth. Within tidal inlets, specific areas that constitute critical habitat are designated for special protection under the Master Program.

Tidal Flats – Marshy or muddy areas of the seabed which are covered and uncovered by the rise and fall of tidal water.

Tidal Lagoon – A body of saline water (salinity greater than 0.5 parts per thousand) with a constricted or subsurface outlet that is subject to the periodic, but not necessarily daily, exchange of water with Puget Sound or a tidal inlet. The exchange may occur seasonally, during storms, or during the highest spring tides. The connection between the sea and the lagoon does not necessarily have to be on the surface; the connection can be subsurface through permeable gravel and sand berms.

Tidal Range – The difference in height between consecutive high and low water.

Tidal Water – Includes marine and estuarine water bounded by the ordinary high water mark. Where a stream enters the tidal water, the tidal water is bounded by the extension of the elevation of the marine ordinary high water mark within the stream [WAC 173-22-030(9), or its successor].

Tidelands – Land on the shore of marine water bodies between the line of ordinary high water and the line of extreme low tide.

Toxic Material – Any material damaging to marine life including, but not limited to, paints, varnishes, anti-fouling agents, bleaches, petroleum, and contaminated bilge waste water.

Transient Moorage – Moorage for a stay of less than two (2) weeks.

Transportation Facilities – 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, heliports, and other related facilities.

Tree – A woody perennial plant with a single or multiple trunks, which typically develop a mature size of over several inches diameter, and ten (10) or more feet in height.

Unavoidable – Adverse impacts that remain after all appropriate avoidance and minimization measures have been implemented.

Updrift – In the direction opposite of dominant alongshore sediment transport.

Upland – Generally described as the area above and landward of the OHWM.

Upland Finfish Rearing Facilities – Those private facilities not located within waters of the state where finfish are hatched, fed, nurtured, held, maintained, or reared to reach the size for commercial market sale. This shall include fish hatcheries, rearing ponds, spawning channels, and other similarly constructed or fabricated facilities.

Utilities, Accessory – Small scale distribution systems directly serving a permitted shoreline use. These include power, telephone, cable, water, sewer, septic, and stormwater lines.

Utilities, Primary – Facilities that produce, transmit, carry, store, distribute, or process electric power, gas, water, sewage, or information. Primary utilities include solid waste handling and disposal facilities, wastewater treatment facilities, utility lines, electrical power generating or

transfer facilities, radio, wireless telephone and microwave tower, and gas distribution and storage facilities.

Variance – A means to grant relief from the specific bulk, dimensional, or performance standards specified in the applicable Master Program. Variance permits must be specifically approved, approved with conditions, or denied by the Washington State Department of Ecology. (See WAC 173-14-150, or its successor).

Vascular Plant – Any plant that has a specialized conducting system consisting mostly of phloem (food-conducting tissue) and xylem (water-conducting tissue), collectively called vascular tissue. These plants have true stems, leaves, and roots, modifications of which enable species of vascular plants to survive in a variety of habitats under diverse, even extreme, environmental conditions.

Vegetative Stabilization – Planting of vegetation to retain soil and retard erosion, reduce wave action, and retain bottom material, It also means utilization of temporary structures or netting to enable plants to establish themselves in unstable areas.

Vessel – A floating structure that is designed primarily for transportation, is normally capable of self propulsion and navigation, and meets all applicable laws and regulations pertaining to navigation and safety equipment on vessels, including, but not limited to, registration as a vessel by an appropriate government agency, and does not interfere with normal public use of the water. [WAC 173-27-030(18), or its successor].

View Corridor – An area free of buildings and other view-blocking structures which provides visual access to water and/or the shoreline.

WAC – Washington Administrative Code.

Water-dependent Use – A use or a portion of a use which cannot exist in a location that is not adjacent to the water which is dependent on the water by reason or the intrinsic nature of its operation. Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities, and sewer outfalls.

Water-enjoyment Use – A recreational use, or other use facilitating 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 general characteristic of the use and which through the location, design, and operation ensure 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 foster shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to, parks, piers, and other improvements facilitating public access to shorelines of the state. General water-enjoyment uses may include, but not limited to, restaurants, museums, aquariums, educational/scientific reserves, resorts, and mixed use commercial, provided that such uses conform to the above water-enjoyment specifications and the provisions of the Master Program.

Water-oriented Use – Refers to any combination of water-dependent, water-related and/or water-enjoyment uses and serves as an all-encompassing definition for priority uses under the Shoreline Management Act.

Waterward – To, toward, or continuing into the water body.

Water Quality – The physical characteristics of water within shoreline jurisdiction, including water quality, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term “water quantity” refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and stormwater handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.3.250 through 90.03.340.

Water-related – 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. Of 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 commercial activities and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Examples include: (1) manufacturers of ship parts large enough that transportation becomes a significant factor in the product(s) cost, (2) professional services serving primarily water-dependent activities, and (3) storage of water-transported foods. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker, and log storage.

Wave Direction – The direction from which waves approach an observer.

WDFW – Washington State Department of Fish and Wildlife.

Washington State Department of Ecology – See Ecology.

Weir – A structure in a stream or river for measuring or regulating stream flow.

Wetlands – Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to, swamps, estuaries, marshes, bogs, ponds less than twenty acres, including their submerged aquatic beds 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, stormwater 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 include those legally established artificial wetlands intentionally created from non-wetland areas to mitigated the

~~conversion of wetlands. Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas, including associated wetlands. 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 that were 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. [WAC 173-22-030(10) and (11), or their successors]~~

Wetland boundary – The boundary or outer edge of a wetland as delineated in accordance with the federal wetland delineation manual and applicable regional supplements (as updated), as required by WAC 173-22-035.

Wetland category – Category as defined in Washington State Wetland Rating System for Western Washington – 2014 Update (Ecology Publication No. 14-06-029, October 2014), or as revised and adopted by the department.

Wetlands specialist – A person with experience and training in wetland issues who is able to submit substantially correct reports on wetland delineations, classifications, functional assessments and mitigation plans. “Substantially correct” means that errors, if any, are minor and do not delay or affect the site plan review process. Qualifications of a wetlands specialist include:

- a. Either:
 - i. Certification as a Professional Wetland Scientist (PWS) or Wetland Professional in Training (WPIT) through the Society of Wetland Scientists, or;
 - ii. Bachelor of science degree in the biological sciences from an accredited institution and five years of professional field experience; and
- b. The prior successful completion of at least three wetland reports.

~~**Wetlands, Jurisdictional**— See “shoreland areas.”~~

Wildlife biologist – A person with experience and training in the principles of wildlife management and with practical knowledge in the habits, distribution and environmental management of wildlife.

Qualifications include:

- a. Either:
 - i. Certification as a professional wildlife biologist through The Wildlife Society, or;
 - ii. Bachelor of science or bachelor of arts degree in wildlife management, wildlife biology, ecology, zoology, or a related field, from an accredited institution and five years of professional field experience; and
- b. The prior successful completion of at least three habitat managements plans.

Wildlife habitat – A seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These include areas of relative density or species richness, breeding habitat, winter range, and movement corridors. These also include habitats of limited availability or high vulnerability to alteration, such as cliffs, streams and wetlands.

Zone of Impact – The area of the subject property where the incident wave energy is distributed, in relation to the primary structure and primary appurtenances and the angle of the incident wave.

Zone of Influence – The zone of influence means an area usually upslope from a geologically hazardous area, where changes in land use and hydrology can affect the stability of the geologically hazardous area. The zone of influence is defined as 300 feet upslope from slopes greater than forty percent (40%), and two hundred feet (200') upslope from slopes greater than 15 percent but less than 40 percent that are determined to be geologically hazardous areas.

Zoning – To designate by ordinance, including maps, areas of land reserved and regulated for specific land uses.

Appendix B

Reserved Critical Areas

~~B-1. Definitions~~

~~For the purposes of this subsection, the following definitions shall apply:~~

- ~~1. "Aquifer recharge area" means the surface area of any geological formation sufficiently pervious to provide fresh water to an aquifer through the process of infiltration and percolation.~~
- ~~2. "Base flood" means a general and temporary condition of partial or complete inundation of normally dry land areas having a one percent chance of being equaled or exceeded in any given year. Base flood elevation data is commonly displayed as an elevation line on flood insurance maps, showing the location of the expected whole foot water surface elevation of the base (100-year) flood.~~
- ~~3. "Best management practices" (BMPs) means conservation practices or systems of practices and management measures that:

 - ~~a. Control soil loss and protect water quality from degradation caused by nutrients, animal waste, toxins, and sediment; and~~
 - ~~b. Minimize adverse impacts to surface water and groundwater flow, and to the chemical, physical, and biological characteristics of critical areas.~~
 BMPs are defined by the United States Department of Agriculture, the State of Washington Department of Agriculture, the Washington State Department of Ecology, Washington State Department of Health, Kitsap Conservation District, and other professional organizations.~~
- ~~4. "Buffer" means an area adjoining to and a part of a critical area that is required for the continued maintenance, functioning, and/or structural stability of that critical area, or an area adjacent to a stream or wetland that (a) surrounds and protects the functions and values of the stream or wetland from adverse impacts, (b) is an integral part of a stream or wetland ecosystem, and (c) provides shading, input of organic debris and coarse sediments, room for variation in stream or wetland edge, habitat for wildlife, and protection from harmful intrusion, to protect the public from losses suffered when the functions and values of the wetland or stream are degraded.~~
- ~~5. "Category I, II, III, IV wetlands": see "Wetland category".~~
- ~~6. "Critical areas" means aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands.~~
- ~~7. "Critical habitat" means a habitat identified by US Fish and Wildlife Service or the National Marine Fisheries Service as habitat necessary for survival of endangered or threatened species.~~
- ~~8. "Educational or scientific activities" means controlled and/or supervised scientific activities or educational activities that are associated with an educational program that is approved through a conditional use permit.~~
- ~~9. "Engineering geologist" means a practicing engineering geologist who has at least four years of professional employment as an engineering geologist with experience in~~

landslide evaluation, and a Washington State specialty license in engineering geology as specified in Chapter 18.220 RCW.

10. ~~“Erosion hazard area” means a landform or soil type subject to being worn away by the action of water, wind, freeze thaw, or ice, and which are:
 - a. ~~Rated in the Soil Survey of Kitsap County Area, Washington, USDA (1980), as having severe hazard of water erosion, including:
 - i. ~~Indianola Kitsap Complex, 45 to 70 percent slope;~~
 - ii. ~~Kitsap Silt Loam, 15 to 30 percent slope, 30 to 45 percent slope;~~
 - iii. ~~Ragnar Fine Sandy Loam, 15 to 30 percent slope; and~~
 - iv. ~~Schneider very gravelly loam, 45 to 70 percent slope;~~~~
 - b. ~~Classified in the Department of Ecology Coast Zone Atlas as:
 - i. ~~Class 3, class U (unstable) includes severe erosion hazards and rapid surface runoff areas;~~
 - ii. ~~Class 4, class UOS (unstable old slides) includes areas having severe limitations due to slope; and~~
 - iii. ~~Class 5, class URS (unstable recent slides); and~~~~
 - c. ~~Identified by the USGS Surface Geology Map of Bainbridge Island (Haugerud, 2001) as rilled slopes/scarps.~~~~
11. ~~“Existing development” means a development that was lawfully constructed, approved or established prior to the effective date of the ordinance codified in this chapter.~~
12. ~~“Fish” means species of the vertebrate taxonomic groups Cephalospidomorphi and Osteichthyes.~~
13. ~~“Fish and wildlife habitat” means a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These include areas of relative density or species richness, breeding habitat, winter range, and movement corridors. These also include habitats of limited availability or high vulnerability to alteration, such as cliffs, streams and wetlands.~~
14. ~~“Fisheries biologist” means a person with experience and training in fisheries who is able to submit substantially correct reports on fish population surveys, stream surveys and other related data analyses of fisheries resources. “Substantially correct” means that technical or scientific errors, if any, are minor and do not delay or affect the site plan review process. Qualifications of a fisheries biologist include:
 - a. ~~Either:
 - i. ~~Certification by the American Fisheries Society, or;~~
 - ii. ~~Bachelor of Science degree in fisheries or the biological sciences from an accredited institution and five years of professional fisheries experience; and~~~~
 - b. ~~The prior successful completion of at least three habitat management plans; and~~
 - c. ~~The biologist is listed on a roster of qualified professionals prepared by the Director.~~~~
15. ~~“Frequently flooded areas” means lands subject to a one percent or greater chance of flooding in any given year, as determined by the Federal Emergency Management Agency. These areas include, but are not limited to, floodplains adjacent to streams, lakes, coastal areas, and wetlands. (Also see Chapter 15.16 BIMC, Flood Damage Prevention.)~~

16. ~~“Functions” means the beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, aesthetic value protection, and recreation. These roles are not listed in order of priority.~~
17. ~~“Geologically hazardous areas” means areas susceptible to significant erosion, sliding, or other geological events. They pose a threat to the health and safety of citizens when used as sites for incompatible commercial, residential or industrial development. Geologically hazardous areas include erosion hazard areas, landslide hazard areas, and seismic hazard areas.~~
18. ~~“Geotechnical engineer” means a practicing geotechnical/civil engineer who has a valid Washington engineering license and a valid certificate of registration in civil engineering, at least four years of professional employment as a geotechnical engineer with experience in landslide evaluation, and appropriate training and experience as specified in Chapter 18.43 RCW.~~
19. ~~“Habitat Management Plan” (HMP) means a report prepared by a professional wildlife biologist or fisheries biologist which discusses and evaluates critical fish and wildlife habitat functions and identifies and evaluates measures necessary to enhance and improve habitat conservation on a proposed development site.~~
20. ~~“Habitat of local importance” means a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain their population and reproduce over the long term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or areas of high vulnerability to alteration, such as cliffs and wetlands.~~
21. ~~“Hazard tree” means a tree with structural defects likely to cause failure of all or part of the tree, which could strike a “target.” A target can be a building or a place where people gather such as a park bench, picnic table, street, or backyard. In the case of steep slopes, a hazard tree can also be a tree that is a hazard to stability of the slope, as determined by a geotechnical engineer.~~
22. ~~“Hazardous substances” means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste as specified in RCW 70.105.010. (Also see BIMC 18.06.450 through 18.06.510).~~
23. ~~“Hydric soil” means soil which is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.~~
24. ~~“Hydrogeologist” means a practicing hydrogeologist who has at least four years of professional employment as a hydrogeologist with experience in the specific subject area in which they are providing a report, and a Washington specialty license in hydrogeology as specified in RCW Chapter 18.220.~~
25. ~~“Hydrophyte or hydrophytic vegetation” means plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the “Within the Federal delineation manual and Regional supplement or its successor.~~

26. ~~“Impact of land use” means the relative measure of the intensity of land use used to determine the appropriate buffer widths for wetlands and streams which is categorized as follows:~~
- ~~a. High impact land use includes commercial development, industrial development, institutional development, residential (more than one unit per acre) development, new agriculture (high intensity such as dairies, nurseries, greenhouses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), and high-intensity recreation such as golf courses and ballfields.~~
 - ~~b. Moderate impact land use includes residential development (1 unit/acre or less), new agriculture (moderate intensity such as orchard and hay fields), paved trails, and building of logging roads.~~
 - ~~c. Low impact land use includes low intensity open space such as passive recreation, natural resources preservation, and unpaved trails.~~
27. ~~“Invasive/exotic species” means plants and animals that are not native to the Puget Sound lowlands and are recognized by wetland professionals or biologists to be highly competitive with native vegetation and animals. Invasive/exotic plant species include those listed on the noxious weed list developed by the Washington State Noxious Weed Board, nonnative blackberries and English ivy. Invasive/exotic animal species include any species, such as rats, bullfrogs, zebra mussels and green crabs, considered by resource professionals to be damaging to the native animal populations.~~
28. ~~“Landslide hazard areas” means areas which are potentially subject to risk of mass movement due to a combination of factors, including historic failures, geologic, topographic, and hydrologic features. Some of these areas are identified in the Department of Ecology Coastal Zone Atlas and USGS Surface Geology Map of Bainbridge Island (Haugerud, 2001). The presence of these factors shall be determined through assessment, by the least intrusive means, by the City Engineer or at the City Engineer’s request by a third party geoengineer or geotechnical expert, prior to issuance of any permit. Landslide hazard areas include the following:~~
- ~~a. Areas characterized by slopes greater than 15 percent having springs or groundwater seepage and having impermeable soils (typically silt and clay) overlain or frequently interbedded with permeable granular soils (predominantly sand and gravel);~~
 - ~~b. Any area potentially unstable due to rapid stream incision or stream bank erosion;~~
 - ~~c. Any area located on an alluvial fan, debris flow deposit, or in a debris flowpath, presently or potentially subject to impacts or inundation by debris flows or deposition of stream transported sediments;~~
 - ~~d. Any area with a slope of 40 percent or greater and with a vertical relief of 10 or more feet except areas composed of competent consolidated rock;~~
 - ~~e. Any area designated or mapped as class U, UOS, or URS by the Department of Ecology Coastal Zone Atlas and/or mapped as a landslide or scarp on the USGS Surface Geology Map of Bainbridge Island (Haugerud, 2001); or~~
29. ~~“Liquefaction” means a process in which a water saturated soil, upon shaking, suddenly loses strength and behaves as a fluid.~~
30. ~~“Mitigation categories” means~~
- ~~a. The following specific categories: (need for mitigation ratios)~~

- i. ~~Mitigation, Compensatory: replacing project-induced critical area losses or impacts, including, but not limited to, establishment, re-establishment, rehabilitation or enhancement.~~
 - ii. ~~Mitigation, Establishment: Mitigation performed to intentionally establish a critical area (e.g., wetland) at a site where it does not currently exist.~~
 - iii. ~~Mitigation, Re-Establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former critical area.~~
 - iv. ~~Mitigation, Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes to a degraded critical area.~~
 - v. ~~Mitigation, Enhancement: The manipulation of the physical, chemical, or biological characteristics of a biological wetland to heighten, intensify or improve specific function(s) or to change for specific purposes such as water quality improvement, flood water retention, or wildlife habitat.~~
31. ~~“Normal maintenance” means those usual acts to prevent a decline, lapse or cessation from a lawfully established condition. Normal maintenance includes removing debris from and cutting or manual removal of vegetation in crossing and bridge areas. Normal maintenance does not include:~~
- a. ~~Use of fertilizer or pesticide application in wetlands, Fish and Wildlife Habitat Conservation Areas, or their buffers;~~
 - b. ~~Re-digging ditches in wetlands or their buffers to expand the depth and width beyond the original ditch dimensions;~~
 - c. ~~Re-digging existing drainage ditches in order to drain wetlands on lands not classified as existing and ongoing agriculture under Section B-2(C) (Exemptions).~~
32. ~~“Open space” means undeveloped areas of varied size. Open space often contains distinctive geologic, botanic, zoologic, historic, scenic or other critical area, or natural resource land features.~~
33. ~~“Ravine” means a V-shaped landform generally having little to no floodplain and normally containing steep slopes, which is deeper than 10 vertical feet as measured from the centerline of the ravine to the top of the slope. Ravines are typically created by the wearing action of streams. The top of the slope is determined where there is a significant change in the slope to generally less than a 15 percent slope.~~
34. ~~“Reasonable alternative” means an activity that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation.~~
35. ~~“Repair” means activities that restore the character, size, or scope of a project only to the previously authorized condition.~~
36. ~~“Seismic hazard areas” means areas subject to severe risk of damage as a result of seismic induced ground shaking, or surface faulting. While ground shaking is the principal risk because the entire island will shake significantly, severe damage will occur where slope failure, liquefaction, and settlement are induced by the shaking and surface rupture is created by fault movement. The following areas are considered seismic hazard areas:~~

- a. ~~Seismic Landslide Hazard Areas—Slopes which are stable in non-earthquake periods, but fail and slide during ground shaking;~~
 - b. ~~Liquefaction Hazard Areas—Areas of cohesionless, loose or soft, saturated soils of low density in association with a shallow groundwater table that are subject to settlement and/or liquefaction from ground shaking, or;~~
 - c. ~~Fault Hazard Areas—Areas of known surface rupture or significant surface deformation as a result of an active fault movement, including 50 feet on either side.~~
37. ~~“Site” means the entire lot, series of lots, or parcels on which a development is located or proposed to be located, including all contiguous undeveloped lots or parcels under common ownership.~~
38. ~~“Streams” means those areas in the City of Bainbridge Island where the surface water flows are sufficient to produce a defined channel or bed. A defined channel or bed is an area which demonstrates clear evidence of the passage of water and includes but is not limited to bedrock channels, gravel beds, sand and silt beds, and defined channel swales. The channel or bed need not contain water year round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices, or other artificial watercourses unless they are used by fish or used to convey streams naturally occurring prior to construction of the water course.~~
39. ~~“Stream Types” means a streams classification system based on fish usage and perennial or seasonal water regime as found in WAC 222-16-030 and meeting the standards listed below:~~
- a. ~~“Type F Stream” means a stream that has suitable fish habitat. If fish usage has not been determined, water having the following characteristics are presumed to have fish use: Streams segments having a defined channel of 2 feet or greater within the bankfull width and having a gradient of 16 percent or less. Determination of fish usage shall use the methodology found in Washington Department of Natural Resource’s Forest Practice Board Manual, Section 13.~~
 - b. ~~“Type Np” means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np Waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.~~
 - c. ~~“Type Ns” means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to marine waters, Type F, or Np Waters.~~
40. ~~“Wetland or wetlands” means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, estuaries, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm~~

ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as result of the construction of a road, street, or highway. Wetland may include those artificial wetland intentionally created from nonwetland areas to mitigate the conversion of wetlands.

41. ~~“Wetland boundary” means the boundary or edge of a wetland as delineated using the methodology found in Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Cost Region (Version 2.0). (Per WAC173-22-035, or its successor.)~~
42. ~~“Wetland category” means category as defined in “Washington State Wetland Rating System for Western Washington, Revised,” Department of Ecology publication #04-06-025, or as revised and adopted by the department.~~
43. ~~“Wetland classes” means the classification system of the U.S. Fish and Wildlife Service (Cowardin, et al. 1979).~~
44. ~~Wetland Mitigation:~~
- a. ~~In-kind: To replace wetlands with substitute wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity. It does not mean replacement “in category.”~~
 - b. ~~Off-site: To replace wetlands away from the site on which a wetland has been impacted by a regulated activity.~~
 - c. ~~On-site: To replace wetlands at or adjacent to the site on which a wetland has been impacted by a regulated activity.~~
 - d. ~~Out-of-kind: To replace wetlands with substitute wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity. It does not refer to replacement “out-of category.”~~
45. ~~Wetlands, Regulated:~~
- a. ~~“Regulated wetlands” means:~~
 - i. ~~All Category I and II wetlands;~~
 - ii. ~~All Category III and Category IV wetlands~~
 - b. ~~Category I, II, III and IV wetlands include:~~
 - i. ~~Lands defined as wetlands shall be those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.~~
 - ii. ~~Wetlands created as mitigation and wetlands modified for approved land use activities.~~
 - c. ~~Regulated wetlands do not include 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.~~
46. ~~“Wetlands specialist” means a person with experience and training in wetland issues who is able to submit substantially correct reports on wetland delineations, classifications, functional assessments and mitigation plans. “Substantially correct”~~

means that errors, if any, are minor and do not delay or affect the site plan review process. Qualifications of a wetlands specialist include:

a. Either:

- i. Certification as a Professional Wetland Scientist (PWS) or Wetland Professional in Training (WPIT) through the Society of Wetland Scientists; or;
 - ii. Bachelor of science degree in the biological sciences from an accredited institution and five years of professional field experience; and
- b. The prior successful completion of at least three wetland reports; and
- c. The specialist is listed on a roster of qualified professionals prepared by the Director.

47. "Wildlife biologist" means a person with experience and training in the principles of wildlife management and with practical knowledge in the habits, distribution and environmental management of wildlife. Qualifications include:

a. Either:

- i. Certification as a professional wildlife biologist through The Wildlife Society; or;
 - ii. Bachelor of science or bachelor of arts degree in wildlife management, wildlife biology, ecology, zoology, or a related field, from an accredited institution and five years of professional field experience; and
- b. The prior successful completion of at least three habitat managements plans; and
- c. The biologist is listed on a roster of qualified professionals prepared by the Director.

46. "Zone of Influence" means an area, usually upslope from a geologically hazardous area, where changes in land use and hydrology can affect the stability of the geologically hazardous area. The zone of influence is defined as 300 feet upslope from slopes greater than 40 percent, and 200 feet upslope from slopes greater than 15 percent but less than 40 percent that are determined to be geologically hazardous areas.

B-2. Applicability, exemptions, and prior development activity.

A. Applicability. This appendix establishes regulations for the protection of sites which contain critical areas or are adjacent to sites which contain critical areas in the shoreline jurisdiction. Development and land use activities proposed on critical area sites shall comply with the provisions of this Appendix. No action shall be taken by any person, company, agency, governmental body (including the City), or applicant, which results in any alteration of a critical area except as consistent with the purposes, requirements, objectives, and goals of this chapter.

B. Inventory of Critical Areas. This appendix shall apply to all critical areas located within the shoreline jurisdiction of the city. The approximate location and extent of these areas on Bainbridge Island is displayed on various inventory maps available at the city's Department of Planning and Community Development. Maps and inventory lists are guides to the general location and extent of critical areas. Critical areas not shown are presumed to exist on Bainbridge Island and are protected under all the provisions of this chapter. In the event that any of the designations shown on the maps or inventory lists conflict with the site specific conditions, site specific conditions shall control.

C. Exemptions. The following activities are exempt from the requirements of this chapter

1. Emergencies that threaten the public health, safety and welfare. An "emergency" is an unanticipated and immediate threat to public health, safety, or the environment which requires action within a time too short to allow compliance with this chapter, further definition of "emergency" is in Section 8.0 of the Shoreline Master Program. Restoration

- ~~or mitigation of critical areas and buffers impacted by emergency action shall be required in a timely matter.~~
- ~~2. Normal and routine maintenance of structures, landscaping and vegetation that will not further impact or alter critical areas or buffers.~~
 - ~~3. Normal and routine maintenance and operation of pre-existing retention/detention facilities, biofilters and other stormwater management facilities, irrigation and drainage ditches, and fish ponds; provided, that such activities shall not involve conversion of any wetland not currently being used for such activity. Any maintenance of ponds located in stream habitat areas shall require appropriate approval from the Washington Department of Fish and Wildlife.~~
 - ~~4. Structural alterations to buildings that do not increase the structural footprint or introduce new adverse impacts to an adjacent critical area, except for structures located on geologically hazardous areas which are not exempt.~~
 - ~~5. Normal and routine maintenance or repair of existing utility structures within a right-of-way or existing utility corridor or easements, including the cutting, removal and/or mowing of vegetation.~~
 - ~~6. Forest practices conducted pursuant to Chapter 76.09 RCW, except Class IV (general conversions) and Conversion Option Harvest Plans (COHP).~~
 - ~~7. Activities within a portion of a wetland buffer or fish and wildlife habitat area buffer located landward of an existing, substantially developed area, such as a paved area, or permanent structure, which eliminates or greatly reduces the impact of the proposed activities on the wetland or fish and wildlife habitat area. The Director shall review the proposal to determine the likelihood of associated impacts.~~
 - ~~8. Hazard Tree Removal. Where a threat to human life, property, or slope stability is demonstrated, the Director may allow removal of danger or hazard trees subject to the following criteria:

 - ~~a. Tree removal is the minimum necessary to balance protection of the critical area and its buffer with protection of life and property; and~~
 - ~~b. The critical area or its buffer shall be replanted as determined by the Director. The Director may require the applicant to consult with a professional forester or a certified arborist prior to tree removal. Hazard tree abatement can sometimes be achieved by felling the tree or trimming the tree. Habitat needs may require leaving the fallen tree in the riparian corridor or maintaining a high stump for wildlife habitat.~~~~
 - ~~9. Aquifer recharge areas. A person, or property, shall be exempt from the provisions of this chapter unless either of the following is true:

 - ~~a. The property is located in a fish and wildlife habitat conservation area, frequently flooded area, geologically hazardous area, and/or wetland; or~~
 - ~~b. One or more of the uses identified in Section B-E are proposed.~~~~
- ~~D. Standards for existing development.~~
- ~~1. Existing structures and related improvements. Structures and related improvements that were legally built or vested prior to the effective date of Ordinance No. 2012-4 that do not meet the setback or buffer requirements of this appendix may continue to exist in their present form, and may be altered, including remodeled, reconstructed, or expanded, if such alteration complies with the provisions of this Section and will result in no net loss of ecological function.~~

2. Existing structures, not located in a geologically hazardous area, that were legally built or vested prior to the effective date of Ordinance No. 2012-4 may be altered if:
 - a. There is no change in the footprint of the building;
 - b. The remodel is entirely inside the existing building;
 - c. There is no further encroachment into the buffers required pursuant to this chapter unless a Variance is first approved
3. Existing property improvements other than structures, including driveways, parking areas, yards, play areas, storage areas, and similar improvements that were legally established or vested prior to the effective date of Ordinance No. 2012-4 may be altered if:
 - a. There is no change in the location of the improvement;
 - b. Any alteration of the improvement is entirely inside of the existing boundaries of the improvement;
 - c. There is no further encroachment into the buffers unless a Variance is first approved.
4. Alterations permitted by this Section shall not be exempt from applicable City review or permit requirements or other applicable City codes.

~~B-3. Prescriptive buffers variations.~~

- ~~A. Intent. The City recognizes that in some cases it may not be possible to provide a critical area buffer that meets the dimensions prescribed by this ordinance, due to land area or other constraints. The City further recognizes that in some cases the desired or better critical area protection can be achieved through alternative approaches. This section provides alternatives that can be pursued in lieu of the prescribed buffers when warranted by site specific conditions. In considering an application for any of these alternatives, it shall always be the primary intent of the City to protect the functions and values of the critical areas. It is further the intent of the City to ensure that the application of the provisions of this chapter does not deprive an owner from reasonable use of their property. Any proposed use of the following alternatives shall be supported by analysis utilizing appropriate science, to determine and minimize the impacts of the alternative:~~
- ~~B. Buffer Averaging. If characteristics of the property do not allow reasonable use with prescribed buffers, the Director may allow wetland and/or fish and wildlife conservation area buffer widths to be averaged. It is intended that the process for reviewing a buffer averaging proposal be as simple as possible, while ensuring that the following criteria are met:~~
1. The total area contained within the buffer after averaging shall be no less than that contained within the standard buffer prior to averaging;
 2. The applicant demonstrates that such averaging will clearly provide greater protection of the functions and values of critical areas than would be provided by the prescribed habitat buffers.
 3. The averaging will not result in reduced buffers next to highly sensitive habitat areas; and
 4. The applicant demonstrates one or more of the following:
 - a. That the wetland contains variations in sensitivity due to existing physical characteristics;
 - b. That only low intensity uses would be located within 200 feet of areas where the buffer width is reduced, and that such low intensity uses restrictions are guaranteed in perpetuity by covenant, deed restriction, easement, or other legally binding mechanism; or

- e. ~~That buffer averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property.~~
- C. ~~Habitat Management Plan. A Habitat Management Plan may be prepared pursuant to subsection B 4 when it can clearly be demonstrated that greater protection of the functions and values of critical areas can be achieved through the HMP than could be achieved through providing the prescribed habitat buffers. A Habitat Management Plan may be used as a means to protect wetland and/or fish and wildlife habitat conservation area buffers. Habitat Management Plans may not be used to reduce the water quality buffers for wetlands and/or fish and wildlife habitat conservation areas.~~
- D. ~~Public notice. Appropriate notice of, and opportunity to comment on, the proposed use of any of the foregoing alternatives shall be given to surrounding property owners and the general public, in a manner to be established by the Director.~~

~~B-4. Habitat management plan.~~

- A. ~~General. A Habitat Management Plan shall comply with the requirements of this Section, and shall clearly demonstrate that greater protection of the functions and values of critical areas can be achieved through the HMP than could be achieved through providing the prescribed habitat buffers. The Director shall prepare performance standards and monitoring guidelines for Habitat Management Plans, including a program for City oversight of such plans. Once the standards and guidelines are in place, an applicant may propose to implement an HMP as a means to protect habitat buffers associated with wetlands and/or fish and wildlife conservation areas.~~
- B. ~~Intent. HMPs are primarily intended as a means to restore or improve buffers that have been degraded by past activity, and should preserve, and not reduce, existing high quality habitat buffers. While not primarily intended as a means to reduce buffers, the HMP may propose a reduction of the habitat buffer width where it is shown that the HMP will comply with the other requirements of this Section. An HMP shall not reduce the prescribed water quality buffer width as listed in B 8 and B 10 under any circumstance.~~
- C. ~~Effect of buffers. An HMP shall provide habitat functions and values that are greater than would be provided by the prescribed habitat buffers. When habitat buffers are a component of an HMP, they shall be at least the minimum size necessary to accomplish the objectives of the HMP. The HMP may propose, but the City shall not require, a habitat buffer containing a greater area than is required by the prescribed habitat buffer.~~
- D. ~~Impact mitigation—general. The HMP shall encompass an area large enough to provide mitigation for buffer reduction below the standard required buffers, and shall identify how the development impacts resulting from the proposed project will be mitigated. The developer of the plan shall use the best available science in all facets of the analyses. The Washington Department of Fish and Wildlife Priority Habitat and Species Management Recommendations, dated May 1991, and/or bald eagle protection rules outlined in WAC 232-12-292, as now or hereafter amended, may serve as guidance for this report. For Habitat Management Plans addressing wetland buffers, Method for Assessing Wetland Functions, Ecology Publication #99-116 shall be used for guidance in determining function equivalency. All Habitat Management Plans shall be reviewed by a qualified third party selected by the City. The applicant will be responsible for the cost of the review.~~

~~F. Map. The Habitat Management Plan shall contain a map prepared at an easily readable scale, showing:~~

- ~~1. The location of the proposed development site;~~
- ~~2. Property boundaries;~~
- ~~3. The relationship of the site to surrounding topographic, water features, and cultural features;~~
- ~~4. Proposed building locations and arrangements;~~
- ~~5. A legend which includes a complete legal description, acreage of the parcel, scale, north arrow, and date of map revision.~~

~~G. Report. The Habitat Management Plan shall also contain a report which contains:~~

- ~~1. A description of the nature and intensity of the proposed development;~~
- ~~2. An analysis of the effect of the proposed development, activity or land use change upon the wildlife species and habitat identified for protection. If the Habitat Management Plan is addressing wetland habitat, the analysis shall compare an assessment of wildlife habitat suitability of the wetland applying standard buffers with an assessment of habitat suitability as proposed using Method for Assessing Wetland Functions, Washington State Department of Ecology (if available for the specific Hydrogeomorphic classification); and~~
- ~~3. A plan which identifies how the applicant proposes to mitigate any adverse impacts to wildlife habitats created by the proposed development. For wetland or other habitats protected by this chapter, the application shall show, using the appropriate function assessment methodology, that habitat functions and values are greater after the development than would occur had the prescribed buffers been provided (see Mitigation Plan requirements, Section 16.20.110).~~
- ~~4. All review comments received from outside reviewers. If the HMP recommends mitigation involving federally listed threatened or endangered species, migratory waterfowl or wetlands, the U.S. Fish and Wildlife Service shall receive a copy of the draft HMP.~~
- ~~5. The HMP shall specifically address, as appropriate, the following:~~
 - ~~a. Enhancement of existing degraded buffer area and replanting of the disturbed buffer area with native or equivalent vegetation;~~
 - ~~b. The use of alternative on-site wastewater systems in order to minimize site clearing;~~
 - ~~c. Infiltration of stormwater where soils permit;~~
 - ~~d. Retention of existing native or equivalent vegetation on other portions of the site in order to offset habitat loss from buffer reduction; and~~
 - ~~e. The need for fencing and signage along the buffer edge.~~

~~H. Mitigation measures. Possible mitigation measures to be included in the report, or required by the Director, could include, but are not limited to:~~

- ~~1. Establishment of buffer zones;~~
- ~~2. Preservation of critically important plants and trees;~~
- ~~3. Limitation of access to habitat areas;~~
- ~~4. Seasonal restriction of construction activities;~~
- ~~5. Establishing phased development requirements; and~~
- ~~6. Monitoring plan for a period necessary to establish that performance standards have been met. Generally this will be for a period of seven to ten years.~~

- ~~I. HMP adequacy. The HMP shall demonstrate to the satisfaction of the Director that the habitat functions and values are improved by implementation of the HMP. If there is a disagreement between the Director and the applicant as to the adequacy of the HMP, the issue of plan adequacy shall be resolved by consulting with the Washington Department of Fish and Wildlife for HMPs relating to streams or the Washington Department of Ecology for HMPs relating to wetlands. If the State agencies are not available in a timely manner, the applicant may choose to have the City refer the HMPs to a third party consultant at the expense of the applicant. After consultation with such State departments or third party consultant, the Director shall make a final decision on the adequacy of the HMP.~~
- ~~J. Timing. An HMP must be developed and approved either prior to preliminary plat approval or issuance of the building permit, as applicable, and must be implemented before the City grants either final plat approval or an occupancy permit, as applicable.~~
- ~~K. Performance Surety. The Director may require that the applicant provide a performance surety to ensure conformance with mitigation requirements of the habitat management plan pursuant to Section B-4.~~

~~B-5. Application requirements.~~

- ~~A. Submittal Requirements. In addition to the general submittal requirements for all applications in the Administration Handbook applications for land use or development proposals within critical areas or their buffers shall be filed with the information requested on the application forms available from the Department of Planning and Community Development. The applicant shall not be granted any approval or permission to conduct development or land use in a critical area and/or its buffer prior to fulfilling the requirements of this chapter.~~
- ~~B. Support Information Requirements. When support information is required by the Director it shall contain the following and be prepared by one or more of the experts listed in Subsection B.4 of this section:~~
- ~~1. A description of the critical areas on or adjoining the site and how the proposed development will or will not impact critical areas, their buffers, and adjoining properties, including:

 - ~~a. Drainage, surface and subsurface hydrology, and water quality;~~
 - ~~b. Existing vegetation as it relates to wetlands, steep slopes, soil stability, and fish and wildlife habitat value; and~~
 - ~~c. Other critical area characteristics and functions.~~~~
 - ~~2. Recommended methods for mitigating impacts and a description of how these methods may impact adjacent properties;~~
 - ~~3. Any additional information determined as relevant by the Director;~~
 - ~~4. Such studies shall be prepared by experts in the area of concern, who shall be selected from a list of approved consultants prepared by the Director, as follows:

 - ~~a. Aquifer recharge study: Hydrogeologist;~~
 - ~~b. Flood hazard area study: Professional civil engineer; hydro geologist;~~
 - ~~c. Geologically hazardous area study: Engineering geologist; geotechnical engineer, provided that:

 - ~~i. An engineering geologist may provide a study, including interpretation, evaluation, analysis, and application of geological information and data and may predict potential or~~~~~~

- likely changes in types and rates of surficial geologic processes due to proposed changes to a location, provided it does not contain recommended methods for mitigating identified impacts, other than avoidance, structural impacts to, or suitability of civil works; and
- ii. Engineering geologists may not provide engineering recommendations or design recommendations, but may contribute to a complete geotechnical report that is co-sealed by a geotechnical engineer.
 - d. Stream, riparian area, drainage corridor study: Biologist with stream ecology expertise; fish or wildlife biologist; a civil engineer may provide studies for drainage, surface and subsurface hydrology, and water quality;
 - e. Wetland study: Wetlands specialist.
 - f. Habitat Management Plans: Wildlife biologist and/or fisheries biologist.
5. The Director may in some cases retain experts at the applicant's expense to assist in the review of studies; and
 6. Such studies shall be prepared in accordance with procedures established by the Director or City Engineer as specified.

B-6. Mitigation plan requirements.

- A. All critical area restoration, creation and/or enhancement projects required pursuant to this appendix either as a permit condition or as a result of an enforcement action shall follow a mitigation plan prepared by an expert approved by the Director. The applicant or violator shall receive written approval of the mitigation plan by the Director prior to commencement. Compensatory mitigation is not required for allowed activities which utilize best management practices to protect the functions and values of regulated critical areas.
- B. Purpose of Mitigation Plan. The mitigation plan shall provide information on land acquisition, construction, maintenance and monitoring of the replaced critical area. The mitigation plan shall recreate as nearly as possible the original critical area in terms of its acreage, function, geographic location and setting.
- C. Mitigation Plan Submittal Requirements. A complete mitigation plan shall consist of plot plans, a written report, and performance bonds, as required below. The plot plans and written report shall be prepared by qualified professionals approved by the Director.
 1. Plot Plan Requirements. The following information shall be submitted on one or more plot plans (as determined by the Director):
 - a. A legal description and a survey (boundary and topography) prepared by a licensed surveyor of the proposed development site, compensation site, and location of existing critical area(s) on each. This shall include wetland delineation and existing wetland acreage.
 - b. Sealed plot plan(s) indicating:
 - i. Proposed construction;
 - ii. Zoning setback and critical area buffer requirements;
 - iii. Construction phasing and sequence of construction;
 - iv. Site cross sections, percent slope, existing and finished grade elevations;
 - v. Soil and substrate conditions;
 - vi. Grading and excavation plan, including erosion and sediment control plans needed for construction and long term survival; substrate stockpiling locations and techniques, and source controls needed for critical area construction and maintenance;

- vii. ~~Landscape plans indicating species, types, quantities, locations, size, spacing or density of planting; planting season or timing; planting instructions, watering schedule and nutrient requirements; source of plant materials or seeds; and, where appropriate, measures to protect plants from destruction or predation; and~~
- viii. ~~Water control structures and water level maintenance practices needed to achieve the necessary hydrocycle/hydroperiod characteristics, etc.~~
- 2. ~~Written Report Requirements. A written report shall accompany the plot plan(s) and shall provide the additional information required below. In addition, the report should be used as needed to clarify or explain elements of the plot plan(s).~~
 - a. ~~Baseline Information.~~
 - i. ~~Wetland delineation and existing wetland acreage;~~
 - ii. ~~Vegetative, faunal and hydrologic characteristics;~~
 - iii. ~~Soil and substrate conditions;~~
 - iv. ~~Relationship within watershed and to existing streams, wetlands, ponds, or saltwater;~~
 - v. ~~Existing and proposed adjacent site conditions; and~~
 - vi. ~~Existing and proposed ownership.~~
 - b. ~~Environmental Goals and Objectives. The report shall contain a description of the environmental goals and objectives to be met by the compensation plan. The goals and objectives shall be related to the functions and values of the original critical area or, if out of kind wetland mitigation, the type of wetland to be emulated. This analysis shall include, but is not limited to the following:~~
 - i. ~~Site selection criteria;~~
 - ii. ~~Identification of compensation goals;~~
 - iii. ~~Identification of functions and values;~~
 - iv. ~~Dates for beginning and completion of the project and compensation plan;~~
 - v. ~~A complete description of the relationship between and among structures and functions sought;~~
 - vi. ~~Review of available literature and/or known like projects to date in restoring or creating the type of critical area proposed;~~
 - vii. ~~Likelihood of success of the proposed compensation project at duplicating the original critical area. This shall be based on experiences of comparable projects identified in the literature review or existing projects, if any; and~~
 - viii. ~~Likelihood of the ability of the created or restored critical area to provide the functions and values of the original critical area. This shall be based on such factors as surface water and groundwater supply and flow patterns; dynamics of the ecosystem; sediment or pollutant influx and/or erosion, periodic flooding and drought, etc.; presence of invasive flora or fauna; potential human or animal disturbance; and previous comparable projects, if any.~~
 - c. ~~Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and objectives of the project are met and for beginning remedial action or contingency measures. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance, and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.~~

- d. ~~Detailed Specifications. Written specifications and descriptions of compensation techniques shall be provided. These shall include, but not be limited to, items in Subsection C.2 of this Section.~~
- e. ~~Monitoring Program. A program outlining the approach for monitoring construction of the compensation project and for assessing a completed project shall be provided. Monitoring may include, but is not limited to:~~
 - i. ~~Establishing vegetation plots to track changes in plant species composition and density over time;~~
 - ii. ~~Using photo stations to evaluate vegetation community response;~~
 - iii. ~~Sampling surface and subsurface waters to determine pollutant loading, and changes from the natural variability of background conditions (pH, nutrients, heavy metals);~~
 - iv. ~~Measuring base flow rates and storm water runoff to model and evaluate water quality predictions, if appropriate;~~
 - v. ~~Measuring sedimentation rates, if applicable; and~~
 - vi. ~~Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity.~~
- f. ~~A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the compensation project. A monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than seven years.~~
- g. ~~Contingency Plan. Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.~~
- D. ~~Performance and Maintenance Surety and Demonstration of Competence. A demonstration of financial resources, administrative, supervisory, and technical competence and scientific expertise to successfully execute the compensation project shall be provided. A compensation project manager shall be named and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects. In addition, a surety ensuring fulfillment of the compensation project, monitoring program, and any contingency measure shall be posted.~~
- E. ~~City Consultation. The City may consult with and solicit comments from any federal, state, regional, or local agency, including tribes, having any special expertise with respect to any environmental impact prior to approving a mitigation proposal which includes critical areas compensation. The compensation project proponents should provide sufficient information on plan design and implementation in order for such agencies to comment on the overall adequacy of the mitigation proposal.~~
- F. ~~Permit Conditions. Any compensation project prepared pursuant to this section and approved by the Director shall become part of the application for the permit.~~

~~B-7. Aquifer recharge areas.~~

- ~~A. Classification. The entirety of Bainbridge Island is the recharge area for the island aquifers. Certain uses must be carefully evaluated before being approved, and others must be prohibited, in order to protect the city's aquifers, due to the following:~~
- ~~1. Bainbridge Island is dependent upon its aquifers as the sole and essential source for drinking water. Critical recharge areas have the potential to affect potable water where an essential source of drinking water is vulnerable to contamination.~~
 - ~~2. The island aquifers are vulnerable to pollution that has the potential to create a significant public health hazard. High vulnerability is indicative of land uses which produce contaminants that may degrade groundwater and low vulnerability is indicative of land uses which will not.~~
 - ~~3. Susceptibility to pollution is a function of depth of groundwater, permeability of soils, soil types, presence of potential sources of contamination and any other relevant factors.~~
 - ~~4. Soil types that transfer water to the aquifer are rated in terms of infiltration rate. Soil types with the high infiltration rates are associated with areas of high aquifer recharge. The rates and soil types are defined by the U.S. Department of Agriculture, Soil Conservation Service, in the Soil Survey of Kitsap County.~~
 - ~~5. The island aquifers are vulnerable to a reduction in recharge from activities that reduce the infiltration rate on a site.~~
- ~~B. Hydrogeologic Assessment. The following proposed activities will require the preparation of a hydrogeologic assessment:~~
- ~~1. The use of hazardous substances, other than household chemicals used according to the directions specified on the packaging for domestic applications;~~
 - ~~2. The use of injection wells, including on-site septic systems, except those domestic septic systems releasing less than 14,500 gallons of effluent per day; or~~
 - ~~3. Any other activity determined by the Director likely to have an adverse impact on ground water quality or quantity or on the recharge of the aquifer.~~
- ~~C. Hydrogeologic Assessment Requirements. A hydrogeologic assessment shall include, at a minimum, the following site and proposal related information:~~
- ~~1. Available information regarding geologic and hydrogeologic characteristics of the site including the surface location of all critical aquifer recharge areas located on site or immediately adjacent to the site, and permeability of the unsaturated zone;~~
 - ~~2. Ground water depth, flow direction, and gradient based on available information;~~
 - ~~3. Currently available data on wells and springs within 1,300 feet of the project area;~~
 - ~~4. Location of other critical areas, including surface waters, within 1,300 feet of the project area;~~
 - ~~5. Available historic water quality data for the area to be affected by the proposed activity;~~
 - ~~6. Best management practices proposed to be utilized to protect groundwater quality; and~~
 - ~~7. Low impact development practices designed to maintain infiltration rates to the underlying aquifers.~~
- ~~D. Performance Standards—Specific Uses.~~
- ~~1. Storage Tanks. All storage tanks proposed in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:~~
 - ~~a. Underground Tanks. All new underground storage facilities proposed for the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:~~
 - ~~i. Prevent releases due to corrosion or structural failure for the operational life of the tank;~~

- ii. ~~Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and~~
- iii. ~~Use material in the construction or lining of the tank that is compatible with the substance to be stored.~~
- b. ~~Aboveground Tanks. All new aboveground storage facilities proposed for the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:~~
 - i. ~~Not allow the release of a hazardous substance to the ground, ground waters, or surface waters;~~
 - ii. ~~Have a primary containment area enclosing or underlying the tank or part thereof; and~~
 - iii. ~~A secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.~~
- 2. ~~Vehicle Repair and Servicing~~
 - a. ~~Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.~~
 - b. ~~No dry wells shall be allowed on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the state Department of Ecology prior to commencement of the proposed activity.~~
- 3. ~~Residential Use of Pesticides and Nutrients. Application of household pesticides, herbicides, and fertilizers shall not exceed times and rates specified on the packaging.~~
- 4. ~~Use of Reclaimed Water for Surface Percolation or Direct Recharge. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the state departments of Ecology and Health.~~
 - a. ~~Use of reclaimed water for surface percolation must meet the ground water recharge criteria given in Chapter 90.46.080(1) and Chapter 90.46.010(10) RCW. The state Department of Ecology may establish additional discharge limits in accordance with Chapter 90.46.080(2) RCW.~~
 - b. ~~Direct injection must be in accordance with the standards developed by authority of Chapter 90.46.042 RCW.~~
- 5. ~~State and Federal Regulations. The uses listed below shall be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations:~~

~~Table 1: Statutes, Regulations, and Guidance Pertaining to Ground Water Impacting Activities~~

| Activity | Statute — Regulation — Guidance |
|---------------------------------------|---|
| Above Ground Storage Tanks | Chapter 173-303-640 WAC |
| Animal Feedlots | Chapter 173-216 WAC, Chapter 173-220 WAC |
| Automobile Washers | Chapter 173-216 WAC, Best Management Practices for Vehicle |

| Activity | Statute — Regulation — Guidance |
|---|--|
| | and Equipment Discharges (Washington Department of Ecology WQ-R-95-56) |
| Below Ground Storage Tanks | Chapter 173-360 WAC |
| Chemical Treatment Storage and Disposal Facilities | Chapter 173-303-182 WAC |
| Hazardous Waste Generator (<i>Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.</i>) | Chapter 173-303 WAC |
| Injection Wells | Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC |
| Junk Yards and Salvage Yards | Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicles Recycler Facilities (Washington State Department of Ecology 94-146) |
| Oil and Gas Drilling | Chapter 332-12-450 WAC, Chapter 173-218 WAC |
| On-Site Sewage Systems (Large Scale) | Chapter 173-240 WAC |
| On-Site Sewage Systems (< 14,500 gal/day) | Chapter 246-272 WAC, Local Health Ordinances |
| Pesticide Storage and Use | Chapter 15.54 RCW, Chapter 17.21 RCW |
| Sawmills | Chapter 173-303 WAC, Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (Washington State Department of Ecology, 95-53) |
| Solid Waste Handling and Recycling Facilities | Chapter 173-304 WAC |
| Surface Mining | Chapter 332-18-015 WAC |

| Activity | Statute — Regulation — Guidance |
|--|---|
| Wastewater Application to Land Surface | Chapter 173-216 WAC, Chapter 173-200 WAC, Washington State Department of Ecology Land Application Guidelines, Best Management Practices for Irrigated Agriculture |

~~E. Prohibited Uses. Uses Prohibited In Aquifer Recharge Areas. The following activities and uses are prohibited in Aquifer Recharge Areas:~~

- ~~1. Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste, and inert and demolition waste landfills;~~
- ~~2. Underground Injection Wells. Class I, III, and IV wells and subclasses of Class V wells;~~
- ~~3. Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);~~
- ~~4. Storage, Processing, or Disposal of Radioactive Substances. Facilities that store (other than minor sources such as medicinal uses or industrial testing devices) process, or dispose of radioactive substances; and~~
- ~~5. Other Prohibited Uses or Activities:~~
 - ~~a. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source; and~~
 - ~~b. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream.~~

~~B-8. Fish and wildlife habitat conservation areas.~~

~~A. Purpose. This section applies to all Fish and Wildlife Habitat Conservation Areas, as categorized in Subsection B-8 (B) below. The intent of this Section is to:~~

- ~~1. Preserve natural flood control, stormwater storage, and drainage or stream flow patterns;~~
- ~~2. Control siltation, protect nutrient reserves, and maintain stream flows and stream quality for fish and marine shellfish;~~
- ~~3. Prevent turbidity and pollution of streams and fish or shellfish bearing waters;~~
- ~~4. Preserve and protect habitat adequate to support viable populations of native wildlife and fish on Bainbridge Island; and,~~
- ~~5. Encourage non-regulatory methods of habitat retention whenever practical, through education and the Open Space Tax Program.~~

~~B. Fish and Wildlife Habitat Conservation Areas Categories.~~

~~1. Classification. The following categories shall be used in classifying Fish and Wildlife Habitat Conservation Areas:~~

- ~~a. Marine Critical Areas. Commercial and recreational shellfish areas; kelp and eelgrass beds; marine and estuarine waters of the state and herring, sand lance and smelt spawning areas.~~
- ~~b. Streams: All streams which meet the criteria for Type F, Np and Ns waters as set forth in WAC 222-16-030 of the Department of Natural Resources Water Typing System and as further modified by the definitions in this appendix. Once a stream has been classified, the City must document the reasons for changes in the classification.~~

e. ~~Fish and Wildlife Conservation Areas:~~

- i. ~~Class I Fish and Wildlife Conservation Areas: Habitats recognized by federal or state agencies for federal and/or state listed endangered, threatened, and sensitive species documented in maps or data bases available to the City of Bainbridge Island and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.~~
- ii. ~~Class II Fish and Wildlife Conservation Areas. Habitats for State listed candidate, monitor, or priority species documented in maps or data bases available to City of Bainbridge Island and its citizens, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.~~
- d. ~~Habitats and Species of Local Importance. This section provides for the designation and protection of habitats and species of local importance.~~
 - i. ~~Designation of species or habitat of local importance can be based on any of the following circumstances:~~
 - (a) ~~Local populations of native species are in danger of extirpation based on existing trends.~~
 - (b) ~~Local populations of native species are likely to become threatened or endangered under state or federal law.~~
 - (c) ~~Local populations of native species are vulnerable or declining.~~
 - (d) ~~The species or habitat has recreation, commercial, game, tribal, or other special value.~~
 - (e) ~~Long term persistence of a species is dependent on the protection, maintenance, and/or restoration of the nominated habitat.~~
 - (f) ~~Protection by other county, state, or federal policies, laws, regulations, or non-regulatory tools is not adequate to prevent degradation of the species or habitat in the city.~~
 - (g) ~~Without protection, there is likelihood that the species or habitat will be diminished over the long term.~~
 - ii. ~~Nomination:~~
 - (a) ~~Any person may nominate habitats and species for designation.~~
 - (b) ~~The nomination should indicate whether specific habitat features are to be protected (for example, nest sites, breeding areas, and nurseries), or whether the habitat or ecosystem is being nominated in its entirety.~~
 - (c) ~~Where the nomination is a specific habitat site, the nomination shall include the name and address of all property owners of record of all assessor parcels within the area potentially affected by the management recommendations. The list shall at a minimum include all properties within 300 feet from the edge of all property identified for special designation.~~
 - (d) ~~The nomination shall include recommended management strategies for the species or habitats. Management strategies must be supported by the best available science, and where restoration of habitat is proposed, a specific plan for restoration must be provided prior to nomination.~~
 - iii. ~~Nomination processing and approval. The decision whether to designate a nominated species or habitat as one of local importance shall be made by the City Council. If approved, the City Council shall pass an ordinance establishing the designation.~~
 - iv. ~~Establishment of specific rules for protection. Within 120 days of the effective date of an ordinance designating a species or habitat of local importance, the Director shall develop an administrative rule addressing protection in compliance with this section.~~

- ~~C. Development Standards. Regulated uses in designated Fish and Wildlife Habitat Conservation Areas and/or buffers shall comply with the performance standards outlined in this Section.~~
- ~~1. Development standards—streams:~~
 - ~~a. Water quality buffers—An applicant shall provide the prescribed water quality buffers in Table 2 unless relief is granted through SMP Section 4.2.1.7 nonconforming lot or through a shoreline variance.~~
 - ~~b. Habitat buffers—An applicant shall provide either:~~
 - ~~i. The prescribed habitat buffers in Table 2; or~~
 - ~~ii. An approved Habitat Management Plan, pursuant to Section B-4, that clearly provides greater habitat functions and values in perpetuity than the prescribed habitat buffers in Table 2.~~
 - ~~c. Buffer distances shall be measured from the ordinary high water mark (OHM) or from the top of the bank where the OHM cannot be identified. Buffers shall be retained in their natural condition. It is acceptable, however, to enhance the buffer by planting native or equivalent vegetation as approved by the Director.~~
 - ~~d. The buffer width shall be increased to include streamside wetlands which provide overflow storage for stormwater, feed water back to the stream during low flow, or provide shelter and food for fish. In braided channels, the ordinary high water mark or top of bank shall be defined so as to include the entire stream feature.~~
 - ~~e. Refuse and landscaping debris shall not be placed in buffers.~~
 - ~~f. Streams in Ravines—Buffers. For streams in ravines outside the Mixed Use Town Center with ravine sides 10 feet or greater in height, the buffer width shall be the greater of:~~
 - ~~i. The buffer width required for the stream type; or~~
 - ~~ii. A buffer width which extends 25 feet beyond the top of the ravine.~~
 - ~~h. Building Setback Line. A building surface setback line of 15 feet is required from the edge of any fish and wildlife habitat conservation area buffer except as provided for in Section B-11. Minor structures such as decks or impervious surfaces such as driveways may be permitted if the Director determines that such intrusions will not adversely impact the fish and wildlife habitat conservation area. The setback shall be identified on the site plan and filed as an attachment to the notice on title.~~

Table 2: Stream Buffers

| Stream Category | Water Quality Buffer | Habitat Buffer | Total Buffer |
|-------------------------|----------------------|----------------|--------------|
| Fish Bearing (F) | 100 ft | 50 ft | 150 ft |
| Non-Fish Perennial (Np) | 40 ft | 10 ft | 50 ft |
| Non-Fish Seasonal (Ns) | 40 ft | 10 ft | 50 ft |

- ~~3. Class I Fish and Wildlife Conservation Areas Development Standards. All development as described within this chapter or within 200 feet of designated Class I Wildlife Conservation Areas shall adhere to the following standards:~~
 - ~~a. The applicant shall submit a Habitat Management Plan as specified in Section B-4 for approval by the Director. If a wildlife conservation area designation is based on the presence of bald eagles, a Bald Eagle Management Plan, approved by the Washington State Department of Fish and Wildlife and meeting the requirements and guidelines of~~

- ~~the bald eagle protection rules, WAC 232-12-292 (or its successor), as now or hereafter amended, shall satisfy the requirements for a Habitat Management Plan (HMP).~~
- ~~b. All new development within ranges and habitat elements with which Class I Fish and Wildlife have a significant relationship may require the submittal of a Habitat Management Plan (HMP) as specified in Section B-4. The requirement for an HMP shall be determined during the SEPA/Critical Areas review on the project.~~
 - ~~c. An HMP required pursuant to this section shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of native or equivalent vegetation.~~
 - ~~d. Increased Buffer Provisions. The Director may increase buffer widths, up to 50% greater than the applicable buffer set in this chapter for critical areas with known locations of endangered, threatened, or state monitor or priority species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species. Such determination shall be based on site specific and project related conditions.~~
- ~~4. Class II Fish and Wildlife Conservation Area Development Standards. All development within designated Class II Wildlife Conservation Areas shall adhere to the following standards:~~
- ~~a. An HMP may be required for any proposed development within designated Class II Fish and Wildlife Conservation Areas. The HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of native or equivalent vegetation. The requirement for an HMP shall be determined during the SEPA/Critical Areas review on the project.~~
 - ~~b. Increased Buffer Provisions. The Director may increase buffer widths, up to 50% greater than the applicable buffer set in this chapter for critical areas with known locations of endangered, threatened, or state monitor or priority species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species. Such determination shall be based on site specific and project related conditions.~~
- ~~5. Stream Crossings. Any private or public road expansion or construction which is allowed and must cross streams classified within this chapter, shall comply with the following minimum development standards:~~
- ~~a. Bridges or bottomless culverts shall be required for all streams which have Salmonid breeding habitat. Other alternatives may be allowed upon submittal of a Habitat Management Plan which demonstrates that other alternatives would not result in significant impacts to the Fish and Wildlife Conservation Area, as determined appropriate through the Washington State Department of Fish and Wildlife, Hydraulics Project Approval process. The plan must demonstrate that salmon habitat will be replaced on a 1:1 ratio.~~
 - ~~b. Crossings shall not occur in Salmonid spawning areas unless no other feasible crossing site exists. For new development proposals, if existing crossings are determined to adversely impact salmon spawning or passage areas, new or upgraded crossings shall be located as determined necessary through coordination with the Washington State Department of Fish and Wildlife;~~

- ~~c. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary, high water marks unless no other feasible alternative placement exists;~~
- ~~d. Crossings shall not diminish flood-carrying capacity;~~
- ~~e. Crossings shall serve multiple properties whenever possible;~~
- ~~f. Where there is no reasonable alternative to providing a conventional culvert, the culvert shall be the minimum length necessary to accommodate the permitted activity.~~
- ~~6. Stream Relocations. Stream relocations for the purpose of flood protection and/or fisheries restoration shall only be permitted when adhering to the following minimum performance standards and when consistent with Washington State Department of Fish and Wildlife Hydraulic Project Approval:~~
 - ~~a. The channel, bank, and buffer areas should be replanted with native or equivalent vegetation that replicates a natural, undisturbed riparian condition;~~
 - ~~b. For those shorelands and waters designated as Frequently Flooded Areas pursuant to Section B-1, a professional engineer licensed in the State of Washington shall provide information demonstrating that the equivalent base flood storage volume and function will be maintained; and~~
 - ~~c. Relocated stream channels shall be designed to meet or exceed the functions and values of the stream to be relocated.~~
- ~~7. Pesticides, Fertilizers and Herbicides. Use of pesticides, fertilizers, herbicides are regulated by Section 4.1.7 of the Shoreline Master Program~~
- ~~8. Land Divisions and Land Use Permits. All land divisions and land uses proposed on a site that includes Fish and Wildlife Habitat Conservation Areas shall comply with the following procedures and development standards:~~
 - ~~a. The open water area of lakes, streams, and tidal lands shall not be permitted for use in calculating minimum lot area.~~
 - ~~b. Land division approvals shall be conditioned so that all required buffers are designated as an easement or covenant encumbering the buffer. Such easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan.~~
 - ~~c. In order to avoid the creation of nonconforming lots, each new lot shall contain at least one building site that meets the requirements of this chapter, including buffer requirements for habitat conservation areas. Each lot must also have access and a sewage disposal system location that are suitable for development which do not adversely impact the Fish and Wildlife Conservation Area.~~
 - ~~d. After preliminary approval and prior to final land division approval, the Director may require that the common boundary between a required buffer and the adjacent lands be identified using permanent signs. In lieu of signs, alternative methods of buffer identification may be approved when such methods are determined by the Director to provide adequate protection to the aquatic buffer.~~
- ~~10. Trails and Trail Related Facilities. Construction of public and private trails and trail-related facilities, such as benches, interpretive centers, and viewing platforms, may be allowed in Fish and Wildlife Habitat Conservation Areas or their buffers pursuant to the following standards:~~

- a. ~~Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other such previously disturbed areas which do not provide ecological functions.;~~
 - b. ~~Trails and related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat;~~
 - c. ~~Viewing platforms, interpretive centers, benches and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected conservation area;~~
 - d. ~~Trails, in general, shall be set back from streams so that there will be no or minimal impact to the stream from trail use or maintenance. Elevated trails which protect or enhance ecological functions shall be used to the maximum extent feasible. Trails shall be constructed with pervious surfaces when feasible.~~
- ~~12. Stream Bank Stabilization.~~
- a. ~~A stream channel and bank may be stabilized when naturally occurring earth movement threatens existing structures (defined as requiring a Building Permit pursuant to the applicable building code), public improvements, unique natural resources, public health, safety or welfare, or the only feasible access to property, and, in the case of streams, when such stabilization results in maintenance of Fish and Wildlife Habitat, flood control, and improved water quality.~~
 - b. ~~Where bank stabilization is determined to be necessary, bioengineering or other non-structural methods should be the first option for protection. Bulkheads and retaining walls may only be utilized as an engineering solution where it can be demonstrated that an existing residential structure cannot be safely maintained without such measures, and that the resulting retaining wall is the minimum length necessary to provide a stable building area for the structure. The Director may require that bank stabilization be designed by a professional engineer licensed in the State of Washington with demonstrated expertise in hydraulic actions of shorelines. Bank stabilization projects may also require a City of Bainbridge Island clearing or grading permit and Hydraulic Project Approval from the Washington Department of Fish and Wildlife.~~
 - c. ~~Nonstructural streambank protective techniques are preferred to bulkheads or other types of streambank armoring. Nonstructural techniques include but are not limited to vegetation plantings and bioengineering.~~
- ~~13. Fencing and Signs. Prior to approval or issuance of permits for land divisions or other new development, the Director may require that the common boundary between a required buffer and the adjacent lands be identified using fencing or permanent signs. In lieu of fencing or signs, alternative methods of buffer identification may be approved when such methods are determined by the Director to provide adequate protection to the buffer.~~

~~B-9. Geologically hazardous areas.~~

- ~~A. General. Geologically hazardous areas include erosion hazard areas, landslide hazard areas, and seismic hazard areas. Zone of influence areas are not considered geologically hazardous areas.~~
- ~~B. Purpose. The intent of this section is to prevent the potential for personal injury or loss of life or property due to flooding, erosion, landslides, seismic events, or soil subsidence. Development must not increase slope instability, and must avoid on-site and off-site impacts, as well as potential risk to structures. Preserving the existing vegetation may be an important part of minimizing those risks.~~
- ~~C. Classification. Geologically hazardous areas shall be classified based upon landslide history and the presence of unstable soils, steepness of slopes, erosion potential, and seismic hazards. Areas in this category are a potential threat to public health, safety, and welfare when construction is allowed. While some potential risk due to construction can be reduced through structural engineering design, construction in these areas should be avoided when the potential risk cannot be reduced to a level comparable to the risk if the site were initially stable prior to construction. Classification and rating shall be based upon the risk to the environment and to development in geologically hazardous areas.~~
- ~~D. Minimum Submittal Requirements:~~
- ~~1. All geologically hazardous areas and buffers.~~
 - ~~a. Indemnification. An indemnification or hold harmless agreement shall be required for all projects in geologically hazardous areas and buffers. The form of the agreement shall be approved by the City and executed prior to the commencement of construction or site alteration.~~
 - ~~b. Notice. A notice of intent to construct on a landslide hazard area or reduce the minimum buffer in a landslide hazard area shall be given pursuant to BIMC 2.16.20. The notice of intent shall be issued within 14 days of a completed application pursuant to BIMC 2.16.020(5). The notice shall include a 21-day comment period and no permits or approval of reduced buffers shall be issued before the end of the comment period.~~
 - ~~c. All reports or analyses required or prepared pursuant to this Section shall be prepared pursuant to Section B-5, B-9 and/or any other applicable provisions of this appendix, and shall meet the satisfaction of, and be approved by, the City Engineer prior to the commencement of any development activity.~~
 - ~~d. To protect public health, safety and welfare, the City Engineer may call for a third party review of any geotechnical report in cases where there may be potential for substantial damage to life, property or the environment should the proposed engineering solution fail. When a third party review is required, costs incurred for a qualified third party geotechnical engineer to perform the review shall be borne by the applicant.~~
 - ~~e. Geological Hazards Assessment. A Critical Area report is required for all projects in geologically hazardous areas and buffers and shall contain an assessment of geological hazards including the following site and proposal related information at a minimum:~~
 - ~~i. Site and Construction Plans. The report shall include a copy of the site plans for the proposal showing:~~
 - ~~A. The type and extent of geologic hazard areas, any other Critical Areas, and buffers on, adjacent to, or within a zone or distance of potential significant influence as determined by a professional engineer/geologist;~~

- ~~B. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available;~~
- ~~C. The topography, as determined by a professional engineer or geologist, of the project area and all hazard areas addressed in the report; and~~
- ~~D. Clearing limits.~~
 - ~~ii. Assessment of Geological Characteristics. The report shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:

 - ~~A. A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;~~
 - ~~B. A detailed overview of the field investigations, published data, and references; data and conclusions from past assessments of the site; and site specific measurements, test, investigations, or studies that support the identification of geologically hazardous areas; and~~
 - ~~C. A description of the vulnerability of the site to seismic and other geologic events.~~~~
 - ~~iii. Analysis of Proposal. The report shall contain a hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties.~~
 - ~~iv. Minimum Buffer and Building Setback. The report shall make a recommendation for the minimum no disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis. Where the recommended buffers are less than the standard buffers set forth in section Section B-9(E)(2)(a) the rationale and basis for the reduced buffer shall be clearly articulated and demonstrate that the protection standard set forth in that section has been met.~~
 - ~~f. Incorporation of Previous Study. Where a valid Critical Areas report has been prepared for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required Critical Area report, if deemed still valid and appropriate by a professional engineer or geologist. The applicant shall submit a hazards assessment detailing any changed environmental conditions associated with the site based on best professional judgment of the engineer/ geologist.~~
 - ~~g. Mitigation of Long Term Impacts. When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long term basis (equal to or exceeding the projected life span of the activity or occupation). Proposed mitigation techniques shall be considered to provide long term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity.~~
 - ~~h. In addition to the general Critical Area report requirements of section B-9(D) Critical Area reports for geologically hazardous areas must meet requirements of this section. Critical~~

Area reports for two or more types of Critical Areas must meet the report requirements for each relevant type of Critical Area.

2. ~~Landslide Hazard and Erosion Hazard Areas. In addition to the basic Critical Areas report, a Critical Area report for an erosion hazard or landslide hazard area shall include the following information at a minimum:~~
 - a. ~~Erosion Control. An erosion control plan prepared by a civil engineer shall be submitted to the City prior to the issuance of a clearing or grading permit, in accordance with BIMC 15.20.~~
 - b. ~~The applicant shall provide a geotechnical analysis containing the following information:~~
 - i. ~~Site Plan. The Critical Area report shall include a copy of the site plan for the proposal showing:~~
 - A. ~~The height of slope, slope gradient, and cross section of the project area;~~
 - B. ~~The location of springs, seeps, or other surface expressions of ground water on or a zone or distance of potential significant influence as determined by a professional engineer/ geologist; and~~
 - C. ~~The location and description of surface water run-off features.~~
 - ii. ~~Hazards Analysis. The hazards analysis component of the Critical Areas report shall specifically include:~~
 - A. ~~A description of the extent and type of vegetative cover;~~
 - B. ~~A description of subsurface conditions based on data from site specific explorations;~~
 - C. ~~Descriptions of surface and ground water conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;~~
 - D. ~~An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;~~
 - E. ~~An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one hundred-year storm event;~~
 - F. ~~Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties;~~
 - G. ~~A study of slope stability including an analysis of proposed cuts, fills, and other site grading;~~
 - H. ~~Recommendations for building siting limitations; and~~
 - I. ~~An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion.~~
 - iii. ~~Geotechnical Engineering Report. The technical information for a project within a landslide hazard area shall include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:~~
 - A. ~~Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;~~
 - B. ~~Recommendations for drainage and subdrainage improvements;~~
 - C. ~~Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and~~

- ~~D. Mitigation of adverse site conditions including slope stabilization measures for seismically unstable soils, surface water management, location and methods of erosion control, a vegetation management and/or replanting plan, and/or other means for maintaining long term soil stability if appropriate.~~
- ~~3. Seismic Hazards Areas. In addition to the basic report requirements, a Critical Area report for a seismic hazard area shall also meet the following requirements:~~
- ~~a. Fault Hazard. The applicant shall provide a geologic/geotechnical analysis containing information specified by the City Engineer that documents the presence or absence of any surface deformation on the site in areas mapped by the City. If deformation is located, the applicant shall provide a geotechnical analysis containing information specified by the City Engineer, which concludes that the development proposal as mitigated meets the standards of this section.~~
- ~~b. Liquefaction Hazard. The applicant shall provide a geotechnical analysis containing information specified by the City Engineer that meets the standards of this section (as mitigated).~~
- ~~c. Seismic Landslide Hazard. The applicant shall provide the same analysis and plan as required for landslide hazard areas, pursuant to Section B-9(D).~~
- ~~4. Tsunami Hazards. The City shall provide applicants for development in low lying shoreline areas and other areas where flood elevation is controlled by tide level with information on tsunami hazards.(may need revision)~~
- ~~5. Zone of Influence Areas beyond the established buffer. The applicant shall have the surface and storm water management plan (See BIMC 15.20)for the project reviewed by a geotechnical engineer to determine if there is any potentially adverse impacts to the landslide hazardous area. If the geotechnical engineer or the City Engineer determines that there are potential adverse impacts, the applicant shall provide a geotechnical analysis containing information specified by the City Engineer which analyzes the potential impacts to the geological hazard from the proposed development in the zone of influence and meets the standards of this section. The report shall contain recommendations to avoid adverse impacts to the geologically hazardous area. Concentrated discharge of stormwater shall only be allowed where specially recommended in the report and authorized by the City Engineer.”~~
- ~~E. Development Standards:~~
- ~~1. General Requirements. The City Engineer shall establish administrative procedures to implement this section. The applicant shall meet the following standards for all new activities permitted in geologically hazardous areas or associated buffers:~~
- ~~a. The proposed activity shall not create a net increase in geological instability, either on or off site, which is defined as follows:~~
- ~~i. The subject parcel shall not be less stable after the planned development than before; and~~
- ~~ii. The adjacent parcels shall not have greater risk or be less stable after the planned development than before.~~
- ~~b. The proposed activity shall not increase the risk of life safety due to geological hazards above professionally acceptable levels.~~
- ~~c. The proposed activity shall not increase the risk due to geological hazards above professionally acceptable levels for:~~

- ~~i. Property loss of any habitable structures or their necessary supporting infrastructure on-site or;~~
- ~~ii. Risk to any off-site structures or property of any kind; and~~
- ~~d. Proposed buildings shall be constructed using appropriate engineering methods that respond to the geologic characteristics specific to the site in order to achieve the highest standard of safety feasible.~~
- ~~e. The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.0 for dynamic conditions. Analysis of dynamic conditions shall be based on the minimum horizontal acceleration for the probabilistic maximum considered earthquake as established by the currently adopted version of the International Building Code.~~
- ~~f. The proposed activity shall not further degrade the values and functions of the associated critical areas.~~
- ~~2. Redevelopment of existing structures~~
 - ~~a. If an existing structure is damaged or is intentionally demolished the new structure must meet all the provisions of a new structure.~~
 - ~~b. Structural alteration to an existing legally constructed structure that does not increase the structural footprint and are determined by the City Engineer as having a minimal potential for increasing landslide hazard and meets the minimum buffer deminsions in B-9(E)(3)(i);~~
- ~~3. Development Design and Location. The following requirements shall apply to any land or vegetation modification or construction within a landslide hazard area and/or its buffer as described herein:~~
 - ~~a. Buffer Requirement: A buffer equal to the height of the slope or fifty (50) feet, whichever is greater, shall be established from all edges of a landslide hazard area except where no other reasonable alternative exists, reduction may be allowed as follows:~~
 - ~~i. Buffer Reduction.~~
 - ~~A. Buffer reductions may be allowed provided a critical areas report, pursuant to Section B-9(D)(1)(2) and any other related section of Appendix B, demonstrates to the Director that the buffer reduction will not reduce the level of protection to the proposed development, adjacent properties, and other associated critical areas as required by Section B-9(E)(1).~~
 - ~~B. For slopes forty (40) percent or greater the buffer may in no case be reduced to less than ten (10) feet. A decision by the Director to reduce buffer shall be based on a critical areas report pursuant Section B-9(D)(1)(2) that may includes a third party independent review by a qualified geotechnical engineer pursuant to BIMC Section B-9(D)(1)(d);~~
 - ~~ii. Increased Buffer. The buffer may be increased beyond that specified in subsection (a) above if the Director determines a larger buffer is necessary to prevent risk of damage to proposed development, adjacent development, and uses and the associated critical areas;~~
 - ~~iii. Building Setback. All building and structures shall have a minimum setback of (15) feet from the outer edge of the buffer around landslide hazard areas to allow for construction activity; and~~
 - ~~iv. Vegetation Retention. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited.~~

- ~~b. All development proposals shall be designed to avoid impacts to the geologically hazardous areas. The development shall be designed to minimize the footprint of building in other disturbed areas, minimize removal of vegetation, minimize topographic change, and retain open space to the maximum extent practicable;~~
- ~~c. Development design shall utilize clustering, under structure parking, multi-level construction, and tiered foundations to the extent feasible to minimize impervious lot coverage, slope disturbance, and changes to the natural topography;~~
- ~~d. Access shall be in the least sensitive part of the site, and common access drives and utility corridors are required to the extent feasible;~~
- ~~e. Roads, walkways and parking areas shall be designed to parallel the natural contours to the extent feasible;~~
- ~~f. All proposed clearing and tree removal shall be marked in the field for inspection and approval prior to alteration of the site;~~
- ~~g. Cut and fill slopes shall be prepared and maintained to control against erosion and instability;~~
- ~~h. Drainage and stormwater designs in zones of influence shall incorporate elements of low impact design, to the extent feasible, and shall be designed in such a manner that stormwater outlet discharges do not create additional impacts. The proposed activities shall not increase surface water discharge or sedimentation to adjacent properties beyond the pre-development condition; and~~
- ~~F. Exemptions. The following activities are permitted in geologically hazardous areas or associated buffers; provided, that the applicant can demonstrate that applicable standards in Subsection B 9(E)(1) can be met, or where the applicant has demonstrated through a Critical Areas report prepared by a geotechnical engineer in accordance with the specifications of the City Engineer that no adverse impact will result from the proposal and where approved surface water drainage will result in minimum slope and vegetation disturbance:~~
 - ~~1. Surface Water Management: Slopes or buffers may be used for approved surface water conveyance if no other reasonable alternative route is available. Installation techniques shall minimize disturbance to the slope and vegetation.——~~
 - ~~2. The construction of approved public or private trails; provided, they are constructed of material, for example cable lift access, which will not contribute to surface water runoff;~~
 - ~~3. The construction of public or private utility corridors or streets; provided, it has been demonstrated that such alterations will not increase landslide or erosion risks through required analysis pursuant to section B 9(D)(1) and the City determines that no other feasible alternative exists;~~
 - ~~4. Select Vegetation Removal Activities. The following vegetation removal activities are allowed, provided that no vegetation shall be removed from a geologically hazardous area or its buffer without approval from the Director;

 - ~~a. Removal of noxious weeds using non-motorized equipment or light equipment if approved by the Director. Provision for the use of herbicides are in Section 4.1.7 of the Shoreline Master Program. Bare areas remaining after weed removal shall be re-vegetated with native plant species pursuant to an enhancement plan approved by the City.~~
 - ~~b. Removal and pruning of hazard trees as defined ISA (International Society of Arboriculture) standards by provided that a ISA-certified arborist documents the hazard~~~~

~~and provides a report to the Director for review and approval. Replacement shall be based on the recommendations of the arborist and geotechnical engineer and approved by the Director. The Director may require a second opinion from a certified ISA arborist in cases of removal of hazard trees. Mitigation for tree removal shall follow Section 4.1.2 of the Shoreline Master Program and the following~~

- ~~i. Size of trees shall be approved by the Director, and~~
- ~~ii. The landowner shall ensure 100% survival of replacement trees.~~
- ~~5. The trimming and limbing of vegetation for the creation and maintenance of view corridors in accordance with the pruning standards of the International Society of Arboriculture; provided, that the soils are not disturbed and activity will not increase the risk of landslide or erosion. All vegetation removal must be based on a bluff management plan (SMP Section 4.1.5) developed by a certified arborist and reviewed by a geotechnical engineer to determine if it will impact slope stability. A clearing permit will be required prior to the any vegetation removal.~~
- ~~6. Limited Exemption For landslide areas 40% or greater with a vertical elevation change of up to twenty (20) feet may be exempted from section B-9(E)(2)(i) based on the City review and acceptance of a Critical Areas report from a geologist or licensed geotechnical engineer in accordance with section B-9(D) when no adverse impact will result from the exemption.~~

~~B-10. Wetlands.~~

- ~~A. Purpose. This section applies to all regulated uses within or adjacent to areas designated as wetlands, as categorized in section B-10(B) below. The intent of this Section is listed in no specific priority, as follows:~~
- ~~1. Preserve, protect, restore, and improve wetland functions and values. Achieve no net loss and increase the quality of wetland acreage, functions, and values within the city. Mitigation measures, as conditions of permits, must have a reasonable expectation of success. Under the conditions of this Section, the Director may deny development proposals that would irreparably impact regulated wetlands; and~~
- ~~2. Protect the public's health, safety, and welfare, while preventing public expenditures that could arise from improper wetland uses and activities; and~~
- ~~3. Plan wetland uses and activities in a manner that protects and enhances the natural systems and environmental quality of Bainbridge Island and allows property holders to benefit from wetland property ownership wherever allowable under the conditions of this chapter; and~~
- ~~4. Preserve ecological functions and values of wetlands which provide water quality protection, natural flood control, stormwater storage, contributes to groundwater and stream flow, shoreline stabilization, and wildlife and fish habitat; and~~
- ~~5. Prevent turbidity and pollution of wetlands and fish or shellfish bearing waters, and maintain healthy wildlife habitat; and~~
- ~~6. Encourage land use development patterns that maintain, enhance, or restore natural wetland systems and protect disturbance sensitive and wetland dependent wildlife, fish resources, and open space; and~~
- ~~7. Protect and preserve wetlands values as natural areas providing aesthetic, recreational, and educational opportunities that need to be preserved for future generations; and~~
- ~~8. Enhance the connectivity between wetland landscapes.~~

~~B. Wetland Delineation and Categories. Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the City of Bainbridge Island meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter.~~

~~—The City uses the Department of Ecology's (DOE's) Washington State Wetland Rating System for Western Washington, 2004, or as amended hereafter and adopted by the Director to categorize wetlands for the purposes of establishing wetland buffer widths, wetland uses and replacement ratios for wetlands. Once a wetland has been classified using the current DOE rating system, the City shall not reclassify the wetland without clearly documenting the reason for the change. If the wetland has a rating in the City GIS system, this rating can be used for regulatory purposes. This system consists of four wetland categories generally described as follows:~~

~~1. Category I wetlands are those that:~~

- ~~a. Represent unique or rare wetland type; or~~
- ~~b. Are more sensitive to disturbance than most wetlands; or~~
- ~~c. Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or~~
- ~~d. Provide a high level of function.~~

~~—Category I wetlands include estuarine wetlands larger than one acre, bogs, mature and old-growth wetlands over one acre, wetlands in coastal lagoons, and wetlands that perform many functions very well as demonstrated by a score of over 70 points using the DOE rating system.~~

~~2. Category II wetlands are difficult, though not impossible, to replace, and provide a high level of function. Category II wetlands include estuarine wetlands smaller than one acre or disturbed and larger than one acre and wetlands that perform functions well as demonstrated by a score of 51-69 using the DOE rating system.~~

~~3. Category III wetlands are wetlands with a moderate level of function as demonstrated by a score of 30-50 points using the DOE rating system.~~

~~4. Category IV wetlands have the lowest level of function as demonstrated by a score less than 30 points using the DOE rating system and are often heavily disturbed.~~

~~C. Regulated and Non-Regulated Wetlands Classification.~~

~~1. Regulated Wetlands:~~

- ~~a. All natural wetlands that meet the criteria in the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Cost Region (Version 2.0)~~
- ~~b. Unintentionally created wetlands that meet the criteria in the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Cost Region (Version 2.0) except as listed in subsection (C)(2)(b) of this section.~~
- ~~c. Wetlands intentionally created from non-wetland areas to mitigate conversion of other wetlands.~~

~~2. Non-Regulated Wetlands:~~

- ~~a. Created Wetlands. Wetlands created intentionally from a non-wetland site that was not required to be constructed as mitigation for adverse wetland impacts. These may include, but are not limited to, irrigation and drainage ditches, grass-lined swales, canals,~~

detention facilities, wastewater treatment ponds, farm ponds not contiguous, as defined in this chapter, and landscape amenities. The applicant shall bear the burden of proving that the wetland was intentionally created from a non-wetland site. Where enhancements or restorations are made to wetlands for purposes other than mitigation, the original rating shall be maintained even if the changes would otherwise result in a higher classification.

b. Recent, Road Construction Related Wetlands. Wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. The applicant shall bear the burden of proving that the wetland meets these criteria.

D. Development Standards:

1. Water quality buffers—An applicant shall provide the prescribed water quality buffers in this section (Tables 3-6) unless relief is granted through SMP Section 4.2.1.7 nonconforming lot or through a shoreline variance.
2. Habitat buffers—An applicant shall provide either:
 - a. The prescribed habitat buffers specified in this section (Tables 3, 4, 5, and 6); or
 - b. An approved Habitat Management Plan, pursuant to section B-4, that clearly provides greater habitat functions and values in perpetuity than the prescribed habitat buffers in this section (Tables 3, 4, 5, and 6).
3. Buffers. Buffers shall remain undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional attributes. Any buffer enhancement and/or limited view clearing activity must be reviewed and approved by the Director. No refuse shall be placed in the buffer. Alteration of habitat buffer areas may be allowed for water dependent and water related activities and for development authorized by Section B-2 (C) (Exemptions), or Section B-2(D)(Standards for Existing Development), or Section B-3(3) (Buffer Averaging), or through SMP Section 4.2.1.7 nonconforming lot or through a shoreline variance.
4. If a wetland meets more than one of the criteria listed in each table, the buffer needed to protect the wetland is the widest one.

Table 3: Category I Wetlands—Buffers

| Wetland Characteristics | Impact of Land Use (See Definitions) | Water Quality Buffer | Habitat Buffer | Total Buffer | Other Protection |
|---------------------------|--------------------------------------|----------------------|----------------|--------------|---|
| Natural Heritage Wetlands | Low | 50-ft | 75-ft | 125-ft | No additional discharge of surface water. |
| | Moderate | 75-ft | 115-ft | 190-ft | No septic systems within 300-ft. |
| | High | 100-ft | 150-ft | 250-ft | Restore degraded parts of the buffer |
| Bogs | Low | 50-ft | 75-ft | 125-ft | No additional surface discharges. |
| | Moderate | 75-ft | 115-ft | 190-ft | Restore degraded parts of the buffer. |
| | High | 100-ft | 150-ft | 250-ft | Restore degraded parts of the buffer. |

| Wetland Characteristics | Impact of Land-Use (See Definitions) | Water Quality Buffer | Habitat Buffer | Total Buffer | Other Protection |
|--|--------------------------------------|----------------------|----------------|--------------|--|
| Forested | Low | 50-ft | 75-ft | 125-ft | If forested wetland scores high for habitat, maintain connectivity to other natural areas. |
| | Moderate | 75-ft | 115-ft | 190-ft | |
| | High | 100-ft | 150-ft | 250-ft | |
| Estuarine | Low | 50-ft | 50-ft | 100-ft | N/A |
| | Moderate | 75-ft | 75-ft | 150-ft | |
| | High | 100-ft | 100-ft | 200-ft | |
| Wetlands in Coastal Lagoon | Low | 50-ft | 50-ft | 100-ft | N/A |
| | Moderate | 75-ft | 75-ft | 150-ft | |
| | High | 100-ft | 100-ft | 200-ft | |
| High level of function for habitat (score for habitat is 29-36 pts.) | Low | 50-ft | 100-ft | 150-ft | Maintain connectivity to other natural areas. Restore degraded parts of the buffer. |
| | Moderate | 75-ft | 150-ft | 225-ft | |
| | High | 100-ft | 200-ft | 300-ft | |
| Moderate level of function for habitat (score for habitat is 20-28 pts.) | Low | 50-ft | 25-ft | 75-ft | N/A |
| | Moderate | 75-ft | 35-ft | 110-ft | |
| | High | 100-ft | 50-ft | 150-ft | |
| High level of function for water quality improvement and low for habitat (score for water quality 24-32 pts.; habitat less than 20 pts.) | Low | 50-ft | 0-ft | 50-ft | No additional discharges of untreated runoff. |
| | Moderate | 75-ft | 0-ft | 75-ft | |
| | High | 100-ft | 0-ft | 100-ft | |
| Not meeting any of the above criteria. | Low | 50-ft | 0-ft | 50-ft | N/A |
| | Moderate | 75-ft | 0-ft | 75-ft | |
| | High | 100-ft | 0-ft | 100-ft | |

Table 4: Category II Wetlands—Buffers

| Wetland Characteristics | Impact of Land Use (See Definitions) | Water Quality Buffer | Habitat Buffer | Total Buffer | Other Protection |
|--|--------------------------------------|----------------------|----------------|--------------|---|
| High level of function for habitat (score for habitat is 29-36 pts.) | Low | 50 ft | 100 ft | 150 ft | Maintain connectivity to other natural areas. |
| | Moderate | 75 ft | 150 ft | 225 ft | |
| | High | 100 ft | 200 ft | 300 ft | |
| Moderate level of function for habitat (score for habitat is 20-28 pts.) | Low | 50 ft | 25 ft | 75 ft | N/A |
| | Moderate | 75 ft | 35 ft | 110 ft | |
| | High | 100 ft | 50 ft | 150 ft | |
| Estuarine | Low | 50 ft | 25 ft | 75 ft | N/A |
| | Moderate | 75 ft | 35 ft | 110 ft | |
| | High | 100 ft | 15 ft | 115 ft | |
| Not meeting any of the above criteria | Low | 50 ft | 0 ft | 50 ft | N/A |
| | Moderate | 75 ft | 0 ft | 75 ft | |
| | High | 100 ft | 0 ft | 100 ft | |

Table 5: Category III Wetlands—Buffers

| Wetland Characteristics | Impact of Land Use (See Definitions) | Water Quality Buffer | Habitat Buffer | Total Buffer | Other Protection |
|--|--------------------------------------|----------------------|----------------|--------------|------------------|
| Moderate level of function for habitat (score for habitat is 20-28 pts.) | Low | 40 ft | 35 ft | 75 ft | N/A |
| | Moderate | 60 ft | 50 ft | 110 ft | |
| | High | 80 ft | 70 ft | 150 ft | |
| Not meeting above criterion | Low | 60 ft | 0 ft | 60 ft | N/A |
| | Moderate | 60 ft | 0 ft | 60 ft | |
| | High | 80 ft | 0 ft | 80 ft | |

Table 6: Category IV Wetlands—Buffers

| Wetland Characteristics | Impact of Land Use (See Definitions) | Water Quality Buffer | Habitat Buffer | Total Buffer | Other Protection |
|---------------------------------|--------------------------------------|----------------------|----------------|--------------|------------------|
| Larger than 10,000 square feet | Low | 40 ft | 0 ft | 40 ft | N/A |
| | Moderate | 40 ft | 0 ft | 40 ft | |
| | High | 50 ft | 0 ft | 50 ft | |
| Smaller than 10,000 square feet | Low | 40 ft | 0 ft | 40 ft | N/A |
| | Moderate | 40 ft | 0 ft | 40 ft | |
| | High | 40 ft | 0 ft | 40 ft | |

- a. For Category II or III wetlands smaller than 10,000 square feet with a habitat score of less than 20 points, the buffer may be reduced by 50 percent.
- b. For the purpose of determining the impact of land use, unless the Director determines a lesser level of impact is appropriate based on information provided by the applicant, the intensity of impact of the adjacent land use is determined based on the “impact of land use” definition.
- 5. If an applicant elects to propose an HMP, and that HMP proposes habitat buffer widths less than those prescribed in Tables 3—6, the HMP shall be prepared pursuant to Section B-4 and fulfill all requirements specified therein.
- 6. Table 7 provides examples of measures that might be provided in an HMP or when prescribed buffers are otherwise altered to minimize impacts of certain activities. Other

measures may also be effective in minimizing impacts depending on site-specific circumstances and the nature of proposed activity.

