

## POULSBO DISTRIBUTION SCHEDULE

**ORDINANCE NO. 2012-10**

**SUBJECT: 2012 Shoreline Master Program Update**

### CONFORM AS TO DATES & SIGNATURES

- (X) Filed with the City Clerk: 06/18/2012
- (X) Passed by the City Council: 07/11/2012
- (X) Signature of Mayor
- (X) Signature of City Clerk
- (X) Publication: 07/20/2012
- (X) Effective: *SEE SECTION 7*
- ( ) Recorded: N/A

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- ( ) Finance:
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Jill A. Boltz  
City Clerk

July 19, 2012  
Date

## ORDINANCE NO. 2012-10

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, ADOPTING THE 2012 SHORELINE MASTER PROGRAM UPDATE; AMENDING CHAPTERS 16.08 AND 16.09 OF THE POULSBO MUNICIPAL CODE IN ORDER TO ADOPT SHORELINE REGULATIONS; AMENDING THE NATURAL ENVIRONMENT CHAPTER OF THE POULSBO COMPREHENSIVE PLAN IN ORDER TO MAKE THE SAME CONSISTENT WITH THE SHORELINE MASTER PROGRAM UPDATE; AMENDING CHAPTER 16.20 OF THE POULSBO MUNICIPAL CODE IN ORDER TO MAKE THE CITY'S CRITICAL AREAS REGULATIONS CONSISTENT WITH THE SHORELINE MASTER PROGRAM UPDATE; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

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**WHEREAS**, the Shoreline Management Act (RCW 90.58) requires all local governments to prepare and adopt a shoreline master program that is consistent with the Department of Ecology's Shoreline Master Program Guidelines (WAC 173-26) but that is tailored to meet the needs of the local community, and

**WHEREAS**, the City of Poulsbo's current shoreline master program was adopted in 1976 and has remained essentially unchanged since that date, and

**WHEREAS**, in 2003 the state legislature established a new schedule for required updates of all local shoreline master programs which requires that the City of Poulsbo update its shoreline master program no later than 2012, and

**WHEREAS**, City staff began working on a shoreline master plan update in 2009 and a public participation plan was adopted for the shoreline master program update in June 2009, and

**WHEREAS**, the shoreline master program update consists of the adoption of shoreline regulations, the amendment of shoreline goals and policies in the comprehensive plan, and amendment of the City's critical areas regulations in order to make the same consistent with the shoreline update, and

**WHEREAS,** City staff submitted a draft shoreline master program update to the Department of Ecology for review and comment in November 2010 and, after receiving comments, released a draft shoreline master program update to the public for review and comment in July 2011, and

**WHEREAS,** environmental review of the shoreline master program update was conducted and a Determination of Non-Significance (DNS) was issued for the proposed update on October 14, 2011, and

**WHEREAS,** the City gave the required 60-day notice of intent to adopt the shoreline master program update to the Department of Commerce on November 23, 2011, and

**WHEREAS,** the Poulsbo Planning Commission conducted five workshop meetings on the proposed update between August and October, 2011, and

**WHEREAS,** the Poulsbo Planning Commission held a public hearing on the proposed shoreline master program update on November 15, 2011 and, after considering all of the public testimony and other information received, voted to recommend approval of the shoreline master program update with modifications, and

**WHEREAS,** after receiving the recommendation of the Poulsbo Planning Commission, the Poulsbo City Council held five workshop meetings on the recommended plan between January and March, 2012, and

**WHEREAS,** the Poulsbo City Council conducted its own public hearing on the shoreline master program update on April 11 and May 2, 2012 and, after considering all of the public testimony and other information received, determined to adopt the shoreline master plan update in the form provided in this ordinance, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF POULSBO, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. In support of the actions undertaken by this ordinance, the Poulsbo City Council hereby adopts the findings of the Poulsbo Planning Commission dated November 15, 2011.

Section 2. Shoreline Master Program Regulations and Maps. The current Chapter 16.08 of the Poulsbo Municipal Code is hereby repealed and replaced with the new Chapter 16.08 and the shoreline maps attached to this Ordinance as Exhibit A and incorporated herein by this reference as if fully set forth.

Section 3. Shoreline Administrative Regulations. A new Chapter 16.09 is hereby added to the Poulsbo Municipal Code to read as set forth on Exhibit B attached to this Ordinance and incorporated herein by this reference as if set forth in full.

Section 4. Comprehensive Plan Amendments. Those sections of the Natural Environments Chapter of the Poulsbo Comprehensive Plan set forth on Exhibit C to this Ordinance and incorporated herein by this reference as if fully set forth are hereby amended to read as set forth on said exhibit.

Section 5. Critical Areas Amendments. Those sections of Chapter 16.20 of the Poulsbo Municipal Code set forth on Exhibit D to this Ordinance and incorporated herein by this reference as if fully set forth are hereby amended to read as set forth on said exhibit.

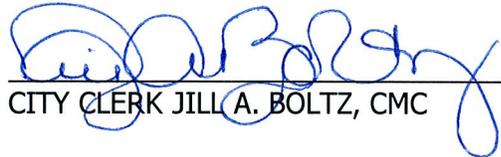
Section 6. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 7. Effective Date. This ordinance shall take effect and be in full force upon approval of the amendments adopted herein by the Washington State Department of Ecology pursuant to RCW 90.58.090 and WAC 173-26-120.

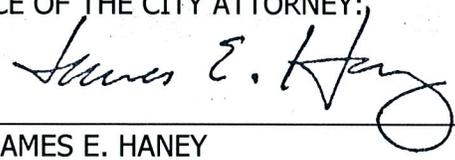
APPROVED:

  
MAYOR REBECCA ERICKSON

ATTEST/AUTHENTICATED:

  
CITY CLERK JILL A. BOLTZ, CMC

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY   
JAMES E. HANEY

FILED WITH THE CITY CLERK: 06/18/2012  
PASSED BY THE CITY COUNCIL: 07/11/2012  
PUBLISHED: 07/20/2012  
EFFECTIVE DATE: *SEE SECTION 7*  
ORDINANCE NO. 2012-10

**SUMMARY OF ORDINANCE NO. 2012-10**

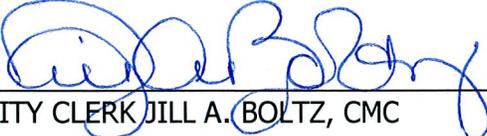
of the City of Poulsbo, Washington

On the 11th day of July, 2012, the City Council of the City of Poulsbo, passed Ordinance No. 2012-10. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, ADOPTING THE 2012 SHORELINE MASTER PROGRAM UPDATE; AMENDING CHAPTERS 16.08 AND 16.09 OF THE POULSBO MUNICIPAL CODE IN ORDER TO ADOPT SHORELINE REGULATIONS; AMENDING THE NATURAL ENVIRONMENT CHAPTER OF THE POULSBO COMPREHENSIVE PLAN IN ORDER TO MAKE THE SAME CONSISTENT WITH THE SHORELINE MASTER PROGRAM UPDATE; AMENDING CHAPTER 16.20 OF THE POULSBO MUNICIPAL CODE IN ORDER TO MAKE THE CITY'S CRITICAL AREAS REGULATIONS CONSISTENT WITH THE SHORELINE MASTER PROGRAM UPDATE; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 17th day of July, 2012.