Table 7: Examples of measures to minimize impacts to wetlands from different types of activities.

| Examples of Disturbance | Examples of Measures to Minimize Impacts | Activities that Cause the Disturbance |
|--|--|--|
| Lights | Direct lights away from wetland. | Parking lots, warehouses, manufacturing, residential |
| Noise | Locate activity that generates noise away from wetland. | Manufacturing, residential |
| Toxic runoff* | Route all new runoff away from wetland. Establish covenants limiting use of pesticides within 150 ft of wetland. Apply integrated pest management. | Parking lots, roads, manufacturing, residential areas, application of agricultural pesticides, landscaping |
| Change in water regime | Infiltrate or treat, detain, and disperse new runoff into buffer. | Impermeable surfaces, lawns, tilling |
| Pets | Plant dense vegetation around buffer, such as rose, hawthorn, etc. | Residential areas |
| Human disturbance | Plant buffer with impenetrable natural vegetation appropriate for region. | Residential areas |
| Dust | Utilize best management practices to control dust. | Tilled fields |
| * These examples are not necessarily adequate to meet the rules for minimizing toxic runoff if threatened or endangered species are present at the site. | | |

7. ~~Buffer Measurement. All buffers shall be measured on a horizontal plane from the regulated wetland edge as marked in the field.~~

8. ~~Fencing and Signs. This section applies to those wetlands and their buffers that are within 200 feet of regulated development activities.~~

a. ~~Wetland buffers shall be temporarily fenced or otherwise suitably marked, as required by the Director, between the area where the construction activity occurs and the buffer. Fences shall be made of a durable protective barrier and shall be highly visible. Silt fences and plastic construction fences may be used to prevent encroachment on wetlands or their buffers by construction. Temporary fencing shall be removed after the site work has been completed and the site is fully stabilized per City approval.~~

- ~~b. The Director may require that permanent signs and/or fencing be placed on the common boundary between a wetland buffer and the adjacent land. Such signs will identify the wetland buffer. The Director may approve an alternate method of wetland and buffer identification, if it provides adequate protection to the wetland and buffer.~~
- ~~9. Building or Impervious Surface Setback Lines. A building or impervious surface setback line of 15 feet is required from the edge of any wetland buffer. Minor structural or impervious surface intrusions into the areas of the setback may be permitted if the Director determines that such intrusions will not adversely impact the wetland. The setback shall be identified on a site plan and filed as an attachment to a notice on title.~~
- ~~E. Regulated Uses And Activities. New development activities on properties containing regulated wetlands and buffers are subject to the development standards in this section, as permitted in the underlying zoning designation. Requirements for additional activities are specified in Table 8. The City may grant exceptions to these uses and activities according to the intent and specifications of this chapter. All authorized uses and activities in a regulated wetland or its buffer shall be subject to conditions established by the Director and may be subject to mitigation as required by this chapter. Development shall be classified as “allowed,” “permitted,” “special use” or “prohibited” according to this Section. Any regulated uses not specifically listed in Table 8 and Table 4 of the Shoreline Master Program shall be considered unclassified and may be allowed if granted a special use review in accordance with this chapter and the Shoreline Master Program. For the purpose of Table 8, “W” and “B” refer to the terms “wetland” and “buffer.”~~

Table 8: Regulated Uses and Activities in Regulated Wetlands and Buffers

| | Category I | | Category II | | Category III | | Category IV | |
|--|------------|-----|-------------|-----|--------------|-----|-------------|-----|
| | W | B | W | B | W | B | W | B |
| 1. Draining Wetlands (associated with no other permitted use, except as allowed under Section 120.C) | X | N/A | X | N/A | X | N/A | X | N/A |
| Driving of Piles | X | X | S | S | S | S | P | P |
| 2. Educational or Scientific Activities | P | P | P | P | P | P | P | P |
| 3. Enhancement | S | S | P | P | P | P | P | P |
| 4. Excavation (not associated with enhancement) | X | X | S | S | S | S | S | S |
| 5. Fill (associated with no other use) | X | X | X | X | X | X | X | X |
| 6. Fish Hatchery | X | X | S | S | S | S | S | S |
| 7. Flooding (associated with no other use) | X | X | S | S | S | S | S | S |
| 8. Forest Practice-Class IV General or COHP | X | X | X | X | X | X | X | X |
| 9. Golf Course | X | X | X | X | S | S | S | S |
| 10. Land Division | P | P | P | P | P | P | P | P |
| 11. Parks Development-Public & Private | S | S | S | S | S | S | P | P |
| 12. Placing of Obstruction | X | X | X | X | X | X | X | X |
| 13. Public Facility | X | X | X | S | S | S | S | S |

| | Category I | | Category II | | Category III | | Category IV | |
|---|------------|---|-------------|---|--------------|---|-------------|---|
| | W | B | W | B | W | B | W | B |
| 14. Public Project of Significant Importance | S | S | S | S | S | S | S | S |
| 15. Radio/TV Towers | X | X | S | S | S | S | S | S |
| 16. Restoration/Revegetation of Site | S | S | P | P | P | P | P | P |
| 17. Road/Street-Public/Private Access | | | | | | | | |
| A) Expand within existing ROW | S | S | S | S | S | S | P | P |
| B) New Facilities | X | X | S | S | S | S | S | S |
| 18. Signs- (Interpretation, Hazard, Critical Area Boundary, Survey Markers) | P | P | P | P | P | P | P | P |
| 19. Site Investigation (non-mechanized) | A | A | A | A | A | A | A | A |
| Site Investigation (mechanized) | P | P | P | P | P | P | P | P |
| 20. Trails and Trail Related Facilities | P | P | P | P | P | P | P | P |
| 21. Utility Facility | X | X | S | S | S | S | S | S |
| 22. Utility On-Site Sewage Facility | X | X | X | S | X | S | X | S |
| 23. Utility Line-Overhead | S | S | S | S | S | S | P | P |

| | Category I | Category II | Category III | Category IV |
|----------------------------------|------------|-------------|--------------|-------------|
| | W B | W B | W B | W B |
| 24. Utility Line- Underground | X — S | S — S | S — S | S — S |

Key: — A = Allowed Outright — P = Permitted Subject to Development Standards and Underlying Permit S = Special Use Review Required — X = Prohibited

F. ~~Additional development standards for regulated uses. In addition to meeting the Development Standards in section D, above, those regulated uses identified below shall also comply with the standards of this section and other applicable state, federal and local ordinances.~~

1. ~~Forest Practice, Class IV General, and Conversion Option Harvest Plans (COHPs). All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this chapter, including the maintenance of buffers around regulated wetlands.~~

a. ~~Density Calculation.~~

i. ~~The actual density that will allowed to be built upon a parcel containing a wetland shall ultimately be determined during the site specific review of the parcel's planned development.~~

ii. ~~In determining the actual density of a parcel based on a specific site plan, the site plan shall locate all buildings outside of the wetland buffers;~~

iii. ~~The number of development rights allowed for any residentially zoned parcel shall be its size in square feet divided by the number of square feet per home that is required by its zoning;~~

iv. ~~If the land can be subdivided such that all setbacks, buffers, and other zoning requirements can be observed, and no variances are requested, the density from the wetland can be transferred within the property;~~

v. ~~To the extent that the number of allowable development rights cannot be used on-site, they may be sold, traded, or transferred by the property owner through the transfer of development rights program pursuant to Chapter 18.37 BIMC;~~

vi. ~~Property owners may voluntarily extinguish development rights that are provided by the underlying zoning, but the City shall not extinguish any of these rights outside the aforementioned transactions.~~

b. ~~Land division approvals shall be conditioned to require that regulated wetlands and regulated wetland buffers be designated as an easement or covenant encumbering the wetland and wetland buffer. Such easement or covenant shall be recorded together with the land division and represented on the final plat or binding site plan, and title.~~

c. ~~In order to implement the goals and policies of this chapter, to accommodate innovation, creativity, and design flexibility, and to achieve a level of environmental protection that would not be possible by typical lot by lot development, the use of the clustered development or similar innovative site planning is strongly encouraged for projects with regulated wetlands on the site.~~

2. ~~Surface Water Management. The following stormwater management activities may be allowed within wetland or buffer areas only if they meet the following requirements, in~~

~~addition to the development standards in this section and in conformance with the Stormwater Management Ordinance, Chapter 15.20 BIMC:~~

- ~~a. Surface water discharges from stormwater facilities or structures; provided, that the new surface water discharges to regulated wetlands from retention/detention facilities;~~
- ~~b. Pre-settlement ponds or other surface water management structures; provided, that the discharge does not significantly increase or decrease the rate of flow and/or hydro-period, nor decrease the water quality of the wetland. Water quality treatment best management practices will be required prior to discharge. Pre-treatment of surface water discharge through biofiltration or other means shall be required.~~
- ~~3. Trails and Trail-Related Facilities: Construction of public and private trails and trail-related facilities, such as benches and viewing platforms, may be allowed in wetlands or wetland buffers pursuant to the following guidelines:~~
 - ~~a. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas which do not provide ecological functions.~~
 - ~~b. Trails and related facilities shall be planned to minimize removal of trees, soil disturbance, and existing hydrological characteristics, shrubs, snags, and important wildlife habitat.~~
 - ~~c. Viewing platforms and benches, and access to them, shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected wetland.~~
 - ~~d. Trails and related facilities shall generally be located outside required buffers. Where trails are permitted within buffers they shall be located in the outer portion of the buffer and a minimum of 25 feet from the wetland edge, except where wetland crossings or viewing areas have been approved by the Director. Trail locations close to the wetland may be allowed if the primary purpose of the trail is wetland viewing or enjoyment. Elevated trails which protect or enhance ecological functions shall be used to the maximum extent feasible.~~
 - ~~e. Trails shall generally be limited to pedestrian use unless other more intensive uses, such as bike or horse trails, have been specifically allowed and mitigation has been provided. Trail width shall not exceed five feet unless there is a demonstrated need, subject to review and approval by the Director. Trails shall be constructed with pervious materials unless otherwise approved by the Director.~~
- ~~4. Parks. Development of public park and recreation facilities may be permitted; provided, that no alteration of wetlands or wetland buffers is allowed except for uses allowed in Table 8. For example, enhancement of wetlands and development of trails may be allowed in wetlands and wetland buffers subject to special use requirements and approval of a Wetland Mitigation Plan.~~
- ~~5. Educational or scientific activities. These activities shall only be permitted if they are directly related to the affected wetland and related buffers, and may include the viewing and sampling of natural systems. They may also include the installation of physical structures, including pervious trails, benches, permanent wildlife watching blinds, boardwalks, viewing platforms, or similar structures, or minor modifications to wetlands and their buffers. Any physical structures or minor modifications are subject to City~~

~~approval to minimize the impacts of human intrusion on the functions and values of critical areas and their buffers according to the following criteria:~~

- ~~a. Minimize the footprint of structures and the number of access points to any particular critical area;~~
 - ~~b. Minimize the amount of clearing and grading;~~
 - ~~c. Elevate structures where possible;~~
 - ~~d. Avoid impacting the flow of water;~~
 - ~~e. Use appropriate building materials; and~~
 - ~~f. Minimize the impacts of construction.~~
- ~~G. Special Use Review. Development identified as a Special Use Review in Table 8 of this section may be approved, with conditions, or denied according to the procedures and criteria outlined in this subsection. Special Use Review is an administrative process unless the underlying permit requires a public hearing.~~
- ~~1. The Director is authorized to take action on permits as required by this chapter.~~
 - ~~2. The Director may approve a permit after review of the application and a Wetland Mitigation Plan submitted in accordance with this chapter. The Director shall determine whether the use or activity cannot be avoided because no reasonable or practicable alternative exists, the proposed use is consistent with the spirit and intent of this chapter and it will not cause adverse impacts to the wetland or the wetland buffer which cannot be mitigated. In taking action to approve a Special Use Review, the Director may attach reasonable conditions as necessary to minimize impacts, rectify impacts or compensate for impacts to the wetland or wetland buffer.~~
 - ~~3. The Director shall deny a Special Use Review request if the proposed use or activity is inconsistent with this chapter and/or will cause adverse impacts to the wetland or wetland buffer, which cannot be adequately mitigated and/or avoided.~~
 - ~~4. Special use review requests for agricultural conversions shall include a farm plan developed by the Kitsap Conservation District. The plan shall identify the best management practices for the proposed agricultural activity.~~
 - ~~5. Special Use Review determinations are appealable to the hearings examiner pursuant to BIMC 2.16.020(P).~~
- ~~H. Wetlands and Streams Restoration, Creation, Mitigation, or Enhancement.~~
- ~~1. Any person who alters regulated wetlands or streams or their standard buffers as required by this chapter shall restore, create or enhance equivalent areas or greater areas than those altered in order to compensate for losses. In the alternative, conservation easements or mitigation banking may be considered as appropriate mitigation provided that areas equivalent to those altered are achieved.~~
 - ~~2. Where feasible, restored or created wetlands and streams shall be a higher category than the altered wetland or stream.~~
 - ~~3. Compensation areas shall be determined according to function, acreage, type, location, time factors, ability to be self-sustaining and projected success. Multiple compensation projects may be proposed for one project in order to best achieve the goal of no net loss.~~
 - ~~4. Given the need for expertise and monitoring, voluntary restoration, creation or enhancement projects or compensatory projects may be permitted only when the Director finds that the proposed project is associated with an activity or development otherwise permitted. Additionally, the applicant shall:~~

- a. Demonstrate sufficient scientific expertise, supervisory capability, and financial resources to carry out the project;
 - b. Demonstrate the capability for monitoring the site and to make corrections during this period if the project fails to meet projected goals and plans; and
 - c. Provide for the long-term protection and management of the compensation area to avoid further development or degradation.
5. Acreage Replacement Ratio. Any applicant proposing to alter wetlands may propose to reestablish, create, rehabilitate, or enhance wetlands in order to compensate for the wetland losses.
- a. Replacement Ratios for Wetlands. Table 9 provides the required replacement ratios for the reestablishment or creation, rehabilitation, or enhancement of a wetland. The first number specifies the replacement acreage of wetlands and the second specifies the acreage of wetlands altered.

Table 9: Replacement Ratios for Wetlands

| Category and Type | Re-establishment or Creation | Rehabilitation | 1:1 Re-establishment or Creation (R/C) or Enhancement (E) | Enhancement Only |
|----------------------|------------------------------|----------------|---|------------------|
| I Forested | 6:1 | 12:1 | 1:1 R/C 10:1 E | 24:1 |
| I Highly functioning | 4:1 | 8:1 | 1:1 R/C 6:1 E | 16:1 |
| I Bog | Not possible | 6:1 of a Bog | Case by Case | Case by Case |
| I Estuarine | Case by Case | 6:1 Estuarine | Case by Case | Case by Case |
| II Estuarine | Case by Case | 4:1 Estuarine | Case by Case | Case by Case |
| II Others | 3:1 | 8:1 | 1:1 R/C 4:1 E | 12:1 |
| III | 2:1 | 4:1 | 1:1 R/C 2:1 E | 8:1 |
| IV | 1.5:1 | 3:1 | 1:1 R/C 2:1 E | 6:1 |

- b. Replacement ratios for buffers shall be 1:1.
- c. Increased Replacement Ratio. The Director may increase the ratios under the following circumstances:
 - i. Uncertainty as to the probable success of the proposed rehabilitation or creation;
 - ii. Significant period of time between destruction and replication of wetland functions; or
 - iii. Projected losses in functional value.
- d. Decreased Replacement Ratio. The Director may decrease these ratios when there are findings of special studies coordinated with agencies with expertise which demonstrate that no net loss of wetland function or value is attained under the decreased ratio.
- e. In all cases, a minimum acreage replacement ratio of 1:1 shall be required.

- ~~6. Wetland Type. In-kind compensation shall be provided except where the applicant can demonstrate that:
 - ~~a. The wetland system is already significantly degraded and out-of-kind replacement will result in a wetland with greater functions and values;~~
 - ~~b. Scientific problems such as invasive/exotic vegetation and changes in watershed hydrology make implementation of in-kind compensation impossible;~~
 - ~~c. Out-of-kind replacement will best meet identified regional goals (e.g., replacement of historically diminished wetland types); and~~
 - ~~d. Where out-of-kind replacement is accepted, greater acreage replacement ratios may be required to compensate for lost functions and values.~~~~
- ~~7. Location. On-site compensation shall be provided except where the applicant can demonstrate that:
 - ~~a. The hydrology and ecosystem of the original wetland and those who benefit from the hydrology and ecosystem will not be substantially damaged by the on-site loss;~~
 - ~~b. On-site compensation is not scientifically feasible due to problems with hydrology, soils, or other factors;~~
 - ~~c. Compensation is not practical due to potentially adverse impacts from surrounding land uses;~~
 - ~~d. Existing functions and values at the site of the proposed restoration are significantly greater than lost wetland functional values;~~
 - ~~e. That established regional goals for flood storage, flood conveyance, habitat or other wetland functions have been established and strongly justify location of compensatory measures at another site;~~
 - ~~f. There is no feasible location for on-site mitigation;~~
 - ~~g. Off-site compensation shall occur within the same watershed, if feasible, as the wetland loss occurred; provided, that Category IV wetlands may be replaced outside of the watershed when there is no reasonable alternative; and~~
 - ~~h. In selecting compensation sites, an applicant shall pursue siting in the following order of preference:
 - ~~i. Upland sites which were formerly wetlands;~~
 - ~~ii. Idled upland sites generally having bare ground or vegetative cover consisting primarily of invasive introduced species, weeds, or emergent vegetation; or~~
 - ~~iii. Other disturbed upland.~~~~~~
- ~~8. Timing. Wherever feasible, compensatory projects shall be completed prior to activities that will disturb wetlands, and immediately after activities that will temporarily disturb wetlands. In all other cases, except for Category I wetlands, compensatory projects should be completed prior to use or occupancy of the activity or development which was conditioned upon such compensation. Construction of compensation projects shall be timed to reduce impacts to existing wildlife and flora.~~
- ~~9. Cooperative Restoration, Creation or Enhancement Projects. The Director may encourage, facilitate, and approve cooperative projects wherein a single applicant or other organization with demonstrated capability may undertake a compensation project with funding from other applicants under the following circumstances:
 - ~~a. Restoration, creation or enhancement at a particular site may be scientifically difficult or impossible; or~~~~

- ~~b. Creation of one or several larger wetlands may be preferable to many small wetlands;~~
- ~~c. Persons proposing cooperative compensation projects shall:~~
 - ~~i. Submit a joint permit application;~~
 - ~~ii. Demonstrate compliance with all standards;~~
 - ~~iii. Demonstrate the organizational and fiscal capability to act cooperatively; and~~
 - ~~iv. Demonstrate that long-term management can and will be provided.~~
- ~~10. Mitigation Banking.~~
 - ~~a. The City may consider and approve replacement or enhancement of wetlands to address unavoidable adverse impacts caused by development activities through an approved wetland mitigation bank. Compensatory mitigation in advance of authorized impacts must be provided through an approved mitigation bank if a bank is used.~~
 - ~~b. When off-site mitigation is authorized, the Director shall give priority to locations within the same drainage basin as the development proposal site that meet the following:~~
 - ~~i. Mitigation banking sites and resource mitigation reserves as authorized by this chapter;~~
 - ~~ii. Private mitigation sites that are established in compliance with the requirements of this chapter and approved by the Director; and~~
 - ~~iii. Public mitigation sites that have been ranked in a process that has been supported by ecological assessments.~~
 - ~~c. The Director may require documentation that the mitigation site has been permanently preserved from future development or alteration that would be inconsistent with the functions of the mitigation. The documentation may include, but need not be limited to, a conservation easement, transfer of clearing credits or other agreement between the applicant and owner of the mitigation site. The City may enter into agreements or become a party to any easement or other agreement necessary to ensure that the site continues to exist in its mitigated condition.~~
 - ~~d. The Director shall maintain a list of sites available for use for off-site mitigation projects.~~
 - ~~e. The Director may develop a program to allow the payment of a fee in lieu of providing mitigation on a development site. The program should address:~~
 - ~~i. When the payment of a fee is allowed, considering the availability of a site in geographic proximity with comparable hydrologic and biological functions and potential for future habitat fragmentation and degradation; and~~
 - ~~ii. The use of the fees for mitigation on public or private sites that have been ranked according to ecological criteria through one or more programs that have included a public process.~~

~~B-11. Frequently Flooded Areas~~

~~A. Classification. Classification for frequently flooded areas shall be consistent with the 100-year floodplain designation of the Federal Emergency Management Agency and the National Flood Insurance Program. In addition, the following criteria shall be considered when designating and classifying these areas:~~

- ~~1. Flooding impact to human health, safety, and welfare and to public facilities and services;~~
- ~~2. Available documentation including federal, state, and local laws, regulations and programs, local maps, and federally subsidized flood insurance programs;~~

3. ~~The future floodplain defined as a channel of the stream and that portion of the adjoining floodplain which is necessary to contain and discharge the base flood flow at build out without any measurable increase in flood heights; and~~
4. ~~The effect of high tides with strong winds, and greater surface runoff caused by increasing impervious surfaces.~~

~~B. Standards:~~

1. ~~Development shall not reduce the effective base flood storage volume. Effective storage capacity shall be maintained.~~
2. ~~Grading or other regulated activities which would reduce the flood water storage volume shall be mitigated by creating compensatory storage on or off site. Applicants must provide mitigation plans pursuant to this chapter.~~
3. ~~Base flood data and flood hazard notes shall be on the face of any recorded plat or site plan including, but not limited to, base flood elevations, flood protection elevation, boundary of floodplain, and zero rise floodway.~~
4. ~~Applicants for development in low lying shoreline areas and other areas where flood elevation is controlled by tide level shall be provided with information on sea level rise. (Ord. 2005-03 § 2, 2005)~~

~~**B-12 The Winslow Ravine Special Rules in Mixed Use Town Center.**~~

~~A stream commonly known as the “Winslow Ravine Stream” is located in a ravine commonly known as, and identified on department maps as, the “Winslow Ravine”. Both the stream and the ravine are partially located in the Mixed Use Town Center (MUTC). In order to accommodate more dense development within the MUTC, and recognizing the significant distance from the top of the ravine to the stream and its adjacent wetlands, in lieu of the buffer and setback rules provided for Fish and Wildlife Conservation Areas (Section B-8) and Wetlands (Section B-10), the applicant may select the prescriptive option or the mitigated option with respect to the Winslow Ravine Stream and the Winslow Ravine within the MUTC as described below:~~

~~A. “Option A” Prescriptive Standards:~~

| CATEGORIES | BUFFER WIDTH STANDARD | MINIMUM BUILDING SETBACK | OTHER DEVELOPMENT STANDARDS |
|--|--|---------------------------------------|--|
| Streams, Wetlands and Wildlife Conservation Areas associated with the Winslow Ravine or | 50 feet beyond the top of the Winslow Ravine. | 15 feet beyond the buffer. | |

| | | | |
|--|--|--|--|
| Winslow Ravine Stream within the MUTC. | | | |
|--|--|--|--|

B. “Option B” – Mitigated Standards. The applicant shall demonstrate by submittal of necessary studies and proposed mitigation, that measures can and will be taken to ensure that the functions and values provided by the buffers prescribed under “Option A” are retained or improved.

| CATEGORIES | BUFFER WIDTH STANDARD | MINIMUM BUILDING SETBACK | OTHER DEVELOPMENT STANDARDS |
|--|---|----------------------------|--|
| Streams, Wetlands and Wildlife Conservation Areas associated with the Winslow Ravine or Winslow Ravine Stream within the MUTC. | 25 feet beyond the top of the Winslow Ravine. | 10 feet beyond the buffer. | The buffer area shall be landscaped to facilitate filtration and infiltration of storm water. If such landscaping is installed, the buffer area may be used for recreational purposes. Fences, sitting areas and walking paths are allowed within the buffer area. There is no requirement that the buffer be dedicated as permanent open space tracts or otherwise. |

Table I – Shoreline Study Requirements

| Use | Analyses Required |
|---|--|
| All Activities below Mean Higher High Water | Dive Survey and/or Biological Evaluation or Biological Assessment [‡] |
| Pier and Docks | Dive Survey and/or Biological Evaluation or Biological Assessment [‡] |
| Shoreline Armoring (bulkhead and revetments) | Sediment analyses Biological Evaluation or Biological Assessment [‡] |
| Development Activities Disturbing Native Vegetation Zone (Single Family Residences or Commercial) | Re-vegetation Plan |

Footnotes:

[‡]Only as required by Washington Department of Fish and Wildlife, US Army Corp of Engineers, NOAA Fisheries or US Fish and Wildlife.

~~Additional Studies may be required by the Director as necessary to determine whether the application meets the decision criteria for Shoreline Substantial Development Permit, Shoreline Substantial Development Exemption, Shoreline Conditional Use Permit or Shoreline Variance.~~

Appendix C

Buffer Recommendation Memorandums

City of Bainbridge Island
PLANNING & COMMUNITY DEVELOPMENT

MEMORANDUM

TO: City Council

FROM: Libby Hudson, Long Range Planning Manager
Ryan Ericson, Associate Planner

DATE: August 11, 2011

RE: Herrera Environmental Consultants Memorandum documenting
Marine Shoreline Buffer Recommendation Discussions
City Council Special Meeting of August 16, 2011

The attached memorandum has been provided by the City's scientific consultants, Herrera Environmental Consultants, to assist the City in developing buffer recommendations as part of the Shoreline Master Program Update process. The memo is intended to be utilized by the citizen workgroups, Planning Commission and City Council in reviewing and updating the vegetation conservation buffer and management standards.

This memo is informed by the science summarized in two documents that the City commissioned, the *Nearshore Assessment Summary of Best Available Science* (Battelle, October 2003) and the *Summary of Science Addendum* (Herrera, 2011). The memo reflects the outcome of buffer requirement discussions with Herrera and City staff, the requirements of the state Shoreline Master Program (SMP) Guidelines (WAC 173-26), and the policy direction of the citizen workgroups. In respect to vegetation conservation for the SMP Update, the state Guidelines [WAC 173-26-201(3)(d)(viii) and 173-26-221(5)(b)] direct that the City should:

- Identify measures and regulations that address conservation of vegetation and ensure that new development meets vegetation conservation objectives;
- Assure no net loss of shoreline ecological functions and ecosystem-wide processes through a variety of measures, including setback and buffer standards;
- Identify ecological processes and functions of vegetation that are important to the local aquatic and terrestrial ecology and provide measures that conserve sufficient vegetation to maintain these functions;

- Vegetation conservation areas are not necessarily intended to be closed to use and development, but should provide for management of vegetation in a manner adequate to assure no net loss of shoreline function.

The City's existing SMP utilizes vegetation buffers known as Native Vegetation Zones (NVZ). The policy direction from the SMP Vegetation Conservation Workgroup suggests that in updating these buffers, the City should:

- Protect and restore shoreline vegetation to maintain and enhance ecological functions, human safety, personal property protection, and shoreline views and vistas. (Vegetation Conservation and Management Zones Draft Goal); and
- Establish shoreline vegetation conservation and management zones immediately upland of ordinary high water mark (OHWM) for each shoreline use and shoreline characterization, recognizing the pattern of development, shoreline ecological and ecosystem wide processes, and using current science and technical information, as described in WAC 173-26-201(2)(a). (Vegetation Conservation and Management Zones Draft Policy #6).

Developing Marine Shoreline Buffer Recommendations

The process used to develop the memorandum and the suggested range of buffers included several stages and was completed during a series of discussions with the consultant team and staff, including the following:

1. Reviewing the science related to buffers (summarized at the beginning of the memo, page 1). This was completed by Herrera.

2. Developing a concept for a two-zoned management area (buffer) that is comprised of a more protective (and more restricted use and activity) zone adjacent to the OHWM, and a more flexible zone (allowing minimal use, activity and alteration to vegetation) situated within the remaining portion of the management area. This concept is described on page 6 of the Herrera memo, under *Marine Shoreline Buffer and Riparian Protection Zone Recommendations*. The two-zoned management area concept was developed with Herrera and City staff, first agreeing on principles that met the SMP Guidelines and the policy direction of the citizen workgroup. These are outlined in the section *Agreed Principles*, page 9 of the Herrera memo.

3. Developing dimensional recommendations. The *Buffer Considerations and Recommendations* section of the memo, page 11, was developed using the two-zone concept and developing principles that are informed by the science and the characteristics of the Bainbridge Island shoreline. Widths were then established for the management areas and applied to the proposed shoreline designations, (Table 1, page 12). This was completed by Herrera and modified by City staff to reflect the policy direction of the citizen workgroups and the proposed shoreline designation map.

Terminology

Vegetation conservation is important for managing and retaining shoreline vegetation in both the state SMP Guidelines and in the City's existing SMP (which included Native Vegetation Zones established for all shoreline designations). These management areas are intended to protect

shoreline functions, primarily related to vegetation. In the scientific literature and within local shoreline master programs, these areas might be called different names, including “buffers”, “setbacks” or “management areas”. This can be confusing since the terms for different management tools are frequently interchanged. Technical and scientific literature refer to buffers as relatively undisturbed areas that protect ecologically sensitive areas, while planning and regulatory terminology often allows some limited disturbance of the buffer area. This document uses the planning and regulatory definition of buffers.

As a management tool, these protective areas have the following in common: the area is a designated dimensional area situated along the shoreline, measured from the OHWM landward, with adopted regulations that limit uses and activities within these areas. The width of this area may be a fixed width or a flexible width (as is proposed here).

The Herrera memo uses terminology for this protective area, describing it as a marine shoreline buffer or *Standard Buffer*, that includes an inner zone, the *Riparian Protection Zone (RPZ)*, which is measured adjacent to the OHWM.

These terms are slightly different in the draft Vegetation Conservation and Management Zones regulations, in which the entire buffer is called the *Standard Shoreline Buffer (SSB)* and is comprised of two zones, the *Riparian Protection Zone (RPZ)* and the *Marine Shoreline Zone (MSZ)*.

Revised Memorandum

The Herrera Memorandum was revised on August 11, 2011 to provide additional clarification and to correct or clarify some citations used in the document.

*Herrera Environmental Consultants, Inc.***Memorandum**

To Ryan Ericson, Associate Planner, and Libby Hudson, Division Manager
City of Bainbridge Island

From Amanda Azous, José Carrasquero, and Jeff Parsons,
Herrera Environmental Consultants;
Lisa Grueter, BERK

Date August 2, 2011

Subject Documentation of Marine Shoreline Buffer Recommendation Discussions

The following discussion documents thoughts and considerations with respect to marine shoreline buffers for different shoreline use designations. The discussion is based on a review of the City of Bainbridge Island's (City) existing marine shoreline buffer regulations, the City's shoreline character, nearshore assets, existing and future land uses, scientific recommendations for marine buffers, as well as discussions with City staff. This memo begins with describing what a marine shoreline buffer is and how it differs from a riparian area; followed by a summary discussion of science-based buffer recommendations; and closes with buffer recommendations for the City's shoreline management plan update. For reference, marine shoreline buffer widths currently required by the City's shoreline regulation are provided in Attachment A, and are taken from Chapter 16.12 BIMC.

Marine Shoreline Buffers and Riparian Areas

Marine shoreline buffers are used in the City to regulate areas to protect the marine nearshore from the effects of land use activities (such as construction of buildings, driveways, and other infrastructure). Marine shoreline buffers may have variable widths, and use restrictions generally apply uniformly to the entire buffer area. This discussion in part serves to distinguish the concept of a marine shoreline buffer from that of a riparian area, which is an integral part of an aquatic ecosystem and, therefore, requires a more protective level of regulation.

A riparian area differs from a marine shoreline buffer in that it describes the terrestrial ecosystem directly adjacent to the marine nearshore that interacts with the aquatic environment. For example, intact riparian areas have native plant communities comprised of varying species of herbs and grasses, shrubs, deciduous trees, and coniferous stands of various ages and they are integral to the proper functioning of the nearshore. Native plant species are those species that occur or historically occurred on Bainbridge Island before European contact based upon the best available scientific and historical documentation.

Key functions supplied by riparian areas include providing large woody debris (LWD), bank stability, marine species food sources such as detritus and insects, and temperature moderation of beach substrate. This includes providing an overhanging, complex network of branches, trunks,

stems and roots that act to moderate nearshore wave energy. In contrast, marine shoreline buffers may include non-native landscaping, vegetable gardens, and lawns as well as possibly, native vegetation communities.

Because the functions provided by a riparian area are fundamental to maintaining a healthy functioning marine nearshore, it is recommended that the City designate a riparian protection zone (RPZ) with more restricted uses and assign a separate marine shoreline buffer to protect the RPZ. This would be done to protect such areas that are currently intact, and to establish an RPZ where such areas do not currently exist such as when properties re-develop, remodel or otherwise expand development. The RPZ would be treated as a conservation area to preserve the essential relationship between nearshore and shoreline ecological functions.

Some activities allowed within the RPZ would be weed removal, hazardous tree or limb removal, or shoreline oriented uses that are a high priority such as water dependent uses on private parcels or nearshore access and water enjoyment uses in public park areas.² This approach will help to ensure the protection of what remains of the City's intact riparian zones and will facilitate and provide more flexibility for uses within marine shoreline buffers. Policies, incentives and regulations that support restoration of riparian areas (such as through restoration of native plant communities) would benefit increases in nearshore habitat and functions and assist with showing no net loss.

Scientific Importance of Marine Shoreline Buffers and Riparian Areas

Sustaining habitats and species requires protection of the ecological functions and processes that support survival and population success, in addition to the direct protection of the habitats themselves. Without adequate habitat protection, ecological functions and key natural processes become degraded. In response to this risk, scientifically based recommended buffer widths and site-specific methods for determining buffers have been established in several sources. These sources were reviewed and reported in the City's Addendum to the Summary of Science Report (Herrera 2011) and are briefly summarized here.

Marine Shoreline Buffers

Factors relevant to the effectiveness of marine shoreline buffers, or of a given buffer width, include the type and intensity of surrounding land development, influence of groundwater, stability of slopes or bluffs, types of pollutants and their sources, vegetation dynamics (such as type and density), and geomorphic functions of driftwood or other habitat features that might affect the functions and values of the buffer (Brennan et al. 2009). For example, slopes that are more susceptible to massive failure may require a larger buffer, particularly if existing development is contributing to an increased rate of erosion such as from poor stormwater management and a lack of stabilizing vegetation. Feeder bluffs contributing to spawning beaches may require a larger buffer in order to protect future development while also decreasing the future need for shoreline armoring. Parcels with marshes, lagoons, or spit / barrier / backshores likewise may require wider buffers to protect these important ecological features. Steep slopes comprised of bedrock (relatively rare in the City) or stable high bluffs (greater than 5 meters)

² Allowances in the RPZ are more fully discussed in recommendations starting on page 6.

may allow for a narrower buffer as slope stability and sediment sources would not be impacted by development.

Much of the existing riparian and buffer literature is related to freshwater systems therefore, Washington Department of Fish and Wildlife (WDFW) established a panel of scientists in 2008 to assess the freshwater riparian scientific literature to determine its applicability to marine shoreline systems. The result of the literature review, and the Marine Riparian Workshop Proceedings conducted by the scientific panel in 2008 was a common consensus that freshwater riparian buffer research was conceptually applicable to marine shorelines (Brennan et al. 2009). The data provided by the WDFW panel (Brennan et al. 2009) suggest that necessary buffer widths vary considerably depending on the site-specific characteristics and the functions to be protected. For example, in order to achieve at least 80 percent effectiveness at removing pollutants from stormwater runoff, recommended buffers varied from as little as 16 feet to as large as 1,969 feet depending on the slope, depth and type of soil, surface roughness, density of vegetation and the intensity of the land use. Buffer widths for organic matter contributions (such as plant litter and terrestrial insects) ranging between 16 and 328 feet from the shoreline, depending on site conditions, were reported by Bavins et al. (2000) for providing this function. Buffers to protect the large woody debris function important to habitat structure and shoreline stability were suggested to be between 33 and 328 feet. However, given that trees located 300 feet landward from the edge of a bluff or bank would not immediately be recruited on the nearshore, consideration should be given to the site's potential tree height and the current and expected rate of bluff or bank retreat when establishing buffers for providing large woody debris. The WDFW panel found that buffer widths to support a number of specific riparian functions were identified by May (2003) and Knutson and Naef (1997). May recommended 98 feet for fine sediment control, and shade and microclimate control and 164 feet for the LWD function. Knutson and Naef recommended 138 feet for fine sediment control, 90 feet for temperature moderation, and 147 feet for LWD and litter fall functions. The panel's review indicated that recommendations for wildlife habitat protection ranged from 50 feet (specific to highly rural areas) to 328 feet.

Riparian Areas

An extensive body of research and literature has emerged over the last three decades which documents the specific importance of riparian areas in providing ecological functions related to waters of the state. These functions include the following (Romanuk and Levings 2010; Brennan et al. 2009; Lemieux et al. 2004):

- Water quality maintenance
- Fine sediment control
- Large woody debris delivery and retention
- Microclimate moderation
- Nutrient delivery and retention
- Terrestrial carbon source to nearshore food webs
- Fish and wildlife habitat creation and maintenance
- Direct food support for juvenile salmonids
- Hydrologic based slope stability

There is consensus in the scientific community that marine riparian areas are critical to sustaining many ecological functions (Desbonnet et al. 1994; Brennan and Culverwell 2004; Lemieux et al. 2004; Brennan et al. 2009). Marine riparian shoreline vegetation is an important component of nearshore habitat throughout the Puget Sound region (Herrera 2007; Lemieux et al. 2004; Levings and Jamieson 2001; Redman et al. 2005) and includes both upland forested plant communities occurring on the shoreline as well as unique vegetation found only in the marine nearshore (Lemieux et al. 2004). Marine riparian areas contain elements of both aquatic and terrestrial ecosystems that mutually influence each other (Knutson and Naef 1997; Fresh et al. 2004; Lemieux et al. 2004). For example, juvenile salmon consume terrestrially derived carbon which can extend into the low intertidal zone (Romanuk and Levings 2010), and salmon are well known conduits for returning marine derived nutrients into freshwater systems (Chaloner et al. 2002; Wipfli 2003). Beach wrack and detritus accumulated in driftwood and tree fall in the nearshore zone, provide both terrestrial and marine derived food sources for invertebrates, fish, birds, and other organisms (Lewis 2007; Brennan et al. 2009). Riparian vegetation also provides contributions of organic matter, moisture, and nutrients that assist in the establishment and maintenance of estuarine marsh plants (Eilers 1975; Williams and Thom 2001).

These interactions between riparian vegetation and the nearshore marine environment are important to the survival and population success of numerous species that depend on marine habitats. Conservation efforts which, preserve the natural processes of detritus and nutrient conveyance, and organic debris accumulation, are therefore important in the marine environment. The establishment of significant protection for marine riparian areas is an important management strategy for protecting marine habitat conservation areas.

In literature reviews conducted to evaluate the potential impacts of removing riparian vegetation on numerous sensitive species, several mechanisms of impact have been identified (Herrera 2007b, 2008b). The degree of impact to the aquatic environment depends upon the magnitude of the vegetation removal or alteration (such as size and number of trees affected, and total area cleared of vegetation). At more severe levels, riparian vegetation modification could result in the following impacts, which would have subsequent implications for species survival and overall habitat condition:

- **Altered shade and temperature regime:** Caused by direct removal of vegetation.
- **Reduced bank and shoreline stability:** Caused by degradation of riparian vegetation, loss of vegetative cover and root cohesion, and reduced resistance to erosion. This may in turn affect aquatic habitat by increasing suspended sediments and altering riparian habitat structure.
- **Altered organic material contributions:** Caused by reduced source of leaf litter, woody debris, terrestrial insects, and other biota.
- **Altered habitat complexity and increased habitat fragmentation:** Caused by removal of native vegetation and creating habitat favored by invasive species.

There are geologic constraints on the type and density of vegetation that can establish on some areas of marine shoreline. For example, many bedrock shorelines are limited in the development of functional densities of vegetation. This is particularly relevant along the southern shoreline of the City where bedrock and overconsolidated sediments are common.

It has been shown that detritus feeding organisms may not be adapted to the leaf fall patterns or the chemical characteristics of leaves from non-native trees suggesting that riparian areas are most effective when comprised of native vegetation (Karr and Schlosser 1977). In addition, native plant species have adapted to local physical conditions such as soil, geology, and climate and therefore require less maintenance, are resistant to most pests and diseases, and require little or no irrigation or fertilizers, once established. Thus maintaining native plant species in marine riparian areas can also have consequent benefits on maintaining water quality.

In a meta-analysis review of 73 peer-reviewed studies of vegetated buffer efficacy in protecting water quality, Zhang et al. (2010) reported that forested buffers were generally found to remove more nitrogen (a limiting nutrient in marine waters) as well as phosphorus than grassed buffers. For areas with slopes up to 10 percent, predicted sediment removal efficiencies for a 33-foot (10-meter) vegetated buffer ranged from 76 to 100 percent. Removal efficiencies for nitrogen were 71 to 85 percent, and for phosphorus were 69 to 98 percent. Steeper slopes had declining removal rates.

By maintaining bank stability and contributing large wood to the aquatic environment, riparian vegetation forms and maintains habitat complexity. Riparian vegetation and large wood improve beach stability and contribute to roughness and sediment trapping (Brennan and Culverwell 2004; Gonor et al. 1988; Herrera 2005). This includes improved capacity of beaches to retain sand, a crucial substrate for forage fish spawning (Pentilla 2007).

Herrera (2005) suggested that driftwood and tree fall at the top of the beach may also stabilize the upper beach area by slowing littoral drift and reducing wave-induced erosion). It has been suggested that estuarine wood can affect water flow and the subsequent formation of bars and mudbanks (Gonor et al. 1988). The contribution to habitat complexity along marine shorelines may be maximized if trees that fall to beaches remain in place (Herrera 2005).

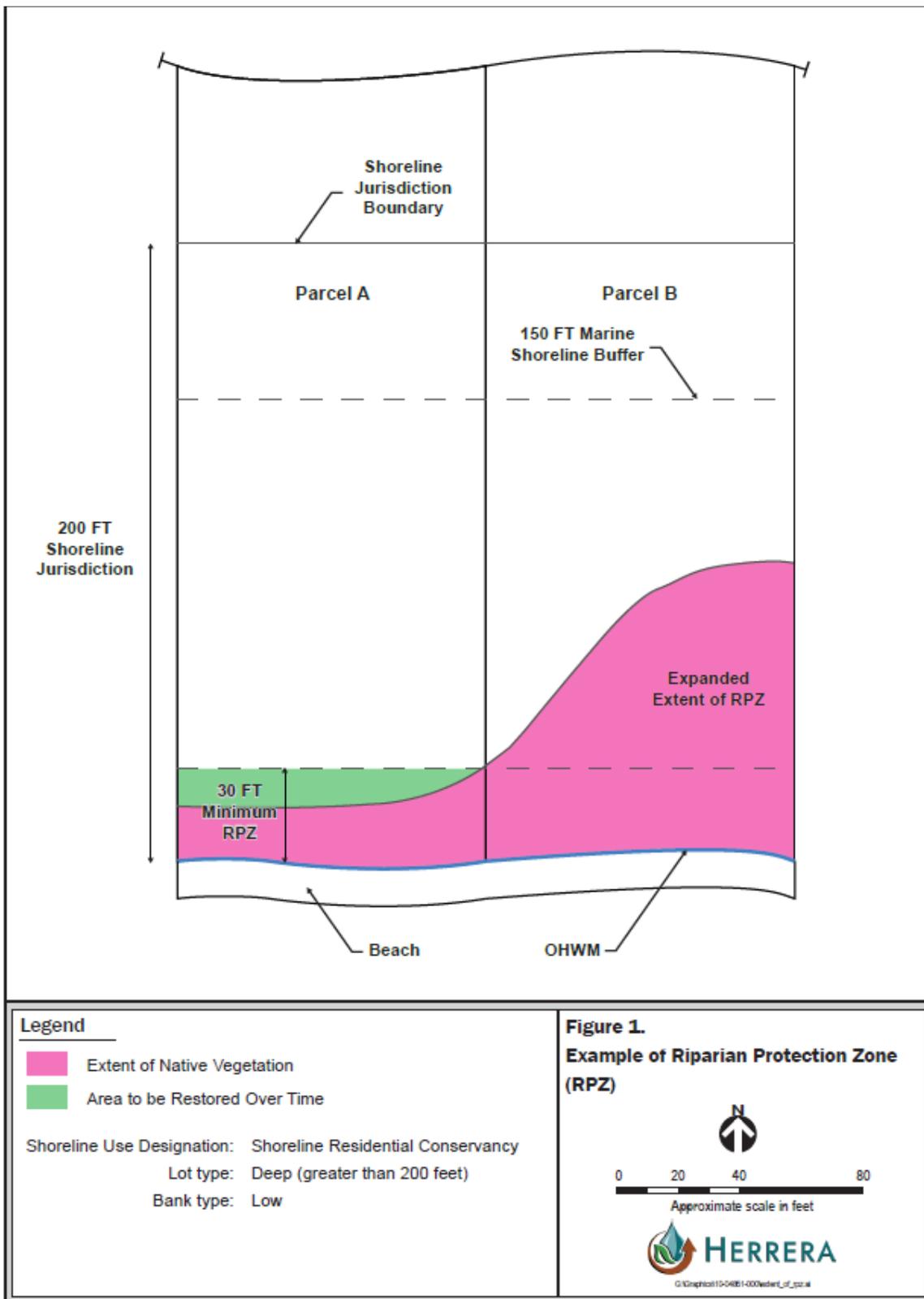
Marine Shoreline Buffer and Riparian Protection Zone Recommendations

City of Bainbridge Island shorelines are predominantly developed (over 82 percent [Battelle 2003]) which limits the City's ability to require wide buffers that are protected through regulation as conservation areas. Therefore, our recommendations have focused on protecting intact riparian habitat by limiting uses within this ecologically important zone, allowing for a less restrictive marine shoreline buffer landward of the riparian area that would protect the RPZ as well as provide some buffer functions; and by suggesting the City provide regulatory thresholds and landowner incentives to restore native riparian habitat whenever possible. In addition, the recommendations are informed by the City's desire to limit the number of non-conforming structures therefore, existing distances to residential structures from the shoreline are considered. These agreements and assumptions are described in *Agreed Principles* on page 8 and *Buffer Assumptions and Recommendation* on page 10.

We recommend that in areas with existing properly functioning riparian habitat, the RPZ would be a minimum of 30 feet but it could extend up to the full width of a standard marine shoreline

buffer if intact native riparian vegetation were present. This recommendation is based on the minimum area necessary to achieve a measure of riparian functions including protecting water quality, and providing shade, microclimate moderation, LWD, litterfall and insect food sources (Christensen 2000; Bavins et al. 2000; Zhang et al. 2010). Any areas not comprised of intact native riparian vegetation would be limited by the provisions of a standard marine shoreline buffer for the shoreline use designation. In areas entirely lacking native riparian vegetation, the City would still establish a minimum 30-foot RPZ zone and, as parcels meet re-development thresholds, the City would require that native vegetation be established within the minimum 30-foot RPZ. In the Natural shoreline designations, the RPZ would be a minimum of 100 feet because of the heightened ecological values found in these areas and their absence of existing development.

Figure 1 illustrates two typical parcels (for this example, they are located within a Shoreline Residential Conservancy use designation) where intact native vegetation varies between 20 feet and 95 feet. For these parcels, the RPZ would range from 30 to 95 feet. In the area currently lacking native vegetation within the 30-foot minimum RPZ, landowners would be required through mitigation, or encouraged through incentives to restore native plant species as described above. In cases where riparian habitat is restored such as to provide mitigation for development impacts or in response to Shoreline Restoration Plan recommendations, such activities could potentially provide the City with no net loss of shoreline ecological functions and potentially a net gain.



Marine shoreline buffers are recommended to be specific to each shoreline use designation and to be as wide as possible to provide as much protection as is feasible with consideration of existing structure setbacks from the shore.

Agreed Principles

Following is a list of other generally agreed on principles:

1. The ability of a buffer to provide multiple functions and benefits is closely linked to its width, although other factors such as topography, slope, vegetation (type and condition), soil type, and buffer management also determine its effectiveness. In general, wider buffers are more protective of nearshore resources.
2. Buffers widths could be established on each reach or within a management area based on site-specific characteristics. The type and condition of riparian vegetation (coverage of native forest and shrubs) or upland topography (high bluff/low bank) will guide the buffer width as well as adjacency to important ecological features such as marshes, lagoons, and spit / barrier / backshores. Buffers on stable high bluffs could potentially be narrower than on low banks because the elevation difference is more protective of the nearshore. Other factors that could be considered include soil type, slope, degree of anthropogenic disturbance, and adjacent land uses.
3. Buffer widths can vary but should have a more protective inner zone such as the suggested RPZ that protects native riparian vegetation and could have a more permissive outer zone where decks, gardens, and some amount of impervious area is allowed potentially contingent on use of Low Impact Development stormwater management techniques.
4. The goal of the RPZ is to protect native vegetation to the extent possible, however limited water dependent uses would be allowed due to their intrinsic need to be in-water or at the water's edge.
5. Protection and restoration of the RPZ is also intended to provide habitat connectivity such that over time there would be long stretches of native riparian habitat along the City's shore. Therefore, where intact native vegetation is present wider buffers are recommended for some use designations.
6. The RPZ would allow for limited development, subject to a maximum of 300 square feet or 10 percent of the RPZ whichever is less, of structures per parcel related to water dependant uses such as boathouses, ramps, and stairways to the beach. In addition, one 4-foot wide trail would be allowed

for beach access. Structures or trails exceeding those thresholds would require a variance.

7. While there will be prescriptive standards, flexibility will be achieved by a marine shoreline buffer range that considers different development conditions and uses, and by allowing an option for a qualified professional to prepare a “critical areas stewardship plan” similar to Jefferson County’s SMP example.
8. Properties along the Aquatic Conservancy use designation would not be allowed to have reduced buffers.
9. Properties within a Natural Area use designation would be prohibited from any shoreline development in the RPZ except for one 4-foot wide trail for beach access.
10. When a project will result in impacts and require mitigation measures, the mitigation would include restoration of the native plant ecosystem. For example mitigation activities could include re-establishing native dune grasses, forests or other habitat communities, as natural conditions would warrant for the site.
11. Lots may be provided an exception to buffer standards (e.g., lots less than a certain depth where the combination of setbacks and typical building footprint would not allow for use of the property).
12. Buffer averaging allowing variable widths would provide flexibility and can be protective of nearshore functions and resources.
13. Existing developed properties with wider shoreline parcels would be allowed to have variable buffer widths (narrower in front of existing structures and wider when moving laterally from the building and perpendicular from the shoreline).
14. We note that critical saltwater environments are based on presence of primary species which means most if not all of the City shoreline areas need some level of nearshore habitat protection (based on WAC173-26).³

³ **From 173-26 WAC:** Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association. Critical saltwater habitats require a higher level of protection due to the important ecological functions they provide. Ecological functions of marine shorelands can affect

Buffer Assumptions and Recommendations

To bracket the range of various buffer widths from the scientific literature, we considered the following:

- Existing development regulations
- Future land use
- The City's existing environmental buffers
- Existing shoreline character (physical & biological) and nearshore assets
- Recently adopted marine shoreline management plans from Puget Sound jurisdictions
- A review of the distance of existing residential structures from the OHWM (to consider the City's desire to limit the number of new non-conforming structures)

Table 1 shows the mean, median, and standard deviation of the distance between the ordinary high water mark (OHWM) and existing primary residential structures for each shoreline use designation as determined by a GIS analysis of 2009 aerial photographs of land cover on the City's shorelines (data provided by the City). These distances were used to identify typical existing conditions for each proposed use designation.

Table 1 also indicates the suggested RPZ and marine shoreline buffer widths for each proposed use designation that resulted from our review of scientific literature, the City's existing shoreline regulations, existing shoreline character, the distance of existing structures from the shoreline, nearshore assets, existing and future land uses, and discussions with City staff. A minimum and a maximum marine shoreline buffer is offered that would vary based on existing parcel conditions where shallow lots (lots less than 200 feet from the OHWM) or high bluff shoreline parcels would have narrower buffers and deeper lots (lots greater than 200 feet from the OHWM) or those with 65 percent coverage of native trees and shrubs within the RPZ, low banks, marshes, lagoons or spit / barrier / backshores would have wider buffer requirements. The table also distinguishes buffer requirements for developed lots versus undeveloped lots in the Shoreline Residential Conservancy use designation. Existing City regulations require a 115-foot buffer on estuarine wetlands. That requirement is recommended for developed lots in the Shoreline Residential Conservancy use designation in order to reduce the number of non-compliant structures, and it is expanded to 150 feet for undeveloped lots in order to advance shoreline protection when future development occurs.

Figure 2 illustrates an example configuration of the RPZ and marine shoreline buffer for a parcel with low bank waterfront, 65 percent canopy cover, and a Shoreline Residential use designation.

the viability of critical saltwater habitats. Therefore, effective protection and restoration of critical saltwater habitats should integrate management of shorelands as well as submerged areas.

The recommendations do not distinguish between water-oriented and non-water oriented uses. Allowances for water-oriented uses would be part of the formal code development process.

Table 1. Suggested Range of Riparian Protection Zones and Marine Shoreline Buffers by Use Designation.^a

| Existing Distances from Shoreline to Primary Residential Structures (use designations are bold) | Riparian Protection Zone (RPZ) (inner buffer zone) | Minimum Standard Buffer (encompasses inner RPZ and outer marine shoreline buffer) | Maximum Standard Buffer (encompasses inner RPZ and outer marine shoreline buffer) |
|---|--|--|--|
| Urban Mean 59.8 feet Median 20.1 feet STD 72.1 feet | Minimum 30 feet from OHWM | Minimum 30 feet from OHWM ^b | 30 feet from OHWM ^b |
| Shoreline Residential Mean 69.7 feet Median 60.2 feet STD 46.2 feet | Minimum 30 feet from OHWM up to standard buffer width | Condition: Shallow lots ^c or high bluff Standard Buffer: 50 feet from OHWM ^b | Condition: 65% coverage of native forest and shrub vegetation in RPZ ^d , and low bank, or marshes, or lagoons, or spit / barrier / backshores Developed - Standard Buffer: 75 feet from OHWM Undeveloped - 75 feet from OHWM unless adjacent to Aquatic Conservancy then 150 feet |
| Shoreline Residential Conservancy Mean 88.2 feet Median 86.3 feet STD 55.9 feet | Minimum 30 feet from OHWM up to standard buffer width | Condition: Shallow lots ^c or high bluff Standard Buffer: 75 feet from OHWM ^b | Condition: 65% coverage of native forest and shrub vegetation in RPZ ^d , and low bank, or marshes, or lagoons, or spit / barrier / backshores Standard Buffer: 115 feet from OHWM for developed lots 150 feet from OHWM for undeveloped lots |
| Island Conservancy Mean 144.9 feet Median 180.8 feet STD 62.9 feet | Minimum 50 feet from OHWM up to standard buffer width | Condition: Shallow lots ^c or high bluff Standard Buffer: 100 feet from OHWM ^b | Condition: Deeper lots ^c , low bank, marshes, lagoons, spit / barrier / backshores Standard Buffer: 150 feet from OHWM |
| Natural Mean 145.3 feet Median 169.7 feet STD 53.8 feet | Minimum 100 feet from OHWM up to standard buffer width | Condition: High bluff Standard Buffer: 200 feet from OHWM ^b | Condition: Low bank or feeder bluff, marshes, lagoons, spit / barrier / backshores Standard Buffer: 200 feet from OHWM ^b |

^a The suggested minimum and maximum buffers are based on existing distances to residential structures from the shoreline in addition to science-based recommendations for shoreline and nearshore protection. The suggested ranges could be refined further based on additional GIS based analysis of City shoreline conditions.

- ^b Or 50 feet from edge of geologic hazard; whichever is greater.
- ^c Shallow lots measure 200 feet or less from the OHWM and deeper lots measure greater than 200 feet from the OHWM.
- ^d 65 percent coverage of native forest and shrub vegetation in the RPZ based on the 2009 aerial image or an approved clearing permit since 2009.

Figure 2. Example Configuration of RPZ in Relation to Marine Shoreline Buffer.

8.5x11

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Current Marine Shoreline Buffer Requirements
and Allowed Buffer Uses in the City of
Bainbridge Island

Current Marine Shoreline Buffer Requirements and Allowed Buffer Uses in the City of Bainbridge Island

16.20.130 Fish and wildlife habitat conservation areas:

C.1. Development standards for marine critical areas are defined in the city’s shoreline master program, Chapter 16.12 BIMC and are summarized in SMP Table 4-2 below.

SMP Table 4-2. Use-related Development Standards Matrix from Chapter 16.12 BIMC.

Key (See Key in Table 4-1) of current SMP

| Development Standards | Upland Environments | | | | |
|------------------------------------|---------------------|-------------|-------|------------|-------|
| | Natural | Conservancy | Rural | Semi-rural | Urban |
| Aquaculture | | | | | |
| Setback | | | | | |
| Water-dependent | N/A | 0 | 0 | 0 | 0 |
| Water-related | N/A | 25 | 25 | 25 | 25 |
| Nonwater-oriented | N/A | 100 | 100 | 100 | 100 |
| Upland | N/A | 30 | 30 | 30 | 30 |
| Boating Facilities | | | | | |
| Setbacks | | | | | |
| Accessory structures | N/A | 50 | N/A | 50 | 25 |
| Water-dependent | N/A | 0 | N/A | 0 | 0 |
| Dry moorage | N/A | N/A | 100 | 100 | 100 |
| Height Limits | | | | | |
| Dry Moorage | N/A | N/A | N/A | 30 | 30 |
| Buildings | N/A | N/A | 20 | 20 | 20 |
| Commercial | | | | | |
| Native vegetation zone (from OHWM) | | | | | |
| Water-dependent | N/A | N/A | N/A | 0 | 0 |
| Water-enjoyment | N/A | N/A | N/A | 50 | 25 |
| Nonwater-oriented | N/A | N/A | N/A | 50 | 50 |
| Buildings | N/A | N/A | N/A | 30 | 30 |
| Forest Practices | | | | | |
| Native vegetation zone: | N/A | N/A | 100 | 100 | 100 |
| Industrial Development | | | | | |
| Native vegetation zone (from OHWM) | | | | | |
| Water-dependent | N/A | N/A | N/A | N/A | 0 |
| Water-related | N/A | N/A | N/A | N/A | 25 |
| Recreational Development | | | | | |
| Native vegetation zone | | | | | |
| Nonwater-oriented, general | N/A | 200 | 200 | 200 | 100 |

| Development Standards | Upland Environments | | | | |
|---|---------------------|-------------|-------|------------|-------|
| | Natural | Conservancy | Rural | Semi-rural | Urban |
| Campsites, picnic areas, and related | N/A | 50 | 50 | 50 | 25 |
| Access roads, restrooms, and accessory structures | N/A | 75 | 75 | 75 | 50 |
| Parking | N/A | 100 | 100 | 100 | 50 |
| Golf course, playfields, intensive use areas | N/A | 100 | 100 | 100 | 100 |
| Residential Development (dwellings) | | | | | |
| Native vegetation zone | N/A | 100 | 50 | 50 | 25 |
| Transportation | | | | | |
| Native vegetation zone | | | | | |
| Trails | 0 | 0 | 0 | 0 | 0 |
| Water-dependent | N/A | 0 | 0 | 0 | 0 |
| Utilities (primary) | | | | | |
| Native vegetation zone | | | | | |
| Distribution lines | N/A | N/A | N/A | 50 | 25 |
| Buildings | N/A | N/A | N/A | 50 | 25 |
| Height Limits: | | | | | |
| Buildings, storage tanks, accessory uses | N/A | N/A | 50 | 20 | 20 |
| Distribution poles | N/A | N/A | 50 | 30 | 30 |

Herrera Environmental Consultants, Inc.

Memorandum

To Ryan Ericson, Associate Planner, and Libby Hudson, Division Manager
City of Bainbridge Island

From Amanda Azous, Herrera Environmental Consultants

Date August 31, 2011

Subject Clarification on Herrera August 11, 2011 Documentation of Marine Shoreline Buffer Recommendation Discussions Memo

This memo is to provide further explanation of the scientific basis for the recommendation to the City of Bainbridge Island (City) that a minimum 30-foot Riparian Protection Zone (RPZ) be instituted as part of a dual-zone management system (provided in Herrera's August 11, 2011, memo to the City: *Documentation of Marine Shoreline Buffer Recommendations*). It is important to note that the RPZ is intended to be a subset of a regulated buffer (which is wider than 30 feet for all use designations except for Urban). The RPZ has the specific purpose of protecting existing intact native vegetation that is directly adjacent to the marine environment. The RPZ also provides a regulatory framework for restoring native vegetation to this zone as future development and re-development occurs, particularly where this zone has been degraded. Restoring native vegetation to this zone would help the City achieving its goal of no net loss of shoreline ecological functions over time.

The RPZ is intended to be more restrictive of uses and development than the remainder of the regulated buffer required in each use designation. Any disturbances or allowed activities within this zone would include mitigation that restores native vegetation within and/or adjacent to the RPZ to the extent feasible. The goal of regulating vegetation characteristics in the RPZ is to strengthen the functions provided by native vegetation in the portion of the 200-foot shoreline jurisdiction where the most benefit would accrue, which is the area directly adjacent to marine waters.

Scientific Recommendations for Marine Riparian Buffers

Both Battelle (2003) and Herrera (2011) review and discuss science-based recommendations for buffer widths to protect various shoreline functions. In general, the reviews found that the wider the buffer, the more effective it will be for protecting the marine environment. Nevertheless, in developed environments it is not always possible to prescribe the largest buffer one might find recommended in the literature. Both literature reviews clearly establish that buffers have a key role in protecting aquatic habitat and resources and both suggest that necessary buffer widths vary considerably depending on the site-specific functions and characteristics. For example, in order to achieve at least 80 percent effectiveness at removing pollutants from stormwater runoff, the buffer required can vary from as little as 16 feet to as large as 1,969 feet depending on the slope, depth and type of soil, surface roughness, density of vegetation and the intensity of the land use. Table 1 provides a summary of a number of studies that examined buffer requirements

that were reviewed for both documents, as well as for the August 11, 2011, buffer recommendations memo. The table indicates that suggested buffers are dependent on the function being protected as well as site-specific characteristics but that in general, the wider buffers are, the more effective they are in providing a diversity of functions. In addition, studies Herrera reviewed suggest that a narrower buffer, fully vegetated with native trees and shrubs, may perform more effectively than a wider buffer comprised of non-native landscaping and/ or lawn.

Table 1. Riparian buffers functions and width recommendations in the literature.

| Riparian Function | Range of Buffer Widths (feet) to Achieve $\geq 80\%$ Effectiveness and Literature Cited | Minimum Buffer Width (Approximate) Based on FEMAT Curve to Achieve $\geq 80\%$ Effectiveness ^a |
|--|---|--|
| Water quality | 16 ft: Schooner and Williard (2003) for 98% removal of nitrate in a pine forest buffer 1969 ft: Desbonnet et al (1994, 1995) for 99% removal 33 ft: Zhang et al. (2010) for 85% removal of nitrogen with trees (71% with mixed grass and trees) 33 ft: Zhang et al. (2010) for 98% removal of phosphorus with trees (69% with mixed grass and trees) | 82 ft: sediment 197 ft: TSS 197 ft: nitrogen 279 ft: phosphorus |
| Fine sediment control | 82 ft: Desbonnet et al (1994/1995) for 80% removal 299 ft Pentec Environmental (2001) for 80% removal 33 ft: Zhang et al. (2010) for 91% removal of sediment on 5% slope with grass and trees; 86% removal on 10% slope with grass and trees | 82 ft: (sediment) 197 ft: (TSS) |
| Shade/Microclimate | 56 ft: Belt et al 1992 IN Eastern Canada Soil and Water Conservation Centre (2002) for 90% effectiveness 125 ft: Christensen (2000) for 80% temperature moderation | 121 ft (0.6 SPTH*) |
| Large woody debris | 33 ft: Christensen (2000) for 80-90% effectiveness 328 ft: Christensen (2000) for 80-90% effectiveness | 131 ft (0.65 SPTH*) |
| Terrestrial carbon source to nearshore food webs | 16 to 328 ft: Bavins et al (2000) | 80 ft (0.4 SPTH) |
| Hydrology/slope stability | Consensus is that for steep slopes affecting critical areas such as feeder bluffs, a site specific analysis by a qualified professional is necessary to determine a specific buffer width. | Recommendations are based on protecting property and not critical areas. Buffers widths are provided for a range of slope conditions but do not consider underlying geology. |

^a FEMAT data in this table are based on Site Potential Tree Height (SPTH) equal to 200 feet.

Scientific Basis for 30-foot Riparian Protection Zone

Based on the significant variability in buffer recommendations, we endeavored to develop a strategy for the City that would, over time, improve the ecological functions within the current residential development pattern found along most of the City’s shoreline (over 82 percent developed [Battelle 2003]), while also allowing for some flexibility for landowners to make use of the shoreline. Therefore, we focused on maintaining and restoring intact riparian habitat located directly adjacent to marine waters by designating it an RPZ, limiting uses within this ecologically important zone, and providing mechanisms and strategies for increasing native vegetation within and adjacent to the RPZ over time.

This minimum RPZ width of 30 feet is based on the ability to achieve 70 percent or greater effectiveness at protecting water quality, and providing shade, microclimate moderation, large woody debris, litterfall and insect food sources (Christensen 2000; Bavins et al. 2000; Zhang et al. 2010) (see Table 2). The remainder of the regulated buffer required for each shoreline designation augments the protection for ecological functions provided by the RPZ, and therefore provides added conservation strategies for protecting marine riparian functions and critical saltwater habitats. This dual-zone management system described in Herrera’s August 11, 2011, memo and illustrated in Figures 1 and 2 within that memo, works together to increase the functions typically provided by a single standard marine shoreline buffer through conserving and, over time, adding native vegetation in the most critical zone of the buffer.

Table 2. Approximate effectiveness provided by 30-foot RPZ (Christensen 2000; Bavins et al. 2000; Zhang et al. 2010).

| Function | Percent Effectiveness within 30 Feet of OHWM | Comment |
|--|--|---|
| Water quality maintenance | 71 - 98 | Assumes trees or mixed grass and trees |
| Fine sediment control | 86 - 91 | Assumes trees or mixed grass and trees |
| Shade and microclimate moderation | 100 | Trees and other over-hanging vegetation must be present on the shore. |
| Large woody debris | 80 -90 | Trees must be present on the shore |
| Terrestrial carbon source to nearshore food webs | 80 | Trees and other over-hanging vegetation must be present on the shore. |
| Terrestrial wildlife habitat | Unknown | Highly dependent on species of wildlife to be protected |
| Hydrologic based slope stability | Unknown | Highly dependent on specific site conditions |

OHWM = Ordinary High Water Mark

An RPZ containing native trees and shrubs would promote the recruitment of organic matter, nutrients, and macroinvertebrate prey items to the marine environment which are reduced or absent when riparian vegetation is not present on the shoreline (Brennan et al. 2004; Sobocinski 2003; Williams et al. 2001). Detritus feeding organisms are often not able to adapt to the leaf fall patterns or the chemical characteristics of leaves from non-native plants, which is one reason

why shoreline vegetation should be native species for maximum effectiveness (Karr and Schlosser 1977). Native plant species are adapted to local physical conditions such as soil, geology, and climate and therefore require less maintenance, are resistant to most pests and diseases, and require little or no irrigation or fertilizers, once established. Thus maintaining native plant species adjacent to the shoreline helps maintain water quality. Also, trees located close to the shore, form and maintain habitat complexity by stabilizing banks and contributing large wood to the aquatic environment.

Another important protection feature is that the RPZ would extend up to the full width of a standard marine shoreline buffer wherever intact native riparian vegetation were present but would be a minimum of 30 feet.

In areas entirely lacking native riparian vegetation, the City would still establish a minimum 30-foot RPZ and, as parcels met re-development thresholds, the City would require that native vegetation be established within the minimum 30-foot RPZ. In the Natural shoreline designation, the RPZ would be a minimum of 100 feet because of the heightened ecological values found in the areas within this shoreline designation and their absence of existing development.

In summary, the 30-foot RPZ is a subset of a dual-zone system, intended to preserve existing native trees and shrubs, and restore them when possible, to increase their presence adjacent to the shoreline and protect important shoreline functions. This strategy will provide opportunity to significantly improve over time shoreline functions over existing City conditions, where degradation exists or continues to occur. The implementation of the RPZ as a component of a regulated buffer will allow the City to effectively stem the loss of shoreline resources due to loss of native shoreline vegetation and, in conjunction with regulations addressing activities allowed in the remainder of the regulated buffer, assist the City with meeting its goal of no net loss of shoreline ecological functions.

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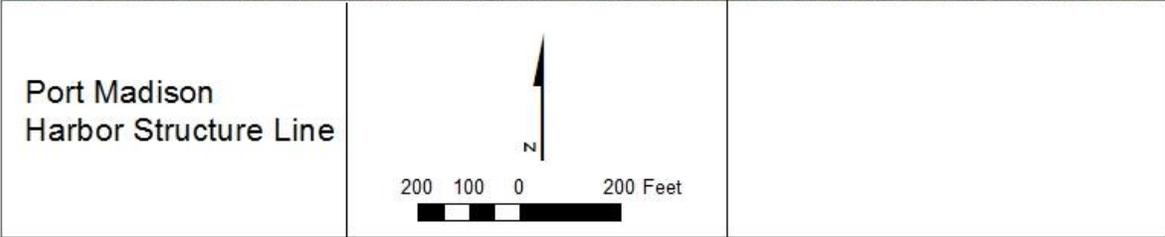
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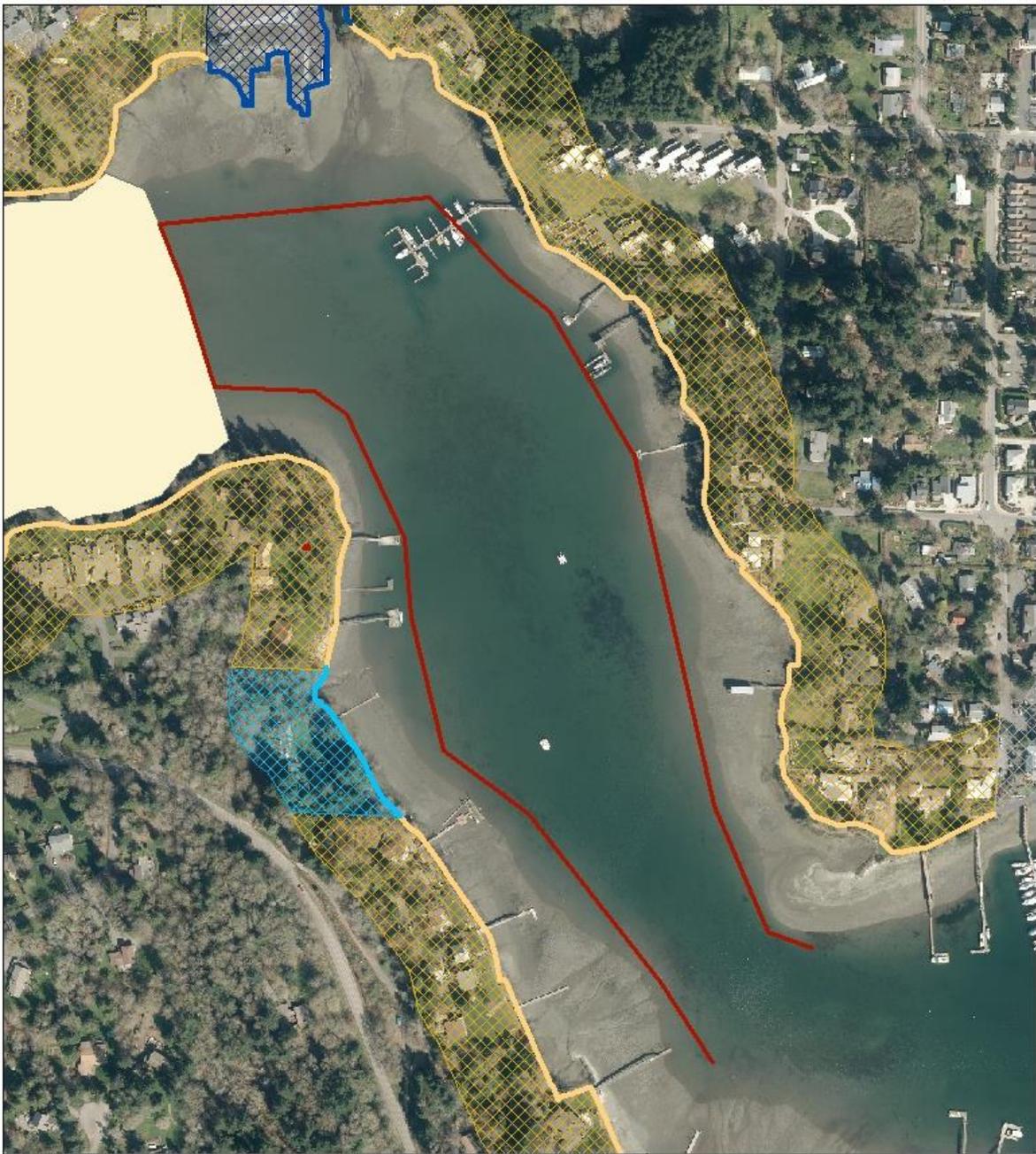
Appendix D

Single Family Residence Mitigation Manual

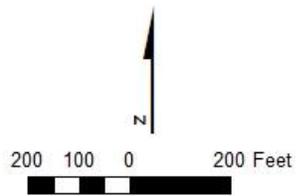
Appendix E

Special Area Maps



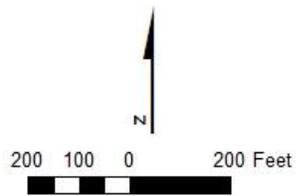


Eagle Harbor
Harbor Structure Line





Point Monroe District
Shoreline Stabilization
Areas



4.2 *General Use*

4.2.1 Nonconforming Uses, Non-Conforming Lots, and Existing Development

4.2.1.1 **Applicability**

This section applies to shoreline uses and/or structures that were lawfully established or constructed prior to the effective date of the initial adoption of the Master Program (November 26, 1996) or its amendments, but which do not conform to present regulations or standards of the Master Program.

4.2.1.2 **Goal**

It is the purpose of this program to recognize legally established primary residential structures, and to allow them to be maintained, repaired, remodeled, replaced and in some cases expanded in conformance with these rules. Residential structures that do not conform to this program should, over time, as the owner proposes changes to the structure, conform as completely as possible to this program, with due regard to unique site conditions and property rights.

It is further the purpose of this program to ultimately, over time, have uses and commercial structures conform to the provisions of this program. Over time, uses and commercial structures that do not conform to the standards of this program should be phased out as uses cease or redevelopment of structures occurs.

Note: Existing structures and uses that do not conform to this Program are not required to meet its requirements, unless the owner proposes changes to a structure or use that would require review under this Program.

4.2.1.3 **Policies**

1. Lawfully constructed commercial and industrial structures shall be allowed to be repaired, maintained, and remodeled provided that the alteration does not increase the nonconformity.
2. Lawfully constructed structures, established uses, public facilities, transportation structures, and/or lots of record located within the shoreline jurisdiction prior to the effective date of the Master Program but which do not conform to the present policies, regulations or standards, shall be allowed to continue and be repaired and maintained.
3. Lawfully constructed residential structures may be repaired, maintained and remodeled provided the alteration meets the goals and provisions of this program.
4. Lawfully constructed residential structures may be expanded in some circumstances, provided the expansion will not result in adverse impacts to shoreline ecological functions and processes, and mitigation is provided.
5. Once discontinued, re-establishment of nonconforming uses located in the shoreline jurisdiction shall be restricted.
6. Lawfully constructed commercial structures that are located in the shoreline jurisdiction are to be phased out over time. Depending on the extent and intensity of the

nonconformity, a primary residential structure and primary appurtenance, may be allowed certain alteration or expansion, provided that adverse impacts to shoreline ecological functions and shoreline processes are mitigated or restored.

7. Lawfully constructed structures that are destroyed by fire, explosion, flood, or other casualty may be restored or replaced without increasing or expanding the nonconformity, and are encouraged to decrease nonconformity. Legally established overwater structures that are destroyed may be reconstructed to the same size, but the configuration may be altered to reduce the impact to the shoreline environment provided the size of the nonconformity is not increased. Such redevelopments may be permitted provided that impacts to shoreline functions and processes are mitigated or restored, and the reconstruction application is submitted within two years of the date of destruction.
8. Provisions for reconstruction of a lawfully constructed residential house shall allow certain expansions of the existing structure when it can be demonstrated that the expansion will not result in adverse impacts to shoreline ecological functions and shoreline processes are mitigated or restored.
9. Legally created nonconforming lots of record may be developed provided that adverse impacts to shoreline ecological functions and shoreline processes are mitigated or restored.
10. Redevelopment of nonconforming public rights-of-way and associated existing transportation structures may be permitted for purposes of facilitating essential public access, development of public trails and/or public shoreline access.

4.2.1.4 Regulations – General

1. Nonconforming uses and developments and/or existing buildings and structures that were lawfully constructed or existed prior to the effective date of initial adoption of this Program (November 26, 1996), or its amendments, but which do not meet the specific standards of this Program, may be continued subject to the provisions of this section; provided that shoreline modifications shall conform to Section 6.1, General Shoreline Modification Provisions, and Section 6.2, Shoreline Stabilization.
2. A complete application for any reconstruction under this section must be submitted within two (2) years of the date of damage or removal, and upon approval of the application, redevelopment must be completed within one (1) year of the commencement of reconstruction. A one (1) year extension may be granted, provided that a written request is submitted no later than twenty-one (21) days prior to either deadline and provided that the owner is not responsible for the delay.
3. An existing use designated by the adoption of an applicable amendment hereto as a conditional use that lawfully existed prior to the adoption of the Program or the adoption of an applicable amendment hereto and which has not obtained a conditional use permit, shall be considered a legal nonconforming use and may be continued subject to the provisions of this section without obtaining a conditional use permit.
4. A structure for which a variance has been issued but which does not comply with applicable requirements of this Program as amended shall be considered a legal existing structure and the requirements of this section shall apply.

5. Any permitted remodel or expansion shall not cause adverse impacts to shoreline ecological functions and/or processes.

4.2.1.5 Regulations - Nonconforming Uses

1. Nonconforming uses shall not be altered or expanded in any way that increases the nonconformity.
2. If a nonconforming use is discontinued for twelve (12) consecutive months, any subsequent use shall be conforming; except that if a nonconforming use is operated within a nonconforming structure that is accidentally damaged or destroyed and reconstruction is proposed under Section 4.2.1.6.1(3), then the use may be re-established within the same time period as the reconstruction for the nonconforming structure pursuant to Section 4.2.1.4(2)
3. A nonconforming use cannot be changed to another nonconforming use.
4. Change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status, provided that all provisions are met.

4.2.1.6 Regulations – Existing Development

4.2.1.6.1 General Provisions – Nonconforming Structures

1. Existing structures may be maintained, repaired, renovated, or remodeled provided all the following is met:
 - a. Changes to the structure that would alter or increase the nonconformity are not permitted;
 - i. Any vertical or horizontal extension of a wall must meet the provisions of this program.
 - ii. Adding to the footprint of an existing structure is permitted as long as the addition meets the requirements of this program.
 - b. There is no further encroachment into the buffers unless allowed by this program or through an approved variance;
 - c. Renovations or remodels are entirely contained within the building;
 - d. If moved, the structure shall be made to conform to regulations of this program.
2. If an existing primary structure is damaged or destroyed by fire, explosion, earthquake, flooding or other casualty, it may be reconstructed to the bulk dimension existing immediately prior to the catastrophic event, provided the use is conforming or meets the provisions of Section 4.2.1.4, Regulations-General, and 4.2.1.5, Regulations – Nonconforming Uses, above.

- a. This provision shall not apply to structures that are destroyed due to a criminal act initiated by the property owner; and
- b. The replacement structure shall not warrant new shoreline stabilization for the life of the new structure.
- c. The replacement structure meets geologically hazard provision for existing development in Section 4.1.5, Regulations – **Nonconforming Uses**, and Appendix B.

4.2.1.6.2 Existing Structures – Commercial and Industrial (Primary and Accessory)

- 1. Existing commercial structures shall not be altered or expanded in any way that increases the nonconformity without first obtaining a variance.
- 2. Reconstruction of existing commercial structures and buildings intentionally demolished or destroyed in any other manner than described in Section 4.2.1.6.1(2), shall be in conformance with all standards of the Program.

4.2.1.6.3 Existing Structures – Residential Single-Family: Primary Structures

- 1. If an existing primary residential structure is damaged or destroyed as described in Section 4.2.1.6.1(2), the existing primary residential structure configuration may be altered or expanded pursuant to subsections 4.2.1.6.3(2-4).
- 2. An existing primary residential structure may be altered or expanded to the extent allowed by this Program, provided:
 - a. Enlargement or expansion of the building configuration, including any new impervious surfaces located within the Shoreline Buffer shall be located landward of the existing or original building footprint, only one such expansion may occur within the lifetime of the development, and the expansion shall not exceed:
 - i. The allowed building area for Point Monroe District, Section 5.9.6(2).
 - ii. The allowed building area for encumbered lots, Section 4.2.1.7.
 - iii. For structures not meeting i or ii; twenty five percent (25%) of the existing building footprint.
 - b. Any vertical expansion must meet height requirements of this Program;
 - c. Remnant foundation and/or impervious surfaces located within the Shoreline Buffer shall be removed;
 - d. Mitigation of the shoreline buffer is provided in accordance with Section 4.1.2, Environmental Impacts;
 - e. The remodel or expansion shall not cause adverse impacts to shoreline ecological functions and/or processes; and
 - f. All other applicable standards and provisions are met, including regulations of this Program, the Bainbridge Island Municipal Code, the septic system requirements of the Kitsap Health District, and any state and federal laws.

3. Permitted expansion of an existing structure shall not substantially impact the existing views of the water from primary waterfront residences or public rights-of-way to any greater degree than a fully conforming structure.
4. Increases in structure footprint outside of the Shoreline Buffer shall be allowed, even if all or a portion of the existing footprint is within the Shoreline Buffer. In such case, the addition or enlargement shall be treated as a separate building or structure in determining conformity to all of the requirements of this Program.

4.2.1.6.4 Existing Structures – Multifamily Residential: Primary Structures

1. If an existing primary multifamily residential structure is damaged or destroyed by fire, explosion, earthquake, flooding or other casualty, it may be reconstructed to the bulk dimension existing immediately prior to the catastrophic event, including building height and footprint of the structure.
 - a. This provision shall not apply to structures that are destroyed due to a criminal act involving the property owner; and
 - b. The replacement structure shall not warrant new shoreline armoring for the life of the new structure; and
 - c. The reconstruction shall not cause adverse impacts to shoreline ecological functions and processes.
 - d. The replacement structure meets geologically hazard provision for existing development in Section 4.1.5, Critical Areas, and Appendix B.
2. An existing primary multifamily residential structure or portion thereof may be reconstructed, altered, or expanded, including the footprint and/or the height increased, to the extent allowed by this Program, if the following are met:
 - a. Public access is provided pursuant to Section 4.2.4.6, Regulations – Public Access Design and Location Standards; and
 - b. Mitigation of the shoreline buffer is provided to meet no net loss, as detailed in Section 4.1.2, Environmental Impacts, including revegetation standards in Section 4.1.2.5(3).

4.2.1.6.5 Existing Structures – Residential: Accessory Structures

1. If an existing residential accessory structure is damaged, destroyed or intentionally demolished, the reconstruction shall be in conformance with all standards of the Program, except:
 - a. An existing essential single family residential accessory structure may be reconstructed as follows:
 - b. Replacement structure is the same bulk dimension as the existing structure.
 - c. Replacement structure may be located within Zone 2 provided mitigation occurs in accordance with 4.1.2.5, Regulations – Revegetation Standards.

- d. Attached decks essential to a single family residence may be replaced in the same location.
- e.. All other applicable standards and provisions are met, including regulations of this Program, the Bainbridge Island Municipal Code, the septic system requirements of the Kitsap Health District, and any state and federal laws.

4.2.1.7 Regulations – Encumbered and Nonconforming Lots

1. Single-family development and redevelopment, except in the Point Monroe District, that is proposed on a legal nonconforming lot located in the shoreline jurisdiction or proposed for a shoreline property that is significantly encumbered by shoreline or critical area buffers, may be allowed without a shoreline variance when the following criteria are met:
 - a. A lot contains a building area of 2,500 square feet or more available for a single-family residence and normal appurtenances and unrestricted by buffers from shorelines or critical areas shall comply with the provisions of this Program. The building area means the entire area that will be disturbed to construct the home, normal appurtenances (except drainfields), and landscaping; or
 - b. A lot that does not meet the requirement of subsection 1.a above, shall meet the following:
 - i. Landslide hazard provisions of Section 4.1.5, Critical Areas, and Appendix B and provide the maximum buffer dimension feasible for critical areas; and
 - ii. Provide a building area not to exceed 2,500 square feet with maximum lot coverage of 1,200 square feet. The building area shall be located on the portion of the lot providing the maximum Shoreline Buffer dimension with consideration given to view; and
 - iii. All single-family residential development approved under this section shall meet the shoreline structure view setback provisions in Section 4.1.3.11, Regulations – Shoreline Structure Setback View Requirement; and
 - c. The area between the structure and the shoreline and/or critical area shall comply with revegetation standards in Section 4.1.2.5(3), the vegetation conservation standards of Section 4.1.3, Vegetation Management, and provisions of Section 4.1.5 Critical Areas, and Appendix B; and
 - d. Development may not take place waterward of the ordinary high water mark; and
 - e. Facilities such as a conventional drainfield system may be allowed outside of the building area specified above, and allowed within buffer areas, except wetlands buffers. Such facilities shall not be located closer than 75ft to OHWM; and shall be subject to regulations of Section 4.1.5, Critical Areas.

4.2.1.8 Regulations – Nonconforming Public Facilities & Transportation

1. Nonconforming public facilities shall be allowed to continue and to be repaired, maintained, or remodeled.

2. Redevelopment of nonconforming public rights-of-way and associated transportation structures are allowed for purposes of facilitating essential public access, development of public trails, and/or public shoreline access, provided that no other alternative is feasible and redevelopment shall be otherwise consistent with the provisions of this Program, including but not limited to the provisions for public access and no net loss of shoreline ecological functions and processes.

4.2.1.8 Regulations - Existing Residential and Commercial: Aquatic Structures and Accessory Aquatic Structures

1. Existing docks floats, and buoys may be repaired and replaced in the same foot print and shall comply with this Program's requirements for materials and standards, to the extent practicable.
 - a. Except that as a conditional use, an existing dock may be modified, reoriented or altered within the same general location to be more consistent with the provisions of this Program.
2. Except for docks and floats, repair and replacement up to 50% of the footprint of any existing aquatic structures, including shoreline modifications, or buildings or portions thereof within the Aquatic or Priority Aquatic designations, shall only be done once within any five year period. Such replacements shall comply with this Program's requirements for materials and standards to the extent practicable. If the structure is composed of several components, then the 50% shall be calculated independently for each component.
3. The replacement shall meet Section 4.1.2, Environmental Impacts, including the mitigation sequencing standards of Section 4.1.2.6, Regulations-Mitigation, to meet the standard of no net loss of shoreline ecological functions and/or processes. Shoreline stabilization shall also meet the alternative analysis provision of Section 6.2.8(1).