  
CITY CLERK JILL A. BOLTZ, CMC

# **CITY OF POULSBO – SHORELINE MASTER PROGRAM UPDATE**

## **SHORELINE MASTER PROGRAM REGULATIONS**

**CITY COUNCIL APPROVED: MAY 2, 2012**

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**PART I GENERAL MASTER PROGRAM PROVISIONS**

**16.08.010 Authority**

This chapter is adopted as part of the shoreline master program for the city. It is adopted under the authority of RCW Chapter 90.58 and WAC Chapter 173-26.

**16.08.020 Scope of Shoreline Master Program**

The requirements of this chapter apply to uses, activities and development within the City of Poulsbo’s shoreline jurisdiction, including shorelands and aquatic areas, as defined in PMC 16.08.050. All uses, activities and development within the shoreline jurisdiction, including those exempt from the requirements to obtain a shoreline permit, shall comply with Chapter 90.58 RCW, the Shoreline Management Act, Chapter 173-27 of the Washington Administrative Code or its successor, and the policies and regulations of the Poulsbo Shoreline Master Program.

**16.08.030 Purpose**

The Poulsbo Shoreline Master Program has the following purposes:

1. To ensure no net loss of shoreline ecological functions;
2. To protect the waters of the state and the fish and wildlife that depend on those waters from adverse impacts;
3. To protect the public’s right to access and use the surface waters of the state, and to access and use the shorelines where public lands and rights-of-way exist;
4. To encourage water-oriented and residential uses of the shoreline that are in the best interest of the public;
5. To provide a coordinated plan for the shorelines in accordance with local, state and federal requirements to prevent adverse impacts from unplanned development of the state’s shorelines;
6. To carry out the Shoreline Management Act, Chapter 90.58 RCW, and implementing regulations adopted by the state;
7. To help fulfill the city’s responsibilities under the Public Trust Doctrine;
8. To protect the rights of property owners within the shoreline jurisdiction.

**16.08.040 Definitions**

The definitions in this section shall be used when administering the regulations in this chapter. The definition of any word or phrase not listed in this section which is in question when administering the regulations in this chapter shall be defined from the one of the following sources in order of preference, with A. being the most preferable, and so on:

- A. Revised Code of Washington 90.58;
- B. Washington Administrative Code 173-26;
- C. Legal definitions from case law or a law dictionary;
- D. The common dictionary.

1. "Accessory use" or "Accessory structure" means a use or structure that is subordinate to the principal use of the subject site or the principal building on the site, serving a purpose customarily associated with and incidental to the primary use or structure.
2. "Activity" or "Activities" means any action within the shoreline jurisdiction that makes use of or impacts shoreline resources or functions.
3. "Aquaculture" means the cultivation of fish, shellfish and/or other aquatic animals or plants, including the incidental preparation of these products for human use. This definition does not include approved native habitat restoration or native species restoration activities on the tidelands or bedlands of Liberty Bay.
4. "Agriculture" means activities involved in the production of crops and livestock. The definition includes, but is not limited to, operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities or crops, and normal operation, maintenance or repair of existing serviceable structures, facilities, or improved areas. Forest practices are not included in this definition.
5. "Aquatic" means those areas waterward of the ordinary high water mark.
6. "Boat Repair and Service, Major" means non-routine boatyard type activities for maintenance and repair, such as hull repair, refinishing and surface preparation, cleaning or scraping of ablative or soft-sloughing bottom paints, refinishing projects that exceed 25% (annually) of the deck and superstructure, and/or which have the potential to impact the shoreline environment, water and/or air quality.
7. "Boat Repair and Service, Minor" means routine in-slip or dockside maintenance and repair, such as cleaning, internal engine work, replacement of running gear, rigging, or small refinishing projects that are limited to less than 25% (annually) of the deck and superstructures (not the hull, sides or bottom), and which do not impact the shoreline environment, water and/or air quality.
8. "Boating Facility" means an establishment for public or private use with aquatic and/or upland development, that provides moorage, boat haulout, boat launches, docks, and/or boat repair and maintenance and related services to the general boating community, such as but not limited to marinas. For the purposes of this chapter, the definition does not include docks or other development associated with residential uses such as single-family or multi-family development.
9. "Buoy" means a floating object anchored to provide a mooring location away from shore, to provide navigational direction or other maritime information, to serve as a marker or separator between differing uses or ownership, or to transmit signals.
10. "Clearing" means the destruction or removal of vegetative cover and/or trees, including but not limited to root material removal and/or topsoil removal.
11. "Commercial use" means retail and service commercial establishments, and office uses.
12. "Critical Saltwater Habitat" means spawning and holding areas for forage fish, such as herring, smelt and sand lance; shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association, as designated in the City Comprehensive Plan's Fish & Wildlife Habitat Conservation Areas Map or subsequently-adopted document; or as otherwise defined in WAC 173-26-221(2)(ii) or its successor.
13. "Critical Areas" include the following areas and ecosystems: (1) wetlands; (2) areas with a critical recharging effect on aquifers used for potable water; (3) fish and wildlife habitat conservation areas; (4) geologically hazardous areas; and (5) frequently flooded areas.
14. "Destroy" or "destruction" means significant damage to more than 50% of a structure, or damage that renders a structure uninhabitable or unusable for its intended purpose, from a sudden, unforeseen event such as a fire or windstorm.

15. “Developable” means a property that is currently undeveloped or with little development, but which may reasonably be expected to develop or to have additional development in future, given its size, location, site restrictions and zoning.
16. “Development” means an action consisting of one or more of the following: (a) the construction or exterior alteration of structures; (b) dredging; (c) drilling; (d) dumping; (e) filling; (f) removal of any sand, gravel or minerals; (g) bulkheading; (h) driving of piling; (i) placing of obstructions; (j) 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 RCW 90.58 at any state of water level, or (k) creation of new lots.
17. “Dock” means a structure that floats on the surface of the water, without piling supports, but which is attached to land or an overwater structure. Typically used for boat moorage, swimming, public access, and other activities that require access to deep water.
18. “Dredging” means the removal of earth, sediment, sand and/or gravel from the bottom of a water body below the OHWM.
19. “Dune” or “dunes” means mounds or hills of sand along a shoreline that have been formed by wind action. (There are no dunes within the City’s shoreline jurisdiction.)
20. “Ecological functions” are 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.
21. “Fill” is the addition of earth, sediment, sand, gravel, earth-retaining structure or other material to an area waterward of the ordinary high water mark, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.
22. “Float” means a structure designed to float on the water which provides opportunities for recreation or moorage similar to a dock or pier, but which is not built on pilings or attached to land or another structure except by an anchor or similar non-structural connection.
23. “Floating home” means a floating structure designed substantially as a permanently located residence by means of permanent utilities, anchoring design, and lack of adequate self-propulsion to operate as a vessel; or any similar floating structure not originally designed as a permanently located residence but which is being used for such a purpose.
24. “Floodplain” is synonymous with the 100-year floodplain and means the land susceptible to inundation with a 1% chance of being equaled or exceeded in any given year. The limit of this area shall be based upon Federal Emergency Management Agency flood maps or other reasonable method that meets the objectives of the Shoreline Management Act.
25. “Floodway” means the channel of a river and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the surface elevation more than a specified height. The limit of this area shall be based upon Federal Emergency Management Agency flood maps or other reasonable method that meets the objectives of the Shoreline Management Act.
26. “Forest land” means all land that is capable of supporting a merchantable stand of timber and is not being actively used, maintained, developed or converted in a manner that is incompatible with timber production.
27. “Forest practices” means any activity conducted on or directly pertaining to forest land, and the growing, processing or harvesting of timber. This definition does not include activities such as tree marking and surveying.
28. “Geological report” means a geotechnical report with the exception of engineering recommendations, and shall be prepared either by a licensed geotechnical engineer or by a geologist.