Draft SMP Amendment Summary – Nonconforming Structures

August 30, 2018 Planning Commission Meeting

| Structure | Intentional Demolition | Unintentional Destruction |
|---|--|---|
| Primary residence | May be rebuilt in same footprint with additional height added if conforms to height limit and shoreline structure view setback line; expansion may be allowed Includes Point Monroe | May be rebuilt in same footprint with additional height added if conforms to height limit and shoreline structure view setback; expansion may be allowed |
| Accessory residential | May be rebuilt in same footprint with additional height added if conforms to height limit and shoreline structure view setback line | May be rebuilt in same footprint with additional height added if conforms to height limit and shoreline structure view setback line |
| Overwater structures (docks, piers, floats, buoys) | May be rebuilt in same footprint; may be reconfigured if resulting structure is in greater compliance with present regulations | May be rebuilt in same footprint; may be reconfigured if resulting structure is in greater compliance with present regulations |
| Other overwater structures | May not be rebuilt unless replacement considered normal repair; then may be rebuilt to same footprint and height | May be rebuilt to same footprint and height |
| Multifamily | May be rebuilt only in conformance with present regulations | May be rebuilt to same footprint and height |
| Water-dependent Commercial | May be rebuilt to same footprint and height | May be rebuilt to same footprint and height |
| Other Commercial and Industrial | May be rebuilt only in conformance with present regulations | May be rebuilt only in conformance with present regulations |
| ADU | May be rebuilt in same footprint with additional height added if conforms to height limit and shoreline structure setback; expansion allowed up to ADU maximum | May be rebuilt in same footprint with additional height added if conforms to height limit and shoreline structure view setback; expansion allowed up to ADU maximum |



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 10 Minutes

AGENDA ITEM: (7:20 PM) Friends of the Farms Request for Funding for City Farmland Management - Executive,

STRATEGIC PRIORITY: Healthy and Attractive Community

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Discussion

PROPOSED BY: Executive

RECOMMENDED MOTION:

I move to approve the Friends of the Farms request for annual funding in the amount of \$65,000 for 2019 and \$65,000 for 2020.

SUMMARY:

To continue discussion of a proposal from Friends of the Farms (FOF) for annual management fees for property management of City-owned farmland.

FISCAL IMPACT:

| | |
|------------------------------------|---|
| Amount: | Proposed by FOF: \$16,250 (2018), \$65,000 (2019), \$65,000 (2020). |
| Ongoing Cost: | \$65,000 |
| One-Time Cost: | |
| Included in Current Budget? | No |

BACKGROUND: Since 2012, FOF has performed property management services for the City's public farmland per the terms of a Master Lease, without additional compensation.

If the City Council approves the FOF request for annual funding, the City Attorney will draft an amendment to the Master Lease with Friends of the Farms to include annual fees in the amount indicated by City Council direction. That lease amendment will be provided to the City Council for consideration and approval.

ATTACHMENTS:

[Friends of the Farms Request for Funding](#)

[Friends of the Farms Funding Proposal Slides](#)

FISCAL DETAILS:

Fund Name(s): General Fund

Coding:



**FRIENDS OF THE FARMS
FUNDING REQUEST
PUBLIC FARMLAND MANAGEMENT
2018 – 2042**

Funding Request

Friends of the Farms (FotF) requests an annual management fee (with \$16,250 in Q4/2018 and \$65,000 annually for fiscal years 2019 - 2020) for management of 60 acres of land owned by the City of Bainbridge Island (CoBI) that includes

- leased commercial farmland and related infrastructure (irrigation, ponds, pumps and well house systems, greenhouses, electrical, etc.)
- two residential structures occupied by farm interns
- storage buildings, sheds, and barns
- roads, trail networks, and open space
- 14 p-patch garden plots
- 5-acre designated historic area with barn, bunkhouses, sheds and storage containing over 2,000 catalogued historic artifacts

Relationship of Friends of the Farms and CoBI Relating to City-owned Farmland

Friends of the Farms was incorporated as a nonprofit in 2001, originally as the Trust for Working Landscapes. In 2012 the name was legally changed to Friends of the Farms. In December of 2011 FotF and CoBI entered into a 30-year lease for the management of 60 acres of public farmland. After an RFP process, FotF issued subleases to local farmers. Currently there are 8 farm leases covering a little over 20 acres. The subleases range in duration from 12 to 25 years and range in acreage from about half an acre to nearly 7 acres.

FotF monitors farmer subleases, provides ongoing maintenance and improvements for land and infrastructure described above, and oversees farm-related capital improvements on all five public farmland properties.

FotF also manages two residential rental properties on land owned by CoBI: Morales House on Lovgren Road and Suyematsu House on Day Road, where housing is provided for up to 9 farm interns annually.

FotF screens rental applicants, issues rental agreements, monitors residents, and provides ongoing maintenance and improvements for the structures and adjacent land and roads.

FotF has received no funding from CoBI for public farmland management since the Master Lease agreement commenced in January 2012.

In 2016 CoBI staff and FotF began working together, within the budget established by CoBI, to organize longer term plans for CoBI farm properties and develop criteria to identify which potential projects (capital or major maintenance) should be the responsibility of FotF and which should be the responsibility of the City.

Background

The 60 acres of land now designated as public farmland and managed by Friends of the Farms was acquired by CoBI over several years by a variety of means. Some was donated, some was acquired with CoBI open space funds. The Suyematsu property was acquired through a combination of a donation via the life estate of Akio Suyematsu and a CoBI investment of \$565,465.

Because management of these lands did not fit within any CoBI department an outside entity was needed. Friends of the Farms, local farmers, and community volunteers, concerned that farmland would be sold for development, stepped forward and assumed management and maintenance from 2004 – 2011.

In 2012, with no other entity willing to take on the responsibility, FotF and CoBI entered into the Master Lease and Management Agreement. Due to the economic downturn at the time, CoBI eliminated annual funding for FotF and many other community partners. As the threat that farmland would be sold for development still existed, FotF agreed to assume the management role via the new Master Lease. Under the terms of the Master Lease, FotF's compensation is limited to 20% of the revenue generated when subleases are issued to farmers. That figure has remained steady since 2012 at approximately \$1,278 per year (\$6,392 annual lease payments x 20%). Historically, FotF has also been permitted to keep small amounts of revenue generated by managing community activities on public farmland, such as Harvest Fair, weddings, or events by other nonprofits, although none of these activities generate net revenue when time, expenses, and the value of volunteer hours and in-kind donations procured by FotF are taken into consideration.

Beginning long before the signing of the Master Lease, Friends of the Farms not only provided maintenance but also significantly improved our public farmland through numerous stewardship activities and capital projects (Attachment A).

A conservative estimate of the value of investment in public farmland attributable to FotF is \$1,126,934 between 2004 and 2017. This figure does not include the tens of thousands of dollars personally invested by leasehold farmers and years of labor that has improved a public asset.

A few examples of significant projects on City-owned farmland funded by FotF:

2012 - 2018

| | |
|--|--------------|
| Ongoing tree services by of West King LLC | \$ 30,000 |
| Excavation and installation of power lines and rewiring buildings at Johnson Farm | 20,800 |
| Repairs to Suyematsu house and barn | 24,000 |
| Create and install a fenced trail system between Vista and M&E | 13,000 |
| Improvements to culvert for Manzanita watershed | 10,000 |
| Trail system at Johnson Farm | 8,000 |
| Well pump and lines at Suyematsu Farm | 5,000 |
| Johnson Farm barn roofs | <u>2,000</u> |
| | \$112,800 |

2011 - 2012

| | |
|--|---------------|
| Complete renovation of the Morales farmhouse | \$120,000 |
| Greenhouse and related systems at Morales | 31,000 |
| Electrical for Morales Farm power and water | <u>20,000</u> |
| | \$171,000 |

2008 - 2009

| | |
|--|-----------|
| Installation of the most extensive irrigation system in Kitsap County | \$ 83,000 |
|--|-----------|

\$366,800

Additionally, FotF has insured broad community engagement with public land through educational programs, community outreach, volunteer work parties, and community events (Attachment B). Every year hundreds of volunteers provide thousands of hours of no-cost labor to CoBI through FotF's volunteer program and donate equipment, materials, and supplies that otherwise would cost CoBI tens of thousands of dollars a year.

While FotF is proud of the hard work and dedication of its board, staff, and volunteers to donate this valuable service to CoBI and our community, the current financial arrangement is not sustainable.

Request for Funding

\$16,250 for Q4 2018
 \$65,000 annually for 2019-2020 budget cycle

Request based on:

| | |
|------------------------------|----------------|
| Fulltime Manager | \$55,000 |
| Part-time Executive Director | 17,000 |
| Operating Expense* | 20,000 |
| Maintenance Expenses | <u>15,000</u> |
| | \$107,000 |
| Less Revenue | <u>-17,385</u> |
| Total Shortfall | \$ 89,385 |

*Based on allocated expenses for Friends of the Farms

Management fees paid by CoBI prior to Master Lease

| | | | |
|------|----------|------|--------|
| 2004 | \$ 5,000 | 2008 | 40,000 |
| 2005 | \$ 7,628 | 2009 | 0 |
| 2006 | 25,052 | 2010 | 33,000 |
| 2007 | 5,125 | 2011 | 20,000 |

This would allow for a full-time staff person to work in conjunction with the Executive Director of FotF to manage leased public farmland and related infrastructure (irrigation, pond and pump systems, well houses, etc.), residential rental property, storage buildings, roads, trail networks, p-patch garden plots, and open space, coordinate and manage community events, and to collaborate with CoBI in long-term planning for the future of agriculture on Bainbridge Island.

Conclusion

It was understood from the outset by both CoBI and FotF that management by an outside entity of a CoBI-owned asset was unique and new and that periodic examination and adjustment would be needed to insure success. Today both CoBI staff and FotF have a better understanding of what is working and what needs to change.

Over the last 6 years FotF has gained invaluable knowledge and experience in all aspects of management of public farmland including providing housing for farm interns, selecting sublease farmers and managing subleases, significant ongoing maintenance and repairs, natural resource management, meeting community needs and expectations, and balancing the multiple stakeholder interests in a newly designated historic area. There is no one more equipped to fill this role than FotF. In fact, no other organization or entity has expressed a willingness to assume this role.

More than ever, local agriculture is supported broadly by our community as awareness has grown of the economic, environmental, and social benefits of a decentralized, sustainable food system. This ethos is manifested in the new CoBI Comprehensive Plan, where there are 59 goals and policies calling for prioritizing the preservation and enhancement of local farms and food. They are in the Land Use, Housing, Economic, Environmental, Capital Facilities, and Cultural Vision sections. (Attachment C).

On August 28th please vote to approve Friends of the Farms' request for an annual management fee (with \$16,250 in Q4/2018 and \$65,000 annually for fiscal years 2019 - 2020).

We look forward to continuing to work alongside you to preserve and protect our public farmland.

Respectfully submitted,

Heather Burger
Executive Director
Friends of the Farms

Attachments

- A: Maintenance and Improvements to Public Farmland by Friends of the Farms 2015 - 2017
- B: Farm-related Activities Conducted by Friends of the Farms on Public Farmland, Including Educational Programs, Community Outreach, Farm Stewardship Volunteer Work Parties, and Community Events
- C: Excerpts from CoBI Comprehensive Plan Vision, Goals, and Policies relating to local agriculture and public farmland

ATTACHMENT A

Maintenance and Improvements to Public Farmland by Friends of the Farms 2015 - 2017

2015

Suyematsu East and Bentryn West

- **Agricultural Land Improvements**
 - Completed a water study of Suyematsu and Bentryn Family Farm well
 - Repaired and installed new fencing along Day Road
 - Removed extensive infestation of poison hemlock along farm's central drainage
 - Farm Road was graveled

- **Land Stewardship**
 - Provide ditch management along Day Road
 - Ongoing maintenance – removed invasive species, repaired and installed new fencing
 - Remove and cut back invasive and native vegetation to improve sightlines and vehicle access from Day Road that leads to the existing farm stand, onsite residents and the Bainbridge Winery

- **Structural Improvements**
 - Financed and performed an extensive interior renovation of the historic Suyematsu Farmhouse to bring it up to code for future farm intern habitation
 - In collaboration with the Historic Preservation Commission, Friends of the Farms worked to identify, apply for, and received grants to allow for preservation of the Historic Suyematsu Barn
 - Installed structural supports on three sides and the interior of the Suyematsu Barn, preparing it for safe renovation work

- **Soil Amendment Business**
 - Friends of the Farms worked closely with Kitsap Public Health District, Vancil Law LLC, Kitsap Conservation District, and Green Mountain Technologies to draft a new sublease document with Paulson Farms to have the business operated in accordance with local and state regulations. Lease is pending approval by the City of Bainbridge Island

Johnson Farm

- **Agricultural land improvements**
 - Friends of the Farms has explored and worked closely with The Bainbridge Island Fruit Club to form an official partnership to care for and improve the historic orchard on site
 - Through the sublease signed between Heyday Farm and Friends of the Farms, Improvements to soil health and water access of commercial farmland at Johnson farm have been and continue to be made, making this land more viable for future food production

- **Land Stewardship**
 - The Volunteer Stewardship Program mobilized volunteers to remove Himalayan blackberries, grade and add new chips to the multi-use trail system. Work parties for road repair and graveling, orchard pruning, fence repair and intensive land preparation for Harvest Fair also occurred
 - The P-Patch members volunteered their time to manage the 14 p-patches and nearby Neighborhood Stewards provided over 150 hours of ongoing security and maintenance, including mowing, trimming, and additional access road and trail repair
 - The parking lot of Johnson Farm was regraded and improved for public access throughout the year

- **Structural Improvements**
 - Improvements were performed to the smaller shed at Johnson Farm. This work included the installation of shelves and reconstruction of steps
 - Funding sources have been explored to make extensive structural repairs to Harvest Fair and Johnson farm structures

Morales Farm

- **Agricultural land improvements**
 - Irrigation system repairs and enhancements (well/pump houses, lines, etc.)
 - Completed a water study of Morales farm well
 - A new permaculture compost system was installed for farm and intern use

- **Land Stewardship**
 - Provide ditch management along Lovgreen Road
 - Ongoing maintenance – removed invasive species, repaired and installed new fencing
 - Volunteer Stewardship Work Parties mobilized volunteers to mow grassy areas, maintain the Kitsap Conservation District rain garden, and remove invasive species of Himalayan blackberry and Scotch Broom in the riparian zone, grapes, and row crops

2016

Suyematsu East and Bentryn West

Agricultural Land Maintenance and Improvements

- Extensive cleanup around greenhouse relocated to Morales Farm.
- Removed concrete, abandoned irrigation materials, and cleaned areas adjacent roadways to improve presentation of public farmland
- Ongoing meetings with FotF Program Manager and farmers to craft collaborative solutions to ongoing concerns with water supply and quality
- Began monthly water metering
- Ongoing vegetation management mowing of each side of the fence to ease future maintenance, and remove invasive blackberry, pulling roots to ground
- With assistance from farmer Mike Paulson, the Guild backhoe was utilized to remove large piles of holly and scotch broom

- Intensive cleanup of yard and house by FotF staff, farmers, and volunteers
- Remove derelict appliances in yard at Suyematsu House

Structural Maintenance and Improvements

- Replaced failed plumbing and rebuilt shower at the only bathroom in Suyematsu house
- Replaced failing gutter on west wall over living room addition to prevent further structural damage due to splash
- Replaced downspout on south wall gutter over the living room
- Repair a wall in a Suyematsu house bedroom damaged by bathroom plumbing failure
- Repaired break in irrigation system
- Working with COBI staff on improvements to pond pumps and filters
- Four work parties to repair the western fence at Day Road
- Installed oven donated by member of FotF staff to replace existing failed oven
- Replaced failed washer and dryer in Suyematsu House

Johnson Farm

Agricultural Land Maintenance and Improvements

- Ongoing maintenance to the historic orchard on Johnson farm through a partnership with the Bainbridge Island Fruit Club (details in Section 3. E. above)
- Plot leased by Heyday is now in farm production with Brassica harvested in 2016, including broccoli and Brussels sprouts, rotating with strawberries in 2017
- Friends of the Farms worked in partnership with *Let's Pull Together* for two Scotch broom removal parties
- Volunteers mowed open space 5 times and removed Himalayan blackberries and gorse
- Johnson Farm neighbor, Rob Ferguson, provided 120+ volunteer hours and provided equipment to maintain grade and add new chips to the multi-use trail system. Rob and his wife Kia take pride in living adjacent Johnson Farm. Rob recently purchased a tractor to facilitate his volunteer work on the public land. This year he also used the tractor to grade gravel delivered to improve the lower parking lot at Johnson Farm
- Provided plots to 14 P-Patch members who grow a diverse range of crops. Pea-patches are managed by volunteers Cynthia Schick and Lori Gibson who along with nearby neighborhood stewards provide hundreds of hours of ongoing security and maintenance, including trimming, and additional access road and trail repair
- Pea patcher Dennis Miller volunteers his time to winterize the pump house and irrigation system at Johnson Farm
- Johnson Farm continues to serve as a pickup site for Persephone Farms annual CSA members

Structural Maintenance and Improvements

- With financial assistance from grants by the Bainbridge Island Rotary Club and Kitsap Community Foundation and in collaboration with BARN, infrastructure repairs and improvements were made at Johnson Farm to reconstruct and redesign iconic Harvest Fair rides to ensure public safety, build fencing and gates at the lower parking area to prevent damage to

public farmland, install stable steps and handrails for sheds, and rebuild a sturdy fenced area for interactive farm animal demonstrations

- Addressed water runoff issues, building a new water catchment system at the entrance to runoff pipes
- Improvements were made to the smaller shed at Johnson Farm. This work included the installation of shelves and reconstruction of steps
- Placed a Sani-can onsite to provide a restroom for farmers with Heyday and pea patchers through the end of September
- Relocated fence posts to allow the tractor-drawn Harvest Fair wagon ride access to loop through working farmland. Brian McWhorter, a veteran of farming on publicly owned land, hosts the ride, providing guests with a visual and oral history the land
- Work parties for road repair and graveling, fence repair, and intensive land preparation for Harvest Fair

Morales Farm

Agricultural Maintenance and Improvements

- Provided ditch management along Lovgreen Road
- Volunteer work parties to mow grassy areas, maintain the Kitsap Conservation District rain garden, and remove invasive species of Himalayan blackberry and Scotch Broom in the riparian zone, grapes, and row crops
- Procured donation of new mower to provide house tenants with the ability to handle mowing and maintenance around structures
- Ongoing maintenance and cleaning at Morales Intern house through work parties and by FotF staff
- Procured donation of double bed and mower at farm intern housing

Structural Maintenance and Improvements

- Expansion of Friends of the Farms pea patch program is underway to utilize existing infrastructure at Morales to address a growing wait list for plots
- Butler Green Farms provided infrastructure for their new CSA pickup site at Morales
- Replaced failed washer and dryer
- Ongoing maintenance and repairs to address issues resulting from old and corroded drain pipes

M&E Farm

Agricultural Maintenance and Improvements

- The property continues to be cleared of invasive species and old and overgrown trees in preparation of future agricultural use
- Friends of the Farms partnered with *Let's Pull Together* to host regular invasive species work parties to remove Scotch broom throughout the whole property

Structural Maintenance and Improvements

- In 2016 Friends of the Farms issued an RFP for the M&E Farm property. A proposal was submitted that seeks to design and institute a comprehensive conservation, vegetative and public use management plan to ensure the stability of and enhance the ecological systems of this extraordinary property. The plan will encourage public access and support educational, artistic and interpretive opportunities with improved trails, gardens, creative work areas and open spaces, all within the restrictions set forth in the Quit Claim Deed. Friends of the Farms will be working with the applicant on a Scope of Work to present to COBI for approval for a sublease
- Volunteer Stewardship events were held to improve and maintain the existing trail network throughout M&E, which is open for public use and used by Wilkes Elementary School students

Crawford Property

Agricultural Maintenance and Improvements

- Identified six Alder trees along fence line and marked for dropping to facilitate farm operations
- Ongoing meetings regarding easement and access for walking trails
- Ongoing study into best use of property

Structural Maintenance and Improvements

- Separated fence posts to create a walking path, while maintaining deer fencing

Suyematsu Historic Farmstead (Established in 2016)

Friends of the Farms is honored to have been selected in late 2016 to create an Implementation Plan for capital improvements at the Historic Suyematsu Farmstead, a 5-acre portion of the City-owned Suyematsu-Bentryn Family Farms property at Day Road.

Objectives include:

- Preservation and interpretation of historic farm structures, landscapes, and histories
- Repair and improvement of the properties to accommodate preservation, interpretation, and agricultural use, as well as needed support functions
- Securing significant artifacts from the site and cataloguing them for future analysis, interpretation, or display
- Possibility of on-site housing for farm workers or interns
- Sustaining public value, vibrant activity, historic interpretation, and agricultural output at the farm for decades to come

2017

Suyematsu East and Bentryn West

Agricultural Land Maintenance

- Approved and monitored cleanup of main inflow ditch to irrigation ponds from the headwaters of Manzanita Creek by Brian Stahl, Kitsap Conservation District, and City water resources grant.



- Maintaining ongoing dialogue with Bentryn's, FotF Board, and farmers on public land to craft solutions to concerns regarding water access, health of the water system, and irrigation rights.
- Monitored and collected monthly water meter reports from sub-lease farmers.
- Added truckloads of gravel to driveways surrounding Suyematsu farmhouse to preserve roads and parking. Materials and equipment donated by Brian McWhorter. Labor by FotF staff and volunteers.
- Coordinated ongoing vegetation management with City-approved funds. Focused on NE corner surrounding the historic area, and South to the border trail connecting Vista Place, Day Road farms and M&E farms and also along Day Road, from East end and west to the farm stand.
- Continued intensive cleanup of garbage and invasive vegetation surrounding Suyematsu Farmhouse. Work is being done by FotF staff, farmers, and volunteers.
- Coordinated with the City on removal of underground fuel storage and above ground, historic, failing, and toxic oil, preservative and pesticide drums.
- In tandem with cataloguing of artifacts by the BIHM, removed and disposed of materials identified as having no historical, practical, or monetary value in garage/office structures
- Assisted BIHM in separating items of historic value from those used in current farm activities in the historic area.
- Identified unlocked historic outhouses and secured them to prevent further use, as they are not up to code and too close to water source

Structural Maintenance



In 2017 FotF secured consultations pro bono from Cris Ugles Building Inspection Services. Over two days, Cris conducted a thorough inspection of the historic Suyematsu Farmhouse and generated an extensive report on the structural condition. The report was organized into Repairs (life safety and code issues), Maintenance (items in need of attention), Improvements (for consideration), and Observations. Cris' report provided a much-needed guide in identifying and prioritizing work necessary to stabilize the structure, weatherize the exterior envelope, prevent further deterioration, and take the farmhouse into the next 100 years.

Work done by the City and coordinated with FotF included:

- Caulk south wall siding
- Addition of T1-11 historic siding and paint to north wall
- Addition of trim around windows to north and south walls to prevent moisture intrusion
- Addressing problems areas in existing roofing and flashing, and
- Cleaning out basement crawl space and installation of vapor barrier to ground.

FotF work to Suyematsu Farmhouse included:

- Excavating and replacing broken drain line outside of basement level
- Removing rotten end of east deck to eliminate step-through hazard and adding a railing for safety
- Well and line flushing of main pump system at pond along with yearly winterization and turn-on
- Pumping septic tank at Suyematsu farmhouse
- Applying treatment to deck for preservation and anti-slip
- Painting interior ceiling with anti-mold treatment, and
- Coordinating with City staff on research to future pump house improvements.



Johnson Farm



Agricultural Land Maintenance

- Provided plots to 14 P-Patch members who grow a diverse range of crops. P-Patches are managed by volunteer Lori Gibson, who along with nearby neighborhood stewards provided hundreds of hours of ongoing security and maintenance, including trimming, and additional access road and trail repair.
- Coordinated with P-Patcher Dennis Miller, who continues to volunteer his time to winterize the pump house and irrigation system at Johnson Farm.
- Coordinated with Rebecca Slattery of Persephone Farms, who continues to use Johnson Farm as a pickup site for her annual CSA members.
- Johnson Farm neighbor and FotF volunteer Rob Ferguson continued to provide equipment to maintain grade and added new chips to the multi-use trail system.
- Worked in partnership with *Let's Pull Together* for numerous Scotch broom removal parties inside farm property and on neighboring property to prevent future spreading back onto public farmland and adjacent private property.
- Ongoing removal of Himalayan blackberry around the farm.
- Removed Gorse along the central fence line.
- Removed old apple tree at barn entrance road after it fell over in spring storm.
- Coordinated, monitored, and assisted with ongoing maintenance to the historic orchard on Johnson farm through a partnership with the Bainbridge Island Fruit Club (details in Section 3. E. above).

- Coordinated trimming of old grape vine along the P-Patch fence with P-Patchers under the expert guidance of Bainbridge Fruit Club president Darren Murphy.

Structural Maintenance

- Built a new water catchment system at the entrance to runoff pipes along central east-west fence line to address water runoff issues with the building.
- Replaced rotten structural fence post at west end of P-Patch to keep gate in working order.
- At the request of farmers and P-Patchers, FotF added a permanent portable restroom and is paying the monthly fee.
- Assisted farm intern Zachary Fulton in taking over management of the bee population and structures along main east-west fence line for continued honey production.
- Added locks to all barn doors to increase security of stored supplies and to the structures themselves.
- Pruned trees along Twin Ponds Lane in preparation for Harvest Fair. This work benefitted both the farm and nearby neighbors.

Morales Farm



Agricultural Land Maintenance

- Created a plan to clean up unused farm materials from sheds shared by farmers and spaces between. Work scheduled by FotF staff and volunteers in 2018.
- Ongoing cleaning and upkeep at Morales intern farmhouse by FotF staff.
- Coordinated invasive vegetation management done by City staff along West fence line and corner of Highway 305 to improve visual access to farmland.
- Ongoing mowing around the most visible corner of the farm at Lovgreen Road and 305 by City staff and farm interns working and living on Morales property.
- Identified future irrigation infrastructure needs, such as completion of the water lines along the south border. The lines would feed public farmland leased by John Chang and the location of potential additional community P-Patches.

Structural Maintenance

- Coordinated with the City to completely rebuild the well/pump house. The new pump house is sealed, insulated, and locked for security. The project was a wonderful improvement to the future of this farm and the health of the well and pump system.
- Replaced old failed frost-free hydrant in irrigation lines.

M&E Farm

Agricultural Land Maintenance

- Significant ongoing work to clear invasive species.
- Friends of the Farms once again partnered with *Let's Pull Together* to remove Scotch broom throughout the whole property.
- Hosted a volunteer work party to upkeep and clear the trail connecting Vista Place and M&E farm along the East border of Suyematsu/Bentryn farms.

Structural Maintenance

- Identified and reported failed trail due to fallen tree/root system, which may affect the Manzanita storm drainage routes.

Crawford Property



Agricultural Land Maintenance

- FotF staff coordinated with volunteer Bart Berg to secure services and machinery pro bono from West King Tree Service to drop six alders that were shading vines on the adjacent farmland to the north.

Structural Maintenance

- Ongoing dialogue regarding legal easement from Grace Church to connect M&E via Crawford property trail.
- **Structural Improvements**
 - The 1954 renovated Farm House houses farm interns, providing affordable housing for young farmers. The house was renovated to Silver LEED Standards by PHC Construction in 2012 creating a sustainable home for 3 people. Following this renovation, Friends of the Farms performed improvements to the houses heat pump and septic system in 2015

M&E Farm

- **Agricultural land improvements**
 - The property continues to be cleared of invasive species and old and overgrown trees in preparation of future agricultural use
 - Friends of the Farms partnered with Let's Pull Together to host regular invasive species work parties to remove scotch broom throughout the whole property
 - Friends of the Farms explored the restrictions and requirements of future farming of M&E by an Island farmer

- **Land Stewardship**

- Volunteer Stewardship events were held to improve and maintain the existing trail network throughout M&E, open for public recreation and used by Wilkes Elementary School students

Crawford Property

- **Agricultural land improvements**

- A trail was constructed running the entire north border of the Crawford property. This trail will connect M&E, Crawford, and Grace trail systems when the appropriate legal documents are in place
- Friends of the Farms researched and discussed the establishment of an easement on Grace Property to connect public and expand on the two public trail systems
- A fence was constructed between the public trail and the area of Crawford designated for future farming. This will protect the public from farming operations, yet provide visible access to public farmlands

ATTACHMENT B

Farm-related Activities Conducted by Friends of the Farms on Public Farmland, Including Educational Programs, Community Outreach, Farm Stewardship Volunteer Work Parties, and Community Events

2017

In addition to agricultural activities by farmers with subleases, public farmland is used extensively throughout the year by the broader community.

P-Patch Plots. The Friends of the Farms P-Patch Gardener Program benefits the community by providing 14 plots at Johnson Farm for families to grow their own food. The P-Patchers are a convivial group who share resources and knowledge and take pride in their gardens.

Bainbridge Island Fruit Club Orchard Maintenance. In 2014 interested Islanders (including the future BIFC President) meet with FotF leaders about the potential to help manage the Johnson Farm orchard. In 2015 BIFC sponsored a fruit information booth at the Harvest Fair, providing samples of various apples, pears, and grapes as well as answering fruit-related questions. A partnership was born and in April 2016 a Memorandum of Understanding signed between BIFC and FotF.

Last year, a significant amount of work was done as restoration of this historic orchard at Johnson Farm continues, ensuring it remains a community asset for generations to come.

BIFC 2017 activities included:

- Prepared color-coded diagram of orchard showing varieties, size of trees, and those involving significant pruning
- Completed nearly 50 grafts on 7 pruned trees
- Pruned large grape row at Johnson Farm with help from Friends of the Farms' P-Patch members
- Cleaned up of 7 pruned trees with 12 successful grafts
- Sponsored fruit information booth at the Harvest Fair, providing sample of various apples, pears, and grapes as well as answering fruit-related questions

Plans for spring 2018 include a second round of pruning of the larger trees and grape row and additional grafting of trees pruned in 2016. Additionally, several pre-grafted plum trees will be planted in areas where previous fruit trees have died or been removed.

Establishing an Inventory of Johnson Farm Fruit Trees.



Starting in 2016 and continuing into 2017, the BIFC has identified about 75 percent of the 66 fruit trees adjacent to the Johnson Farm P-Patch. These include: apple (45), pear (10), plum (9), and walnut (2). Of the apple varieties, nearly half are Red Delicious.

Restoring Johnson Farm Orchard via Selective Pruning, Grafting, and Introduction of New Fruit Trees.

In July 2016, the BIFC and FotF staff pruned seven Red Delicious apple trees, most of which were adjacent to the Johnson Farm P-Patch. This involved removing old, dead wood as well as topping some of the trees that had become very top heavy and difficult to manage. Several other trees required nearly 90% branch removal to totally convert the trees to new varieties. These trees recovered nicely in 2017, experiencing significant new growth that will be used in 2018 for grafting new varieties.

The BIFC is also growing several mid-sized plum starts (now 5+ feet tall) that will be planted in the Johnson Farm orchard in Spring 2018. Finally, the BIFC is planning on doing another major pruning event in 2018, with the hope of working on another seven trees.

Creating New Varieties Through Grafting of Older Trees.

In early March 2017 nearly 50 grafts were placed on the seven apples trees pruned the prior year. Of these, around 12 successfully took.

Work was ongoing throughout the summer, with follow-up pruning of the seven trees, removing remaining old/dead branches, and placing aluminum tags on the successful grafts. The club plans to continue grafting onto these seven trees in 2018, especially now that significant new growth has occurred as a result of the earlier pruning.

Educating the Public About Growing Fruit.

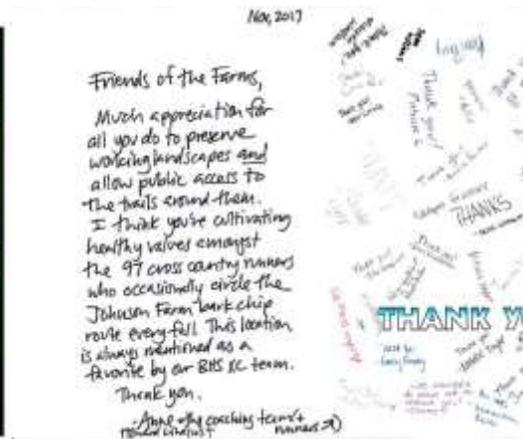


On September 24, 2017, BIFC sponsored an information/fruit tasting booth at the annual FotF Harvest Fair at the Johnson Farm. Beyond the educational displays and handouts, the big attraction was the fruit tasting.

In April 2017, the BIFC also assisted the Johnson Farm P-Patch in pruning a large, overgrown grape row.



Youth Activities. As they have for many years, the Bainbridge Island Lacrosse team continues to utilize the trail network at Johnson Farm for training runs.



Friends of the Farms also coordinates and oversees other activities at farms, including the annual Gear Grinders Farm Fresh Scramble, a community mountain bike race.

Historic Suyematsu Farmstead. In 2016 Council accepted the recommendation from the Historic Preservation Commission to designate the Suyematsu Farmstead at Day Road as a Historic Area, which includes the Suyematsu farmhouse, historic barn, picker cabins, sheds, and storage buildings. In 2017, acknowledging the need for capital improvements to the buildings and landscapes within the Historic District, as well as a desire for the site to provide more public value, the City appointed Friends of the Farms to lead a multi-phase process to plan and identify how improvements might be achieved. Consulting firm KO Projects was engaged by FotF to study needs and opportunities in the historic district, and to create an Implementation Plan that outlines proposed capital projects, site operations, costs, and next steps.

The objectives of this effort included:

- Preservation and interpretation of historic farm structures, landscapes, and histories
- Repair and improvement of the properties to accommodate preservation, interpretation, and agricultural use, as well as needed support functions
- Securing significant artifacts from the site and cataloguing them for future analysis, interpretation, or display
- Exploring the possibility of on-site housing for farm interns and new farmers, and
- Sustaining public value, vibrant activity, historic interpretation, and agricultural output at the farm for decades to come.

Friends of the Farms also engaged the Bainbridge Island History Museum to:

- Organize and inventory contents of Workshop, Office, and Picker Sheds
- Recommend steps needed to secure contents in the short-term
- Deliver to Friends of the Farms written recommendations for long-term disposition of contents of Workshop, Office, and Picker Sheds

Work included organization and inventory of over 2,000 objects/artifacts that were photographed and assigned individual numbers, along with photo inventories of the resulting groupings and locations.

The resulting reports were presented to Council in November 2017. Currently, Friends of the Farms and the Suyematsu Farmstead Planning Leadership Committee (Bart Berg, Hank Helm, Darlene Kordonoy, Clarence Moriwaki, Bill Moskin, and Dave Williams) are drafting a recommended timeline and budget for implementation of 2018 – 2020 projects.

Activities on Public Farmland

Farmland Stewardship.



There are volunteer opportunities for all ages throughout the year at various public farmlands. Together, volunteers work to maintain and enhance each property. Participants are treated to a locally sourced meal as our way to give thanks. The community reaps the benefits through this work of invasive species removal, trail construction, general maintenance, and completion of capital projects.

Passive Recreation. An extensive trail network throughout all five public farm properties allows the public to access our farmland for year-round passive recreation. Birders are able to use Johnson Farm, M & E, Crawford, and portions of Suyematsu and Bentryn Family Farm to enjoy and observe over 55 bird species. Johnson Farm’s community orchard presents a perfect place to forage for food and enjoy picnics. P-Patches at Johnson Farm allow community members to work gardens year round to grow their own food.

Partner Organizations.

In 2017 FotF worked with the Bainbridge Island Land Trust to enable them to utilize Johnson Farm parking and public trails for 300+ guests attending their summer fundraiser on an adjacent private property. FotF also partners with the Bainbridge Island Metropolitan Park and Recreation District, Historic Preservation Commission, Bainbridge Island Historical Museum, EduCulture, the Grange, Kitsap Conservation District (KCD), WSU Extension, BARN, the Bainbridge Island Fruit Club, Sustainable Bainbridge, the Trust for Public Land, The Bainbridge Island Lodging Association, the CoBI Affordable Housing Task Force, Helpline House, Bainbridge Prepares, and the Chamber of Commerce. It is through collaboration and partnerships that Friends of the Farms is able to create public farmland experiences that benefit the whole community.

Collaborating for Farmland Protection.



In 2017 Friends of the Farms signed a formal memorandum of understanding with The Bainbridge Island Land Trust that outlines the roles each nonprofit will play in future attempts to preserve or acquire agricultural land on Bainbridge Island. The first collaborative project will be working to place a conservation easement on Johnson Farm to ensure it remains our public farmland in perpetuity.

Signing a Memorandum of Understanding
Connie Waddington - BI Land Trust
Ginny Brewer and Heather Burger - Friends of the Farms

Commercial Farmers. Commercial farmers not only utilize public land for the business of providing our community with delicious, healthy locally grown food, they also offer seasonal events for the public, including farm stand sales, raspberry u-pick, and pumpkin patch festivities.



In October of 2017 over 5,000 people visited the pumpkin patch at Day Road.

Additionally, hundreds of kids from school groups visited the site and seniors' groups provided organized outings from Stephens House and Messenger House.

Over the summer 500 raspberry lovers turned out to enjoy time on public farmland for the annual u-pick.



Education.



Providing educational opportunities for the next generation of farmers is critical to the long-term viability of local agriculture.

Together, farmers value and embrace agricultural education. Suyematsu and Bentryn Family Farms, Morales Farm, and Johnson Farm are used extensively for educational purposes.

The EduCulture Project, a program of Global Source Education, provides Island students with on-the-ground experiences on local farms that cultivate stewardship, citizenship, sustainability, and an understanding of food systems. Through a collaboration involving farms, schools, and the community, this initiative has been enhancing classroom curricula, nurturing school gardens, and enriching school lunches, while preserving local sustainable agriculture and growing future generations of Bainbridge farmers. 2017 was the 12th year of the EduCulture Project, with dedicated farm-to-school partnerships with Wilkes Elementary, Ordway Elementary, and Island Co-op Preschool.

Many of our local farmers recruit and mentor interns every year. Zachary Fulton, who lived in housing provided by Friends of the Farms at Morales House in 2016, is returning for a second season to mentor with Brian McWhorter who farms on public land at Day Road and Morales farms.

Zachary shared the following thoughts about public farmland:



I like that there is community support for local agriculture on Bainbridge Island and an appreciation of the role it plays in maintaining our island's history. It promotes a sense of community and creates a landscape that isn't like every other place. I understand the commitment it takes for a community to set aside land to save for farming.

And I really appreciate the work of Friends of the Farms. It's unusual to find an organization dedicated to supporting the agricultural community and preserving farmland.

I loved living in Morales House. It's beautiful, clean, well equipped. At my last internship I lived in a horse barn. Other interns lived in a teepee or VW bus and our common area was a trailer.

I wish there was more investment in sustainable agricultural systems and I hope more people become involved in farming, be it commercial or home gardens. It is important for people to be connected to their food. Farming and gardening create community.

I also wish there were more organizations like Friends of the Farms with programs that help make farming viable.

Harvest Fair.



September 24, 2017 was Friends of the Farms 16th Annual Harvest Fair at Johnson Farm. A multi-generational community-wide event, Harvest Fair is a celebration of local food and community attended by several thousand residents and non-residents. Harvest Fair is a festive day that includes sheep shearing, apple cider pressing, a pie contest, live music, local food, and nonprofit organization exhibits. Rides include the beloved Landslide, tractor and carriage rides, and farm demonstrations.

With the help of over 100 volunteers we increased awareness of the value of local agriculture and public farm land. 2018 goals include the expansion of non-profit participation, new activities, increased partner sponsors, and outreach to include even more of our community. Future goals include the island-wide expansion of harvest activities to include local farm-to-table events, wine tastings, farmers' market special events, etc., to eventually create a multi-day event, "Harvest Bainbridge."

Farmer Housing. In 2017 Friends of the Farms provided housing to 7 farm interns. This year we will house a record 9 first-year farm interns who will work a minimum of 30 hours a week alongside a commercial farmer from Full Tilth, Farmhouse Organics, Butler Green Farms, or Laughing Crow Farm/Bainbridge Vineyards. Interns also volunteer with Friends of the Farms.

We will welcome them at a community gathering on Sunday, March 25th when we once again partner with Grange Hall for our third Farmers' Potluck Supper. This informal gathering of farmers of all ages



and experience throughout Kitsap County is an opportunity to share a meal with interns coming from around the country to live and work on public farmland sharing ideas and making valuable connections.

Affordable housing for farm interns and new farmers is the highest priority need for the Bainbridge Island agricultural community. The cost of housing on Bainbridge has increased greatly in recent years, and threatens the viability of farm businesses on the island. Recently Friends of the Farms presented at a CoBI Affordable Housing Task Force Committee meeting to ensure the needs of our agricultural community are represented in their holistic approach to addressing our island's affordable housing needs.

Housing will also be at the forefront as the Leadership Team for the Historic Suyematsu Farmstead Project resumes its work.

ATTACHMENT D

Excerpts from CoBI Comprehensive Plan Introduction, Vision, Goals, and Policies relating to local agriculture and public farmland

COMPREHENSIVE PLAN INTRODUCTION

The protection and support of existing farms and the preservation of prime agricultural lands and farms of local significance are important goals of the residents of Bainbridge Island. Agricultural lands provide open space, habitat, groundwater recharge, local food production with fewer transportation impacts and cultural value. Their protection can augment sustainability goals.

Farming on the Island provides economic, social, aesthetic and nutritional benefit to the community. Equally important, protection of agricultural lands will enhance the cultural and economic diversity and help retain the Island's rural character. Open space dedicated to agriculture also conserves environmental resources.

Farm operations on the Island are unique. Small farms ranging in size from 1 acre to 40+ acres, are mostly dispersed throughout the Island with some clustering in a few locations. The specialty, high-intensity, small farms will continue to be an important adjunct to farming in the future.

The City currently owns sixty acres of public farmland managed under contract by a non-profit organization. That organization also works with private landowners, seeking ways to increase the amount of land used for food production, and to conserve the land for agricultural uses over the long term. To preserve public farmland, the City *should* consider designating its public farmland properties as Agricultural Resource Land (ARL) consistent with WAC 365-190-050. Other non-profits are also involved in promoting *agriculture* on Bainbridge.

Agriculture is a vulnerable enterprise in any rapidly growing area. As land values continue to rise the economic viability of *farms* on Bainbridge Island depends on the farmers' industry and ingenuity and on public policies that provide incentives and tax relief.

Agriculture is a thriving part of the Island's economy. All City-owned agricultural land is under cultivation and produces seasonal foods for local consumption. The number of farms on private acreage has increased and is supplementing the local food supply.

LAND USE

Vision 2036 - Outside of the *Designated Centers*, almost 90% of the Island is a green and open landscape. The residential *land use* pattern in this *Conservation Area* minimizes the footprint of the built environment and embodies design principles that protect the Island's *aquifers*, surface waters and *fish and wildlife habitat*.

This broad landscape of canopied woodlots, parks and saltwater shorelines is dotted with **working farms**, historic structures, freestanding residences and *conservation villages*.

Policy LU 1.2

Outside of Winslow and the *Designated Centers*, the Island has a rural appearance with forested areas, meadows, **farms** and winding, narrow, heavily vegetated roadways. These characteristics represent an important part of the Island's special character that is so highly valued by its residents.

Policy LU 5.9

Design and locate development to avoid or minimize potential conflicts with agricultural activities and recognize right-to-farm regulations in developments located adjacent to agricultural uses.

Policy LU 12.1

Preserve the conservation area outside *designated centers* through a *land use* pattern which will enhance the character of the area – forested areas, meadows, **farms**, scenic and winding roads that support all forms of transportation – and the valuable functions the conservation area serves on the Island (i.e., *aquifer recharge, fish and wildlife habitat, recreation*).

Policy LU 12.7

Consider allowing a *density bonus* in exchange for dedicating a portion of property into conservation as *open space, farmland* or public access. Priority should be given to conserving these lands near more densely developed areas.

Policy LU 14.2

Encourage residential development that is compatible with the preservation of open space, forestry, **agricultural activities**, and natural systems. Accessory **farm** buildings and uses are allowable.

Goal LU-15

Promote food security and public health through support for local food production, awareness of farming practices. Encourage locally-based food production, distribution and choice through commercial and urban agriculture, community gardens, farmers' markets, farm stands and food access initiatives.

Policy LU 15.1

Encourage community gardening and/or agriculture on public land where appropriate.

Policy LU 15.2

Encourage the development of neighborhood community gardens or small-scale commercial agriculture where appropriate.

Policy LU 15.3

Promote interagency and intergovernmental cooperation and resource-sharing to expand community gardening opportunities.

Policy LU 15.4

Promote the dedication of land for community gardens in new housing developments

Policy LU 15.5

Support the local farmers market and the connection between consumers and farmers.

HOUSING**Policy HO 6.5**

Develop regulations and provide incentives to construct affordable housing for farm workers on or near farmlands.

ECONOMIC ELEMENT

The Economic Element of the *Comprehensive Plan* is intended to guide the climate for enterprise and commercial exchange on Bainbridge Island and reinforce the overall vision and values of the *Comprehensive Plan* adopted in 1994, and subsequently updated in 2004 and 2016: to steward a sustainable community; to protect the quality of its environment: the water, air and land; and to encourage traditional resource based activities **such as agriculture**.

Agriculture is a thriving part of the Island's economy: City-owned agricultural lands are being sustainably cultivated and producing seasonal foods for local consumption. The number of *farms* on private acreage has increased and is supplementing the local food supply. To enhance the viability of local *farms*, *affordable housing* for farmworkers has been appropriately built on City owned farmland.

GOAL EC-14

Recognize that farming is a part of the Island's heritage and contributes to the island's economy.

Policy EC 14.1

- Support the market for Island-grown *agriculture* products by:
- Recognizing and supporting the Bainbridge Island Farmers' Market, including permanently dedicating space for the market and enhancing the market area.
- Allowing and promoting roadside stands that sell Island-grown products.
- Promoting and supporting Community Supported Agriculture (CSA).
- Encouraging the development of value-added processing facilities that can be shared by many farmers.
- Encouraging food crops to be planted on public land.

Policy EC 14.2

Support a program that helps working farms through educational, historic, farm stay and tourist visits.

Policy EC 14.3

Support working farms through the creation and sale of locally-constituted, high-grade compost to maintain the fertility of Island soils.

Policy EC 15.2

New Business/Industrial (B/I) *land use* designations will be considered based on the following . . .

- Minimal impact to *residential land uses, neighborhoods and open space/conservancy and agriculture areas*.

EC Action #2 Continue efforts to promote and support *agriculture* as a component of the Island's economy, landscape and culture.

Policy EC 14.1

Support the market for Island-grown agriculture products by:

- Recognizing and supporting the Bainbridge Island Farmers' Market, including permanently dedicating space for the market and enhancing the market area.
- Allowing and promoting roadside stands that sell Island-grown products.
- Promoting and supporting Community Supported Agriculture (CSA).
- Encouraging the development of value-added processing facilities that can be shared by many farmers.

- Encouraging food crops to be planted on public land.

ENVIRONMENTAL

The Environmental and Land Use Elements contains several *goals* and *policies* intended to sustain and enhance agriculture.

Goal EN-15

Conserve and protect the Island's existing agricultural uses and increase the acreage of permanently protected and productive farmland by using preservation methods including incentive-based programs.

Policy EN 15.1

Provide owners of *farms* the option of participating in the *transfer of development rights (TDRs)/purchase of development rights (PDRs) program*.

Policy EN 15.2

Inventory land currently used and/or potentially available for *agriculture*, including community gardens.

Policy EN 15.3

Where land that had historically been used for *agriculture* is being subdivided for residential development, a portion *should* be reserved for agricultural use or community gardens. Existing traditional agricultural lands *should* be included in the *open space* of clustered development.

Policy EN 15.4

Develop a procedure to allow public and private property owners to designate their properties Agricultural Resource Land, consistent with WAC 365-190-050.

Policy EN 15.5

Utilize the Floor Area Ratio (FAR) Farmland/Agriculture fund for viable farmland preservation projects.

Policy EN 15.6

Prioritize food production on public farmland to address long-term food security for Island residents.

Policy EN 15.7

Encourage the use of native and/or regionally produced edible plants for use in required landscape and roadside vegetation buffers.

Policy EN 15.8

Ensure protection of the Island's *aquifers* and streams by promoting agricultural uses that are not water intensive, and *agriculture* practices that protect water quality.

Policy EN 15.9

Work with the Conservation District and nonprofits to encourage farming that accounts for changing Island conditions with regard to hydrology, temperature and other climatologically influenced factors. Promote crops and commodities that are adapted to future conditions and do not rely on chemical amendments that may adversely impact future water availability.

Policy EN 15.10

Improve public information and creating new programs to promote *agriculture* while advocating for farming practices that protect water quality and quantity.

GOAL EN-16

Minimize conflict between agricultural and non-agricultural uses.

Policy EN 16.1

Design and locate development adjacent to areas designated or registered as agricultural land to avoid or minimize potential conflicts with agricultural activities.

Policy EN 16.2

Require notification on all plats, development permits and building permits of the existence of any registered agricultural lands within 300 feet of the development.

Policy EN 16.3

Maintain the Right to Farm Ordinance.

Policy EN 16.4

Cooperate with the Kitsap Conservation District to promote use of Best Management Practices.

GOAL EN-17

Encourage and support farming as an economically viable option for *land use* and as a means to providing diversity of lifestyle.

Policy EN 17.1

Encourage small-scale farming.

Policy EN 17.2

Work with the Kitsap County Assessor's office to educate the farming community about the availability of the Tax Reduction Program.

Policy EN 17.3

Elevate and encourage public appreciation and awareness of *farms* by allowing tours of *farms* and farming facilities.

Policy EN 17.4

Permit the production, processing and marketing of *farm* products from Island *farms*.

Policy EN 17.5

Support the Farmers' Market and promote the sale of local *farm* products in other locations.

Policy EN 17.6

Minimize the parking requirements for agricultural uses (i.e., number of parking spaces, paved parking and landscaping requirements), due to the seasonal nature of the marketing of *farm* products.

Policy EN 17.7

Support agricultural tourism that ensures compatibility with surrounding uses.

EN Action #4 Consider establishing a Citizen Advisory Group on *Agriculture* comprised of citizens representing farmers, non-profit organizations involved with local *agriculture* and businesses with an interest in local *farm* produce.

CAPITAL FACILITIES

Capital facilities are all around us. They are the *public facilities* we all use on a daily basis. They are our public streets and sidewalks, our City park **and agriculture properties**, our public buildings such as City Hall, the library, fire and police stations, our public water systems that bring us pure drinking water, and the sanitary sewer systems that collect our wastewater for treatment and safe disposal. Even if you don't reside within the City, you use *capital facilities* every time you drive, eat, shop, work, or play here.

Capital Facilities Vision for 2036

Planning and budgeting for facilities has been concurrent with subarea planning for the *designated centers*, and to a large extent, recent population growth and commerce have been concentrated in and near those centers. Planning and budgeting has kept pace with maintenance and expansion of recreational facilities and public lands preserved for **agriculture** or conservation.

CULTURAL

Cultural Vision for 2036 - Education programs to enhance understanding and appreciation for the history and heritage of Bainbridge Island are conducted for residents and visitors. The City's Historic Preservation program has preserved historic and cultural resources and farmland.

Policy CUL 3.2

Support the City's Historic Preservation program to identify and preserve historic and cultural resources, including **historic farms** and heritage trees.



Friends of the Farms Public Farmland Management



**Does the City of Bainbridge Island
consider
local agriculture and public
farmland
a priority?**

Friends of the Farms

We manage 60 acres of land owned by the City of Bainbridge Island (CoBI), including:

- Leased commercial farmland and related infrastructure (irrigation, ponds, pumps and well house systems, greenhouses, electrical, etc.)
- Two residential structures occupied by farm interns
- Storage buildings, sheds, and barns
- Roads, trail networks, and open space
- 14 p-patch garden plots
- 5-acre designated historic area with barn, bunkhouses, sheds and storage containing over 2,000 catalogued historic artifacts

Friends of the Farms

- Selects farmers for subleases through an RFP process
- Negotiate and manages farmer subleases
- Provides ongoing maintenance and improvements for public farmland and infrastructure
- Oversees capital improvements on 5 farm properties
- Manages two residential rental properties housing 9 farm interns



Management and Beyond

Friends of the Farm provides the City with:

- Agricultural land improvements and maintenance
- Natural resource management
- Infrastructure improvements and maintenance
- P-Patch Gardener Program
- Educational opportunities
- Community events, such as Harvest Fair
- Trail networks and open space for recreation
- Affordable housing for farm interns and new farmers



Request for Funding

\$16,250 for Q4 2018

\$65,000 annually for 2019-2020 budget cycle

Management fees paid by the City:

| Year | Amount |
|------|---------|
| 2004 | \$5,000 |
| 2005 | 7,628 |
| 2006 | 25,052 |
| 2007 | 5,125 |
| 2008 | 40,000 |
| 2009 | 0 |
| 2010 | 33,000 |
| 2011 | 20,000 |

Request based on:

| | |
|----------------------------------|------------------|
| Full-time Manager | \$55,000 |
| Part-time Executive Director* | 17,000 |
| Operating expense* | 20,000 |
| Maintenance expenses | 15,000 |
| Total Estimated Cost | <u>\$107,000</u> |
| Less: Revenue | -17,385 |
| Total Public Farmland Short-fall | \$89,615 |
| Maintenance work^ | 30,000 |

*Based on allocated time/expenses for Friends of the Farms

^Based on value of in-kind and volunteer work

Q&A

Please vote tonight to approve Friends of the Farms request for an annual management fee.

Thank you for your support of public farmland!





CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 10 Minutes

AGENDA ITEM: (7:30 PM) Waterfront Park Bridge Repair Project Contract Award - Public Works,

STRATEGIC PRIORITY: Reliable Infrastructure and Connected Mobility

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Contract

PROPOSED BY: Public Works

RECOMMENDED MOTION:

I move to award the contract for the Waterfront Park Bridge Repair Project to Redside Construction, LLC, in the amount of \$141,536.50.

SUMMARY:

City Council to consider contract award for the Waterfront Park Bridge Repair Project.

FISCAL IMPACT:

| | |
|------------------------------------|--------------|
| Amount: | \$141,536.50 |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | Yes |

BACKGROUND: The bridge is located in the Winslow Ravine of Bainbridge Island’s Eagle Harbor and links the Waterfront Park to the Washington Sate Ferry terminal. The three-span structure is approximately 130-feet long and is supported by timber piles as it crosses the ravine. The date of the original construction is unknown. The bridge provides pedestrian access to the ferry terminal in addition to carrying importation utilities, such as a water main and sewer main, across the ravine.

The Waterfront Park Bridge Repair Project consist of replacing the decking, railings, bollards, and lights on the existing bridge. Bids were solicited through the area newspapers, Daily Journal of Commerce, and the City’s bids & awards webpage and listserv.

The bid opening was held Thursday, August 23, 2018, and four bids were received. Staff has reviewed the bid documentation and contractor's qualifications and recommends that the City Council award this contract to the apparent low bidder, Redside Construction, LLC, in the amount of \$141,536.50.

ATTACHMENTS:

[Waterfront Park Bridge Repair Project Contract for Construction](#)

[Bid Form - Waterfront Park Bridge Repair Project](#)

[Bid Tabulation Form WFP Bridge Repair](#)

FISCAL DETAILS:

Fund Name(s): General Fund

Coding:

Contract

CONTRACT FOR CONSTRUCTION

THIS CONTRACT FOR CONSTRUCTION (“Contract”), is entered into by and between the City of Bainbridge Island (“CONTRACTING AGENCY”) and Redside Construction, LLC (“CONTRACTOR”).

WHEREAS, the CONTRACTING AGENCY has caused the Project Manual, Specifications, Drawings, and other contract documents to be prepared for certain work as described therein, known as the **Waterfront Park Bridge Repair Project**; and

WHEREAS, the CONTRACTOR has offered to perform the proposed work in accordance with the terms of the Contract Documents including, but not limited to, this Contract.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties herein contained and to be performed, the CONTRACTOR hereby agrees that the foregoing recitals are true and correct and are incorporated into this Contract and to complete the work at the price and on the terms and conditions herein contained. The CONTRACTING AGENCY agrees to pay the CONTRACTOR the contract price of One Hundred Forty-One Thousand, Five Hundred Thirty-Six Dollars and Fifty Cents. (\$141,536.50) (“Contract Price”) for the fulfillment of the work and the performance of the covenants set forth herein.

The further terms, conditions, and covenants of this Contract are set forth in the following documents, all of which are component parts of this Contract, are included in this Contract as if set out in full, and are collectively referred to as the “Contract Documents”:

1. This Contract, including the form “Proposal – Items of Work and Materials to be Provided, Estimated Quantities, Units of Measurement at the Unit Bid Prices”
2. Washington State Department of Transportation, Standard Specifications, 2018 (sometimes referred to as the “Standard Specifications”)
3. Amendments to the Standard Specifications
4. Indemnity and Insurance Agreement
5. Special Indemnity and Insurance Agreement
6. Special Provisions
7. Prevailing Wage Schedules and Regulations
8. Specifications, Drawings, Details, and all other Documents contained in and made applicable by this Contract and the Project Manual
9. General Conditions
10. Supplementary Conditions
11. All Plans, Drawings, Specifications, and Addenda issued prior to the Bid Opening Date.

The CONTRACTING AGENCY and the CONTRACTOR recognize that time is of the essence of this Contract and that the CONTRACTING AGENCY will suffer financial loss if the Work is not completed within the time specified in this Contract. Therefore the parties agree that the liquidated damages provisions of the Standard Specifications as modified herein shall apply and that those provisions have been mutually negotiated.

CONTRACTOR’s Initials: _____

CONTRACTOR hereby warrants and represents it has reviewed, understands, and agrees to the terms and conditions of this Contract, all Addenda, and the Standard Specifications as modified by the Amendments and Special Provisions and all other Documents contained in the Project Manual and incorporated herein by this reference. The person executing this Contract warrants and represents that they are fully authorized to execute this Contract.

CONTRACTOR AGREES TO RETURN THIS EXECUTED CONTRACT AND OTHER REQUIRED DOCUMENTS TO THE CONTRACTING AGENCY as required by the Standard Specifications as modified herein, and to return the DECLARATION OF OPTION OF MANAGEMENT OF STATUTORY RETAINED PERCENTAGE AT THE SAME TIME.

IN WITNESS WHEREOF, the parties have executed this Contract as of the later of the signature dates included below.

CONTRACTOR:
REDSIDE CONSTRUCTION, LLC

By: _____

Its: _____

Date: _____

CONTRACTING AGENCY:
The City of Bainbridge Island

By: _____

Douglas Schulze, City Manager

Date: _____



CITY OF
BAINBRIDGE ISLAND

Waterfront Park Bridge Repair Project

Bid Opening Date: August 23, 2018, Due 9:30 AM – Open 10:00 AM

City Council Conference Room

| | | | | | |
|--|----------------------------------|-----------------|-------------------------|------------------------------|--|
| Note: Bids Are Opened in Order Received. Bids Solicited by: <input checked="" type="checkbox"/> Advertisement <input type="checkbox"/> Small Works Roster The Engineers Estimate is: \$100,000 to \$120,000 | | | | | |
| | Sealevel Bulkhead Builders | Massana Inc. | Redside Construction | Pacific Coast Development | |
| Proposal | √ | √ | √ | √ | |
| Signature Page | √ | √ | √ | √ | |
| Addendum – 1 Acknowledged | | √ | √ | √ | |
| Non-Collusion Declaration | √ | √ | √ | √ | |
| 5 % Bid Deposit / Bond | √ | √ | √ | √ | |
| Statement of Bidder's Qualifications | √ | √ | √ | √ | |
| | | | | | |
| Base Bid Amount | \$135,918.86 | \$140,899.00 | \$129,850.00 | \$199,363.00 | |
| WA State Sales Tax @ 9% | \$12,232.70 | \$12,680.91 | \$11,686.50 | \$17,942.67 | |
| TOTAL | \$148,151.56 | \$153,579.91 | \$141,536.50 | \$217,305.67 | |

A total of 4 bids were received for the Waterfront Park Bridge Repair project. The apparent low bidder is Redside Construction in the bid amount of \$141,536.50.



CITY OF BAINBRIDGE ISLAND
 Public Works Department
 280 Madison Avenue N., Bainbridge Island, WA 98110
WATERFRONT PARK BRIDGE REPAIR PROJECT
BID OPENING DATE: August 23, 2018, @ 10:00 a.m.

| BID TABULATION | | | | ENGR.'S ESTIMATE | | NAME | | NAME | | NAME | | NAME | |
|----------------------------|---------------------------------------|-------|-----|------------------|------------|----------------------------|---------------------|--------------|---------------------|----------------------|---------------------|---------------------------|---------------------|
| | | | | | | Sealevel Bulkhead Builders | | Massana, Inc | | Redside Construction | | Pacific Coast Development | |
| ITEM # | DESCRIPTION | UNITS | QTY | UNIT PRICE | TOTAL COST | UNIT PRICE | TOTAL COST | UNIT PRICE | TOTAL COST | UNIT PRICE | TOTAL COST | UNIT PRICE | TOTAL COST |
| 1 | Mobilization/Demobilization | LS | 1 | 5,000 | 5,000 | 12,500.00 | 12,500.00 | 7,000.00 | 7,000.00 | 12,000.00 | 12,000.00 | 35,000.00 | 35,000.00 |
| 2 | Demolization and Disposal | LS | 1 | 6,000 | 6,000 | 6,921.80 | 6,921.80 | 20,000.00 | 20,000.00 | 28,000.00 | 28,000.00 | 45,000.00 | 45,000.00 |
| 3 | Traffic Control | LS | 1 | 500 | 500 | 1,366.20 | 1,366.20 | 6,000.00 | 6,000.00 | 1,000.00 | 1,000.00 | 1,500.00 | 1,500.00 |
| 4 | Glu-lam Beam Preservation | LS | 1 | 12,000 | 12,000 | 10,129.40 | 10,129.40 | 17,000.00 | 17,000.00 | 5,000.00 | 5,000.00 | 14,363.00 | 14,363.00 |
| 5 | Debris Containment | LS | 1 | 2,500 | 2,500 | 4,098.60 | 4,098.60 | 21,703.00 | 21,703.00 | 2,500.00 | 2,500.00 | 3,500.00 | 3,500.00 |
| 6 | Owner-provided Luminaire Installation | LS | 1 | 4,000 | 4,000 | 691.20 | 691.20 | 1,200.00 | 1,200.00 | 2,500.00 | 2,500.00 | 1,500.00 | 1,500.00 |
| 7 | Electrical Systems | LS | 1 | 1,500 | 1,500 | 6,577.61 | 6,577.61 | 8,042.00 | 8,042.00 | 3,500.00 | 3,500.00 | 6,500.00 | 6,500.00 |
| 8 | Fiberglass Reinforced Grating | LS | 1 | 25,000 | 25,000 | 36,000.00 | 36,000.00 | 22,954.00 | 22,954.00 | 26,350.00 | 26,350.00 | 32,000.00 | 32,000.00 |
| 9 | Fiberglass Reinforced Guardrail | LS | 1 | 42,000 | 42,000 | 57,634.05 | 57,634.05 | 37,000.00 | 37,000.00 | 49,000.00 | 49,000.00 | 60,000.00 | 60,000.00 |
| Sub-Total Bid Items | | | | | 98,500 | | 135,918.86 | | 140,899.00 | | 129,850.00 | | 199,363.00 |
| + WSST @ 9.0% | | | | | 8,865 | | 12,232.70 | | 12,681 | | 11,687 | | 17,943 |
| GRAND TOTAL | | | | | 107,365.00 | | \$148,151.56 | | \$153,579.91 | | \$141,536.50 | | \$217,305.67 |



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 10 Minutes

AGENDA ITEM: (7:40 PM) Old Treatment Plant Pump Station Replacement Project Contract Award - Public Works,

STRATEGIC PRIORITY: Reliable Infrastructure and Connected Mobility

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Contract

PROPOSED BY: Public Works

RECOMMENDED MOTION:

I move to award the Old Treatment Plant Pump Station Replacement contract to Liden Land Development & Excavation, Inc. in the amount of \$342,139.01 for the Old Treatment Plant Pump Station Replacement Project.

SUMMARY:

Consider contract award to Liden Land Development & Excavation, Inc. in the amount of \$342,139.01 for the Old Treatment Plant Pump Station Replacement project.

FISCAL IMPACT:

| | |
|------------------------------------|--------------|
| Amount: | \$342,139.01 |
| Ongoing Cost: | |
| One-Time Cost: | \$0.000 |
| Included in Current Budget? | Yes |

BACKGROUND: The Old Treatment Plant pump station was constructed in the 1950's to serve the Winslow sewer system and is located in the parking lot area of several downtown businesses. The station receives gravity collection and pumped discharged from the Lovell Avenue pump station.

The proposed work includes the contractor removing and replacing pumps and motors and installing a new 40-kilowatt generator. All materials needed to install the new pumps, motor, and new valving is included as a part of the installation. The existing generator shall be removed, and associated facilities shall be properly disposed of.

Due to the recurrence of pump station failures and resulting sewer spills and the location and interdependence for other sewer stations, it has become imperative to rebuild this station.

Bids were solicited through the Small Works Roster process and the apparent low bidder is Liden Land Development & Excavation, Inc. in the amount of \$342,139.01. The engineer's estimate is \$257,000.00 to \$275,000.00. See attached bid form for results.

ATTACHMENTS:

[Old Treatment Plant Pump Station Replacement Project - Contract](#)

[Bid Form - Old Treatment Plant Pump Station Replacement Project](#)

[Bid Tabulation Form](#)

FISCAL DETAILS:

Fund Name(s): Sewer Fund

Coding: 72423434 663000 00921

Contract

CONTRACT FOR CONSTRUCTION

THIS CONSTRUCTION CONTRACT (“Contract”), made the __, day of _____, 2018, by and between the City of Bainbridge Island (“City” and/or “CONTRACTING AGENCY”) and Liden Land Development & Excavation, Inc. (“CONTRACTOR”).

WITNESSETH:

WHEREAS, the CONTRACTING AGENCY has caused the Project Manual, Specifications, Drawings, and other contract documents to be prepared for certain Work as described therein, known as the **OLD TREATMENT PLANT PUMP STATION REPLACEMENT PROJECT**, and

WHEREAS, the CONTRACTOR has offered to perform the proposed Work in accordance with the terms of the Contract Documents including but not limited to this Contract, and

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties herein contained and to be performed, the CONTRACTOR hereby agrees that the foregoing recitals are true and correct and are incorporated into this Contract and to complete the Work at the price and on the terms and conditions herein contained. The CONTRACTING AGENCY agrees to pay the CONTRACTOR the contract price of Three Hundred Forty-Two Thousand One Hundred Thirty-Nine Dollars and one-cent (\$342,139.01) (“Contract Price”) for the fulfillment of the Work and the performance of the covenants set forth herein.

The further terms, conditions, and covenants of this Contract are set forth in the following documents, all of which are component parts of this Contract as if set out in full, and if not attached, as if hereto attached collectively referred to as the “Contract Documents”:

1. This Contract, including the form “Proposal – Items of Work and Materials to be Provided, Estimated Quantities, Units of Measurement at the Unit Bid Prices”
2. The Standard Specifications for Road, Bridge, and Municipal Construction, 2018 edition, as issued by the Washington State Department of Transportation (WSDOT) and the American Public Works Association (APWA), Washington State Chapter (hereafter “Standard Specifications”)
3. Amendments to the Standard Specifications
4. Indemnity and Insurance Agreement
5. Special Indemnity and Insurance Agreement
6. Prevailing Wage Schedules and Regulations
7. Specifications, Drawings, Details, and all other Documents contained in and made applicable by this Contract and the Project Manual
8. Certification of Compliance with Wage Payment Statutes
9. All Plans, Drawings, Specifications, and Addenda issued prior to the Bid Opening Date.

The CONTRACTING AGENCY and the CONTRACTOR recognize that time is of the essence of this Contract and that the CONTRACTING AGENCY will suffer financial loss if the Work is not completed within the time specified in this Contract. Therefore, the parties agree that the liquidated damages provisions of the Standard Specifications as modified herein shall apply and that those provisions have been mutually negotiated.

CONTRACTOR's Initials: _____

The CONTRACTOR hereby warrants and represents it has reviewed, understands, and agrees to the terms and conditions of this Contract, all Addenda, and the Standard Specifications as modified by the Amendments and Special Provisions and all other Documents contained in the Project Manual and incorporated herein by reference. The person executing this Contract warrants and represents that they are fully authorized to execute this Contract.

All parties agree that the State of Washington is hereby named as an express third-party beneficiary of this Contract, with all rights as such.

THE CONTRACTOR AGREES TO RETURN THIS EXECUTED CONTRACT AND OTHER REQUIRED DOCUMENTS TO THE CONTRACTING AGENCY as required by the Standard Specifications as modified herein, and to return the DECLARATION OF OPTION OF MANAGEMENT OF STATUTORY RETAINED PERCENTAGE AT THE SAME TIME.

IN WITNESS WHEREOF, this Contract has been executed on the day and year above written.

LIDEN LAND DEVELOPMENT & EXCAVATION, INC.

By: _____

Its: _____

Date: _____

CITY OF BAINBRIDGE ISLAND:

By: _____
Douglas Schulze, City Manager

Date: _____



CITY OF
BAINBRIDGE ISLAND

Old Treatment Plant Pump Station Replacement Project
 Bid Opening Date: August 28, 2018, Due 9:30 AM – Open 10:00 AM
 Map Room

| | | | | | |
|--|---------------------------|--|--|--|--|
| Note: Bids Are Opened in Order Received. Bids Solicited by: <input type="checkbox"/> Advertisement <input checked="" type="checkbox"/> Small Works Roster The Engineers Estimate is: \$257,000 to \$275,000 | Liden Land Development | | | | |
| Proposal | √ | | | | |
| Signature Page | √ | | | | |
| Addendum Acknowledged - 1 | √ | | | | |
| Non-Collusion Declaration | √ | | | | |
| 5 % Bid Deposit / Bond | √ | | | | |
| Statement of Bidder's Qualifications | √ | | | | |
| | | | | | |
| Base Bid Amount | \$313,889.00 | | | | |
| WA State Sales Tax @ 9.0% | \$28,250.01 | | | | |
| Grand Total Bid Amount | \$342,139.01 | | | | |

A total of 1 bid was received for the Old Treatment Plant Pump Station Replacement project. The apparent low bidder is Liden Land Development in the bid amount of \$342,139.01.

|  | CITY OF BAINBRIDGE ISLAND | | | | | | | | | | |
|---|---|-------|-----|------------------|------------|----------------|------------|------------|------------|------------|------------|
| | Public Works Department | | | | | | | | | | |
| | 280 Madison Avenue N., Bainbridge Island, WA 98110 | | | | | | | | | | |
| OLD TREATMENT PLANT PUMP STATION REPLACEMENT PROJECT | | | | | | | | | | | |
| BID OPENING DATE: August 28, 2018, @ 10:00 a.m. | | | | | | | | | | | |
| BID TABULATION | | | | ENGR.'S ESTIMATE | | Liden Land Dev | | | | | |
| ITEM # | DESCRIPTION | UNITS | QTY | UNIT PRICE | TOTAL COST | UNIT PRICE | TOTAL COST | UNIT PRICE | TOTAL COST | UNIT PRICE | TOTAL COST |
| 1 | Mobilization | LS | 1 | 15,000 | 15,000 | 15,000.00 | 15,000.00 | | 0.00 | | 0.00 |
| 2 | Removal of obstructions and existing equipment including disposal | LS | 1 | 15,000 | 15,000 | 14,000.00 | 14,000.00 | | 0.00 | | 0.00 |
| 3 | Project Temporary Traffic Control | LS | 1 | 5,000 | 5,000 | 5,000.00 | 5,000.00 | | | | |
| 4 | S&B Telemetry and SCADA | LS | 1 | 54,608 | 54,608 | 54,608.00 | 54,608.00 | | 0.00 | | 0.00 |
| 5 | 10 hp Drypit Submersible pumps with non-clog impellers 4 suction, 6 discharge, 10 hp premium efficiency motors, explosion proof, 460 v, 3ph, 1800 rpm, equipped with motor protection, full installation & Spare 10 hp pump and motor, identical to pre-approved installed. | EACH | 2 | 25,000 | 50,000 | 50,809.00 | 101,618.00 | | 0.00 | | 0.00 |
| 6 | Spare 10 hp pump and motor, identical to pre-approved installed | EACH | 1 | 9,000 | 9,000 | 10,000.00 | 10,000.00 | | 0.00 | | 0.00 |
| 7 | Miscellaneous valving or piping modifications, interal to drypit pump station | LS | 1 | 10,000 | 10,000 | 12,000.00 | 12,000.00 | | 0.00 | | 0.00 |
| 8 | Reinforced Concrete pad for RTU, and Generator, including gravel base | CY | 25 | 265 | 6,625 | 260.00 | 6,500.00 | | 0.00 | | 0.00 |
| 9 | 40 KW Generator, including fuel tank, fuel | LS | 1 | 40,000 | 40,000 | 67,663.00 | 67,663.00 | | 0.00 | | 0.00 |
| 10 | Install Steel removal bollards, including installation | EACH | 7 | 750 | 5,250 | 1,000.00 | 7,000.00 | | 0.00 | | 0.00 |
| 11 | Asphalt replacemetn, including removal, dispoal, and the installation of compacted gravel base | CY | 15 | 300 | 4,500 | 500.00 | 7,500.00 | | 0.00 | | 0.00 |
| 12 | By-pass Sanitary Sewer pumping | LS | 1 | 35,000 | 35,000 | 12,000.00 | 12,000.00 | | 0.00 | | 0.00 |
| 13 | Spill Prevention, Control, and Countermeasures Plan | LS | 1 | 1,500 | 1,500 | 1,000.00 | 1,000.00 | | 0.00 | | 0.00 |
| Sub-Total Bid Items | | | | | 251,483.00 | | 313,889.00 | | | | |
| + WSST @ 9.0% | | | | | 22,633.47 | | 28,250.01 | | | | |
| GRAND TOTAL | | | | | 274,116.47 | | 342,139.01 | 0.00 | \$0.00 | 0.00 | \$0.00 |



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 10 Minutes

AGENDA ITEM: (7:50 PM) Resolution No. 2018-26, Stating the City Council's Position on City of Bainbridge Island Proposition No. 1, the Connecting Bainbridge Safe Mobility Levy - Executive,

STRATEGIC PRIORITY: Green, Well-Planned Community

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Discussion

PROPOSED BY: City Council

RECOMMENDED MOTION:

I move to forward Resolution No. 2018-26, stating the City Council's support for the Connecting Bainbridge SAFE Mobility Levy, for approval with the September 25, 2018 consent agenda.

SUMMARY:

Consider taking Council position on the Connecting Bainbridge Safe Mobility Levy.

FISCAL IMPACT:

| | |
|------------------------------------|--|
| Amount: | |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | |

BACKGROUND: State law generally prohibits the use of public facilities to support or oppose a ballot measure.

Specifically, RCW 42.17A.555 states that no elected or appointed official or employee of a public agency may use or authorize the use of any public facilities to support or oppose a ballot measure, but goes on to list four exceptions.

Relevant here is RCW 42.17A.555(1), which authorizes the City Council to use public facilities to express, at an open public meeting, a collective decision to support or oppose a ballot measure if (1) any required notice of the

meeting includes the title and number of the ballot proposition; and (2) members of the legislative body or public are afforded an approximately equal opportunity for the expression of an opposing view.

ATTACHMENTS:

[Resolution No. 2018-26, Stating the City Council's Position on City of Bainbridge Island Proposition No. 1, the Connecting Bainbridge Safe Mobility Levy](#)

FISCAL DETAILS:

Fund Name(s):

Coding:

RESOLUTION NO. 2018-26

A RESOLUTION of the City Council of Bainbridge Island, Washington, supporting the Connecting Bainbridge: SAFE Mobility Levy and urging Bainbridge Island voters to “Approve” City of Bainbridge Island Proposition No. 1 on the November 6, 2018 general election ballot.

WHEREAS, the City of Bainbridge Island’s Transportation Vision 2036 is for Bainbridge Island to have a safe, dependable, properly maintained, and fiscally responsible multimodal transportation system with good facilities for non-motorized users and pedestrians; and

WHEREAS, Goal TR-2 of the City’s Comprehensive Plan is to provide a non-motorized transportation system that is a planned and coordinated network of shoulders, sidewalks, trails, footpaths, bikeways, and multi-purpose trails that connect neighborhoods with parks, schools, the shoreline, the ferry terminal, and commercial areas; and

WHEREAS, Policy TR 2.1 of the City’s Comprehensive Plan includes providing a non-motorized transportation system that: effectively serves the needs of people of all ages and abilities who walk, bike, or ride horses, or use wheel chairs; encourages non-motorized travel; and provides continuous networks of safe, efficient, and attractive shoulders, sidewalks, pathways, and multi-purpose trails throughout the Island that are also connecting to regional systems; and

WHEREAS, the City desires to invest in non-motorized transportation infrastructure, including projects to widen road shoulders, improve sidewalks, and build new trails; and

WHEREAS, the City Council has determined that it is in the best interest of the City and its residents to submit to the voters a levy lid lift proposition under RCW 84.55.050(1) to fund the construction of such projects; and

WHEREAS, on July 10, 2018, the City Council adopted Ordinance No. 2018-22, which directs the placement of City of Bainbridge Island Proposition No. 1, the Connecting Bainbridge: SAFE Mobility Levy, on the November 6, 2018 ballot that, if passed by the voters of the City of Bainbridge Island, will raise \$15 million over seven (7) years to pay for the construction of non-motorized transportation infrastructure and/or certain safety and mobility improvements on Bainbridge Island; and

WHEREAS, on July 24, 2018, the City Council adopted Resolution No. 2018-21 to provide greater certainty and specificity regarding how the funds raised by the ballot proposition will be used and how the public will be involved in making decisions on the use of the funds from the ballot measure; and

WHEREAS, at the City Council’s September 11, 2018 business meeting, persons in favor of City of Bainbridge Island Proposition No. 1 and those opposed to it were given an equal opportunity to share their views in an open public meeting; and

WHEREAS, notice of the September 11, 2018 business meeting was given in accordance with RCW 42.17A.555.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND DOES RESOLVE AS FOLLOWS:

Section 1. The City Council supports the passage of City of Bainbridge Proposition No. 1, the Connecting Bainbridge: SAFE Mobility Levy, which will provide funding for non-motorized transportation infrastructure projects on Bainbridge Island, including projects to widen road shoulders, improve sidewalks, and build new trails.

Section 2. The City Council urges Bainbridge Island voters to “Approve” City of Bainbridge Island Proposition No. 1 on the November 6, 2018 general election ballot.

PASSED by the City Council this ____ day of _____, 2018.

APPROVED by the Mayor this ____ day of _____, 2018.

By: _____
Kol Medina, Mayor

ATTEST/AUTHENTICATE:

By: _____
Christine Brown, City Clerk

FILED WITH THE CITY CLERK: September 7, 2018
PASSED BY THE CITY COUNCIL: ,2018
RESOLUTION NO. 2018-26



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 20 Minutes

AGENDA ITEM: (8:00 PM) Planning Commission Recommendations Relating to Land Use Review and Approval Roles, Responsibilities, and Procedures - Planning

STRATEGIC PRIORITY: Green, Well-Planned Community

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Discussion

PROPOSED BY: Planning & Community Development

RECOMMENDED MOTION:

Further discussion and direction to staff about next steps, including related to possible further discussion and consideration at the Council's September 25, 2018, meeting.

SUMMARY:

This item is a continuation of discussion that occurred at the City Council's study session on September 4, 2018, which followed from the Council meeting on July 24, 2018, and the Council's workshop on August 27, 2018. At its September 4 meeting, the Council directed staff to bring this item back for further discussion at this meeting (September 11).

As part of the Council's consideration at its September 4 meeting, there was Councilmember interest in a list of cities that have utilized a hearing examiner to make recommendations to the city council regarding certain land use decisions, whereby the council makes the final decision.

In response to that request, the City Attorney contacted the Municipal Research and Services Center ("MRSC"), the Washington Cities Insurance Authority ("WCIA" -- which is the City's insurance provider), Hearing Examiner Ted Hunter (who participated in the Council's August 27 workshop), and outside legal counsel Mike Walter (who also participated in the Council's workshop). Mr. Hunter and Mr. Walter were both contacted because Councilmembers asked questions about information provided by Mr. Hunter and Mr. Walter at the workshop and requested follow-up related to the presentations provided by those presenters.

The responses described above to the Council's questions are included below in the Background section of this agenda item.

As described to the Council as part of this agenda item for the Council's September 4 meeting, the Planning Commission has made several recommendations to the Council related to land use review procedures and approval authority.

Options for the Council include making a decision regarding the Planning Commission's proposal, making a decision regarding other options (such as the one described herein that has been proposed by some Councilmembers), and/or continuing the discussion and conducting a public hearing on the topic at the Council meeting on September 25, 2018. The preparation for that meeting by staff would include, in addition to the information that has been provided to the Council thus far, preparation of a draft ordinance for the public hearing and preparing agenda materials that would, in part, analyze the potential costs of the options being proposed.

This agenda item, per the Council's request, is for the Council to discuss this topic further and to determine which specific Planning Commission recommendations and/or other options the Council would like staff to research and analyze related to preparing a draft ordinance on this topic, and related to providing the Council with cost information applicable to options for which the Council is interested in pursuing.

FISCAL IMPACT:

| | |
|------------------------------------|----|
| Amount: | |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | No |

BACKGROUND:

The following relates to the research above referenced in the Summary section following the September 4 Council meeting.

In response to a request from the City Attorney about a list of cities that have adopted a system as proposed by some Councilmembers whereby the Hearing Examiner makes a recommendation to the Council and the Council makes the final decision, WCIA indicated that they didn't have such a list but they did have some information that may be of interest. In relevant part, WCIA responded as follows:

During our [WCIA's] 2009 Land Use member audit, we learned that 77 percent of our member cities and towns were using a land use hearing examiner. By the 2014 member land use audit, 91 percent of our members were using hearing examiners. ... One of the big "pushes" in the 2009 audit was to encourage members to utilize hearing examiners for land use decisions, for many of the reasons outlined in Mike Walter's memo to Richland [see attached].

While I can't provide a list of specific cities and towns that use hearing examiners, I hope this information is useful to you.

Attached, as referenced above in WCIA's response, is Mike Walter's letter to Richland about the use of hearing examiners in land use decision-making. Mike Walter's letter also includes an attached article from MRSC regarding the topic.

Also attached is a piece written by WCIA's Senior Risk Management Representative who is assigned to the City, Tanya Crites, regarding WCIA's advice to its members about the role of hearing examiners in land use decision-making.

The City Attorney, as referenced above, also contacted the City's Hearing Examiner, in follow-up to comments he made at the August 27 workshop related to cities that have a system whereby the Hearing Examiner makes a recommendation to the Council. Mr. Hunter indicated that Lacey is an example that he is familiar with because he has served as Hearing Examiner for that city for many years. Attached is Mr. Hunter's follow-up response regarding his experience with such systems.

Additionally, the City Attorney contacted MRSC about examples of cities that have adopted the type of system whereby the Hearing Examiner makes a recommendation to the Council on certain land use application decisions and the Council makes the final decision. Attached is MRSC's response to that inquiry.

Note as a point of clarification related to the cities listed in the response provided by MRSC, and as indicated in Jim Haney's June 1, 2018, memorandum that is also attached with this agenda item, that state law requires site-specific rezones to be approved by ordinance, which means that those decisions must be made by the city council for the cities listed in the table MRSC provided in its response (so those cities are simply following what state law requires related to the council's role).

Also attached with this agenda item are the following items that have been provided previously to the Council:

- The staff memo describing the Planning Commission's proposal that was provided initially to the Council at its July 24, 2018, meeting.
- The June 1, 2018, memorandum that attorney Jim Haney prepared at the request of the City Attorney for the Council, Planning Commission, and Design Review Board ("DRB") related to legal principles and considerations regarding this topic. This memorandum was provided to the Council in previous agenda packets, including in the packet for the August 27, 2018, workshop.
- A summary table of the land use review and approval procedures at issue. The table was also provided to the Council in previous agenda packets, including in the packet for the August 27, 2018, workshop.
- The PowerPoint presentations that were provided to the Council by the speakers as part of the Council's August 27, 2018, workshop.

Regarding additional background, the following information was also provided in the agenda packet for the Council's July 24, 2018, meeting:

Land Use Policy 6.8 of the City's Comprehensive Plan states:

Review and specify the authority and the role of the Design Review Board, Hearing Examiner, Planning Commission and City Council in the land use development review and decision-making process. Land use actions can be ministerial, quasi-judicial and legislative in nature. As part of this review, consider a role for the Planning Commission and/or Design Review Board in reviewing preliminary long subdivisions.

This policy is included in the City's current moratorium on acceptance of certain development applications, including site plan and design reviews, conditional use permits, and all subdivisions. As such, review of land use review procedures and approval authority is included in the City's moratorium work plan.

Roles and responsibilities for review and approval of land use applications are codified in BIMC 2.14, Land Use Approval Bodies, and BIMC 2.16, Land Use Review Procedures. The Planning Commission's recommendations include revised review procedures and approval authority intended to improve consistency of land use actions with the City's Comprehensive Plan. In addition, during the course of its discussions, the Planning Commission made a recommendation to suspend the current Housing Design and Demonstration Projects program, which is also contained in BIMC 2.16.

BIMC 2.14 and 2.16 are available through the City's website:

<http://www.codepublishing.com/WA/Bainbridgeland/#!/Bainbridgeland02/Bainbridgeland02.html>

ATTACHMENTS:

[Mike Walter Letter to Richland re Use of Hearing Examiner for Land Use Decision-Making.pdf](#)

[WCIA Advice re Hearing Examiners.pdf](#)

[Ted Hunter Response to Council Inquiry.docx](#)

[MRSC Response to Inquiry re Hearing Examiners.docx](#)

[Staff Memo re PC Recommendations re Land Use Review & Approvals](#)

[Haney Memo re Roles of Land Use Approval Bodies](#)

[Summary of Land Use Review & Approval Procedures](#)

[Haney Powerpoint.pptx](#)

[Presentation to Council re Process of Hearing Deciding Land Use Applications](#)

[LAND USE ROLES FOR CITY OFFICIALS](#)

FISCAL DETAILS: Not prepared to date.

Fund Name(s):

Coding:

JOHN L. McCORMACK
MARK R. BUCKLIN
STEVEN L. THORSRUD
MICHAEL C. WALTER
ANDREW G. COOLEY
STEWART A. ESTES
JAYNE L. FREEMAN
STEPHANIE E. CROLL
RICHARD B. JOLLEY



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ADAM L. ROSENBERG
AMANDA G. BUTLER
BRIAN C. AUGENTHALER

ROBERT C. KEATING (1915-2001)

August 15, 2014

Heather D. Kintzley
City Attorney
City of Richland
975 George Washington Way
Richland, WA 99352-3548

RE: Use of a Hearing Examiner for Land Use Decision-Making

Dear Ms. Kintzley:

It is my understanding that in a recent land use audit of all member cities conducted by Washington Cities Insurance Authority ("WCIA"), the use of a hearing examiner for land use decision-making came up, and that the City of Richland may be considering adoption of a hearing examiner system for land use decision-making. In this regard, WCIA suggested I write regarding my opinions and experiences on the use of a hearing examiner for land use decision-making. Accordingly, I am providing this letter to you, which you are encouraged to forward to the City Manager, Mayor, City Council and staff, providing my strong recommendation for the use of a hearing examiner for land use decision-making.

As I explain in this letter, I believe the use of a land use hearing examiner to make final quasi-judicial decisions on land use permits (as well as for deciding administrative appeals) is invaluable and should be utilized to the fullest extent by the City of Richland. It is the trend of most local governments to use a land use hearing examiner to adjudicate quasi-judicial and administrative land use permitting.

By way of background, I am a partner and director at Keating, Bucklin & McCormack, Inc., P.S., a law firm emphasizing representation of local government in a wide variety of municipal matters, civil lawsuits and administrative and other legal claims. For over 25 years, my practice has emphasized a broad range of municipal, land use, regulatory, environmental, civil rights and tort-related issues in defense of government entities, elected officials and their employees. I represent cities, special purpose districts and other government entities in land use, permitting, environmental matters, civil rights and other claims, and have written numerous

articles on land use law, municipal and local government legislation and regulation, permitting and environmental issues, as well as risk management on various topics of interest to local government and land use agencies. As part of my practice, I also provide municipal, land use, environmental and risk management training to elected officials and government agencies throughout the State. A significant part of my practice involves defending land use claims arising out of quasi-judicial land use decisions, made by citizen and elected bodies as well as professional hearing examiners.¹ A copy of my professional resume is attached. You can also get more information on my law firm and my land use practice through our website at www.kbmlawyers.com.

I provide the foregoing summary of my background as context for my strong, unqualified, recommendation to all cities, towns and local government entities in the use of a hearing examiner to adjudicate quasi-judicial land use matters. Being “in the trenches,” as it were defending land use decisions – and frequently land use mistakes – by local government has given me first-hand experience in seeing the procedural, timeliness and significant liability risk differences in land use decisions made by planning commissions, boards of adjustment and city councils versus those decisions made by professional hearing examiners. This first-hand experience in defending literally thousands of these decisions over the past 25 years has made one thing crystal clear: there is no substitute for local government’s use of a professional hearing examiner in deciding quasi-judicial land use matters. For this reason, I write to encourage the City of Richland – as I do with all of the local government entities I work with or speak to – to take full advantage of a professional land use hearing examiner.

General Authority of Hearing Examiners

I recommend to cities I work for to utilize, to the fullest extent possible, a hearing examiner to (1) make final decisions on all quasi-judicial land use permits and decisions, and (2) to act as the administrative appeal body for review of routine administrative/ministerial permits (such as right-of-way permits, clearing and grading permits, tree cutting permits, building permits, etc.) and of administrative/code interpretations. The adoption of a hearing examiner position is expressly authorized in RCW 35A.63.170. A hearing examiner may hear:

- (a) Applications for conditional uses, variances, subdivisions, shoreline permits, or any other class of applications for or pertaining to development of land or land use;
- (b) Appeals of administrative decisions or determinations; and
- (c) Appeals of administrative decisions or determinations pursuant to RCW ch. 43.21C.

¹ I am not a hearing examiner, and do not derive any income as a hearing examiner.

RCW 35A.63.170(1)(a)-(c).² These are identical to the duties a board of adjustment would otherwise perform. *Compare* RCW 35A.63.110(1)-(4). The City must explain the nature and scope of the hearing examiner's duties if the position is created. *See* RCW 35A.63.170.

The Legislature has also authorized local government to establish the procedures to be followed by the hearing examiner.

(2) Each city or county legislative body electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. The legal effect of such decisions may vary for the different classes of applications decided by the examiner but shall include one of the following:

- (a) The decision may be given the effect of a recommendation to the legislative body;
- (b) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body; or
- (c) Except in the case of a rezone, the decision may be given the effect of a final decision of the legislative body.