29. "Geotechnical report" means 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.
30. "Grading" is the movement or redistribution of the soil, sand, rock, gravel, sediment or other material on a site that alters the natural contour of the land.
31. "Hard armoring" or "hard shoreline stabilization" means structural shoreline stabilization and reinforcement measures that are solid with hard surfaces, such as concrete, pilings, rock revetments, gabions, concrete groins, retaining walls, bulkheads and similar non-natural approaches to shoreline stabilization.
32. "Hazard Tree" or "Hazardous Tree" means any tree that has been determined to be a present hazard to persons or property by the city arborist or another certified arborist, according to the tree hazard evaluation standards established by the International Society of Arboriculture.
33. "Industrial use" means a land use that involves the production, processing, manufacturing, or fabrication of goods or materials. This definition does not include commercial retail, storage, installation or use of goods or materials manufactured elsewhere, such as boat repair or marine equipment storage.
34. "In-stream structure" means a structure located partially or completely waterward of the ordinary high water mark of a stream other than the estuary of Dogfish Creek.
35. "In-water structure" means a structure located partially or completely waterward of the ordinary high water mark of Liberty Bay or the estuary of Dogfish Creek, of which structure all or a portion is partially or completely submerged during the diurnal tidal rhythm.
36. "Liveaboard" or "Liveaboard Vessel" means a vessel used as an over-water or in-water residence in Liberty Bay for a period exceeding two months in any one calendar year.
37. "Lot coverage" means that percentage of the total lot area covered by structures, including all projections except eaves, driveways and concrete patios. Lot coverage does not include subsurface structures.
38. "Marina" means a public or private boating facility providing boat moorage facilities to the general boating community, such as boat slips and docks. A marina may also include boating-related services such as fuel or boat repair, and other uses consistent with the provisions of this chapter.
39. "Mean high water" means the average elevation of all high waters recorded at a particular point or station, based on data obtained from the most recent tidal epoch recorded by the NOAA Liberty Bay tidal station, or that of an official successor agency.
40. "Mining" means the removal of naturally occurring materials from the earth for economic uses pursuant to Chapter 78.44 RCW and Chapter 332-18 WAC.
41. "Mitigation Sequencing" means that where mitigation is required, mitigation measures per WAC 173-26-201(2)(e), or as subsequently amended, shall be applied in the following sequence of steps listed in order of priority, with (A) being the top priority: (A) avoiding the impact altogether by not taking a certain action or parts of an action; (B) minimizing impacts by limiting the degree or magnitude of the action and its

- implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts; (C) rectifying the impact by repairing, rehabilitating, or restoring the affected environment; (D) reducing or eliminating the impacts 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.
42. "Mixed Use" means the development of a tract of land, building or structure with a variety of complementary and integrated uses, such as, but not limited to: residential, commercial (office, retail), marina, public uses and/or recreation.
43. "Moorage" or "Moorage Facility" means a marina, open water moorage and anchorage area, pier, dock, mooring buoy, slip, or any other similar fixed moorage site.
44. "Nonconforming structure" means an in-water, over-water or upland structure which was lawfully constructed or placed prior to the effective date of the applicable Shoreline Master Program, or amendments thereto, but which does not conform to present shoreline development regulations or standards of the program. An example of a nonconforming structure is a structure that does not meet shoreline development standards such as yard setbacks, parking requirements, lot coverage, density or height. A nonconforming structure may also contain a nonconforming use or uses.
45. "Nonconforming use" means an in-water, over-water or upland use which was lawfully established prior to the effective date of the applicable Shoreline Master Program, or amendments thereto, but which does not conform to present shoreline use regulations or standards of the program. Examples of a nonconforming use are: (a) a use located anywhere in the shoreline jurisdiction that is not permitted or conditionally permitted in the relevant shoreline environment; (b) a use located in a shoreline buffer that is permitted or conditionally permitted in the relevant shoreline environment, but that does not comply with the water-related, water-dependent or public access/recreation standard for uses within a buffer; or (c) a use in the Aquatic environment that is not water-related, water-dependent, or public access/recreation. A nonconforming use may also be located within a nonconforming structure.
49. "No net loss" means no net loss of shoreline ecological functions as defined in WAC 173-26-186(8) or its successor.
50. "Ordinary high water mark" or "OHWM" is the mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.
51. "Over-water structure" means a structure located partially or completely waterward of the ordinary high water mark of which no portion (excluding accessory support such as piers, pilings or floats) is submerged during the diurnal tidal rhythm.
52. "Pier" means a structure supported by pilings that projects over, and is raised above, the water but is attached to land or to a structure, and that is typically used for boat moorage, swimming, fishing, public access, float plane moorage, or similar activities requiring access to deep water.
53. "Public" means a structure, facility, use or service that is available to be used or occupied by the public.

54. "Preferred Uses" are those uses, in the following order of preference, which (1) recognize and protect the statewide interest over local interest; (2) preserve the natural character of the shoreline; (3) result in long-term over short-term benefit; (4) protect the resources and ecology of the shoreline; (5) increase public access to publicly-owned areas of the shoreline; (6) increase recreational opportunities for the public in the shoreline; and (7) provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary; consistent with the provisions of RCW 90.58.020, or as subsequently amended.
55. "Primary Structure" or "Principal Structure" means the structure associated with the principal use of the property. In some circumstances, such as multi-building commercial or multi-family residential development, there may be more than one primary structure on a property. This definition shall not include nonhabitable, accessory structures such as storage sheds, greenhouses, swimming pools, and parking lots.
56. "Priority Uses" include (i) Protection and restoration of ecological functions to control pollution and prevent damage to the natural environment and public health; (ii) Water-dependent and associated water-related uses; (iii) Water-related and water-enjoyment uses; (iv) Single-family residential uses; (v) Nonwater-oriented uses in locations where the above described uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act, consistent with the provisions of WAC 173-26-201(2)(d), or as subsequently amended.
57. "Priority Species" means species requiring protective measures and/or management to ensure their persistence at genetically viable population levels. Priority species include state-listed or state proposed endangered, threatened or sensitive species and candidate species.
58. "Public Access" means 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.
59. "Recreational Development" or "Recreational Facilities" means private and public facilities designed and used to provide recreational opportunities to the public and/or to private communities, including facilities in public parks.
60. "Rebuild" for the purposes of this chapter means the reconstruction of a structure that has been damaged by more than 50%, or destroyed, by a sudden, unforeseen event such as a fire or windstorm.
61. "Redevelop" or "redevelopment" for the purposes of this chapter means the deliberate replacement of more than 50% of an existing structure, or demolition of the structure, with development of a new and/or remodeled structure or structures in its place.
62. "Repair" for the purposes of this chapter includes routine or minor maintenance, and repair of minor damage to up to 50%, to an existing structure.
63. "Residential Development" or "Residential Land Use" means one or more buildings or portions thereof which are used to provide a place of abode for human beings, including single-family detached homes, two and three family attached homes (duplex and triplex), multi-family residences, assisted living, row houses, townhomes, and similar housing, together with accessory uses and structures normally common to residential uses and permitted by city code. This definition does not include hotels, motels, bed and breakfast facilities, transient housing, boarding houses or camping facilities.
64. "Restore" or "Restoration" for the purposes of this chapter means major repairs to a structure beyond the scope of normal maintenance, or repairs to more than 50% of a structure where damage does not meet the level of "destruction".
65. "Shorelands" means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark. Also referenced as "Uplands" for the purposes of this Chapter.