RCW 35A.63.170(2).

Thus, as an alternative to using a planning commission or city council to decide quasi-judicial land use applications and permits, the council has express statutory authority³ to adopt a hearing examiner system and vest in a hearing examiner with broad authority to conduct open record hearings on and decide applications for virtually all types of permits and land use approvals, including such things as site plans, full and short plats, conditional or special use permits, variances, reasonable use exemptions and waivers, shoreline permits, "or any other class of applications for or pertaining to development of land or land use." A hearing examiner can also be vested with authority to hear appeals of administrative or quasi-judicial permit decisions as well as appeals of determinations under SEPA. Hearing examiners also have other authorities set forth in RCW 35.63.130 and RCW 35A.63.170.

² The scope of authority of hearing examiners is best described in the case of *Chausee v. Snohomish County Council*, 38 Wn. App. 630, 689 P.2d 1084 (1984). In that case, the court described hearing examiners as "creatures of the legislature without inherent or common-law powers and may exercise only those powers conferred either expressly or by necessary implication." *Id.*, at 38 Wn. App. 636.

³ In any case, the city council must specifically adopt a hearing examiner system and through an ordinance or code amendment vest the hearing examiner with authority to hear and decide the specific types of land use applications or permits, or other administrative decisions, that he or she can make.

There are only two instances in which the State Legislature has mandated that legislative bodies (city councils) make decisions on land use permits and approvals: (1) decisions on final plats (subdivisions) (*see*, RCW 58.17.100); and (2) area-wide/general applicability zoning decisions/rezones. (RCW 35.63.130(1), RCW 35.63.130(2)(c), RCW 36.70.870(2)(c), and RCW 36.70.970(1)). Aside from these two limited instances, hearing examiners can hear and decide virtually all other land use permits, approvals or appeals, as long as the city code expressly authorizes an examiner to hear those matters.

The Advantages of Using a Hearing Examiner for Land Use Decision-Making

The following are some of the many advantages and benefits to using a hearing examiner for quasi-judicial land use decision-making and administrative appeals of permit decisions:

- Avoids political influence or pressure (which is forbidden in quasi-judicial decision-making);
- They are professional, specially trained individuals;
- They have experience with many different jurisdictions and regulations and can carry that experience and knowledge over to your jurisdiction, helping to improve your land use code and process;
- They are technically adept, and have knowledge of physical land development and technical feasibility of land development and permitting;
- A hearing examiner is more cost effective (reduces appeals and judicial challenges);
- Allows for a more efficient process (faster decisions, fewer mistakes and far fewer appeals);
- Substantial reduction in judicial (court) reversal of decisions;
- Substantial reduction in potential damages claims against the city (I can attest to this, and most municipal attorneys and land use professionals would agree);
- Eliminates the risk of lawsuits and legal claims against citizen-decision makers – like Planning Commission and City Council members – personally;
- Instills public confidence in the decision-making process;
- Helps ensure constitutional protection of due process of law and equal protection;
- Helps ensure predictability and consistency in the process and decision-making;
- Hearing examiners are skilled in understanding, interpreting and applying nuances of your municipal code, state and federal laws, and general legal principles;

- Use of a hearing examiner helps satisfy State law requirements for streamlining the regulatory process and administrative review and appeals (1995 Regulatory Reform Act, RCW Chapter 36.70B);
- Use of a hearing examiner segregates and clearly delineates quasi-judicial decision making functions from legislative (law-making) and long-term planning functions (which are the functions of planning commissions and city councils);
- Provides the opportunity for feedback and correction of code ambiguities and conflicts;
- Use of a hearing examiner frees up city council and planning commission time for other, important planning, goal setting and law-making functions; and,
- Provides good customer service.

The following is a quote from a state Supreme Court justice endorsing Pierce County's rationale for creating a hearing examiner position:

A. The need to separate the County's land use regulatory function from its land use planning function;

B. The need to ensure and expand the principles of fairness and due process in public hearings; and

C. The need to provide an efficient and effective land use regulatory system which integrates the public hearing and decision-making processes for land use matters; it is the purpose of this chapter to provide an administrative land use regulatory system which will best satisfy these needs.

* * *

[A] land use hearing examiner system will be very beneficial to all concerned or involved with land use decisions, and said system will (1) provide a more efficient and effective land use decision procedure; (2) provide the Planning Commission more time to devote towards studying and recommending land use policy changes to the Board; (3) provide an experienced expert to hear and decide land use cases based upon policy adopted by the Board; and (4) provide the Board of County Commissioners more time to spend on other County concerns by relieving them from hearing land use cases, except any appeals ... [.]

Weyerhaeuser v. Pierce County, 124 Wn.2d 26, 51, 873 P.2d 498 (1994) (Madsen, J., dissenting) (citing Pierce County Resolution 20489 (1978)) (emphasis added).

Risks and Pitfalls in *Not* Using a Hearing Examiner for Land Use Decision-Making

Based on the broad authority of hearing examiners to adjudicate a wide range of land use permits, decisions and appeals, the significant reduction in land use lawsuit liability exposure by using a hearing examiner, and my experience defending both planning commission/city council/board of adjustment land use decisions versus those made by hearing examiners, there is, in my experience and opinion, no good reason to not use a hearing examiner for land use decision-making.

The few reasons offered *against* the use of a hearing examiner (and, by implication for retention of elected official or citizen body land use decision-making) are neither justified nor legally supportable. One such claim is that use of a hearing examiner system is too costly, or the jurisdiction can't afford to use a hearing examiner. My first response to this claim is that local governments can't afford *not* to use a hearing examiner for land use decision-making. Please refer to the many advantages discussed above. Second, in my experience the costs of using a hearing examiner are minimal, and, in many cases, can be passed on to permit applicants or land use appellants, either directly or included as part of carefully crafted permit or administrative fees associated with land use permits or appeals heard by hearing examiners. Additionally, many jurisdictions share in the cost of a hearing examiner or pay into a "pool" to use a hearing examiner who essentially "rides the circuit" between several geographically close jurisdictions. If the potential cost of using a hearing examiner is of concern to the City of Richland, I urge you to talk to other jurisdictions – including Pasco and Kennewick, your neighbors – to learn about how they handle costs and their experiences.

A second reason sometimes offered *against* the use of a hearing examiner is the lack of representative control over constituent demands for land use policy-making. Regarding this claimed loss of "citizen control" over the land use permitting process, this is actually a key reason that a hearing examiner *should* be used. Land use planning and policy decisions are made by the elected officials (city or town councils) through comprehensive planning and comprehensive plan updates, long range strategic planning, area-wide zoning and development regulations, and adoption of other area-wide development criteria. As noted above, land use planning should be reserved to and used by both planning commissions and city or town councils.

However, that is not the case with site- or property-specific land use permits or land use actions. Property- or site-specific land use approvals and decision-making should not be done based on citizen comment, policy criteria, planning criteria or constituent desires. Such permitting and decision-making decisions – whether at the administrative or quasi-judicial level – should be entirely, 100% free of citizen control and politics. For this reason, use of a

professional hearing examiner to make decisions on such site-specific or permit-specific land use applications is the best, safest and most appropriate method of decision-making.

In short, planning commissions and city councils, should not be involved in making final decisions on quasi-judicial land use permits; nor should they hear appeals of permit decisions or code interpretations. Rather, such decisions should be delegated to a professional hearing examiner. As State law makes clear, planning commissions and city councils have far more important tasks to do with their limited time: responding to their citizen constituencies; crafting, reviewing and amending comprehensive plans; crafting, reviewing, amending and updating zoning ordinances; crafting and updating shoreline plans; doing long range land use planning; doing utility and infrastructure planning; budgeting; contracting; completing ongoing and time-sensitive planning and regulatory obligations; and handling the many day-to-day affairs of local government.

A third reason sometimes given to not use a hearing examiner is that the local jurisdiction wants to be independent, retain its autonomy, and not be “pressured” to use one just because other jurisdictions do. Yet, neither the State nor any other jurisdiction can dictate the use of a hearing examiner. But it is noteworthy – and significant – that (a) the overwhelming majority of cities, towns, counties and other land use permitting jurisdictions use hearing examiners for land use decision-making, (b) virtually all land use and government attorneys agree on the use of hearing examiners, and (c) virtually all planning professionals agree that the use of a hearing examiner for land use decision making is not only good risk management, it is more efficient, more cost effective, instills public confidence in the process, avoids arbitrary and capricious decision-making, and limits improper political influence.

Fourth, I have heard one hearing examiner opponent claim “there is no evidence that supports such a proposition [that decisions made by a hearing examiner will hold up better in court].” Even a cursory review of trial court filings and appellate court decisions will readily confirm that not only are there far fewer judicial challenges to land use decisions made by hearing examiners, those few legal challenges that are made to examiner decisions are far more frequently upheld by the appellate courts than are decisions made by elected officials or citizen groups or bodies.

Indeed, the most egregious land use decisions in this State and in the federal courts arise from elected official or citizen-body decision-making on land use permits and applications – not hearing examiner decisions. For a sampling of such decisions, see: *Mission Springs v. City of Spokane*, 134 Wn.2d 947, 954 P.2d 250 (1998) (a good case to review; Supreme Court chastises the Spokane City Council for arbitrarily denying a grading permit for a contentious development project, and imposes sanctions and attorney fees on individual council members; numerous other bad land use decisions arising from city council or planning commission actions – but no hearing examiner case – referenced); *Sintra, Inc. v. City of Seattle*, 131 Wn.2d 640, 935 P.2d 555 (1997); *Hayes v. City of Seattle*, 131 Wn.2d 706, 934 P.2d 1179 (1997); *Robinson v. City of Seattle*, 119 Wn.2d 34, 830 P.2d 318 (1992); *West Main Assoc., Inc. v. City of Bellevue*, 106 Wn.2d 47, 720

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August 15, 2014
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P.2d 782 (1986); *Pleas v. City of Seattle*, 112 Wn.2d 794, 744 P.2d 1158 (1989); *King v. City of Seattle*, 84 Wn.2d 239, 525 P.2d 228 (1974); *Bateson v. Geisse*, 857 F.2d 1300 (9th Cir. 1988); *Westmark v. City of Burien*, 140 Wn. App. 540, 166 P.3d 813 (2007); *Saben v. Skagit County*, 136 Wn. App. 869, 152 P.3d 1034 (2006); *Cox v. City of Lynnwood*, 72 Wn. App. 1, 863 P.2d 578 (1993); *Anderson v. City of Issaquah*, 70 Wn. App.64, 851 P.2 744 (1993).

Finally, I have also heard the comment that “hearing examiners tend to favor development interests more than local citizen bodies such as planning commissions.” There is no evidence to support this; in fact, it is contrary to my experience and the decisions of hearing examiners in the communities I do work for.

Conclusion and Summary

In summary, I urge the City of Richland to consider modifying its land use code to eliminate Planning Commission, Board of Adjustment or City Council for hearing and deciding final land use decisions (but not comprehensive or long range planning or area-wide regulations) and, instead, use a hearing examiner to make final land use decisions and administrative appeal decisions for the City.

I hope the foregoing is of benefit to the City of Richland as it looks to updating its land use code and decision-making process. If I can be of any assistance to the City or answer other questions regarding the use of a hearing examiner, do not hesitate to call or write.

Very truly yours,

Sent unsigned to avoid delay

Michael C. Walter

MCW/ch

cc: Bill King, Deputy City Manager and
Community Development Services Director
Cathleen Koch, Administrative Services Director
Ms. Ann Bennett, Executive Director
Washington Cities Insurance Authority
Ms. Tanya Crites, Risk Management,
Washington Cities Insurance Authority

Should Legislative Bodies Conduct Quasi-Judicial Hearings?

August 31, 2016 by Joseph W. Tovar

Category: Land Use Administration , Planning Advisor



Can you be a legislator and a judge at the same time?

Any high school civics student can correctly answer this question with respect to the federal and state governments. The answer is an unequivocal “no” because of the separation of powers doctrine - one of the key principles contained in both the federal and state constitutions. The response to this issue at the local government level, however, has historically been different, particularly

with respect to the land use permit review process.

People are elected to Congress or the Washington State Legislature to be lawmakers. They make the law by adopting legislation. The administration and enforcement of laws adopted by those legislators is the responsibility of the executive branch. The judicial branch of government plays a very different role - it applies the meaning of the law to cases brought before it.

Adjudication requires reviewing evidence and arguments and applying the law to the facts of the case to determine the outcome. In contrast to the legislative and executive branches, which are unquestionably political bodies, the judicial branch at both the federal and state level was designed to be apolitical - rendering judgments based on facts and law, not on popular opinion or campaign promises.

This “separation of powers” has been less absolute at the local government level in Washington. Since statehood, local governments have mirrored the distinct roles and functions of the legislative branch (e.g., city, town, and county councils) and the executive branch (e.g., elected mayors). However, until the 1970’s, councils in all Washington cities also played a “quasi-judicial” role with respect to certain land use permits. They were responsible not only for adopting local zoning laws, but sitting in judgment on appeals when zoning permits were approved or denied by an administrator, a board of adjustment, or a hearing examiner. Any party dissatisfied with the council’s decision on such appeals may appeal to superior court. A superior or appellate court may overturn a council’s decision, but significantly, depending on the circumstances, may also impose financial judgments against the city.

Since the 1970s, many counties and cities have moved away from the “quasi-judicial” role. This movement began with the adoption by local governments of the **hearing examiner system** to conduct public hearings on many quasi-judicial land use permits, building a record, and adopting conclusions of law to support the decision. Hearing examiners are hired because of their background in land use law and most are lawyers. Their professional training enables them to avoid procedural or other errors that would undermine the legal sufficiency of the permit review and decision. As non-elected officials, hearing examiners are insulated from political pressures and are relied upon to render objective and impartial decisions.

Many cities in the state now use hearing examiners to conduct at least some quasi-judicial public hearings. While council action is required on rezones, the law gives councils the option to assign to their hearing examiners authority to make final decisions on other types of quasi-judicial permits. Examples of such permits are conditional use permits, variances, planned unit developments, design review approvals, site plan approvals, and short subdivisions.

Over the past decade, many city councils have removed themselves from final approvals and appeals of these types of quasi-judicial decisions, delegating that responsibility to their hearing examiners. This means that any appeals of a hearing examiner’s decision are taken directly to superior court rather than to the council. Why have those cities, including Covington, Kirkland, Mercer Island, Shoreline, and Edmonds, taken this step? Why should your council consider following their lead? There are many reasons, but here are the top three:

1. **One major concern is the financial risk of having lay elected officials with no training or background in the law attempting to, in effect, practice law.** That is why the Washington Cities Insurance Authority, the risk pool for many cities in the state, strongly encourages councils to divest themselves as much as possible of the quasi-judicial role. There are a number of procedural pitfalls that could expose the city treasury to multi-million dollar judgments. Even the most intelligent, best-intentioned, and detail-oriented people make mistakes. The risk of such mistakes is amplified at least seven-fold when seven non-legally trained council members are involved, rather than a single legally-trained hearing examiner.

When sitting as a quasi-judicial body, some city councils conduct not only the hearing but also their deliberations in open session. Some do so in an effort to make the process more transparent, but this practice also increases the surface area for a procedural misstep to occur. A too frequent error is allowing a member of the public to make comment outside the record, after it is closed. Sometimes council members feel compelled to make off-the-cuff remarks in an attempt to mollify unhappy citizens, a practice which is fraught with risk. A hearing examiner listens to public comments at the hearing and may ask questions of clarification, but her/his deliberation is an internal mental process – it occurs after the hearing is over, not while it is still in session.

2. **Quasi-judicial cases can be extremely time intensive.** The record and written and oral argument can consume many hours of time to be sufficiently reviewed, debated, and discussed. This is typical even for project permits that are fairly small in scope, such as a four-lot short plat or a variance for an individual house. City councils have many demands on their agenda time including issues with far greater impact on the well-being of the entire community.

Only the elected council can adopt city budgets, ordinances and programs, and provide overall policy direction to the many functions of the city organization. They cannot delegate those responsibilities to others. With the exception of rezones, councils can delegate the quasi-judicial role.

3. **The quasi-judicial role frequently places city council members in an untenable lose-lose predicament.** Elected officials can be caught between the need to be responsive to the desires of their constituents and their duty to be responsible to the clear legal criteria governing the permit decision before them. For example, elected officials involved in a quasi-judicial hearing may not engage in “ex parte” discussions with community members about the pros and cons of that case, which can be frustrating for both parties. Doing the right thing by the legal criteria for a decision may result in a political cost at the next election, while departing from the legal framework in order to satisfy constituents runs the risk of a potentially catastrophic hit on the city treasury.

The reasons for councils to remove themselves from the quasi-judicial role are many and compelling. This does not mean that they can no longer be responsive to the needs of their communities and citizens. Indeed, it should be remembered that every quasi-judicial decision is governed by the applicable land use policies and code standards that are adopted by – the city council!

To that end, a council’s time and attention to land use matters is best invested in adopting clear and effective policies and codes that govern all permits, including quasi-judicial ones. Several cities also require an annual report from their staff and hearing examiners summarizing the nature, frequency, and disposition of quasi-judicial permits. Such ongoing monitoring enables them to identify land use policies or standards that should potentially be revised. By playing this legislative role, a role for which they are uniquely suited and which only they can play, a city council can more effectively provide needed direction to the development of their community without exposing the city to needless financial risk.

About Joseph W. Tovar

Joseph W. Tovar writes for MRSC as a [Planning Advisor](#).

Joseph W. Tovar, FAICP, helps communities create visions of their preferred futures, and how to implement them through plans, codes, projects, strategies and organizational training. He has served as planning director for the cities of Shoreline, Kirkland and Covington and as Chair of the Growth Management Hearings Board. Now in private practice, Mr. Tovar has provided consultant services to private clients as well as Snohomish and Kitsap counties, the cities of Everett, Lacey, Kirkland, and SeaTac, as well as the Association of Washington Cities. He is a Fellow of the American Institute of Certified Planners and an Affiliate Associate Professor at the University of Washington. He has taught land use decision-making and city planning best practices to audiences of planning commissioners, elected officials, planning directors and graduate students. More information is posted online at www.tovarplanning.com. He can be reached at joe@tovarplanning.com.

The views expressed in Advisor columns represent the opinions of the author and do not necessarily reflect those of MRSC.

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Comments

2 comments on Should Legislative Bodies Conduct Quasi-Judicial Hearings?

"Crystal-clear and compelling! Thanks for this fine post, Joe."

Ann Macfarlane on Aug 31, 2016 3:05 PM

"Many city councils are not comfortable allowing the hearing examiner to make the final decision on a land use case. However, those city councils should be aware that if they believe that the hearing examiner's decision is not supported by substantial evidence (as required by LUPA in RCW 36.70C.130), they can appeal that decision to superior court under LUPA. As long as the city council doesn't request a stay of the decision, such an appeal should not subject the city to a damages claim. See, *Hunt Skansie Land v. City of Gig Harbor*, U.S. Dist. Court, W.D. Wash. 12-23-10, 2010 WL 5394991. Be sure that you have a permit processing chapter which addresses appeals by identifying the city council as a "aggrieved party," to eliminate unnecessary disputes. later on standing issues."

Carol Morris on Aug 31, 2016 3:04 PM

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Are you using your land use hearing examiner to the fullest extent possible?

by Tanya Crites

While many WCIA member cities and towns are using hearing examiners for various land use and code enforcement matters, some may not be utilizing a hearing examiner to the fullest extent provided by law. RCW 35A.63.170 authorizes a local government's legislative body to adopt a hearing examiner system under which the hearing examiner may hear and decide on various types of issues, including but not limited to:

- (a) Applications for conditional uses, variances, subdivisions, shoreline permits, or any other class of applications for or pertaining to development of land or land use;
- (b) Appeals of administrative decisions or determinations; and
- (c) Appeals of administrative decisions or determinations pursuant to, RCW 43.21C, State Environmental Policy.

The legislative body prescribes the procedures to be followed by the hearing examiner and provides the authority for the hearing examiner to conduct open record hearings and decide applications for all types of permits and land use approvals.

The only two instances in which the legislative body must make decisions on land use permits and approvals are:

- (a) decisions on final plats (subdivisions), and
- (b) area-wide/general application zoning decisions/rezones.

There are many compelling arguments in favor of using a hearing examiner system. By using a politically neutral, specially trained professional hearing examiner to the greatest extent possible, the legislative body and planning commission have more time for other important planning, goal setting and law-making functions, in addition to reducing the risk of political influence and pressure. WCIA recommends that all members adopt a hearing examiner system that allows the hearing examiner to make final quasi-judicial decisions on land use permits and decide administrative appeals, and that hearing examiner decision appeals go to superior court.

Here is how WCIA can help members adopt or expand a hearing examiner system. Typically, the first step is educating the council on the benefits of a comprehensive

hearing examiner system. Through the legal consultation program, WCIA can provide information on the legal, political and community benefits of using a hearing examiner to the fullest extent. WCIA can provide this guidance in a written document specifically prepared for the member's council or with an on-site presentation. Contact your assigned Risk Management Representative to arrange for assistance.

Response from Hearing Examiner Ted Hunter to Council Inquiry About Examples of Cities that Have a System Whereby the Hearing Examiner Makes a Recommendation to the Council, and the Council Makes the Final Decision:

In response to your inquiry, the jurisdiction I mentioned at the land use training with your City Council was the City of Lacey.

I provide below the relevant section of the Lacey Municipal Code that grants authority to the hearing examiner. As you can see, some of our decisions of the hearing examiner are final ones, and others are recommendations to the Council. This is the only city of the thirty where we serve where we make a recommendation to the City Council. There are over 280 cities and towns in the State of Washington, so there may be others where the hearing examiner makes a recommendation to the City Council, but I am not aware of them.

As noted at the training, a City Council may elect to empower the hearing examiner with final decision authority or with recommendation authority or with both. Only one open record hearing, however, is allowed under RCW 36.70B. The challenge is to keep the City Council restricted to the record when making a decision on the record of the recommendation which follows the hearing. It is my understanding that the City of Lacey does not normally discuss our recommendation, but acts on it without comment.

We have served there for over 25 years, so the process works smoothly there.

I hope this information is helpful to you. Please let me know if we can assist in any other way or if you have questions. I wish you a pleasant day.

Ted

City of Lacey Municipal Code:

2.30.090 Powers of the examiner.

The examiner shall receive and examine all available information, conduct public hearings and prepare a record thereof and enter decisions as provided for herein:

A. The decision of the hearings examiner on the following matters shall be final unless such decision is appealed to the city council pursuant to LMC 2.30.160:

1. Appeals of decisions made pursuant to limited administrative review as defined in Section 1.030 of the City of Lacey Development Guidelines and Public Works Standards;
2. Appeals of decisions made pursuant to full administrative review as defined in Section 1.030 of the City of Lacey Development Guidelines and Public Works Standards;

3. Variance requests;
4. Preliminary plat approval extension requests;

B. The decision of the hearings examiner on the following matters shall constitute a recommendation to the city council:

1. Preliminary plat applications;
2. Preliminary plat modification requests;
3. Shoreline substantial development, shoreline variance and shoreline conditional use permits and permit revisions;
4. Planned residential development applications;
5. Conditional use permit applications.

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September 6, 2018, Email from MRSC Regarding Hearing Examiner Inquiry:

We are responding to part of your inquiry that you discussed with Jill regarding cities that have their Hearing Examiner makes a recommendation to the City Council about a land use application on which the Council will then make the final decision. Although it is much more common for a Hearing Examiners decision on a land use process to be “final,” we did uncover several examples of processes where the Hearing Examiner provides recommendation to the City Council and the Council makes the final decision (see the chart below). Several cities limit this process for a very limited number of land use decisions, such as site-specific rezones and essential public facilities, while others apply it a bit more widely.

| City | Code Provision | Land Use Decision Type |
|-------------------------|---|--|
| Burien | Ch. 19.65.075 Type 3 Decisions | Essential Public Facilities |
| Elma | Ch. 17.32.080 Table of project application approval Processes | Site-specific rezone |
| Federal Way | Ch. 19.75 Process V – Quasi-Judicial Rezones | Site-specific rezone |
| Kirkland | Ch. 152 Process IIB (see the next column for specific land uses) | In Certain Zones for: Public Utilities, School/ Day-Care Centers, Government Facilities, ADUs, Community Facilities |
| Lake Forest Park | Ch. 16.26.030 Classification of decisions (see type II) | Site-specific rezone |
| Lake Stevens | Ch. 14.16B.405 Type IV Review - Quasi-Judicial, City Council Decisions with Hearing Examiner Recommendation | Essential Public Facilities, Planned Neighborhood Developments, Site-specific rezone, Secure Community Transition Facilities |
| Milton | Ch. 17.71.040 Process type table (see Process V) | Planned Development Master Plan, Special Use Permit |
| Monroe | Ch. 21.20.050 Hearing Examiner (see H) | Shoreline Conditional Use and Variance |
| Redmond | Ch. 20F.30.15-040 Classification of Permits and Decisions (see Type IV) | Concurrency Exemption, Conditional Use, Public Project Alteration of Wildlife Habitat Areas, Development Guide Amendment, Zoning Map (consistent with Comprehensive Plan), Essential Public Facility, Master Planned Development for any of the applicable above |
| Sumner | Ch. 18.56.020 Land use decision framework (see Type VI) | Amendments to zoning map or overlay districts |

Please let us know if you need more information.

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Department of Planning and Community Development

Memorandum

Date: July 24, 2018
To: City Council
From: Christy Carr, AICP
Senior Planner
Subject: Planning Commission Action Related to Moratorium Work Plan
Recommendations Related to Land Use Review Procedures and Approval Authority

I. PURPOSE OF AGENDA ITEM

The Planning Commission has made several recommendations to the City Council related to land use review procedures and approval authority.

The purpose of the agenda item is for the City Council to:

- Discuss Planning Commission recommendations and provide input to staff.
- Provide direction to staff to prepare a draft ordinance related to revisions to BIMC 2.14 and 2.16 based on Council review of Planning Commission recommendations.
- Schedule a public hearing on such a proposed ordinance.

II. BACKGROUND

Land Use Policy 6.8 of the City's Comprehensive Plan states:

Review and specify the authority and the role of the Design Review Board, Hearing Examiner, Planning Commission and City Council in the land use development review and decision-making process. Land use actions can be ministerial, quasi-judicial and legislative in nature. As part of this review, consider a role for the Planning Commission and/or Design Review Board in reviewing preliminary long subdivisions.

This policy is included in the City's current moratorium on acceptance of certain development applications, including site plan and design reviews, conditional use permits, and all subdivisions; therefore, review of land use review procedures and approval authority is included in the City's moratorium work plan.

Roles and responsibilities for review and approval of land use applications are codified in BIMC 2.14, Land Use Approval Bodies, and BIMC 2.16, Land Use Review Procedures. The Planning Commission's recommendations include revised review procedures and approval authority intended to improve

consistency of land use actions with the City's Comprehensive Plan. In addition, during the course of its discussions, the Planning Commission made a recommendation to suspend the current Housing Design and Demonstration Projects program, also contained in BIMC 2.16.

BIMC 2.14 and 2.16 are available through the City's website:

<http://www.codepublishing.com/WA/BainbridgeIsland/#!/BainbridgeIsland02/BainbridgeIsland02.html>

III. Summary of Planning Commission Recommendations

A narrative summary of proposed revisions to BIMC 2.14 and 2.16 is provided below. In some cases, specific language recommended by the Planning Commission is provided in strikethrough/underline text. Where specific language is not provided, the recommendation is provided in concept and strikethrough/underline text will be provided in a draft ordinance.

A. Revisions to BIMC 2.14: Land Use Approval Bodies.

This chapter of the municipal code describes the purpose and role, duties and responsibilities, and function and composition (e.g., quorum and voting, membership) of the City's land use approval bodies. The Planning Commission recommends the following revisions:

1. Roles and responsibilities of each land use approval body are described in Chapter 2.14. The Planning Commission recommends revisions to roles and responsibilities as shown in the attached table, "Land Use Review Procedures – Draft Proposed Revisions." The language in Chapter 2.14 will be revised to reflect the revisions.
2. Revisions to BIMC 2.14.020, Planning Commission:
 - a. BIMC 2.14.020.B.2, Roles and responsibilities (added) -- Consider the location, character, extent, and effect of any proposed dedication of any street or other area for public use, including parks, public ways, public buildings or public structures, with reference to the comprehensive plan, pursuant to RCW 35A.63.080.
 - b. BIMC 2.14.020.B.4 (added) -- Review and make recommendations on all large lot subdivisions, long subdivisions (preliminary and final), major site plan and design reviews, major conditional use permits, and major shoreline conditional use permits, taking into consideration the recommendation from the Design Review Board and a comprehensive review of the project at a public meeting.
 - c. BIMC 2.14.020.B.6 (revised) -- Create the planning commission agenda prior to its publication, ~~per~~ in consultation with the director's ~~recommendation~~; and
 - d. BIMC 2.14.020.B. 7 (deleted) -- ~~Report annually to the city council prior to the start of the budget process.~~
 - e. Several, non-substantive revisions to improve organization and clarity.

B. Revisions to BIMC 2.16.010. Land use procedures summary table and related changes throughout BIMC 2.16.

The Planning Commission made a recommendation to revise Table 2.16.010-1 as shown in the attached table, "Land Use Review Procedures – Draft Proposed Revisions." Related changes throughout BIMC 2.16 will be made to reflect/support the changes to the table.

- C. Revisions to BIMC 2.16.180.D: Land Use Review Procedures, Legislative review of regulations and area-wide rezones, Planning Commission review and recommendation.

This section provides that Planning Commission review and recommendation is required only for amendments to the BIMC related to Title 18, Zoning. The Planning Commission recommends that the language be revised to reflect the full breadth of development regulations the Planning Commission generally reviews, including Chapters 2.14 and 2.16, Title 16 (Environment), and Title 17 (Subdivisions and Boundary Line Adjustments).

Staff also identified potential improvements that could be made regarding department practice and specific code language in the applicability section related to which body (Planning Commission, City Council, or both) is required to hold a public hearing to amend the municipal code related to land use review. The code language could also be clarified regarding when a public hearing is required for any change to the municipal code. Specific sections to be revised include (the following is existing text from BIMC):

1. BIMC 2.16.180.B -- Applicability. This section applies to adoption of or amendments to the BIMC, including area-wide rezones initiated by the city and area-wide rezones accompanying privately initiated amendments to the comprehensive plan.
2. BIMC 2.16.180.D. Planning Commission Review and Recommendation.
 1. Planning Commission review and recommendation is only required for amendments to BIMC Title 18, area-wide rezones initiated by the city, or area-wide rezones associated with a privately initiated amendment to the comprehensive plan.
 2. The planning commission shall hold a public hearing for all amendments to the official zoning map and zoning code of the city prior to issuing a recommendation to the city council.
3. BIMC 2.16.180.F. City Council Review.
 1. The city council shall hold a public hearing on the proposed amendment at the second reading of the proposed regulation. Any person may participate in the public hearing. The city council has discretion to limit testimony to relevant, nonrepetitive comments and to set time limits.

Suspension of BIMC 2.16.020.Q: Housing Design and Demonstration Projects (HDDP)

The Planning Commission has recently reviewed several HDDP projects and expressed a general dissatisfaction with the program due to the review process, subjectivity of the scoring system, and perspective that the projects are not resulting in sufficient community benefit (e.g., affordable housing, water conservation measures). The HDDP program was also discussed by the Planning Commission within the context of their review of subdivision standards as part of the moratorium work plan. Current drafts of proposed subdivision design guidelines and standards include some of the HHDP program's requirements to receive incentives (e.g., diversity of housing types, use of native vegetation).

The Planning Commission recommends suspending the HDDP program until its review of revised subdivision standards is completed. Once their work is complete, it is anticipated the Planning Commission will make a recommendation to the City Council related to the future of the HDDP program. Note: The current HDDP program is set to expire on December 31, 2019, per Ordinance 2016-27.

MEMORANDUM

TO: Mayor Medina and Bainbridge Island City Council
Douglas Schulze, City Manager
Joe Levan, City Attorney
Gary Christensen, Director of Planning and Community Development
City of Bainbridge Island Planning Commission
City of Bainbridge Island Design Review Board
City of Bainbridge Island Hearing Examiner

FROM: James E. Haney

DATE: June 1, 2018

RE: Roles of City Council, Planning Commission, Design Review Board, and Hearing Examiner in Land Use Permits

I. INTRODUCTION

I have been asked by the City Attorney to provide you with a memorandum outlining the ways in which the roles of the City Council, Planning Commission, Design Review Board, and Hearing Examiner could be altered in order to increase (and possibly decrease) those roles in the review of land use project permits. This memorandum incorporates significant input from the City Attorney.

As a preliminary matter, it is important to remember that Chapter 36.70B RCW (the Regulatory Reform Act) places some specific constraints on the land use permitting process, including a requirement that there be ***no more than one public hearing on any land use permit and no more than one closed record appeal***. The City has flexibility in determining which of its land use approval bodies holds any required public hearing and which, if any, of its land use approval bodies holds the closed record appeal, but the law constrains the City to have only one of each and that plays a significant role in how the various land use approval bodies must interact.

It's also important to consider as a threshold matter the sheer complexity of land use law and the requirement that every land use permitting decision for which a hearing is required must be supported by written findings and conclusions. Professional hearing examiners, for example, are more used to preparing such findings and conclusions than city councils and citizen advisory bodies and this can serve a city well for the sake of clarity and in situations in which a decision is challenged. City councils and advisory bodies can certainly learn to draft or enter quality

findings, but that task often falls to city planning staff and/or to the city attorney when there is no hearing examiner involved. As a general rule, hearing examiners are much more familiar with the rules that govern those who are acting in a quasi-judicial (i.e., administrative court-like) capacity than is the case for members of city councils and advisory bodies, and that familiarity can be significant in having a system that is legally fair and impartial, both in reality and as a matter of perception.

With such preliminary considerations in mind, the remainder of this memorandum lays out the role envisioned for each of the land use approval bodies in state law, the role laid out for these bodies in the Bainbridge Island Municipal Code (BIMC), and the ways in which those roles might be restructured to provide more or less involvement from each of the land use approval bodies.

II. BAINBRIDGE ISLAND CITY COUNCIL

State Law Role:

While the role of a city council in legislative matters such as the adoption and amendment of comprehensive plans and development regulations is clearly defined under state law, its role in land use permit approvals is more flexible and is generally governed by whatever land use permitting ordinances the city adopts. With respect to the adoption and amendment of comprehensive plans and development regulations, state law requires that the “planning agency” of the city (the planning commission) hold at least one public hearing on the adoption or amendments. The city council must then adopt or amend the comprehensive plan or development regulations and may, but is not obligated to, hold additional public hearings of its own prior to taking final action. Because the adoption or amendment is legislative and must be accomplished by ordinance, a city council cannot delegate this power and must be the final step in the process.

With respect to land use permits, however, this power is generally administrative, and the council may delegate it or keep it as it sees fit, unless state law specifically requires council involvement. Site specific rezones is the one activity where council involvement is required, because site specific rezones must be approved by ordinance and the council is the only body that has the authority to adopt ordinances.

BIMC Role:

Under the BIMC as it currently exists, the City Council has retained a role in three land use project permit decisions: (a) the approval of final long subdivisions; (b) the approval of site-specific rezones; and (c) the approval of permits considered under consolidated permit review whenever the council is the approval authority on any one of the consolidated permit applications.

Possible Changes to Increase Council Involvement:

If the City Council desires to increase its involvement in land use permit matters, there are multiple ways in which the City Council could do so. First, the hearing examiner system the City currently has is optional under state law. In other words, while the City has the authority to create a hearing examiner and to delegate authority to that examiner to hear and decide certain types of applications, like conditional use permits, preliminary plats, shoreline permits, etc., and to hear and decide appeals from SEPA and permitting decisions made by staff, the Council does not have to delegate that authority and could abolish the hearing examiner system and retain authority over any or all of the decisions that are currently delegated.

Pros of such an approach include:

- The Council would have decision-making authority in some or all of the matters now decided by the Hearing Examiner.

Cons of such an approach include:

- The workload currently shouldered by the Hearing Examiner would be transferred to the Council.
- The Council would also have new constraints on its ability to communicate with its constituents on land use permitting matters since the appearance of fairness statutes, which are intended to prohibit communications outside of the hearing process, would apply.

Second, state law provides that the City Council may, by ordinance, specify that a hearing examiner's decision has either (a) the effect of a recommendation to the Council, or (b) on every type of land use permit other than a site-specific rezone, the effect of a final decision. If the Council wants to retain the hearing examiner system but to gain more authority over the land use permits considered by the Hearing Examiner, the Council could change the effect of the Hearing Examiner's decisions from the current final decision to a recommendation. Again, one must keep in mind that land use permitting processes are limited to one open record hearing and one closed record appeal, so if the Hearing Examiner conducted the public hearing on a land use permit application before making a recommendation, the Council's review would be limited to the record created by the Examiner and the Council could not take additional evidence.

Pros of this approach include:

- The Council would have the final decision-making authority in some or all of the matters now decided by the Hearing Examiner, but without taking on all of the Hearing Examiner's workload.

Cons of this approach include:

- The additional workload that would get shifted from the Hearing Examiner to the Council;
- Appearance of fairness constraints;
- The limitation on taking additional evidence;
- Since no additional evidence can be taken, it may be difficult to support a decision that differs from the Hearing Examiner's recommendation.

Third, if the Council wants to retain the hearing examiner system and continue to have the Hearing Examiner make final decisions, the Council could insert itself as an appellate body above the Hearing Examiner and prior to court review. Under the Land Use Petition Act, Chapter 36.70C RCW, all final land use decisions of a city are appealable to superior court within 21 days after the decision is issued.

Currently, the City has provided in the BIMC for decisions by the Hearing Examiner to be appealable directly to the superior court. If the Council wanted to increase its involvement, it could amend the BIMC to make Hearing Examiner decisions appealable to the Council and only final Council decisions appealable to the courts. The Hearing Examiner would hold the hearing and make a decision and because of the "one open record hearing, one closed record appeal" limitation, the Council could not take new evidence but would decide the appeal based on the Hearing Examiner's record and appeal criteria that would have to be set forth in the City's regulations.

Pros of this approach include:

- The Council would have final authority on some or all of the matters currently determined by the Hearing Examiner, but because the authority would be limited to appeals, not all of the Hearing Examiner's workload would shift to the Council.

Cons of this approach include:

- Appearance of fairness limitations;
- The limitation on new evidence;
- The limitation on the ability to overturn the Hearing Examiner's decision without finding that the Hearing Examiner erred in some way.

Possible Changes to Decrease Council Involvement:

The above discussion indicates how the City Council could increase its involvement in land use permits, but it is possible to decrease the Council's role as well. Of the three roles the City Council has retained, two are mandated by state law. As noted above regarding the first role, state law requires that site-specific rezones be approved by ordinance (because they amend the zoning map, which is adopted by ordinance). Regarding the second role, the Regulatory Reform

Act mentioned above also requires the City to have a consolidated permit process whereby a developer seeking multiple permits that would ordinarily go to more than one land use approval body can have those permits consolidated for review by one body only, with that body being the highest city authority that would review any of the permits. In Bainbridge Island, that authority is the Council, and if the permits applied for are included a site-specific rezone, all consolidated permits could be elevated to the Council level.

However, regarding the third role over which the City Council has retained authority, final long subdivision approvals, such a role is not required for the Council by state law. In 2017, the state legislature amended the state subdivision law to allow city councils to delegate this authority to another land use approval authority, e.g., the hearing examiner, the planning director, or the planning commission. State law does not require the council to delegate the authority, so the Bainbridge Island City Council could remain the approval body for final long subdivisions, but it no longer has to. If the Council wants to decrease its involvement in land use permitting, this is a way it could do so.

Pros of such an approach include:

- As described below, some cities have, for example, delegated final long subdivision approval authority to the Hearing Examiner on the theory that the Examiner is in the best position to determine whether the conditions the Examiner imposed on the preliminary plat have been met.
- Other cities have delegated (or are considering delegating) final long subdivision approval authority to staff based on the theory that the decision is ministerial, and that staff is capable of making such a determination.
- Such a delegation would decrease the Council's workload to some extent, and allow the Council to remove itself from a quasi-judicial role in which it currently engages and which can be a difficult role for Councilmembers due to appearance of fairness considerations.

Cons of such an approach include:

- The Council would be delegating a decision its making currently to some other body or person (e.g., hearing examiner, planning director, planning commission) and would thereby reduce its decision-making authority.
- The workload of the Hearing Examiner, Director of Planning and Community Development, and/or Planning Commission would increase to some extent.

III. PLANNING COMMISSION

State Law Role:

As noted above, planning commissions have a clear role under state law in the legislative processes used in adopting and amending comprehensive plans and development regulations. As the "planning agency" of a city, the planning commission must hold at least one public hearing

on any proposed comprehensive plan or development regulation adoption or amendment and must make a recommendation on the same to the city's legislative body, i.e., the city council.

With respect to land use permitting actions, however, cities have the choice to decide what role to provide their planning commissions. The hearing examiner system is optional under state law and it is possible for a city to empower their planning commission to perform all of the functions that a hearing examiner can perform, e.g., hearing and deciding/making recommendations on project permits such as conditional use permits, preliminary plats, and shoreline permits, and hearing appeals from city staff decisions. The role of the planning commission is whatever the city decides it to be, within certain constraints, as described in more detail below.

BIMC Role:

Under the BIMC, the Bainbridge Island Planning Commission's role in land use permitting is limited to making recommendations on major site plan and design reviews and housing demonstration projects, and, when requested by the Director of Planning and Community Development or the Hearing Examiner, on other permits such as shoreline substantial development permits, major conditional use permits, and major variances. In order to avoid violating the "one open record hearing and one closed record appeal" requirement, the Planning Commission makes these recommendations after conducting a public meeting, not a public hearing.

Possible Changes to Increase Planning Commission Involvement:

If the City Council wishes to increase the Planning Commission's role in the permitting process, it has a couple of options. Because the hearing examiner system is an alternative to using the Planning Commission to conduct permit hearings, it would be possible to amend the BIMC to transfer all or any part of the Hearing Examiner's functions to the Planning Commission. The Planning Commission could replace the Hearing Examiner as the primary hearing authority on particular permit applications or on all permit applications.

Pros of such an approach include:

- To give the Planning Commission more input or control over those applications the Council decides to give the Planning Commission jurisdiction over.

Cons of such an approach include:

- Shifting some or all of the Hearing Examiner's workload to the Planning Commission and thereby detracting from the Commission's ability to complete its other work.
- Imposing the appearance of fairness limitations discussed above on the Planning Commission, and making it harder for the Commission to separate its legislative policy-making role from an adjudicatory permitting role.

- Most jurisdictions have gone to the hearing examiner system in order to avoid these negatives and the few jurisdictions that have continued to use a planning commission for such decisions are small enough that the commission's workload is not seen as an issue.

The other option to increase the Planning Commission's role is to work within the current construct and increase the Planning Commission's authority to make recommendations. As noted above, the Planning Commission is required to make recommendations on major site plan and design review projects and on housing demonstration projects, but the Commission makes a recommendation on other permits only if requested to do so. A way to increase the Planning Commission's role would be to expand the number of permit types on which the Planning Commission may weigh in or to make the receipt of a Planning Commission recommendation mandatory.

Pros of such an approach include:

- To give the Planning Commission a more formal and mandatory role in land use permitting.

Cons of such an approach include:

- The same cons as would be the case if the Planning Commission was substituted for the Hearing Examiner (although the workload shift would be less).
- Possible impacts on the timely processing of permits.
- Under the Regulatory Reform Act mentioned above, review of most permits is required to be completed within 120 days after a complete application is filed. Adding a mandatory Planning Commission recommendation into some permits could make this timeline difficult or impossible to meet and would, at the very least, lengthen the time by which such decisions are made.

Possible Changes to Decrease Planning Commission Involvement:

If the Council desires to decrease the Planning Commission's involvement in land use permitting, it could eliminate the Planning Commission's mandatory recommendation on major site plan and design review projects and housing demonstration projects, or on the ability of the Hearing Examiner or the Director of Planning and Community Development to request Planning Commission review in other matters. This would be done by amending the BIMC to change those roles. Because state law does not mandate Planning Commission involvement in any particular development application, the Council would be free to take any action to alter the Planning Commission's role that it sees fit.

Pros of such an approach include:

- The Planning Commission would have a decreased workload, which would require less of a commitment from its members.

- The Commission would have more time to focus on legislative matters, rather than matters involving specific projects.
- Less need for staff support in assisting the Planning Commission with its work.

Cons of such an approach include:

- Less of an opportunity to receive Planning Commission and public input on certain projects.
- Could increase the Council’s workload in considering matters for which the Council currently receives input from the Planning Commission.

IV. DESIGN REVIEW BOARD

State Law Role:

There are no state law provisions governing the matters that can be assigned to design review boards. The creation, composition, and duties of such boards are entirely within the discretion of the jurisdiction creating them.

BIMC Role:

Under the BIMC, the City’s Design Review Board (DRB) serves in an advisory capacity to the Director of Planning and Community Development, the Hearing Examiner, and the Planning Commission on site plan and design reviews, conditional use permits, and housing design demonstration project applications. Applications related to single-family residences such as family day care homes, minor/major home occupations, and single-family residential height variations are exempt from DRB consideration. In addition, applications related to utility facilities and to outdoor recreation facilities are exempt from DRB consideration. In order to avoid violation of the “one open record hearing and one closed record appeal” requirement, the DRB makes its recommendations after conducting a public meeting, not a public hearing.

Possible Changes to Increase DRB Involvement:

Because the DRB has no mandatory role in land use permitting under state law, the City Council is free to increase or decrease the DRB’s role from that currently prescribed by the BIMC. There are two ways in which the DRB’s role could be increased. First, the City could expand the number and type of permit types which the DRB reviews, i.e., remove the exceptions from DRB review that are set forth in the BIMC or extend the DRBs involvement beyond site plan and design review, conditional use permits, and review of housing design demonstration project applications. Second, the City Council could make the design standards used by the DRB even more robust than they are now. While either of these options is available, the ability to make them effective may be limited by the need to balance the roles of the land use approval bodies involved in the process and the desires of the community for more (or less) design regulation.

Pros of such an approach include:

- To give the DRB a more formal and mandatory role in land use permitting.
- To allow for enhanced adherence to design guidelines and standards.

Cons of such an approach include:

- Possible impacts on the timely processing of permits.
- As mentioned above, under the Regulatory Reform Act review of most permits is required to be completed within 120 days after a complete application is filed. Adding a mandatory DRB recommendation into some permits could make this timeline difficult or impossible to meet and would, at the very least, lengthen the time by which such decisions are made.

Possible Changes to Decrease DRB Involvement:

As far as decreasing the DRB's role, the City could do so in at least three ways: (a) decrease the number and type of permits for which design review is required; (b) make the City's design review standards less robust; or (c) assign design review to another body, e.g., the Planning Commission or Hearing Examiner. The City Council is free to expand or contract the DRB's authority as the Council believes is appropriate.

Pros of such an approach include:

- The DRB would have a decreased workload, which would require less of a commitment from its members.
- The DRB could focus more on legislative matters, rather than matters involving specific projects.
- Less need for staff support in assisting the DRB with its work.

Cons of such an approach include:

- Less of an opportunity to receive DRB and public input on certain projects.
- Could decrease adherence to design guidelines and standards.
- Could increase the Council's workload in considering matters for which the Council currently receives input from the DRB.

V. HEARING EXAMINER

State Law Role:

As mentioned a few times above, the hearing examiner system is optional under state law. Cities adopting the hearing examiner system have the option to decide which permit applications and

decisions will be assigned to the examiner. These may include, but are not limited to, applications for preliminary and final plat approval, conditional use permits, variances, and shoreline permits, appeals from administrative permit decisions, and appeals from SEPA threshold determinations and EIS adequacy decisions. Cities also have the option of: (a) giving the hearing examiner's decision the effect of a recommendation to the city council; or (b) giving the hearing examiner's decision the effect of a final decision subject to appeal to the city council within a specified time limit; or (c) except in the case of a site-specific rezone, giving the hearing examiner's decision the effect of a final decision appealable to the superior court (which is the current system for the City of Bainbridge Island).

BIMC Role:

Under the BIMC, the Hearing Examiner has been given the broadest authority that it is possible for the City to give a hearing examiner under state law, with one exception. The BIMC currently provides that the decision to approve or disapprove a final long subdivision lies solely with the City Council. While this was a requirement of state law prior to 2017, the state legislature amended the state subdivision law last year to allow a city council to delegate this function.

Possible Changes to Increase Hearing Examiner Involvement:

The only way to increase the Hearing Examiner's involvement in land use permitting in the City of Bainbridge Island would be to delegate the City Council's authority over the approval or disapproval of final long subdivisions to the Examiner.

Pros of such an approach include:

- Some cities have done this on the theory that the Hearing Examiner is in the best position to determine whether the conditions the Examiner imposed on the preliminary plat have been met.
- Other cities have delegated (or are considering delegating) final long subdivision approval authority to staff based on the theory that the decision is ministerial, and that staff is capable of making such a determination.
- Such a delegation from the Council to the Hearing Examiner would decrease the Council's workload to some extent, and allow the Council to remove itself from a quasi-judicial role in which it currently engages and which can be a difficult role for Councilmembers due to appearance of fairness considerations.

Cons of such an approach include:

- The City Council would lose some decision-making authority by delegating a decision its making currently to the Hearing Examiner.
- Such a delegation would increase the Hearing Examiner's workload to some extent.

Possible Changes to Decrease Hearing Examiner Involvement:

With respect to decreasing the Hearing Examiner's role in land use permitting, the options set forth above for increasing the Council's role, the Planning Commission's role, and the DRB's role virtually all involve a commensurate reduction in the role of the Hearing Examiner. Again, because the hearing examiner system is entirely optional and because there are various options for how to structure the authority of the hearing examiner within an adopted system, the Council has flexibility to determine what role best fits the City's needs.

Pros for this approach include:

- Would allow for an increase in the role of the Council, the Planning Commission, and/or the DRB in the land use permitting process.
- The City wouldn't have to pay to support the Office of the City's Hearing Examiner.

Cons for this approach include:

- A strong argument in favor of retaining the hearing examiner system and giving the Hearing Examiner a preeminent position in the City's land use permitting process is the complexity of land use law and the requirement that every land use permitting decision for which a hearing is required must be supported by written findings and conclusions.
- Professional hearing examiners are more used to crafting such findings and conclusions than city councils and citizen advisory bodies and this can serve a city well in terms of clarity and when a decision is challenged.
- Citizen advisory bodies can certainly learn to draft or enter quality findings, but that task often falls to the city planning staff and/or to the city attorney when there is no hearing examiner involved.
- If the City decides to decrease the role of the Hearing Examiner in land use permitting, it should consider how this function will be performed.

VI. CONCLUSION

The City of Bainbridge Island has many options for how it structures its land use permitting system. Currently, the City has given the Hearing Examiner the broadest possible powers that state law allows, with the exception of power over final long subdivision approvals. Washington law is very flexible, however, and provides few restraints on the way in which cities can structure the permitting process. The City Council can increase or decrease the role of any of its land use approval bodies in the process until it finds the right balance to meet the desires of those bodies and the community at large.



Land Use Review Procedures Draft Proposed Revisions

July 24, 2018

KEY None: No role R: Review and Recommendation D: Decision A: Appeal

RED text denotes a change

| Type | Planning Commission | | Director | | City Council | | Hearing Examiner | |
|---|---------------------|------------|----------|----------|--------------|----------|------------------|----------|
| | Current | Proposed | Current | Proposed | Current | Proposed | Current | Proposed |
| Subdivisions | | | | | | | | |
| Large lot (preliminary) | None | R | D | None | None | D | A | None |
| Large lot (final) | None | None | D | D | None | None | A | A |
| Long (preliminary)* | None | R | R | None | None | D | D | None |
| Long (final) | None | None | R | D | None | None | None | A |
| Short (preliminary)** | None | Optional R | D | D | None | None | A | A |
| Short (final) | None | None | D | D | None | None | A | A |
| Site Plan and Design Review (SPR) | | | | | | | | |
| Major | R | R | D | None | None | D | A | None |
| Minor*** | Optional R | Optional R | D | D | None | None | A | A |
| Conditional Use Permits | | | | | | | | |
| Major* | Optional R | R | R | None | None | D | D | None |
| Minor | Optional R | Optional R | D | D | None | None | A | A |
| Major <u>Shoreline</u> Conditional Use Permits* | None | R | R | None | None | D | D | A |

*Quasi-judicial decision with public hearing

** Short subdivisions limited to 4 or fewer lots (currently up to 9 lots when open space incentive used)

***Planning Commission will provide recommendation for revised definition of minor SPR



July 24, 2018

SUMMARY OF KEY RECOMMENDED CHANGES (RED TEXT IN TABLE)

Large Lot Subdivisions

- Planning Commission review and recommendation (change from no review)
- Preliminary approval by City Council (change from administrative decision by Director)

Long Subdivisions (5 or more lots)

- Planning Commission review and recommendation (change from no review)
- Preliminary approval by City Council (change from HEX)
- Final approval by Director (change from City Council)

Short Subdivisions (2-4 lots)

- Planning Commission optional review and recommendation (change from no review)

Site Plan and Design Review (SPR)

- Decision by City Council (change from Director)

Major Conditional Use Permits (CUP)

- Planning Commission review and recommendation required (change from optional)
- Decision by City Council (change from HEX)

Major Shoreline Conditional Use Permits (SCUP)

- Planning Commission review and recommendation required (change from no review)
- Decision by City Council (change from HEX)

THE LAND USE PERMITTING PROCESS – ROLES AND RESPONSIBILITIES

Presentation to the Bainbridge Island City Council

By James E. Haney
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ATTORNEYS

KEY TAKEAWAYS

- The Bainbridge Island City Council has great flexibility in how it structures its permitting processes.
- State law imposes minimal constraints on how the City assigns roles and responsibilities in its land use permitting processes.
 - Chapter 36.70B RCW requires that there be no more than one open record hearing and no more than one closed record appeal on any land use permit.
 - Site specific rezones must be approved by the City Council by ordinance, but Council may delegate or not delegate approval authority on all other land use permits as the Council sees fit.
- Key considerations for City Council in determining what to delegate:
 - Complexity of land use law.
 - Quasi-judicial and appearance of fairness concerns.
 - Workload of Council, Planning Commission, DRB, and Hearing Examiner.
 - Time constraints.
 - Availability of staff resources.

CITY COUNCIL'S CURRENT ROLE IN LAND USE PERMITTING

- Outside of the requirement for the Council to approve site-specific rezones, state law provides that the Council may delegate or not delegate its authority over land use permitting as Council sees fit.
- Under BIMC 2.14.010 and BIMC 18.24.090, the Council has retained final approval authority in four specific project permit decisions:
 - Final long subdivisions.
 - Site-specific rezones.
 - Demolition permits and permits for changes/alterations to historic structures (subject to appeal to Hearing Examiner).
 - Consolidated project permit review where any element requires City Council approval.

PLANNING COMMISSION'S CURRENT ROLE IN LAND USE PERMITTING

- Under BIMC 2.14.020, BIMC 2.16.040, and BIMC Table 2.16.010-1, the Planning Commission's mandatory role in land use permitting is limited to reviewing and making recommendations on major site plan and design review applications, and HDDP applications, including HDDP applications involving land subdivision.
- The Planning Commission may also make recommendations on project permits when requested by the Director of Planning and Community Development or by the Hearing Examiner. These permits include major and minor conditional use permits, major and minor variances, shoreline substantial development permits, major and minor shoreline variances, minor site plan and design review applications, reasonable use exceptions, and site specific rezones.
- Planning Commission review occurs in a public meeting, not a public hearing.

DESIGN REVIEW BOARD'S ROLE IN LAND USE PERMITTING

- Under BIMC 2.14.040, BIMC 2.16.040, and BIMC Table 2.16.010-1, the Design Review Board advises the land use permit decision makers. DRB review is required for major site plan and design review applications. Review is optional on minor site plan and design review applications, and on major and minor conditional use permits.
- Review is limited to determining whether the project complies with adopted design guidelines.
- Review occurs in a public meeting, not a public hearing.
- Certain applications are specifically exempt from DRB review, including, but not limited to, applications related to single family residences, including family day care homes, home occupations (both major and minor), height variances, and applications related to utilities and outdoor recreation facilities.

HEARING EXAMINER'S ROLE IN LAND USE PERMITTING

- Much of the City's land use permitting decision-making is delegated to the Bainbridge Island Hearing Examiner. Under state law, RCW 35A.63.170, the Hearing Examiner system is optional, and the Hearing Examiner can be assigned any number of things, including:
 - Reviewing and making recommendations on site-specific rezones, a function which may otherwise assigned to the Planning Commission under state law; and
 - Reviewing applications for conditional uses, variances, subdivisions, shoreline permits, and any other class of application pertaining to land use; and
 - Reviewing appeals from administrative decisions or determinations on land use permits; and
 - Reviewing appeals from administrative decisions or determinations under SEPA.

HEARING EXAMINER'S ROLE IN LAND USE PERMITTING, con't.

- The effect of the Hearing Examiner's decisions must be specified by ordinance, and
 - The decision can be given the effect of a recommendation to the city council; or
 - The decision can be given the effect of a final decision appealable to the city council; or
 - Except in the case of a rezone, the decision can be given the effect of a final decision appealable only to the superior court under the Land Use Petition Act (LUPA), Chapter 36.70C RCW or, in the case of shoreline permits only, to the State Shoreline Hearings Board under the Shoreline Management Act, Chapter 90.58 RCW.
- Under BIMC 2.14.030 and BIMC 2.16, the Bainbridge Island Hearing Examiner has been given the broadest possible authority allowed by state law, with the exception that the Hearing Examiner, Planning Commission or staff member could be delegated authority to approve final plats under a 2017 law. Currently final plats are approved by the City Council.

KEY CONSIDERATIONS IN STRUCTURING ROLES

- The complexity of land use law and the potential for liability.
 - Statutes – RCW 82.02.020; RCW 64.40
 - Constitutional issues – Due Process (substantive and procedural), Takings
- Quasi-judicial decision-making, the appearance of fairness, and the requirement for findings and conclusions.
 - Quasi-judicial actions are those in which the rights of a permit applicant and others are decided after a hearing or appeal.
 - Appearance of fairness requires that proceedings not only be fair in fact, but also appear to be fair. Would a reasonable, disinterested person, knowing all of the facts and circumstances, conclude that the decision-maker might not be fair?
 - Findings of fact and conclusions of law are required for all quasi-judicial actions.

KEY CONSIDERATIONS IN STRUCTURING ROLES, con't

- Workload of City Council, Planning Commission, DRB and Hearing Examiner.
 - Addition to legislative and administrative roles.
- Timing constraints.
 - BIMC 2.16.020.J.1 requires a final decision to be rendered on all project permits within 120 days from complete application.
- Availability of staff resources.

QUESTIONS?

OMW



OMW

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The Process of Hearing and Deciding Land Use Applications

By
Ted Hunter
Sound Law Center

City of Bainbridge Island
August 27, 2018

The Process of Hearing and Deciding Land Use Applications

Appearance of Fairness

The Hearing

The Record

The Decision

Appearance of Fairness

A decision maker must not only be fair, but must adhere to the appearance of fairness.

Personal Bias
Financial Interest
Ex Parte Contact

A hearing examiner should avoid ex parte contact and recuse if personal bias or financial interest emerges.

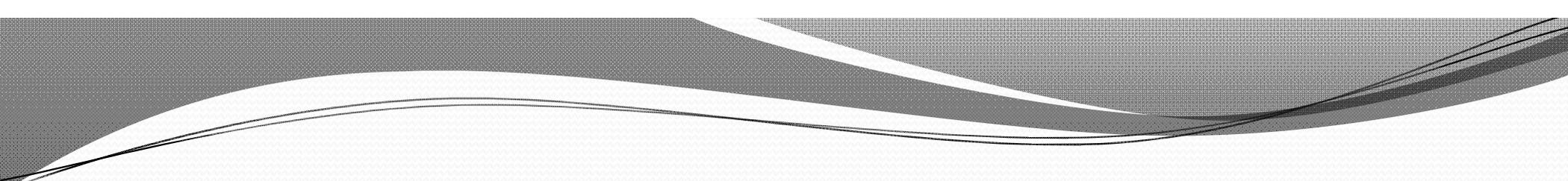
The Hearing

Notice Determination

Order of Proceedings

Opportunity to be Heard

Rulings on Objections to Evidence
(Hearsay, Irrelevance, etc.)

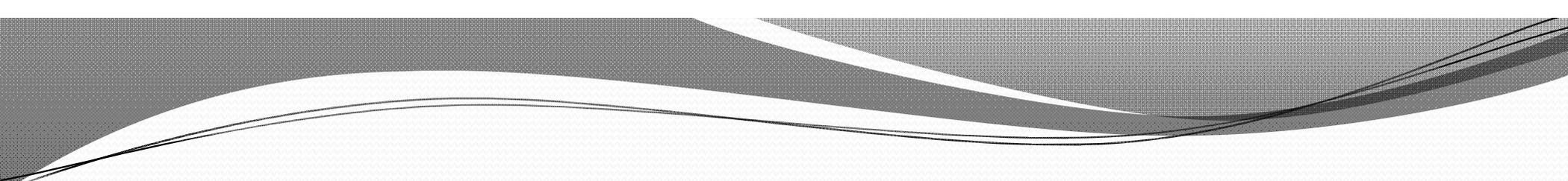


The Record

Admission of Exhibits

Taking Testimony

Determination of Completeness



The Decision

Identification of Record

Findings Supported by Reference to Record

Conclusions Supported by Findings

Decision & Conditions

Questions, Comments or Concerns

Contact Information:

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COBI LAND USE WORKSHOP

ROLES OF LAND USE DECISION-MAKING BODIES

(or, how to make legally defensible decisions
and keep your City out of court)

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City of Bainbridge Island
August 27, 2018

WHY DO LAND USE DECISION-MAKING ROLES MATTER?

“Unfortunately, it is now common that litigation often follows actions by local governments relating to land use.”

-- Futurewise, et. al. v. W.W.G.M.H.B., et. al.,
164 Wn. 3d 242 (2008)



Land use mistakes -- so what?

Exposure to the city

- ❖ Invalidate City's Decision
- ❖ Money Damages Against the City
- ❖ Attorney Fees and Costs Imposed
- ❖ Bind the City to unintended result

Individual (employee or officer) exposure

- ❖ Named as a Defendant
- ❖ Witness at Trial and witness Against Employer (City)
- ❖ Possible Un-Insured Personal Claims

Expensive

- ❖ Document Intensive, time-consuming legal discovery
- ❖ Frequently vigorously Litigated
- ❖ Uses Valuable Officer and Personnel Time

Politically damaging

- ❖ Emotional, personalized, politically motivated
- ❖ Bad P.R. for City
- ❖ Bad P.R. for individual decision-makers



HIGH RISK LAND USE DECISION-MAKING

"There is danger in
delay."

-- American proverb

"A danger foreseen
is half avoided."

-- English proverb



High risk land use actions: Examples

- ❖ Permits/approvals for adult entertainment businesses
- ❖ Gambling establishments – permitting, licensing, etc.
- ❖ Sign regulation - application, exemptions, etc.
- ❖ Large and/or complicated developments with tight timelines by the developer
- ❖ Wetlands regulations and reasonable use exemptions
- ❖ Impact and mitigation fees (application)
- ❖ Public nuisances and code enforcement



High risk L.U. actions: Examples, cont.

- ❖ Permitting of large and /or controversial and /or politically charged projects like:
 - ❖ Shopping centers / Strip malls
 - ❖ Large subdivisions
 - ❖ Essential public facilities
 - ❖ Environmentally or historically sensitive projects
 - ❖ Mobile homes /mobile home parks
 - ❖ “Big box” commercial projects
- ❖ Siting/regulation of homeless camps (tent cities)
- ❖ Group homes – zoning, regulation, licensing, etc.
- ❖ Other unique, large or complicated proposals with big \$\$\$ at stake and/or public controversy



WHAT TYPE OF DECISION ARE YOU MAKING?

LEGISLATIVE?

or

QUASI-JUDICIAL?

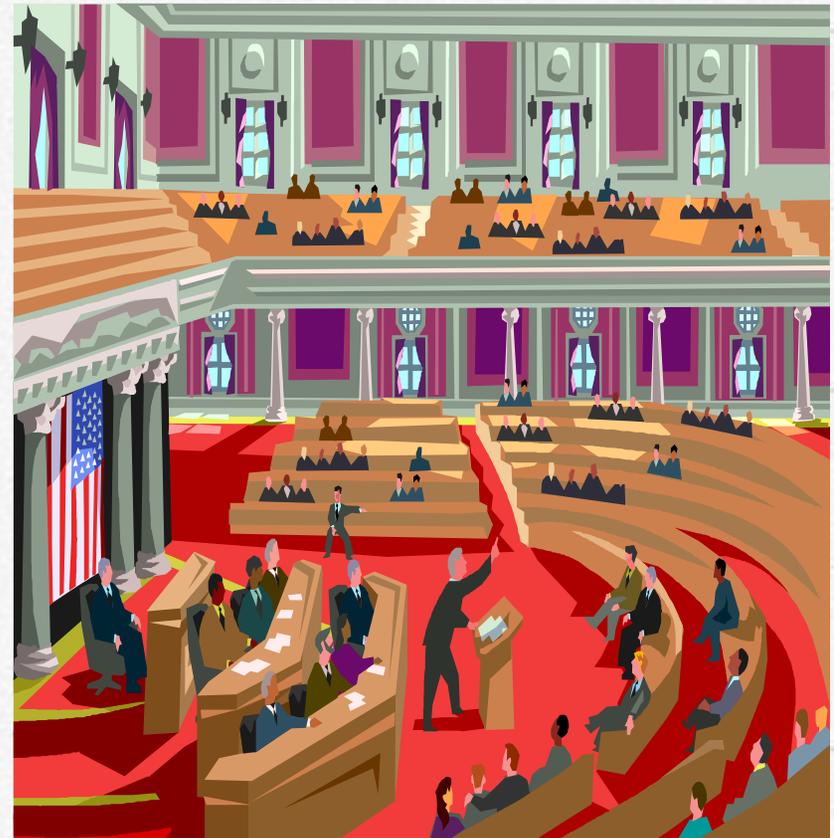
or

MINISTERIAL/
ADMINISTRATIVE?



LEGISLATIVE DECISION-MAKING

Policy law making
by elected officials
(city/county
council) that take
the form of
ordinances, code
amendments,
resolutions,
contracts, etc.



Legislative decisions, Examples

"Policy-Making"

- ❖ Capital improvements
- ❖ Comprehensive Plans/amendments
- ❖ Area-wide planning
- ❖ Adoption of zoning maps
- ❖ Adoption of GMA development regulations
- ❖ Adoption of general application ordinances
- ❖ Long-term city planning actions/decision
- ❖ Infrastructure planning/financing/extensions
- ❖ Annexations
- ❖ Contracts
- ❖ Inter-local agreements



RISKS & BENEFITS -- legislative decision-making for councilmembers

- ❖ Lowest risk of the various roles for Councilmembers
- ❖ Strongest basis for immunity if sued
- ❖ Most defensible if judicial challenge
- ❖ Fewest legal challenges (in my experience)
- ❖ Very broad authority to set policy and legislate
- ❖ AOF not apply
- ❖ OPMA does apply
- ❖ You CAN talk to constituents about legislation/policy
- ❖ Generally, no findings and conclusions required
- ❖ Usually no deadline or time limits for legislating



TIPS: for legislative decisions

- ❖ Always ensure that legislation is: (1) clear; (2) easy to understand; (3) not vague or ambiguous; and (4) not in conflict with state or federal law
- ❖ Ensure that all legislation has a legitimate public purpose i.e., advance public health, welfare, safety, or fiscal health of the city
- ❖ Use moratoria sparingly; ensure that state law requirements are met
- ❖ Ensure that legislation does not impair public or private contracts
- ❖ You can legislate – codify -- which decision-makers shall make decisions or recommendations, conduct hearings, or decide appeals, etc.
- ❖ Biggest risk: not requesting or following city attorney advice before taking high risk actions
- ❖ Always ensure to protect vested rights when enacting legislation, and incorporate into legislation (where appropriate)
- ❖ Do not use legislation to get involved in private property agreements, CCR's, homeowner's agreements, etc.
- ❖ Request and follow attorney advice when needed



QUASI-JUDICIAL DECISION-MAKING

Judge-like decision made by hearing examiner, city council, board, or commission, on a contested land use application, involving discrete parties and a hearing



Quasi-judicial decisions: Examples

“Judge-like decision”

- ❖ Subdivision/short plat approvals
- ❖ Conditional/special use permits
- ❖ Site plan approvals
- ❖ PUDs/PRDs/PDDs/MUPs
- ❖ Mixed-Use Developments
- ❖ Appeals of administrative decisions
- ❖ Variances/waivers
- ❖ Reasonable use exceptions
- ❖ Shoreline permits
- ❖ Boundary line adjustments (some)
- ❖ Site-specific rezones
- ❖ Other property-specific permits or approvals



RISKS & BENEFITS – quasi-judicial decision-making for councilmembers

- ❖ Highest risk of the various roles for Councilmembers
- ❖ Lowest (weakest) basis for immunity if sued
- ❖ Least defensible if judicial challenge
- ❖ Most frequent legal challenges (in my experience)
- ❖ NO authority to set policy, do “visioning,” or to “make law”
- ❖ AOF does apply
- ❖ OPMA does not apply
- ❖ You CANNOT talk to constituents about the Q.J. matter (AOF)
- ❖ You can’t take sides
- ❖ Have to consider all evidence in the record; time consuming
- ❖ Usually short time limits to make decision. NO DELAY
- ❖ Decision limits: Must follow criteria in code or state law
- ❖ Must support decision with findings and conclusions
- ❖ Lots of limits on decision-making authority, and process requirements



Quasi-judicial decisions: Some limits

- ❖ Standards MUST guide decision-making process
 - ❖ L.U. decision must be made in accordance with adopted standards
 - ❖ Standards should not be arbitrary or vague
 - ❖ Standards cannot reserve discretion to decision-maker on case-by-case basis
 - ❖ Standards must provide process for complying with statutory requirements
 - ❖ Decision must be made by determining application's compliance with standards
- ❖ Q.J. decision-makers must NOT interfere with the staff process
 - ❖ Don't meddle in staff's decision-making or process
 - ❖ Don't interfere with or delay processing of the permit
 - ❖ Big \$\$\$ cases where decision-makers interfered with staff or process:
 - ❖ Mission Springs, Inc. v. City of Spokane, 134 Wn. 2d 947 (1998)
 - ❖ Westmark Dev. Corp. v. City of Burien, 140 Wn. App. 540 (2007)
 - ❖ K & S Developments v. City of SeaTac, K.C. # 12-2-40564-6 KNT (2016)
 - ❖ Maytown Sand and Gravel LLC v. Thurston County, 198 Wn. App. 56 (2017)
- ❖ Q.J. decision-makers must apply the facts to the law
 - ❖ No policy discretion
 - ❖ Must apply legal standards to the facts in the record – LIKE A JUDGE
 - ❖ "The Council seems to have heard clearly the citizen complaints and the comments of one of its own members while disregarding the record. We cannot escape the conclusion, in view of the evidence in support of Maranatha's application, that the council based its decision on community displeasure and not on reasons backed by policies and standards as the law requires."
Maranatha Mining v. Pierce County, 59 Wn. App 795 (1990)



Quasi-judicial decisions: Limits, cont.

- ❖ Q.J. decision-makers must support the decision with “substantial evidence”
 - ❖ Must be adequate evidence in the record to support the F & C and decision. Eg.: decision can't be based on:
 - ❖ unsubstantiated, generalized fears of area residents
 - ❖ Community displeasure
 - ❖ Adverse aesthetic impacts (unless code provides as a criterion)
- ❖ Must support the decision with proper findings of fact and conclusions of law
 - ❖ Written decision is needed
 - ❖ Findings on each element or criterion
 - ❖ Follow legal requirements for F & C
- ❖ Permit standards can't be changed mid-process
 - ❖ Governed by (1) V.R. doctrine; (2) Reg. Reform; (3) A & C standards
 - ❖ “Fundamental land use planning choices made in adopted comprehensive plans and development regulations shall serve as the foundation for project review.” RCW 36.70B.030(1)



Quasi-judicial decisions: Limits, cont.

- ❖ The City doesn't represent anyone and can't take sides
 - ❖ In applying the law to the facts, the City (Planning Commission, City Council or other decision-maker) acts as a neutral decision maker – not as a representative or advocate for the applicant, or neighboring property owners or project opponents
 - ❖ Can't submit Q.J. applications or process to popular vote or initiative process
 - ❖ Citizens may ask "who will represent the people?" The answer is, the City may not do so in a quasi-judicial process. All sides must represent themselves
- ❖ Decision-makers must comply with the AOF
 - ❖ Hearings must both appear fair and actually be fair
 - ❖ No backroom deals or off the record conversations
 - ❖ Follow the rules re: AOR (below)
- ❖ Decision cannot be arbitrary and capricious
 - ❖ A & C decision or process means the decision is void, the city loses, and the city may have to pay \$\$\$
 - ❖ Follow the rules re: A & C



TIPS: for quasi-judicial decisions

- ❖ Follow your code and state law
- ❖ No policy-making, "visioning" or city goals
- ❖ Recognize and enforce vested rights
- ❖ Consider all of the evidence
- ❖ Do not offer, request or accept favors, gifts or special processes
- ❖ Make decisions timely (no delay):
 - ❖ Check and follow your code!
 - ❖ RCW 36.70B.070(1) – 28 days to respond to application
 - ❖ RCW 36.70B.070(4) – 14 days to respond to additional info.
 - ❖ RCW 36.70B.080(1) – 120 days to act on application
 - ❖ Your code may have shorter or different deadlines



TIPS: quasi-judicial decisions, cont.

- ❖ Decisions must be competitively neutral and applied non-discriminately
- ❖ DO NOT condition on: (1) financial viability; (2) technical capability or expertise; (3) disclosure of proprietary information; or (4) waiving legal rights
- ❖ DO NOT get involved in private property agreements, CCR's, homeowner's agreements, etc.
- ❖ Treat all permit applicants equally and consistently
- ❖ Don't promise, guarantee or assure specific decisions or approvals



TIPS: quasi-judicial decisions, cont.

- ❖ Always have good written findings and conclusions
- ❖ Don't let citizen complaints or community displeasure influence decision
- ❖ Recommendation: Use a hearing examiner for all final (or appeal) quasi-judicial decisions or for administrative appeals
- ❖ Do not base decisions on "what's good for the community" or on "the best interests of the city"
- ❖ Base decisions on "substantial evidence" in the record
- ❖ Remember – you are the "umpire" to ensure code and law compliance; don't take sides
- ❖ **No politics!**



ADMINISTRATIVE/MINISTERIAL DECISION-MAKING

Ministerial (administrative) permits are simple permits or approvals (grading or building permits, for example) typically handled at the staff level, and without a hearing. Once city code requirements are satisfied, the permit must be issued. No politics, delay or discretion allowed.



Ministerial decisions: Examples

“simple, staff-level permits”

- ❖ Building permits
- ❖ Grading and clearing permits
- ❖ Tree cutting permits
- ❖ Street use permits
- ❖ Engineering or design approvals
- ❖ Utility connection permits
- ❖ Boundary line adjustments (some)
- ❖ Other simple routine permits typically issued by staff, without process or hearing



RISKS & BENEFITS – administrative / executive decision-making for councilmembers

- ❖ Usually not allowed by charter or code; typically reserved to department director(s) or staff. Not recommended as a role for councilmembers
- ❖ If used, typically low risk of the various roles for Councilmembers
- ❖ If used, low (weak) basis for immunity if sued
- ❖ If used, moderately defensible if judicial challenge
- ❖ Very few legal challenges (in my experience)
- ❖ NO authority to set policy, do “visioning,” or to “make law”
- ❖ AOF does apply
- ❖ OPMA likely does apply
- ❖ You CANNOT talk to constituents about the matter (AOF)
- ❖ You can’t take sides
- ❖ May be short time limits to make decision. NO DELAY
- ❖ Decision limits: Must apply criteria in code or state law to the application; NO DISCRETION allowed



TIPS: for ministerial decisions

- ❖ Ministerial permits are NOT discretionary; once code/statute requirements are met, must issue promptly
- ❖ Follow strictly ALL statutory and code criteria
- ❖ DO NOT DELAY – issue promptly (follow your code or State law deadlines (e.g., 120 day rule))
- ❖ DO NOT interject city council or politics into administrative process or decision-making
- ❖ Ensure that decision-making/issuance is not: (1) unreasonable; (2) cost-excessive; (3) delay ridden; or (4) burdensome permit review processes
- ❖ DO NOT impose excessive or unreasonable bonding or indemnification requirements



TIPS: administrative decisions, con'd.

- ❖ Permit decisions must be competitively neutral and applied non-discriminately
- ❖ Cannot condition ministerial permits on: (1) financial viability; (2) technical capability or expertise; (3) disclosure of proprietary information; or (4) waiving legal rights
- ❖ DO NOT get involved in private property agreements, CCR's, homeowner's agreements, etc.
- ❖ Treat all ministerial permit applicants equally and consistently (same process)
- ❖ Don't promise, guarantee or assure specific decisions or approvals of permits
- ❖ Follow "Tips" for avoiding arbitrary and capricious decisions
- ❖ Request and follow attorney advice when needed



THE HEARING EXAMINER

"The Hearing Examiner is responsible for conducting hearings on and adjudicating quasi-judicial cases involving a variety of complex land use and regulatory compliance issues, and other issues which the City Council may designate to the Hearing Examiner by ordinance. ..."

-- BIMC 2.14.030

Walter, COBI - Land Use Roles



08-27-18

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Hearing Examiner: Authority

- ❖ State law: RCW 35A.63.170
 - ❖ Broad authority over L.U. applications, administrative appeals and SEPA appeals
 - ❖ Only instance in which the State Legislature has mandated that legislative bodies make decisions on land use matters: **Area-wide/general applicability zoning decisions/rezones**
- ❖ Your City Code authorizes: BIMC 2.14.030
 - ❖ Also: Land Use Policy 6.8 of COBI Comprehensive Plan
- ❖ Jurisdiction/limits: BIMC 2.14.060, and other authority as conferred by ordinance
- ❖ Other sections of BIMC ch. 2.14 (roles and responsibilities for L.U. decision-making) and ch. 2.16 (Land use review procedures) which may be applicable: (1) requirements and process to receive and examine available information; (2) conduct public hearings; (3) and enter findings of fact and conclusions of law; (4) issue a decision or recommendation, as applicable.



Hearing Examiner: Reasons to use

- ❖ Avoids political influence or pressure (not allowed in Q.J. decisions)
- ❖ They are professional – specially trained
- ❖ They have experience with many different jurisdictions and regulations
- ❖ They are technically adept, and have knowledge of physical land development and technical feasibility
- ❖ More cost effective (reduces appeals and judicial challenges)
- ❖ Allows for a more efficient process (faster decisions)
- ❖ Substantial reduction in judicial (court) reversal of decision
- ❖ Substantial reduction in potential legal /damages claims against the city
- ❖ Eliminates potential legal claims against citizen-decision makers personally – like Planning Commission and City Council members
- ❖ Instills public confidence in the decision-making process



Hearing Examiner: Reasons, cont.

- ❖ Helps ensure constitutional protection of due process of law and equal protection
- ❖ Helps ensure predictability and consistency in the process
- ❖ Provides good customer service
- ❖ Hearing examiners are skilled in understanding, interpreting and applying nuances of municipal code and general legal principles
- ❖ Use of a hearing examiner helps satisfy State law requirements for streamlining the regulatory process and administrative review and appeals (1995 Regulatory Reform Act, RCW Chapter 36.70B)
- ❖ Use of a hearing examiner segregates and clearly delineates quasi-judicial decision making functions from legislative (law-making) and long-term planning functions (which are the functions of planning commissions and city councils)
- ❖ Frees up city council and planning commission time for other important planning, goal setting and law-making functions.



ONE EXAMPLE: Mission Springs v. Spokane

“ [T]he council interjected itself into the administrative process reserved to the City Manager notwithstanding clear and unequivocal charter mandate to the contrary.”



Mission Springs - Background

- ❖ Developer Mission Springs submitted all required paperwork and met all required conditions and steps necessary to get approval of a planned unit development that would increase traffic in the area.
- ❖ M.S. PUD application was granted August 31, 1992, at which point they were vested for five years under laws in effect at that time.
- ❖ M.S. obtained grading and building permits in 1993, but did not utilize them before they expired. In 1994, they filed an identical application for building permits. Spokane's building officer briefed City Council on the applications, and advised they were ready to issue the permits.
- ❖ City Council, against the advice of the City Attorney, directed the City Manager to refuse to deny the permits under the guise of wanting to conduct additional traffic studies.
- ❖ During a City Council meeting, councilmembers opposing the development said they "ha[d] the opportunity to put a stop to [the development]" and "[I]et's see how confident [Mission Springs is]."



Mission Springs – The lawsuit

- ❖ M.S. sued the City of Spokane, the Spokane City Council, the City Manager, the Mayor, and each member of the City Council and their spouses for damages.
- ❖ The lawsuit brought claims under RCW ch. 64.40, which creates a cause of action for damages resulting from actions that are arbitrary, capricious, unlawful, or exceed lawful authority, and under 42 U.S.C. Section 1983, alleging violation of their constitutionally protected property rights.
- ❖ The Washington Supreme Court held the councilmembers' actions in exceeding their roles and interfering with ministerial permits (among other things) violated both Ch. 64.40 and Sec. 1983, and that legislative immunity did not protect the individuals. The Council members were individually liable for damages and attorneys' fees, as well as the City.
- ❖ The City eventually settled all claims for well over \$1 million as well as other conditions, including an expedited permit process.



Mission Springs – Key Court rulings

- ❖ Applicants for grading and building permits are entitled to immediate issuance upon satisfaction of relevant ordinance criteria and SEPA requirements. Issuance is not discretionary but rather ministerial.
- ❖ Neither a grading permit, building permit, or any other type of ministerial permit may be withheld at the discretion of a local official to allow time to undertake a further study.
- ❖ Courts have recognized developers have a constitutionally cognizable property right in a grading permit and the right to use and enjoy the land.
- ❖ An act undertaken by a municipal legislative body is an act of the municipality. The City Council's act of ordering the City manager to refuse to process the permits was attributed to the City, creating City liability.
- ❖ The councilmembers were not protected by legislative immunity because their acts were executive in nature, and they exceeded their authority and improperly stepped into the staff's ministerial decision-making.



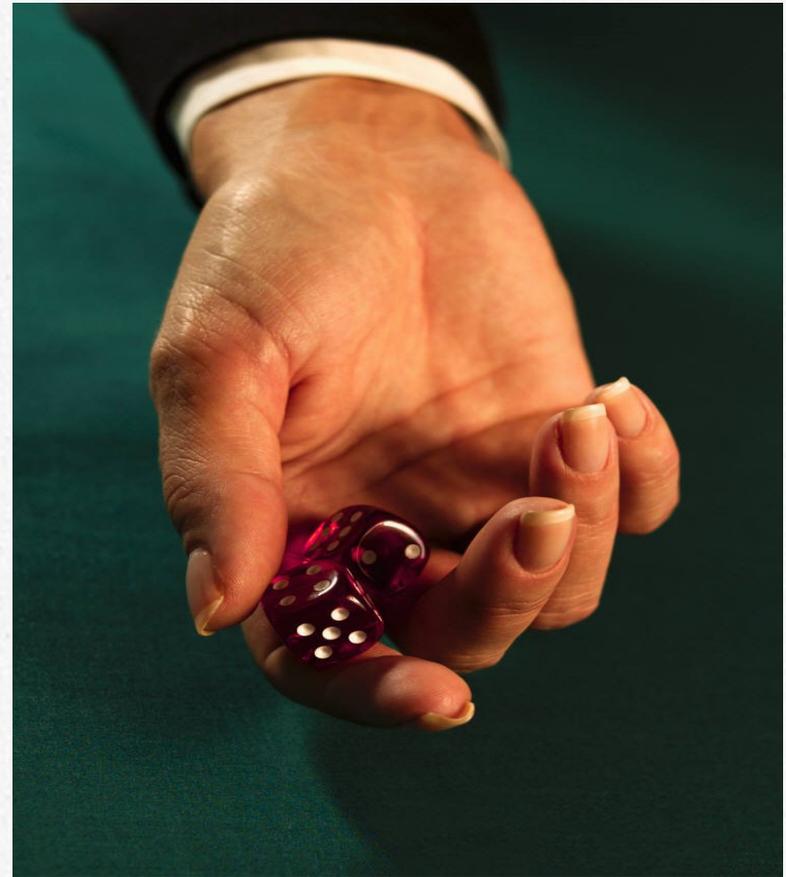
Mission Springs – What the Court said

- ❖ (finding the councilmembers acted irrationally) “The actions of the City Council were at least two steps removed from that reason which is required.”
- ❖ “[T]he council interjected itself into the administrative process reserved to the City Manager notwithstanding clear and unequivocal charter mandate to the contrary.”
- ❖ “Although the irrationality is objectively established by the departure from the mandatory legal process, we note the irrationality is further dramatized by the overt rejection of advice from the City's own attorney in favor of a defiant course of action[.]”
- ❖ “Therefore we have rather a straightforward situation where clear legal rights of the citizen were violated by city council members acting in excess of their lawful authority and by a City Manager acting in excess of his own lawful authority but at the urging of the City Council. **As one lawyer once put it, “What is to be done?”**”



ARBITRARY & CAPRICIOUS DECISION-MAKING

“A decision which is made willfully and unreasonably, without consideration and in disregard of the facts or circumstances.”



Arbitrary & capricious: Results of wrongful decision-making

- ❖ Mixing, co-mingling or confusing rules for different L.U. roles can lead to an A & C decision ... and liability
- ❖ A standard of liability (not a stand-alone claim)
- ❖ If found to be A & C, decision is INVALID
- ❖ May establish basis for damages (RCW ch. 64.40, Sect. 1983, tortious interference, etc.)
- ❖ Potential personal liability
- ❖ Time, cost and embarrassment of re-doing process and decision
- ❖ Erodes public confidence in the city and L.U. process



Arbitrary & capricious: Examples

- ❖ Failing to make findings and conclusions
- ❖ Ignoring/not applying the law
- ❖ Applying the wrong law
- ❖ No evidence in record to support decision
- ❖ Ignoring evidence in the record
- ❖ Imposing standards or criteria not authorized by statute or code
- ❖ Waiving standards or requirements (where code not allow)
- ❖ Basing decisions on “NIMBY” complaints or issues
- ❖ Making decisions based on economic viability of a project
- ❖ Ignoring city attorney advice (Mission Springs case)



Arbitrary & capricious: Examples, cont.

- ❖ Making Q.J. or ministerial decisions based on political agenda or motives
- ❖ Making Q.J. or ministerial decisions based on number of proponents or opponents
- ❖ Applying legislative policies, goals, or “visioning” when deciding Q.J. or ministerial applications
- ❖ Basing decisions on community desires, displeasure, public sentiment or complaints
- ❖ Putting application to a popular vote
- ❖ Adding/changing conditions of a plat at final plat stage
- ❖ Wrongfully delaying (stalling) permits or decisions



TIPS: to avoid arbitrary and capricious decisions

- ❖ Don't make up or guess at standards or criteria
- ❖ Don't make decisions on political gain or for political reasons
- ❖ Rely on honest and credible data in record to support decisions
- ❖ Don't base decision on community desires or displeasure, etc.
- ❖ No policy-making, "visioning" or city goals
- ❖ Recognize and enforce vested rights
- ❖ Consider all of the evidence
- ❖ Make decisions timely (your code or 120-day rule)
- ❖ Always include good written findings and conclusions
- ❖ Use a hearing examiner for all final (or appeal) quasi-judicial decisions or for administrative appeals
- ❖ Do not base decisions on "what's good for the community" or on "the best interests of the city," or for "NIMBY" reasons
- ❖ Base decisions on "substantial evidence" in the record



THE APPEARANCE OF FAIRNESS DOCTRINE (AOF)

"No municipal officer may accept employment or engage in business or professional activity that the officer might reasonably expect would require or induce him or her by reason of his or her official position to disclose confidential information acquired by reason of his or her official position."

-- RCW 42.23.070(3)



AOF: What is it?

- ❖ Statutory requirement for all quasi-judicial meetings, hearings and decisions
- ❖ Not apply to legislative decisions
- ❖ Hearing & decision must (1) be fair in fact; and (2) appear fair to others
- ❖ Test:

“Would a reasonable person, apprised of the totality of a member’s personal interest or involvement be reasonably justified in thinking that the involvement might affect the member’s judgment?”



AOF: Who does it apply to?

- ❖ Only quasi-judicial hearings & decisions (acting like a judge):
 - ❖ specific parties, property or application
 - ❖ hearing or other action
 - ❖ determine rights, duties or privileges of specific parties or property
- ❖ Examples of actions/decisions:
 - ❖ Plats (short & full)
 - ❖ Site plans
 - ❖ All permits
 - ❖ Site specific rezones
 - ❖ Variances, SUP's, CUP's, MUP's, etc.
 - ❖ Other Q.J. development applications and projects
- ❖ Examples of decision-makers:
 - ❖ City council members
 - ❖ Planning commission members
 - ❖ Board of Adjustment members
 - ❖ Hearing Examiners
 - ❖ Permit staff
 - ❖ Other decision-making boards and commissions



AOF: Prohibited acts

- ❖ Prejudgment, bias or appearance of partiality
- ❖ Business relationships
- ❖ Social relationships
- ❖ Marital relationships
- ❖ Ex-parte communications with proponent or opponent
- ❖ Conflicts of interest, proximity to project, etc.
- ❖ Membership in organizations
- ❖ Personal benefit/detriment
- ❖ Hostile, rude or antagonistic comments or actions



AOF: Ex parte contacts

- ❖ The rule: No ex parte contacts with opponents or proponents during pendency of quasi-judicial action
- ❖ Applies even where no formal application submitted, if decision-maker has knowledge of application or potential plans, etc.
- ❖ If violated: disclose substance of the communication on the record and offer rebuttal



AOF: Disclosure and waiver

- ❖ BIG RULE: If in doubt, disclose!
- ❖ Make disclosure at earliest opportunity, ON THE RECORD
- ❖ Disclose all important details
 - ❖ Who, what, when, where, etc.
 - ❖ Have pre-prepared disclosure statement
- ❖ If no objection at time of disclosure, later objections/challenges are WAIVED



AOF: Consequences

- ❖ Invalidation. Action is null and void
- ❖ Potential claims:
 - ❖ To City
 - ❖ To individual violator
- ❖ May provide evidence of arbitrary and capricious action or decision
- ❖ Potential attorneys' fees
- ❖ Other impacts to city:
 - ❖ Embarrassment
 - ❖ Loss of public confidence



AOF: How to comply

- ❖ Be aware of AOF, no bias, and disclosure obligations and comply with them.
- ❖ If possible – avoid communications on pending or forthcoming applications up front
- ❖ Rule if violation: DISCLOSE, DISCLOSE, DISCLOSE!
- ❖ Think of consequences to your city and the process – not of just yourself
- ❖ Steps to compliance:
 - ❖ #1 – Disclose
 - ❖ #2 – If challenged, step down and leave the room
 - ❖ #3 – Continue the hearing, or – if necessary
 - ❖ #4 – Cancel hearing and continue/re-start it



YES, IT DOES MATTER.

"These are difficult times for property owners, community groups and municipalities, the triumvirate involved in every major land use issue. . . . Peace may not be at hand, but the courts and the agencies charged with applying land use and environmental regulations have a responsibility to be even-handed and balance the competing concerns."

The Overlake Fund v. Shoreline Hearings Board,
90 Wn. 2d 746 (1998)





CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 10 Minutes

AGENDA ITEM: (8:20 PM) Neighborhood Matching Grant Application for A Taste of Lynwood - Executive,

STRATEGIC PRIORITY: Vibrant Economy

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Presentation

PROPOSED BY: Executive

RECOMMENDED MOTION:

I move to award \$_____ in neighborhood matching grant funds to the A Taste of Lynwood project.

SUMMARY:

A Taste of Lynwood is a festival that brings neighbors together to celebrate the south end of Bainbridge Island through music, arts, crafts, vendors and food in a family-friendly setting. Organizers of the event are requesting \$5,000 in neighborhood matching grant funds. The money would be used to support entertainment, advertising and the Kids Zone. The applicant's required match is \$2,500. The applicant is offering to provide a \$48,500 match, which is 91% of the total budget for the project.

FISCAL IMPACT:

| | |
|------------------------------------|---------|
| Amount: | \$5,000 |
| Ongoing Cost: | |
| One-Time Cost: | \$5000 |
| Included in Current Budget? | Yes |

BACKGROUND: The Neighborhood Matching Grant program was designed to bring community members together to complete projects that enhance or create improvements in a neighborhood and/or expand community connections or civic engagement among Bainbridge Island residents. All projects must benefit the community.

For an application to be approved for funding, the application is reviewed and forwarded for approval by the Communications Coordinator and cross-department staff, reviewed by the City Manager, then forwarded to the City Council for final approval.

There is currently \$13,153 available for Neighborhood Matching Grant projects in 2018.

ATTACHMENTS:

[A Taste of Lynwood Application.pdf](#)

[A Taste of Lynwood Presentation.pptx](#)

FISCAL DETAILS:

Fund Name(s): General Fund

Coding:



NEIGHBORHOOD MATCHING GRANT APPLICATION

For Office Use Only

Date Received by City: _____

Application Directions: Please read the Neighborhood Matching Grant application packet thoroughly before submitting your Application. The Application should contain a thorough scope of work, timeline, budget, and details of the neighborhood match.

Project Coordinator's Name: Arnie Sturham

Telephone (best): 206-295-5641 Telephone (alternate): 206-842-2369

Email: asturham@gmail.com

Coordinator's Mailing Address: 4569 Lynwood Center Rd. NE Bainbridge Island, WA 98110

1. **Name of Project:** A Taste of Lynwood 2018

2. **What is the neighborhood opportunity or need identified and how does the project address it?**

A Taste of Lynwood brings neighbors together to celebrate the south end of Bainbridge Island and remind the community at large of the vibrant opportunities there are to be had down here away from the main hub of Winslow.

3. **Describe the project and intended impact: what will be accomplished, who will be served, scope of work, time line for proposed activities, neighborhood geographic area to be affected.**

A Taste of Lynwood is a free day-long festival for all comers: young and old, singles and families, Islanders and our neighboring communities. It is a celebration of the south side of Bainbridge Island through music, arts, crafts, vendors, and food and drink in a family-friendly setting. The goal is to both thank the community and patrons that support our little part of town, as well as promote the south side as a destination with a lot going on.

Beyond the live music acts, of which there will be seven performances, we'll have more than 70+ vendors selling their wares and treats. Additionally, we'll have two supporting organizations -- Kids Discovery Museum of Bainbridge Island and Bainbridge Youth Services -- deeply involved with family-friendly activities. KIDiMu will be sponsoring and staffing the Kids Zone which will provide a number of games and activities targeting kids of all ages, but primarily directed at those 10 and under. BYS will kick the whole day off with a morning Baker Hill Challenge Fun Run.

Beyond the bi-monthly planning sessions our scope of work includes but is not limited to booking talent/music acts, sourcing infrastructure rentals (wiring, stages, sound, tables, chairs, banners, etc), permitting with the city, marketing/PR/promotions/advertising, managing partner orgs, approving vendors, parking and traffic planning, etc. Lynwood Center Road will close for the day from Baker Rd to Pt White.

4. Who was involved in the idea development and subsequent decision to pursue this project?

It was a group decision made by the merchants of Lynwood Center. For months, we have held regular pla

5. If this is a physical improvement project, describe location:

Location: N/A
(Attach a map or site drawing if necessary to explain site)

Describe location and ownership of property: _____
Festival will be on Lynwood Center Road between Baker Hill and just beyond the Pt. White intersection.

If the project is on private property, what is the project's measurable benefit to the public?
_____ Festival activities will spread from Lynwood Center Rd onto surrounding properties owned by Historic Lym

6. Will your project require on-going maintenance or repair? If so, how will it be provided?
Note: If the Matching Grant project has been installed on private property, or on property owned by another public entity, such as the School District, Parks District, or Library District, the applicant will be required to work with the property owner to develop and implement a maintenance plan.

N/A

What is the proposed project start date: Jan 2018 Completion date: Sept 15, 2018

7. Project work plan (describe key project activities and when each will occur)

| Activity | *refer to attached expense sheet to understand all budgeted activities* | Projected completion date |
|--|---|---------------------------|
| Infrastructure/materials sourcing | | September 14th, 2018 |
| Music/entertainment booking and booth vendor recruitment | | September 1st, 2018 |
| Permitting/parking/shuttles | | September 1st, 2018 |

8. Are any permits or other types of permission required from other parties for this project to be implemented?

If permits or formal letters are not yet in hand, describe current status of research and outcome of relevant contacts to date.
PERMITS FOR RIGHT OF WAY, SIGNAGE AND PARKING ARE ALL IN PROCESS NOW WITH COBI.

9. BUDGET - Anticipated items and budget required for project:

Attach quotes for items or services, and/or hourly rates for required services. Specify items/expenses that will be covered with Matching Grant funding as well as those items/expenses that the applicant will cover through match.

BUDGET ITEMS IN MATCHING GRANT REQUEST

| <u>Item/Resource professional</u> | <u>Source/vendor</u> | <u>Estimated cost Hourly rate</u> |
|-----------------------------------|-----------------------|---------------------------------------|
| *see attached expense list* | | |
| Traffic Coordinator | Don Myrick | \$1,000 |
| Event Mapping | HOAG | \$1,000 |
| insurance | Thornburg Insurance | \$1,000 |
| Toilets/sinks | Randy Kan | \$1,000 |
| Road Side Signage/Barricades | ``Highway Specialists | \$1,000 |

REQUEST TOTAL – Amount of funding requested from Matching Grant \$5,000

10. MATCH

List how you will arrive at your 1:2 match for the project (\$1 of neighborhood contribution for every \$2 of City grant funding) e.g. in-kind services, donated materials or money, or volunteer labor. The value of volunteer labor is \$28.99/hour. Technical/professional services may be values at market rate, with proof of market rate.

| <u>Match Item</u> | <u>Source/vendor</u> | <u>Estimated value</u> |
|--------------------------------|------------------------------------|------------------------|
| Entertainment (stages) & sound | Various artists | \$16,500 |
| Advertising, graphics, signage | Kitsap Sun, BI Review, Sound Repro | \$13,500 |
| Kids Zone and Fun Run | KiDiMu and BI Youth Services | \$5,000 |

see attached expenses page

TOTAL – estimated value of match 48,500

TOTAL PROJECT BUDGET (grant request + match to be provided) 53,500

11. VOLUNTEERS – If using volunteers please describe specifically who you will recruit, how you have or will secure their participation in the project and their specific role(s) in this matching grant project.

Owners and employees of nearly every Lynwood Center business have and will dedicate volunteer hours and have also contributed monetarily. Merchants include: Treehouse Cafe, Historic Lynwood Center, Pleasant Beach Village, Walt's Lynwood Market, Pan d'Amore, Roost, Windemere, Bay Massage and Skin Care, The Marketplace, Hammy's, Bainbridge Island Outfitters + Depot, Sash, Heyday Farm, Manor House, Beach House, Suzanne Maurice, Village Music, Spider Lily

12. COMMUNITY PARTICIPATION

Describe how this project builds neighborhood connections and expands resident engagement.

As its name suggests, A Taste of Lynwood is a celebration of our neighborhood and a way to share it with others. In addition to the food and drink, dozens of vendors and musical acts, we're also planning a neighborhood tug-of-war to foster a little friendly competition among BI neighborhoods.

Describe specific outreach efforts planned to promote or involve diverse neighborhood populations.

We have already taken out advertisements in the Bainbridge Review, Kitsap Sun and are working on editorial with Bainbridge Island Magazine. We have made posters/flyers and have already begun to post them across the island. We are speaking with a friend at Bainbridge Community Broadcasting about recording a podcast. There will also be large banners posted around town and we'll be promoting free shuttles/parking, handicap access and bicycle parking.

If you have engaged other community partners, describe who has been involved in developing this project and how they are involved.

Beyond the many Lynwood Center merchants and businesses, we've also partnered with the Kids Discovery Museum of Bainbridge Island and with Bainbridge Youth Services. KiDiMu will be running a special Kids Zone filled with games and activities for young ones. BYS will be in charge of the Baker Hill Challenge, a Fun Run that will kick off the morning and will finish just as the festival opens. Additionally, Zero Waste will participate to ensure proper disposal, recycling and composting.

Signed by Person Authorized to Sign Agreement between the City & Applicant(s)

Arnie Struham
Print Name


Signature of Applicant

8.18.18
Date

Submit one original copy of Application to Communications Manager, City of Bainbridge Island, 280 Madison Ave N., Bainbridge Island, WA 98110; and send one electronic (un-signed) copy of Application to kstickney@bainbridgewa.gov

| | |
|----------------------------|---------------------------|
| <i>For Office Use Only</i> | |
| Date Approved: _____ | Amount Approved: \$ _____ |
| Approved by: _____ | Signature: _____ |
| Comments: _____ | |

| | | |
|--|----------------|-----------------|
| Entertainment and sound system | | \$16,500 |
| Advertising | | \$13,500 |
| Kid Zone (KidiMu) & BYS | | \$5,000 |
| Graphics Design | | \$4,000 |
| COBI (Police/Permit) & shuttles | | \$2,500 |
| T-Shirts | | \$1,500 |
| Toilet/Sinks | infrastructure | \$1,000 |
| Road Side Signage/Barricade | infrastructure | \$1,000 |
| Traffic Coordinator | infrastructure | \$1,000 |
| Insurance | infrastructure | \$1,000 |
| Event Mapping | infrastructure | \$1,000 |
| Shuttle | | \$1,000 |
| Volunteer Gifts | | \$1,000 |
| Table/Chair Rental | | \$1,000 |
| Stage | | \$1,000 |
| Website | | \$500 |
| Garbage/Recycle | | \$200 |
| Banner Hanging Fee | | \$500 |
| Misc. | | \$300 |
| | | |
| ESTIMATED VALUE OF MATCH | | \$48,500 |
| grant | | \$5,000 |
| PROJECT BUDGET | | \$53,500 |

Neighborhood
Matching Grant
Proposal



CITY OF
BAINBRIDGE
ISLAND

A Taste of Lynwood

September 15, 2018

- Public Benefit: A Taste of Lynwood celebrates the south end through music, arts, crafts, vendors and food in a family-friendly setting.
- Requesting: \$5,000
- Required Match: \$2,500
- Match Provided: \$48,500
 - Entertainment
 - Advertising
 - Kids Zone & Fun Run



Funding Option

- Neighborhood Match Grant
Funds Available: \$13,153





CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 10 Minutes

AGENDA ITEM: (8:30 PM) Manitou Park Boulevard Shoreline Stabilization Project Professional Services Agreement - Public Works,

STRATEGIC PRIORITY: Reliable Infrastructure and Connected Mobility

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Contract

PROPOSED BY: Public Works

RECOMMENDED MOTION:

I move to forward consideration of the Manitou Park Boulevard Stabilization Project Professional Services Agreement to the September 25, 2018 unfinished business agenda.

SUMMARY:

City Council to consider forwarding the Manitou Park Boulevard Stabilization Project Professional Services Agreement to the September 25, 2018 unfinished business agenda.

FISCAL IMPACT:

| | |
|------------------------------------|-----|
| Amount: | TBD |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | Yes |

BACKGROUND: The Manitou Park Boulevard Shoreline Stabilization Project is an urgent need to restore and stabilize approximately sixty-feet of marine shoreline and modify stormwater runoff patterns to avoid future shoreline erosion.

The shoreline along Manitou Park Boulevard, at the intersection with Rolling Bay Walk, is currently being compromised by erosion. Public Works is responding to address repairs, as access to Rolling Bay Walk could be jeopardized if repairs are not completed in a timely manner. The next step is to procure consulting services for analysis, design, and permitting.

The City solicited qualifications through the Municipal Research and Services Center (MRSC) Consultant Roster for the design. A finalized professional services agreement will be prepared for consideration as part of the September 25, 2018 unfinished business agenda.

ATTACHMENTS:

[RFQ - Manitou Park Boulevard Shoreline Stabilization Project](#)

FISCAL DETAILS: 2018 Roads Program

Fund Name(s): Streets Fund

Coding:

MANITOU PARK BLVD SHORELINE STABILIZATION

The City of Bainbridge Island (COBI) is soliciting proposals from qualified firms with municipal public works projects involving marine shoreline engineering, surface stormwater management, and beach restoration experience to provide design and permitting services for the Manitou Park Blvd Shoreline Stabilization project.

The Manitou Park Blvd Shoreline Stabilization project is an urgent action to restore and stabilize approximately sixty feet of marine shoreline and modify stormwater runoff patterns to avoid future shoreline erosion.

Description of Services

The City seeks a qualified consultant with experience in soft shoreline geotechnical engineering. Anticipated improvements include:

- a. New soft or hybrid shoreline stabilization in accordance with COBI Shoreline Master Program.
- b. Beach nourishment.
- c. Surface stormwater drainage pattern improvements.
- d. Native landscaping.

The selected consultant will work with City staff in completing the design for soft or hybrid shoreline stabilization at the road end of Manitou Park Blvd. The following are some of the requirements the consultant will be expected to complete during the design:

1. Site Reconnaissance and review of available data:
Review existing data and visit the site to conduct a thorough geologic reconnaissance of the repair location and surrounding areas to inform the geotechnical engineering analyses and recommendations. Complete a physical survey of the alignment.
2. Geotechnical Engineering Analyses for Repairs:
Conduct analyses to develop the recommended repair approach and the associated design parameters and considerations.
3. Geotechnical Report Production
In a technical report, summarize reconnaissance, repair recommendations, and pertinent construction considerations.
4. Assistance, where necessary, with the permit approval process (i.e., DOE Water Quality Certification, WDFW Hydraulic Project Approval).
5. Develop detailed plans, specifications, and cost estimates at various stages of development.

Schedule

This project is scheduled for construction in 2019. Accordingly, pre-design studies, PS&E documents, and permitting should be completed by January 31, 2019. The proposed schedule for consultant selection and contract execution is shown below.

| | |
|---------------------|--------------------|
| Qualifications Due | August 17, 2018 |
| Consultant Selected | August 20, 2018 |
| Contract Executed | September 11, 2018 |

Proposal Requirements

If you are interested in pursuing this project we invite you to submit a statement of qualifications.

1. Qualifications Responses

- Identify each person involved with the project team including technical partners, and briefly describe their respective roles, including:
 - a. Information regarding the team member's experience and qualifications.
 - b. Resume of key team members.
 - c. Description of how the team will be organized and led.
- Identify the project lead and their relationship to other members of the team.
- Describe the consultant's relevant project experience with similar projects. Projects described must illustrate the consultant's experience with preparing strategies and plans similar in scope to the proposed project.

2. Evaluation Criteria

Evaluation of RFQ responses will be based upon the following:

- Success in developing similar projects
- Quality of representative projects
- Qualifications of project team and key project managers
- References

3. General Provisions and Conditions

The City reserves the right to:

- Reject any and all responses.
- Waive minor irregularities in a response.
- Cancel, revise, or extend this solicitation.
- Request additional information on any response beyond that required by this RFQ.
- Have the final decision on the selection.
- Modify the timeline and to issue addenda to this document.

4. **Submission Requirements**

The deadline for this RFQ is **4:00 PM, August 17, 2018**, Pacific Standard Time. No faxed, telephone or electronic proposals will be accepted. Proposals received after the deadline will not be considered. Interested consultants must submit **3 paper copies** of the response to the RFQ. The City will become owner of all submitted materials and will not pay any costs related to any responses to the RFQ.

All consultants must demonstrate compliance with the City's insurance requirements at the time of contract approval and obtain a City Business License.

5. **Contact Information**

Mark Epstein, PLA
206.780.3721
mepstein@bainbridgewa.gov

City of Bainbridge Island
Public Works Dept.
208 Madison Ave N
Bainbridge Island, WA 98110

Title VI Notice: The (Local Agency) in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin or sex in consideration for an award.. For more information, contact the City Clerk's office at 206.842.2545 and/or cityclerk@bainbridgewa.gov.



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 10 Minutes

AGENDA ITEM: (8:40 PM) Ordinance 2018-35 Amending BIMC Chapter 5 and Adopting Model Business License Code - Finance,

STRATEGIC PRIORITY: Vibrant Economy

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Ordinance

PROPOSED BY: Finance & Administrative Services

RECOMMENDED MOTION:

I move that the City Council forward Ordinance No. 2018-35, Amending BIMC 5.04 to the September 25 Consent Agenda for consideration of approval.

SUMMARY:

Consider Ordinance No. 2018-35, relating to business licenses and amending Chapter 5.04 of the Bainbridge Island Municipal Code.

FISCAL IMPACT:

| | |
|------------------------------------|--|
| Amount: | |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | |

BACKGROUND: In 2017, the Washington state legislature passed Engrossed House Bill (EHB) 2005, intended to simplify the administration of municipal general business licenses for the applicants and improve the business climate. In accordance with EHB 2005, the City transitioned administration of the City’s business licenses to the state business license system (BLS) in July of 2018 (see attached Ordinance No. 2018-21).

The attached ordinance contains two components as specified by the State-mandated City Business License task force:

1. Adopts the required state-wide language for the definition of “engaging in business.”

2. Sets a minimum threshold below which businesses located outside the City are partially or fully exempted from licensing requirements. Options provided by AWC:

- a. If a business located outside the City earns gross revenue below the minimum threshold of \$2,000 no license is required.
- b. If a business located outside the City earns gross revenue below the minimum threshold of \$2,000 the City requires a license, but the fee is zero.
- c. The threshold can be set higher than \$2,000.

The ordinance as presented implements the second option above. The City recommends this option because it continues to gather information about businesses operating within the City limits, regardless of the business location.

To provide for consistent conditions for businesses regardless of location, the proposed threshold for a license exempt from the City's license fee will apply to both on-Island and off-Island businesses.

ATTACHMENTS:

[Ordinance No. 2018-35](#)

[MRSC - July 2018 Business License Code Update Explanation](#)

[MRSC - April 2018 Business Licensing Background](#)

[Ordinance No. 2018-21 \(Approved June 26, 2018\)](#)

FISCAL DETAILS:

Fund Name(s):

Coding:

ORDINANCE NO. 2018-35

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to business licenses and amending Chapter 5.04 of the Bainbridge Island Municipal Code (BIMC) to adopt mandatory provisions required under Chapter 35.90 RCW.

WHEREAS, Engrossed House Bill (EHB) 2005 was passed by the Washington State Legislature with an effective date of July 23, 2017; and

WHEREAS, EHB 2005 is intended to simplify the administration of municipal general business licenses for the applicants and improve the business climate; and

WHEREAS, the sections of EHB 2005 related to business licenses were codified as Chapter 35.90 RCW; and

WHEREAS, RCW 35.90.080 directed the Association of Washington Cities (AWC) to develop a model ordinance on general business license requirements by July 1, 2018; and

WHEREAS, RCW 35.90.080 and RCW 35.90.090 require all cities that impose a general business license requirement to adopt certain mandatory provisions of AWC's model ordinance by January 1, 2019; and

WHEREAS, the City of Bainbridge Island, through Chapter 5.04 BIMC, imposes a general business license requirement on certain businesses; and

WHEREAS, the City of Bainbridge Island administers its business licensing through Washington State's Business Licensing Service; and

WHEREAS, due to the requirements of RCW 35.90.070, the City must adopt the mandatory provisions of AWC's model ordinance by October 17, 2018, in order for them to be in effect on January 1, 2019.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 5.04.020 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

5.04.020 Definitions and presumption.

- A.** This chapter incorporates by reference all definitions set forth in Chapter 82.04 RCW, hereafter amended, except where a conflicting definition is stated in this chapter.
- B.** "Director" means the director of finance and administrative services for the city.
- C.** "Business Licensing Service" or "BLS" is the office within the Washington State Department of Revenue providing business licensing services to the city.

D. Engaging in business is defined as follows: ~~Businesses or persons soliciting business within the city or using either a business telephone number or business address within the city shall be presumed to be engaged in business within the city.~~

1. The term "engaging in business" means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

2. This section sets forth examples of activities that constitute engaging in business in the city and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimis business activities in the city without having to pay a business license fee. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in subsection (1). If an activity is not listed, whether it constitutes engaging in business in the city shall be determined by considering all the facts and circumstances and applicable law.

3. Without being all inclusive, any one of the following activities conducted within the city by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.

a. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the city.

b. Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the city.

c. Soliciting sales.

d. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.

e. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.

f. Installing, constructing, or supervising installation or construction of, real or tangible personal property.

g. Soliciting, negotiating, or approving franchise, license, or other similar agreements.

h. Collecting current or delinquent accounts.

i. Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.

j. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.

k. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.

l. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.

m. Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the city, acting on its behalf, or for customers or potential customers.

n. Investigating, resolving, or otherwise assisting in resolving customer complaints.

o. In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.

p. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.

4. If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the city but the following, it need not register and obtain a business license.

a. Meeting with suppliers of goods and services as a customer.

b. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.

c. Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director

member or attendee engaging in business such as a member of a board of directors who attends a board meeting.

d. Renting tangible or intangible property as a customer when the property is not used in the city.

e. Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the city's trade show or multiple vendor event ordinances.

f. Conducting advertising through the mail.

g. Soliciting sales by phone from a location outside the city.

5. A seller located outside the city merely delivering goods into the city by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the city. Such activities do not include those in subsection (4).

The city expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the license fee under the law and the constitutions of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

Section 2. Section 5.04.090 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

5.04.090 Payment of license fees.

A. There shall be a license fee imposed for the privilege of doing business as set by resolution of the city council.

B. Payment of the fee imposed by this chapter shall be due on or before the commencement of business and for renewal of the license on or before the expiration date of the license.

C. On or before the due date, every person required to pay a license fee or a tax as set forth by this chapter shall file a license renewal with the Business Licensing Service, or, for taxes, a written return with the city upon such form and including such information as the director shall require, together with the payment of the amount of the tax.

D. Nonprofit activities carried on by religious, charitable, educational, benevolent, fraternal, or social organizations which have been determined by the Internal Revenue Service of the United States to be exempt from the payment of income tax shall be exempt from the license fee.

E. Any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the city is equal to or less than \$2,000 shall be exempt from the license fee.

Section 3. In accordance with RCW 35.90.070, this ordinance shall take effect and be in force on January 1, 2019.

PASSED by the City Council this ____ day of _____, 2018.

APPROVED by the Mayor this ____ day of _____, 2018.

/s/

Kol Medina, Mayor

ATTEST/AUTHENTICATE:

/s/

Christine Brown, City Clerk

| | |
|----------------------------|-------------------|
| FILED WITH THE CITY CLERK | September 7, 2018 |
| PASSED BY THE CITY COUNCIL | , 2018 |
| PUBLISHED: | , 2018 |
| EFFECTIVE DATE: | January 1, 2019 |
| ORDINANCE NO: | 2018-35 |

Cities and Towns Must Update General Business License Ordinances ASAP!

July 16, 2018 by [Toni Nelson](#)

Category: [Licensing and Regulation](#) , [Business Licenses and Taxes](#)



In April, I wrote a [blog post](#) discussing the requirements imposed by [EHB 2005](#), adopted in 2017 and codified in [chapter 35.90 RCW](#). That article included a draft of the model ordinance provisions that must be adopted by all cities and towns who have a “general business” license requirement by January 1, 2019 (unless you are currently a BLS partner city, in which case your deadline is October 17, 2018).

The [final model business license ordinance](#) has now been released, and the AWC staff who coordinated the City Business License task force presented its provisions on June 28 at the annual AWC conference in Yakima. It is now time for all cities and towns with general business license requirements to prepare for the adoption of these provisions.

What Is in the Final Model Business License Ordinance?

The “model ordinance” is not a comprehensive model ordinance, but it contains two required components that cities and towns must incorporate into their existing business license ordinances. The two components are as follows:

- 1. Cities and towns may only impose licensing requirements upon individuals or companies “engaging in business within the city,” as defined in the model ordinance.** The ordinance also sets forth examples of activities that are considered “engaging in business,” as well as business activities that do not require licensing. The definition is based on the model ordinance for B&O taxes.
- 2. For businesses that engage in business within the city but are not physically located within the city, the ordinance establishes a minimum dollar threshold below which the businesses are partially or fully exempted from licensing requirements.** The minimum threshold of business activity in the ordinance is \$2,000, although ci 623 may adopt a higher threshold if desired. Below this threshold, cities must either:
 - Exempt these businesses from the licensing requirements entirely, or

- Require licensing, but at no cost to the businesses.

As your city legislative body will need to consider one of these two options prior to preparing the ordinance for adoption.

The final model has been modified a bit from our April blog post in response to the business community's concerns over the threshold level set in the initial draft. As a result, the task force increased the threshold for exemption to \$2,000 per year. The definition of "engaging in business" is unchanged from the initial draft provided in my April blog post and mirrors the definition found within the model B&O tax ordinance adopted by those cities that have a B&O tax requirement.

As noted earlier, **cities and towns with general business licensing requirements must adopt the language from the model ordinance by January 1, 2019 (RCW 35.90.090)**. Any city or town that does not adopt the model ordinance by the deadline is prohibited from enforcing its general business licensing requirements until it adopts the model ordinance provisions.

Current BLS partner cities must adopt the language by October 17, 2018 (RCW 35.90.070), and provide notification to BLS in order to maintain its business licensing program on January 1, 2019. The statute requires that notice be received by BLS a minimum of 75 days prior to effective date for "all changes that affect in any way who must obtain a license, who is exempt from obtaining a license, or the amount or method of determining any fee for the issuance or renewal of the license." Both provisions of the model ordinance will require the 75-day notification to BLS.

Who Will Administer Your Business License Program?

Now that the provisions of model business license ordinance have been decided, there is one remaining consideration: Who will administer your general licensing program?

EHB 2005 (chapter 35.90 RCW) requires that all cities and towns partner with either FileLocal by 2020 or with the state's Business Licensing System (BLS) by 2022. These two "one-stop" licensing portals serve multiple jurisdictions. BLS is part of the state Department of Revenue, while FileLocal was created by an interlocal agreement between several larger cities in the Puget Sound region. By the end of 2022, businesses will be able to obtain local business licenses for any city in the state via one or two websites.

The deadline for partnering with FileLocal is July 1, 2020 — meaning that businesses must be able to use FileLocal to renew or apply for their business license within your jurisdiction by that date — and for those cities that opt to partner with the BLS, you will be phased into the system between January 1, 2018, and December 31, 2022, in conjunction with the BLS Local Business Licensing Partnership Plan.

Deciding between the two administrative options will depend a lot upon the size of your jurisdiction and whether your city is considering future B&O taxing options.

Reviewing Your Other Business License Provisions

Although the changes in the new model ordinance only address a couple specific provisions of your business licensing ordinance, many cities and towns may not have reviewed their business license requirements in a long time. While you are amending your current business license ordinance to comply with chapter 35.90 RCW, we suggest you take the time to review the rest of your business license requirements and fees to make sure they still meet your jurisdiction's needs.

Want to Learn More?

Check out our new webpage, [Business Licenses and Fees](#). It provides a brief overview of business licensing, including the changes imposed by EHB 2005, along with information about regulatory business licenses and revenue-generating licenses, or “head taxes,” which have also been in the news lately.

AWC will also be providing a free webinar, [Prepare to Streamline Your Business License](#), on Wednesday, August 8 at 10 AM.

If you have questions about the new business licensing requirements, please feel free to contact me at tnelson@mrsc.org or (206) 625-0916 x 109 or you can reach out to [Victoria Lincoln](#), [Andrew Pittelkau](#), or [Sheila Gall](#) at AWC.



About Toni Nelson

Toni has over 24 years of experience with Local Government finance and budgeting. Toni's area of expertise include "Cash Basis" accounting and reporting, budgeting, audit prep and the financial issues impacting small local government.

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Comments

0 comments on *Cities and Towns Must Update General Business License Ordinances ASAP!*

Blog post currently doesn't have any comments.

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Is Your City Ready for the New Business Licensing Requirements?

April 17, 2018 by [Toni Nelson](#)

Category: [Licensing and Regulation](#) , [Business Licenses and Taxes](#)



Update: The final "model ordinance" was released in late June 2018. See our follow-up post [Cities and Towns Must Update General Business License Ordinances ASAP!](#) for more information.

There are 281 incorporated cities and towns in Washington State and of those, 230 have business license requirements and 46 have adopted

local business and occupation (B&O) tax regulations.

[EHB 2005](#), which was passed last year by the legislature, is intended to simplify the administration of municipal general business licenses for the applicant and improve the business climate. The legislation required three distinct actions by those cities and towns with either business licenses requirements and/or local B&O tax regulations. These legislative actions are detailed in this blog post.

Business License Cities and Towns

EHB 2005 required cities and towns with business license regulations to establish a workgroup that would create a model business license with a minimum threshold and a definition of "engaging in business" by July 2018. The model business license created by the workgroup will be adopted by all cities who have business licensing regulations by January 1, 2019.

The City Business License workgroup has been meeting since last August to draft language for a model business license ordinance that includes both of the legislative requirements of defining the meaning of "engaging in business" and setting a minimum threshold. The results of this work have been released in draft form by the Association of 626 Washington Cities (AWC) to all of its members earlier this month and it is **important** for cities to review and provide feedback on this draft.

The draft model business license language addresses:

- General business licenses, not regulatory licenses or other local B&O taxes;
- A new uniform definition of engaging in business; and
- Registration with no fee for businesses without a location in the city/town under a specified threshold. The current draft proposal sets this minimum threshold of \$1,000 per year

EHB 2005 also requires all cities and towns with business licenses to administer their business licensing through the state's business license system (BLS) by **2027** or through the FileLocal system by **2020**. Information on each system is as follows

- The BLS currently has over 70 cities/towns that use their system ([BLS City Partners](#)) and is in the process of onboarding 24 additional cities per the [2018-2019 Local Business Licensing Partnership Plan](#).
- The [FileLocal](#) system administers licenses and/or all local taxes and has 5 city partners (Seattle, Tacoma, Bellevue, Everett, and Lake Forest Park). It is adding several new cities during calendar year 2018.

B&O Tax Cities

EHB 2005 required that a task force on local B&O tax service apportionment under RCW 35.102.130 be established in order to report to the legislature by October 2018. A task force was formed and consists of 3 city representatives, 3 business representatives, and 1 member from the Department of Revenue who serves as a non-voting chair.

The task force must prepare a report with recommendations to simplify the 2-factor service income formula in [RCW 35.102.130](#) using a market-based model and information typically available in business.

The task force has been meeting monthly since August 2017 and has included tax apportionment models in other states as part of its analysis for reporting back to the legislature by October 31, 2018.

Business License Deadlines

Due to the fact that 82% of cities and towns in Washington State have a business license requirement of some form, the focus of this blog is to bring attention to some of the deadlines associated with these new business licensing requirements.

Review of draft model ordinance: The deadline to review the draft model ordinance developed by the AWC and the City Business License workgroup is fast approaching. If it is appropriate for your jurisdiction, providing feedback to AWC on this draft prior to the end of April will be important. The City Business License workgroup will finalize the draft model at its meeting on May 10th and this model will be presented at AWC's annual conference in Yakima, June 26–29th.

Based on results of the feedback received, the model ordinance will be finalized and AWC will distribute it to cities and towns in July. AWC will conduct outreach during the months of July–October to assist cities and towns with the new legislative requirements.

The Department of Revenue (DOR) will be providing [Business License workshops](#) for current BLS partner cities and those cities named in the [2018-2019 partnership plan](#) to discuss EHB 2005; the rollout of the Department's Tax a⁶²⁷ Licensing System Replacement (TLRS); the partner planning for 2018–2021; and to offer a demonstration of the

Automated Tax and Licensing Administration System (ATLAS) during the month of June. As new partner cities are rolled into the BLS, there will be additional workshops and webinars provided.

Adoption of the new model business license ordinance: January 1, 2019, is the deadline for cities to adopt the new model ordinance, with one exception: For those BLS partner cities, the model business license ordinance will need to be adopted in October in order to meet the 75-day Notice of Changes to business license fees required by the BLS. This equates to **October 17, 2018**, if the city is changing any of its fee structure on January 1, 2019.

Selection of agency to administer business licensing: The legislation requires that all cities must use one of two systems for its business licensing administration. Due to the volume and complexities of establishing a centralized business licensing system under the BLS, the legislation provides for a phased enrollment between January 1, 2018, and December 31, 2021. If FileLocal is the option selected, it must be made by July 1, 2020.

A city or town that imposes a general business license requirement but has not partnered with the BLS by January 1, 2018, may continue to issue and renew its general business licenses until it partners with either the BLS or the FileLocal systems, but it **must adopt the new model business license ordinance by January 1, 2019, in order to do so.**

Questions? Comments?

If you have questions about the New Business Licensing Requirements, please feel free to contact me at tnelson@mrsc.org or (206) 625-0916 x109.

If you have questions about other local government issues, please use our [Ask MRSC form](#) or call us at (206) 625-1300 or (800) 933-6772.



About Toni Nelson

Toni has over 24 years of experience with Local Government finance and budgeting. Toni's area of expertise include "Cash Basis" accounting and reporting, budgeting, audit prep and the financial issues impacting small local government.

[VIEW ALL POSTS BY TONI NELSON](#) ▶

Comments

2 comments on Is Your City Ready for the New Business Licensing Requirements?

"Hi Lisa - it is not to late to comment on the draft model business license ordinance. The committee does not meet again until May 10th and we encourage everyone to comment up until that time. Here is a direct link to the AWC email that was released last month. https://www.magnetmail.net/actions/email_web_version.cfm?ep=4wfWjJpyCFEcPlcbvxIfRJu4W2GsOmzTCB7EyrvyDXz_HJ67dahdOWTT5Y1xLmlKUKnnd-17gwZhkzyOsEBpOwfzF1Lcx4aU4LAbbEA9VUOeaM6Ott-pXc-DkjoYhp9S"

Toni Nelson on May 2, 2018 9:05 AM

"Thanks for this information, Toni. It's the first we've heard about it. Of course now the comment period on the draft is past, but at least we know what's coming."

Lisa Stowe on May 1, 2018 1:19 PM

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ORDINANCE NO. 2018-21

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to business licenses and amending Chapters 5.04, 5.12, 5.16, 5.24, 5.28 and 5.40 of the Bainbridge Island Municipal Code (BIMC) to update items in accordance with the State of Washington business license system requirements.

WHEREAS, the City of Bainbridge Island requires certain businesses to obtain business licenses; and

WHEREAS, Engrossed House Bill (EHB) 2005 was passed by the Washington State Legislature with an effective date of July 23, 2017; and

WHEREAS, EHB 2005 is intended to simplify the administration of municipal general business licenses for the applicants and improve the business climate; and

WHEREAS, EHB 2005 requires that all cities with business licenses administer their business licensing through the state's business license system (BLS) by 2027 or through the FileLocal system by 2020; and

WHEREAS, the City of Bainbridge Island will administer its business licensing through BLS starting in 2018; and

WHEREAS, the BLS has requested changes to the BIMC to align with BLS business practices.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 5.04 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

5.04.010 Purpose.

The provisions of this chapter are an exercise of the police and taxation powers of the city to license for revenue purposes and to govern the privilege of engaging in business in the city.

5.04.020 Definitions and presumption.

A. This chapter incorporates by reference all definitions set forth in Chapter 82.04 RCW, hereafter amended, except where a conflicting definition is stated in this chapter.

B. "Director" means the director of finance and administrative services for the city.

C. "Business Licensing Service" or "BLS" is the office within the Washington State Department of Revenue providing business licensing services to the city.

~~C.D.~~ Businesses or persons soliciting business within the city or using either a business telephone number or business address within the city shall be presumed to be engaged in business within the city.

5.04.030 License required.

Every person who engages in business activities within the city ~~shall apply for~~ must obtain from the director a city business license for the privilege of engaging in business within the city for each calendar year or portion thereof. The fee for the business license shall be in the amount established by resolution of the city council. No person shall engage in any business for which a business license is required under this chapter without being so licensed, regardless of the amount of income received, except as otherwise provided in this title.

5.04.040 License – Application and issuance.

A. Business licenses must be obtained and the fee paid before a business commences operation within the city. The license fee shall be considered delinquent if not paid when due.

~~B.~~ The business license required by this chapter shall expire on ~~December 31st of the year for which it is issued~~ the date established by the Business Licensing Service, and must be renewed on or before that expiration date. ~~A new license shall be required for each year and the fee paid on or before the last day of February.~~

~~C.~~ Applications for business licenses ~~shall be made to and issued by the finance director on forms provided by the city, which shall state the residence of the applicant, the nature of each business activity in which the applicant desires to engage, and the place where the applicant proposes to conduct its business~~ must be submitted to the Business Licensing Service through the online license application or on a business license application form provided by BLS and must include all fees due, including the city license fee, the BLS handling fee required by RCW 19.02.075, and all fees for other licenses being requested on the application. The application information will be forwarded to the city for review. If the director finds that the application is complete and correct, that all required fees have been paid, and all laws and requirements have been complied with, the business license shall be ~~issued~~ approved for issuance through BLS.

D. The director shall, when appropriate, refer applications to the department of planning and community development, the department of public safety, the Bainbridge Island Fire Department, and other governmental agencies for their review.

~~E.~~ ~~Multiple business activities under common ownership may be conducted under a single license.~~

~~F.~~ E. Neither the filing of an application for a license, or the renewal thereof, nor the payment of any application or renewal fee, shall authorize a person to engage in or conduct a business until such license has been granted or renewed.

5.04.045 State marijuana license required for any marijuana business.

~~A. Businesses that are subject to the requirements of Chapter 314-55 WAC for marijuana businesses shall first obtain a valid business license (UBI Number) issued by the state of Washington under the aforesaid chapter before obtaining a city of Bainbridge Island business license or conducting a marijuana business in the city.~~

~~B.A. Marijuana businesses subject to the requirements of Chapter 314-55 WAC~~
Applicants applying for a city of Bainbridge Island business license must ~~provide the city a copy of the~~ have obtained a marijuana business license issued by the Washington State Liquor Control Board pursuant to ~~WAC Chapter 314-03555 WAC~~ prior to ~~issuance~~ approval of ~~the~~ city business license. For annual renewals of the city business license for operation of a marijuana business, the business must ~~provide a copy~~ continue to hold a valid marijuana license issued by the Washington State Liquor Control Board pursuant to Chapter 314-55 WAC to receive the city's approval of the business' city business license renewal application.

~~C. In addition to the standard business license fee, an application for a marijuana business license shall be accompanied by a one-hour fee, pursuant to the fees adopted under BIMC 1.28.035, to cover the city's additional relevant costs, including but not limited to coordination with the state, and research regarding required land use and distance separations.~~

~~DB.~~ No person shall be deemed to have any entitlement or vested right to licensing under this chapter by virtue of having received any prior license or permit from the city, including, by way of example, any zoning permit, medical marijuana license, wholesale food manufacturer's license, or any other license. In order to lawfully engage in the business of producing, processing or selling recreational marijuana in the city, a person must qualify for and obtain a license in accordance with this chapter and Chapter 314-55 WAC.

~~EC.~~ Prior to the city's issuance of the business license herein, the applicant shall obtain other required permits related to the operation of the business, including, without limitation, any development approvals or building permits required by this code, the building code and the zoning code and by BIMC 18.09.030.K.

~~FD.~~ Upon receipt of a completed business license application, the city may circulate the application to all departments of the city to determine whether the application is in full compliance with all applicable laws, rules and regulations. By way of illustration and not limitation, these departments may include the city of Bainbridge Island department of community development, the Bainbridge Island fire department, and the Bainbridge Island police department.

~~GE.~~ The city may, prior to issuance of the license, perform an inspection of the proposed licensed premises to determine compliance with any applicable requirements of this section or other provisions of the Bainbridge Island Municipal Code.

5.04.050 License – Nontransferable.

The business license issued under this chapter shall be personal and nontransferable and shall at all times be posted in the place of business for which it is issued. Where a licensee’s place of business is changed, the licensee must notify the Business Licensing Service regarding issuance of~~shall return the license to the director and a new license shall be issued~~for the new place of business ~~without charge~~. A change of business location may require submission of a new business license application and payment of the respective fees. The city will be informed of the change of location and will review the new location before issuance of a new license. No licensee shall allow another person to operate a business under, or display, the license, nor shall another person operate under or display the license.

5.04.055 Standards of conduct.

Every licensee under this chapter shall:

- A. Permit reasonable inspections of the business premises by governmental authorities for the purpose of enforcing the provisions of this chapter;
- B. Comply with all federal, state, and city statutes, laws, ordinances, and regulations relating to the business premises and the conduct of the business thereon;
- C. Refrain from unfair or deceptive acts or practices, or consumer fraud, in the conduct of the business and avoid maintaining a public nuisance on the business premises;
- D. Refrain from operating the business after expiration of a license or during the period that the license may be suspended or revoked.

5.04.060 License – Suspension, denial or revocation.

- A. A business license may be suspended, denied, or revoked by the city without notice for any of the following causes:
 - 1. The licensee or any of its officers, directors, agents, or employees while acting within the scope of their duties has violated or failed to keep the building, structure, or equipment of the licensed premises in compliance with applicable health, building, fire, or safety laws, ordinances, or regulations;
 - 2. The licensee or any of its officers, directors, agents, or employees while acting within the scope of their duties has violated or failed to comply with the standards of conduct specified in this chapter;
 - 3. The license was procured by fraud or false representation of fact;
 - 4. The licensee or any of its officers, directors, agents, or employees has been convicted of a crime involving the business;
 - 5. The license was issued through mistake or inadvertence.

B. A business license may be revoked on 20 days' written notice to the licensee where the licensee fails to pay the annual license fee applicable business and occupation tax, together with any penalties due thereon, within six months after the fee or tax is due and owing. ~~The licensee shall have the right to full~~ After revocation, reinstatement of the business license requires submitting a new application through the Business Licensing Service, if, within 10 days of such revocation, the licensee pays and also requires payment of all past amounts due and owing.

C. Upon suspension, denial or revocation of a license, the director shall, by certified mail, give written notice of such action to the applicant or licensee, including a written report summarizing the complaints, objections, and/or information received and considered by the director and further stating the reason for the action. Notice mailed to the mailing address on the application or most recent renewal shall be deemed received three days after mailing. Appeal of the director's decision shall follow the appeal procedures set forth in this chapter.

5.04.070 License – Multiple locations.

If business is transacted by one person at two or more separate locations within the city, a separate license shall be obtained and displayed in each location at which business is transacted.

5.04.075 License – Multiple businesses at the same location

A. Multiple business activities under common ownership and conducted at the same physical location may be conducted under a single license.

B. Except as provided in subsection A of this section, if more than one business is operated at the same location, each person operating a separate business must obtain and display their own license for their respective business at that location

5.04.080 Exempt activities.

The following activities shall be exempt from the licensing provisions of this chapter:

A. The exercise of governmental functions performed by any instrumentality of the United States, the state of Washington, or any political subdivision thereof;

B. Farmers or gardeners selling their own farm products raised and grown exclusively upon lands owned or occupied by them;

C. Garage sales conducted on residential premises in compliance with this code;

D. The mere delivery of goods or services to the customer or client by businesses where the sale occurred on business premises outside of the city, and was the only event occurring within the city except that the performance of contracting or subcontracting services is not an exempt activity; or

E. Any business activity which is owned and operated solely by a person under the age of 18, and which does not generate a gross income of more than \$2,500 per year.

5.04.090 Payment of license fees.

- A. There shall be a license fee imposed for the privilege of doing business as set by resolution of the city council.
- B. Payment of the fee imposed by this chapter shall be due on or before the commencement of business and ~~renewed on or before the last day of February of each successive year~~ for renewal of the license on or before the expiration date of the license.
- C. On or before the due date, every person required to pay a license fee or a tax as set forth by this chapter shall file a license renewal with the Business Licensing Service, or, for taxes, with the city a written return with the city upon such form and including such information as the director shall require, together with the payment of the amount of the ~~fee~~tax.
- D. Nonprofit activities carried on by religious, charitable, educational, benevolent, fraternal, or social organizations which have been determined by the Internal Revenue Service of the United States to be exempt from the payment of income tax shall be exempt from the license fee.

5.04.190 License – Fee additional to others.

The license imposed and levied by this chapter shall be in addition to any license fee or tax imposed or levied under any law or other ordinance of the city, except as otherwise expressly provided.

5.04.200 License fee – Collection.

The license fee imposed by this chapter, and all penalties assessed thereon by the city, shall constitute a debt to the city, and may be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies. Any judgment entered in favor of the city shall include an award to the city of all court and collection costs including attorneys' fees. Amounts delinquent more than 90 days may be assigned to a third party for collection, in which case the amount of any collection charges shall be in addition to all other amounts owed. Amounts due shall not be considered paid until the city has received good funds for the full amount due or has discharged the amount due and not paid.

5.04.210 Over or underpayment of fees.

In the event that any person makes an overpayment, and within two years of the date of such overpayment makes application to the city for a refund or credit, the person's claim shall be allowed and a refund made by the city upon determination by the director that no other sums are owed by the person to the city. If a person determines that the fees have been underpaid and without notice by any party pays the amount due to the city, the amount underpaid and corrected by the person shall not be subject to a city penalty.

5.04.220 Appeal procedure.

A person who has had a license suspended, denied, or revoked or who has been aggrieved by the amount of the license fee determined to be due to the city by the director under the provisions of this chapter may appeal to the city council from such determination by filing a written notice of appeal with the city clerk within 20 days from the date on which such person is given notice of the license fee. The city council or a committee of the city council shall, as soon as practicable, fix a time and place for the hearing for such appeal. Notice of the hearing shall be given to the appellant by certified mail at least five days prior to the date of the hearing. The licensee may appear at the hearing and be heard in opposition to such denial, suspension or revocation or to the fee imposed. The decision of the city council or its committee shall be announced at the conclusion of the hearing and shall be final, subject only to a writ of certiorari being filed with the Kitsap County superior court within 14 days following the date of the decision of the city council or a committee of the city council.

5.04.230 License – Confidentiality of applications.

The applications made to the city pursuant to this chapter are subject to confidentiality governed by RCW 19.02.115, and shall not be made public, and shall not be subject to inspection except as allowed or only that emergency telephone numbers shall not be made public except where required by law.

5.04.240 Duties of the director.

A. The director shall keep full and accurate records of all funds received under the provisions of this chapter. Upon receipt of any license fee or penalties collected under the provisions of this chapter, the director shall deposit the amounts collected into the current expense fund of the city.

B. In order to carry out the provisions of this chapter, the director shall have the power to adopt, publish and enforce rules and regulations consistent with this chapter.

5.04.250 Civil penalty.

~~In the event that any person fails to pay the license fee imposed by this chapter within 15 days of the due date, a civil penalty shall be imposed in the amount of 10 percent of the delinquent license fee plus any previously assessed and unpaid penalties under this chapter. For the purposes of calculating the penalty, each month that the amounts owed under this chapter are due and unpaid shall be considered a separate violation subject to penalty. Civil penalties shall be limited to not more than amount of the full license fee for each year for which a license is required and shall not commence until the business has been notified of the need for a license and failed to get one within thirty days. A fraction of a month shall be deemed a full month. In the event that a penalty has been wrongfully collected, the director shall refund the penalty.~~

5.04.260 Violation – Penalty.

A. It shall be a violation of this chapter:

1. For a person required to obtain a business license under this chapter to fail or refuse to secure the business license or to fail to pay the fee imposed;
2. For a person to make any false representation in connection with application for a business license under this chapter;
3. For a person to evade payment of the fee or any part thereof;
4. For a person to fail to appear and/or refuse to testify in response to a subpoena issued hereto;
5. For a person to testify falsely upon any investigation of the correctness of a return, or upon the heading of any appeal; or
6. For a person to in any manner hinder or delay the city or any of its officers in carrying out the provisions of this chapter.

B. It shall be unlawful for any person to conduct business within the city limits when not in compliance with this chapter.

C. A person violating any of the provisions of this chapter, upon conviction thereof, shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than six months, or by both such fine and imprisonment. Each such person is guilty of a separate offense for each and every day during the portion of which any violation of any provision of this chapter is committed, continued or permitted by any such person and he is punishable accordingly.

5.04.270 Successor liability.

A. Whenever any person required to be licensed by this chapter quits business, or sells out, exchanges, or otherwise disposes of his/her business or stock of goods, any outstanding license fees or penalty payable to the city shall immediately become due and payable, and such person shall, within 30 days, file the required forms and pay the fees due. Any person who becomes a successor to such person shall become liable for the full amount of the prior owner's license fees and penalties due and owing and shall withhold from the purchase price a sum sufficient to pay any amount due from the seller until such time as the seller shall produce a receipt from the city clerk showing payment in full of any amount due or a certificate that no license fees are due. The payment of the fees by the successor shall, to the extent thereof, be deemed a payment upon the purchase price, and if such payment is greater than the purchase price, the amount of the difference shall become a debt due such successor from the seller. The successor's liability shall be limited to the purchase price or the fair market value of the business if no cash transaction took place.

B. No successor shall be liable for any license fees due from the person from whom he/she has acquired a business or stock of goods if he/she gives written notice to the city clerk or director of such acquisition, and no assessment is issued by the director within six months of receipt of such notice against the former operation of the business and a copy of the assessment mailed to the successor.

~~C. Each person's account will remain on an active status and be subject to all license fees and penalties until such time as the director is notified in writing that the person has discontinued business activity within the city.~~

5.04.280 Limitations on license.

Notwithstanding any provisions to the contrary, a license issued under this chapter shall not be issued to any person who uses or occupies or proposes to use or occupy any real property or otherwise conducts or proposes to conduct any business in violation of the provisions of an ordinance of the city of Bainbridge Island, specifically including the city's zoning laws, or of the laws of the state of Washington. The granting of a business license shall in no way be construed as permission or acquiescence in a prohibited activity or other violation. Because the issuance of a license under this chapter specifically denies the applicant authority to violate any law or regulation, the city shall not be held liable for the actions of any licensed business by virtue of having issued a license to conduct business.

Section 2. Section 5.12.010 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

5.12.010 License – Required.

It is unlawful for any person, firm or corporation to open, carry on, or maintain any business on which premises pool or billiard tables, foosball games and shuffleboards are maintained within the city without first obtaining a license therefor, in accordance with the provisions of this chapter. This license is in addition to any business license that may be required under Chapter 5.04 BIMC.

Section 3. Section 5.16.020 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

5.16.020 License – Required.

No person, firm or corporation shall open up, conduct, manage, operate or maintain a cabaret without having a license to do so issued by the city clerk in accordance with the provisions of this chapter. This license is in addition to any business license that may be required under Chapter 5.04 BIMC.

Section 4. Section 5.24.020 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

5.24.020 License – Required.

It is unlawful for any person, firm or corporation to operate within the city any game of skill without first obtaining a license therefor, in accordance with the provisions of this chapter. This license is in addition to any business license that may be required under chapter 5.04 BIMC.

Section 5. Section 5.28.020 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

5.28.020 License – Required.

It is unlawful for any person, firm or corporation to operate within the city, any coin-operated music box, commonly known as a jukebox, without first obtaining a license therefor in accordance with the provisions of this chapter. This license is in addition to any business license that may be required under Chapter 5.04 BIMC.

Section 6. This ordinance shall take effect and be in force on July 12, 2018.

PASSED by the City Council this 26th day of June, 2018.

APPROVED by the Mayor this 26th day of June, 2018.



Kol Medina, Mayor

ATTEST/AUTHENTICATE:



Christine Brown, City Clerk

| | |
|----------------------------|---------------|
| FILED WITH THE CITY CLERK | June 8, 2018 |
| PASSED BY THE CITY COUNCIL | June 26, 2018 |
| PUBLISHED: | June 29, 2018 |
| EFFECTIVE DATE: | July 12, 2018 |
| ORDINANCE NO: | 2018-21 |



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 10 Minutes

AGENDA ITEM: (8:50 PM) Ordinance No. 2018-37, relating to the City Water Utility and Providing for No Automatic Fee Adjustment for Monthly Water Service Rates in 2019 - Finance,

STRATEGIC PRIORITY: Reliable Infrastructure and Connected Mobility

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Ordinance

PROPOSED BY: Finance & Administrative Services

RECOMMENDED MOTION:

I move to forward to the September 25, 2018, Consent Agenda for approval Ordinance 2018-37, providing for no automatic fee adjustment for monthly water service rates in 2019.

SUMMARY:

Consideration of an ordinance which provides for no automatic fee adjustment for monthly water service rates in 2019. Rates will remain at the current levels until additional information is brought to the Council, along with a rate ordinance. This next step is expected in late 2018 or early 2019.

FISCAL IMPACT:

| | |
|------------------------------------|--|
| Amount: | |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | |

BACKGROUND: The City engaged FCS Group to conduct a rate study for the water and sewer utilities in 2018. FCS has completed its preliminary rate analysis and presented the results of their work to staff and the Utility Advisory Committee (UAC). The current information recommends rate increases for water and sewer over the next six-year planning horizon. While the increases are close to the current BIMC approach of an annual CPI adjustment plus two percent, per BIMC 13.16.060, staff and the UAC are continuing discussions of the study and its results.

Staff recommends at this time that the City hold the rates at current levels until final information and recommendations are available. We anticipate that rate recommendations will be presented either late in 2018 or in the first quarter of 2019.

Water utility rates were reduced in 2012 and 2013 and have not changed since that time. While the utility has a fund balance of over \$7 million, the current rate structure has resulted in a net operating loss in the past three years, which indicates that a rate adjustment should be considered. The state auditor has advised City staff to consider raising the rates to address the operating loss. Accordingly, completing the water utility rate analysis will be a priority for staff.

The 2019-2020 Proposed Budget will be prepared assuming no change to rates for 2019. Staff expects to adjust rate-related revenue and expenditure amounts in conjunction with rate ordinances presented at the conclusion of the rate study.

ATTACHMENTS:

[Ordinance No. 2018-37 Providing for No Automatic Annual Adjustment for Water Rates in 2019](#)

FISCAL DETAILS:

Fund Name(s):

Coding:

ORDINANCE NO. 2018-37

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to the City Water Utility and providing for no automatic fee adjustment for monthly water service rates in 2019.

WHEREAS, a structure for establishing water and sewer rates, charges, and fees was established by Ordinance No. 82-20 and amended by Ordinance No. 2011-26 to provide that water utility rates shall be set forth in Section 12(B) of the City’s Fee Schedule, as amended by ordinance passed by the City Council; and

WHEREAS, Section 13.16.060 of the Bainbridge Island Municipal Code provides that all water and sewer rates shall be subject to an adjustment beginning with the first full billing period of each year equal to the annual percentage increase in the United States Consumer Price Index, All Urban Consumers (CPI-U) for November of the preceding year as shown in the release from the Bureau of Labor Statistics plus two percent unless the City Council determines by December 31st of any year that the adjustment shall be another amount or shall not occur for the next year; and

WHEREAS, the City has undertaken a comprehensive review of the City’s water rates, but that work is not yet complete; and

WHEREAS, the City intends to complete the review in the coming months and adjust the rates, if needed, at that time; and

WHEREAS, the City has determined that no change is necessary until the study is complete.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. There will be no automatic annual fee adjustment for 2019 of the City’s water utility rates under Section 13.16.060 of the Bainbridge Island Municipal Code.

Section 2. This ordinance shall take effect and be in force on January 1, 2019, after its approval and publication as required by law.

PASSED by the City Council this ___ day of September, 2018.

APPROVED by the Mayor this ___ day of September, 2018.

Kol Medina, Mayor

ATTEST/AUTHENTICATE:

Christine Brown, City Clerk

| | |
|-----------------------------|----------------------|
| FILED WITH THE CITY CLERK: | August ____, 2018 |
| PASSED BY THE CITY COUNCIL: | September ____, 2018 |
| PUBLISHED: | October ____, 2018 |
| EFFECTIVE DATE: | January 1, 2019 |
| ORDINANCE NUMBER: | 2018-37 |



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 10 Minutes

AGENDA ITEM: (9:00 PM) Ordinance No. 2018-38, Providing for No Automatic Annual Adjustment for Monthly Sewer Service Utility Rates in 2019 - Finance,

STRATEGIC PRIORITY: Reliable Infrastructure and Connected Mobility

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Ordinance

PROPOSED BY: Finance & Administrative Services

RECOMMENDED MOTION:

I move to forward to the September 25, 2018, Consent Agenda for approval Ordinance No. 2018-38, providing for no automatic annual adjustment for monthly sewer service utility rates in 2019.

SUMMARY:

Consideration of an ordinance which provides for no automatic fee adjustment for monthly sewer service rates in 2019. Rates will remain at the current levels until additional information is brought to the City Council, along with a rate ordinance. This next step is expected in late 2018 or early 2019.

FISCAL IMPACT:

| | |
|------------------------------------|--|
| Amount: | |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | |

BACKGROUND: The City engaged FCS Group to conduct a rate study for the water and sewer utilities in 2018. FCS has completed its preliminary rate analysis and presented the results of their work to staff and the Utility Advisory Committee (UAC). The current information recommends rate increases for water and sewer over the next six-year planning horizon. While the increases are close to the current BIMC approach of an annual CPI adjustment plus two percent, per BIMC 13.16.060, staff and the UAC are continuing discussions of the study and its results.

Staff recommends at this time that the City hold the rates at current levels until final information and recommendations are available. We anticipate that rate recommendations will be presented either late in 2018 or in the first quarter of 2019. 644

The 2019-2020 Proposed Budget will be prepared assuming no change to rates for 2019. Staff expects to adjust rate-related revenue and expenditure amounts in conjunction with rate ordinances presented at the conclusion of the rate study.

ATTACHMENTS:

[Ordinance No. 2018-38 Providing for No Automatic Annual Adjustment for Sewer Rates in 2019](#)

FISCAL DETAILS:

Fund Name(s):

Coding:

ORDINANCE NO. 2018-38

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to the City’s Sewer Utility and providing for no automatic annual adjustment for monthly sewer service utility rates in 2019.

WHEREAS, a structure for establishing water and sewer rates, charges, and fees was established by Ordinance No. 82-20 and amended by Ordinance No. 2011-25 to provide that sewer utility rates shall be set forth in Section 12(B) of the City’s Fee Schedule, as amended by ordinance passed by the City Council; and

WHEREAS, Section 13.16.060 of the Bainbridge Island Municipal Code provides that all water and sewer rates shall be subject to an adjustment beginning with the first full billing period of each year equal to the annual percentage increase in the United States Consumer Price Index, All Urban Consumers (CPI-U) for November of the preceding year as shown in the release from the Bureau of Labor Statistics plus two percent unless the City Council determines by December 31st of any year that the adjustment shall be another amount or shall not occur for the next year; and

WHEREAS, the City has undertaken a comprehensive review of the City’s sewer rates, but that work is not yet complete; and

WHEREAS, the City intends to complete the review in the coming months and adjust the rates, if needed, at that time; and

WHEREAS, the City has determined that no change is necessary until the study is complete.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. There will be no automatic annual adjustment for 2019 of the City’s sewer utility rates under Section 13.16.060 of the Bainbridge Island Municipal Code.

Section 2. This ordinance shall take effect and be in force on January 1, 2019, after its approval and publication as required by law.

PASSED by the City Council this ___ day of September, 2018.

APPROVED by the Mayor this ___ day of September, 2018.

Kol Medina, Mayor

ATTEST/AUTHENTICATE:

Christine Brown, City Clerk

| | |
|-----------------------------|----------------------|
| FILED WITH THE CITY CLERK: | August ____, 2018 |
| PASSED BY THE CITY COUNCIL: | September ____, 2018 |
| PUBLISHED: | October ____, 2018 |
| EFFECTIVE DATE: | January 1, 2019 |
| ORDINANCE NUMBER: | 2018-38 |



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 15 Minutes

AGENDA ITEM: (9:10 PM) Interlocal Agreement Between Kitsap Public Utility District No. 1 and the City of Bainbridge Island Transferring Wireless Frequency Interface (Wi-Fi) Assets - Executive,

STRATEGIC PRIORITY: Vibrant Economy

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Interlocal Agreement

PROPOSED BY: Executive

RECOMMENDED MOTION:

I move to forward the approval of, and a delegation of authority to the City Manager to execute, the Interlocal Agreement Transferring Wireless Frequency Interface (Wi-Fi) Assets from KPUD to the City of Bainbridge Island to the September 25, 2018 Consent Agenda.

SUMMARY:

In 2013, Kitsap County Public Utility District No. 1 (KPUD) installed a Wi-Fi system within the downtown core area. At the time, it was KPUD's intention for the system to be operated locally by the Chamber of Commerce or another organization. The system has functioned well and requires minimal support, but more can be done with the system to make it function better for users. KPUD approached the City several months ago to inquire about the City taking over the system.

FISCAL IMPACT:

| | |
|------------------------------------|------------|
| Amount: | |
| Ongoing Cost: | \$3,600.00 |
| One-Time Cost: | \$5,000.00 |
| Included in Current Budget? | Yes |

BACKGROUND: Transfer of the assets to the City will not require any financial consideration. However, the system currently provides service to Poulsbo and Bainbridge Island, which will need to be changed. This will require that the City purchase equipment to create two separate systems, one for Bainbridge Island and one for Poulsbo. The equipment purchase will be a minimal cost of less than \$5,000 for a controller and licensing. Staff time involved with operation of the system is expected to be less than 5 hours per month, which would include uploading advertisements for local businesses, responding to user inquiries, and an occasional update of the landing page.

The Wi-Fi provides service to areas in proximity of Winslow Way and parts of Madison Avenue, but could be gradually expanded to provide more coverage. The Wi-Fi service is a free public internet connection.

If approved, Exhibit A to the Interlocal Agreement, listing system assets, will be finalized prior to execution of the Interlocal Agreement.

ATTACHMENTS:

[Interlocal Agreement Transferring Wi-Fi Assets](#)

[Exhibit A - Interlocal Agreement with KPUD Transferring WiFi Assets](#)

FISCAL DETAILS: Equipment purchase and licensing is estimated to be less than \$5,000. Staff time is estimated to be less than 60 hours annually and revenue generated through the sale of sponsorship advertising has the potential to cover annual operating costs.

Fund Name(s): General Fund

Coding:

INTERLOCAL AGREEMENT BETWEEN PUBLIC UTILITY DISTRICT NO. 1 OF KITSAP COUNTY AND THE CITY OF BAINBRIDGE ISLAND FOR TRANSFER OF WIFI NETWORK

1. **Parties.** This interlocal agreement (“Agreement”) is made and entered into by and between the City of Bainbridge Island (“COBI”) and Public Utility District No. 1 of Kitsap County (“PUD”). Both of these parties are municipal corporations organized under the laws of the State of Washington and make this Agreement pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW.
2. **Purpose of Agreement.** This Agreement provides for transfer by PUD of its WiFi network in downtown Winslow to COBI.
3. **Description of the System.** The PUD’s WiFi network in downtown Winslow (the “System”) consists of a mesh wireless network and wireless access points that provide the public with access to the WiFi network and then to the internet. **Exhibit A** to this Agreement contains a list of system assets. Some of those assets are mounted on buildings owned by private landowners and are allowed by leases or licenses.
4. **COBI Responsibilities.** COBI shall take ownership of the System and agrees to operate and maintain the System for as long as COBI, in its sole discretion, decides that the System has value to the public that exceeds its cost of operation. COBI also agrees to obtain the consent of lessors and licensors to allow the assignment from PUD to COBI of the right to mount System assets on buildings owned by private landowners.
5. **PUD Responsibilities.** PUD agrees that it will transfer the System to COBI by bill of sale and provide all documents in its possession on the assets being transferred. PUD will also provide records of all easements and licenses related to the placement of System assets. PUD will provide a connection from the new COBI controller to the root access points. The bill of sale will transfer the System and related assets under the following warranties and terms:
 - A. PUD is the lawful owner of the System, has the good right and authority to convey the System to COBI, and will defend the title of COBI to the System against the claims and demands of all persons;
 - B. At the time that the System is transferred to COBI, the System is in proper working condition, order, and repair; and
 - C. The System is free from all liens and encumbrances.
6. **Indemnification.** COBI agrees to hold harmless PUD from any and all claims which may be made arising out of or related to COBI’s operation of the System after the transfer.
7. **Insurance.** COBI agrees to have in full force and affect any and all insurance policies (or other forms of casualty and liability coverage) as necessary for the System after its transfer.

8. **Jurisdiction and Venue.** This Agreement is governed by the laws of the State of Washington. Venue for any legal action arising from a dispute under this contract is in the Superior Court for Kitsap County, Washington.
9. **Non-Discrimination.** Parties shall not discriminate in any manner related to this Agreement on the basis of race, color, national origin, sex, sexual orientation, religion, age, marital status, or disability in employment of the provision of services.
10. **Severability.** If any provision of the Agreement shall be held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of all parties.
11. **Entire Agreement.** This Agreement, including **Exhibit A**, constitutes the entire agreement between Parties. Any modifications or amendments to this Agreement shall be in writing and shall be signed by each party.
12. **Compliance with RCW 39.34.040.** Pursuant to RCW 39.34.040, this Agreement shall be filed with the Kitsap County Auditor.
13. **No Separate Entity.** It is not contemplated that, as a result of this Agreement, any property, real or personal, will be jointly acquired by the parties to this Agreement. This Agreement does not establish or create a separate fund or legal entity. Neither party is authorized to bind the other to any contract or obligation. Each party to this Agreement shall be responsible for its own budgeting.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the later of the signature dates included below.

CITY OF BAINBRIDGE ISLAND

**PUBLIC UTILITY DISTRICT NO. 1
OF KITSAP COUNTY**

Date: _____

Date: _____

By: _____

By: _____

Douglas Schulze
City Manager

President
Board of Commissioners

ATTEST:

Clerk for Board of Commissioners

Exhibit A

Kitsap PUD - Downtown Winslow - Mesh Wireless System Assets

| | <u>Device Name</u> | <u>Description</u> | <u>Model</u> |
|----|-----------------------------------|--|--------------|
| 1 | Winslow TAC Sign | Winslow Town and Country Sign | zf7782 |
| 2 | Winslow SPArch | Winslow Sean Parker Architects | zf7782 |
| 3 | Winslow Performing Arts | Winslow Performing Arts | zf7782 |
| 4 | Winslow Pavilion South | Winslow Pavilion South | zf7782 |
| 5 | Winslow Pavilion North | Winslow Pavilion North | zf7782 |
| 6 | Winslow Mall West | North West Corner Winslow Mall | zf7782 |
| 7 | Winslow Mall South | Winslow Mall South End | zf7782 |
| 8 | Winslow Mall East | North East Corner Winslow Mall | zf7782 |
| 9 | Winslow KiDiMu | Winslow Kids Discovery Museum | zf7782 |
| 10 | Winslow Island Fitness | Winslow Island Fitness | zf7782 |
| 11 | Winslow Is Gateway | Winslow Bainbridge Island Gateway | zf7782 |
| 12 | Winslow Green West | Winslow Green West | zf7782 |
| 13 | Winslow Green North | Winslow Green North | zf7782 |
| 14 | Winslow COC South | Winslow COC South | zf7782 |
| 15 | Winslow COC North | Winslow COC North | zf7782 |
| 16 | Winslow City Hall Tower | Winslow City Hall Tower | zf7782 |
| 17 | Winslow BHRE | Winslow Bainbridge Homes Real Estate | zf7782 |
| 18 | Winslow BHM East | Winslow Bainbridge Historical Museum E | zf7782 |
| 19 | Winslow BHM | Bainbridge Historical Museum W | zf7782 |
| 20 | Winslow Barber Shop | Winslow Sandy's Barber Shop | zf7782 |
| 21 | Winslow Bainbridge Police Station | Bainbridge PD AP | zf7782 |
| 22 | Winslow Bainbridge Electric | Bainbridge Electric AP | zf7782 |



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 5 Minutes

AGENDA ITEM: (9:25 PM) Agenda Bill for Consent Agenda,

STRATEGIC PRIORITY: Good Governance

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Consent Agenda

PROPOSED BY: Executive

RECOMMENDED MOTION:

I move to approve the Consent Agenda, as presented.

SUMMARY:

Consider approval of the following Consent Agenda items:

1. Accounts Payable and Payroll
2. City Council Study Session Minutes, August 21, 2018
3. Special Joint City Council Meeting Minutes, August 27, 2018
4. Special City Council Meeting Minutes, August 28, 2018
5. Regular City Council Business Meeting Minutes, August 28, 2018
6. Professional Services Agreement for Rockaway Beach 5-Year Hydraulic Project Approval (HPA) Requirements - Public Works
7. Resolution No. 2018-18 Reducing Speed Limits on Certain Roadways and Resolution No. 2018-23, Reducing speed Limits in Downtown Bainbridge Island/Winslow - Public Works
8. Interlocal Agreement and Use Agreement for Ride Along Application - Police

FISCAL IMPACT:

| | |
|------------------------------------|--|
| Amount: | |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | |

BACKGROUND:

ATTACHMENTS:

FISCAL DETAILS:

Fund Name(s):

Coding:



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME:

AGENDA ITEM: Accounts Payable and Payroll

STRATEGIC PRIORITY: Good Governance

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Consent Agenda

PROPOSED BY: Finance & Administrative Services

RECOMMENDED MOTION:

Approve with Consent Agenda

SUMMARY:

Consider approval of accounts payable and payroll.

FISCAL IMPACT:

| | |
|------------------------------------|--|
| Amount: | |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | |

BACKGROUND:

ATTACHMENTS:

[Report to Council of Cash Disbursements 09-12-18.pdf](#)

[Payroll.pdf](#)

FISCAL DETAILS:

Fund Name(s):

Coding:

ACCOUNTS PAYABLE REPORT TO CITY COUNCIL OF CASH DISBURSEMENTS

CHECK RUN: August 27, 2018 - September 10, 2018
 CITY COUNCIL: August 28, 2018 - September 11, 2018

Last check from previous run: 348403 dated 08/29/2018 issued to Zee Medical Service Co in the amount of \$163.74

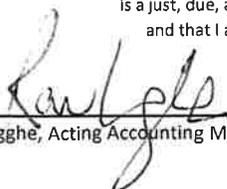
| Payment Type | Check Date | Check Number | Department/Vendor/Description | Amount |
|---|------------|--------------|---|------------------|
| EFT | N/A | N/A | | N/A |
| ACH | N/A | N/A | | N/A |
| ACH | N/A | N/A | | N/A |
| VOID | 3/14/18 | 346903 | PW/Environmental Resources/Check lost - reissued | N/A |
| VOID | 8/24/18 | 348405 | ENG/KC Treasurer/Wrong amount-reissued for correct amt | N/A |
| VOID | 8/24/18 | 348406 | ENG/KC Treasurer/Wrong amount-reissued for correct amt | N/A |
| VOID | 8/29/18 | 348306 | POL/Brothers Powersports/Check returned from vendor, not owed | N/A |
| VOID | 8/29/18 | 348385 | PCD/Toshiba/Issued to wrong vendor, reissued to correct | N/A |
| VOID | 9/12/18 | 348454 | LEGAL/Thomas Alpaugh/Printed in error, paid by manual check | N/A |
| Manual | 8/24/18 | 348404 | PW/Environmental Resources/Replaces 346903 | 526.40 |
| Manual | 8/24/18 | 348405 | ENG/KC Treasurer/REET Affidavit Fee: 442 Wyatt Way NW | 10.00 |
| Manual | 8/24/18 | 348406 | ENG/KC Treasurer/REET Affidavit Fee: 8266 High School Rd | 10.00 |
| Manual | 8/28/18 | 348407 | CenturyLink/Citywide telemetry & fax services | 2,896.24 |
| Manual | 8/28/18 | 348408 | Puget Sound Energy/Green Power contract August 2018 | 849.33 |
| Manual | 8/28/18 | 348409 | PCD/Toshiba/Copier lease - reprint for correct vendor | 353.16 |
| Manual | 8/28/18 | 348410 | Washington Water Service/Decant facility water August 2018 | 144.64 |
| Manual | 9/4/18 | 348411 | LEGAL/Thomas Alpaugh/Public defense services August 2018 | 4,375.00 |
| Manual | 9/4/18 | 348412 | PW/Air Management Solutions/Building Services 2018 | 4,567.10 |
| Manual | 9/4/18 | 348413 | PW/American Fleet Maintenance/Upfitting vehicles 232, 233 | 3,287.44 |
| Manual | 9/5/18 | 348414 | HR/Ann Pearl Catering/Deposit for employee appreciation event | 400.00 |
| Manual | 9/5/18 | 348415 | ENG/KC Treasurer/Replaces 348405 at correct amount | 229.28 |
| Manual | 9/5/18 | 348416 | ENG/KC Treasurer/Replaces 348406 at correct amount | 262.03 |
| Manual Checks and Electronic Disbursements | | | | 17,910.62 |

| | | | | |
|-------------|---------|---------------|-------------------|-------------------|
| Regular Run | 9/12/18 | 348417-348489 | Regular Check Run | 147,389.32 |
| | | | | 165,299.94 |

| | | | | |
|-------------------|-----|-----|--|-----|
| Retainage Release | N/A | N/A | | N/A |
| Travel Advance | N/A | N/A | | N/A |

Prepared and Reviewed by  Carrie Christianson, Senior Accounting Technician

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered, or the labor performed as described herein and that the claim is a just, due, and unpaid obligation against the City of Bainbridge Island, and that I am authorized to authenticate and certify to said claim.


 Ron Logghe, Acting Accounting Manager


 Date

VOID
 (cc) 8/24/18
 1CRS
 8-24-18

08/24/2018 09:37 | CITY OF BAINBRIDGE ISLAND
 cchristianson | A/P CASH DISBURSEMENTS JOURNAL

1
 |apcshdsb

CASH ACCOUNT: 635 111100 CASH
 CHECK NO CHK DATE TYPE VENDOR NAME VOUCHER INVOICE INV DATE PO CHECK RUN NET

INVOICE DTL DESC

| | | | | | | | | | |
|--------|-----------------|------|---------------------------|--------|--------|--------------------------|--|---|---------|
| 346903 | 03/14/2018 | VOID | 1876 ENVIRONMENTAL RESOUR | 220348 | 856858 | 02/28/2018 | | | -526.40 |
| | Invoice: 856858 | | | | | PW/WWTP TESTING SERVICES | | | |
| | | | | | | | | | -526.40 |
| | | | | | | | | | |
| | | | | | | | | CHECK 346903 TOTAL: | -526.40 |
| | | | | | | | | | |
| | | | | | | | | NUMBER OF CHECKS 1 *** CASH ACCOUNT TOTAL *** | -526.40 |
| | | | | | | | | | |
| | | | | | | | | COUNT | AMOUNT |
| | | | | | | | | ----- | ----- |
| | | | | | | | | TOTAL VOIDED CHECKS 1 | 526.40 |
| | | | | | | | | | |
| | | | | | | | | *** GRAND TOTAL *** | -526.40 |

check lost. void for reissue.

JOURNAL ENTRIES TO BE CREATED

CLERK: cchristianson

| YEAR PER | JNL | | | | | ACCOUNT DESC | T OB | DEBIT | CREDIT |
|--------------------------------|----------|-------|-------|-------|-------------------------------|--------------|----------|----------|--------|
| SRC ACCOUNT | JNL DESC | REF 1 | REF 2 | REF 3 | LINE DESC | | | | |
| EFF DATE | | | | | | | | | |
| 2018 8 287 | | | | | ACCOUNTS PAYABLE | | | 526.40 | |
| APP 402-213000 | | | | | AP CASH DISBURSEMENTS JOURNAL | | | | |
| 08/24/2018 | 346903 | VOID | | | CASH | | 526.40 | | |
| APP 635-111100 | | | | | AP CASH DISBURSEMENTS JOURNAL | | | | |
| 08/24/2018 | 346903 | VOID | | | | | | | |
| GENERAL LEDGER TOTAL | | | | | | | 526.40 | 526.40 | |
| APP 631-130000 | | | | | DUE TO/FROM CLEARING | | | 526.40 | |
| 08/24/2018 | 03/11/18 | VOID | | | DUE TO/FROM CLEARING | | 526.40 | | |
| APP 402-130000 | | | | | | | | | |
| 08/24/2018 | 03/11/18 | VOID | | | | | | | |
| SYSTEM GENERATED ENTRIES TOTAL | | | | | | | 526.40 | 526.40 | |
| JOURNAL 2018/08/287 TOTAL | | | | | | | 1,052.80 | 1,052.80 | |

08/24/2018 09:37
cchristianson

|CITY OF BAINBRIDGE ISLAND
|A/P CASH DISBURSEMENTS JOURNAL

|P 3
|apcshdsb

JOURNAL ENTRIES TO BE CREATED

| FUND | YEAR | PER | JNL | EFF DATE | ACCOUNT DESCRIPTION | DEBIT | CREDIT |
|--------------------------|------|-----|-----|------------|----------------------|--------|--------|
| 402 SEWER OPERATING FUND | 2018 | 8 | 287 | 08/24/2018 | | | |
| 402-130000 | | | | | DUE TO/FROM CLEARING | 526.40 | |
| 402-213000 | | | | | ACCOUNTS PAYABLE | | 526.40 |
| | | | | | FUND TOTAL | 526.40 | 526.40 |
| 631 CLEARING FUND | 2018 | 8 | 287 | 08/24/2018 | | | |
| 631-130000 | | | | | DUE TO/FROM CLEARING | | 526.40 |
| 635-111100 | | | | | CASH | 526.40 | |
| | | | | | FUND TOTAL | 526.40 | 526.40 |

08/24/2018 09:37
cchristianson

|CITY OF BAINBRIDGE ISLAND
|A/P CASH DISBURSEMENTS JOURNAL

|P 4
|apcshdsb

JOURNAL ENTRIES TO BE CREATED

| FUND | | DUE TO | DUE FROM |
|--------------------------|-------|--------|----------|
| 402 SEWER OPERATING FUND | | | 526.40 |
| 631 CLEARING FUND | | 526.40 | |
| | TOTAL | 526.40 | 526.40 |

** END OF REPORT - Generated by Carrie L. Christianson **

VOID
④ 9/5/18

09/05/2018 13:31 | CITY OF BAINBRIDGE ISLAND
cchristianson | A/P CASH DISBURSEMENTS JOURNAL

| P 1
| apcshdsb

| CASH ACCOUNT: 635 | 111100 | CASH | | | | | | | |
|------------------------------|------------|------|------------------|---------------------|----------------------|-----------------------------|-------|------------------------|--------|
| CHECK NO | CHK DATE | TYPE | VENDOR NAME | VOUCHER | INVOICE | INV DATE | PO | CHECK RUN | NET |
| INVOICE DTL DESC | | | | | | | | | |
| 348405 | 08/24/2018 | VOID | 316 KC TREASURER | 224954 | 442 WYATT WAY NW | 08/24/2018 | | | -10.00 |
| Invoice: 442 WYATT WAY NW | | | | | | | | ENG/REET AFFIDAVIT FEE | |
| | | | | -10.00 | 72321952 66100000708 | WYATT-MAD TO LOVELL-ROW ACQ | | | |
| | | | | | | | CHECK | 348405 TOTAL: | -10.00 |
| 348406 | 08/24/2018 | VOID | 316 KC TREASURER | 224955 | 8266 HIGH SCHOOL RD | 08/24/2018 | | | -10.00 |
| Invoice: 8266 HIGH SCHOOL RD | | | | | | | | ENG/REET AFFIDAVIT FEE | |
| | | | | -10.00 | 72321952 66100000708 | WYATT-MAD TO LOVELL-ROW ACQ | | | |
| | | | | | | | CHECK | 348406 TOTAL: | -10.00 |
| | | | | NUMBER OF CHECKS | 2 | *** CASH ACCOUNT TOTAL *** | | | -20.00 |
| | | | | | | | COUNT | AMOUNT | |
| | | | | TOTAL VOIDED CHECKS | 2 | | ----- | ----- | |
| | | | | | | | | | 20.00 |
| | | | | | | | | *** GRAND TOTAL *** | -20.00 |

Checks returned by KC Treasurer, wrong amounts were paid.
Voided checks & modified invoices to correct amounts for reprint.

09/05/2018 13:31
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|CITY OF BAINBRIDGE ISLAND
 |A/P CASH DISBURSEMENTS JOURNAL

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JOURNAL ENTRIES TO BE CREATED

CLERK: cchristianson

| YEAR PER | JNL | SRC ACCOUNT | EFF DATE | JNL DESC | REF 1 | REF 2 | REF 3 | ACCOUNT DESC LINE DESC | T OB | DEBIT | CREDIT |
|--------------------------------|------------|-------------|------------|----------|-------|-------|-------|---|------|-------|--------|
| 2018 | 9 | 22 | | | | | | | | | |
| APP | 301-213000 | | 09/05/2018 | 348405 | VOID | | | ACCOUNTS PAYABLE AP CASH DISBURSEMENTS JOURNAL | | | 20.00 |
| APP | 635-111100 | | 09/05/2018 | 348405 | VOID | | | CASH AP CASH DISBURSEMENTS JOURNAL | | 10.00 | |
| APP | 635-111100 | | 09/05/2018 | 348406 | VOID | | | CASH AP CASH DISBURSEMENTS JOURNAL | | 10.00 | |
| GENERAL LEDGER TOTAL | | | | | | | | | | 20.00 | 20.00 |
| APP | 631-130000 | | 09/05/2018 | M082418 | VOID | | | DUE TO/FROM CLEARING | | | 20.00 |
| APP | 301-130000 | | 09/05/2018 | M082418 | VOID | | | DUE TO/FROM CLEARING | | 20.00 | |
| SYSTEM GENERATED ENTRIES TOTAL | | | | | | | | | | 20.00 | 20.00 |
| JOURNAL 2018/09/22 TOTAL | | | | | | | | | | 40.00 | 40.00 |

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cchristianson

CITY OF BAINBRIDGE ISLAND
A/P CASH DISBURSEMENTS JOURNAL

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apcshdsb

JOURNAL ENTRIES TO BE CREATED

| FUND | YEAR | PER | JNL | EFF DATE | ACCOUNT DESCRIPTION | DEBIT | CREDIT |
|-------------------------------|------|-----|-----|------------|----------------------|-------|--------|
| 301 CAPITAL CONSTRUCTION FUND | 2018 | 9 | 22 | 09/05/2018 | | | |
| 301-130000 | | | | | DUE TO/FROM CLEARING | 20.00 | |
| 301-213000 | | | | | ACCOUNTS PAYABLE | | 20.00 |
| | | | | | FUND TOTAL | 20.00 | 20.00 |
| 631 CLEARING FUND | 2018 | 9 | 22 | 09/05/2018 | | | |
| 631-130000 | | | | | DUE TO/FROM CLEARING | | 20.00 |
| 635-111100 | | | | | CASH | 20.00 | |
| | | | | | FUND TOTAL | 20.00 | 20.00 |

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|CITY OF BAINBRIDGE ISLAND
|A/P CASH DISBURSEMENTS JOURNAL

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JOURNAL ENTRIES TO BE CREATED

| FUND | | DUE TO | DUE FROM |
|-------------------------------|-------|--------|----------|
| 301 CAPITAL CONSTRUCTION FUND | | | 20.00 |
| 631 CLEARING FUND | | 20.00 | |
| | TOTAL | 20.00 | 20.00 |

** END OF REPORT - Generated by Carrie L. Christianson **

VOID

8/27/18

KRS

8/27/18

08/27/2018 09:25 | CITY OF BAINBRIDGE ISLAND
cchristianson | A/P CASH DISBURSEMENTS JOURNAL

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apcshdsb

CASH ACCOUNT: 635 111100 CASH
CHECK NO CHK DATE TYPE VENDOR NAME VOUCHER INVOICE INV DATE PO CHECK RUN NET

INVOICE DTL DESC

348385 08/29/2018 VOID 1970 TOSHIBA AMERICA BUSI 224801 23167807 08/13/2018 -353.16
Invoice: 23167807 PCD/E-STUDIO6560C COPIER LEASE

-353.16 61470581 545000 PCD - DEV ADMIN RENTS & LEASES

CHECK 348385 TOTAL: -353.16

NUMBER OF CHECKS 1 *** CASH ACCOUNT TOTAL *** -353.16

COUNT AMOUNT

TOTAL VOIDED CHECKS 1 353.16

*** GRAND TOTAL *** -353.16

Invoice paid under wrong vendor, unable to modify invoice to update vendor, had to void & re-enter w/ correct vendor #.

08/27/2018 09:25 |CITY OF BAINBRIDGE ISLAND
 cchristianson |A/P CASH DISBURSEMENTS JOURNAL

|P 2
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JOURNAL ENTRIES TO BE CREATED

CLERK: cchristianson

| YEAR PER | JNL | | | | | ACCOUNT DESC | T OB | DEBIT | CREDIT |
|--------------------------------|------------|----------|-------|-------|-------------------------------|--------------|--------|--------|--------|
| SRC ACCOUNT | JNL DESC | REF 1 | REF 2 | REF 3 | LINE DESC | | | | |
| 2018 8 320 | | | | | | | | | |
| APP 407-213000 | | | | | ACCOUNTS PAYABLE | | | 353.16 | |
| | 08/27/2018 | 348385 | VOID | | AP CASH DISBURSEMENTS JOURNAL | | | | |
| APP 635-111100 | | | | | CASH | | 353.16 | | |
| | 08/27/2018 | 348385 | VOID | | AP CASH DISBURSEMENTS JOURNAL | | | | |
| GENERAL LEDGER TOTAL | | | | | | | | 353.16 | 353.16 |
| APP 631-130000 | | | | | DUE TO/FROM CLEARING | | | 353.16 | |
| | 08/27/2018 | 08/26/18 | VOID | | | | | | |
| APP 407-130000 | | | | | DUE TO/FROM CLEARING | | 353.16 | | |
| | 08/27/2018 | 08/26/18 | VOID | | | | | | |
| SYSTEM GENERATED ENTRIES TOTAL | | | | | | | | 353.16 | 353.16 |
| JOURNAL 2018/08/320 TOTAL | | | | | | | | 706.32 | 706.32 |

08/27/2018 09:25
cchristianson

CITY OF BAINBRIDGE ISLAND
A/P CASH DISBURSEMENTS JOURNAL

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apcshdsb

JOURNAL ENTRIES TO BE CREATED

| FUND | YEAR | PER | JNL | EFF DATE | ACCOUNT DESCRIPTION | DEBIT | CREDIT |
|---------------------------------|------|-----|-----|------------|----------------------|--------|--------|
| 407 BUILDING & DEVELOPMENT FUND | 2018 | 8 | 320 | 08/27/2018 | | | |
| 407-130000 | | | | | DUE TO/FROM CLEARING | 353.16 | |
| 407-213000 | | | | | ACCOUNTS PAYABLE | | 353.16 |
| | | | | | FUND TOTAL | 353.16 | 353.16 |
| 631 CLEARING FUND | 2018 | 8 | 320 | 08/27/2018 | | | |
| 631-130000 | | | | | DUE TO/FROM CLEARING | | 353.16 |
| 635-111100 | | | | | CASH | 353.16 | |
| | | | | | FUND TOTAL | 353.16 | 353.16 |

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|CITY OF BAINBRIDGE ISLAND
|A/P CASH DISBURSEMENTS JOURNAL

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JOURNAL ENTRIES TO BE CREATED

| FUND | | DUE TO | DUE FROM |
|---------------------------------|-------|--------|----------|
| 407 BUILDING & DEVELOPMENT FUND | | | 353.16 |
| 631 CLEARING FUND | | 353.16 | |
| | TOTAL | 353.16 | 353.16 |

** END OF REPORT - Generated by Carrie L. Christianson **

08/27/2018 09:28 |CITY OF BAINBRIDGE ISLAND
cchristianson |MODIFY INVOICES

|P 1
|apinmnt

CLERK: cchristianson

INVOICE HEADER CHANGED

| VENDOR DOCUMENT | CHECK RUNVOUCHER | DEPT | YR/PER | CASH ACCOUNT | TYPE | INV DATE | DISCOUNT AMOUNT | ERROR |
|---------------------|------------------|-------------------|--------------|--------------|------------|------------|-----------------|-------|
| | | | | | STAT | DUE DATE | INVOICE NET | |
| 001970 71513 | | 224801 | 410012018 | 08 635 | 111100 INV | 08/13/2018 | .00 | |
| TOSHIBA AMERICA BUS | RMT: 0 | PCD/E-STUDIO6560C | COPIER LEASE | | | 08/29/2018 | 353.16 | |
| INVOICE: 23167807 | | | | | | | | |
| 61470581 545000 | | PCD DRENT | | N 1 | | 353.16 | | |

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| FUND | YEAR | PER | JNL | EFF DATE | ACCOUNT DESCRIPTION | DEBIT | CREDIT |
|------------|------|-----|-----|------------|--------------------------------|--------|--------|
| 407 | 2018 | 8 | 321 | 08/27/2018 | BUILDING & DEVELOPMENT FUND | | |
| | | | | | 407-213000 ACCOUNTS PAYABLE | 353.16 | |
| | | | | | 407-292200 EXPENDITURE CONTROL | | 353.16 |
| FUND TOTAL | | | | | | 353.16 | 353.16 |

** END OF REPORT - Generated by Carrie L. Christianson **

VOID
@9/5/18

09/05/2018 10:20 | CITY OF BAINBRIDGE ISLAND
cchristianson | A/P CASH DISBURSEMENTS JOURNAL

| P 1
| apcshdsb

| CASH ACCOUNT: 635 | 111100 | CASH | | | | | | | |
|-------------------|------------------|------|---------------------------|---------|-----------------|------------|----|-----------------------|------------------------------------|
| CHECK NO | CHK DATE | TYPE | VENDOR NAME | VOUCHER | INVOICE | INV DATE | PO | CHECK RUN | NET |
| INVOICE DTL DESC | | | | | | | | | |
| 348306 | 08/29/2018 | VOID | 4225 THE BROTHERS POWERSP | 224738 | 9973098 | 07/27/2018 | | | -330.67 |
| | Invoice: 9973098 | | | | | | | | |
| | | | | -330.67 | 53011212 548100 | | | | |
| | | | | | | | | CHECK 348306 TOTAL: | -330.67 |
| | | | | | | | | NUMBER OF CHECKS 1 | *** CASH ACCOUNT TOTAL *** -330.67 |
| | | | | | | | | COUNT | AMOUNT |
| | | | | | | | | ----- | ----- |
| | | | | | | | | TOTAL VOIDED CHECKS 1 | 330.67 |
| | | | | | | | | | *** GRAND TOTAL *** -330.67 |

Per vendor, balance is not owed.
voided check & invoice.