66. "Shoreline administrator", for the purposes of this Chapter, shall mean the City Planning Director or his/her assignee.
67. "Shoreline buffer" means an area immediately adjacent to the shoreline as measured from the OHWM, which is required to remain undeveloped and in its natural state to protect the shoreline environment and essential habitat elements for fish and/or wildlife, unless otherwise indicated in this Chapter. Shoreline buffers and setbacks extend both above and below ground.
68. "Shoreline buffer setback" means an area immediately adjacent to a shoreline buffer within which no buildings or other structures may be constructed, unless otherwise indicated in this Chapter. The buffer setback protects the shoreline buffer during development activities, use, and routine maintenance occurring adjacent to the buffer.
69. "Shoreline Master Program" or "SMP" means the City's combined comprehensive plan policies, development regulations, and permit process system that addresses development and uses, which is based on state laws and rules but is tailored to the specific geographic, economic and environmental needs of the community. The local SMP is essentially a shoreline-specific combined comprehensive plan, zoning ordinance, and development permit system.
70. "Shoreline Stabilization" means actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action, including both structural and nonstructural methods.
71. "Shorelines" means all of the water areas of the state and their associated shorelands, together with the lands underlying them, except (1) shorelines of statewide significance.
72. "Shorelines of Statewide Significance" are those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt water north to the Canadian line and lying seaward from the line of extreme low tide.
73. "Sign" means any device, structure, fixture or placard using, containing or displaying graphics, symbols or written copy for the purpose of advertising or identifying any establishment, product, occupant, service or related information, including signs placed in windows or painted upon building facades.
74. "Significant tree" for the purposes of this chapter shall mean a tree that is at least ten inches in diameter measured at four feet from the ground.
75. "Soft Shoreline Armoring" or "Soft Shoreline Stabilization" means non-structural or non-rigid stabilization measures such as vegetation and beach enhancement, upland drainage control, and gravel placement.
76. "Structure" means 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.
77. "Transportation Facilities" means public or private roads and streets that are used by cars and similar motorized vehicles. This definition does not include private driveways.
78. "Unpermitted structure" means a structure that was not lawfully constructed or placed according to the shoreline master program or other city regulations in effect at the time of its construction or placement.
79. "Unpermitted use" means a use that was not lawfully established according to the shoreline master program or other city regulations in effect at the time of its establishment.
80. "Upland Area" or "Uplands" : see "Shorelands".
81. "Utilities, Accessory" means on-site utilities that serve a primary use on the site, such as a water, sewer or gas line to a residence or business, and shall be considered part of the primary use.

82. "Utilities, Primary" means facilities which produce, store, collect, treat, carry, discharge, or transmit water, storm drainage, natural gas, sewage, electricity, phone or cable communications, or similar services.
83. "Vessel" means ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water.
84. "Viewshed" for the purposes of this chapter means a view of the Liberty Bay shoreline and surrounding shorelands, as seen by the human eye along a continuous vantage from designated public rights-of-way and public parks in the shoreline jurisdiction.
85. "View Corridor" for the purposes of this chapter means a City-approved, designated open area on one or more properties that extends from a public right-of-way or public park within a designated viewshed to the shoreline, to provide public views of the shoreline. Private views of the shoreline from or across either public or private property are not protected.
86. "Water-Dependent Use" means a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operation.
87. "Water-Enjoyment Use" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides recreational use or aesthetic enjoyment of the shoreline for large number of people with the water or shoreline for leisure and enjoyment as a general character of the use and which, through location, design and operation, assure the public's ability to interact with the water or shoreline. In order to qualify as a water-enjoyment use, the use must be open to the public and most if not all of the water or shoreline oriented space in the facility must be devoted to the specific aspects of the use that foster shoreline or water interaction.
88. "Water-Oriented Use" means a use that is water-dependent, water-related or water-enjoyment, or a combination of such uses.
89. "Water-Related Use" means a use that is not intrinsically dependent on a shoreline location but whose economic viability is dependent upon a shoreline location because of a functional requirement for a shoreline location, such as the arrival or shipment of materials by water, or because the use provides a necessary service supportive of a water-dependent commercial activity.
90. "Wetlands" or "Wetland Areas" means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

#### **16.08.050 Shoreline Jurisdiction**

The following areas of Liberty Bay and Dogfish Creek are within the City's shoreline jurisdiction. The exact location of these areas will be determined at the time of permit application.

- A. Liberty Bay: That portion of Liberty Bay adjacent to any upland area within the city limits and extending to the midpoint of Liberty Bay.

B. Dogfish Creek: That portion of Dogfish Creek from the mouth of Liberty Bay to the extent of saltwater influence (end of estuary).

C. Uplands: Those shorelands extending 200 feet landward from the ordinary high water mark of the jurisdictional areas identified in A. and B. above.

D. As allowed by RCW 90.58.030(2)(f)(ii) and WAC 173-26-221(2)(a), the City has chosen to not expand its shoreline jurisdiction to include critical area buffers that are located outside of the shoreline jurisdiction. These areas will continue to be regulated by PMC 16.20, Critical Areas Ordinance.

#### **16.08.060 Shoreline Master Program Regulations**

The following regulations shall constitute the Poulsbo Shoreline Master Program regulations:

1. PMC 16.08, Shoreline Master Program (\*\*date of ordinance tbd \*\*)
2. PMC 16.09, Shoreline Administration and Procedures (\*\*date of ordinance tbd \*\*)
3. The following sections of PMC 16.20, Critical Areas Ordinance (Ordinance 2007-24), shall be implemented in shoreline critical areas and their buffers according to the requirements of this chapter, and are included in Appendix A. Provisions of PMC 16.20 that are not included in Appendix A, including definitions and regulations, and that are not consistent with the Shoreline Management Act, RCW 90.58, and the Shoreline Master Program Guidelines, WAC 173-26, shall not apply in the shoreline jurisdiction.
  - a. Article II, Wetlands
  - b. 16.20.310(A), (C), (E) and (F)
  - c. 16.20.315(A), (D) and (E)
  - d. 16.20.320(A), (C), (D), (G), (H), and (I)
  - e. Article IV, Geologically Hazardous Areas
  - f. Article VI, Frequently Flooded Areas
  - g. Article VII, Special Reports
4. The following sections of PMC 18, Zoning Ordinance:
  - a. PMC 18.08, Definitions
  - b. PMC 18.16.040(A)-(F) and (H), RL District Lot Requirements
  - c. PMC 18.20.040, RM and RH Lot and Density Requirements; except for lot coverage
  - d. PMC 18.20.050, RM and RH Lot and Density Requirements
  - e. PMC 18.24.040, Commercial District Lot Requirements; except for building coverage
  - f. PMC 18.32.030(A),(B),(E) and (F), Park Zone Development Standards

Other City regulations that also apply within the shoreline jurisdiction include, but are not limited to: Floodplain Management, PMC 15.24, Grading and Clearance, PMC 15.35, Environmental Policy Guidelines (SEPA Regulations), PMC 16.04, Subdivision Ordinance (Title 17), Zoning Ordinance (Title 18).

Citations in this chapter of City regulations shall be interpreted as referring to the most current version of such rules and codes, regardless of the adoption date of this chapter.

#### **16.08.070 Relationship to Other Policies and Regulations**

A. The shoreline regulations contained in this chapter shall apply to all areas within the City's shoreline jurisdiction, in addition to zoning, land use, critical areas, and development regulations, and other regulations established by the City.

B. In the event of any conflict between the regulations in this chapter and any other City, state or federal ordinance, statute, rule or regulation, the most stringent regulation shall control, unless that regulation is preempted or unless this chapter indicates otherwise.

C. Nothing in this chapter or action taken thereunder shall adversely affect Suquamish tribal treaty rights to which the United States government is a party.

D. Citations in this chapter of state rules and codes shall be interpreted as referring to the most current version of such rules and codes or their successors, regardless of the adoption date of this chapter.

#### **16.08.080 Shoreline Maps and Boundaries**

A. Shoreline maps. The set of maps entitled City of Poulsbo Shoreline Master Program Inventory and Characterization Exhibits, including the official Shoreline Master Program map series, as adopted by ordinance, are the graphic representations of general environmental characteristics and general development along the City's shorelines that are regulated by this chapter. This set of maps is hereby adopted as part of this chapter. The referenced maps are to be used for general planning purposes only and may not be substituted for survey data.

B. Shoreline jurisdiction. The shoreline jurisdiction as depicted on the City's adopted shoreline maps, as referenced in Section A. above, is intended to depict the approximate location and extent of known shorelands. In determining the exact location of the City's shoreline jurisdiction, the criteria contained in RCW 90.58.030(2) shall be used. The extent of shoreline jurisdiction on any individual lot, parcel or tract shall be determined by a field investigation and survey, and is the sole responsibility of the applicant. The location of the ordinary high water mark shall be included in shoreline permit application submittals to determine the location of shoreline jurisdiction.

C. Interpretation of shoreline environment designations. The following criteria shall be used to interpret the boundaries of shoreline environment designations:

1. Property lines. Where a shoreline environment designation boundary is indicated as approximately following a property line, the property line is the shoreline environment designation boundary.

2. Streets. Where a shoreline environment designation boundary is indicated as following a public or private street, the edge of the private street or public right-of-way nearest to the shoreline is the shoreline environment designation boundary. Where a right-of-way or private street is vacated, the area comprising

the vacated right-of-way or private street will acquire the classification of the property to which it reverts.

3. Undesignated properties. Any shoreline areas not mapped and/or designated at the time of adoption of this SMP shall be assigned an Urban Conservancy designation until redesignated through a shoreline master program amendment.

4. Where a shoreline environment designation boundary on an upland property is based on the shoreline buffer, the designation boundary shall be measured landward from the OHWM.

5. For the Aquatic environment of Liberty Bay, the boundary of the Aquatic environment designation coincides with the furthest extent of the City's jurisdiction as provided in RCW 35.21.160.

#### **16.08.090 Interpretations**

A. General. The Planning Director may issue interpretations of any provisions of this Chapter as necessary to administer the Shoreline Master Program policies and regulations. The Planning Director shall base his/her interpretations on:

1. The defined or common meaning of the words of the provision; and
2. The general purpose of the provision as expressed in the provision; and
3. The logical or likely meaning of the provision viewed in relation to the Washington State Shoreline Management Act, including the purpose and intent as expressed in Chapter 90.58 RCW and the applicable guidelines as contained in WAC 173-26, and the Natural Environment shoreline policies of the Poulsbo Comprehensive Plan.

Any formal written interpretations of shoreline policies or regulations shall be submitted to the Department of Ecology for review.

B. Effect. An interpretation of this Chapter will be enforced as if it is part of this code. Formal interpretations by the Planning Director shall be kept on file by the Planning Department and shall be available for public review, and shall periodically be incorporated into this Chapter during required updates of the SMP.

#### **16.08.100 Liberal Construction**

As provided for in RCW 90.58.900, the Shoreline Management Act is exempted from the rule of strict construction; the Act and this Chapter shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the Act and this Chapter were enacted.

#### **16.08.110 Severability**

The Act and this Chapter comprise the basic state and City law regulating use of shorelines within the City. In the event provisions of this Chapter conflict with other applicable City policies

or regulations, the more restrictive shall prevail. Should any section or provision of this Chapter be declared invalid, such decision shall not affect the validity of this Chapter as a whole.

## **PART II REGULATIONS APPLYING TO ALL SHORELINE DEVELOPMENT, USES AND ACTIVITIES**

### **16.08.120 General**

The following standards in this section apply to all development, uses and activities within the shoreline zone that are commenced, constructed, altered or expanded after the effective date of this shoreline master program.

A development, activity or use that meets the exemption criteria of WAC 173-27-040(2), RCW 98.58.030(3)(e), RCW 90.58.140(9), RCW 90.58.147, RCW 90.58.355 or RCW 90.58.515, and is a permitted development, activity or use in the relevant shoreline environment, shall be exempt from the requirement to obtain a Shoreline Substantial Development Permit, following issuance of an exemption letter from the Planning Director pursuant to Chapter 16.09.060. An exempted development or use shall comply with all other requirements of this master program, the zoning code, and other relevant provisions of the City code, as well as federal and state law.

A. All development, activities and uses within the shoreline jurisdiction shall require a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, and/or a Shoreline Variance, unless exempted according to the requirements of PMC16.09.040, 050 and .060.

B. All shoreline uses and development shall be located and designed in a manner that ensures no net loss of shoreline ecological functions and minimizes adverse impacts to natural shoreline resources and wildlife habitat, including fish and aquatic habitat.