09/05/2018 10:20
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|CITY OF BAINBRIDGE ISLAND
 |A/P CASH DISBURSEMENTS JOURNAL

|P 2
 |apcshdsb

JOURNAL ENTRIES TO BE CREATED

CLERK: cchristianson

| YEAR PER | JNL | SRC ACCOUNT | EFF DATE | JNL DESC | REF 1 | REF 2 | REF 3 | ACCOUNT DESC LINE DESC | T OB | DEBIT | CREDIT |
|--------------------------------|------------|-------------|------------|----------|-------|-------|-------|---|------|--------|--------|
| 2018 | 9 | 20 | | | | | | | | | |
| APP | 001-213000 | | 09/05/2018 | 348306 | VOID | | | GENERAL - ACCOUNTS PAYABLE AP CASH DISBURSEMENTS JOURNAL | | | 330.67 |
| APP | 635-111100 | | 09/05/2018 | 348306 | VOID | | | CASH AP CASH DISBURSEMENTS JOURNAL | | 330.67 | |
| GENERAL LEDGER TOTAL | | | | | | | | | | 330.67 | 330.67 |
| APP | 631-130000 | | 09/05/2018 | 08/26/18 | VOID | | | DUE TO/FROM CLEARING | | | 330.67 |
| APP | 001-130000 | | 09/05/2018 | 08/26/18 | VOID | | | GENERAL - DUE TO/FROM CLEARING | | 330.67 | |
| SYSTEM GENERATED ENTRIES TOTAL | | | | | | | | | | 330.67 | 330.67 |
| JOURNAL 2018/09/20 TOTAL | | | | | | | | | | 661.34 | 661.34 |

09/05/2018 10:20
cchristianson

|CITY OF BAINBRIDGE ISLAND
|A/P CASH DISBURSEMENTS JOURNAL

|P 3
|apcshdsb

JOURNAL ENTRIES TO BE CREATED

| FUND | YEAR | PER | JNL | EFF DATE | ACCOUNT DESCRIPTION | DEBIT | CREDIT |
|-------------------|------|-----|-----|------------|--------------------------------|--------|--------|
| 001 GENERAL FUND | 2018 | 9 | 20 | 09/05/2018 | | | |
| 001-130000 | | | | | GENERAL - DUE TO/FROM CLEARING | 330.67 | |
| 001-213000 | | | | | GENERAL - ACCOUNTS PAYABLE | | 330.67 |
| | | | | | FUND TOTAL | 330.67 | 330.67 |
| 631 CLEARING FUND | 2018 | 9 | 20 | 09/05/2018 | | | |
| 631-130000 | | | | | DUE TO/FROM CLEARING | | 330.67 |
| 635-111100 | | | | | CASH | 330.67 | |
| | | | | | FUND TOTAL | 330.67 | 330.67 |

09/05/2018 10:20
cchristianson

|CITY OF BAINBRIDGE ISLAND
|A/P CASH DISBURSEMENTS JOURNAL

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|apcshdsb

JOURNAL ENTRIES TO BE CREATED

| FUND | | DUE TO | DUE FROM |
|-------------------|-------|--------|----------|
| 001 GENERAL FUND | | | 330.67 |
| 631 CLEARING FUND | | 330.67 | |
| | TOTAL | 330.67 | 330.67 |

** END OF REPORT - Generated by Carrie L. Christianson **

09/05/2018 10:23 |CITY OF BAINBRIDGE ISLAND
cchristianson |MODIFY INVOICES

|P 1
|apinmnt

CLERK: cchristianson

INVOICE HEADER CHANGED

| VENDOR DOCUMENT | CHECK RUNVOUCHER | DEPT | YR/PER | CASH ACCOUNT | TYPE | INV DATE | DISCOUNT AMOUNT | ERROR |
|------------------|------------------|-----------------------|-----------|--------------|------------|------------|-----------------|-------|
| | | | | | STAT | DUE DATE | INVOICE NET | |
| 004225 71454 | | 224738 | 410012018 | 08 635 | 111100 INV | 07/27/2018 | .00 | |
| BROTHERS, THE | RMT: 0 | POL/MOTORCYCLE REPAIR | | | | 08/29/2018 | 330.67 | |
| INVOICE: 9973098 | | | | | | | | |
| 53011212 548100 | | PAT MAINT | | N 1 | | 330.67 | | |

** END OF REPORT - Generated by Carrie L. Christianson **

09/05/2018 10:23 |CITY OF BAINBRIDGE ISLAND
 cchristianson |MODIFY INVOICES

|P 2
 |apinvmnt

CLERK: cchristianson

| YEAR PER | JNL | ACCOUNT | DESC | REF 1 | REF 2 | REF 3 | ACCOUNT DESC | T OB | DEBIT | CREDIT |
|---------------------|------|---------|--------|-------|-------|-------|--------------------------------|------|--------|--------|
| EFF DATE | JNL | DESC | | | | | LINE DESC | | | |
| 2018 9 21 | | | | | | | | | | |
| APM 53011212-548100 | | | | | | | POLICE - C/E PATROL MAINTENANC | | | 330.67 |
| 09/05/2018 | VOID | INV | 004225 | | | 71454 | POL/MOTORCYCLE REPAIR | | | |
| | | | | | | | 1 GENERAL LEDGER TOTAL | | .00 | 330.67 |
| APM 001-213000 | | | | | | | GENERAL - ACCOUNTS PAYABLE | | 330.67 | |
| 09/05/2018 | VOID | INV | 004225 | | | | | | | |
| | | | | | | | 1 TOTAL | | 330.67 | .00 |
| | | | | | | | SYSTEM GENERATED ENTRIES TOTAL | | 330.67 | .00 |
| | | | | | | | JOURNAL 2018/09/21 TOTAL | | 330.67 | 330.67 |
| 2018 9 21 | | | | | | | | | | |
| APM 001-292200 | | | | | | | EXPENDITURE CONTROL | | | 330.67 |
| 09/05/2018 | VOID | INV | 004225 | | | | | | | |

09/05/2018 10:23
cchristianson

|CITY OF BAINBRIDGE ISLAND
|MODIFY INVOICES

|P 3
|apinmnt

| FUND | YEAR | PER | JNL | EFF DATE | ACCOUNT DESCRIPTION | DEBIT | CREDIT |
|------------|------|-----|-----|------------|----------------------------|--------|--------|
| 001 | 2018 | 9 | 21 | 09/05/2018 | | | |
| 001-213000 | | | | | GENERAL - ACCOUNTS PAYABLE | 330.67 | |
| 001-292200 | | | | | EXPENDITURE CONTROL | | 330.67 |
| FUND TOTAL | | | | | | 330.67 | 330.67 |

** END OF REPORT - Generated by Carrie L. Christianson **

THE BROTHERS POWERSPORTS

5205 1ST STREET
 BREMERTON, WA 98312-
 360-479-6943 877-479-6943

Repair Order Invoice

| | |
|--------------------------|---------------------------|
| R/O Number: 16543 | Invoice Number: 9973098 |
| Date In: 7/27/2018 | Today Date: 8/31/2018 |
| Date Promised: 7/27/2018 | Date Closed: 7/27/2018 |
| Cashier: ANNE | Date Cashiered: 7/27/2018 |

Repair Order For:

KOON, GARY K.
 323 WYATT AVE NE
 BAINBRIDGE ISLAND, WA 98110
 c:206-730-0389 h:360-473-8540 w:206-842-5211

Description: R.O. #16543

Units For This Repair Order

Service Writer: ANNE

| Year | Make | Model | VIN/Serial No. | Plate | Key Board | Miles In/Out |
|------|--------|---------|-------------------|-------|-----------|--------------|
| 2017 | YAMAHA | XTZ12HL | JYADP06E8HA001298 | | | 633 / |

Job: BREAK IN SERVICE (600 MILE)

Job For: 2017 YAMAHA XTZ12HL STREETBIKE JYADP06E8HA001298

Description

SEE ATTACHED PAPERWORK

Parts

| Part Number | Quantity | Description | Each Price | Extension |
|-----------------------|----------|-------------------------------|------------|----------------|
| 90430-12213-00 | 2 | GASKET, SEALING DRAIN | \$2.99 | \$5.98 |
| 5GH-13440-60-00 | 1 | ELEMENT ASSY, OIL CL | \$11.95 | \$11.95 |
| Y1040D | 4 | 10W40 HIGH PERF. OIL QT. DRUM | \$5.99 | \$23.96 |
| ACC-SHFTD-EX-00 | 1 | SHAFT DRIVE OIL EXCL | \$23.49 | \$23.49 |
| 214-11198-01-00 | 2 | GASKET | \$3.99 | \$7.98 |
| Parts Subtotal | | | | \$73.36 |

Labor

| Description | Job Code | Technician | Quantity | Line Total |
|-----------------------------|----------|--------------|----------|-----------------|
| BREAK IN SERVICE (600 MILE) | | BRIAN MURRAY | 2 Hours | \$210.00 |
| Labor Subtotal | | | | \$210.00 |

Recommendations

Resolution

PERFORMED 600 MILE SERVICE
 INSPECTED CONTROLS, CABLES, LIGHTS AND
 SWITCHES
 TIGHTENED ALL SPOKES
 ADJUSTED TIRE PRESSURES AND CHANGED ENGINE OIL
 AND FILTER
 TORQUED MAJOR NUTS AND BOLTS
 CHANGED FINAL DRIVE FLUID

Job: BREAK IN SERVICE (600 MILE) (Continued)

Job For: 2017 YAMAHA XTZ12HL STREETBIKE JYADP06E8HA001298

| | |
|----------------------|-----------------|
| Other Charges | |
| Shop Supplies | \$20.00 |
| Job Subtotal | \$303.36 |

| | |
|-------------------------------|-----------------|
| Customer Job Totals | |
| Parts | \$73.36 |
| Labor | \$210.00 |
| Other | \$20.00 |
| Total of Customer Jobs | \$303.36 |
| Repair Order Subtotal | \$303.36 |

| | |
|---------------------------|-----------------|
| Sales Tax | \$27.31 |
| Repair Order Total | \$330.67 |
| Total Amount Due | \$330.67 |
| Tendered: Charge | \$330.67 |
| Change Due | \$0.00 |

Due to the amount of ethanol in today's gasoline, it is very important to maintain the fuel system in your motorcycle/ATV by using a fuel stabilizer. Please contact the service department with questions regarding E10 gasoline or stabilizers.
360-479-6943 Mike Velasco, Service Manager

I hereby authorize the above repair work to be done along with the necessary materials. You and your employees may operate the above vehicle for purposes of testing, inspection, or delivery at my risk. An express mechanic's lien is acknowledged on the above vehicle to secure the amount of repairs owed. Conditions: Not responsible for loss or damage to vehicle or articles left in vehicles in case of fire, theft, accident, or any other cause beyond our control. Storage will be charged commencing 48 hours after repairs are completed. All equipment will be stored outside. Parts are ordered for this repair order. It is understood that these parts are special order and cannot be returned.

Customer Signature

Removed parts will be discarded unless otherwise requested! SAVE []

VOID
② 9/5/18

09/05/2018 14:11 | CITY OF BAINBRIDGE ISLAND
cchristianson | A/P CASH DISBURSEMENTS JOURNAL

P 1
apcshdsb

| CASH ACCOUNT: 635 | 111100 | CASH | | | | | | | |
|-------------------|----------------|------|---------------------------|-----------|-----------------|-----------------------------|--------|----------------------------|-----------|
| CHECK NO | CHK DATE | TYPE | VENDOR NAME | VOUCHER | INVOICE | INV DATE | PO | CHECK RUN | NET |
| INVOICE DTL DESC | | | | | | | | | |
| 348454 | 09/12/2018 | VOID | 7849 LAW OFFICE OF THOMAS | 225110 | AUG18 | 08/15/2018 | | | -4,375.00 |
| | Invoice: AUG18 | | | | | LEGAL/PUB DEF SVCS AUG 2018 | | | |
| | | | | -4,375.00 | 32011281 541113 | LGL-PUBLIC DEFENDER | | | |
| | | | | | | CHECK | 348454 | TOTAL: | -4,375.00 |
| | | | | | | NUMBER OF CHECKS | 1 | *** CASH ACCOUNT TOTAL *** | -4,375.00 |
| | | | | | | COUNT | | AMOUNT | |
| | | | | | | TOTAL VOIDED CHECKS | 1 | 4,375.00 | |
| | | | | | | | | *** GRAND TOTAL *** | -4,375.00 |

Payment processed w/ manual check
on 9/4/18 using different invoice #.

09/05/2018 14:11
 cchristianson

|CITY OF BAINBRIDGE ISLAND
 |A/P CASH DISBURSEMENTS JOURNAL

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 |apcshdsb

JOURNAL ENTRIES TO BE CREATED

CLERK: cchristianson

| YEAR PER | JNL | SRC ACCOUNT | JNL DESC | REF 1 | REF 2 | REF 3 | ACCOUNT DESC | T OB | DEBIT | CREDIT |
|----------------|----------|-------------|----------|-------|-----------|--------------------------------|--------------------------------|----------|----------|----------|
| EFF DATE | JNL DESC | REF 1 | REF 2 | REF 3 | LINE DESC | | | | | |
| 2018 9 27 | | | | | | | | | | |
| APP 001-213000 | | | | | | GENERAL - ACCOUNTS PAYABLE | | | | 4,375.00 |
| 09/12/2018 | 348454 | VOID | | | | AP CASH DISBURSEMENTS JOURNAL | | | | |
| APP 635-111100 | | | | | | CASH | | 4,375.00 | | |
| 09/12/2018 | 348454 | VOID | | | | AP CASH DISBURSEMENTS JOURNAL | | | | |
| | | | | | | | GENERAL LEDGER TOTAL | | 4,375.00 | 4,375.00 |
| APP 631-130000 | | | | | | DUE TO/FROM CLEARING | | | | 4,375.00 |
| 09/12/2018 | 09/09/18 | VOID | | | | | | | | |
| APP 001-130000 | | | | | | GENERAL - DUE TO/FROM CLEARING | | 4,375.00 | | |
| 09/12/2018 | 09/09/18 | VOID | | | | | | | | |
| | | | | | | | SYSTEM GENERATED ENTRIES TOTAL | | 4,375.00 | 4,375.00 |
| | | | | | | | JOURNAL 2018/09/27 TOTAL | | 8,750.00 | 8,750.00 |

09/05/2018 14:11
 cchristianson

|CITY OF BAINBRIDGE ISLAND
 |A/P CASH DISBURSEMENTS JOURNAL

|P 3
 |apcshdsb

JOURNAL ENTRIES TO BE CREATED

| FUND | ACCOUNT | YEAR | PER | JNL | EFF DATE | ACCOUNT DESCRIPTION | DEBIT | CREDIT |
|------|---------------|------|-----|-----|------------|--------------------------------|----------|----------|
| 001 | GENERAL FUND | 2018 | 9 | 27 | 09/12/2018 | | | |
| | 001-130000 | | | | | GENERAL - DUE TO/FROM CLEARING | 4,375.00 | |
| | 001-213000 | | | | | GENERAL - ACCOUNTS PAYABLE | | 4,375.00 |
| | | | | | | FUND TOTAL | 4,375.00 | 4,375.00 |
| 631 | CLEARING FUND | 2018 | 9 | 27 | 09/12/2018 | | | |
| | 631-130000 | | | | | DUE TO/FROM CLEARING | | 4,375.00 |
| | 635-111100 | | | | | CASH | 4,375.00 | |
| | | | | | | FUND TOTAL | 4,375.00 | 4,375.00 |

09/05/2018 14:11
cchristianson

|CITY OF BAINBRIDGE ISLAND
|A/P CASH DISBURSEMENTS JOURNAL

|P 4
|apcshdsb

JOURNAL ENTRIES TO BE CREATED

| FUND | | DUE TO | DUE FROM |
|-------------------|-------|----------|----------|
| 001 GENERAL FUND | | | 4,375.00 |
| 631 CLEARING FUND | | 4,375.00 | |
| | TOTAL | 4,375.00 | 4,375.00 |

** END OF REPORT - Generated by Carrie L. Christianson **

Manual
 (ce) 8/24/18

08/24/2018 15:50 | CITY OF BAINBRIDGE ISLAND
 cchristianson | A/P CASH DISBURSEMENTS JOURNAL

P 1
 apcshdsb

CASH ACCOUNT: 635 111100 CASH
 CHECK NO CHK DATE TYPE VENDOR NAME VOUCHER INVOICE INV DATE PO CHECK RUN NET

INVOICE DTL DESC

| | | | | | | | | | |
|------------------------------|------------|------|---------------------------|--------|---------------------|-------------|-----------------------------|--------|--------|
| 348404 | 08/24/2018 | PRTD | 1876 ENVIRONMENTAL RESOUR | 220348 | 856858 | 02/28/2018 | M082418 | 526.40 | |
| Invoice: 856858 | | | PW/WWTP TESTING SERVICES | | | | | | |
| | | | | 526.40 | 73425358 | 54110000391 | LAB & TESTING SVCS-WWTP | | |
| CHECK 348404 TOTAL: | | | | | | | | 526.40 | |
| | | | | | | | | | |
| 348405 | 08/24/2018 | PRTD | 316 KC TREASURER | 224954 | 442 WYATT WAY NW | 08/24/2018 | M082418 | 10.00 | |
| Invoice: 442 WYATT WAY NW | | | ENG/REET AFFIDAVIT FEE | | | | | | |
| | | | | 10.00 | 72321952 | 66100000708 | WYATT-MAD TO LOVELL-ROW ACQ | | |
| CHECK 348405 TOTAL: | | | | | | | | 10.00 | |
| | | | | | | | | | |
| 348406 | 08/24/2018 | PRTD | 316 KC TREASURER | 224955 | 8266 HIGH SCHOOL RD | 08/24/2018 | M082418 | 10.00 | |
| Invoice: 8266 HIGH SCHOOL RD | | | ENG/REET AFFIDAVIT FEE | | | | | | |
| | | | | 10.00 | 72321952 | 66100000708 | WYATT-MAD TO LOVELL-ROW ACQ | | |
| CHECK 348406 TOTAL: | | | | | | | | 10.00 | |
| | | | | | | | | | |
| NUMBER OF CHECKS | | | | | | 3 | *** CASH ACCOUNT TOTAL *** | | 546.40 |
| | | | | | | | | | |
| | | | | | | COUNT | AMOUNT | | |
| | | | | | | ----- | ----- | | |
| TOTAL PRINTED CHECKS | | | | | | 3 | 546.40 | | |
| | | | | | | | | | |
| *** GRAND TOTAL *** | | | | | | | | 546.40 | |

replacement
check.

JOURNAL ENTRIES TO BE CREATED

CLERK: cchristianson

| YEAR PER | JNL | | | | ACCOUNT DESC | T OB | DEBIT | CREDIT |
|--------------------------------|------------|----------|--------|-------|--------------|-------------------------------|----------|----------|
| SRC ACCOUNT | EFF DATE | JNL DESC | REF 1 | REF 2 | REF 3 | LINE DESC | | |
| 2018 8 293 | | | | | | | | |
| APP 402-213000 | 08/24/2018 | M082418 | 082418 | | | ACCOUNTS PAYABLE | 526.40 | |
| | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| APP 635-111100 | 08/24/2018 | M082418 | 082418 | | | CASH | | 546.40 |
| | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| APP 301-213000 | 08/24/2018 | M082418 | 082418 | | | ACCOUNTS PAYABLE | 20.00 | |
| | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| GENERAL LEDGER TOTAL | | | | | | | 546.40 | 546.40 |
| APP 631-130000 | 08/24/2018 | M082418 | 082418 | | | DUE TO/FROM CLEARING | 546.40 | |
| APP 402-130000 | 08/24/2018 | M082418 | 082418 | | | DUE TO/FROM CLEARING | | 526.40 |
| APP 301-130000 | 08/24/2018 | M082418 | 082418 | | | DUE TO/FROM CLEARING | | 20.00 |
| SYSTEM GENERATED ENTRIES TOTAL | | | | | | | 546.40 | 546.40 |
| JOURNAL 2018/08/293 | | | | | | TOTAL | 1,092.80 | 1,092.80 |

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cchristianson

|CITY OF BAINBRIDGE ISLAND
|A/P CASH DISBURSEMENTS JOURNAL

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JOURNAL ENTRIES TO BE CREATED

| FUND | YEAR | PER | JNL | EFF DATE | ACCOUNT DESCRIPTION | DEBIT | CREDIT |
|---------------------------|------|-----|-----|------------|----------------------|--------|--------|
| 301 | 2018 | 8 | 293 | 08/24/2018 | | | |
| CAPITAL CONSTRUCTION FUND | | | | | | | |
| 301-130000 | | | | | DUE TO/FROM CLEARING | | 20.00 |
| 301-213000 | | | | | ACCOUNTS PAYABLE | 20.00 | |
| | | | | | | ----- | ----- |
| | | | | | FUND TOTAL | 20.00 | 20.00 |
| 402 | 2018 | 8 | 293 | 08/24/2018 | | | |
| SEWER OPERATING FUND | | | | | | | |
| 402-130000 | | | | | DUE TO/FROM CLEARING | | 526.40 |
| 402-213000 | | | | | ACCOUNTS PAYABLE | 526.40 | |
| | | | | | | ----- | ----- |
| | | | | | FUND TOTAL | 526.40 | 526.40 |
| 631 | 2018 | 8 | 293 | 08/24/2018 | | | |
| CLEARING FUND | | | | | | | |
| 631-130000 | | | | | DUE TO/FROM CLEARING | 546.40 | |
| 635-111100 | | | | | CASH | | 546.40 |
| | | | | | | ----- | ----- |
| | | | | | FUND TOTAL | 546.40 | 546.40 |

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cchristianson

|CITY OF BAINBRIDGE ISLAND
|A/P CASH DISBURSEMENTS JOURNAL

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JOURNAL ENTRIES TO BE CREATED

| FUND | | DUE TO | DUE FROM |
|-------------------------------|-------|--------|----------|
| 301 CAPITAL CONSTRUCTION FUND | | | 20.00 |
| 402 SEWER OPERATING FUND | | | 526.40 |
| 631 CLEARING FUND | | 546.40 | |
| | TOTAL | 546.40 | 546.40 |

** END OF REPORT - Generated by Carrie L. Christianson **

Manual

8/28/18

08/28/2018 11:31 | CITY OF BAINBRIDGE ISLAND
cchristianson | A/P CASH DISBURSEMENTS JOURNAL

| P 1
| apcshdsb

CASH ACCOUNT: 635 111100 CASH
CHECK NO CHK DATE TYPE VENDOR NAME

VOUCHER INVOICE INV DATE PO CHECK RUN NET

INVOICE DTL DESC

348407 08/28/2018 PRTD 551 CENTURYLINK 225016 6124AUG18 08/16/2018 M082718 58.32
Invoice: 6124AUG18 WEAVER PRV WATER TELEMETRY

58.32 91411891 542100 GG-WTR-FAC-PHONE

225017 0399AUG18 08/23/2018 M082718 2,837.92

Invoice: 0399AUG18

1,593.85 91425358 542100 CITYWIDE TELEMETRY & FAX SERVICE
GG-WWTP-TELEPHONE/FAX
728.19 91411891 542100 GG-WTR-FAC-PHONE
67.94 91011755 542100 GG-C/E-COMMONS-PHONE
136.47 91011189 542100 GG-C/E-CITY HALL-PHONE
195.14 91011897 542100 GG-C/E-O&M YARD FAC-PHONE
65.61 91011255 542100 GG-C/E-COURT BLDG-PHONE
50.72 91011215 542100 GG-C/E-PD-PHONE

CHECK 348407 TOTAL: 2,896.24

348408 08/28/2018 PRTD 1205 PUGET SOUND ENERGY 225018 4376AUG18 08/20/2018 M082718 849.33
Invoice: 4376AUG18 AUG18 GREEN POWER CONTRACT

849.33 91011189 547101 ELECTRIC-GREEN POWER

CHECK 348408 TOTAL: 849.33

348409 08/28/2018 PRTD 6714 TOSHIBA FINANCIAL SE 225015 23167807 08/13/2018 M082718 353.16
Invoice: 23167807 PCD/E-STUDIO6560C COPIER LEASE

353.16 61470581 545000 PCD - DEV ADMIN RENTS & LEASES

CHECK 348409 TOTAL: 353.16

348410 08/28/2018 PRTD 5271 WASHINGTON WATER SER 225019 4815979187-AUG18 08/20/2018 M082718 144.64
Invoice: 4815979187-AUG18 AUG185 DECANT FACILITY WATER

144.64 91435838 547500 GG-DECANT-WATER/SEWER

CHECK 348410 TOTAL: 144.64

NUMBER OF CHECKS 4 *** CASH ACCOUNT TOTAL *** 4,243.37

COUNT AMOUNT

TOTAL PRINTED CHECKS 4 4,243.37

*** GRAND TOTAL *** 4,243.37

JOURNAL ENTRIES TO BE CREATED

CLERK: cchristianson

| YEAR PER | JNL | SRC ACCOUNT | EFF DATE | JNL DESC | REF 1 | REF 2 | REF 3 | ACCOUNT DESC | T OB | DEBIT | CREDIT |
|--------------------------------|-----|-------------|------------|----------|--------|-------|-------|--------------------------------|------|----------|----------|
| | | | | | | | | LINE DESC | | | |
| 2018 | 8 | 338 | | | | | | | | | |
| APP | | 401-213000 | | | | | | ACCOUNTS PAYABLE | | 786.51 | |
| | | | 08/28/2018 | M082718 | 082718 | | | AP CASH DISBURSEMENTS JOURNAL | | | |
| APP | | 635-111100 | | | | | | CASH | | | 4,243.37 |
| | | | 08/28/2018 | M082718 | 082718 | | | AP CASH DISBURSEMENTS JOURNAL | | | |
| APP | | 402-213000 | | | | | | ACCOUNTS PAYABLE | | 1,593.85 | |
| | | | 08/28/2018 | M082718 | 082718 | | | AP CASH DISBURSEMENTS JOURNAL | | | |
| APP | | 001-213000 | | | | | | GENERAL - ACCOUNTS PAYABLE | | 1,365.21 | |
| | | | 08/28/2018 | M082718 | 082718 | | | AP CASH DISBURSEMENTS JOURNAL | | | |
| APP | | 407-213000 | | | | | | ACCOUNTS PAYABLE | | 353.16 | |
| | | | 08/28/2018 | M082718 | 082718 | | | AP CASH DISBURSEMENTS JOURNAL | | | |
| APP | | 403-213000 | | | | | | ACCOUNTS PAYABLE | | 144.64 | |
| | | | 08/28/2018 | M082718 | 082718 | | | AP CASH DISBURSEMENTS JOURNAL | | | |
| ----- | | | | | | | | | | | |
| GENERAL LEDGER TOTAL | | | | | | | | | | 4,243.37 | 4,243.37 |
| APP | | 631-130000 | | | | | | DUE TO/FROM CLEARING | | 4,243.37 | |
| | | | 08/28/2018 | M082718 | 082718 | | | | | | |
| APP | | 401-130000 | | | | | | DUE TO/FROM CLEARING | | | 786.51 |
| | | | 08/28/2018 | M082718 | 082718 | | | | | | |
| APP | | 402-130000 | | | | | | DUE TO/FROM CLEARING | | | 1,593.85 |
| | | | 08/28/2018 | M082718 | 082718 | | | | | | |
| APP | | 001-130000 | | | | | | GENERAL - DUE TO/FROM CLEARING | | | 1,365.21 |
| | | | 08/28/2018 | M082718 | 082718 | | | | | | |
| APP | | 407-130000 | | | | | | DUE TO/FROM CLEARING | | | 353.16 |
| | | | 08/28/2018 | M082718 | 082718 | | | | | | |
| APP | | 403-130000 | | | | | | DUE TO/FROM CLEARING | | | 144.64 |
| | | | 08/28/2018 | M082718 | 082718 | | | | | | |
| ----- | | | | | | | | | | | |
| SYSTEM GENERATED ENTRIES TOTAL | | | | | | | | | | 4,243.37 | 4,243.37 |
| ----- | | | | | | | | | | | |
| JOURNAL 2018/08/338 TOTAL | | | | | | | | | | 8,486.74 | 8,486.74 |

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 cchristianson

|CITY OF BAINBRIDGE ISLAND
 |A/P CASH DISBURSEMENTS JOURNAL

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 |apcshdsb

JOURNAL ENTRIES TO BE CREATED

| FUND | YEAR | PER | JNL | EFF DATE | ACCOUNT DESCRIPTION | DEBIT | CREDIT |
|------|------|-----|-----|------------|---|----------|----------|
| 001 | 2018 | 8 | 338 | 08/28/2018 | GENERAL FUND | | |
| | | | | | 001-130000 GENERAL - DUE TO/FROM CLEARING | | 1,365.21 |
| | | | | | 001-213000 GENERAL - ACCOUNTS PAYABLE | 1,365.21 | |
| | | | | | FUND TOTAL | 1,365.21 | 1,365.21 |
| 401 | 2018 | 8 | 338 | 08/28/2018 | WATER OPERATING FUND | | |
| | | | | | 401-130000 DUE TO/FROM CLEARING | | 786.51 |
| | | | | | 401-213000 ACCOUNTS PAYABLE | 786.51 | |
| | | | | | FUND TOTAL | 786.51 | 786.51 |
| 402 | 2018 | 8 | 338 | 08/28/2018 | SEWER OPERATING FUND | | |
| | | | | | 402-130000 DUE TO/FROM CLEARING | | 1,593.85 |
| | | | | | 402-213000 ACCOUNTS PAYABLE | 1,593.85 | |
| | | | | | FUND TOTAL | 1,593.85 | 1,593.85 |
| 403 | 2018 | 8 | 338 | 08/28/2018 | STORM & SURFACE WATER FUND | | |
| | | | | | 403-130000 DUE TO/FROM CLEARING | | 144.64 |
| | | | | | 403-213000 ACCOUNTS PAYABLE | 144.64 | |
| | | | | | FUND TOTAL | 144.64 | 144.64 |
| 407 | 2018 | 8 | 338 | 08/28/2018 | BUILDING & DEVELOPMENT FUND | | |
| | | | | | 407-130000 DUE TO/FROM CLEARING | | 353.16 |
| | | | | | 407-213000 ACCOUNTS PAYABLE | 353.16 | |
| | | | | | FUND TOTAL | 353.16 | 353.16 |
| 631 | 2018 | 8 | 338 | 08/28/2018 | CLEARING FUND | | |
| | | | | | 631-130000 DUE TO/FROM CLEARING | 4,243.37 | |
| | | | | | 635-111100 CASH | | 4,243.37 |
| | | | | | FUND TOTAL | 4,243.37 | 4,243.37 |

08/28/2018 11:31
cchristianson

|CITY OF BAINBRIDGE ISLAND
|A/P CASH DISBURSEMENTS JOURNAL

|P 4
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JOURNAL ENTRIES TO BE CREATED

| FUND | | DUE TO | DUE FROM |
|------|-----------------------------|----------|----------|
| 001 | GENERAL FUND | | 1,365.21 |
| 401 | WATER OPERATING FUND | | 786.51 |
| 402 | SEWER OPERATING FUND | | 1,593.85 |
| 403 | STORM & SURFACE WATER FUND | | 144.64 |
| 407 | BUILDING & DEVELOPMENT FUND | | 353.16 |
| 631 | CLEARING FUND | 4,243.37 | |
| | TOTAL | 4,243.37 | 4,243.37 |

** END OF REPORT - Generated by Carrie L. Christianson **

MANUAL

09/04/2018 13:19 |CITY OF BAINBRIDGE ISLAND
bhuish |A/P CASH DISBURSEMENTS JOURNAL

|P 1
|apcshdsb

 9.4.18

CASH ACCOUNT: 635 111100 CASH
CHECK NO CHK DATE TYPE VENDOR NAME VOUCHER INVOICE INV DATE PO CHECK RUN NET

INVOICE DTL DESC

348411 09/04/2018 PRD 7849 LAW OFFICE OF THOMAS 225123 AUGUST 2018 08/31/2018 M090418 4,375.00
Invoice: AUGUST 2018 LEGAL/PUB DEF SVCS AUG 18
4,375.00 32011281 541113 LGL-PUBLIC DEFENDER

CHECK 348411 TOTAL: 4,375.00

NUMBER OF CHECKS 1 *** CASH ACCOUNT TOTAL *** 4,375.00

COUNT AMOUNT

TOTAL PRINTED CHECKS 1 4,375.00

*** GRAND TOTAL *** 4,375.00

09/04/2018 13:19
 bhuish

|CITY OF BAINBRIDGE ISLAND
 |A/P CASH DISBURSEMENTS JOURNAL

p 2
 apcshdsb

JOURNAL ENTRIES TO BE CREATED

CLERK: bhuish

| YEAR PER | JNL | ACCOUNT DESC | T OB | DEBIT | CREDIT | | | | |
|--------------------------------|------------|--------------|--------|-------|--------|--------------------------------|--|----------|----------|
| SRC ACCOUNT | EFF DATE | JNL DESC | REF 1 | REF 2 | REF 3 | LINE DESC | | | |
| 2018 9 | 6 | | | | | | | | |
| APP 001-213000 | | | | | | GENERAL - ACCOUNTS PAYABLE | | 4,375.00 | |
| | 09/04/2018 | M090418 | 090418 | | | AP CASH DISBURSEMENTS JOURNAL | | | |
| APP 635-111100 | | | | | | CASH | | | 4,375.00 |
| | 09/04/2018 | M090418 | 090418 | | | AP CASH DISBURSEMENTS JOURNAL | | | |
| GENERAL LEDGER TOTAL | | | | | | | | 4,375.00 | 4,375.00 |
| APP 631-130000 | | | | | | DUE TO/FROM CLEARING | | 4,375.00 | |
| | 09/04/2018 | M090418 | 090418 | | | | | | |
| APP 001-130000 | | | | | | GENERAL - DUE TO/FROM CLEARING | | | 4,375.00 |
| | 09/04/2018 | M090418 | 090418 | | | | | | |
| SYSTEM GENERATED ENTRIES TOTAL | | | | | | | | 4,375.00 | 4,375.00 |
| JOURNAL 2018/09/6 TOTAL | | | | | | | | 8,750.00 | 8,750.00 |

09/04/2018 13:19
 bhuish

|CITY OF BAINBRIDGE ISLAND
 |A/P CASH DISBURSEMENTS JOURNAL

|P 3
 |apcshdsb

JOURNAL ENTRIES TO BE CREATED

| FUND | YEAR | PER | JNL | EFF DATE | ACCOUNT DESCRIPTION | DEBIT | CREDIT |
|-------------------|------|-----|-----|------------|--------------------------------|----------|----------|
| 001 GENERAL FUND | 2018 | 9 | 6 | 09/04/2018 | | | |
| 001-130000 | | | | | GENERAL - DUE TO/FROM CLEARING | | 4,375.00 |
| 001-213000 | | | | | GENERAL - ACCOUNTS PAYABLE | 4,375.00 | |
| FUND TOTAL | | | | | | 4,375.00 | 4,375.00 |
| 631 CLEARING FUND | 2018 | 9 | 6 | 09/04/2018 | | | |
| 631-130000 | | | | | DUE TO/FROM CLEARING | 4,375.00 | |
| 635-111100 | | | | | CASH | | 4,375.00 |
| FUND TOTAL | | | | | | 4,375.00 | 4,375.00 |

09/04/2018 13:19
bhuish

|CITY OF BAINBRIDGE ISLAND
|A/P CASH DISBURSEMENTS JOURNAL

|P 4
|apcshdsb

JOURNAL ENTRIES TO BE CREATED

| FUND | | DUE TO | DUE FROM |
|-------------------|-------|----------|----------|
| 001 GENERAL FUND | | | 4,375.00 |
| 631 CLEARING FUND | | 4,375.00 | |
| | TOTAL | 4,375.00 | 4,375.00 |

** END OF REPORT - Generated by Matthew Brigham Huish **

MANUAL

09/04/2018 15:54 | CITY OF BAINBRIDGE ISLAND
bhuish | A/P CASH DISBURSEMENTS JOURNAL

| P 1
| apcshdsb

9.4.18

CASH ACCOUNT: 635 111100 CASH

CHECK NO CHK DATE TYPE VENDOR NAME VOUCHER INVOICE INV DATE PO CHECK RUN NET

INVOICE DTL DESC

348412 09/04/2018 PR TD 7726 AIR MANAGEMENT SOLUT 225125 129535 04/02/2018 21800024 M090418 4,567.10

Invoice: 129535

2018 BUILDING SERVICES

4,094.82 73011183 54810000495 BLDG SVCS CONTRACT-CH-MAINT

472.28 73425358 54810000495 BLDG SVCS CONTR-WWTP-MAINT

CHECK 348412 TOTAL: 4,567.10

348413 09/04/2018 PR TD 7603 AMERICAN FLEET MAINT 225124 5207AU 08/22/2018 M090418 3,287.44

Invoice: 5207AU

PW/2018 FORD ESCAPE (2) UPFITTING (#232, #233)

1,643.72 73011321 548100 O&M-C/E-ENG VEH WORK-R&M

1,643.72 73011581 548100 O&M-C/E-PCD VEH WORK-REPAIRS

CHECK 348413 TOTAL: 3,287.44

NUMBER OF CHECKS 2 *** CASH ACCOUNT TOTAL *** 7,854.54

COUNT AMOUNT

TOTAL PRINTED CHECKS 2 7,854.54

*** GRAND TOTAL *** 7,854.54

09/04/2018 15:54
 bhuish

|CITY OF BAINBRIDGE ISLAND
 |A/P CASH DISBURSEMENTS JOURNAL

|P 2
 |apcshdsb

JOURNAL ENTRIES TO BE CREATED

CLERK: bhuish

| YEAR | PER | JNL | | | | ACCOUNT DESC | T OB | DEBIT | CREDIT |
|------|------------|------------|----------|--------|-------|--------------|--------------------------------|-----------|-----------|
| SRC | ACCOUNT | EFF DATE | JNL DESC | REF 1 | REF 2 | REF 3 | LINE DESC | | |
| 2018 | 9 | 10 | | | | | | | |
| APP | 001-213000 | 09/04/2018 | M090418 | 090418 | | | GENERAL - ACCOUNTS PAYABLE | 7,382.26 | |
| | | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| APP | 635-111100 | 09/04/2018 | M090418 | 090418 | | | CASH | | 7,854.54 |
| | | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| APP | 402-213000 | 09/04/2018 | M090418 | 090418 | | | ACCOUNTS PAYABLE | 472.28 | |
| | | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| | | | | | | | GENERAL LEDGER TOTAL | 7,854.54 | 7,854.54 |
| APP | 631-130000 | 09/04/2018 | M090418 | 090418 | | | DUE TO/FROM CLEARING | 7,854.54 | |
| APP | 001-130000 | 09/04/2018 | M090418 | 090418 | | | GENERAL - DUE TO/FROM CLEARING | | 7,382.26 |
| APP | 402-130000 | 09/04/2018 | M090418 | 090418 | | | DUE TO/FROM CLEARING | | 472.28 |
| | | | | | | | SYSTEM GENERATED ENTRIES TOTAL | 7,854.54 | 7,854.54 |
| | | | | | | | JOURNAL 2018/09/10 TOTAL | 15,709.08 | 15,709.08 |

09/04/2018 15:54
bhuish

CITY OF BAINBRIDGE ISLAND
A/P CASH DISBURSEMENTS JOURNAL

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apcshdeb

JOURNAL ENTRIES TO BE CREATED

| FUND | YEAR PER | JNL | EFF DATE | ACCOUNT DESCRIPTION | DEBIT | CREDIT |
|--------------------------|----------|-----|------------|--------------------------------|----------|----------|
| 001 GENERAL FUND | 2018 9 | 10 | 09/04/2018 | | | |
| 001-130000 | | | | GENERAL - DUE TO/FROM CLEARING | | 7,382.26 |
| 001-213000 | | | | GENERAL - ACCOUNTS PAYABLE | 7,382.26 | |
| | | | | FUND TOTAL | 7,382.26 | 7,382.26 |
| 402 SEWER OPERATING FUND | 2018 9 | 10 | 09/04/2018 | | | |
| 402-130000 | | | | DUE TO/FROM CLEARING | | 472.28 |
| 402-213000 | | | | ACCOUNTS PAYABLE | 472.28 | |
| | | | | FUND TOTAL | 472.28 | 472.28 |
| 631 CLEARING FUND | 2018 9 | 10 | 09/04/2018 | | | |
| 631-130000 | | | | DUE TO/FROM CLEARING | 7,854.54 | |
| 635-111100 | | | | CASH | | 7,854.54 |
| | | | | FUND TOTAL | 7,854.54 | 7,854.54 |

09/04/2018 15:54
bhuish

|CITY OF BAINBRIDGE ISLAND
|A/P CASH DISBURSEMENTS JOURNAL

|P 4
|apcshdsb

JOURNAL ENTRIES TO BE CREATED

| FUND | | DUE TO | DUE FROM |
|--------------------------|-------|----------|----------|
| 001 GENERAL FUND | | | 7,382.26 |
| 402 SEWER OPERATING FUND | | | 472.28 |
| 631 CLEARING FUND | | 7,854.54 | |
| | TOTAL | 7,854.54 | 7,854.54 |

** END OF REPORT - Generated by Matthew Brigham Huish **

Manual
 (cc) 9/5/18

09/05/2018 13:46 | CITY OF BAINBRIDGE ISLAND
 cchristianson | A/P CASH DISBURSEMENTS JOURNAL

| P 1
 | apcshdsb

CASH ACCOUNT: 635 111100 CASH
 CHECK NO CHK DATE TYPE VENDOR NAME

VOUCHER INVOICE INV DATE PO CHECK RUN NET

INVOICE DTL DESC

| | | | | | | | | | |
|--------|------------------------------|------|-------------------------|--------|---------------------|-------------|------------|--------------------------------------|--------|
| 348414 | 09/05/2018 | PRTD | 9026 ANN PEARL CATERING | 225120 | 09/12/18 | DEP | 08/30/2018 | M083118 | 400.00 |
| | Invoice: 09/12/18 | | DEP | | | | | | |
| | | | | | | | | HR/DEPOSIT FOR EE APPRECIATION EVENT | |
| | | | | 400.00 | 33011161 | 54110000302 | | EMPLOYEE RECOG-HR-C/E-PRO SVCS | |
| | | | | | | | | CHECK 348414 TOTAL: | 400.00 |
| | | | | | | | | | |
| 348415 | 09/05/2018 | PRTD | 316 KC TREASURER | 224954 | 442 WYATT WAY NW | | 08/24/2018 | M083118 | 229.28 |
| | Invoice: 442 WYATT WAY NW | | | | | | | | |
| | | | | | | | | ENG/REET AFFIDAVIT FEE | |
| | | | | 229.28 | 72321952 | 66100000708 | | WYATT-MAD TO LOVELL-ROW ACQ | |
| | | | | | | | | CHECK 348415 TOTAL: | 229.28 |
| | | | | | | | | | |
| 348416 | 09/05/2018 | PRTD | 316 KC TREASURER | 224955 | 8266 HIGH SCHOOL RD | | 08/24/2018 | M083118 | 262.03 |
| | Invoice: 8266 HIGH SCHOOL RD | | | | | | | | |
| | | | | | | | | ENG/REET AFFIDAVIT FEE | |
| | | | | 262.03 | 72321952 | 66100000708 | | WYATT-MAD TO LOVELL-ROW ACQ | |
| | | | | | | | | CHECK 348416 TOTAL: | 262.03 |

NUMBER OF CHECKS 3 *** CASH ACCOUNT TOTAL *** 891.31

| | | |
|----------------------|-------|--------|
| | COUNT | AMOUNT |
| | ----- | ----- |
| TOTAL PRINTED CHECKS | 3 | 891.31 |

*** GRAND TOTAL *** 891.31

JOURNAL ENTRIES TO BE CREATED

CLERK: cchristianson

| YEAR PER | JNL | | | | | ACCOUNT DESC | T OB | DEBIT | CREDIT |
|--------------------------------|----------|--------|-------|-------|--------------------------------|--------------|----------|----------|--------|
| SRC ACCOUNT | JNL DESC | REF 1 | REF 2 | REF 3 | LINE DESC | | | | |
| EFF DATE | | | | | | | | | |
| 2018 9 | 25 | | | | | | | | |
| APP 001-213000 | | | | | GENERAL - ACCOUNTS PAYABLE | | 400.00 | | |
| 09/12/2018 | M083118 | 090518 | | | AP CASH DISBURSEMENTS JOURNAL | | | | |
| APP 635-111100 | | | | | CASH | | | 891.31 | |
| 09/12/2018 | M083118 | 090518 | | | AP CASH DISBURSEMENTS JOURNAL | | | | |
| APP 301-213000 | | | | | ACCOUNTS PAYABLE | | 491.31 | | |
| 09/12/2018 | M083118 | 090518 | | | AP CASH DISBURSEMENTS JOURNAL | | | | |
| GENERAL LEDGER TOTAL | | | | | | | 891.31 | 891.31 | |
| APP 631-130000 | | | | | DUE TO/FROM CLEARING | | 891.31 | | |
| 09/12/2018 | M083118 | 090518 | | | | | | | |
| APP 001-130000 | | | | | GENERAL - DUE TO/FROM CLEARING | | | 400.00 | |
| 09/12/2018 | M083118 | 090518 | | | | | | | |
| APP 301-130000 | | | | | DUE TO/FROM CLEARING | | | 491.31 | |
| 09/12/2018 | M083118 | 090518 | | | | | | | |
| SYSTEM GENERATED ENTRIES TOTAL | | | | | | | 891.31 | 891.31 | |
| JOURNAL 2018/09/25 TOTAL | | | | | | | 1,782.62 | 1,782.62 | |

09/05/2018 13:46
 cchristianson

|CITY OF BAINBRIDGE ISLAND
 |A/P CASH DISBURSEMENTS JOURNAL

|P 3
 |apcshdsb

JOURNAL ENTRIES TO BE CREATED

| FUND | YEAR | PER | JNL | EFF DATE | ACCOUNT DESCRIPTION | DEBIT | CREDIT |
|-------------------------------|------|-----|-----|------------|--------------------------------|--------|--------|
| 001 GENERAL FUND | 2018 | 9 | 25 | 09/12/2018 | | | |
| 001-130000 | | | | | GENERAL - DUE TO/FROM CLEARING | | 400.00 |
| 001-213000 | | | | | GENERAL - ACCOUNTS PAYABLE | 400.00 | |
| | | | | | FUND TOTAL | 400.00 | 400.00 |
| 301 CAPITAL CONSTRUCTION FUND | 2018 | 9 | 25 | 09/12/2018 | | | |
| 301-130000 | | | | | DUE TO/FROM CLEARING | | 491.31 |
| 301-213000 | | | | | ACCOUNTS PAYABLE | 491.31 | |
| | | | | | FUND TOTAL | 491.31 | 491.31 |
| 631 CLEARING FUND | 2018 | 9 | 25 | 09/12/2018 | | | |
| 631-130000 | | | | | DUE TO/FROM CLEARING | 891.31 | |
| 635-111100 | | | | | CASH | | 891.31 |
| | | | | | FUND TOTAL | 891.31 | 891.31 |

09/05/2018 13:46
cchristianson

|CITY OF BAINBRIDGE ISLAND
|A/P CASH DISBURSEMENTS JOURNAL

|P 4
|apcshdsb

JOURNAL ENTRIES TO BE CREATED

| FUND | | DUE TO | DUE FROM |
|-------------------------------|-------|--------|----------|
| 001 GENERAL FUND | | | 400.00 |
| 301 CAPITAL CONSTRUCTION FUND | | | 491.31 |
| 631 CLEARING FUND | | 891.31 | |
| | TOTAL | 891.31 | 891.31 |

** END OF REPORT - Generated by Carrie L. Christianson **

Regular
 (cc) 9/5/18

09/05/2018 13:57 | CITY OF BAINBRIDGE ISLAND
 cchristianson | A/P CASH DISBURSEMENTS JOURNAL

| P 1
 | apcshdsb

| CASH ACCOUNT: 635 111100 CASH | | | VOUCHER | INVOICE | INV DATE | PO | CHECK RUN | NET |
|-------------------------------|------------|---------------------|---------|----------------------|------------------------------------|----|-----------|-------|
| CHECK NO | CHK DATE | TYPE VENDOR NAME | | | | | | |
| INVOICE DTL DESC | | | | | | | | |
| 348417 | 09/12/2018 | PRTD 5 ACE HARDWARE | 224956 | 41548/1 | 08/21/2018 | | 09/09/18 | 80.64 |
| | | Invoice: 41548/1 | | | | | | |
| | | | 80.64 | 73011215 531100 | | | | |
| | | | | | PW/INTERIOR PAINT | | | |
| | | | | | O&M-C/E-POLICE FAC-SUPPLIES | | | |
| | | | 224957 | 41543/1 | 08/21/2018 | | 09/09/18 | 73.50 |
| | | Invoice: 41543/1 | | | | | | |
| | | | 73.50 | 73011215 531100 | | | | |
| | | | | | PW/PAINT SUPPLIES | | | |
| | | | | | O&M-C/E-POLICE FAC-SUPPLIES | | | |
| | | | 224958 | 41544/1 | 08/21/2018 | | 09/09/18 | 21.76 |
| | | Invoice: 41544/1 | | | | | | |
| | | | 21.76 | 73111264 53110000908 | | | | |
| | | | | | PW/ROLLER COVER, FRAME | | | |
| | | | | | 2018 PAVEMENT MARKINGS-SUPPLY | | | |
| | | | 224959 | 41541/1 | 08/21/2018 | | 09/09/18 | 5.22 |
| | | Invoice: 41541/1 | | | | | | |
| | | | 5.22 | 73411345 531100 | | | | |
| | | | | | PW/SNAP QUIK RND | | | |
| | | | | | OFFICE SUPPLIES | | | |
| | | | 224960 | 41540/1 | 08/21/2018 | | 09/09/18 | 17.42 |
| | | Invoice: 41540/1 | | | | | | |
| | | | 17.42 | 73411345 531100 | | | | |
| | | | | | PW/FILTER, CLEANER | | | |
| | | | | | OFFICE SUPPLIES | | | |
| | | | 224961 | 41528/1 | 08/20/2018 | | 09/09/18 | 17.64 |
| | | Invoice: 41528/1 | | | | | | |
| | | | 17.64 | 73411345 531100 | | | | |
| | | | | | PW/SCREWDRIVER, DRILL BITS | | | |
| | | | | | OFFICE SUPPLIES | | | |
| | | | 224962 | 41521/1 | 08/17/2018 | | 09/09/18 | 10.89 |
| | | Invoice: 41521/1 | | | | | | |
| | | | 10.89 | 73111264 53110000908 | | | | |
| | | | | | PW/POLNUT & PIGTAIL | | | |
| | | | | | 2018 PAVEMENT MARKINGS-SUPPLY | | | |
| | | | 224963 | 41505/1 | 08/16/2018 | | 09/09/18 | 14.15 |
| | | Invoice: 41505/1 | | | | | | |
| | | | 14.15 | 73011755 531100 | | | | |
| | | | | | PW/WASP KILLER | | | |
| | | | | | O&M-COMMONS SUPPLIES | | | |
| | | | 224964 | 41113/1 | 07/02/2018 | | 09/09/18 | 11.39 |
| | | Invoice: 41113/1 | | | | | | |
| | | | 11.39 | 73637956 531100 | | | | |
| | | | | | PW/PLUMBING SUPPLIES | | | |
| | | | | | O&M ALLOC-WTR/RBW/SWR/SIS-SUPL | | | |
| | | | 224965 | 41103/1 | 06/29/2018 | | 09/09/18 | 15.25 |
| | | Invoice: 41103/1 | | | | | | |
| | | | 15.25 | 73011183 531100 | | | | |
| | | | | | PW/BATTERY | | | |
| | | | | | O&M-C/E-CH FAC-SUPPLIES | | | |
| | | | 224966 | 40977/1 | 06/14/2018 | | 09/09/18 | .83 |
| | | Invoice: 40977/1 | | | | | | |
| | | | .83 | 73421355 531100 | | | | |
| | | | | | PW/FASTENERS | | | |
| | | | | | WIN COLL-SUPPLIES | | | |
| | | | 224967 | 40978/1 | 06/14/2018 | | 09/09/18 | 18.27 |
| | | Invoice: 40978/1 | | | | | | |
| | | | 18.27 | 73421355 531100 | | | | |
| | | | | | PW/KEY RING, CARABINERS, ELEC TAPE | | | |
| | | | | | WIN COLL-SUPPLIES | | | |
| | | | 225020 | 41564/1 | 08/23/2018 | | 09/09/18 | 18.50 |
| | | Invoice: 41564/1 | | | | | | |
| | | | 18.50 | 73011189 531100 | | | | |
| | | | | | PW/GRAFITTI REMOVER | | | |
| | | | | | O&M - C/E FACIL OFC SUPPLIES | | | |

CASH ACCOUNT: 635 111100 CASH
 CHECK NO CHK DATE TYPE VENDOR NAME

| CHECK NO | CHK DATE | TYPE | VENDOR NAME | VOUCHER | INVOICE | INV DATE | PO | CHECK RUN | NET |
|---------------------|------------|------|---------------------------|---------|----------------------|------------|----|---------------------|-------------------------------|
| INVOICE DTL DESC | | | | | | | | | |
| Invoice: 41555/1 | | | | 225021 | 41555/1 | 08/22/2018 | | 09/09/18 | 586.94 |
| | | | | | | | | | PW/MAINT SUPPLIES |
| | | | | 586.94 | 73421355 53110000721 | | | | LOVELL BEACH MAINS-SUPPLIES |
| Invoice: 41561/1 | | | | 225022 | 41561/1 | 08/22/2018 | | 09/09/18 | 165.66 |
| | | | | | | | | | PW/VACUUM, HOSE |
| | | | | 165.66 | 73111423 531100 | | | | OFFICE SUPPLIES |
| Invoice: 41560/1 | | | | 225023 | 41560/1 | 08/22/2018 | | 09/09/18 | 54.46 |
| | | | | | | | | | PW/PAINTBRUSHES |
| | | | | 54.46 | 73011215 531100 | | | | O&M-C/E-POLICE FAC-SUPPLIES |
| Invoice: 41552/1 | | | | 225024 | 41552/1 | 08/22/2018 | | 09/09/18 | 4.36 |
| | | | | | | | | | PW/FASTENERS |
| | | | | 4.36 | 73011768 531100 | | | | O&M-C/E-PARKS-SUPPLIES |
| Invoice: 41551/1 | | | | 225025 | 41551/1 | 08/22/2018 | | 09/09/18 | 6.37 |
| | | | | | | | | | PW/FASTENERS |
| | | | | 6.37 | 73011768 531100 | | | | O&M-C/E-PARKS-SUPPLIES |
| Invoice: 41125/1 | | | | 225026 | 41125/1 | 07/03/2018 | | 09/09/18 | 29.42 |
| | | | | | | | | | PW/COOLER |
| | | | | 29.42 | 73111290 531100 | | | | O&M-STREET-MAINT O/H-SUPPLIES |
| Invoice: 41524/1 | | | | 225061 | 41524/1 | 08/17/2018 | | 09/09/18 | 26.15 |
| | | | | | | | | | POL/TIE DOWNS, M11 |
| | | | | 26.15 | 54025212 531100 | | | | MARINE - SUPPLIES |
| Invoice: 41640/1 | | | | 225126 | 41640/1 | 08/31/2018 | | 09/09/18 | 15.26 |
| | | | | | | | | | PW/PICKUP TOOL 36" |
| | | | | 15.26 | 73421355 531100 | | | | WIN COLL-SUPPLIES |
| Invoice: 41573/1 | | | | 225127 | 41573/1 | 08/24/2018 | | 09/09/18 | 56.65 |
| | | | | | | | | | PW/LED FLASHLIGHT, BATTERIES |
| | | | | 56.65 | 73411345 531100 | | | | OFFICE SUPPLIES |
| Invoice: 41353/1 | | | | 225128 | 41353/1 | 07/26/2018 | | 09/09/18 | 28.33 |
| | | | | | | | | | PW/TARP |
| | | | | 28.33 | 73011897 531100 | | | | O&M-C/E-PWY FAC-SUPPLIES |
| | | | | | | | | CHECK 348417 TOTAL: | 1,279.06 |
| 348418 | 09/12/2018 | PRTD | 7726 AIR MANAGEMENT SOLUT | 225129 | 0001124776 | 04/29/2018 | | 09/09/18 | 497.32 |
| | | | | | | | | | PW/REPLACE FIRE DAMPER |
| Invoice: 0001124776 | | | | 497.32 | 73011183 54810000707 | | | | CH HVAC-REPAIRS |
| | | | | | | | | CHECK 348418 TOTAL: | 497.32 |

| CASH ACCOUNT: 635 | | | 111100 | | CASH | | | | | |
|-------------------|---------------------|------|---------------------------|----------|------------|-------------|--------------------------------|---------------|----------|--|
| CHECK NO | CHK DATE | TYPE | VENDOR NAME | VOUCHER | INVOICE | INV DATE | PO | CHECK RUN | NET | |
| ----- | | | | | | | | | | |
| 348419 | 09/12/2018 | PRTD | 4710 ASSOCIATED | PETROLEU | 225027 | 1296029-IN | 08/21/2018 | 09/09/18 | 418.72 | |
| | Invoice: 1296029-IN | | | | | | PW/124.2 GAL DIESEL | | | |
| | | | | 418.72 | 73638893 | 532000 | O&M-FUEL USE-ALLOCATION | | | |
| | | | | 225028 | 1296030-IN | 08/21/2018 | 09/09/18 | 1,039.26 | | |
| | Invoice: 1296030-IN | | | | | | PW/383 GAL UNLEADED | | | |
| | | | | 1,039.26 | 73638932 | 532000 | O&M-FUEL ALLOC TO OTH DEPTS | | | |
| | | | | 225029 | 1293478-IN | 08/16/2018 | 09/09/18 | 610.98 | | |
| | Invoice: 1293478-IN | | | | | | PW/196.7 GAL DIESEL | | | |
| | | | | 610.98 | 73638893 | 532000 | O&M-FUEL USE-ALLOCATION | | | |
| | | | | 225030 | 1293490-IN | 08/16/2018 | 09/09/18 | 810.81 | | |
| | Invoice: 1293490-IN | | | | | | PW/301 GAL UNLEADED | | | |
| | | | | 810.81 | 73638932 | 532000 | O&M-FUEL ALLOC TO OTH DEPTS | | | |
| | | | | 225031 | 1292678-IN | 08/14/2018 | 09/09/18 | 840.94 | | |
| | Invoice: 1292678-IN | | | | | | PW/282 GAL UNLEADED | | | |
| | | | | 840.94 | 73638932 | 532000 | O&M-FUEL ALLOC TO OTH DEPTS | | | |
| | | | | 225032 | 1288880-IN | 08/10/2018 | 09/09/18 | 1,485.68 | | |
| | Invoice: 1288880-IN | | | | | | PW/515 GAL DIESEL | | | |
| | | | | 1,485.68 | 73638893 | 532000 | O&M-FUEL USE-ALLOCATION | | | |
| | | | | 225033 | 1288881-IN | 08/10/2018 | 09/09/18 | 1,452.94 | | |
| | Invoice: 1288881-IN | | | | | | PW/544 GAL UNLEADED | | | |
| | | | | 1,452.94 | 73638932 | 532000 | O&M-FUEL ALLOC TO OTH DEPTS | | | |
| | | | | 225034 | 1289296-IN | 08/07/2018 | 09/09/18 | 1,442.81 | | |
| | Invoice: 1289296-IN | | | | | | PW/500 GAL UNLEADED | | | |
| | | | | 1,442.81 | 73638932 | 532000 | O&M-FUEL ALLOC TO OTH DEPTS | | | |
| | | | | | | | CHECK | 348419 TOTAL: | 8,102.14 | |
| 348420 | 09/12/2018 | PRTD | 9024 APPLIED PROFESSIONAL | 225090 | 105477 | 08/15/2018 | 09/09/18 | 540.00 | | |
| | Invoice: 105477 | | | | | | ENG/LOCATE UTILITIES | | | |
| | | | | 540.00 | 72321951 | 64110000708 | WYATT-MAD TO LOVELL-ENG/DESIGN | | | |
| | | | | | | | CHECK | 348420 TOTAL: | 540.00 | |
| 348421 | 09/12/2018 | PRTD | 2138 ASPECT CONSULTING LL | 225091 | 30675 | 08/23/2018 | 21700005 | 09/09/18 | 445.00 | |
| | Invoice: 30675 | | | | | | GROUNDWATER MANAGEMENT | | | |
| | | | | 445.00 | 72011322 | 54110000485 | GROUNDWTR MNGT PRGM-PROF SVCS | | | |
| | | | | 225092 | 30673 | 08/22/2018 | 21700139 | 09/09/18 | 4,646.59 | |
| | Invoice: 30673 | | | | | | WQFM CALIB, MNTRNG, MX, MNGMNT | | | |
| | | | | 4,646.59 | 72637319 | 54110000809 | WATER QUAL FLOW MONIT-PRO SVCS | | | |

| CASH ACCOUNT: 635 | 111100 | CASH | | | | | | | | | |
|---|------------|------|---------------------------|---------|-------------|------------|----------|--------------------------------|----------|---------------|----------|
| CHECK NO | CHK DATE | TYPE | VENDOR NAME | VOUCHER | INVOICE | INV DATE | PO | CHECK RUN | NET | | |
| INVOICE DTL DESC | | | | | | | | | | | |
| | | | | | | | | | CHECK | 348421 TOTAL: | 5,091.59 |
| 348422 | 09/12/2018 | PRTD | 6492 ASSOCIATED EARTH SCI | 225121 | 045745 | 08/29/2018 | 21700002 | 09/09/18 | 2,139.80 | | |
| Invoice: 045745 | | | | | | | | | | | |
| THIRD PARTY GEOTECH REVIEW | | | | | | | | | | | |
| 2,139.80 72655860 58600000370 GEO TECCH-3RD PARTY REVIEWS | | | | | | | | | | | |
| | | | | | | | | | CHECK | 348422 TOTAL: | 2,139.80 |
| 348423 | 09/12/2018 | PRTD | 4365 AUTOMATIC FUNDS TRAN | 225037 | 103004 | 08/14/2018 | | 09/09/18 | 70.13 | | |
| Invoice: 103004 | | | | | | | | | | | |
| FIN/DELINQUENT UB INVOICES | | | | | | | | | | | |
| | | | | | 10.39 | 43411341 | 541100 | FIN - WATER ADMIN PROF SERVICE | | | |
| | | | | | 10.39 | 43421351 | 541100 | FIN - SEWER ADMIN PROF SERVICE | | | |
| | | | | | 24.68 | 91411891 | 542500 | GG-WTR-FAC-POSTAGE | | | |
| | | | | | 24.67 | 91421891 | 542500 | GG-SWR-FAC-POSTAGE | | | |
| | | | | | | | | | CHECK | 348423 TOTAL: | 70.13 |
| 348424 | 09/12/2018 | PRTD | 55 BAINBRIDGE ISLAND RE | 225063 | 609268-2018 | 08/10/2018 | | 09/09/18 | 68.00 | | |
| Invoice: 609268-2018 | | | | | | | | | | | |
| POL/SQUAD SUBSCRIPTION | | | | | | | | | | | |
| 68.00 53011212 549100 PD-C/E-PATROL-DUES/SUBCR/MEMBR | | | | | | | | | | | |
| | | | | | | | | | CHECK | 348424 TOTAL: | 68.00 |
| 348425 | 09/12/2018 | PRTD | 55 SOUND PUBLISHING, IN | 224968 | BIR821623 | 08/17/2018 | | 09/09/18 | 62.57 | | |
| Invoice: BIR821623 | | | | | | | | | | | |
| CC/ORD 2018-31 | | | | | | | | | | | |
| | | | | | 62.57 | 11011113 | 544000 | COUNCIL - LEGAL NOTICES | | | |
| 348425 | 09/12/2018 | PRTD | 55 SOUND PUBLISHING, IN | 224969 | BIR821608 | 08/17/2018 | | 09/09/18 | 36.60 | | |
| Invoice: BIR821608 | | | | | | | | | | | |
| CC/SUMM OF ORD 2018-28 | | | | | | | | | | | |
| | | | | | 36.60 | 11011113 | 544000 | COUNCIL - LEGAL NOTICES | | | |
| 348425 | 09/12/2018 | PRTD | 55 SOUND PUBLISHING, IN | 225040 | BIR821625 | 08/23/2018 | | 09/09/18 | 99.17 | | |
| Invoice: BIR821625 | | | | | | | | | | | |
| PCD/NOA: PLN51083VAR | | | | | | | | | | | |
| | | | | | 99.17 | 63470586 | 544000 | CUR-DEV-ZONING-ADV | | | |
| 348425 | 09/12/2018 | PRTD | 55 SOUND PUBLISHING, IN | 225056 | bir822451 | 08/24/2018 | | 09/09/18 | 54.31 | | |
| Invoice: bir822451 | | | | | | | | | | | |
| CC/SUM OF ORD 2018-32 | | | | | | | | | | | |
| | | | | | 54.31 | 11011113 | 544000 | COUNCIL - LEGAL NOTICES | | | |
| | | | | | | | | | CHECK | 348425 TOTAL: | 252.65 |
| 348426 | 09/12/2018 | PRTD | 9022 JILLIAN BATEMAN | 225064 | SEP 18-27 | 08/07/2018 | | 09/09/18 | 200.00 | | |
| Invoice: SEP 18-27 | | | | | | | | | | | |
| POL/REFUND PARK DEPOSIT | | | | | | | | | | | |
| | | | | | 200.00 | 62238 | 386000 | PARK/DOCK USE DEPOSIT | | | |

CASH ACCOUNT: 635 111100 CASH
 CHECK NO CHK DATE TYPE VENDOR NAME VOUCHER INVOICE INV DATE PO CHECK RUN NET

INVOICE DTL DESC

| CHECK NO | CHK DATE | TYPE | VENDOR NAME | VOUCHER | INVOICE | INV DATE | PO | CHECK RUN | NET |
|----------|------------|------|---------------------------|---------|----------------------|------------|----|------------------------------|--------|
| | | | | | | | | CHECK 348426 TOTAL: | 200.00 |
| 348427 | 09/12/2018 | PRTD | 57 BAY HAY & FEED | 225041 | 1359633 | 08/27/2018 | | 09/09/18 | 52.11 |
| | | | Invoice: 1359633 | | | | | PW/19.2 GAL PROPANE | |
| | | | | 52.11 | 73111264 53110000908 | 2018 | | PAVEMENT MARKINGS-SUPPLY | |
| | | | | | | | | CHECK 348427 TOTAL: | 52.11 |
| 348428 | 09/12/2018 | PRTD | 57 BAY HAY & FEED | 224970 | 1357094 | 08/17/2018 | | 09/09/18 | 13.57 |
| | | | Invoice: 1357094 | | | | | PW/5 GAL PROPANE | |
| | | | | 13.57 | 73111264 53110000908 | 2018 | | PAVEMENT MARKINGS-SUPPLY | |
| | | | | | | | | CHECK 348428 TOTAL: | 13.57 |
| 348429 | 09/12/2018 | PRTD | 5412 BENEFIT ADMINISTRATI | 225042 | 1808513 | 08/21/2018 | | 09/09/18 | 247.50 |
| | | | Invoice: 1808513 | | | | | AUGUST HSA CARD SERVICES | |
| | | | | 29.70 | 21011125 520000 | | | COURT - BENEFITS | |
| | | | | 34.65 | 31011131 520000 | | | EX-GF-BEN | |
| | | | | 42.08 | 41011141 520000 | | | FIN - C/E ADMIN BENEFITS | |
| | | | | 17.33 | 51011211 520000 | | | PD-C/E ADMIN-BENEFITS | |
| | | | | 24.75 | 61011581 520000 | | | PCD - C/E ADMIN BENEFITS | |
| | | | | 81.68 | 71011321 520000 | | | PW - C/E BENEFITS | |
| | | | | 17.31 | 81011881 520000 | | | IT - C/E ADMIN BENEFITS | |
| | | | | | | | | CHECK 348429 TOTAL: | 247.50 |
| 348430 | 09/12/2018 | PRTD | 64 BAINBRIDGE ISLAND AR | 225097 | 1780 | 06/11/2018 | | 09/09/18 | 244.22 |
| | | | Invoice: 1780 | | | | | EX/PRELIM PLANNING 2017 | |
| | | | | 244.22 | 31024759 54110000877 | | | SOMETHING NEW-PROF SVCS | |
| | | | | | | | | CHECK 348430 TOTAL: | 244.22 |
| 348431 | 09/12/2018 | PRTD | 69 GALLS, LLC | 225065 | 010524718 | 08/13/2018 | | 09/09/18 | 258.33 |
| | | | Invoice: 010524718 | | | | | POL/LIFE-SAVING MEDALS X3 | |
| | | | | 258.33 | 53011212 531100 | | | PD-C/E-PATROL SUPPLIES | |
| | | | | | | | | CHECK 348431 TOTAL: | 258.33 |
| 348432 | 09/12/2018 | PRTD | 8747 SEATTLE SEWING SOLUT | 225066 | 201808B058 | 08/08/2018 | | 09/09/18 | 527.02 |
| | | | Invoice: 201808B058 | | | | | POL/JUMPSUIT: TOVAR | |
| | | | | 527.02 | 53011212 520000 | | | POLICE - C/E PATROL BENEFITS | |
| | | | | | | | | CHECK 348432 TOTAL: | 527.02 |

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| CASH ACCOUNT: 635 | 111100 | CASH | | | | | | | | |
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| CHECK NO | CHK DATE | TYPE | VENDOR NAME | VOUCHER | INVOICE | INV DATE | PO | CHECK RUN | NET | |
| INVOICE DTL DESC | | | | | | | | | | |
| | | | | | | | | CHECK 348436 TOTAL: | 111.18 | |
| 348437 | 09/12/2018 | PRTD | 7906 DLT SOLUTIONS, LLC | 224973 | SI403058 | 08/22/2018 | | 09/09/18 | 3,021.31 | |
| | | | Invoice: SI403058 | | | IT/AUTODESK SOFTWARE MAINT RENEWAL | | | | |
| | | | | 3,021.31 | 81011881 548500 | IT - C/E COMPUTER SUPPORT | | | | |
| | | | | | | | | CHECK 348437 TOTAL: | 3,021.31 | |
| 348438 | 09/12/2018 | PRTD | 5781 EXTERMINATION SERVIC | 225117 | 30314 | 08/22/2018 | | 09/09/18 | 168.95 | |
| | | | Invoice: 30314 | | | PW/COMMONS YELLOW JACKET REMOVAL | | | | |
| | | | | 168.95 | 73011755 548100 | O&M-COMMONS REPAIRS | | | | |
| | | | | | | | | CHECK 348438 TOTAL: | 168.95 | |
| 348439 | 09/12/2018 | PRTD | 1953 FERGUSON ENTERPRISES | 224974 | 0653793 | 05/04/2018 | | 09/09/18 | 255.82 | |
| | | | Invoice: 0653793 | | | PW/METER BOXES | | | | |
| | | | | 255.82 | 73416345 531100 | CASEY STREET WTR-SUPPLIES | | | | |
| | | | | 225045 | 0687972 | 08/20/2018 | | 09/09/18 | 4,790.55 | |
| | | | Invoice: 0687972 | | | PW/30 METERS | | | | |
| | | | | 4,790.55 | 411 141100 | WATER - INVENTORY | | | | |
| | | | | | | | | CHECK 348439 TOTAL: | 5,046.37 | |
| 348440 | 09/12/2018 | PRTD | 705 FCS GROUP | 225098 | 2854-21808072 | 08/17/2018 | 21800065 | 09/09/18 | 13,982.63 | |
| | | | Invoice: 2854-21808072 | | | WATER SEWER RATE STUDY | | | | |
| | | | | 6,991.32 | 72411342 54110000923 | WATER RATE STUDY-PROF SVCS | | | | |
| | | | | 6,991.31 | 72421352 54110000923 | SEWER RATE STUDY-PROF SVCS | | | | |
| | | | | | | | | CHECK 348440 TOTAL: | 13,982.63 | |
| 348441 | 09/12/2018 | PRTD | 222 FOSTER PEPPER PLLC | 225099 | 08/30/18 | 08/30/2018 | | 09/09/18 | 440.00 | |
| | | | Invoice: 08/30/18 | | | CS: CONFERENCE REG FOR DANIELS, BIRD | | | | |
| | | | | 440.00 | 91011211 443410 | GG-C/E-CIVIL SVC-TRAINING | | | | |
| | | | | | | | | CHECK 348441 TOTAL: | 440.00 | |
| 348442 | 09/12/2018 | PRTD | 233 GATEWAY TOWING | 225075 | 40733 | 08/18/2018 | | 09/09/18 | 333.81 | |
| | | | Invoice: 40733 | | | POL/IMPOUND: I18-001041 | | | | |
| | | | | 333.81 | 53011212 549900 | PD-C/E-PATROL-MISC | | | | |
| | | | | | | | | CHECK 348442 TOTAL: | 333.81 | |

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| CASH ACCOUNT: 635 | 111100 | CASH | | | | | | | | |
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| CHECK NO | CHK DATE | TYPE | VENDOR NAME | VOUCHER | INVOICE | INV DATE | PO | CHECK RUN | NET | |
| INVOICE DTL DESC | | | | | | | | | | |
| 348443 | 09/12/2018 | PRTD | 2096 GRAY & OSBORNE INC | 225101 | 17614-11 | 08/21/2018 | 21700158 | 09/09/18 | 2,101.17 | |
| | | | Invoice: 17614-11 | | | | | | | |
| | | | | | | WATER SYSTEM DESIGN IMPRVMENTS | | | | |
| | | | | | | 2,101.17 | 72413434 | 64110000819 | WATER IMPR PROJECTS 2017-ENG | |
| | | | | | | | | CHECK | 348443 TOTAL: 2,101.17 | |
| 348444 | 09/12/2018 | PRTD | 4850 HOME DEPOT CREDIT SE | 224976 | 9576050 | 08/07/2018 | | 09/09/18 | 39.11 | |
| | | | Invoice: 9576050 | | | | | | | |
| | | | | | | PW/PUMP ARMOR | | | | |
| | | | | | | 39.11 | 73111264 | 53110000908 | 2018 PAVEMENT MARKINGS-SUPPLY | |
| | | | | | | 225130 | 1029885 | 08/15/2018 | 09/09/18 | 49.02 |
| | | | Invoice: 1029885 | | | | | | | |
| | | | | | | PW/CLEANING SUPPLIES | | | | |
| | | | | | | 49.02 | 73011897 | 531100 | O&M-C/E-PWY FAC-SUPPLIES | |
| | | | | | | | | CHECK | 348444 TOTAL: 88.13 | |
| 348445 | 09/12/2018 | PRTD | 7961 KATY BIGELOW, ARBORI | 225051 | 5222 | 08/27/2018 | | 09/09/18 | 106.25 | |
| | | | Invoice: 5222 | | | | | | | |
| | | | | | | PW/BIGLEAF MAPLE ASSESSMENT KIRK AVE | | | | |
| | | | | | | 106.25 | 73111427 | 54110000354 | TREE PRES/REMOVAL-RD-PROF SVCS | |
| | | | | | | | | CHECK | 348445 TOTAL: 106.25 | |
| 348446 | 09/12/2018 | PRTD | 333 KITSAP COUNTY AUDITO | 225102 | 407270 | 07/31/2018 | | 09/09/18 | 110.00 | |
| | | | Invoice: 407270 | | | | | | | |
| | | | | | | ENG/EASEMENT RECORDING 201807020166 | | | | |
| | | | | | | 110.00 | 72334951 | 65100000596 | SR305-OLYMPIC NM-RECORDING | |
| | | | | | | | | CHECK | 348446 TOTAL: 110.00 | |
| 348447 | 09/12/2018 | PRTD | 2306 KITSAP COUNTY PROSEC | 225104 | AUG18 | 08/07/2018 | | 09/09/18 | 9,247.00 | |
| | | | Invoice: AUG18 | | | | | | | |
| | | | | | | LEGAL/PROSECUTION SVCS AUG 2018 | | | | |
| | | | | | | 9,247.00 | 32011521 | 541112 | LGL-OUTSIDE PROSECUTOR | |
| | | | | | | | | CHECK | 348447 TOTAL: 9,247.00 | |
| 348448 | 09/12/2018 | PRTD | 1496 KITSAP COUNTY SEWER | 225053 | KCSD7-COBI-2018-SEP | 08/20/2018 | | 09/09/18 | 18,159.00 | |
| | | | Invoice: KCSD7-COBI-2018-SEP | | | | | | | |
| | | | | | | PW/SEPT 2018 SEWER SERVICES | | | | |
| | | | | | | 18,159.00 | 73426356 | 551000 | SIS-SD#7 PROCESSING CHGS | |
| | | | | | | | | CHECK | 348448 TOTAL: 18,159.00 | |
| 348449 | 09/12/2018 | PRTD | 338 KITSAP COUNTY SHERIF | 225076 | JUN18 | 06/30/2018 | | 09/09/18 | 5,053.83 | |
| | | | Invoice: JUN18 | | | | | | | |
| | | | | | | POL/PRISONER BOARD | | | | |
| | | | | | | 5,053.83 | 51011236 | 551000 | POLICE - C/E PRISONER DETENT'N | |

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CASH ACCOUNT: 635 111100 CASH

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| CHECK NO | CHK DATE | TYPE | VENDOR NAME | VOUCHER | INVOICE | INV DATE | PO | CHECK RUN | NET |
|----------|------------|------|---------------------------|----------|-----------------|------------|----------|---------------------------------|----------|
| | | | | | | | | CHECK 348449 TOTAL: | 5,053.83 |
| 348450 | 09/12/2018 | PRTD | 1971 KELLEY IMAGING SYSTE | 225105 | 23227129 | 08/22/2018 | | 09/09/18 | 283.78 |
| | | | Invoice: 23227129 | | | | | ENG/E-STUDIO4505AC COPIER LEASE | |
| | | | | 283.78 | 72011321 545000 | | | ENG - C/E ADMIN RENTS & LEASES | |
| | | | | | | | | CHECK 348450 TOTAL: | 283.78 |
| 348451 | 09/12/2018 | PRTD | 8546 KITSAP 911 PUBLIC AU | 225077 | BIPD2018-09 | 08/15/2018 | 21800003 | 09/09/18 | 9,563.04 |
| | | | Invoice: BIPD2018-09 | | | | | POL/CALL CENTER SERVICES | |
| | | | | 2,868.92 | 52011286 551000 | | | POLICE - C/E - INVEST CENCOM | |
| | | | | 6,694.12 | 53011286 551000 | | | POLICE - C/E PATROL CENCOM | |
| | | | | | | | | CHECK 348451 TOTAL: | 9,563.04 |
| 348452 | 09/12/2018 | PRTD | 315 KITSAP HUMANE SOCIET | 225109 | 1580 | 08/01/2018 | | 09/09/18 | 5,596.83 |
| | | | Invoice: 1580 | | | | | KITSAP HUMANE SOCIETY ANNUAL C | |
| | | | | 5,596.83 | 91011393 541100 | | | FIN - C/E ANIMAL CONTROL FEES | |
| | | | | | | | | CHECK 348452 TOTAL: | 5,596.83 |
| 348453 | 09/12/2018 | PRTD | 309 KITSAP TIRE CENTER I | 224977 | 215887 | 08/14/2018 | | 09/09/18 | 2,505.16 |
| | | | Invoice: 215887 | | | | | PW/VACOTR #4 TIRES | |
| | | | | 2,505.16 | 73637941 548100 | | | VACTOR R&M-REPAIRS | |
| | | | | 225054 | 216348 | 08/24/2018 | | 09/09/18 | 8.72 |
| | | | Invoice: 216348 | | | | | PW/SCRAP TIRE DISPOSAL | |
| | | | | 8.72 | 91011897 547900 | | | GG-C/E-O&M YARD FAC-GARBAGE | |
| | | | | | | | | CHECK 348453 TOTAL: | 2,513.88 |
| 348454 | 09/12/2018 | PRTD | 7849 LAW OFFICE OF THOMAS | 225110 | AUG18 | 08/15/2018 | | 09/09/18 | 4,375.00 |
| | | | Invoice: AUG18 | | | | | LEGAL/PUB DEF SVCS AUG 2018 | |
| | | | | 4,375.00 | 32011281 541113 | | | LGL-PUBLIC DEFENDER | |
| | | | | | | | | CHECK 348454 TOTAL: | 4,375.00 |
| 348455 | 09/12/2018 | PRTD | 2132 MCKINSTRY CO LLC | 224978 | 1410118 | 08/02/2018 | | 09/09/18 | 3,677.66 |
| | | | Invoice: 1410118 | | | | | PW/FIRE SPRINKLER LEAK REPAIR | |
| | | | | 3,677.66 | 73011183 548100 | | | O&M-C/E-CH FAC-REPAIRS | |
| | | | | | | | | CHECK 348455 TOTAL: | 3,677.66 |

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| CASH ACCOUNT: 635 | 111100 | CASH | | | | | | | |
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| CHECK NO | CHK DATE | TYPE | VENDOR NAME | VOUCHER | INVOICE | INV DATE | PO | CHECK RUN | NET |
| INVOICE DTL DESC | | | | | | | | | |
| 348456 | 09/12/2018 | PRTD | 113 OFFICE OF THE CODE R | 225078 | RCW218SUPP | 08/15/2018 | | 09/09/18 | 250.70 |
| | Invoice: RCW218SUPP | | | | | | | POL/2018 RCWS | |
| | | | | 250.70 | 53011212 531100 | | | PD-C/E-PATROL SUPPLIES | |
| | | | | | | | | CHECK 348456 TOTAL: | 250.70 |
| 348457 | 09/12/2018 | PRTD | 2430 OGDEN MURPHY WALLACE | 225055 | 815812 | 08/23/2018 | | 09/09/18 | 17,269.07 |
| | Invoice: 815812 | | | | | | | LEGAL/JULY 2018 PROF SVCS | |
| | | | | 4,675.00 | 32470152 54111100844 | | | LIT-CLARK ADMIN APPEAL | |
| | | | | 90.00 | 32470152 54111100892 | | | LIT-CAINION SUP CT WRIT | |
| | | | | 30.00 | 32011152 54111100926 | | | LIT-KC REALTORS-SUP CT | |
| | | | | 2,516.35 | 32011152 54111100935 | | | LIT-KC REALTORS-GMHB | |
| | | | | 8,246.30 | 32470152 54111400949 | | | HEX-HANSON DOCK REPL | |
| | | | | 90.00 | 32470152 54111400963 | | | STAHL/ST. LOUIS VMP APPEAL | |
| | | | | 180.00 | 91011211 5411100 | | | GG-C/E-CIVIL SVC-PROF SVCS | |
| | | | | 720.00 | 32470152 54111000711 | | | SMP LEGAL ADVICE | |
| | | | | 31.42 | 32470152 54111400802 | | | HEX-GERLACH SSDP/MDNS APPEAL | |
| | | | | 180.00 | 32470152 54111100896 | | | LIT-BAINBRIDGE ALLIANCE | |
| | | | | 510.00 | 32470152 54111100897 | | | LIT-PRESERVE RESP SHORELINE | |
| | | | | | | | | CHECK 348457 TOTAL: | 17,269.07 |
| 348458 | 09/12/2018 | PRTD | 8954 ONE WAY BACKFLOW TES | 224979 | PAYREQ10-510 | 08/21/2018 | 21800075 | 09/09/18 | 950.00 |
| | Invoice: PAYREQ10-510 | | | | | | | 2018 BACKFLOW TESTING | |
| | | | | 950.00 | 73411349 54110000510 | | | BACKFLOW TEST-PRO SVCS | |
| | | | | 225111 | PAYREQ11-510 | 08/28/2018 | 21800075 | 09/09/18 | 320.00 |
| | Invoice: PAYREQ11-510 | | | | | | | 2018 BACKFLOW TESTING | |
| | | | | 320.00 | 73411349 54110000510 | | | BACKFLOW TEST-PRO SVCS | |
| | | | | | | | | CHECK 348458 TOTAL: | 1,270.00 |
| 348459 | 09/12/2018 | PRTD | 8286 SUPERINTENDENT OF P | 225079 | 14284 | 08/20/2018 | | 09/09/18 | 43.00 |
| | Invoice: 14284 | | | | | | | POL/FINGERPRINTING | |
| | | | | 43.00 | 65438 386110 | | | AGENCY-FINGERPRINT REV TO SPI | |
| | | | | 225080 | 14303 | 08/20/2018 | | 09/09/18 | 129.00 |
| | Invoice: 14303 | | | | | | | POL/FINGERPRINTING | |
| | | | | 129.00 | 65438 386110 | | | AGENCY-FINGERPRINT REV TO SPI | |
| | | | | 225081 | 14310 | 08/20/2018 | | 09/09/18 | 43.00 |
| | Invoice: 14310 | | | | | | | POL/FINGERPRINTING | |
| | | | | 43.00 | 65438 386110 | | | AGENCY-FINGERPRINT REV TO SPI | |
| | | | | 225082 | 14317 | 08/22/2018 | | 09/09/18 | 43.00 |
| | Invoice: 14317 | | | | | | | POL/FINGERPRINTING | |
| | | | | 43.00 | 65438 386110 | | | AGENCY-FINGERPRINT REV TO SPI | |

| CASH ACCOUNT: 635 | | | 111100 | | CASH | | | | | |
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| CHECK NO | CHK DATE | TYPE | VENDOR NAME | VOUCHER | INVOICE | INV DATE | PO | CHECK RUN | NET | |
| INVOICE DTL DESC | | | | | | | | | | |
| | | | | | | | | CHECK | 348459 TOTAL: | 258.00 |
| 348460 | 09/12/2018 | PRTD | 8895 OVATION! PERFORMING | 225131 | 08/31/18 | 08/31/2018 | | 09/09/18 | 150.00 | |
| Invoice: 08/31/18 | | | | 150.00 | 41625860 586000 | FIN/DAMAGE DEPOSIT REFUND | | | | |
| | | | | | | | | CHECK | 348460 TOTAL: | 150.00 |
| 348461 | 09/12/2018 | PRTD | 8544 PHILANTHROPY NORTHWE | 225112 | TGP 2841 | 07/31/2018 | | 09/09/18 | 1,000.00 | |
| Invoice: TGP 2841 | | | | 1,000.00 | 31017572 54110000297 | EX/HUMAN SERVICES PROJECT | | | | |
| | | | | | | | | CHECK | 348461 TOTAL: | 3,400.00 |
| Invoice: TGP 2828 | | | | 225113 | TGP 2828 | 06/30/2018 | | 09/09/18 | 1,800.00 | |
| Invoice: TGP 2864 | | | | 225114 | TGP 2864 | 07/31/2018 | | 09/09/18 | 600.00 | |
| | | | | | | | | CHECK | 348462 TOTAL: | 115.70 |
| 348462 | 09/12/2018 | PRTD | 360 PROBUILD COMPANY LLC | 224980 | 1716971 | 08/15/2018 | | 09/09/18 | 84.99 | |
| Invoice: 1716971 | | | | 84.99 | 73637891 531100 | PW/MASKS | | | | |
| Invoice: 1716621 | | | | 224981 | 1716621 | 08/14/2018 | | 09/09/18 | 18.94 | |
| Invoice: 1712687 | | | | 224982 | 1712687 | 07/16/2018 | | 09/09/18 | 11.77 | |
| | | | | | | | | CHECK | 348463 TOTAL: | 90.00 |
| 348463 | 09/12/2018 | PRTD | 7187 RANDOLPH BAUER | 224983 | 1809147 | 08/16/2018 | | 09/09/18 | 90.00 | |
| Invoice: 1809147 | | | | 90.00 | 73011897 545000 | PW/7305 HIDDEN COVE | | | | |
| Invoice: 1809148 | | | | 224984 | 1809148 | 08/16/2018 | | 09/09/18 | 90.00 | |
| Invoice: 1809149 | | | | 224985 | 1809149 | 08/16/2018 | | 09/09/18 | 90.00 | |