C. All shoreline development and uses impacting ecological functions shall be mitigated according to the mitigation sequence established in WAC 173-26-201(2)(e), except as otherwise specified in this chapter. This mitigation sequence requires that potential impacts shall first be avoided if possible; if avoidance is not possible, the anticipated impact shall be minimized; and any impacts that remain after reviewing for avoidance and minimization shall be mitigated.

D. Shoreline development and uses shall be approved according to the following priority: water-dependent, water-related, water-enjoyment, non-water-oriented.

E. In addition to the requirements of this chapter, critical areas within the shoreline jurisdiction shall be protected according to the requirements of the Critical Areas Ordinance, Chapter 16.20. If there are any conflicts between the Critical Areas Ordinance and this chapter, the more stringent requirement shall apply.

F. Where specific regulations for a proposed development, activity or use are not provided, the development, activity or use shall utilize best management practices to minimize any adverse impacts to water quality and natural shoreline resources.

G. Disruption of natural shoreline resources, including clearing and grading, tree removal, and erosion protection, shall be the minimum necessary to accommodate the approved use or activity.

H. In evaluating permit applications for proposed development, activities or uses along the shoreline, the City shall consider the long-term and regional effects of the proposal on natural shoreline resources and the ability of future generations to enjoy and use the shoreline. Any negative long-term and regional effects shall be mitigated in accord with the mitigation sequencing requirements of PMC 16.08.140. Failure to comply with the mitigation sequencing requirements may result in permit denial.

I. New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible.

J. New development must have adequate access, utilities and public services.

K. When development, activities or uses are proposed on a property or properties that are partially located in the City's shoreline jurisdiction, the relevant shoreline permit or exemption application and any other required applications shall address the entire property or properties and the complete development proposal, both inside and outside of the shoreline jurisdiction. The applicant shall address protection of shoreline resources from non-shoreline activities and development, impacts of proposed non-shoreline land uses on protected critical areas and buffers, including the area within the shoreline buffer and setback area, and indicate any potential incompatibilities between proposed non-shoreline and shoreline uses.

L. Proposals for new and expanded shoreline development and uses shall be evaluated for cumulative impacts to shoreline values and functions, per WAC 173-26-201(3)(d)(iii).

#### **16.08.130 Federal and State Approvals**

A. All work at or waterward of the OHWM may require permits or approvals from one or more of the following state and federal agencies: U.S. Army Corps of Engineers, Washington Department of Fish and Wildlife, Washington Department of Natural Resources, or Washington Department of Ecology. It is an applicant's responsibility to determine which federal or state permits may apply to a development proposal, and to obtain them.

B. Nothing in this chapter shall relieve an applicant from applying for and obtaining any necessary permits or approvals described in A. above. If an applicant does not provide documentation verifying that all such permits and approvals have been received prior to issuance of a permit or exemption under this chapter, the City may condition such permit or exemption upon the applicant obtaining all other required permits or approvals, and may require that such permits or approvals must be obtained before a City building permit will be issued.

C. If there are any conflicts between local, state and federal requirements or conditions, the more stringent requirement or condition shall apply and shall be documented in the City's approved shoreline permit, unless otherwise indicated in this Chapter.

#### **16.08.140 Mitigation and Sequencing Requirements**

A. Development and activities are required to mitigate impacts to shoreline habitat and other environmental impacts, to meet the standard of “no net loss” of shoreline ecological functions as directed in WAC 173-26-186(8) or its successor. To ensure that proposed actions are consistent with the no net loss provision by avoiding, minimizing and mitigating for adverse impacts, an applicant for a development or activity where impacts are anticipated (including but not limited to all overwater uses or shoreline modifications) shall complete a mitigation analysis utilizing mitigation sequencing as defined in PMC 16.08.040 during design, construction and operation, in a manner consistent with WAC-173-26-201(2)(e) or as subsequently amended.

B. If a mitigation analysis reveals that unavoidable impacts will result from the proposed development or activity, a habitat mitigation plan shall be prepared according to the requirements of WAC 173-26-201(2)(e) and WAC 197-11-660 to ensure no net loss of shoreline habitat values and functions or impacts to priority species. If critical areas will be impacted, the requirements of the city’s critical areas ordinance, as indicated in PMC 16.08.060, shall also be addressed in the mitigation plan.

C. Failure to demonstrate that the mitigation sequencing standards have been met may result in permit denial, or the City may restrict or reduce development or land uses, or impose additional conditions. Additionally, the City may request that the applicant submit studies by qualified professionals, or that submitted studies, mitigation analysis and/or habitat mitigation plan be peer-reviewed by qualified professionals, at the applicant’s expense in order to determine compliance with these standards.

#### **16.08.150 In-Water Construction and Development Activities**

The following standards shall apply to in-water work, including but not limited to, installation of new structures, repair of existing structures, restoration projects, and aquatic vegetation removal.

A. In-water structures and activities shall be sited and designed to avoid the need for future shoreline stabilization and non-maintenance dredging, with special emphasis on protection of critical saltwater habitat and species, and submerged aquatic vegetation.

B. Removal of existing structures shall be accomplished so that materials from the structure do not enter or remain in the water.

C. Waste material and unauthorized fill, such as construction debris, concrete, bricks, asphalt, metal, tires and any other similar material upland or below the OHWM shall be removed.

D. No toxic or deleterious materials, including but not limited to petroleum products, hydraulic fluid, cement, tires, or chemicals are allowed to enter or leach into the water during in-water construction. Sedimentation and turbidity during construction shall comply with state and federal water quality requirements and any associated permit conditions. Appropriate spill clean-up materials must be onsite at all times, and any hazardous material or oil spills must be contained and cleaned immediately, and reported immediately to the Department of Ecology and to the City, as specified in PMC 16.08.160.C.6.

E. In-water work shall be conducted in a manner that minimizes turbidity and causes little or no siltation to adjacent areas. A sediment control curtain and/or other appropriate best management practice (BMP) shall be used in those instances where siltation can reasonably be expected. Work shall be conducted using BMPs for the protection of water quality, including the use of debris booms, silt curtains or other control measures, singly or in combination, which shall be maintained and operated to provide compliance with required state and federal water quality standards.

F. Any trenches, depressions or holes created below the OHWM shall be backfilled.

G. Fresh concrete or concrete by-products shall not be allowed to enter the water at any time during in-water installation. All forms used for concrete shall be completely sealed to prevent the possibility of fresh concrete from entering the water.

H. Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to perform the in-water work. All disturbed areas shall have appropriate erosion control measures installed, and shall be restored according to an approved mitigation plan.

I. If at any time as a result of in-water work, water quality problems develop, immediate notification shall be made to the Department of Ecology and to the City.

J. Materials used for over-water decking, in-water construction, or other structural components that may come into contact with water shall comply with regulations of responsible agencies (e.g., Department of Fish and Wildlife or Department of Ecology) to avoid leaching of toxic chemicals.

#### **16.08.160 Water Quality**

A. The location, design and management of shoreline development and activities shall not degrade the quality or quantity of surface and groundwater on or adjacent to the site. All federal and state water quality and effluent standards shall be met.

B. Submittal requirements. All proposals for development activity or construction, including clearing, grading and fill, shall submit for approval a stormwater site plan, unless exempted by the Public Works Official. The stormwater site plan shall include:

1. Provisions for temporary erosion control measures; and
2. Provisions for stormwater detention, water quality treatment and stormwater conveyance facilities, in accordance with the City's adopted stormwater management manual in effect at the time of permit application.

C. Standards.

1. New or expanded shoreline development shall comply with the standards established in the City's adopted stormwater management manual in effect at the time of permit application.
2. New or expanded shoreline development and activities shall apply Best Management Practices (BMPs) consistent with the City's adopted stormwater management manual, to minimize any increase in surface water runoff and to

control, treat and release surface water runoff so that receiving properties, wetlands or streams, and Liberty Bay are not adversely affected. All types of BMPs shall be regularly maintained for continual functioning as intended.

3. Low Impact Development techniques shall be considered and implemented to the greatest extent practicable, consistent with the City's adopted stormwater management manual.

4. If a new stormwater outfall or discharge pipe to Liberty Bay is demonstrated to be necessary, it shall be designed so that the outfall and energy dissipation pad is installed above the OHWM, unless otherwise demonstrated to be infeasible.

5. In addition to providing storm water quality treatment facilities as required in this section, for new or expanded shoreline development and activities the developer and/or property owner shall provide source control BMPs designed to treat or prevent stormwater pollution arising from specific activities expected to occur on the site.

6. No release of oils, hydraulic fluids, fuels, paints, solvents or other hazardous materials or chemicals shall be permitted into Liberty Bay. If water quality problems occur on a site, including equipment leaks or spills, work operations shall cease immediately and the Department of Ecology shall be immediately notified. The responsible party shall initiate a full and rapid response to contain and clean up a leak or spill. The Public Works Department and other agencies with jurisdiction shall be contacted immediately to coordinate spill containment and cleanup activities. It shall be the responsibility of the property owner to fund and implement the containment and cleanup activities. The person or company responsible for a spill of oil or hazardous substances into state waters may be required by the state or City to fund a natural resource damage assessment, pay a penalty for violation of state or City laws or rules, and/or reimburse the state's or City's expenses to respond and investigate the incident.

7. See subsections 16.08.150.D, G and J regarding restricted materials that may not come into contact with the water of Liberty Bay and Dogfish Creek estuary.

8. The application of pesticides, herbicides or fertilizers shall comply with the following standards:

(a) The application of pesticides, herbicides or fertilizers within the shoreline setback shall utilize Best Management Practices for Landscaping and Lawn/Vegetation Management Section of the 2005 Stormwater Management Manual for Western Washington, or its successor as adopted by the City, to prevent contamination of surface and ground water and/or soils, and adverse effects on shoreline ecological functions and values.

(b) Pesticides, herbicides and fertilizers shall be applied to upland areas in a manner that minimizes their transmittal to adjacent water bodies. The direct discharge of these chemicals into adjacent water bodies is prohibited. Spray application of pesticides shall not occur within 100 feet

of open waters, including wetlands, streams and any channel that leads to open water except when approved by the City.

(c) The use of pesticides, herbicides or fertilizers within the shoreline jurisdiction, including applications of herbicides to control noxious or invasive aquatic vegetation, shall comply with the regulations of responsible state and federal agencies, including any permitting requirements.

D. Onsite Sewage Systems.

1. All new development within the shoreline jurisdiction shall connect to the City sewer system.
2. If an existing shoreline residence is located within 200 feet of a City sewer line that can accept new residential connections, the residential structure may not be expanded unless it is connected to the City sewer system.
3. If the Kitsap County Health District certifies that an onsite sewage system is failing or is inadequate for the property it serves, development on the entire property shall be connected to City sewer if a City sewer line is within 200 feet of any building on the property that is connected to the onsite sewage system. Replacement or repair of a failing or inadequate system shall only be allowed if City sewer is not available within 200 feet, and the Health District confirms that a new onsite system will function correctly based on such factors as the property's size, soils, and topography.

## **PART III SHORELINE DEVELOPMENT, USES AND ACTIVITIES**

### **16.08.170 Shoreline Environment Designations**

Environment designations are applied to all of the City's shoreline areas based upon habitat characterization, land use, and location of shoreline buffers. Within the City's jurisdiction, these include: Shoreline Residential-1(SR-1), Shoreline Residential-2 (SR-2), High Intensity (HI), Urban Conservancy (UC), Natural (N) and Aquatic (A), as shown on the City's adopted shoreline maps. The shoreline environment designations do not change or replace the underlying zoning of the affected properties, although they provide more specific requirements and limitations for shoreline uses and modifications in a manner similar to a zoning overlay. Management policies for each environment are in the City's adopted Shoreline Master Program Policies and the Comprehensive Plan. The environment designations are as follows:

A. Shoreline Residential (SR).

The Shoreline Residential environment is intended to accommodate residential development consistent with the City's shoreline management standards; protect ecological functions and natural habitat, and restoration when feasible; and provide public access and recreational uses, where appropriate. The Shoreline Residential environment is divided into two sub-designations: Shoreline Residential-1 (SR-1) and Shoreline Residential-2 (SR-2).

The SR-1 environment primarily includes those areas of the shorelands waterward of the established shoreline buffer, and/or on the water side of “buffer interruptions” such as major roads.

The SR-2 environment primarily includes those areas of the shorelands outside of the established shoreline buffer, and/or on the upland side of “buffer interruptions,” such as major roads. Within these areas, new residential development is permitted according to the applicable shoreline and zoning development standards, with an emphasis on transition from the preservation-oriented focus of SR-1 to adjacent residential development located outside of the shoreline jurisdiction.

SR-1 includes the following areas:

1. In the Fjord Drive planning segment, the areas of the Shoreline Residential environment located on the west (waterward) side of Fjord Drive.
2. In the Front Street planning segment, areas of the Shoreline Residential environment that are located either west (waterward) of the shoreline buffer line or on the west (waterward) side of Front Street.
3. In the Western planning segment, the areas of the Shoreline Residential environment located east (waterward) of the 100-ft shoreline buffer line.

SR-2 includes the following areas:

1. In the Fjord Drive planning segment, the areas of the Shoreline Residential environment located on the east side of Fjord Drive.
2. In the Front Street planning segment, areas of the Shoreline Residential environment that are located either east of the shoreline buffer line or on the east side of Front Street.
3. In the Estuary planning segment, the areas of the Shoreline Residential environment located on the east side of Bond Road.
4. In the Western planning segment, the areas of the Shoreline Residential environment located west of the 100-ft shoreline buffer line.

B. High Intensity (HI). The High Intensity (HI) shoreline environment provides for those areas of existing moderate commercial and mixed commercial/residential development. This environment allows for optimum use of shoreline areas that are presently developed with commercial uses, while seeking opportunities to protect habitat and ecological functions from further degradation. The identified HI areas include the downtown waterfront and an area near the head of Liberty Bay.

C. Urban Conservancy (UC). The Urban Conservancy (UC) shoreline environment preserves existing natural landforms and native shoreline vegetation as much as possible, while promoting public shoreline access, views and recreation along with continuance of existing developed uses. The UC designation applies to several shoreline properties located at the west side of the intersection of Lindvig Way and Bond Rd, adjacent to the Dogfish Creek estuary.