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CASH ACCOUNT: 635 111100 CASH
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| CHECK NO | CHK DATE | TYPE | VENDOR NAME | VOUCHER | INVOICE | INV DATE | PO | CHECK RUN | NET |
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| Invoice: 1809146 | | | | 224986 | 1809146 | 08/16/2018 | | 09/09/18 | 180.00 |
| | | | | 180.00 | 73011768 545000 | PW/4192 EAGLE HARDBOR DR O&M-C/E-PARKS-OP LEASES | | | |
| | | | | | | | CHECK | 348463 TOTAL: | 450.00 |
| 348464 | 09/12/2018 | PRTD | 408 ROLLING BAY COMMERC | 225132 | 053479 | 08/15/2018 | | 09/09/18 | 3,955.00 |
| Invoice: 053479 | | | | 3,955.00 | 91011255 545000 | CRT/SEPT RENT GG-C/E-COURT BLDG-RENT | | | |
| | | | | | | | CHECK | 348464 TOTAL: | 3,955.00 |
| 348465 | 09/12/2018 | PRTD | 9025 JEFFREY & MEISHA ROU | 225115 | 08/30/18 | 08/30/2018 | | 09/09/18 | 360.20 |
| Invoice: 08/30/18 | | | | 360.20 | 65538 38600000370 | PCD/BLD22834 GEOTECH REVIEW FEE PARTIAL REFUND GEO TECH 3RD PARTY REVIEWS | | | |
| | | | | | | | CHECK | 348465 TOTAL: | 360.20 |
| 348466 | 09/12/2018 | PRTD | 6180 SCE INC | 225116 | 1789 | 08/02/2018 | 21800017 | 09/09/18 | 2,255.00 |
| Invoice: 1789 | | | | 2,255.00 | 72111262 54110000898 | WOODWARD / SAKAI TRAIL PSA WOODWARD/SAKAI TRAIL-PROF SVCS | | | |
| | | | | | | | CHECK | 348466 TOTAL: | 2,255.00 |
| 348467 | 09/12/2018 | PRTD | 3114 JOHNSON CONTROLS FIR | 225048 | 20421520 | 08/21/2018 | | 09/09/18 | 278.47 |
| Invoice: 20421520 | | | | 278.47 | 73011183 54110000390 | PW/FIRE ALARM MONIT CITY HALL FAC BLDG/FIRE ALARM-CITY HALL | | | |
| | | | | | | | | | |
| Invoice: 20421302 | | | | 225049 | 20421302 | 08/21/2018 | | 09/09/18 | 139.57 |
| | | | | 139.57 | 73011897 54110000390 | PW/FIRE ALARM MONIT PW FACILITY PWY-ALARM SVCS | | | |
| | | | | | | | | | |
| Invoice: 20421453 | | | | 225050 | 20421453 | 08/21/2018 | | 09/09/18 | 139.57 |
| | | | | 139.57 | 73011755 54110000390 | PW/FIRE ALARM MONIT COMMONS FAC BLDG/FIRE ALARM-COMMONS | | | |
| | | | | | | | CHECK | 348467 TOTAL: | 557.61 |
| 348468 | 09/12/2018 | PRTD | 4548 SIRCHIE FINGERPRINT | 225083 | 0360691-IN | 08/14/2018 | | 09/09/18 | 60.27 |
| Invoice: 0360691-IN | | | | 60.27 | 51011191 531100 | POL/EVIDENCE STORAGE BOXES PD-C/E-PROP RM-SUPPLIES | | | |
| | | | | | | | CHECK | 348468 TOTAL: | 60.27 |

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CASH ACCOUNT: 635 111100 CASH

| CHECK NO | CHK DATE | TYPE | VENDOR NAME | VOUCHER | INVOICE | INV DATE | PO | CHECK RUN | NET |
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| INVOICE DTL DESC | | | | | | | | | |
| 348469 | 09/12/2018 | PRTD | 601 SOUND REPROGRAPHICS | 225057 | 65201 | 08/22/2018 | | 09/09/18 | 42.10 |
| | Invoice: 65201 | | | | | | | | |
| | | | | 42.10 | 73637891 531100 | | | | |
| | | | | | | | | PW/LAMINATED SNOW ROUTE FLYERS | |
| | | | | | | | | OFFICE SUPPLIES | |
| | | | | | | | | CHECK 348469 TOTAL: | 42.10 |
| 348470 | 09/12/2018 | PRTD | 8132 SPECTRA LABORATORIES | 224987 | 18-06284 | 08/16/2018 | | 09/09/18 | 77.28 |
| | Invoice: 18-06284 | | | | | | | | |
| | | | | 77.28 | 73411345 54110000391 | | | | |
| | | | | | | | | PW/WINWTR ECOLI TESTING | |
| | | | | | | | | LAB SVCS-WATER | |
| | | | | 225133 | 18-06503 | 08/23/2018 | | 09/09/18 | 77.28 |
| | Invoice: 18-06503 | | | | | | | | |
| | | | | 77.28 | 73411345 54110000391 | | | | |
| | | | | | | | | PW/WINWTR ECOLI TESTING | |
| | | | | | | | | LAB SVCS-WATER | |
| | | | | | | | | CHECK 348470 TOTAL: | 154.56 |
| 348471 | 09/12/2018 | PRTD | 2467 STAPLES | 225084 | 3386213777 | 08/04/2018 | | 09/09/18 | 125.24 |
| | Invoice: 3386213777 | | | | | | | | |
| | | | | 125.24 | 53011212 531100 | | | | |
| | | | | | | | | POL/DATA STICKS | |
| | | | | | | | | PD-C/E-PATROL SUPPLIES | |
| | | | | | | | | CHECK 348471 TOTAL: | 125.24 |
| 348472 | 09/12/2018 | PRTD | 5730 SUMMIT LAW GROUP | 224988 | 93157 | 06/20/2018 | | 09/09/18 | 3,060.50 |
| | Invoice: 93157 | | | | | | | | |
| | | | | 2,379.00 | 32011152 54110000274 | | | | |
| | | | | 681.50 | 32011152 54111000870 | | | | |
| | | | | | | | | LEGAL/PROFESSIONAL SERVICES MAY 2018 | |
| | | | | | | | | LABOR NEGOTIATION-MEDIATION | |
| | | | | | | | | LGL-HR (NON-BARGAINING) | |
| | | | | 224989 | 93158 | 06/20/2018 | | 09/09/18 | 2,562.00 |
| | Invoice: 93158 | | | | | | | | |
| | | | | 2,562.00 | 32011152 54111000274 | | | | |
| | | | | | | | | LEGAL/PROF SERVICES MAY 2018 | |
| | | | | | | | | LGL-LABOR NEGOTIATIONS | |
| | | | | | | | | CHECK 348472 TOTAL: | 5,622.50 |
| 348473 | 09/12/2018 | PRTD | 7095 SUPERIOR SAW & SUPPL | 225058 | 120953 | 08/22/2018 | | 09/09/18 | 103.55 |
| | Invoice: 120953 | | | | | | | | |
| | | | | 103.55 | 73111427 548100 | | | | |
| | | | | | | | | PW/SAW CHAIN SHARPENING | |
| | | | | | | | | O&M-ACCESS RDSIDE R&M | |
| | | | | | | | | CHECK 348473 TOTAL: | 103.55 |
| 348474 | 09/12/2018 | PRTD | 4271 JOHN SUTTON | 224990 | JAN-JUL 2018 | 07/31/2018 | | 09/09/18 | 50.96 |
| | Invoice: JAN-JUL 2018 | | | | | | | | |
| | | | | 50.96 | 91029211 521500 | | | | |
| | | | | | | | | LEOFF1 REIMBURSEMENT | |
| | | | | | | | | POLICE - INS ADD MEDICAL COSTS | |
| | | | | | | | | CHECK 348474 TOTAL: | 50.96 |

| CASH ACCOUNT: 635 | | | 111100 | | CASH | | | | | NET |
|-------------------|------------|------|---------------------------|---------|---------------------------|------------|-------------------------------|-----------|---------------|--------|
| CHECK NO | CHK DATE | TYPE | VENDOR NAME | VOUCHER | INVOICE | INV DATE | PO | CHECK RUN | | |
| INVOICE DTL DESC | | | | | | | | | | |
| | | | | | | | | CHECK | 348484 TOTAL: | 100.00 |
| 348485 | 09/12/2018 | PRTD | 8390 WEST HILLS FORD MAZD | 225011 | 105512 | 08/15/2018 | | 09/09/18 | 86.47 | |
| Invoice: 105512 | | | | | PW/VEH#33 REAR VIEW KIT | | | | | |
| | | | | 43.24 | 73111427 | 531100 | OFFICE SUPPLIES | | | |
| | | | | 43.23 | 73111423 | 531100 | OFFICE SUPPLIES | | | |
| | | | | | | | | CHECK | 348485 TOTAL: | 86.47 |
| 348486 | 09/12/2018 | PRTD | 499 WESTBAY AUTO PARTS I | 225002 | 383648 | 08/08/2018 | | 09/09/18 | 178.15 | |
| Invoice: 383648 | | | | | PW/FILTERS: AIR & FUEL | | | | | |
| | | | | 178.15 | 990 | 141100 | MERCHANDISE | | | |
| Invoice: 382477 | | | | | 225003 | 382477 | 08/03/2018 | 09/09/18 | 249.32 | |
| | | | | 249.32 | 990 | 141100 | PW/OIL, FUEL, COOLANT FILTERS | | | |
| | | | | 225004 | 383075 | 08/06/2018 | 09/09/18 | 32.13 | | |
| Invoice: 383075 | | | | | PW/OIL ,AIR, FUEL FILTERS | | | | | |
| | | | | 32.13 | 990 | 141100 | MERCHANDISE | | | |
| Invoice: 381514 | | | | | 225005 | 381514 | 07/31/2018 | 09/09/18 | 317.66 | |
| | | | | 317.66 | 990 | 141100 | PW/FILTERS | | | |
| | | | | 225006 | 381141 | 07/30/2018 | 09/09/18 | 39.62 | | |
| Invoice: 381141 | | | | | PW/FILTERS | | | | | |
| | | | | 39.62 | 990 | 141100 | MERCHANDISE | | | |
| Invoice: 379874 | | | | | 225007 | 379874 | 07/25/2018 | 09/09/18 | 39.49 | |
| | | | | 39.49 | 990 | 141100 | PW/FILTERS | | | |
| | | | | 225008 | 379369 | 07/24/2018 | 09/09/18 | 32.97 | | |
| Invoice: 379369 | | | | | PW/FILTERS | | | | | |
| | | | | 32.97 | 990 | 141100 | MERCHANDISE | | | |
| Invoice: 379359 | | | | | 225009 | 379359 | 07/24/2018 | 09/09/18 | 19.67 | |
| | | | | 19.67 | 990 | 141100 | PW/OIL FILTER | | | |
| | | | | 225010 | 379444 | 07/24/2018 | 09/09/18 | 96.76 | | |
| Invoice: 379444 | | | | | PW/SHOP SUPPLIES | | | | | |
| | | | | 34.11 | 990 | 141100 | MERCHANDISE | | | |
| | | | | 62.65 | 73638935 | 531100 | O&M-STD ALLOCATION-SUPPLIES | | | |
| Invoice: 387132 | | | | | 225060 | 387132 | 08/21/2018 | 09/09/18 | 265.63 | |
| | | | | 131.82 | 73111423 | 531100 | PW/ALTERNATOR FOR #13 | | | |
| | | | | 133.81 | 73111427 | 531100 | OFFICE SUPPLIES | | | |

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 cchristianson |A/P CASH DISBURSEMENTS JOURNAL

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CASH ACCOUNT: 635 111100 CASH
 CHECK NO CHK DATE TYPE VENDOR NAME

VOUCHER INVOICE INV DATE PO CHECK RUN NET

INVOICE DTL DESC

| | | | | | | |
|--------------------------|--------|----------|--------|------------------------------|---------------|----------------------------|
| Invoice: 388652 | 225136 | 388652 | | 08/27/2018 | 09/09/18 | 119.94 |
| | | | | PW/DELI 400 15W40 GAL | | |
| | 119.94 | 73638935 | 531100 | O&M-STD ALLOCATION-SUPPLIES | | |
| | | | | CHECK | 348486 TOTAL: | 1,391.34 |
| 348487 Invoice: A16833 | 225013 | A16833 | | 08/10/2018 | 09/09/18 | 343.00 |
| | | | | PW/SAFETY VESTS, WORK GLOVES | | |
| | 343.00 | 73637891 | 531100 | OFFICE SUPPLIES | | |
| | | | | CHECK | 348487 TOTAL: | 343.00 |
| 348488 Invoice: SEP18 | 225089 | SEP18 | | 08/20/2018 | 09/09/18 | 11.36 |
| | | | | POL/HD CONVERTER BOX | | |
| | 11.36 | 51011211 | 545000 | PD-C/E-ADMIN RENTS/LEASE | | |
| | | | | CHECK | 348488 TOTAL: | 11.36 |
| 348489 Invoice: 68361101 | 225014 | 68361101 | | 08/14/2018 | 09/09/18 | 122.48 |
| | | | | PW/FIRST AID SUPPLY RESTOCK | | |
| | 122.48 | 73637891 | 531100 | OFFICE SUPPLIES | | |
| | | | | CHECK | 348489 TOTAL: | 122.48 |
| | | | | NUMBER OF CHECKS | 73 | *** CASH ACCOUNT TOTAL *** |
| | | | | | | 151,764.32 |

COUNT AMOUNT

TOTAL PRINTED CHECKS 73 151,764.32

*** GRAND TOTAL *** 151,764.32

Voided ck# 348454 \$ - 4,375.00
147,389.32

JOURNAL ENTRIES TO BE CREATED

CLERK: cchristianson

| YEAR PER | JNL | | | | ACCOUNT DESC | T OB | DEBIT | CREDIT |
|----------------------|------------|----------|--------|-------|--------------|--------------------------------|------------|------------|
| SRC ACCOUNT | EFF DATE | JNL DESC | REF 1 | REF 2 | REF 3 | LINE DESC | | |
| 2018 9 26 | | | | | | | | |
| APP 001-213000 | 09/12/2018 | 09/09/18 | 091218 | | | GENERAL - ACCOUNTS PAYABLE | 66,615.03 | |
| | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| APP 635-111100 | 09/12/2018 | 09/09/18 | 091218 | | | CASH | | 151,764.32 |
| | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| APP 101-213000 | 09/12/2018 | 09/09/18 | 091218 | | | STREETS - ACCOUNTS PAYABLE | 3,149.42 | |
| | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| APP 401-213000 | 09/12/2018 | 09/09/18 | 091218 | | | ACCOUNTS PAYABLE | 16,175.55 | |
| | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| APP 631-213000 | 09/12/2018 | 09/09/18 | 091218 | | | ACCOUNTS PAYABLE | 16,867.22 | |
| | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| APP 402-213000 | 09/12/2018 | 09/09/18 | 091218 | | | ACCOUNTS PAYABLE | 29,324.09 | |
| | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| APP 301-213000 | 09/12/2018 | 09/09/18 | 091218 | | | ACCOUNTS PAYABLE | 650.00 | |
| | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| APP 650-213000 | 09/12/2018 | 09/09/18 | 091218 | | | ACCOUNTS PAYABLE | 2,758.00 | |
| | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| APP 407-213000 | 09/12/2018 | 09/09/18 | 091218 | | | ACCOUNTS PAYABLE | 14,641.89 | |
| | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| APP 622-213000 | 09/12/2018 | 09/09/18 | 091218 | | | ACCOUNTS PAYABLE | 550.00 | |
| | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| APP 403-213000 | 09/12/2018 | 09/09/18 | 091218 | | | ACCOUNTS PAYABLE | 90.00 | |
| | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| APP 901-213000 | 09/12/2018 | 09/09/18 | 091218 | | | ACCOUNTS PAYABLE | 943.12 | |
| | | | | | | AP CASH DISBURSEMENTS JOURNAL | | |
| GENERAL LEDGER TOTAL | | | | | | | 151,764.32 | 151,764.32 |
| APP 631-130000 | 09/12/2018 | 09/09/18 | 091218 | | | DUE TO/FROM CLEARING | 134,897.10 | |
| APP 001-130000 | 09/12/2018 | 09/09/18 | 091218 | | | GENERAL - DUE TO/FROM CLEARING | | 66,615.03 |
| APP 101-130000 | 09/12/2018 | 09/09/18 | 091218 | | | STREETS - DUE TO/FROM CLEARING | | 3,149.42 |
| APP 401-130000 | 09/12/2018 | 09/09/18 | 091218 | | | DUE TO/FROM CLEARING | | 16,175.55 |
| APP 402-130000 | 09/12/2018 | 09/09/18 | 091218 | | | DUE TO/FROM CLEARING | | 29,324.09 |
| APP 301-130000 | 09/12/2018 | 09/09/18 | 091218 | | | DUE TO/FROM CLEARING | | 650.00 |
| APP 650-130000 | 09/12/2018 | 09/09/18 | 091218 | | | DUE TO/FROM CLEARING | | 2,758.00 |
| APP 407-130000 | 09/12/2018 | 09/09/18 | 091218 | | | DUE TO/FROM CLEARING | | 14,641.89 |
| APP 622-130000 | 09/12/2018 | 09/09/18 | 091218 | | | DUE TO/FROM CLEARING | | 550.00 |
| APP 403-130000 | 09/12/2018 | 09/09/18 | 091218 | | | DUE TO/FROM CLEARING | | 90.00 |

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|CITY OF BAINBRIDGE ISLAND
|A/P CASH DISBURSEMENTS JOURNAL

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JOURNAL ENTRIES TO BE CREATED

| YEAR PER | JNL | | | | | | | | |
|--------------------------------|----------|--------|-------|-------|--|----------------------|------|------------|------------|
| SRC ACCOUNT | | | | | | ACCOUNT DESC | T OB | DEBIT | CREDIT |
| EFF DATE | JNL DESC | REF 1 | REF 2 | REF 3 | | LINE DESC | | | |
| 09/12/2018 | 09/09/18 | 091218 | | | | | | | |
| APP 901-130000 | | | | | | DUE TO/FROM CLEARING | | | 943.12 |
| 09/12/2018 | 09/09/18 | 091218 | | | | | | | |
| SYSTEM GENERATED ENTRIES TOTAL | | | | | | | | 134,897.10 | 134,897.10 |
| JOURNAL 2018/09/26 TOTAL | | | | | | | | 286,661.42 | 286,661.42 |

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|CITY OF BAINBRIDGE ISLAND
 |A/P CASH DISBURSEMENTS JOURNAL

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JOURNAL ENTRIES TO BE CREATED

| FUND | YEAR | PER | JNL | EFF DATE | DEBIT | CREDIT |
|---------------------------------|------|-----|-----|--------------------------------|-----------|-----------|
| ACCOUNT | | | | ACCOUNT DESCRIPTION | | |
| 001 GENERAL FUND | 2018 | 9 | 26 | 09/12/2018 | | |
| 001-130000 | | | | GENERAL - DUE TO/FROM CLEARING | | 66,615.03 |
| 001-213000 | | | | GENERAL - ACCOUNTS PAYABLE | 66,615.03 | |
| | | | | FUND TOTAL | 66,615.03 | 66,615.03 |
| 101 STREET FUND | 2018 | 9 | 26 | 09/12/2018 | | |
| 101-130000 | | | | STREETS - DUE TO/FROM CLEARING | | 3,149.42 |
| 101-213000 | | | | STREETS - ACCOUNTS PAYABLE | 3,149.42 | |
| | | | | FUND TOTAL | 3,149.42 | 3,149.42 |
| 301 CAPITAL CONSTRUCTION FUND | 2018 | 9 | 26 | 09/12/2018 | | |
| 301-130000 | | | | DUE TO/FROM CLEARING | | 650.00 |
| 301-213000 | | | | ACCOUNTS PAYABLE | 650.00 | |
| | | | | FUND TOTAL | 650.00 | 650.00 |
| 401 WATER OPERATING FUND | 2018 | 9 | 26 | 09/12/2018 | | |
| 401-130000 | | | | DUE TO/FROM CLEARING | | 16,175.55 |
| 401-213000 | | | | ACCOUNTS PAYABLE | 16,175.55 | |
| | | | | FUND TOTAL | 16,175.55 | 16,175.55 |
| 402 SEWER OPERATING FUND | 2018 | 9 | 26 | 09/12/2018 | | |
| 402-130000 | | | | DUE TO/FROM CLEARING | | 29,324.09 |
| 402-213000 | | | | ACCOUNTS PAYABLE | 29,324.09 | |
| | | | | FUND TOTAL | 29,324.09 | 29,324.09 |
| 403 STORM & SURFACE WATER FUND | 2018 | 9 | 26 | 09/12/2018 | | |
| 403-130000 | | | | DUE TO/FROM CLEARING | | 90.00 |
| 403-213000 | | | | ACCOUNTS PAYABLE | 90.00 | |
| | | | | FUND TOTAL | 90.00 | 90.00 |
| 407 BUILDING & DEVELOPMENT FUND | 2018 | 9 | 26 | 09/12/2018 | | |
| 407-130000 | | | | DUE TO/FROM CLEARING | | 14,641.89 |
| 407-213000 | | | | ACCOUNTS PAYABLE | 14,641.89 | |
| | | | | FUND TOTAL | 14,641.89 | 14,641.89 |
| 622 EXPENDABLE TRUST FUND | 2018 | 9 | 26 | 09/12/2018 | | |
| 622-130000 | | | | DUE TO/FROM CLEARING | | 550.00 |
| 622-213000 | | | | ACCOUNTS PAYABLE | 550.00 | |
| | | | | FUND TOTAL | 550.00 | 550.00 |
| 631 CLEARING FUND | 2018 | 9 | 26 | 09/12/2018 | | |

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 |A/P CASH DISBURSEMENTS JOURNAL

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JOURNAL ENTRIES TO BE CREATED

| FUND | YEAR PER | JNL | EFF DATE | ACCOUNT DESCRIPTION | DEBIT | CREDIT |
|------------------------------|----------|-----|------------|----------------------|------------|------------|
| 631-130000 | | | | DUE TO/FROM CLEARING | 134,897.10 | |
| 631-213000 | | | | ACCOUNTS PAYABLE | 16,867.22 | |
| 635-111100 | | | | CASH | | 151,764.32 |
| FUND TOTAL | | | | | 151,764.32 | 151,764.32 |
| 650 AGENCY FUND | 2018 9 | 26 | 09/12/2018 | | | |
| 650-130000 | | | | DUE TO/FROM CLEARING | | 2,758.00 |
| 650-213000 | | | | ACCOUNTS PAYABLE | 2,758.00 | |
| FUND TOTAL | | | | | 2,758.00 | 2,758.00 |
| 901 CITY-WIDE REPORTING FUND | 2018 9 | 26 | 09/12/2018 | | | |
| 901-130000 | | | | DUE TO/FROM CLEARING | | 943.12 |
| 901-213000 | | | | ACCOUNTS PAYABLE | 943.12 | |
| FUND TOTAL | | | | | 943.12 | 943.12 |

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|CITY OF BAINBRIDGE ISLAND
|A/P CASH DISBURSEMENTS JOURNAL

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JOURNAL ENTRIES TO BE CREATED

| FUND | | DUE TO | DUE FROM |
|------|-----------------------------|------------|------------|
| 001 | GENERAL FUND | | 66,615.03 |
| 101 | STREET FUND | | 3,149.42 |
| 301 | CAPITAL CONSTRUCTION FUND | | 650.00 |
| 401 | WATER OPERATING FUND | | 16,175.55 |
| 402 | SEWER OPERATING FUND | | 29,324.09 |
| 403 | STORM & SURFACE WATER FUND | | 90.00 |
| 407 | BUILDING & DEVELOPMENT FUND | | 14,641.89 |
| 622 | EXPENDABLE TRUST FUND | | 550.00 |
| 631 | CLEARING FUND | 134,897.10 | |
| 650 | AGENCY FUND | | 2,758.00 |
| 901 | CITY-WIDE REPORTING FUND | | 943.12 |
| | TOTAL | 134,897.10 | 134,897.10 |

** END OF REPORT - Generated by Carrie L. Christianson **

PAYROLL

PAYROLL CHECK RUN: 9 - 5 - 2018

| Run Type | Run Date | Check # Sequence | Comments | Amount |
|----------|----------|------------------|---------------------------------|-------------------|
| Normal | 9/5/2018 | 042632 - 042758 | P/R check run - direct deposit | 279,655.51 |
| Normal | 9/5/2018 | 108667 - 108671 | P/R check run - regular | 6,767.70 |
| Vendor | 9/5/2018 | 108672 - 108685 | P/R vendor check run | 319,503.10 |
| EFTPS | 9/5/2018 | | Federal Tax Electronic Transfer | 111,301.67 |
| | | | TOTAL: | 717,227.98 |

Prepared and Reviewed by: Deborah Lee Date 9-5-18
Deborah Lee

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the claim is a just, due and unpaid obligation against the City of Bainbridge Island, and that I am authorized to authenticate and certify to said claim.

Kimberly M. Dunscombe Date 9/5/18
Kimberly M. Dunscombe, Budget Manager



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME:

AGENDA ITEM: City Council Study Session Minutes, August 21, 2018

STRATEGIC PRIORITY: Good Governance

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Consent Agenda

PROPOSED BY: Executive

RECOMMENDED MOTION:

Approve with Consent Agenda

SUMMARY:

Consider approval of meeting minutes.

FISCAL IMPACT:

| | |
|------------------------------------|--|
| Amount: | |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | |

BACKGROUND:

ATTACHMENTS:

[CCMIN 082118 STUDY SESSION](#)

FISCAL DETAILS:

Fund Name(s):

Coding:



CITY OF
BAINBRIDGE ISLAND

CITY COUNCIL STUDY SESSION
TUESDAY, AUGUST 21, 2018

MEETING MINUTES

1) CALL TO ORDER / ROLL CALL

Mayor Medina called the meeting to order at 6:01 p.m. in Council Chambers.

Mayor Medina, Deputy Mayor Deets, and Councilmembers Blossom, Nassar, Peltier, Schneider, and Tirman were present.

2) EXECUTIVE SESSION

2.A To evaluate the qualifications of an applicant for employment or to review the performance of a public employee pursuant to RCW 42.30.110(1)(g).

2.B To discuss with legal counsel matters relating to litigation or potential litigation to which the city, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency pursuant to RCW 42.30.110(1)(i).

Mayor Medina adjourned the meeting to an executive session at 6:02 p.m. pursuant to RCW 42.30.110(1)(g) and RCW 42.30.110(1)(i). The door to Council Chambers was posted.

Council returned from executive session at 7:04 p.m., and Mayor Medina re-convened the meeting with the aforementioned Councilmembers present. He stated that no action was taken.

3) APPROVAL OF AGENDA/ CONFLICT OF INTEREST DISCLOSURE

Councilmember Schneider asked to add a discussion of the Green Direct program under Unfinished Business. Mayor Medina asked to add a discussion of decorum at Council meetings. Councilmember Nassar moved and Councilmember Deets seconded to approve the agenda as modified. The motion was approved by unanimous consent.

Councilmember Blossom mentioned that she has a property interest in a neighborhood center but does not view it as a conflict in connection with the Affordable Housing Task Force agenda item.

[Council Decorum at City Council Meetings](#)

Mayor Medina commented on the necessity for decorum at City Council meetings and reviewed provisions from the Governance Manual.

4) PRESENTATIONS

4.A Focused Traffic Study Recommendations - Public Works

[Cover Page](#)
[Focused Traffic Study](#)

Engineering Manager Hammer and Rich Meredith with Lochner and Associates provided a presentation on the 2018 Focused Traffic Study. Council discussed the study and additional reductions. The consensus was that recommendations 9, 10, and 12 would be discussed further at the next City Council meeting.

Engineering Manager Hammer introduced the reduction to speed limits in Winslow.

MOTION: I move to accept the 2018 Focused Traffic Study and to schedule for Council consideration a resolution related to speed limit reduction as part of the Council's August 28, 2018, business meeting.

Tirman/Peltier: The motion carried unanimously, 7-0.

5) UNFINISHED BUSINESS

5.A Update on Development Moratorium Workplan - Planning

[Cover Page](#)
[Moratorium Work Program Status Report](#)

Planning Director Christensen introduced the agenda item and updated Council on the moratorium work program. Council discussed the topic.

Public Works Director Loveless introduced the topic of traffic concurrency, and Council discussed the topic.

5.B Ordinance No. 2018-32, Amending the Procedure for Review of Applications for Removal of Landmark Trees - Executive

[Cover Page](#)
[Ordinance No. 2018-32, Amending the Procedure for Review of Applications for Removal of Landmark Trees](#)

Senior Planner Sutton introduced the ordinance.

MOTION: I move to adopt Ordinance No. 2018-32.

Nassar/Tirman: The motion carried unanimously, 7-0.

5.C. Green Direct Program [Added]

Councilmember Schneider raised concerns regarding the Green Direct program, and Council discussed the issues. Council agreed to invite members from the Climate Change Advisory Committee to attend the discussion at next week's City Council meeting.

6) CITY COUNCIL DISCUSSION

6.A Affordable Housing Task Force Recommendations - Planning

Cover Page
Affordable Housing Task Force Final Report and Appendices
Recommendation Action Table from AHTF Report

Mayor Medina introduced the agenda item, and Council discussed the recommendations. Affordable Housing Task Force members Althea Paulson, Phedre Elliott and Charlie Wenzlau, Planning Director Christensen, and Senior Planner Sutton joined the discussion. Council's consensus was to ask staff for a proposed timeline to implement recommendations and a workplan.

7) FUTURE COUNCIL AGENDAS

7.A Future Council Agendas

Cover Page
Special City Council Meeting 082718
City Council Regular Business Meeting 082818
City Council Study Session 090418
City Council Regular Business Meeting 091118
City Council Study Session 091818
City Council Regular Business Meeting 092518

Council discussed future Council agendas.

8) FOR THE GOOD OF THE ORDER

Mayor Medina commented on cell phone use at the dais.

9) ADJOURNMENT

Mayor Medina adjourned the meeting at 9:35 p.m.

Kol Medina, Mayor

Christine Brown, City Clerk



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME:

AGENDA ITEM: Special Joint City Council Meeting Minutes, August 27, 2018

STRATEGIC PRIORITY: Good Governance

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Consent Agenda

PROPOSED BY: Executive

RECOMMENDED MOTION:

Approve with Consent Agenda

SUMMARY:

Consider approval of meeting minutes.

FISCAL IMPACT:

| | |
|------------------------------------|--|
| Amount: | |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | |

BACKGROUND:

ATTACHMENTS:

[CCMIN 082718 SPECIAL](#)

FISCAL DETAILS:

Fund Name(s):

Coding:



SPECIAL JOINT CITY COUNCIL MEETING
MONDAY, AUGUST 27, 2018

MEETING MINUTES

1. CALL TO ORDER/ROLL CALL

Mayor Medina called the meeting to order at 6:10 p.m. in Council Chambers.

Mayor Medina, Deputy Mayor Deets, and Councilmembers Blossom, Nassar, Peltier, Schneider, and Tirman were present. Planning Commissioners Chester, Killion, and Quitslund were present. Planning Commissioner Macchio arrived during the meeting.

2. LAND USE WORKSHOP

2.A. Land Use Workshop

[Jim Haney Memo re Roles of Land Use Approval Bodies](#)
[Summary of Land Use Review and Approval Procedures](#)
[Staff Memo PC Recommendations re Land Use Review and Approvals](#)

City Attorney Levan introduced the topic. Hearing Examiner Hunter from Sound Law Center provided a presentation on the hearing and deciding of land use decisions and addressed Council's questions.

Special Outside Counsel Haney provided a presentation on roles and responsibilities in the land use permitting process and addressed Council's questions.

Planning Commissioners Chester and Quitslund commented on the Planning Commission's recommendation.

Councilmember Nassar left the meeting at 8:56 p.m.

Special Outside Counsel Walters provided a presentation on legal liability and addressed Council's questions.

Council discussed next steps.

3. ADJOURNMENT

Mayor Medina adjourned the meeting at 9:16 p.m.

Kol Medina, Mayor

Christine Brown, City Clerk



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME:

AGENDA ITEM: Special City Council Meeting Minutes, August 28, 2018

STRATEGIC PRIORITY: Good Governance

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Consent Agenda

PROPOSED BY: Executive

RECOMMENDED MOTION:

Approve with Consent Agenda.

SUMMARY:

Consider approval of meeting minutes.

FISCAL IMPACT:

| | |
|------------------------------------|--|
| Amount: | |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | |

BACKGROUND:

ATTACHMENTS:

[CCMIN 082818 SPECIAL](#)

FISCAL DETAILS:

Fund Name(s):

Coding:



**SPECIAL CITY COUNCIL MEETING
TUESDAY, AUGUST 28, 2018**

MEETING MINUTES

1. CALL TO ORDER

Mayor Medina called the special City Council meeting to order at 5:02 p.m. in Council Chambers.

Mayor Medina, Deputy Mayor Deets, and Councilmembers Nassar, Peltier, Schneider, and Tirman were present. Councilmember Blossom arrived at 5:05 p.m.

2. EXECUTIVE SESSION

- A. Council adjourned to the Planning Conference Room to evaluate the qualifications of an applicant for employment or to review the performance of a public employee pursuant to RCW 42.30.110(1)(g) and to discuss with legal counsel matters relating to litigation or potential litigation to which the city, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency pursuant to RCW 42.30.110(1)(i).

3. ADJOURNMENT

Council returned from Executive Session at 5:34 p.m., and Mayor Medina adjourned the special City Council meeting.

Kol Medina, Mayor

Christine Brown, City Clerk



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME:

AGENDA ITEM: Regular City Council Business Meeting Minutes, August 28, 2018

STRATEGIC PRIORITY: Good Governance

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Consent Agenda

PROPOSED BY: Executive

RECOMMENDED MOTION:

Approve with Consent Agenda

SUMMARY:

Consider approval of meeting minutes.

FISCAL IMPACT:

| | |
|------------------------------------|--|
| Amount: | |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | |

BACKGROUND:

ATTACHMENTS:

[CCMIN 082818 BUSINESS](#)

FISCAL DETAILS:

Fund Name(s):

Coding:



CITY OF
BAINBRIDGE ISLAND

REGULAR CITY COUNCIL BUSINESS MEETING
TUESDAY, AUGUST 28, 2018

MEETING MINUTES

1) CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE

Mayor Medina called the meeting to order at 6:01 p.m. in Council Chambers.

Mayor Medina, Deputy Mayor Deets, and Councilmembers Blossom, Peltier, Nassar, Tirman, and Schneider were present.

2) APPROVAL OF AGENDA / CONFLICT OF INTEREST DISCLOSURE

Councilmember Nassar moved and Councilmember Blossom seconded to approve the agenda as presented. The motion carried unanimously.

Mayor Medina said he had a potential conflict of interest with agenda item 9.D so he will recuse himself from the discussion.

3) PUBLIC COMMENT

Shannon Dorsey spoke in favor of reducing the speed limits on North Madison.

Nelson and Louisa Dorsey asked for reduced speed limits on North Madison.

Diane Landry and Elise Wright invited Council to the Bainbridge Island Beach Cleanup on September 9, 2018.

4) MAYOR'S REPORT

Mayor Medina informed Council of a tiny home villages presentation by Homes for All on September 27, 2018 at Rolling Bay Presbyterian Church and announced the schedule for September ward meetings.

5) CITY MANAGER'S REPORT

City Manager Schulze provided an update on the Miller Road Shoulder Widening project and the mine floating in Puget Sound near Brownsville.

6) PRESENTATION(S)

7) PUBLIC HEARING(S)

7.A [Ordinance No. 2018-31, Limiting the Applicability of the HDDP Program to Only Affordable Housing Projects - Planning](#)

[Cover Page](#)

[Ordinance No. 2018-31, Limiting the Applicability of the HDDP Program to Only Affordable Housing Projects](#)

[HDDP Program Summary](#)

Senior Planner Sutton introduced the agenda item.

Mayor Medina opened the public hearing at 6:30 p.m.

Public Comment

Phedra Elliott spoke about Housing Resource Board's use of the HDDP program and in favor of inclusionary zoning.

Jonathan Davis spoke of the need for replacement provisions prior to suspension of the program.

Mike Killian spoke in favor of the temporary suspension.

Tina Song spoke about expanding affordable housing incentives.

Mayor Medina closed the public hearing at 6:31 p.m.

MOTION: I move to approve Ordinance No. 2018-31.

Nassar/Peltier: The motion carried unanimously, 7-0.

8) [UNFINISHED BUSINESS](#)

8.A [Puget Sound Energy \(PSE\) Green Direct Program Service Agreement - Executive](#)

[Cover Page](#)

[Green Direct Overview CC 14Aug2018](#)

[PSE Green Direct Cost Model-Aug 2018](#)

[PSE - Renewable Energy Services Agreement](#)

[PSE Customer Cover Letter \(Legal\) - Example](#)

Deputy City Manager Smith introduced representatives from Puget Sound Energy.

Puget Sound Energy representatives Kelsey Hause and Heather Mulligan provided information on the program and addressed Council's questions.

David McCaughey, Climate Change Advisory Committee, said they would like the opportunity to discuss the topic further.

MOTION: I move to refer the Green Direct Program to the Climate Change Advisory Committee for a recommendation.

Peltier/Nassar: The motion carried unanimously, 7-0.

9.B [Resolution No. 2018-18 Reducing Speed Limits on Certain Roadways to 30 mph and Resolution No. 2018-23, Reducing speed Limits in Downtown Bainbridge Island/Winslow - Public Works](#)

Cover Page
Resolution No. 2018-23
Exhibit A to Resolution No. 2018-23
Resolution No. 2018-18

Mayor Medina moved this item up in the agenda due to audience interest.

Engineering Manager Hammer introduced the agenda item.

Public Comment

John Dorsey spoke in favor of reducing the speed limit on North Madison.

Lucy Ostrander spoke in favor of reducing speed limits on Miller Road.

MOTION: I move to amend resolution 2018-18, Section I., l. to read: l. NE Valley Road from Madison Avenue NE to Sunrise Drive NE – Reduce speed limit from 35-mph to 25-mph.

Peltier/Nassar: The motion carried unanimously, 7-0.

MOTION: I move to amend Resolution 2018-18, Section I. to add a new subsection n. that reads:
n. N Madison Ave NE from NE Torvanger Rd to Phelps Rd NE– Reduce speed limit from 35-mph to 30-mph.

Peltier/Blossom: The motion, as amended below, carried unanimously, 7-0.

AMENDMENT: I would like to make a motion to amend the motion for North Madison Avenue NE from NE Torvanger Rd. to Phelps Rd NE to reduce speed limit from 35 mph to 25 mph.

Deets/Nassar: Motion failed 3 – 4

AYES: Rasham Nassar, Joe Deets, Matt Tirman
NOES: Sarah Blossom, Ron Peltier, Leslie Schneider, Kol Medina
ABSENT: None
ABSTAIN: None

AMENDMENT: I move to amend the motion to add direction to staff to study this section of road.

Peltier/Nassar: The motion carried unanimously, 7-0.

MOTION: Considering conditions not mentioned in the traffic speed study, specifically the limitation of only one lane for most of the lower section of Blakely Hill Rd NE from NE Halls Hill Rd to Old Mill Rd NE, I move to amend resolution 2018-18, Section I. c. to read:

c. Blakely Hill Road NE from NE Halls Hill Road to Old Mill Road NE – Reduce speed limit from 35-mph to 25-mph for the upper section and from 35-mph to 20-mph on the lower section which is comprised mainly of only one lane due to erosion.

Peltier/Tirman: Motion failed 2 – 4 with Councilmember Nassar absent from Council Chambers.

MOTION: I move that the City Council forward Resolution No. 2018-18 for approval with the September 11, 2018 Consent Agenda.

Tirman/Nassar: The motion carried unanimously, 7-0.

Engineering Manager Hammer introduced Resolution No. 2018-23.

Public Comment

Patty Lyman spoke in favor of reducing speed limits on Upper Grow.

MOTION: I move that the City Council forward Resolution No. 2018-23 for approval with the September 11, 2018 Consent Agenda.

Nassar/Peltier: The motion carried unanimously, 7-0.

[8.B Discussion on Newly Added Capital Improvement Plan Projects - Executive](#)

- [Cover Page](#)
- [Newly Added CIP Projects - CC 28 Aug 2018](#)
- [New - 2 Non-Motorized Prj 2019 CIP](#)

Deputy City Manager introduced the agenda item. Following discussion, Council asked that staff return with a process to prioritize and select projects going forward.

Public Comment

Maradel Gale spoke about the CIP process.

[8.C \(7:20 PM\) Planning Commission Recommendations on 2019 - 2024 Capital Improvement Plan \(CIP\) - Public Works](#)

[Cover Page](#)

Council agreed that the Planning Commission’s recommendations will be considered as part of the larger Capital Improvement Plan discussion at a future Council meeting.

9) NEW BUSINESS

[9.A Update on Island Center Subarea Planning Process - Planning](#)

- [Cover Page](#)
- [Work Plan and Schedule](#)
- [IC Boundaries and Existing Zoning Map](#)
- [Island Center Special Planning Area Map](#)
- [June 18 Envision Island Center Meeting Summary](#)
- [Island Center Survey Results Presentation](#)

Maradel Gale provided a presentation on the Island Center Subarea Planning process, and Senior Planner Sutton provided additional information on the project.

Public Comment

Michael Loverich spoke about concerns with increased density and infrastructure issues.

Lisa Neal spoke about background information on the committee.

Council discussed Island Center and the update on the process.

[9.C Professional Services Agreement for Rockaway Beach 5-Year Hydraulic Project Approval \(HPA\) Requirements - Public Works](#)

[Cover Page](#)
[Professional Services Agreement for Rockaway Beach 5-Year Hydraulic Project Approval \(HPA\) Requirements](#)
[August 18, 2013 Hydraulic Project Approval Permit](#)

Public Works Director Loveless introduced the agenda item.

MOTION: I move to forward the Professional Services Agreement for the Rockaway Beach 5-Year HPA Requirements for approval with the September 11, 2018 Consent Agenda.

Blossom/Nassar: The motion was approved by unanimous consent.

[9.D Extinguishment of Cave Avenue Trail Easement - Public Works](#)

[Cover Page](#)
[Cave Avenue Trail Easement Extinguishment](#)
[2007 Trail Easement and Agreement](#)

Mayor Medina recused himself from the topic. Public Works Director Loveless introduced the agenda item.

Public Comment

Ron Templeton provided additional background information.

MOTION: I move to authorize the City Manager to sign and execute the Extinguishment of Sidewalk/Trail Easement document included with this agenda item.

Nassar/Peltier: The motion carried 6-0, with Mayor Medina abstaining.

[9.E Friends of the Farms Request for Funding for City Farmland Management - Executive](#)

[Cover Page](#)
[Friends of the Farms Request for Funding](#)
[Friends of the Farms Funding Proposal Slides](#)

Deputy City Manager Smith introduced the agenda item and Heather Burger from Friends of the Farms. Heather Burger provided a presentation on their request for funding for City farmland management.

Rebecca Connor, Treasurer of Friends of the Farms, provided information on funding.

MOTION: I move to forward consideration of the Friends of the Farms request for annual funding to the unfinished business section of the September 11, 2018 agenda.

Peltier/Nassar: The motion carried unanimously, 7-0.

[9.F Proposal from Friends of the Farms for City Farmland M&E Property "Food Forest" Project - Executive](#)

[Cover Page](#)
[FOF M&E Proposal - Food Forest](#)
[M&E Properties Slides](#)

Heather Burger introduced the Food Forest project team and the project. Bob Ross provided a presentation on the project.

Council expressed no concerns about the project.

10) CONSENT AGENDA

10.A Agenda Bill for Consent Agenda Cover Page

10.B Accounts Payable and Payroll Cover Page

Report to Council of Cash Disbursements 08-29-18 Payroll

Accounts Payable: last check number 348271 from previous run = \$197.73; ACH numbers 311 and 312 for \$8964.08; EFT number 310 for \$11,672.77; manual check number sequence 348272 – 348285 for \$73,086.75; regular check number sequence 348286 - 348403 for \$218,557.41. Total disbursement = \$312,281.01.

Payroll: normal direct deposit check sequence 042502 – 042631 for \$305,795.72; regular payroll check sequence 108644 – 108653 for \$20,397.23; vendor check run sequence 108654 – 108665 for \$126,412.23; miscellaneous number 108666 for \$13,832.72; Federal Tax Electronic Funds Transfer for \$133,491.36. Total disbursement = \$599,929.26.

10.C Special City Council Meeting Minutes, August 14, 2018 Cover Page

Special City Council Meeting Minutes 081418

10.D Regular City Council Meeting Minutes, August 14, 2018 Cover Page

Regular City Council Business Meeting Minutes 081418

10.E Appointment of Bainbridge Island Representative to Bremerton Kitsap Access Television's Public Access Citizens Advisory Committee - Mayor Medina, BTAK - Crittenden Application

10.F Ordinance No. 2018-29 Relating to 2018 Midyear Budget Amendments - Finance, Cover Page

Ordinance No. 2018-29 Relating to 2018 2nd QTR Budget Adjustments 2nd QTR BUA CC 081418 PowerPoint Slides

MOTION: I move to approve the Consent Agenda as presented.

Peltier/Deets: The motion was approved by unanimous consent.

11) COMMITTEE REPORTS

11.A Committee Reports

Cover Page

Ethics Board Minutes - June 25, 2018

Utility Advisory Committee Minutes - July 11, 2018

Utility Advisory Committee Minutes - August 8, 2018

12) FOR THE GOOD OF THE ORDER

Councilmembers provided feedback on the new agenda app, iLegislate.

13) ADJOURNMENT

Mayor Medina adjourned the meeting at 9:30 p.m.

Kol Medina, Mayor

Christine Brown, City Clerk



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 5 Minutes

AGENDA ITEM: Professional Services Agreement for Rockaway Beach 5-Year Hydraulic Project Approval (HPA) Requirements - Public Works,

STRATEGIC PRIORITY: Reliable Infrastructure and Connected Mobility

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Contract

PROPOSED BY: Public Works

RECOMMENDED MOTION:
Approve with Consent Agenda.

SUMMARY:

Consider approval of the Professional Services Agreement for the Rockaway Beach 5-Year Hydraulic Project Approval Requirements to the September 11, 2018 Consent Agenda.

FISCAL IMPACT:

| | |
|------------------------------------|-----------|
| Amount: | \$156,650 |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | Yes |

BACKGROUND: In 2011, the City reduced Rockaway Beach Road to one-lane due to erosion concerns. For safety and protection of property, the City constructed a seawall, reinforced the embankment, and reconstructed the roadway. The project must meet the requirements of the Hydraulic Project Approval (HPA) Permit issued by the Washington Department of Fish and Wildlife. Requirements include annual beach nourishment, bi-annual eelgrass and vegetation monitoring, and renewing the Projects Hydraulic Project Approval Permit every 5 years.

The City solicited statement of qualifications from the Municipal Research and Services Center (MRSC) consultant roster, and Clearway Environmental LLC was selected as the most qualified consultant to perform the requested services.

ATTACHMENTS:

[Professional Services Agreement for Rockaway Beach 5-Year Hydraulic Project Approval \(HPA\) Requirements](#)

[August 18, 2013 Hydraulic Project Approval Permit](#)

FISCAL DETAILS:

Fund Name(s): General Fund

Coding: 72011391 541100 00710

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (“Agreement”) is entered into between the City of Bainbridge Island, a Washington State municipal corporation (“City”), and Clearway Environmental LLC, a Washington State limited liability company (“Consultant”).

WHEREAS, the City needs professional services in conducting the required eel grass monitoring and reporting to regulatory agencies for the Rockaway Beach Stabilization Project; and

WHEREAS, the Consultant has the expertise and experience to provide said services and is willing to do so in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, promises, and agreements set forth herein, it is agreed by and between the City and the Consultant as follows:

1. SERVICES BY CONSULTANT

The Consultant shall provide the professional services as defined in this Agreement and as necessary to accomplish the scope of services attached hereto as **Attachment A** and incorporated herein by this reference as if set forth in full. The Consultant shall furnish all services, labor, and related equipment to conduct and complete the work, except as specifically noted otherwise in this Agreement.

2. TERM AND TERMINATION OF AGREEMENT

A. This Agreement shall become effective upon execution by both parties and shall continue in full force and effect until January 30, 2024, unless sooner terminated by either party as provided below.

B. This Agreement may be terminated by either party without cause upon thirty (30) days’ written notice to the other party. In the event of termination, all finished or unfinished documents, reports, or other material or work of the Consultant pursuant to this Agreement shall be submitted to the City, and the Consultant shall be entitled to just and equitable compensation at the rate set forth in Section 3 for any satisfactory work completed prior to the date of termination.

3. PAYMENT

A. The City shall pay the Consultant for such services: (check one)

Hourly, plus actual expenses, in accordance with **Attachment A**, but not more than a total of One Hundred Fifty-Six Thousand Six Hundred and Fifty Dollars (\$156,650).

Fixed Sum:

Other: \$_____, for all services performed and incurred under this Agreement, to be billed monthly in equal amounts.

B. The Consultant shall submit, in a format acceptable to the City, monthly invoices for services performed in a previous calendar month. Each project and each task within a project shall be the subject of a separate invoice. The Consultant shall maintain time and expense records and provide them to the City upon request.

C. The City shall pay all invoices by mailing a City check within sixty (60) days of receipt of a proper invoice from the Consultant.

D. If the services rendered do not meet the requirements of this Agreement, the Consultant shall correct or modify the work to comply with this Agreement. The City may withhold payment for such work until it meets the requirements of this Agreement.

4. INSPECTION AND AUDIT

The Consultant shall maintain all books, records, documents, and other evidence pertaining to the costs and expenses allowable under this Agreement in accordance with generally accepted accounting practices. All such books and records required to be maintained by this Agreement shall be subject to inspection and audit by representatives of the City and/or the Washington State Auditor at all reasonable times, and the Consultant shall afford the proper facilities for such inspection and audit. Representatives of the City and/or the Washington State Auditor may copy such books, accounts, and records if necessary to conduct or document an audit. The Consultant shall preserve and make available all such books of account and records for a period of three (3) years after final payment under this Agreement. In the event that any audit or inspection identifies any discrepancy in such financial records, the Consultant shall provide the City with appropriate clarification and/or financial adjustments within thirty (30) calendar days of notification of the discrepancy.

5. INDEPENDENT CONTRACTOR

A. The Consultant and the City understand and expressly agree that the Consultant is an independent contractor in the performance of each and every part of this Agreement. The Consultant expressly represents, warrants, and agrees that the Consultant's status as an independent contractor in the performance of the work and services required under this Agreement is consistent with and meets the six-part independent contractor test set forth in RCW 51.08.195. The Consultant, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing the services required under this Agreement. The Consultant shall make no claim of City employment nor shall the Consultant claim any related employment benefits, social security, and/or retirement benefits.

B. The Consultant shall be solely responsible for paying all taxes, deductions, and assessments, including but not limited to federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Agreement. In the event the City is assessed a tax or assessment as a result of this Agreement, the Consultant shall pay the same before it becomes due.

C. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

D. The Consultant shall obtain a business license and, if applicable, pay business and occupation taxes pursuant to Title 5 of the Bainbridge Island Municipal Code.

6. NONDISCRIMINATION AND COMPLIANCE WITH LAWS

A. The Consultant agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, sexual orientation, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

B. The Consultant shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this Agreement.

C. Violation of this Section 6 shall be a material breach of this Agreement and grounds for cancellation, termination, or suspension by the City, in whole or in part, and may result in ineligibility for further work for the City.

7. OWNERSHIP OF WORK PRODUCT

All data, materials, reports, memoranda, and other documents developed under this Agreement, whether finished or not, shall become the property of the City and shall be forwarded to the City in hard copy and in digital format that is compatible with the City's computer software programs.

8. GENERAL ADMINISTRATION AND MANAGEMENT

The City Manager of the City, or designee, shall be the City's representative, and shall oversee and approve all services to be performed, coordinate all communications, and review and approve all invoices, under this Agreement.

9. HOLD HARMLESS AND INDEMNIFICATION

A. The Consultant shall defend, indemnify, and hold the City, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits including attorney fees, arising out of or resulting from the acts, errors, or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

B. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend hereunder, shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided

herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

C. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to void, nullify, and/or invalidate any of these covenants of indemnification.

D. Nothing contained in this Agreement shall be construed to create a liability or a right of indemnification in any third party.

10. INSURANCE

The Consultant shall maintain insurance as follows:

- Commercial General Liability as described in **Attachment B**.
- Professional Liability as described in **Attachment B**.
- Automobile Liability as described in **Attachment B**.
- Workers' Compensation as described in **Attachment B**.
- None.

11. SUBLETTING OR ASSIGNING CONTRACT

This Agreement, or any interest herein or claim hereunder, shall not be assigned or transferred in whole or in part by the Consultant to any other person or entity without the prior written consent of the City. In the event that such prior written consent to an assignment is granted, then the assignee shall assume all duties, obligations, and liabilities of the Consultant as stated herein.

12. EXTENT OF AGREEMENT/MODIFICATION

This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified, or added to only by written instrument properly signed by both parties.

13. SEVERABILITY

A. If a court of competent jurisdiction holds any part, term, or provision of this Agreement to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

B. If any provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

14. FAIR MEANING

The terms of this Agreement shall be given their fair meaning and shall not be construed in favor of or against either party hereto because of authorship. This Agreement shall be deemed to have been drafted by both of the parties.

15. NONWAIVER

A waiver by either party hereto of a breach by the other party hereto of any covenant or condition of this Agreement shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay, or failure of either party to insist upon strict performance of any agreement, covenant, or condition of this Agreement, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such agreement, covenant, condition, or right.

16. NOTICES

Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand-delivered to the parties at their addresses as follows:

To the City: City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
Attention: City Manager

To the Consultant: Clearway Environmental LLC
5002 13th Ave SE
Seattle, WA 98108
Attention: Chad Durand

or to such addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand-delivered. Such notices shall be deemed effective when mailed or hand-delivered at the addresses specified above.

17. SURVIVAL

Any provision of this Agreement which imposes an obligation after termination or expiration of this Agreement shall survive the term or expiration of this Agreement and shall be binding on the parties to this Agreement.

18. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

19. VENUE

The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of Washington for Kitsap County, Washington.

20. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the later of the signature dates included below.

CLEARWAY ENVIRONMENTAL LLC

CITY OF BAINBRIDGE ISLAND

Date: _____

Date: _____

By: _____

By: _____

Name Chad Durand

Douglas Schulze, City Manager

Title Owner

Tax I.D. # 26-2907792

City Bus. Lic. # 44550

**ATTACHMENT A
SCOPE OF SERVICES**



City of Bainbridge Island Rockaway Beach Eelgrass Monitoring

Project Description and Purpose

A portion of Rockaway Beach Road began eroding and collapsing into Rockaway Beach prior to 2011. Rockaway Beach Road was reduced to one lane and in jeopardy of being closed due to embankment failures. For safety and protection of property, the City of Bainbridge Island (City) constructed the Rockaway Beach Seawall Project (Project), which included a sea wall, a reinforced embankment, and reconstruction of Rockaway Beach Road. Construction was completed in 2013.

The Project must meet requirements in the Hydraulic Project Approval (HPA) issued by Washington Department of Fish and Wildlife (WDFW) and a mitigation agreement between the City and WDFW. These requirements include annual beach nourishment, bi-annual eelgrass monitoring, vegetation monitoring, renewing the Project's HPA. Depending upon the timing of beach nourishment, forage fish surveys may also be required. Depending upon the success of eelgrass in the project area, eelgrass mitigation may be required.

Clearway Environmental LLC (Clearway Environmental) will provide eelgrass survey, beach nourishment evaluation, planting plan design and monitoring, project coordination services. The Year 7 (2020), and Year 10 (2023) eelgrass surveys will match the protocol used for the baseline survey performed in Year 0 (2013), Year 1 (2014), Year 3 (2016), and Year 5 (2018). Beach nourishment evaluations will be performed annually from 2019 to 2023. Initial plant monitoring was performed in 2018 with follow-up planting design and monitoring services in 2019 through 2021. Permitting services will be provided in 2018 and 2023 to obtain replacement HPAs which are issued only for five-year periods.

Scope of Services

This scope of services consists of the following tasks:

Task 1 – Project Management

Clearway Environmental will provide project management services including the following:
Monthly Progress Reports and Invoices:

- Prepare monthly progress reports and invoices. The number of anticipated progress report and invoicing periods for each contract year are provided below:
 - o 1 in 2018
 - o 2 in 2019
 - o 5 in 2020
 - o 2 in 2021
 - o 5 in 2022
 - o 2 in 2023

Project Meetings

- Attend meetings. Assumes one on-site planning meeting (6 hours each for two Clearway Environmental staff members) in 2020-2023. Assumes two additional one-hour meetings by phone conference each year from 2019 to 2023 and includes 1 hour for meeting preparation and 1 hour follow-up per phone conference meeting.

Procurement of Subconsultant Services

- Procure subconsultant services. Includes setting up subconsultant contract, negotiating the survey scope of work, coordination by phone and e-mail, and review of subconsultant invoices.

Task 2 – Eelgrass Survey

Clearway Environmental will provide eelgrass survey services including the following:

Eelgrass Surveys

- Advance development of draft random Lat/Long locations for eelgrass density survey locations within the previous eelgrass mapping boundaries. On-site field-checking of eelgrass density survey locations to ensure they are within the boundaries of the eelgrass beds before eelgrass density surveys are performed. Reselection of replacement eelgrass density survey locations to ensure results are representative of field conditions.
- Perform eelgrass mapping. Clearway Environmental biologist staff to meet professional survey subconsultant staff onsite to map eelgrass bed boundaries.
- Perform eelgrass density surveys. All eelgrass density surveys are performed with two Clearway Environmental staff members. Assumes 7 days of eelgrass density surveys in both 2020 and 2022. Assumes beach surveys with no diving services required.

Data Analysis

- Transfer field data into electronic format, where necessary. Transfer electronic files from camera to computer.
- Analyze data including shoot counts and density, percent coverage, distribution and variation of densities and coverage, and statistical evaluation of results compared with the baseline.

- Analyze and record any specific site or field visit circumstances that may have affected whether the data collected is representative of onsite conditions.

Report Update

- Provide an eelgrass monitoring report for both 2020 and 2022 using the same report format as the Rockaway Beach Eelgrass Baseline Monitoring Report in 2014 and 2016. Assumes development of a draft report for review by City staff, development of a final report for review by Washington State Department of Fish and Wildlife (WDFW), and responses to follow-up questions from WDFW.

Task 3 – Beach Nourishment

Clearway Environmental will provide beach nourishment evaluation services including the following:

Beach Nourishment Evaluation

- Biologist staff to evaluate the effects and adequacy of beach nourishment by City and record observations for use by the City. Assumes two Clearway Environmental staff will be onsite for 8 hours during beach nourishment placement. Assumes 12 hours for advanced coordination, recording of observations, and coordination with the City. The deliverable will be narrative text with accompanying photos which the City will use in their own evaluation report for purposes of reporting beach nourishment events to WDFW.
- Assumes beach nourishment evaluation services will be provided each year from 2019 to 2023, inclusive.

Task 4 – Permitting

WDFW issues HPAs for a maximum of five years. The initial HPA was issued in 2013 and expires on August 17, 2018. Clearway Environmental will provide permitting services including the following:

Replacement HPAs in 2018 and 2023

- Coordinate with the City and WDFW on permitting requirements for replacement HPAs
- Develop permit application materials. Assumes one draft for review by the City and one final incorporating edits from the City.
- Assumes the City will submit the permit application via WDFW's APPS on-line application system.

Task 5 – Planting Design and Monitoring

Clearway Environmental will provide planting design and monitoring services including the following:

Plant Monitoring and Design

Clearway Environmental staff

- Evaluate survival of plantings in 2019, 2020, and 2021 per WDFW requirements. Provide a technical memorandum and exhibit describing results of monitoring.

Additional Tasks

- It is anticipated that additional tasks may be required related to Rockaway Beach Road, Rockaway Beach, eelgrass, beach nourishment, and coordination with other projects in the vicinity. Example tasks may include:
 - o Eelgrass mitigation design and associated monitoring
 - o Coordination with other projects in the vicinity with similar mitigation requirements and funding
 - o Environmental permits and approvals associated with Rockaway Beach Road or Rockaway Beach
 - o Additional natural resources services such as eelgrass and forage fish habitat surveys and reports

For additional requested services, Clearway Environmental will bill according to the General Fee Schedule included with this scope of services.



Attachment A
Exhibit A - Budget
City of Bainbridge Island - Rockaway Beach Eelgrass Monitoring

| Task | 2018 | | 2019 | | 2020 | | 2021 | | 2022 | | 2023 | | |
|--|-----------------|------------------|------------------|------------------|------------------|------------------|------------------|-----------------|------------------|------------------|------------------|-----------------|-----------------|
| | Total Labor | | Total Labor | | Total Labor | | Total Labor | | Total Labor | | Total Labor | | |
| | Hours | Cost | Hours | Cost | Hours | Cost | Hours | Cost | Hours | Cost | Hours | Cost | |
| 1 Project Management | 1 | \$ 150 | 8 | \$ 1,200 | 27 | \$ 4,050 | 8 | \$ 1,200 | 27 | \$ 4,050 | 8 | \$ 1,200 | |
| Monthly Progress Reports and Invoices | 1 | \$ 150 | 2 | \$ 300 | 5 | \$ 750 | 2 | \$ 300 | 5 | \$ 750 | 2 | \$ 300 | |
| Project Meetings | 0 | \$ 00 | 6 | \$ 900 | 18 | \$ 2,700 | 6 | \$ 900 | 18 | \$ 2,700 | 6 | \$ 900 | |
| Procurement of Subconsultant Services | 0 | \$ 00 | 0 | \$ - | 4 | \$ 600 | 0 | \$ - | 4 | \$ 600 | 0 | \$ - | |
| 2 Eelgrass Survey | 0 | \$ 00 | 0 | \$ - | 214 | \$ 32,100 | 0 | \$ - | 214 | \$ 32,100 | 0 | \$ - | |
| Eelgrass Surveys | 0 | \$ 00 | 0 | \$ - | 144 | \$ 21,600 | 0 | \$ - | 144 | \$ 21,600 | 0 | \$ - | |
| Data Analysis | 0 | \$ 00 | 0 | \$ - | 30 | \$ 4,500 | 0 | \$ - | 30 | \$ 4,500 | 0 | \$ - | |
| Report Update | 0 | \$ 000 | 0 | \$ - | 40 | \$ 6,000 | 0 | \$ - | 40 | \$ 6,000 | 0 | \$ - | |
| 3 Beach Nourishment | \$ 00 | 28 | \$ 4,200 | 28 | \$ 4,200 | 28 | \$ 4,200 | 28 | \$ 4,200 | 28 | \$ 4,200 | 28 | \$ 4,200 |
| Beach Nourishment Evaluation | \$ 00 | 28 | \$ 4,200 | 28 | \$ 4,200 | 28 | \$ 4,200 | 28 | \$ 4,200 | 28 | \$ 4,200 | 28 | \$ 4,200 |
| 5 Permitting | 39 | \$ 5,850 | 0 | \$ - | 0 | \$ - | 0 | \$ - | 0 | \$ - | 40 | \$ 6,000 | |
| Permit Application Development | 31 | \$ 4,650 | 0 | \$ - | 0 | \$ - | 0 | \$ - | 0 | \$ - | 32 | \$ 4,800 | |
| Permit Coordination | 8 | \$ 1,200 | 0 | \$ - | 0 | \$ - | 0 | \$ - | 0 | \$ - | 8 | \$ 1,200 | |
| 5 Planting Design and Monitoring | \$ 00 | 32 | \$ 4,800 | 32 | \$ 4,800 | 32 | \$ 4,800 | 32 | \$ 4,800 | 32 | \$ 4,800 | 32 | \$ 4,800 |
| Initial/Annual Plant Survival Evaluation | \$00 | 32 | \$ 4,800 | 32 | \$ 4,800 | 32 | \$ 4,800 | 32 | \$ 4,800 | 32 | \$ 4,800 | 32 | \$ 4,800 |
| Update Planting Design | \$ 00 | 0 | \$ - | 0 | \$ - | 0 | \$ - | 0 | \$ - | 0 | \$ - | 0 | \$ - |
| Subtotal Hours and Labor Costs | \$ 6,000 | 68 | \$ 10,200 | 301 | \$ 45,150 | 68 | \$ 10,200 | 301 | \$ 45,150 | 108 | \$ 16,200 | | |
| Reimbursables | \$ 0 | \$ 1,750 | \$ 1,750 | \$ 1,750 | \$ 1,750 | \$ 1,750 | | |
| GPS Device Rental | \$ 0 | \$ 800 | \$ 800 | \$ 800 | \$ 800 | \$ 800 | \$ 800 | \$ 800 | \$ 800 | \$ 800 | \$ 800 | | |
| Mileage, Ferry Fees | \$ 0 | \$ 750 | \$ 750 | \$ 750 | \$ 750 | \$ 750 | \$ 750 | \$ 750 | \$ 750 | \$ 750 | \$ 750 | | |
| Miscellaneous | \$ 0 | \$ 200 | \$ 200 | \$ 200 | \$ 200 | \$ 200 | \$ 200 | \$ 200 | \$ 200 | \$ 200 | \$ 200 | | |
| Subconsultant | \$ | \$ 3,000 | \$ 3,000 | \$ 3,000 | \$ 3,000 | | | |
| Survey - Cost (includes 10% markup) | \$ | \$ 3,000 | \$ 3,000 | \$ 3,000 | \$ 3,000 | \$ 3,000 | \$ 3,000 | \$ 3,000 | \$ 3,000 | \$ 3,000 | | | |
| Subtotal Cost by Year | \$ 6,000 | \$ 14,950 | \$ 49,900 | \$ 14,950 | \$ 49,900 | \$ 20,950 | | | | | | | |

Attachment A

Exhibit B



General Fee Schedule: City of Bainbridge Island 2018-2022

| Professional Positions | | Fee per Hour |
|------------------------|-----------------------------|-----------------------------------|
| Staff | | 150 |
| Other Fees and Costs | | |
| Subcontracts Markup | Professional Services | 10% |
| | Outside laboratory services | 10% |
| Other Costs | Travel (auto)* | \$0.545/mile |
| | Travel (other) | Cost + 10% |
| | Per diem | Prevailing State Meal Rates + 10% |
| | Other direct expenses | Cost + 10% |

* Travel (auto) rate will be based on the Federal Standard Mileage Rate. Rate shown is for 2018.
 This fee schedule is subject to change according to contract or Professional Services Agreement.

**ATTACHMENT B
INSURANCE REQUIREMENTS**

A. Insurance Term

The Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

B. No Limitation

The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

C. Minimum Scope of Insurance

The Consultant shall obtain insurance of the types and coverage described below:

1. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap liability, independent contractors, and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

D. Minimum Amounts of Insurance

The Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit, as applicable.

E. Other Insurance Provision

The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance as respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

F. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

G. Verification of Coverage

Before commencing work and services, the Consultant shall provide to the person identified in Section 8 of the Agreement a Certificate of Insurance evidencing the required insurance. The Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work. The City reserves the right to request and receive a certified copy of all required insurance policies.

H. Notice of Cancellation

The Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.

I. Failure to Maintain Insurance

Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five (5) business days' notice to the Consultant to correct the breach, immediately terminate this Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

J. City Full Availability of Consultant Limits

If the Consultant maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the

Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.



HYDRAULIC PROJECT APPROVAL

RCW 77.55.141 - See appeal process at end of HPA

Coastal
48 Devonshire Road
Montesano, WA 98563
(360) 249-4628

Issue Date: August 18, 2013

Control Number: 128017-1

Project Expiration Date: August 17, 2018

FPA/Public Notice #: N/A

| <u>PERMITTEE</u> | <u>AUTHORIZED AGENT OR CONTRACTOR</u> |
|--|---|
| City of Bainbridge Island ATTENTION: Chris Hammer 280 Madison Avenue North Bainbridge Island, WA 98110 206-780-3740 Fax: 206-780-3710 | Widener and Associates ATTENTION: Ross Widener 10108 32nd Ave W, Ste D Everett, WA 98204 425-348-3059 |

Project Name: Rockaway Beach Road Stabilization

Project Description: The project will stabilize 350 feet of eroded feeder bluff via installation of an approximately 310 foot sheet pile and/or soldier pile wall built slightly above the Mean Higher High Water Line (MHHWL) at the base of the feeder bluff. An engineered slope retention system will be installed for slope stabilization.

The stabilized slope will be planted with approved native vegetation. A native riparian planting plan and long term beach nourishment plan is in place to provide mitigation for the life of the project to mitigate some of the impacts associated with armoring.

PROVISIONS

1. Work may begin immediately and the initial armoring construction shall be completed by September 30, 2013, while beach nourishment may continue through August 15, 2018, provided:
 - a. Work below the ordinary high water line shall not occur at any time from March 1 through June 15 of any year for the protection of migrating juvenile salmonids.
 - b. Due to the lengthy spawning period of surf smelt in this portion of Puget Sound, work below the ordinary high water line from September 15 through December 31 and January 1 through March 31 of any year may be acceptable if a WDFW certified biologist using WDFW survey protocols confirms an absence of forage fish eggs during a site inspection. Work shall commence within 48 hours of notification to WDFW and shall be completed or the beach resurveyed within seven days of project commencement.

2. NOTIFICATION REQUIREMENT: The permittee or contractor shall notify the Area Habitat Biologist (AHB) listed below by fax (360) 876-1894, or e-mail: Chris.Waldbillig@dfw.wa.gov of the project start date. Notification shall be received by the AHB prior to the start of construction activities.

3. NOTIFICATION REQUIREMENT: Officer Balazs shall receive written notification (e-mail: Kenneth.Balazs@dfw.wa.gov or FAX: 360-876-1894) from the person to whom this Hydraulic Project Approval (HPA) is issued (permittee) or the agent/contractor no less than three working days prior to start of work, and again within seven days of completion of work to arrange for a compliance inspection. The notification shall include the permittee's name, project location, starting

Issue Date: August 18, 2013

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FPA/Public Notice #: N/A

date for work or completion date of work, and the control number for this HPA.

4. If at any time, as a result of project activities, fish are observed in distress, a fish kill occurs, or water quality problems develop (including equipment leaks or spills), immediately stop work except for efforts to control leaks or spills or prevent toxic substances from entering the water and notify the Washington Military Department's Emergency Management Division at 1-800-258-5990, and to the Area Habitat Biologist listed below. Work shall not restart on the project until approved by the Area Habitat Biologist.

APPROVED PLANS:

5. The eelgrass bed that lies directly waterward of the new armoring shall be monitored for ten years post construction. The first survey shall be within one (1) year after the completion of construction and every other year, 2014, 2016, 2018, 2020, 2022. The survey shall be conducted at the same time of year as the original eelgrass survey was completed, late July to early August. The methods for determining any damage to the bed from construction related activities shall be as identified in the approved 'Rockaway Beach Eelgrass Survey Protocol 2013' received August 1, 2013. Should any loss of eelgrass be observed in the area in relation to the adjacent reference/control area, the City shall prepare and initiate a mitigation plan to address eelgrass loss, mitigation shall also require monitoring for ten years post to ensure success. The contingency plan shall be followed until the impact site has recovered to the 95% confidence interval of the control site.

6. Work shall be accomplished per plans and specifications approved by the Washington Department of Fish and Wildlife entitled 'ROCKAWAY BEACH ROAD STABILIZATION' -pages 1-25 and most recently dated June 27, 2013, except as modified by this Hydraulic Project Approval. A copy of these plans and this HPA shall be available on site during construction.

LONGTERM BEACH NOURISHMENT MITIGATION, EVALUATION, AND MONITORING:

7. Longterm beach nourishment mitigation shall be implemented and followed per contract #13-XXXX-01 recorded with WDFW Contracts office. The applicant shall be required to incorporate the beach nourishment plan following the provisions below:

a. In order to mitigate for the loss of beach sediment input as a result of the bulkhead installation, for the life of the project, the City of Bainbridge Island agrees to deposit the equivalent of ninety (90) cubic yards of appropriate beach nourishment per year as specified in the HPA (provision #8). Nourishment will include an initial placement of approximately 90 cubic yards (derived from on-site excavation at the toe of the slope) at the time of initial construction. Nourishment material will be monitored on a 5 year review basis when the City of Bainbridge Island applies for a new HPA to determine the adequacy of the mitigation plan.

b. Additional placement of sediment shall be placed yearly starting in 2014, 2015, 2016, 2017, and the final nourishment of this HPA placed in 2018. At no time shall more than (90) cubic yards of sediment be placed at one time during the life of the bulkhead nourishment without consultation



HYDRAULIC PROJECT APPROVAL

RCW 77.55.141 - See appeal process at end of HPA

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and approval from WDFW.

c. Placement of beach nourishment between 2014 and 2018 shall be accomplished using an upland delivery system, commonly referred to as a shooter truck, or via other acceptable upland placement. As indicated above material shall be spread along the bulkhead in different areas each year. Care shall be taken not to damage the shoreline plants or mature Douglas fir trees. Should an alternative plan be required to deliver beach nourishment, the HPA shall be revised for the protection of fish life.

d. The City of Bainbridge Island agrees to apply for the applicable HPA every five years for the placement of the beach nourishment.

e. Within thirty days following the issuance of the HPA, the City of Bainbridge Island shall record at the Kitsap County Recorder's Office upon their property title a "Notice of HPA Conditions". The notice shall set forth the fact that the bulkhead upon the property is authorized by an HPA and subject to the HPA conditions, and shall identify the State of Washington Department of Fish and Wildlife Olympia Headquarters Office as the location where the HPA and its conditions may be reviewed.

f. Documentation of each beach nourishment placement shall be provided to the area habitat biologist immediately after placement. This shall include pre and post placement photos, reports of time the material remained on site, documentation of materials delivered, and any unexpected outcomes.

8. The beach waterward of the bulkhead shall be graveled with select material similar in composition to the on-site bank/bluff substrate or in compliance with the following specifications:

| a. Sieve Size | Percent Passing by Weight |
|--------------------|---------------------------|
| 1-inch | 100 |
| 1/2-inch | 80 to 100 |
| 3/8-inch | 40 to 80 |
| less than 3/8-inch | 0 to 40 |

b. Nourishment shall not contain silty or clay type soils.

c. Nourishment shall not be angular type rock, anthropogenic debris, or trash. Material containing these attributes excavated for project construction (footings) shall be removed from the beach and deposited at an approved landfill.

d. Nourishment shall be spread along the vertical wall bulkhead (+/-310 feet) and/or placed at different locations annually, from the face of the bulkhead waterward no further than the MHHW line where possible to allow for natural feeding of the drift cell. The depth shall increase toward the bulkhead face. Nourishment shall avoid damage to any existing marine vegetation beds.

e. Placement of approximately 90 cubic yards, shall occur at the time of project completion. Subsequent nourishment placement (volume and timing) shall follow the schedule outlined in the mitigation contract identified in provision #7.

f. Nourishment placement shall also be subject to provisions 1, 2, and 3 above.

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9. All trash and unauthorized fill, including concrete blocks or pieces, bricks, asphalt, metal, treated wood, glass, floating debris, and paper, below the ordinary high water line (OHWL) in and around the applicant's project area shall be removed and deposited at an approved upland disposal site.

10. The access route through the former Pritchard Park East mitigation site shall be restored to pre-project conditions upon completion of project construction and first installment of mitigation nourishment. All quarry spall placed for access shall be removed, the beach berm restored, planted with native vegetation, and monitored to ensure survival for 3 years. The access path used by heavy equipment shall be roughened or raked with an excavator bucket to minimize compaction impacts.

11. Per mitigation in HPA #130863-1, all chemically treated wood and anthropogenic debris located between the access point and the south end of the project location shall be removed and disposed of above OHWL.

BULKHEAD CONSTRUCTION:

12. The waterward face of the vertical bulkhead shall be located as indicated in project plans, above the Mean Higher High Water Line and no more than 6 feet from the Ordinary High Water Line (OHWL).

13. Project activities shall not occur when the project area, including the work corridor, is inundated by tidal waters.

14. Materials for the bulkhead shall be composed of clean material of a sufficient durability and size to prevent its being broken up or washed away by high water or wave action.

15. The armoring shall be buried a minimum of 24 inches below the pre-project natural beach grade.

16. Bulkhead wing walls on the north and south end of the project shall tie into the existing rock bulkhead armoring.

17. Excavated materials containing debris, silt, clay, or other fine-grained soil shall not be stockpiled below the OHWL water line and shall be hauled off site for proper disposal.

18. If stockpiling of sand, gravel, and other coarse excavated material is conducted below the OHWL, it shall be placed within a 50-foot work corridor waterward of the base rocks.

19. Use of equipment on the beach shall be held to a minimum, confined to the access point, and limited to a 50-foot work corridor waterward of the base rocks. Construction materials shall not touch the beach outside this work corridor.

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20. All trenches, depressions, or holes created in the beach area shall be backfilled prior to inundation by tidal waters. Trenches excavated for base rocks may remain open during construction. However, fish shall be prevented from entering such trenches.

21. Any upland drainage tightlines shall be incorporated into the bulkhead near beach grade to prevent erosion of the shoreline.

PLANTING PLAN:

22. All exposed slopes shall be covered with natural fiber mesh, shall be hydro-seeded with native seed, and/or shall be re-vegetated with natural vegetation immediately following installation of the new bulkhead. The entire disturbed area shall be re-vegetated following the approved planting plan and planting details.

The approved plants shall be used or an appropriate native substitute approved by WDFW. Planting shall be completed within 30 days of bulkhead completion. Plants may be in bunches, at a maximum interval of three feet (on center), or as recommended by a nursery specialist, and maintained as necessary for a minimum of three years to ensure 80 percent survival, at which point the buffer is protected under the Critical Areas Ordinance in perpetuity.

23. Removal or destruction of existing overhanging bankline vegetation shall be limited to that necessary for the construction of the project. Any loss of overhanging vegetation shall be replaced with appropriate vegetation that will provide immediate similar habitat functions, such as shade and leaf litter, as the removed vegetation was providing. Any large wood, coniferous or deciduous, removed from the bluff for construction of the wall shall be placed onto the beach for natural distribution to shorelines of Puget Sound.

WATER QUALITY:

24. Project activities shall be conducted to minimize siltation of the beach area and bed.

25. All debris or deleterious material resulting from construction shall be removed from the beach area and bed and prevented from entering waters of the state.

26. No petroleum products or other deleterious materials shall enter surface waters.

27. Project activities shall not degrade water quality to the detriment of fish life.

HABITAT PROTECTION:

28. Eelgrass and kelp shall not be adversely impacted due to any project activities (e.g., equipment shall not operate, and other project activities shall not occur in eelgrass and kelp beds).

29. Intertidal wetland vascular plants, such as Pickleweed, shall not be adversely impacted due to project activities (e.g., equipment shall not operate, and other activities shall not occur in intertidal



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wetland vascular plants). Pickleweed may be relocated during construction, excavating the roots and placing at similar elevations. If such vegetation is adversely impacted, it shall be replaced using proven methodology.

30. All natural habitat features on the beach larger than 12 inches in diameter, including trees, stumps, logs, and large rocks, shall be retained on the beach following construction. These habitat features may be moved during construction if necessary.

PROJECT LOCATIONS

Location #1 Rockaway Beach Road

| | | | | | | |
|---|----------------|------------------------------|----------------|---------------------------|------------------------------|-------------------|
| WORK START: August 18, 2013 | | | | WORK END: August 17, 2018 | | |
| WRIA: 15.9100 | | Waterbody: Wria 15 Marine | | | Tributary to: Puget Sound | |
| 1/4 SEC: NW 1/4 | Section: 36 | Township: 25 N | Range: 02 E | Latitude: N 47.61313 | Longitude: W 122.49903 | County: Kitsap |
| <u>Location #1 Driving Directions</u> | | | | | | |
| From the Seattle-Bainbridge Island Ferry Terminal, proceed east onto Winslow Way E. Make a right on Madison Ave N then a left onto Wyatt Way NW. Continue for approximately one mile, until the end of the road, and make a left onto Eagle Harbor Dr NE. Follow Eagle Harbor Dr NE for approximately 2.5 miles. The project is located just south of the Eagle Harbor Dr NE/Rockaway Beach Rd NE/Creosote Place NE intersection. | | | | | | |

APPLY TO ALL HYDRAULIC PROJECT APPROVALS

This Hydraulic Project Approval pertains only to those requirements of the Washington State Hydraulic Code, specifically Chapter 77.55 RCW (formerly RCW 77.20). Additional authorization from other public agencies may be necessary for this project. The person(s) to whom this Hydraulic Project Approval is issued is responsible for applying for and obtaining any additional authorization from other public agencies (local, state and/or federal) that may be necessary for this project.

This Hydraulic Project Approval shall be available on the job site at all times and all its provisions followed by the person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work.

This Hydraulic Project Approval does not authorize trespass.

The person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work may be held liable for any loss or damage to fish life or fish habitat that results from failure to comply with the provisions of this Hydraulic Project Approval.

Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil penalty of up to one hundred dollars per day and/or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.



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All Hydraulic Project Approvals issued under RCW 77.55.021 are subject to additional restrictions, conditions, or revocation if the Department of Fish and Wildlife determines that changed conditions require such action. The person(s) to whom this Hydraulic Project Approval is issued has the right to appeal those decisions. Procedures for filing appeals are listed below.

MINOR MODIFICATIONS TO THIS HPA: You may request approval of minor modifications to the required work timing or to the plans and specifications approved in this HPA. A minor modification to the required work timing means up to a one-week deviation from the timing window in the HPA when there are no spawning or incubating fish present within the vicinity of the project. You may request subsequent minor modifications to the required work timing. A minor modification of the plans and specifications means any changes in the materials, characteristics or construction of your project that does not alter the project's impact to fish life or habitat and does not require a change in the provisions of the HPA to mitigate the impacts of the modification. Minor modifications do not require you to pay additional application fees or be issued a new HPA. To request a minor modification to your HPA, submit a written request that clearly indicates you are requesting a minor modification to an existing HPA. Include the HPA number and a description of the requested change and send by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234, or by email to HPAapplications@dfw.wa.gov. Do not include payment with your request. You should allow up to 45 days for the department to process your request.

MAJOR MODIFICATIONS TO THIS HPA: You may request approval of major modifications to any aspect of your HPA. Any approved change other than a minor modification to your HPA will require issuance of a new HPA. If you paid an application fee for your original HPA you must include payment of \$150 with your written request or request billing to an account previously established with the department. If you did not pay an application fee for the original HPA, no fee is required for a change to it. To request a major modification to your HPA, submit a written request that clearly indicates you are requesting a major modification to an existing HPA. Include the HPA number, check number or billing account number, and a description of the requested change. Send your written request and payment, if applicable, by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234. If you are charging the fee to a billing account number or you are not subject to the fee, you may email your request to HPAapplications@dfw.wa.gov. You should allow up to 45 days for the department to process your request.

APPEALS INFORMATION

If you wish to appeal the issuance, denial, conditioning, or modification of a Hydraulic Project Approval (HPA), Washington Department of Fish and Wildlife (WDFW) recommends that you first contact the department employee who issued or denied the HPA to discuss your concerns. Such a discussion may resolve your concerns without the need for further appeal action. If you proceed with an appeal, you may request an informal or formal appeal. WDFW encourages you to take advantage of the informal appeal process before initiating a formal appeal. The informal appeal process includes a review by department management of the HPA or denial and often resolves issues faster and with less legal complexity than the formal appeal process. If the informal appeal process does not resolve your concerns, you may advance your appeal to the formal process. You may contact the HPA Appeals Coordinator at (360) 902-2534 for more information.

A. INFORMAL APPEALS: WAC 220-110-340 is the rule describing how to request an informal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete informal appeal procedures. The following information summarizes that rule.

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request an informal appeal of that action. You must send your request to WDFW by mail to the Washington Department of Fish and Wildlife HPA Appeals Coordinator, 600 Capitol Way North, Olympia, Washington 98501-1091; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. WDFW must receive your request within 30 days from the date you receive notice of the decision. If you agree, and you applied for the HPA, resolution of the appeal may be facilitated through an informal conference with the WDFW employee responsible for the decision and a supervisor. If a resolution is not reached through the informal conference, or you are not the person who applied for the HPA, the HPA Appeals Coordinator or designee will conduct an informal hearing and recommend a decision to the Director or designee. If you



HYDRAULIC PROJECT APPROVAL

RCW 77.55.141 - See appeal process at end of HPA

Coastal
48 Devonshire Road
Montesano, WA 98563
(360) 249-4628

Issue Date: August 18, 2013

Control Number: 128017-1

Project Expiration Date: August 17, 2018

FPA/Public Notice #: N/A

results of the informal appeal, you may file a request for a formal appeal.

B. FORMAL APPEALS: WAC 220-110-350 is the rule describing how to request a formal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete formal appeal procedures. The following information summarizes that rule.

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request a formal appeal of that action. You must send your request for a formal appeal to the clerk of the Pollution Control Hearings Boards and serve a copy on WDFW within 30 days from the date you receive notice of the decision. You may serve WDFW by mail to the Washington Department of Fish and Wildlife HPA Appeals Coordinator, 600 Capitol Way North, Olympia, Washington 98501-1091; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, you may request a formal appeal within 30 days from the date you receive the Director's or designee's written decision in response to the informal appeal.

C. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS: If there is no timely request for an appeal, the WDFW action shall be final and unappealable.

ENFORCEMENT: Sergeant Jackson (29) P1E

| | | | |
|---------------------------------------|-------------------------------------|-------------------------|----------------------|
| Habitat Biologist Chris Waldbillig | waldbcmw@dfw.wa.gov 360-874-7258 | <i>Chris Waldbillig</i> | for Director WDFW |
|---------------------------------------|-------------------------------------|-------------------------|----------------------|

CC: Alison O'Sullivan, Suquamish Indian Tribe (e-mail)
Linda Storm, EPA (e-mail)
Jerry Gregory, USACE Project Manager (e-mail)



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 5 Minutes

AGENDA ITEM: Resolution No. 2018-18 Reducing Speed Limits on Certain Roadways and Resolution No. 2018-23, Reducing speed Limits in Downtown Bainbridge Island/Winslow - Public Works,

STRATEGIC PRIORITY: Safe City

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Resolution

PROPOSED BY: Public Works

RECOMMENDED MOTION:

Approve with Consent Agenda

SUMMARY:

Resolution No. 2018-18: A RESOLUTION of the City Council of Bainbridge Island, Washington, reducing speed limits from 35-mph and authorizing sign modifications for certain roadways on Bainbridge Island.

Resolution No. 2018-23: A RESOLUTION of the City Council of Bainbridge Island, Washington, reducing speed limits to 20-mph and authorizing sign modifications for certain roadways on Bainbridge Island.

FISCAL IMPACT:

| | |
|------------------------------------|--|
| Amount: | |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | |

BACKGROUND: Last year, the City implemented a 35-mph speed limit Island-wide and a 25-mph speed limit in Downtown Bainbridge Island/Winslow and in designated Town Centers. This year, the City evaluated several 35-mph roadways to determine if conditions warrant lowering the speed limit to 30-mph on certain roads, as well as lowering 25-mph speed limits to 20-mph on cul-de-sacs and other residential roads in downtown Bainbridge/Winslow based on feedback from downtown residents. Under the 20-mph proposal, roads classified as secondary arterials and collectors would remain posted at 25-mph as well as some private roads and roads located in mixed use/commercial districts. Attached with this item is a traffic study that provides specific roadway locations and recommendations.

City staff and Consultant H.W. Lochner presented the Focused Traffic Study at the August 21, 2018 Study Session. City Council suggested several changes to the proposed speed reductions at this meeting and at the following meeting on August 28, 2018.

Two resolutions were developed as a result of the study: Resolution No. 2018-18 reduces certain 35-mph roads, and Resolution No. 2018-23 reduces certain 25-mph roads to 20-mph roads in downtown Bainbridge Island/Winslow. See attached resolutions for further details.

On August 28, 2018, the City Council forwarded Resolution No. 2018-23 for approval with the September 11, 2018 consent agenda. The City Council also forwarded Resolution No. 2018-18 for approval with the September 11, 2018 consent agenda, but made two changes to the resolution, which have been made in the updated version of Resolution No. 2018-18 included with this agenda bill.

ATTACHMENTS:

[Resolution No. 2018-23](#)

[Exhibit A to Resolution No. 2018-23](#)

[Resolution No. 2018-18](#)

FISCAL DETAILS:

Fund Name(s):

Coding:

RESOLUTION NO. 2018-23

A RESOLUTION of the City Council of Bainbridge Island, Washington, reducing speed limits to 20-mph and authorizing sign modifications for certain roadways on Bainbridge Island.

WHEREAS, the City Council and City staff receive numerous requests each year to evaluate speed limits on Bainbridge Island roads; and

WHEREAS, the Multi-Modal Transportation Advisory Committee has proposed that the City adopt 20-mph speed limits for local access streets in Downtown Bainbridge Island/Winslow with predominantly residential uses to enhance safety for non-motorized transportation modes. Local access streets with predominantly commercial uses and mixed commercial and residential uses would remain posted at 25-mph; and

WHEREAS, the City has experimented with setting a 20-mph speed limit on Grow Avenue NW from Winslow Way W to Wyatt Way NW and the response has been favorable from the community; and

WHEREAS, the City Council has considered public comment and concurs with the recommendations; and

WHEREAS, the City Council is authorized to establish speed limits in accordance with Chapter 308-330.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND DOES RESOLVE AS FOLLOWS:

Section 1. In accordance with the Washington Model Traffic Ordinance, Chapter 308-330 WAC, adopted by reference via BIMC 10.04.010, and the Manual on Uniform Traffic Control Devices (MUTCD), the City Council establishes a 20-mph speed limit for the public local access roadways shown in the map attached as Exhibit A and incorporated herein by this reference.

PASSED by the City Council this ____ day of _____, 2018.

APPROVED by the Mayor this ____ day of _____, 2018.

By: _____
Kol Medina, Mayor

ATTEST/AUTHENTICATE:

By: _____
Christine Brown, City Clerk

FILED WITH THE CITY CLERK: August 17, 2018
PASSED BY THE CITY COUNCIL: , 2018
RESOLUTION NO. 2018-23

Exhibit A Proposed 20 MPH Public Residential Streets



Proposed 20 MPH Streets
 — Currently not 20mph
 — Existing 20mph



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, © OpenStreetMap contributors, and the GIS User Community

RESOLUTION NO. 2018-18

A RESOLUTION of the City Council of Bainbridge Island, Washington, reducing speed limits on certain 35-mph roadways and authorizing sign modifications.

WHEREAS, the City Council and City staff receive numerous requests each year to evaluate speed limits on Bainbridge Island roads; and

WHEREAS, the independent study report “2018 Focused Traffic Study,” dated July 2018, (the “Traffic Study”) by H.W. Lochner (the “Consultant”) was presented to the City Council on August 21, 2018; and

WHEREAS, the City Council has considered public comment and concurs with the recommendations presented by the Consultant in the Traffic Study; and

WHEREAS, the City Council is authorized to establish maximum speed limits in accordance with Chapter 308-330 WAC.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND DOES RESOLVE AS FOLLOWS:

Section 1. In accordance with the Washington Model Traffic Ordinance, Chapter 308-330 WAC, adopted by reference via BIMC 10.04.010, and the Manual on Uniform Traffic Control Devices (MUTCD), the City Council establishes the following traffic changes:

- a. Arrow Point Drive NE from NE Frey Avenue to 250 feet east of 90° bend (fronting Battle Point Park) – Reduce speed limit from 35-mph to 30-mph.
- b. Battle Point Drive NE from NE Beach Street to NE Frey Avenue – Reduce speed limit from 35-mph to 30-mph.
- c. Blakely Hill Road NE from NE Halls Hill Road to Old Mill Road NE – Reduce speed limit from 35-mph to 25-mph.
- d. NE Day Road from N Madison Avenue NE to Sunrise Drive NE – Reduce speed limit from 35-mph to 30-mph.
- e. NE Frey Avenue from Battle Point Drive NE to Arrow Point Drive NE – Reduce speed limit from 35-mph to 30-mph.
- f. Ferncliff Avenue NE from High School Road NE to NE Lofgren Road – Reduce speed limit from 35-mph to 30-mph.
- g. Grand Avenue NE from Ferncliff Avenue NE to NE Yeomalt Point Drive NE – Reduce speed limit from 35-mph to 30-mph.
- h. Moran Road NE/NE Lofgreen Road from N Madison Avenue to Ferncliff Avenue NE – Reduce speed limit from 35-mph to 30-mph.
- i. McDonald Avenue NE from Old Mill Road NE to Eagle Harbor Drive NE – Reduce speed limit from 35-mph to 25-mph.

- j. Sunrise Drive NE from NE Valley Road to NE Day Road – Reduce speed limit from 35-mph to 30-mph.
- k. NE Bucklin Hill Road from Blakely Avenue NE to Fletcher Bay Road NE – Reduce speed limit from 35-mph to 25-mph.
- l. NE Valley Road from Madison Avenue NE to Sunrise Drive NE – Reduce speed limit from 35-mph to 25-mph.
- m. NE Winther Road from Madison Avenue NE to Sunrise Drive NE – Reduce speed limit from 30-mph to 25-mph.
- n. N Madison Ave NE from NE Torvanger Rd to Phelps Rd NE– Reduce speed limit from 35-mph to 30-mph and refer this section of road for further study.

PASSED by the City Council this ____ day of _____, 2018.

APPROVED by the Mayor this ____ day of _____, 2018.

By: _____
 Kol Medina, Mayor

ATTEST/AUTHENTICATE:

By: _____
 Christine Brown, City Clerk

FILED WITH THE CITY CLERK: August 17, 2018
 PASSED BY THE CITY COUNCIL: ,2018
 RESOLUTION NO. 2018-18



CITY OF
BAINBRIDGE ISLAND

City Council Regular Business Meeting Agenda Bill

MEETING DATE: September 11, 2018

ESTIMATED TIME: 5 Minutes

AGENDA ITEM: Interlocal Agreement and Use Agreement for RideAlong Application – Police

STRATEGIC PRIORITY: Safe City

PRIORITY BASED BUDGETING PROGRAM:

AGENDA CATEGORY: Interlocal Agreement

PROPOSED BY: Executive

RECOMMENDED MOTION:

Approve with Consent Agenda.

SUMMARY:

Consideration of Interlocal Agreement and Use Agreement for RideAlong Application.

FISCAL IMPACT:

| | |
|------------------------------------|--|
| Amount: | |
| Ongoing Cost: | |
| One-Time Cost: | |
| Included in Current Budget? | |

BACKGROUND: The Kitsap County Sheriff's Office has obtained grant funding to purchase and implement the "RideAlong" software application for use by law enforcement personnel to facilitate and enhance interactions between law enforcement officers and individuals with mental health issues with the aim of reducing incarceration and recidivism. Under the terms of the proposed Interlocal Agreement for RideAlong Labs Services, representatives from law enforcement agencies within the county will meet periodically as members of a Crisis Intervention Team ("CIT") to develop or review response plans for individuals with mental health issues that will be used when law enforcement officers interact with those individuals. Bainbridge Island officers will have access to the individual response plans through the RideAlong application.

While the City will need to execute a separate RideAlong App Use Agreement with RideAlong Labs Inc. in order to access the RideAlong application, the Kitsap County Sheriff's Office has already paid the RideAlong application software, services, and license fees for the City for three (3) years, commencing on April 15, 2018.

At the end of the three year period, both the Interlocal Agreement for RideAlong Labs Services and the RideAlong App Use Agreement will terminate unless renewed by mutual consent of the parties.

ATTACHMENTS:

[Interlocal Agreement for RideAlong Services](#)

[Attachment A to Interlocal Agreement - KCSO RideAlong Services Agreement](#)

[Amendment No. 1 to KCSO RideAlong Services Agreement](#)

[RideAlong App Use Agreement](#)

FISCAL DETAILS:

Fund Name(s):

Coding:

**AN INTERLOCAL AGREEMENT FOR
RIDEALONG LABS SERVICES**

THIS INTERLOCAL AGREEMENT FOR RIDEALONG LABS INC SERVICES (“Agreement”) is made and entered into by and among Kitsap County, the City of Bainbridge Island, the City of Bremerton, the City of Poulsbo, the City of Port Orchard, the Suquamish Tribe, and the Port Gamble S’Kallam Tribe, collectively referred to herein as the “Parties” and individually as a “Party”.

RECITALS

- A. The Interlocal Cooperation Act, Chapter 39.34 RCW, allows public agencies to enter into cooperative agreements to more efficiently provide services within their jurisdictions.
- B. The Kitsap County Sheriff’s Office (“KCSO”) has obtained grant funding from the Kitsap County Human Services Department to purchase and implement the RideAlong Labs Inc. (“RideAlong”) application, a software tool which will be made available for use to law enforcement personnel to facilitate and enhance interactions between law enforcement and individuals with mental health issues.
- C. The RideAlong application is intended to provide information to assist law enforcement with the aim of reducing incarceration and recidivism of persons with mental health issues.
- D. KCSO has executed a contract with RideAlong for the application and is able and willing to make the application available for use by the Parties’ sworn law enforcement personnel subject to the terms and conditions in this Agreement.
- E. The Parties desire to enter into this Agreement to cooperatively provide for the administration of the RideAlong application, and the corresponding activities of the Crisis Intervention Team and related policies (collectively “Program”) for the benefit of law enforcement and the community.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals which are incorporated herein by reference, and the mutual promises and covenants, the Parties agree as follows:

- 1. **PURPOSE.** The purpose of this Agreement is to provide for the joint and cooperative undertaking of the Parties to establish, implement and manage the Program, identify those persons responsible for administering the Program, and define responsibilities as contemplated in RCW 39.34.030. The Parties do not intend to create through this Agreement a separate legal or administrative entity subject to suit.
- 2. **RESPONSIBILITIES OF THE PARTIES.** The Parties acknowledge and agree as follows:
 - 2.1 Each Party will be required to execute a separate service agreement with RideAlong

Labs Inc. in order to obtain access to the RideAlong application and related materials and services and participate in the Program.

- 2.2 The Parties will work cooperatively to implement and utilize the Program, participate in user testing, and market and promote the Program to law enforcement personnel and the community.
 - 2.3 Each Party will designate one or more law enforcement personnel to participate as active members of the Crisis Intervention Team (“CIT”). Each Party will pay all costs associated with its personnel and equipment when participating as a CIT member.
 - 2.4 The CIT will initially meet once per week, if not more, to draft Program policies and procedures, and to review, develop, approve, upload and remove individual response plans, and perform any other functions necessary for the success of the Program. It is anticipated that the number of required CIT meetings will fluctuate, with more meetings required prior to and immediately after the launch of the Program.
 - 2.5 The Parties agree to comply with the policies and procedures developed and adopted by the CIT for the Program.
 - 2.6 Pursuant to RCW 10.93.040, personnel assigned to the CIT shall be considered the employees of the primary commissioning agency, which shall be solely and exclusively responsible for that employee. All rights, duties and obligations of the employer shall remain with the primary commissioning Agency. Each Party agrees to indemnify, defend and hold harmless the other Parties in any action arising from or related to the negligence of its own employees, including all costs of defense and attorney's fees.
 - 2.7 Each Party will be responsible for ensuring compliance with all applicable laws, collective bargaining agreements, and/or civil service rules and regulations with regard to its own employees.
 - 2.8 Personnel assigned as CIT members shall conform to their agency's rules and regulations, as well as CIT policy.
 - 2.9 All response plans developed by CIT and made available in the RideAlong application shall be considered confidential intelligence information essential to effective law enforcement and kept confidential by the Parties, except as provided by law. Each Party shall be solely responsible for the use of the application, and all associated information, by its own employees.
3. SOFTWARE AND LICENSE FEES. KCSO has obtained sufficient grant funding to pay for the RideAlong application software, services and license fees for the Parties for three (3) years, commencing on April 15, 2018. Should this Agreement be renewed or extended, each Party shall be responsible for paying the RideAlong per user license fee for their designated users of the software and associated fees. In such an event, this Agreement may

be amended to identify the amount, time, manner and method of payment. It is anticipated that KCSO, having contracted with RideAlong to provide the application, will be responsible for contract administration and the coordination of the payment of all license and associated fees to RideAlong on behalf of the Parties.

4. ADMINISTRATOR. KCSO shall function as the administrator of the Program for liaison purposes, in coordination and cooperation with the Parties. By functioning in this capacity, KCSO is not assuming responsibility or liability for the actions, or failures to act, by the other Parties and/or their respective employees.
5. DURATION. The term of the Agreement shall be coterminous with the term of the RideAlong Labs Software Services Agreement executed with KCSO, Exhibit A, not to exceed three (3) years. This Agreement may be extended or renewed by the mutual agreement of the Parties for additional consecutive terms which are coterminous with the term of the extension or renewal of the RideAlong Labs Software Services Agreement.
6. TERMINATION. Any Party may withdraw from this Agreement upon thirty (30) days prior written notice to the other Parties.
7. INDEMNIFICATION
 - 7.1 The Parties shall not be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim related to bodily injury or death, or a claim or demand based on disclosure of confidential information, data breach, or infringement of protectable interest under patent, copyright, trademark, or trade secret laws.
 - 7.2 Each Party shall save, defend, indemnify, and hold harmless the other Parties, and the other Parties' officers, employees, and agents, from and against any allegations, claims, and complaints, including reasonable attorneys' fees and costs, by third parties for any or all injuries to persons, damage to property, disclosure of confidential information, or infringement of a protected patent, copyright, trademark, or trade secret interest of such third parties, which claim arises from intentional, reckless, or negligent acts or omissions of the Party, its officers, employees, or agents. A Party's obligation to defend, indemnify, and hold harmless the other Party shall not be eliminated or reduced by any alleged concurrent negligence by the other Party. Any damages allowed shall be levied in proportion to the percentage of fault attributable to each Party, and each Party shall have the right to seek contribution from each of the other Parties in proportion to the percentage of fault attributable to each of the other Parties. Moreover, the Parties agree to cooperate and jointly defend any such matter to the fullest extent allowed by law. An agency that has withdrawn assumes no responsibility for the actions of the remaining members arising after the date of withdrawal but shall remain liable for claims of loss or liability arising prior to the effective date of withdrawal.
 - 7.3 The provisions of Section 7 shall survive for three years after the expiration or termination of this Agreement.

8. **PROPERTY.** The Parties do not anticipate the acquisition of property for the performance of this Agreement and any property acquired by a Party using this Agreement shall be held by the acquiring Party.
9. **NONDISCRIMINATION.** No Party shall not discriminate against any person on the basis of race, color, creed, religion, national origin, age, sex, marital status, sexual orientation, veteran status, disability, or other circumstance prohibited by federal, state, or local law, and shall comply with Title VI of the Civil Rights Act of 1964, P.L. 88-354 and Americans with Disabilities Act of 1990 in the performance of this Agreement.
10. **GOVERNING LAW, VENUE, WAIVER OF IMMUNITY**
 - 10.1 This agreement shall be governed by the laws of the State of Washington. Each party consents to the personal jurisdiction of the Superior Court of the State of Washington for all Party claims, disputes, proceedings or actions in any way arising under, or relating to, this agreement or the subject matter of this agreement. Venue for any such claim shall be exclusively in the Superior Court for the County of Kitsap. Each party hereby expressly grants a limited waiver of sovereign immunity to suit solely for the purposes of this provision. The Tribes will neither direct nor authorize their respective insurers to raise defenses of sovereign immunity or treaty rights on behalf of the Tribes for Party claims authorized by this provision.
 - 10.2 Nothing in this Agreement shall be construed to authorize any suit, execution, attachment, or judicial process against the persons or property of the Tribe or any of its officers, agents, or employees, or against the Tribal Council or any member thereof, other than as specifically provided herein. In no event shall this Agreement be construed to authorize attachment, execution or other judicial process against real property of the Tribe, any property held in trust by the United States or subject to a restriction against alienation imposed by federal law, or any funds held by or on behalf of the Tribe and derived from federal or state grants or contracts.
11. **EFFECTIVE DATE/FILING.** This Agreement will take effect when executed by KCSO and one other Party. Prior to its entry into force, this Agreement shall be filed with the Kitsap County Auditor's Office or, alternatively, listed by subject on the web site or other electronically retrievable public source in compliance with RCW 39.34.040.
12. **NOTICE.** All notices under this Agreement may be delivered or mailed to the Sheriff or Chief of the other Parties law enforcement agency. All notices mailed by regular post (including first class) shall be deemed to have been given on the second business day following the date of mailing, if properly mailed and addressed. Notices sent by certified or registered mail shall be deemed to have been given on the day next following the date of mailing, if properly mailed and addressed. For all types of mail, the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing.
13. **COMPLIANCE WITH REGULATIONS AND LAWS.** The Parties shall comply with all applicable rules and regulations pertaining to them in connection with the matters covered herein.

14. **IMPLIED CONTRACT TERMS.** Each provision of law and any terms required by law to be in the Agreement are made a part of the Agreement as if fully stated in it.
15. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, with each counterpart deemed an original. In the event that fewer than all named parties execute this Agreement, the Agreement, when filed as provided herein, shall be effective as between the Parties that have executed the Agreement to the same extent as if no other parties had been named.
16. **INDEPENDENT CAPACITY.** The employees and agents of each Party who are engaged in the performance of this Agreement shall continue to be the employees or agents of that Party and shall not be considered, for any purpose, to be employees or agents of another Party to this Agreement. No Party shall have the authority to bind another Party nor control the employees, agents or contractors of another Party to this Agreement. All rights, duties and obligations of a Party shall remain with that Party.
17. **CHANGES, MODIFICATIONS, AND AMENDMENTS.** This Agreement may be changed, modified, or amended, only by written agreement executed by the parties hereto.
18. **ASSIGNMENT.** The rights or obligations under this Agreement, and any claims arising thereunder, are not assignable or delegable by a Party in whole or in part, without the express prior written consent of all other Parties and RideAlong Labs, Inc.
19. **DISPUTES.** In the event that a dispute arises under this Agreement, it shall be determined by a dispute board in the following manner: Each party to this Agreement shall appoint a member to the dispute board. The dispute board shall evaluate the facts, the terms of the Agreement and applicable statutes and rules and make a determination of the dispute. The determination of the dispute board shall be final and binding on the Parties.
20. **WAIVER.** A failure by any Party to exercise its rights under this Agreement shall not preclude that Party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the Party.
21. **SEVERABILITY.** The provisions of this Agreement are severable. Any term or condition of this Agreement or application thereof deemed to be illegal, invalid or unenforceable, in whole or in part, shall not affect any other term or condition of the Agreement and the parties' rights and obligations will be construed and enforced as if the Agreement did not contain the particular provision.
22. **SURVIVAL.** Those provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive. Those provisions include, without limitation, Section 2 (Responsibilities of the Parties, Section 7 (Indemnification), and Section 10 (Governing Law/Venue).
23. **HEADINGS.** Headings of this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

24. ENTIRE AGREEMENT. This Agreement, and Exhibit A, contains the entire understanding of the Parties and supersedes any other agreement or understanding of the Parties relating to the subject matter of this Agreement.
25. AUTHORIZATION. Any authorizations, actions required, or permitted to be taken, and any document required or permitted to be executed under this Agreement will be taken or executed only by a duly authorized representative of the party. Each party warrants and represents to the other that the person signing below has been properly authorized and empowered to execute this Agreement on behalf of the Party for whom they sign and, if applicable, to waive sovereign immunity as required by this Agreement.

[Signatures appear on the following pages]

Approved and executed this ___ day of _____, 2018

COUNTY OF KITSAP

APPROVED:

APPROVED AS TO FORM:

GARY SIMPSON,
Kitsap County Sheriff

TINA R. ROBINSON
Kitsap County Prosecuting Attorney

APPROVED:

KITSAP COUNTY BOARD OF COMMISSIONERS
PORT ORCHARD, WASHINGTON

ROBERT GELDER, Chair

Dated: _____

EDWARD E. WOLFE, Commissioner

Dated: _____

CHARLOTTE GARRIDO, Commissioner

Dated: _____

ATTEST

DANA DANIELS, Clerk of the Board

Approved and executed this ____ day of _____, 2018

CITY OF PORT ORCHARD

APPROVED:

APPROVED:

GEOFFREY C. MARTI
Chief of Police

ROBERT PUTAANSUU
Mayor

Dated: _____

Dated: _____

APPROVED AS TO FORM:

ATTEST:

SHARON CATES, City Attorney

BRANDY RINEARSON, City Clerk

Approved and executed this ____ day of _____, 2018

CITY OF POULSBO

By: _____
_____, Chief of Police

By: _____
BECKY ERICKSON, Mayor

APPROVED AS TO FORM

ATTEST

_____, City Attorney

_____, City Clerk

Date: _____

Date: _____

Approved and executed this ____ day of _____, 2018

CITY OF BREMERTON

APPROVED:

APPROVED:

JIM BURCHETT
Chief of Police

GREG WHEELER
Mayor

APPROVED AS TO FORM:

ATTEST:

ROGER LUBOVICH, City Attorney

SHANNON L. CORIN, City Clerk

Approved and executed this ____ day of _____, 2018.

CITY OF BAINBRIDGE ISLAND

Approved:

DOUGLAS SCHULZE
City Manager

Approved and executed this ____ day of _____, 2018

SUQUAMISH TRIBE

By: _____

Title: _____

Approved and executed this ____ day of____, 2018

PORT GAMBLE S'KALLAM TRIBE

By: _____

Title: _____

ATTACHMENT A
KITSAP COUNTY RIDEALONG SERVICES AGREEMENT

ATTACHMENT A

KITSAP COUNTY SHERIFF'S OFFICE – REALONG SERVICES AGREEMENT

KITSAP COUNTY SHERIFF'S OFFICE - RIDEALONG SERVICES AGREEMENT

This RideAlong Services Agreement (“**Agreement**”) is entered into and effective as of April 15, 2018 (“**Effective Date**”) by and between RideAlong Labs Inc., a Delaware corporation (“**RideAlong**”) and the Kitsap County Sheriff's Office (“**Customer**”).

1. RIDEALONG SERVICES AND MATERIALS

1.1 Services. RideAlong will use commercially reasonable efforts to provide the Customer with the Services during the term of the Agreement, subject to the terms and conditions of this Agreement. “**Services**” means access to the proprietary RideAlong behavioral health and substance abuse-related software platform that RideAlong provides to Customer (the “**Platform**”) and the services related thereto specified in the Statement of Work attached to this Agreement as Exhibit B. RideAlong may provide all or any part of the Services directly or through, or with the assistance of, its affiliates, licensors, contractors, or service providers, subject to the terms and conditions of this Agreement, including security requirements. The total number of users who are actively accessing the Services at any given time may not exceed the maximum number of Concurrent Users specified in Exhibit A.

1.2 Restrictions. Customer may access and use the Services only in accordance with this Agreement, and solely for the purpose of Customer's own non-commercial law enforcement and first responder purposes. Any resale or service bureau business or similar activities with respect to the Services (or portion thereof) or other RideAlong data or information obtained through the Services are prohibited. Customer will not, and will not permit or assist any third party to, (a) alter, adapt, modify, translate, create derivative works of, (b) decompile, disassemble or otherwise reverse engineer or attempt to derive the source code of, or any technical data, know-how, trade secrets, processes, techniques, specifications, protocols, methods, algorithms, interfaces, ideas, solutions, structures or other information embedded or used in, (c) rent, lend, loan, lease, sell, distribute, or sublicense, (d) remove, alter, or obscure any proprietary or restrictive notices affixed to or contained in, or (e) circumvent or attempt to circumvent any technological protective measure contained in or supported by, the Services and any software, technology, systems, and other subject matter provided by RideAlong in connection with the Services.

RideAlong will not, and will not permit or assist any third party to, (a) alter, adapt, modify, translate, create derivative works of, (b) decompile, disassemble or otherwise reverse engineer or attempt to derive the source code of, or any technical data, know-how, trade secrets, processes, techniques, specifications, protocols, methods, algorithms, interfaces, ideas, solutions, structures or other information embedded or used in, (c) rent, lend, loan, lease, sell, distribute, or sublicense, (d) remove, alter, or obscure any proprietary or restrictive notices affixed to or contained in, or (e) circumvent or attempt to circumvent any technological protective measure contained in or supported by, any software, technology, systems, and other subject matter provided to RideAlong by Customer or accessed by RideAlong through Customer in connection with the Services, except otherwise provided in or necessary for the purpose of this Agreement.

1.3 Integrity. Customer shall not: (a) post, transmit or otherwise make available through or in connection with the Services any virus, worm, Trojan horse, Easter egg, time bomb, spyware or other computer code, file or program that is or is potentially harmful or invasive or intended to damage or hijack the operation of, or to monitor the use of, any hardware, software or equipment; (b) use the Services for any purpose or in any manner that violates applicable laws and regulations, is fraudulent, or violates the rights of others; (c) interfere with or disrupt the operation of the Services or the servers, systems, or networks used to make the Services available, including by hacking or defacing any portion of the Services; (d) restrict or inhibit any other person from using the Services; (e) frame or mirror any portion of the Services, or otherwise incorporate any portion of the Services into any product or service; or (h) use any robot, spider, site search/retrieval application or other manual or automatic device to retrieve, index, “scrape,” “data mine” or otherwise gather Services content, or reproduce or circumvent the navigational structure or presentation of the Services. RideAlong shall not post, transmit or otherwise make available through or in connection with the Services any virus, worm, Trojan horse, Easter egg, time bomb, spyware or other computer code, file or program that is or is potentially harmful or invasive or intended to damage or hijack the operation of, or to monitor the use of, any hardware, software or equipment.

- 1.4 Materials.** RideAlong hereby grants to Customer a limited, non-exclusive, personal, non-transferable, and non-sublicensable right, during the term of the Agreement, to access and use such Materials as and in the form provided by RideAlong solely as necessary to access and use the Services in accordance with this Agreement. “**Materials**” means certain software, documentation, and other materials relating to the Services or connected with the performance of the Services that RideAlong may provide to Customer.
- 1.5 Permitted Agencies.** RideAlong will notify Customer if and when each of the agencies specified in Exhibit C has executed an agreement with RideAlong concerning such agency’s access to and use of the Services and Materials (each such agency, a “**Permitted Agency**”). Customer will work RideAlong to allow the Permitted Agencies to have access to the Services and Materials. Except as expressly provided by this Section 1.5, Customer will not sublicense or otherwise grant (or attempt to sublicense or otherwise grant) any of its rights or licenses pursuant to this Agreement to any other party.
- 1.6 Third Party Resources.** Customer and RideAlong may, in connection with the provision and use of the Services and the Materials, receive access to third party data, services, content, software or applications, or receive open source software (“**Third Party Resources**”), which may be subject to separate terms. If so, those separate terms will prevail over this Agreement as to Customer’s or RideAlong’s, as applicable, use of Third Party Resources. Third Party Resources are provided by RideAlong and Customer on an “AS IS” basis, without indemnification, support, or warranty of any kind (except to the extent any of the foregoing are provided by the respective third party under the terms applicable to the Third Party Resources). RideAlong and Customer, as applicable, reserve the right to suspend or terminate access to or use of the Third Party Resources at any time. RideAlong and Customer, as applicable, will use commercially reasonable efforts to provide notice of such suspension or termination.
- 1.7 Errors.** If either party discovers an error or malfunction with respect to the Services, such party shall promptly notify the other party thereof. The parties will cooperate to mitigate the impact of such error or malfunction. RideAlong may suspend use of the Services to address any such error or malfunction and Customer shall use good faith efforts to implement any reasonable corrective measures as RideAlong instructs and not use Services known to malfunction or be erroneous.
- 1.8 Personnel.** RideAlong will assign employees and subcontractors with suitable qualifications to perform all Services. All such employees and subcontractors will have such background checks as are customary for third party accessing the Customer’s systems. Customer will provide a suitable and safe work environment for RideAlong employees and subcontractors while such employees and subcontractors are on Customer’s premises. While on Customer’s premises and when accessing the Customer’s software and data, and/or the software and data of any third party provided on behalf of the Customer, RideAlong and its employees and subcontractors will comply with all reasonable and applicable security practices and procedures generally prescribed and provided by Customer and the FBI’s Criminal Justice Information Services Division (“**CJIS**”) version 5.5 (or any later version requested by Customer in writing). RideAlong may replace or change employees and subcontractors as required at its sole discretion and at the reasonable request of the Customer.
- 1.9 Ownership.** As between RideAlong and the Customer, RideAlong owns and will retain all right, title and interest in and to the Services, Materials, and any of its software, technology, systems and other subject matter provided by RideAlong in connection with the Services and any and all intellectual property rights relating thereto. No rights of any kind shall be implied pursuant to this Agreement.
- 1.10 Proprietary Notices.** RideAlong agrees to clearly mark all confidential or proprietary RideAlong Materials. Customer agrees (a) not to remove, alter, or destroy any trademark, copyright, or other proprietary markings or notices placed upon or contained within any of the Services or any Materials, and (b) to ensure that all such markings and notices are reproduced and conspicuously appear on or within all copies, portions, extracts, and derivatives of any of the foregoing made by Customer pursuant to this Agreement.
- 1.11 User Credentials.** RideAlong may provide, or permit each eligible Customer end user (“**User**”) to choose, a user name and password, and/or provide other access control or security credentials (collectively, the “**RideAlong User Credentials**”) that such User may use to access and use the Services in accordance with this Agreement. RideAlong reserves the right to suspend or revoke RideAlong User Credentials and access to or use of the Services in the event of any misuse, abuse, or failure to comply with the terms and

conditions of this Agreement. Customer, (a) is responsible for protecting (i) all RideAlong User Credentials, and (ii) access controls and security credentials issued by Customer and used to access and use the Services ((i) and (ii), collectively “**User Credentials**”) from disclosure to or discovery by third parties and any unauthorized use by third parties, (b) shall not provide any User Credentials to any party other than a User, and (c) shall remain fully responsible and liable for (and in no event shall RideAlong be responsible or liable for) any use, including any misuse, abuse, or unauthorized use, of any User Credentials and hereby authorizes any and all transactions, submissions, instructions, authorizations, and other acts initiated through the use of any User Credentials. In the event of any actual or suspected misuse, abuse, or unauthorized use, or any suspected disclosure to or discovery by third parties, of any User Credentials, or of any actual or suspected attempt to engage in any of the foregoing, Customer shall immediately notify RideAlong.

2. PAYMENT TERMS

- 2.1 Service Fees.** Customer will pay the fees and other amounts set forth in Exhibit A (collectively, the “**Fees**”). Customer will pay all Fees to RideAlong in U.S. dollars in accordance with the schedule set forth in Exhibit A. Any sums not paid when due will automatically accrue interest from the date when due until actually paid at the rate of 1.5% per month or the maximum rate allowed by law, whichever is less. In the event of any failure to timely pay any Fees or other sums owed hereunder when due RideAlong may suspend its performance of the Services, without limiting any other rights or remedies RideAlong may have under this Agreement or under applicable law.
- 2.2 Taxes and Other Charges.** RideAlong will pay all sales, use, personal property and other taxes resulting from this Agreement or any activities under this Agreement.

3. OBLIGATIONS

- 3.1 Compliance.** Customer is responsible for compliance with all laws and regulations applicable to Customer and its activities, including use of the Services. Customer is responsible for the selection and suitability of the Services. RideAlong may verify Customer’s compliance with this Agreement. If RideAlong seeks to verify Customer’s compliance, Customer will provide information and other materials as reasonably requested by RideAlong to assist in the verification. RideAlong is responsible for compliance with all laws and regulations applicable to RideAlong and its activities under this Agreement. Customer may verify RideAlong’s compliance with this Agreement. If the Customer seeks to verify RideAlong’s compliance, RideAlong will provide information and other materials as reasonably requested by County to assist in the verification.
- 3.2 Infrastructure.** Customer is responsible for obtaining, maintaining and paying for all hardware, software, network access, and all telecommunications and other services and equipment needed for Customer to access and use the Services (“**Infrastructure**”) and for ensuring that all such Infrastructure meets the minimum requirements applicable to such Infrastructure as may be identified by RideAlong from time to time. Notwithstanding anything to the contrary, RideAlong will have no responsibility with respect to any failure or interruption that is due to the Infrastructure or Customer’s failure to provide adequate Infrastructure, or for any security breach, loss of data, or similar event related to the Infrastructure.
- 3.3 Cooperation.** Customer acknowledges that Customer’s timely provision of (and RideAlong’s access to) Customer facilities, equipment, assistance, cooperation, and complete and accurate information and data from Customer’s officers, agents and employees (“**Cooperation**”) is essential to the performance and provision of the Services, and Customer agrees that RideAlong will not be liable for any deficiency in performing or providing the Services if such deficiency results from Customer’s failure to provide such Cooperation.
- 3.4 Reporting and Tracking.** During the term of the Agreement, RideAlong will automatically track, through the Services, the following information: (a) client-side analytics; (b) application performance; (c) specific information regarding errors and bugs; (d) logs; and (e) impact metrics. Customer may opt-out of such automatic tracking by providing RideAlong with written notice within fourteen (14) days of the Effective Date, in which event Customer agrees to provide RideAlong with written reports every week, which reports will disclose the information specified here in Section 3.4.

- 3.5 Feedback.** By submitting any comments, suggestions, feedback, or ideas about the Services to RideAlong, including without limitation about how to improve the RideAlong's products or services ("**Feedback**"), Customer agrees that Customer's disclosure is gratuitous, unsolicited and without restriction and will not place RideAlong under any fiduciary or other obligation, and that RideAlong is free to use the Feedback without any additional compensation to Customer, and/or to disclose the Feedback on a non-confidential basis or otherwise to anyone. Customer further acknowledges that, by acceptance of Customer's submission, RideAlong does not waive any rights to use similar or related ideas previously known to RideAlong, or developed by its employees, or obtained from sources other than Customer.

4. DATA

- 4.1 Data Input.** Customer is responsible for ensuring that all data and other information entered by or on behalf of Customer or otherwise provided to RideAlong or obtained from Customer or its equipment or facilities (whether directly, or through RideAlong's systems) in connection with the Services ("**Customer Data**") is complete and accurate. Customer Data may include non-public data and information relating to identified or identifiable individuals ("**Identifiable Data**"). The Services and all information, analyses, and other output provided by RideAlong are based on the Customer Data as received by RideAlong, and RideAlong is not responsible for any error, omission, or inaccuracy of or based on or resulting from Customer Data. Customer hereby grants to RideAlong, (a) a non-exclusive right to access, reproduce, process and otherwise use the Customer Data in connection with the provision of Services hereunder for the term of this Agreement, and (b) a non-exclusive and perpetual right to reproduce, process, distribute, disclose, publish, analyze and otherwise use Customer Data in an anonymized form, including any data or other information generated through the processing of Customer Data in connection with the Customer's use of the Services and Materials ("**Data Output**"), as long as Customer is not identified as the source of such data.
- 4.2 Ownership.** As between the parties, Customer exclusively owns all right, title, and interest in and to the Customer Data and Data Output. Notwithstanding anything in this Agreement or any Statement of Work to the contrary, RideAlong exclusively owns all right, title, and interest in and to any new features, conclusions, derivative works, and any other proprietary findings developed by RideAlong through its use of the Customer Data and Output Data, including any intellectual property rights therein.
- 4.3 Subcontracting.** The authorizations granted to, and restrictions imposed on, RideAlong under this Agreement, including under this Section 4, will extend to service providers and other contractors exercising such rights and licenses on RideAlong's behalf. RideAlong may share Data, including Identifiable Data with such third parties who provide services on RideAlong's behalf under this Agreement. RideAlong shall ensure that its service providers and other contractors provided access to Identifiable Data shall be subject to all terms and conditions of this Agreement with respect to Identifiable Data. Otherwise, except as provided herein, RideAlong may disclose Identifiable Data only as RideAlong reasonably believes to be necessary or appropriate: (a) to comply with applicable legal requirements, including legal process and law enforcement requests; (b) to protect RideAlong's rights, property, and operations, including to enforce RideAlong's agreements, policies, and terms and conditions, and to protect the rights, property, and operations of RideAlong's affiliates, business partners, customers, or others; (c) to protect the personal safety of any individual; and/or (d) in the event of a sale or transfer of all or a part of RideAlong's business, assets, or stock. RideAlong shall give the Customer reasonable notice prior to disclosure of Identifiable Data.
- 4.4 Data Authorizations.** Customer represents and warrants to RideAlong that Customer has obtained all rights, licenses and consents required to grant RideAlong the rights and licenses set forth in this Agreement.
- 4.5 Data Security.** Each party will maintain, throughout the term of the Agreement, appropriate administrative, technical, and physical safeguards designed to ensure the security and confidentiality of Identifiable Data, to protect and safeguard against anticipated threats or hazards to the integrity of, and the unauthorized or accidental destruction, loss, alteration, access, or use of, Identifiable Data in the possession or control of such party. Each party shall notify the other party in the event of any unauthorized or accidental destruction, loss, alteration, access, or use of, Identifiable Data in the possession or control of such party. In the event of unauthorized access of Identifiable Data, RideAlong will immediately notify the

Customer's contract representative and will at its sole expense comply with all requirements of RCW 19.255.010, in effect at any given time.

5. WARRANTIES

- 5.1 Mutual Representations and Warranties.** Each party represents and warrants to the other party that (i) it has full power and authority to enter into and consummate this Agreement and upon execution will be legally bound by the terms and conditions hereof, and (ii) the execution, delivery and performance of this Agreement does not and will not contravene or constitute a default under, and is not and will not be inconsistent with, any judgment decree or order, or any contract, agreement or other undertaking, applicable to such party.
- 5.2 Services Warranty.** RideAlong represents and warrants that it will perform the Services in a professional and workmanlike manner, substantially in accordance with the material requirements set forth in this Agreement and any applicable Statement of Work. The sole and exclusive liability of RideAlong, and Customer's sole and exclusive remedy, for any failure of the Services to conform to the foregoing warranty, is for RideAlong to do one of the following (at RideAlong's sole discretion): (a) re-perform the affected Services in a manner that conforms to the foregoing warranty, or (b) terminate the non-conforming Services and refund to Customer a pro-rata portion of the Fees paid by Customer for such non-conforming Services.
- 5.3 Exclusions.** RideAlong's warranties under Section 5.2 do not apply to any act, omission, event, or circumstance, and RideAlong shall have no obligations or liabilities under the limited warranties set forth in Section 5.2 or with respect to any inability or failure (in whole or in part) to perform the Services in accordance with this Agreement, resulting (in whole or in part) from or with respect to any of the following (collectively, "**Exclusionary Events**"): (a) any use of the Services other than the unaltered version of the Services as and in the form provided by RideAlong hereunder; (b) any use of the Services other than in accordance with this Agreement and applicable user manuals issued by RideAlong; (c) any failure by Customer to promptly implement any update, upgrade, error correction, or any other option, bug-fix, or release, if any, made available by RideAlong to Customer without the payment of any additional fees by Customer, (d) any data and other information entered by or on behalf of Customer or otherwise provided to RideAlong or obtained from Customer or its equipment or facilities in connection with the Services, including any error, omission, or inaccuracy of or based on or resulting from Customer Data, (e) any failure by Customer to comply with any term or condition of this Agreement or any applicable law or regulation, and (f) any act, omission, event, or circumstance for which Customer responsible pursuant to this Agreement, including with respect to Customer Infrastructure.
- 5.4 Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTIONS 5.1 AND 5.2, THE SERVICES, AND MATERIALS ARE PROVIDED "AS IS" WITH NO WARRANTIES OF ANY KIND. TO THE FULLEST EXTENT PERMITTED BY LAW, RIDEALONG DISCLAIMS ALL REPRESENTATIONS AND OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, TITLE AND NONINFRINGEMENT, OR QUIET ENJOYMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE OR TRADE USAGE. WITHOUT LIMITATION OF THE GENERALITY OF THE FOREGOING, RIDEALONG DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR FREE OR SECURE, OR THAT ALL ERRORS, FAILURES OR DEFECTS WILL BE CORRECTED.

6. INDEMNIFICATION

- 6.1 RideAlong Intellectual Property Indemnification.** RideAlong will defend Customer against any claim, demand, suit or proceeding ("**Claim**") brought against Customer by a third party alleging that Services, Materials infringes or misappropriates a third party's copyright or trade secret rights in the United States, and RideAlong will pay all damages finally awarded against Customer by a court of competent jurisdiction as a result of such Claim, subject to the other terms and conditions of this Agreement. Notwithstanding the foregoing, RideAlong has no obligation to indemnify Customer with respect to use of the Services, or

Materials in a manner that is not permitted under the Agreement or that is inconsistent with any document provided by RideAlong to Customer.

- 6.2 Customer Indemnification.** Customer will defend RideAlong against any Claim brought against RideAlong by a third party relating to or arising out of Customer's access and use of the Services or Materials, and Customer will pay all damages finally awarded against RideAlong by a court of competent jurisdiction as a result of such Claim, subject to the other terms and conditions of this Agreement.
- 6.3 Indemnification Process.** A party's indemnity obligations set forth in this Section 6 are conditioned upon the indemnified party (a) providing prompt written notice to indemnifying party of any Claim for which indemnification is required; (b) giving the indemnifying party sole control of the defense and/or settlement of the Claim; and (c) providing the indemnifying party full cooperation and assistance with respect to the defense and settlement, provided that the indemnifying party shall not enter into any settlement or other compromise that materially adversely affects the indemnified party without indemnified party's written approval, which shall not be unreasonably withheld, delayed, or conditioned.

7. TERM AND TERMINATION

- 7.1 Term.** This Agreement will remain in effect for the period specified in Exhibit A.
- 7.2 Termination For Convenience.** Either party may terminate this Agreement at any time upon ninety (90) days written notice to the other party.
- 7.3 Termination Upon Breach.** Either party may terminate this Agreement at any time upon thirty (30) days written notice to the other party in the event of a material breach by such other party (the "**Breaching Party**") of this Agreement, provided that such termination shall not be effective if such breach is cured by such Breaching Party within such thirty (30) day period, provided further, that if the Breaching Party's failure to cure is caused by the non-breaching party, the non-breaching party may not terminate this Agreement. Notwithstanding the foregoing, in the event of a material breach of this Agreement, the non-breaching party shall have the right, in addition to all other rights and remedies it may have, to suspend performance of its obligations under the Agreement. For clarity, any error or malfunction that renders the Platform unusable, inoperative or causes a complete failure of the Platform shall be deemed a "material breach" permitted Customer to terminate the agreement in accordance with the above, unless such breach is cured by RideAlong in accordance with the above, provided RideAlong's failure to cure is not caused by Customer.
- 7.4 Other Termination.** Either party may terminate this Agreement, or modify, limit, or suspend the Services, if it determines, in its reasonable business judgment, that the continued provision of the Services poses security risks, a risk of infringement or other violation of any rights of third parties; or a risk of violating any applicable laws or regulations, or if either party becomes insolvent, subject to any bankruptcy or similar proceedings, or commences the dissolution or winding up of its business, or upon modification or termination of any agreements with licensors or service providers upon which either party relies to provide or receive the Services.
- 7.5 Termination by Failure to Cure Errors.** Customer may terminate this Agreement upon written notice to RideAlong in the event of RideAlong's failure to correct or repair an error or malfunction that renders that substantially degrades the performance of the Platform or materially restricts Customer's or the Permitted Agencies' use of the Platform within sixty (60) days after Customer, as applicable, has notified RideAlong in writing of such error or malfunction.
- 7.6 Effect of Termination.** In the event of any expiration or termination of this Agreement all rights, licenses, and obligations under this Agreement shall immediately terminate. The following Sections shall, to the extent applicable, survive any expiration or termination of the Agreement: 1.9, 2.3.5, 4.1, 5.4, 7.5, 7.5, 8, 9 and 10. No expiration or termination of the Agreement shall affect any right or liability of a party accrued before the effective date of such expiration or termination. All payments outstanding at the time of termination shall become immediately due and payable, unless otherwise provided herein.
- 7.7 Data on Termination.** Upon termination or expiration of this Agreement, RideAlong shall without undue delay (a) provide to the Customer a copy of all Data provided to RideAlong or obtained from Customer or

its equipment or facilities in connection with the Services. Such Data shall be provided at no cost to Customer, in a sql data set, and (b) return to Customer, or at the option of Customer, destroy all tangible items and embodiments of Identifiable Data and all copies thereof and provide written certification of such destruction or return by a RideAlong representative.

8. CONFIDENTIAL INFORMATION

- 8.1 Definition.** “**Confidential Information**” means (a) all information, data, or materials that a party (“**Discloser**”) has disclosed or otherwise made available to the other Party or any of its affiliates or representatives (“**Recipient**”), or which the Recipient has observed or otherwise obtained from Discloser, whether made available orally, in writing or in electronic form, provided that such information, data, or materials (i) is clearly marked as “proprietary” or “confidential” at the time of disclosure, or (ii) if disclosed in a form not susceptible to marking, is described and designated as “proprietary” or “confidential” in a writing provided to the Recipient within thirty (30) days of such disclosure, or (iii) should reasonably be deemed confidential under the circumstances, and (b) any copies, extracts, portions, and derivatives of any of the foregoing. For clarity, the “Confidential Information” of RideAlong includes, the Services and Materials -(including the object code thereof, the source code thereof, and any technical data, know-how, trade secrets, processes, techniques, specifications, methods, algorithms, interfaces, solutions, structures, and other information embodied in any of the foregoing).
- 8.2 Use and Disclosure Restrictions.** The Recipient agrees: (a) to maintain the Confidential Information of the Discloser in strict confidence; (b) not to disclose such Confidential Information to any third parties; and (c) not to use any such Confidential Information for any purpose other than to exercise its rights or perform its obligations under this Agreement. Recipient will treat Confidential Information of the Discloser with the same degree of care as it accords to its own Confidential Information, but in no event with less than reasonable care. Recipient may disclose the Confidential Information of Discloser to its directors, officers, and employees and the Permitted Agencies (collectively, “**Representatives**”), who have a bona fide need to know such Confidential Information, provided that each such Representative is bound by a legal obligation as protective of the other party’s Confidential Information as those set forth herein. Recipient’s obligations under this Section 8.2 will continue in effect for a period of three (3) years from the date of last disclosure of Confidential Information by Discloser.
- 8.3 Exclusions.** The obligations of Recipient under Section 8.2 will not apply to any Confidential Information that: (a) is now or thereafter becomes generally known or available to the public, through no act or omission on the part of Recipient (or any of its Representatives, affiliates, or agents) or any third party subject to any use or disclosure restrictions with respect to such Confidential Information; (b) was known by or lawfully in the possession of Recipient, prior to receiving such information from Discloser, without restriction as to use or disclosure; (c) is rightfully acquired by Recipient from a third party who has the right to disclose it and who provides it without restriction as to use or disclosure; or (d) is independently developed by Recipient without access, use or reference to any Confidential Information of Discloser.
- 8.4 Required Disclosures.** The provisions of this Section 8 will not restrict Recipient from disclosing Discloser’s Confidential Information to the extent required by any law or regulation or compelled by a court or administrative agency of competent jurisdiction, provided that, to the extent permissible under law, Recipient uses reasonable efforts to give Discloser advance notice of such required disclosure in order to enable Discloser to prevent or limit disclosure.
- 8.5 Return or Destruction of Confidential Information.** Upon termination of the Agreement, Recipient will promptly return to Discloser or, at Discloser’s option, destroy all tangible items and embodiments containing or consisting of Discloser’s Confidential Information and all copies thereof and provide written certification of such destruction or return by an authorized person.
- 8.6 Injunctive Relief.** Recipient agrees that, due to the unique nature of the Confidential Information, the unauthorized disclosure or use of the Confidential Information will cause irreparable harm and significant injury to Discloser, the extent of which will be difficult to ascertain and for which there will be no adequate remedy at law. Accordingly, Recipient agrees that Discloser, in addition to any other available remedies, will have the right to an immediate injunction and other equitable relief enjoining any breach or threatened breach of this Section 8, without the necessity of posting any bond or other security. Recipient will notify

Discloser in writing immediately upon Recipient's becoming aware of any such breach or threatened breach.

9. LIMITATION OF LIABILITY

- 9.1 TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY OR LIMITATION OF LIABILITY, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING ANY DAMAGES ARISING FROM LOSS OF USE, LOSS OF OR INACCESSIBLE DATA OR INFORMATION, LOST PROFITS, BUSINESS INTERRUPTION, OR COSTS OF PROCURING SUBSTITUTE SOFTWARE OR SERVICES) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SUBJECT MATTER HEREOF, REGARDLESS OF WHETHER SUCH LIABILITY ARISES FROM CONTRACT, INDEMNIFICATION, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND REGARDLESS OF WHETHER RIDEALONG HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.
- 9.2 RIDEALONG'S TOTAL CUMULATIVE INDEMNIFICATION OBLIGATION FOR THIRD PARTY CLAIMS ARISING OUT OF ANY UNAUTHORIZED OR ACCIDENTAL ACCESS OR USE OF ANY OF CUSTOMER'S IDENTIFIABLE DATA CAUSED BY RIDEALONG'S NEGLIGENCE WILL NOT EXCEED \$200,000.00.
- 9.3 CUSTOMER'S TOTAL CUMULATIVE INDEMNIFICATION OBLIGATION FOR THIRD PARTY CLAIMS ARISING OUT OF CUSTOMER'S ACCESS AND USE OF THE SERVICES AND MATERIALS CAUSED BY CUSTOMER'S NEGLIGENCE WILL NOT EXCEED \$200,000.00.
- 9.4 EXCEPT FOR THIRD PARTY CLAIMS ARISING UNDER SECTIONS 9.2 AND 9.3, EACH PARTY'S TOTAL CUMULATIVE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SUBJECT MATTER HEREOF WILL NOT EXCEED \$75,000.00, REGARDLESS OF WHETHER SUCH LIABILITY ARISES FROM CONTRACT, INDEMNIFICATION, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND REGARDLESS OF WHETHER RIDEALONG HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.
- 9.5 **Disclaimer of Damages.** NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY OR LIMITATION OF LIABILITY, RIDEALONG DISCLAIMS ALL LIABILITY RELATED TO OR ARISING OUT OF CUSTOMER'S USE OR CUSTOMER'S MISUSE OF THE SERVICES OR MATERIALS OR CUSTOMER'S FAILURE TO REPORT ANY ERRORS OR BUGS IN THE SERVICE, OR MATERIAL TO RIDEALONG, INCLUDING, BUT NOT LIMITED TO, ANY DEATH, PERSONAL INJURY OR PROPERTY DAMAGE ARISING OUT OF OR RELATED THERETO.

10. GENERAL

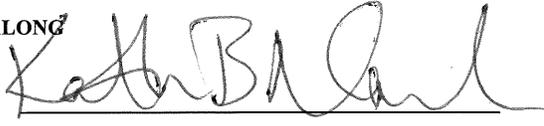
- 10.1 **Force Majeure.** Except with respect to Customer's obligation to make timely payments, neither party will be responsible for any delay or failure in performance to the extent that such delay or failure is caused by fires, strikes, embargoes, explosion, earthquakes, floods, wars, labor disputes, government requirements, civil or military authorities, acts of God or by the public enemy, inability to secure raw materials or transportation facilities, acts or omissions of carriers or suppliers, or other causes beyond its reasonable control.
- 10.2 **Severability.** In the event that any provision of the Agreement (or any portion hereof) is determined by a court of competent jurisdiction to be illegal, invalid or otherwise unenforceable, such provision (or part thereof) shall be enforced to the extent possible consistent with the stated intention of the parties, or, if incapable of such enforcement, shall be deemed to be deleted from the Agreement, while the remainder of the Agreement shall continue in full force and remain in effect according to its stated terms and conditions.

- 10.3 Assignment.** Neither party may assign this Agreement or any of its rights or obligations under this Agreement, by operation of law or otherwise, without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed. This Agreement will bind each party and its successors and assigns in any manner in accordance with applicable law (such as in accordance with 48 C.F.R. § 42.12 or the Assignment of Claims Act (31 U.S.C. § 3727)).
- 10.4 Government End User Rights.** Customer acknowledges and agrees that no part of the Services, or Materials or Additional Services was first produced in the performance of a U.S. Government or Washington Governmental Authority contract. Customer further acknowledges and agrees that the Services, Materials and Additional Services are a “commercial item” as defined in 48 C.F.R. § 2.101 and any corresponding Washington Governmental Authority statutes and/or regulations (the “**State Legal Requirements**”). Accordingly, if Customer is a U.S. Government agency, department or instrumentality or Washington Governmental Authority or if Customer is providing all or any part of the Services, Materials or Additional Services to the U.S. Government (or any agency, department or instrumentality of the U.S. Government) or Washington Governmental Authority, such use, duplication, reproduction, release, modification, disclosure or transfer of this commercial product and data, is restricted in accordance with 48 C.F.R. § 12.211, 48 C.F.R. § 12.212, 48 C.F.R. § 227.7102-2, and 48 C.F.R. § 227.7202, or comparable State Legal Requirements, as applicable. Consistent with 48 C.F.R. § 12.211, 48 C.F.R. § 12.212, 48 C.F.R. § 227.7102-1 through 48 C.F.R. § 227.7102-3, and 48 C.F.R. §§ 227.7202-1 through 227.7202-4, or comparable State Legal Requirements, as applicable, and the Services, Materials and Additional Services are made available to U.S. Government or State Governmental Authority, as applicable, end users (a) only as a Commercial Item, and (b) with only those rights as are granted to all other users pursuant to this Agreement and any related agreement(s), as applicable.
- 10.5 Disputes.** If Customer is not the U.S. Government (or any agency, department or instrumentality of the U.S. Government), then this Agreement is to be construed in accordance with and governed by the internal laws of the State of Washington without giving effect to any choice of law rule that would cause the application of the laws of any jurisdiction other than the internal laws of the State of California to the rights and duties of the parties. Any legal suit, action or proceeding arising out of or relating to this Agreement will be commenced in Kitsap County, Washington and each party hereto irrevocably submits to the exclusive jurisdiction and venue of any such court in any such suit, action or proceeding.
- 10.6 No Waiver.** No course of dealing, course of performance or failure of either party strictly to enforce any term, right or condition of this Agreement will be construed as a waiver of any other term, right or condition. No waiver or breach of any provision of this Agreement will be construed to be a waiver of any subsequent breach of the same or any other provision.
- 10.7 Relationship of the Parties.** This Agreement will not be construed as creating an agency, partnership, joint venture or any other form of association, for tax purposes or otherwise, between the parties, and the parties will at all times be and remain independent contractors. Except as expressly agreed by the parties in writing, neither party will have any right or authority, express or implied, to assume or create any obligation of any kind, or to make any representation or warranty, on behalf of the other party or to bind the other party in any respect whatsoever.
- 10.8 Publicity.** Customer agrees and acknowledges that RideAlong may identify Customer as a customer of the Services in RideAlong’s customer lists, on RideAlong’s website and in its marketing, promotional, and similar materials by Kitsap County Sheriff’s Office name. RideAlong may not, without the prior written consent of Customer, use the Kitsap County Sheriff’s Office logo, or describe Customer’s use of RideAlong’s products, software, and services, how it benefits Customer, for example in the form of case studies published on RideAlong’s website or in other materials, and that Customer is an early adopter of the Services.
- 10.9 Notices.** All notices required hereunder will be in writing, will reference this Agreement and will be deemed to be properly given: (a) when delivered personally; (b) five (5) business days after having been sent by registered or certified mail, return receipt requested, postage prepaid; (c) two (2) business days after deposit with an express courier, with written confirmation of receipt; or (d) when sent by email, with electronic confirmation of receipt. All notices will be sent to the address specified on the signature page of this Agreement (or to such other address as may be designated by a party by giving written notice to the other party pursuant to this Section 10.8).

- 10.10 Complete Agreement and Conflicts.** This Agreement, any exhibits and schedules attached to it, and any other terms and conditions incorporated by reference herein, contain the entire understanding of the parties with respect to the subject matter hereof, and supersede any and all related prior understandings, agreements, representations, negotiations and discussions, whether oral or written. This Agreement cannot be modified or amended except in a writing signed by both parties. Notwithstanding anything herein to the contrary, any conflicts or disputes between the terms of this Agreement and each Statement of Work shall be resolved in favor of the Agreement, unless explicitly stated otherwise in the Statement of Work.

[Signatures on Following Page]

RIDEALONG

By: 

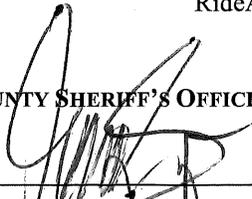
Name: Katherine Nammacher _____

Title: CEO & Co-Founder _____

Address for Formal Notice:

RideAlong Labs Inc.
155 9th Street
San Francisco, CA 94103
Attn: Katherine B. Nammacher, CEO & Co-Founder

KITSAP COUNTY SHERIFF'S OFFICE

By: 

Name: Gary Simpson

Title: Kitsap County Sheriff

Address for Formal Notice:

Kitsap County Sheriff's Office
614 Division St # Ms-37
Port Orchard, WA 98366
Attn: Gary Simpson, Sheriff

EXHIBIT A

CONTRACT SUPPLEMENT

1. **Term.** This Agreement will commence on the Effective Date and, unless earlier terminated pursuant to the terms hereof, will continue for a period of three (3) years. The parties agree to meet at least ninety (90) days, but no more than one hundred and twenty (120) days, prior to the expiration of the term of this Agreement to discuss, in good faith, renewal terms.
2. **Fees.** The total amount due under this Agreement shall not exceed a total of \$150,000. Customer will pay to RideAlong (i) upon signing of this Agreement, a fee of Seventy Five Thousand Dollars (\$75,000.00), which fee shall be non-refundable and non-recoupable; (ii) upon launch of the Platform at the end of Phase One, as further described in Exhibit B, a fee of Twenty Five Thousand Dollars (\$25,000.00), which fee shall be non-refundable and non-recoupable; and (iii) upon the commencement of Phase Two, as further described in Exhibit B, the final fee of Fifty Thousand Dollars (\$50,000.00), which fee shall be non-refundable and non-recoupable, will be due within thirty days of receipt of the final invoice from RideAlong.
3. **Maximum Concurrent Users.** Unlimited.

EXHIBIT B

STATEMENT OF WORK

1. OVERVIEW

This Statement of Work is entered into under that certain RideAlong Services Agreement, by and between RideAlong Labs Inc. and Kitsap County Sheriff's Office (the "**Agreement**"). Any term not defined in this Statement of Work shall have the meaning set forth in the Agreement.

RideAlong will work with Customer and the Permitted Agencies to deploy RideAlong's proprietary behavioral health and substance abuse-related software platform to Customer and the Permitted Agencies. Designated content managers from Kitsap County ("**Agency Content Managers**") will administer the tailored content within the application. The Kitsap County Information Services Department ("**Kitsap IS**") will work with RideAlong and Agency Content Managers to deploy the application.

Within this Statement of Work, RideAlong will work with Customer to: customize and launch the current application (Phase One), build out additional features for the application including any additional enhancements for the Permitted Agencies (Phase Two), and maintain the application (Phase Three). This Statement of Work encompasses Phases One, Two, and Three of this process. These three stages (Phases One, Phase Two, and Phase Three) constitute the full package of work.

1.1 Contract and Legal Relationship between RideAlong and Permitted Agencies

Customer will work with RideAlong to launch the application to the Permitted Agencies. This Statement of Work will cover Phase One, Phase Two, and Phase Three. 12 months after signing the Agreement, Customer and the Permitted Agencies will transition into Phase Three, a maintenance relationship with RideAlong for the remainder of the contract.

2. TECHNICAL REQUIREMENTS

2.1 Environment, infrastructure and interfaces/exchanges

The RideAlong team and Kitsap IS employees will identify the necessary connections and/or data to ensure ongoing access throughout Version 0.0.09 and Version 1. Connections for the application also include tools to: provide client-side analytics (i.e. bounce rate, etc.), monitor application performance (i.e. slow page loads, etc.), monitor errors (i.e. identifying specific information about bugs automatically, etc.), and manage logs (i.e. compliance with log requirements, etc.).

3. SUPPORT AND MAINTENANCE

3.1 Bug Priority Definitions, Process, and Expectations

The RideAlong team will provide varied level of supports depending on the severity of the issue.

Bug reports will be captured through a combination of the application itself (through error monitoring and an internal messaging system, as well as the Customer and Permitted Agencies reporting bugs on an ongoing basis to RideAlong. Within the RideAlong app, the internal messaging system will allow officers (in both the Customer agency and the Permitted Agencies) to submit content, usability, and technical bug reports directly through the application to Agency Content Managers and RideAlong. The internal messaging system has been chosen because it is more secure than email and other forms of communication. Most bug reports coming through the internal messaging system are expected to be major or minor priority level (as defined below). For any critical or blocker bug reports submitted through the messaging system, RideAlong will alert Kitsap IS and Agency Content Managers about the report.

Below is the support and maintenance plan for feedback and bugs reported coming directly to Kitsap IS about RideAlong during Phases One, Two, and Three. This support plan lays out the expected process for Kitsap IS, Agency Content Managers, and RideAlong to address and fix technical bugs.

| Bug Priority Level | Definition | Example |
|--------------------|---|--|
| Blocker | The application is down, or no one can log in, etc. Includes data corruption and major security risks. This must be actively interfering with regular usage of the app. | Users are unable to log into the application. |
| Critical | Something is broken and impacting people's ability to use major features of the application. There is no easy workaround or no workaround at all. Includes minor security risks. Key data about individuals included in the application is not appearing correctly. | An error occurs on the first login attempt; Agency Content Managers is unable to assign an order to the strategies in the Response Plan. |
| Major | A highly irritating bug or looks bad, but there is a workaround. | Date validation does not work if you do not include the leading zeros. |
| Minor | A cosmetic bug, or otherwise not impacting key application's functionality. | Icons are not centered with the header title. |

| Bug Priority Level | Kitsap Process | RideAlong Availability to Notice | RideAlong Time to Plan or Fix Response | Notes |
|--------------------|--|---|---|--|
| Blocker | RideAlong, the Agency Content Managers, and Kitsap IS jointly confirm that the bug is a blocker bug. Kitsap IS confirms that bug is not generated from their systems, Customer and/or Permitted Agencies emails and (if needed) texts RideAlong. | The Customer and/or Permitted Agencies can contact RideAlong as needed 24/7. RideAlong will reply as soon as the team gets that message (within 6-10 hours). Once notified, RideAlong will work with the Customer, Kitsap IS and the Agency Content Managers in communication about possible resolutions. | Once aware of the issue, RideAlong will follow-up 6 – 72 hours after initial response with next steps (creating plan, fixing code, launching new code, etc.) based on the issue's complexity. | If a Blocker Bug arises caused by the Customer's and/or Permitted Agencies' systems, the Kitsap IS will inform RideAlong of the event via email within 24 hours. |
| Critical | RideAlong, the Agency Content Managers, and Kitsap IS jointly confirm that the bug is a critical bug. The Customer and/or Permitted Agencies confirm that bug is not generated from their systems. Kitsap IS and/or Agency Content Managers emails and (if needed) texts or calls RideAlong. | RideAlong team is available via email 24/7 (first option) or phone Monday through Friday 9 am – 6 pm, and will confirm receipt of Critical bugs within 1 business day. Once notified, RideAlong will work with the Customer, Kitsap IS | With Critical bugs, RideAlong will make a good faith effort to fix this by the next normally-scheduled code release. | On a per-case basis, RideAlong, Kitsap IS, and Agency Content Managers will jointly determine if a Critical bug should be (and can be) released sooner. |

| | | | | |
|--------------|---|--|---|--|
| | | and the Agency Content Managers about possible resolutions. | | |
| Major | RideAlong, Agency Content Managers, and Kitsap IS jointly confirm that the bug is a major bug. The Customer and/or Permitted Agencies confirm that bug is not generated from their systems. The Customer and/or Permitted Agencies email RideAlong. | RideAlong team is available via email and will confirm receipt within 1 business day. Once notified, RideAlong will work with the Customer, Kitsap IS and the Agency Content Managers about possible resolutions. | These will be prioritized by RideAlong within feature releases and planned work by RideAlong as part of the bi-monthly code release schedule. | |
| Minor | RideAlong, Agency Content Managers, and Kitsap IS jointly confirm that the bug is a minor bug. The Customer and/or Permitted Agencies confirm that the bug is not generated from their systems. The Customer and/or Permitted Agencies email RideAlong. | RideAlong team is available via email 24/7 and will confirm receipt within 1 business day. Once notified, RideAlong will work with the Customer, Kitsap IS and the Agency Content Managers about possible resolutions. | These will be prioritized by RideAlong within feature releases and planned work by RideAlong as part of the bi-monthly code release schedule. | |

RideAlong will share a monthly report of work for Phase One and Two that includes all fixed bugs, high priority or high impact bug reports filed, and features worked on (research, development, and release) during the regularly-schedule check in meetings with Kitsap IS and the Agency Content Managers.

Initial Launch Week (in Phase One)

During Phase 1, RideAlong will be available 8 am – 10 pm PT over the phone and by email during the first week after launch. After the first week, the immediate response will depend on the severity of the bug and its effects on the application in use.

Phase One, Phase Two & Phase Three (After First Two Weeks Post-Launch)

Below are two tables that lay out the definition of the bug priority level, as well as the process between Kitsap IS, the Agency Content Managers, and RideAlong depending on the bug.

4. PHASE ONE (ESTIMATED TO BE 120 DAYS)

4.1 Version 1 (Cloud); Initial deployment of RideAlong Application

The work will be roughly divided into the following categories, some of which will overlap.

Phase One is focused on adapting the tool to meet Customer’s and Permitted Agencies’ needs and launching the application for all law enforcement officers of Customer and Permitted Agencies. This includes: Kitsap IS reviewing the application and ensuring it meets all Customer requirements and RideAlong making code adjustments to fulfill changes requested and mutually agreed upon; Kitsap IS providing the RideAlong application’s servers access to core databases essential for its use (this includes databases that store RMS information); RideAlong and Kitsap IS jointly establishing a process for reviewing and deploying any bug fixes for the immediate post-launch period; releasing training on the application to law enforcement officers (Agency Content Managers); and fixing any technical (Kitsap

IS and RideAlong) and content (Agency Content Managers and RideAlong) bugs during a 2-4 week process post-launch.

RideAlong will continue to collect, categorize, prioritize, and fix key bugs and features as reported by users. For the first two weeks, RideAlong will send out a report twice a week to key stakeholders (exact people TBD), then switch to report outs during the regularly-schedule check in meetings with Kitsap IS and the Agency Content Managers. RideAlong, Kitsap IS, and Agency Content Managers will develop a process to receive, prioritize, and fix bug reports. RideAlong will be responsible for application bug fixes, Agency Content Managers for content issues within profiles, and Kitsap IS for connection into databases and systems and networking.

During the first week after launch, the RideAlong team will be available from 8 am to 10 pm PT every business day that week. The following week, the team will be available from 9 am – 6 pm PT to be contacted about all regular bug reports and questions. If there is an issue that is defined as “blocker” (see Support and Maintenance section for definition), then Customer, Kitsap IS, and/or Agency Content Managers can call RideAlong as needed (outside of normal hours and on the weekends) to establish a plan to resolve the “blocker” bug. Further information about support and maintenance is outlined above.

- A. **Onboarding (2 weeks, remote).** The RideAlong team will work with the Customer to prepare for the partnership. This will include meeting with key stakeholders among city and county staffs (and Permitted Agencies’ leadership as needed), setting up meetings, aligning community resources, ensuring access to relevant data, and setting up logistics like access to buildings during the research phase. Preparation may include some baseline research and evaluation.
- B. **Research (6 weeks).** The RideAlong team will conduct interviews and research with government staff, law enforcement officers, residents, and community groups to inform and drive development of technology tools and approaches. The key focuses will be generative research to scope of the project for Phases One and Two, and identify specific features required for the Phase One launch.
- C. **Systems Integration (8 weeks).** On the Kitsap IS side, RideAlong will coordinate with the Kitsap IS to secure access to data and tools.
- D. **Review agency launch requirements (8 weeks):** RideAlong will work with Kitsap IS to ensure that all technical, security, and compliance requirements for the application are met.
- E. **Kitsap County-Specific Feature Development (10 weeks).** RideAlong will identify the key features to adapt the tool to meet the Customer’s and Permitted Agencies’ needs based on research. The team will prototype solutions and test them remotely with law enforcement officers.
 - a. RideAlong will return to Kitsap County as required to conduct user testing and gain feedback to ensure features meet officer expectations and needs.
 - b. The Customer and Permitted Agencies will make 10 officers available for an hour of one-on-one testing per person. These officers will need to be a diverse set of officers in terms of: age, gender, shift times, jurisdiction, CIT / non-CIT trained, race, and years as law enforcement officers.
- F. **Preparation for Launch (2 weeks).**
 - a. Testing (Unit, Quality Assurance and User Acceptance Testing with Agency Content Managers)
 - b. Preparation for Deployment
 - i. Establish a deployment pipeline for a triage period
 - ii. Agency Content Managers confirm that all response plans within the app are created and up-to-date
 - c. Ensure officers understand how to use RideAlong through training. The training process will be determined jointly between RideAlong, Kitsap IS, Agency Content Managers, the Customer and

Permitted Agencies.

- G. Deploy to Production (4 weeks).** RideAlong will coordinate with Kitsap IS, the Customer and Permitted Agencies to launch the application to law enforcement officers across the Customer and Permitted Agencies. This will include identifying which individuals should have profiles in the application, and how to make sure there's content in the app for launch.
- a. Add all live links to the CAD system (or a similar equivalent, as jointly determined by RideAlong and Kitsap County)
 - b. Add a link to RideAlong on any relevant internal pages for the Permitted Agencies that link to software tools
 - c. Agency Content Managers will email all users about the application now being ready for use
- H. Triage and Immediate Technical Bug Fixes (2-4 weeks).** RideAlong and Kitsap IS will jointly establish a process for reviewing and deploying any bug fixes for the immediate post-launch period, fixing any technical (Kitsap IS and RideAlong) and content (Agency Content Managers and RideAlong) bugs for immediately post-launch.
- RideAlong Team on-site for 2-4 business days
- o Determined by launch date and availability between Kitsap IS, Agency Content Managers, and RideAlong
 - o Conduct a launch post-mortem on last day of launch week on-site with Agency Content Managers, RideAlong, and Kitsap IS
 - Led by the RideAlong team
 - 2-hour meeting
- I. Stabilization & Documentation**
- a. Plan to address issues during Stabilization
 - b. Communication, documentation, tracking bug fixes, etc.
- J. Internal Promotion of RideAlong.** RideAlong will work with the Customer and Permitted Agencies to promote the application among officers to increase use as well as the overall engagement. (ongoing)

5. PHASE TWO (ESTIMATED 8 MONTHS, DEPENDING ON PHASE I TIMELINE)

5.1 Version 2 (Cloud); RideAlong Enhancements

The second phase is focused on identifying further features that would enhance the application's use for the Permitted Agencies, track impact metrics, and ensuring the app is stable. The feature sets built will be determined by RideAlong based on the needs of Agency Content Managers, the needs of Customer and Permitted Agencies, the technical complexity of proposed features, and availability of RideAlong's team to build these out. To accomplish this, RideAlong and the Agency Content Managers will set up a user testing schedule with Customer and Permitted Agencies for usability testing; Kitsap IS and RideAlong will jointly establish a system for deployment of new features. The impact metrics to track will be: 7-day active users of the application, what percent of relevant calls that the RideAlong app was used on, number of police hours deferred, user satisfaction, resources used by high utilizers pre- and post-plans, and additional key metrics pulled from the data collection template.

RideAlong will deploy new code in 2-4 week batches, alternating focus between bug fixes and new features. The goal is to have new code released to production at least once per month.

- A. Kick-off & Planning** (1 week of planning during two 2-hour meetings)

- a. Planning and Preparing
 - i. Establish a code deployment pipeline for feature launches
- b. Establish a code deployment pipeline for bug fixes of varied severity

B. Continuous, Iterative Feature Development (3 months). RideAlong prioritizes key feature sets to develop (RideAlong, based on requests from Agency Content Managers, user research with law enforcement officers, and Phase One needs). Process is outlined below.

User Research and Testing (Usability)

- RideAlong drafts new feature set
- Conducts user research with law enforcement officers weekly for usability testing (2 officers per week from a combination of Customer and Permitted Agencies, as coordinated with Agency Content Managers)

Feature Development

- Write code for feature
- Deploy code

Feature Deployment

- Technical and Business Testing (Unit, Quality Assurance and User Acceptance Testing)
- Preparation for Deployment
- Deploy to Production
 - Address bugs as needed based on complexity of issue

C. User Research and Testing (“Field Testing”) – 3 months

- Work with Customer and Permitted Agencies regularly (weekly feedback) on features
 - These officers will need to be a diverse set of officers in terms of: age, gender, shift times, jurisdiction, CIT / non-CIT trained, race, and years as law enforcement officers
- Get feedback from them on new feature set over 1-2 weeks (varies on features)

D. Measure Success. RideAlong will track app data to measure the application’s success, and identify areas for further development. This will initially cover the Phase One launch, then include Phase Two.

E. Conclusion for Phase Two: Long-Term Code Stabilization

- Jointly establish a plan to address issues during immediate launch and needs
- Identify key documentation
- Complete all Blocker and Critical Bug Fixes

6. PHASE THREE (2 YEARS, STARTING FROM 12 MONTHS AFTER CONTRACT IS SIGNED)

6.1 Maintenance and Support. RideAlong will provide support for bugs in the application. RideAlong and Kitsap IS will work using the established process for reviewing and deploying any bug fixes and feature enhancements, fixing any technical (Kitsap IS and RideAlong) and content (Agency Content Managers) bugs as they come up.

7. ROLES AND RESPONSIBILITIES

County Stakeholders (Kitsap IS, Customer, Permitted Agencies, Agency Content Managers) and RideAlong

| Categories | (i) Roles |
|--|---|
| Sheriff’s Office Project Sponsor; Kitsap Undersheriff John Gese | <ul style="list-style-type: none"> • Secure project funding • Monitor project progress for individual business areas as well as enterprise-wide work • Provide guidance and strategic direction • Ensure Business and Kitsap IS resources are available |

| Categories | (i) Roles |
|---|---|
| | <ul style="list-style-type: none"> • Resolve escalated issues • Approve on-going operational support • Approve project expenditures • Approve all business deliverables |
| RideAlong, Project Manager; Katherine Nammacher and Meredith Hitchcock | <ul style="list-style-type: none"> • Oversee project progress through all stages • Ensure that the application meets requirement for launch (functionality, security, privacy, etc.) • Conduct user research for new feature sets • Work with Agency Content Managers and Kitsap IS to meet needs around application maintenance and changes • Assess and prioritize features, bug fixes, and technical changes for product throughout all stages • Provide subject matter expertise on designing and building software for law enforcement focused on crisis intervention • Identify new potential feature sets and areas of collaboration between the Customer and RideAlong • Act as primary points of contact for RideAlong |
| Sheriff's Office, Project Manager; Lt. Penelope Sapp, Sgt. Will Sapp, and Lt. Earl Smith | <ul style="list-style-type: none"> • Maintain and develop project documentation • Monitor progress of project, generate status reports, and ensure project deliverables are produced • Coordinate and manage project resources • Identify, record, and escalate project issues • Ensure completion and sign-off of project deliverables • Facilitate risk management, change management, and the approval of project processes • Plan and facilitate meetings for project • Manage project scope and submit change requests |
| Sheriff's Office, Business Subject Matter Expert(s) Lt. Penelope Sapp, Sgt. Will Sapp, and Lt. Earl Smith | <ul style="list-style-type: none"> • Support and develop workflows, business and functional requirements • Ensure the solution is aligned with requirements • Lead/facilitate project communication with end-users and vendors related to business requirements • Participate in resolution of business and technical issues • Provide guidance on business processes to support best practices within RideAlong |
| Kitsap IS Project Manager Peter Milovich | <ul style="list-style-type: none"> • Ensure that application matches requirements and functionality required by Permitted Agencies • Help identify and problem-solve for application issues • Connect RideAlong team with appropriate application resources |
| RideAlong, Technical Lead/Developer Georgia Andrews | <ul style="list-style-type: none"> • Lead development effort • Manage development of technical documentation • Coordinate RideAlong environments and development code movement through environments • Coordinate work with Kitsap IS • Manage Dress Rehearsal for Go-Live • Create Implementation Plan for Go-Live • Execute and lead deployment to Production |

EXHIBIT C
PERMITTED AGENCIES

1. Bremerton Police Department
2. Poulsbo Police Department
3. Bainbridge Island Police Department
4. Suquamish Police Department
5. Port Orchard Police Department
6. Port Gamble S'Kallam Police Department

**AMENDMENT NO. 1
TO
KITSAP COUNTY SHERIFF'S OFFICE - RIDEALONG SERVICES AGREEMENT**

This Amendment No. 1 (“**Amendment**”) is effective as of 17 July, 2018 (“**Amendment Effective Date**”) and amends that certain Kitsap County Sheriff’s Office – RideAlong Services Agreement (the “**Agreement**”), dated as of April 15, 2018, by and between RideAlong Labs Inc. (“**RideAlong**”) and the Kitsap County Sheriff’s Office. Except as expressly set forth herein, all capitalized terms shall have the meaning given to them in the Agreement.

Notwithstanding anything to the contrary contained in the Agreement, and in consideration of the mutual promises and covenants set forth in the Agreement and this Amendment, the receipt and sufficiency of which are hereby acknowledged, and pursuant to Section 10.10 of the Agreement, the parties agree to the terms and conditions set forth in this Amendment:

1. Insurance. The following shall be added as a new Section 3.6 of the Agreement:

“**Insurance**. During the term of the Agreement, RideAlong will obtain and maintain the following minimum insurance coverage:

- (a) General Liability insurance with a limit for each occurrence of One Million Dollars (US\$1,000,000);
- (b) Workers Compensation insurance pursuant to applicable state and local laws exercising jurisdiction over the employee;
- (c) Employer’s Liability insurance with limits of One Million Dollars (US\$1,000,000) per occurrence, One Million Dollars (US\$1,000,000) per employee by disease, and One Million Dollars (US\$1,000,000) aggregate by disease;
- (d) Errors & Omissions/Cyber insurance with a limit of One Million Dollars (US\$1,000,000) in the aggregate; and
- (e) if the use of automobiles is required, Automobile Liability insurance (including insurance for hired and non-owned a) with combined single limits for each occurrence of One Million Dollars (US\$1,000,000).

RideAlong’s purchase of insurance will not in any way amend, extend, alter or increase RideAlong’s liability under the Agreement.”

2. The amendments and modifications set forth in this Amendment are effective from and after the Amendment Effective Date. Except as specifically amended by this Amendment, all provisions of the Agreement will remain unchanged and in full force and effect. To the extent there is any conflict between the terms and conditions of this Amendment and the terms and conditions of the Agreement, the terms and conditions of this Amendment will control.

[Signatures on Following Page]

RIDEALONG

KITSAP COUNTY SHERIFF'S OFFICE

By: 

By: _____

Name: Katherine B. Nammacher _____

Name: Gary Simpson

Title: CEO & Co-Founder _____

Title: Kitsap County Sheriff

RIDEALONG APP USE AGREEMENT

This RideAlong App Use Agreement (“**Agreement**”) is entered into and effective as of the later of the signature dates below (“**Effective Date**”) by and between RideAlong Labs Inc. (“**RideAlong**”) and the City of Bainbridge Island (“**Agency**”) concerning Agency’s access and use of the proprietary behavioral health and substance abuse-related software platform that RideAlong may provide to Agency (the “**Service**”).

- 1.1 Restrictions on Use.** Agency may access and use the Service only in accordance with this Agreement, and solely for the purpose of Agency’s own non-commercial law enforcement and first responder purposes. Any resale or service bureau business or similar activities with respect to the Service (or portion thereof) or other RideAlong data or information obtained through the Service are prohibited. Agency will not, and will not permit or assist any third party to, (a) alter, adapt, modify, translate, create derivative works of, (b) decompile, disassemble or otherwise reverse engineer or attempt to derive the source code of, or any technical data, know-how, trade secrets, processes, techniques, specifications, protocols, methods, algorithms, interfaces, ideas, solutions, structures or other information embedded or used in, (c) rent, lend, loan, lease, sell, distribute, or sublicense, (d) remove, alter, or obscure any proprietary or restrictive notices affixed to or contained in, or (e) circumvent or attempt to circumvent any technological protective measure contained in or supported by, the Service and any software, technology, systems, and other subject matter provided by RideAlong in connection with the Service. Agency shall not: (a) post, transmit or otherwise make available through or in connection with the Service any virus, worm, Trojan horse, Easter egg, time bomb, spyware or other computer code, file or program that is or is potentially harmful or invasive or intended to damage or hijack the operation of, or to monitor the use of, any hardware, software or equipment; (b) use the Service for any purpose or in any manner that violates applicable laws and regulations, is fraudulent, or violates the rights of others; (c) interfere with or disrupt the operation of the Service or the servers, systems, or networks used to make the Service available, including by hacking or defacing any portion of the Service; (d) restrict or inhibit any other person from using the Service; (e) frame or mirror any portion of the Services, or otherwise incorporate any portion of the Service into any product or service; or (h) use any robot, spider, site search/retrieval application or other manual or automatic device to retrieve, index, “scrape,” “data mine” or otherwise gather Services content, or reproduce or circumvent the navigational structure or presentation of the Services.
- 1.2 Errors.** If Agency discovers an error or malfunction with respect to the Service, Agency shall promptly notify the RideAlong thereof. The parties will cooperate to mitigate the impact of such error or malfunction. RideAlong may suspend use of the Service to address any such error or malfunction and Agency shall implement any reasonable corrective measures as RideAlong instructs and not use functions known to malfunction or be erroneous.
- 1.3 Ownership.** RideAlong owns and will retain all right, title, and interest in and to the Service, and any other subject matter provided by RideAlong in connection with the Service and any and all intellectual property rights relating thereto. No rights of any kind shall be implied pursuant to this Agreement.
- 1.4 Agency Obligations.** Agency is responsible for protecting all access controls and security credentials (“**User Credentials**”) issued by Agency or RideAlong and used to access and use the Service from disclosure to or discovery by third parties and any unauthorized use by third parties, and in no event shall RideAlong be responsible or liable for) any use, including any misuse, abuse, or unauthorized use, of any User Credentials.
- 1.5 Reporting and Tracking.** During the term of the Agreement, RideAlong will automatically track, through the Service, the following information: (a) client-side analytics; (b) application performance; (c) specific information regarding errors and bugs; (d) logs; and (e) impact metrics. Agency may opt-out of such automatic tracking by providing RideAlong with written notice within fourteen (14) days of the Effective Date, in which event Agency agrees to provide RideAlong with written reports every week, which reports will disclose the information specified in this section.
- 1.6 Data Input.** Agency is responsible for ensuring that all data and other information entered by or on behalf of Agency or otherwise provided to RideAlong or obtained from Agency in connection with the Service (“**Agency Data**”) is complete and accurate. Agency Data may include non-public data and information relating to identified or identifiable individuals (“**Identifiable Data**”). The Service and all information, analyses, and other output provided by RideAlong are based on the Agency Data as received by RideAlong, and RideAlong is not responsible for any error, omission, or inaccuracy of or based on or resulting from Agency Data.

Agency hereby grants to RideAlong, (a) a non-exclusive right to access, reproduce, process and otherwise use the Agency Data in connection with the provision of Service hereunder for the term of this Agreement, and (b) a non-exclusive and perpetual right to reproduce, process, distribute, disclose, publish, analyze and otherwise use Agency Data in an anonymized form, including any data or other information generated through the processing of Agency Data in connection with the Agency's use of the Service ("**Data Output**"), as long as Agency is not identified as the source of such data. As between the parties, Agency exclusively owns all right, title, and interest in and to the Agency Data and Data Output. Notwithstanding anything in this Agreement to the contrary, RideAlong exclusively owns all right, title, and interest in and to any new features, conclusions, derivative works, and any other proprietary findings developed by RideAlong through its use of the Agency Data and Output Data, including any intellectual property rights therein. The authorizations granted to, and restrictions imposed on, RideAlong under this Agreement, including under this Section 1.6, will extend to service providers and other contractors exercising such rights and licenses on RideAlong's behalf. RideAlong shall give Agency reasonable notice prior to disclosure of Identifiable Data. Each party will maintain, throughout the term of the Agreement, appropriate administrative, technical, and physical safeguards designed to ensure the security and confidentiality of Identifiable Data, to protect and safeguard against anticipated threats or hazards to the integrity of, and the unauthorized or accidental destruction, loss, alteration, access, or use of, Identifiable Data in the possession or control of such party. Each party shall notify the other party in the event of any unauthorized or accidental destruction, loss, alteration, access, or use of, Identifiable Data in the possession or control of such party. In the event of unauthorized access of Identifiable Data, RideAlong will immediately notify Agency's contract representative thereof. Upon termination or expiration of this Agreement, RideAlong shall without undue delay return to Agency, or at the option of Agency, destroy all tangible items and embodiments of Identifiable Data and all copies thereof and provide written certification of such destruction or return by a RideAlong representative.

1.7 Term and Termination. This Agreement will commence on the Effective Date and, unless earlier terminated pursuant to the terms hereof, will continue until the expiration of the Kitsap County Sheriff's Office Agreement – RideAlong Services Agreement, dated April 15, 2018, by and between RideAlong and the Kitsap County Sheriff's Office, excluding any extension or renewal term thereof. Either party may terminate this Agreement at any time upon thirty (30) days written notice to the other party in the event of a material breach by such other party (the "**Breaching Party**") of this Agreement, provided that such termination shall not be effective if such breach is cured by such Breaching Party within such thirty (30) day period, provided further, that if the Breaching Party's failure to cure is caused by the non-breaching party, the non-breaching party may not terminate this Agreement. Notwithstanding the foregoing, in the event of a material breach of this Agreement, the non-breaching party shall have the right, in addition to all other rights and remedies it may have, to suspend performance of its obligations under the Agreement. RideAlong party may terminate this Agreement, or modify, limit, or suspend the Service, if it determines, in its reasonable business judgment, that the continued provision of the Service to Agency poses security risks, a risk of infringement or other violation of any rights of third parties, or a risk of violating any applicable laws or regulations, or upon modification or termination of any agreements with licensors or service providers upon which RideAlong relies to provide the Service. In the event of any expiration or termination of this Agreement, all provision that are intended to survive will survive.

1.7.1 Termination for Convenience. Either party may terminate this Agreement at any time upon ninety (90) days written notice to the other party.

1.8 Indemnification. Agency will defend RideAlong against any claim, demand, suit or proceeding ("**Claim**") brought against RideAlong by a third party relating to or arising out of Agency's access or use of the Service, and Agency will pay all damages finally awarded against RideAlong by a court of competent jurisdiction as a result of such Claim. RideAlong will (a) provide prompt written notice to Agency of any Claim for which indemnification is required; (b) give Agency sole control of the defense and/or settlement of the Claim; and (c) provide Agency full cooperation and assistance with respect to the defense and settlement, provided that Agency shall not enter into any settlement or other compromise that materially adversely affects RideAlong without RideAlong's written approval, which shall not be unreasonably withheld, delayed, or conditioned.

1.8.1 RideAlong Intellectual Property Indemnification. RideAlong will defend Agency against any claim, demand, suit, or proceeding ("**Claim**") brought against Agency by a third party alleging that RideAlong's Service, as provided to Agency under this Agreement, infringes or misappropriates a

third party's copyright or trade secret rights in the United States, and RideAlong will pay all damages finally awarded against Agency by a court of competent jurisdiction as a result of such Claim, subject to the other terms and conditions of this Agreement. Notwithstanding the foregoing, RideAlong has no obligation to indemnify Agency with respect to use of RideAlong's product and services in a manner that is not permitted under this Agreement or that is inconsistent with any document provided by RideAlong to Agency.

- 1.9 Disclaimer of Warranties.** THE SERVICE IS PROVIDED "AS IS" WITH NO WARRANTIES OF ANY KIND. TO THE FULLEST EXTENT PERMITTED BY LAW, RIDEALONG DISCLAIMS ALL REPRESENTATIONS AND OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, TITLE AND NON-INFRINGEMENT, OR QUIET ENJOYMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE OR TRADE USAGE. WITHOUT LIMITATION OF THE GENERALITY OF THE FOREGOING, RIDEALONG DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR FREE OR SECURE, OR THAT ALL ERRORS, FAILURES OR DEFECTS WILL BE CORRECTED.
- 1.10 Limitation of Liability.** TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY OR LIMITATION OF LIABILITY, (A) RIDEALONG WILL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING ANY DAMAGES ARISING FROM LOSS OF USE, LOSS OF OR INACCESSIBLE DATA OR INFORMATION, LOST PROFITS, BUSINESS INTERRUPTION, OR COSTS OF PROCURING SUBSTITUTE SOFTWARE OR SERVICES) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SUBJECT MATTER HEREOF; AND (B) RIDEALONG'S TOTAL CUMULATIVE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SUBJECT MATTER HEREOF WILL NOT EXCEED \$15,000.00 IN THE AGGREGATE, IN EACH OF THE FOREGOING CASES (A) AND (B), REGARDLESS OF WHETHER SUCH LIABILITY ARISES FROM CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND REGARDLESS OF WHETHER RIDEALONG HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.
- 1.11 Disclaimer of Damages.** NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY OR LIMITATION OF LIABILITY, RIDEALONG DISCLAIMS ALL LIABILITY RELATED TO OR ARISING OUT OF AGENCY'S USE OR MISUSE OF THE SERVICES OR FAILURE TO REPORT ANY ERRORS OR BUGS IN THE SERVICE TO RIDEALONG, INCLUDING, BUT NOT LIMITED TO, ANY DEATH, PERSONAL INJURY, OR PROPERTY DAMAGE ARISING OUT OF OR RELATED THERETO.
- 1.12 Miscellaneous.** By submitting any comments, feedback, or ideas about the Service to RideAlong ("**Feedback**"), Agency agrees that Agency's disclosure is gratuitous, unsolicited, and without restriction and will not place RideAlong under any fiduciary or other obligation, and that RideAlong is free to use the Feedback without any additional compensation to Agency. Neither party may assign this Agreement or any of its rights or obligations under this Agreement, by operation of law or otherwise, without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed. This Agreement is to be construed in accordance with and governed by the internal laws of the State of Washington without giving effect to any choice of law rule. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof, and supersedes any and all related prior agreements, representations and negotiations, whether oral or written. This Agreement cannot be modified or amended except in a writing signed by both parties.
- 1.13 Publicity.** Agency agrees and acknowledges that RideAlong may identify Agency as a customer of the Service in RideAlong's customer lists, on RideAlong's website and in its marketing, promotional, and similar materials by Agency's name and logo only.
- 1.14 Terms Applicable to Tribes.** The following terms and conditions will apply, if Agency is recognized as a "tribe" under applicable law.

- (a) **Waiver Sovereign Immunity.** Notwithstanding anything in this Agreement to the contrary, the Tribe voluntarily provides a limited express waiver of sovereign immunity with respect to the interpretation and enforcement of this Agreement, and its obligations and duties under this Agreement. This waiver of sovereign immunity shall extend to all suits filed during the term of this Agreement or within the statute of limitation for any cause of action arising, and during the time-frame whereby the Tribe may legally be joined or otherwise added as a party to any claim, action or suit. Additionally, the Tribe expressly agrees to a waiver of sovereign immunity as a defense to the enforcement of this Agreement up to the limits of its insurance policy in connection with the enforcement of the rights of RideAlong related to the indemnity provisions contained in this Agreement.
- (b) **Construction.** Nothing in this Agreement shall be construed to authorize any suit, execution, attachment, or judicial process against the persons or property of the Tribe or any of its officers, agents, or employees, or against the Tribal Council or any member thereof, other than as specifically provided herein. In no event shall this Agreement be construed to authorize attachment, execution or other judicial process against real property of the Tribe, any property held in trust by the United States or subject to a restriction against alienation imposed by federal law, or any funds held by or on behalf of the Tribe and derived from federal or state grants or contracts.

RIDEALONG

CITY OF BAINBRIDGE ISLAND

Date: _____

Date: _____

By: _____

By: _____

Name: Katherine B. Nammacher

Name: Douglas Schulze

Title: CEO & Co-Founder

Title: City Manager

Address for Formal Notice:

Address for Formal Notice:

RideAlong Labs Inc.
155 9th Street
San Francisco, CA 94103

280 Madison Ave. N
 Bainbridge Island, WA
 98110

Attn: Katherine B. Nammacher, CEO

Attn: The City Manager