D. Natural (N). The Natural (N) shoreline environment is established to protect and restore shoreline areas that are relatively free from human influence, undeveloped, and/or include intact or minimally degraded shoreline functions that are sensitive to proposed impacts from development. N areas within the city include the majority of Fish Park, and areas of Muriel Iverson Waterfront Park, Net Shed Park, American Legion Park and Nelson Park, that are within 0-100 feet of the ordinary high water mark of Liberty Bay and/or the estuarine portion of Dogfish Creek.

E. Aquatic (A). The Aquatic (A) shoreline environment includes the water and lands waterward of the ordinary high water mark within the City's jurisdiction, including public and private tidelands, state submerged lands, and areas designated as critical saltwater habitat, and the estuarine portion of Dogfish Creek

### **16.08.180 Shoreline Use Table**

A. The shoreline use table below indicates appropriate shoreline uses in each of the City's environmental designations, subject to restrictions indicated in subsections 16.08.190 through 16.08.320, and is applicable to the following:

1. New development, uses or activities. This does not include normal maintenance or repair.
2. Redevelopment according to PMC 16.08.040.61 of a conforming structure of the same size and within the same footprint as the existing structure. If redevelopment of a nonconforming structure is proposed, the nonconformance regulations in Part VI of this chapter shall apply.
3. Expansion of an existing development, use or activity above that existing as of the effective date of this master program;
4. A change of use between categories of uses as indicated in A. through J. in the shoreline use table.

B. The following requirements apply to all proposed uses, activities and developments:

1. Uses, activities or development not listed in PMC 16.08.180 or PMC 16.08.190 shall be considered "unclassified" and shall be reviewed and processed as conditional uses.
2. If there is any conflict between the shoreline use table and the written provisions of this chapter, or between this chapter and other city regulations, the more stringent requirement or regulation shall apply unless otherwise indicated in this chapter.
3. Permitted or conditionally permitted uses or development are allowed only where the underlying zoning also allows such uses or development. For more specific requirements or restrictions pertaining to each use, refer to PMC Title 18 (Zoning Code).

C. Shoreline modifications are addressed in Part V, Shoreline Modifications.

<b>Shoreline Use Table</b>						
<p>The table is coded according to the following legend:</p> <p><b>P = Permitted, when meeting requirements for that use and shoreline environment; may be subject to shoreline substantial development permit, minor shoreline development permit or shoreline exemption requirements. See PMC 16.09 for substantial development permit and minor development permit requirements.</b></p> <p><b>C or MC = Conditional use or minor conditional use, when approved by the city and the Department of Ecology. See PMC 16.09 for conditional use and minor conditional use permit requirements.</b></p> <p><b>V= Development may be allowed with a shoreline variance in order to permit reasonable use of the property, through a shoreline buffer and/or setback reduction or other reduction in dimensional standards, per WAC 173-27-170, in addition to any other required shoreline permit or exemption.</b></p> <p><b>X= Prohibited; the use is not eligible for a variance or conditional use permit.</b></p> <p><b>N/A = Not applicable in the specific environment, due to the intrinsic nature of the use. For example, a boat slip can only be located in an Aquatic environment.</b></p> <p>Refer to PMC 16.08.190 for uses prohibited in all shoreline environments.            Refer to PMC 16.09 for permit application and processing requirements.            For any use not addressed in this table or in PMC 16.08.190: refer to PMC 16.08.180.B.1.</p>						
<b>Environment Designations</b>	<b>SR-1</b>	<b>SR-2</b>	<b>HI</b>	<b>UC</b>	<b>N</b>	<b>A</b>
<b>Shoreline Uses</b>						
<b>A. Aquaculture</b>	N/A	N/A	N/A	N/A	C <sup>1</sup>	N/A
<b>B. Commercial (not including marinas, ports and boating facilities)</b>						
Commercial use; meets the requirements of PMC 16.08.260.	X	X	P	C	X	C <sup>2</sup>
Commercial use; does not meet the requirements of PMC 16.08.260.	X	X	X	X	X	X
Accessory commercial - water-related, water-enjoyment or non-water-oriented	MC	MC	P	C	X	X
<b>C. Habitat restoration activities<sup>3</sup></b>	P	P	P	P	P	P
<b>D. Marinas (public and private), and other boating facilities<sup>4</sup></b>						
In-water boat slips, boat moorage	N/A	N/A	N/A	N/A	N/A	P <sup>5</sup>
Major boat repair and service	X	X	C	X	X	X
Minor boat repair, inspection and service	C	X	P	X	X	P
Liveaboard vessels	N/A	N/A	N/A	N/A	N/A	C <sup>5</sup>
<b>E. Mixed Use (Combination of</b>						

<b>commercial, residential and/or other types of uses)</b>						
Mixed use; meets the requirements of PMC 16.08.250.	X	X	P	C	X	X
Mixed use; does not meet the requirements of PMC 16.08.250.	X	X	X	X	X	X
<b>F. Park and recreational facilities, including but not limited to docks and boat launches</b>	C	C	P	P	P	C
<b>G. Parking lots and parking structures, more than 4 vehicles</b>						
Parking lot, associated with an approved multi-family residential development	P	P	N/A	P	N/A	N/A
Parking lot, associated with an approved water-dependent or water-related use	C	C	MC	C	X	N/A
Parking garage, as part of an overall structure containing water-oriented development, or a combination of water-oriented and non-water-oriented development.	X	X	C <sup>6</sup>	X	X	N/A
<b>H. Public services, transportation and utilities</b>						
New or expanded public or private roads	C	C	C	C	C	N/A
Public or private primary utilities	C	C	C	C	C	C
Public or private transmission lines	C	C	C	C	C	C
<b>I. Residential</b>						
Single-family residential	V	P	X	X	X	X
Duplex and triplex residential	V	P	X	X	X	X
Multi-family residential, 4 or more units	V, MC	P	X	X	X	X
Detached structures (ADU, garage, shed, etc) that are accessory to existing or approved residential development.	V	MC	X	X	X	X
<b>J. Scientific, historical, cultural, and educational research activities</b>	MC	MC	MC	MC	MC	MC

<sup>1</sup> Applications for aquaculture will be considered on a case-by-case basis, as reviewed against Policy NE-8.23 in the City's comprehensive plan.

<sup>2</sup> Permitted or conditionally permitted only adjacent to upland environments designated HI.

<sup>3</sup> If habitat restoration is associated with a shoreline permit for a development plan or mitigation for development/use impacts, the proposed habitat restoration shall be reviewed as part of the shoreline permit for the development/use. Also refer to PMC 16.09.120.

<sup>4</sup> Also see Part V, **Shoreline Modifications**, for specific requirements for structures within marinas and boating facilities, such as docks and boat launches, and for shoreline modification activities such as dredging.

<sup>5</sup> Permitted or conditionally permitted only (1) adjacent to upland environments designated HI, or (2) associated with an existing permitted or conditionally permitted development in the Aquatic and adjacent upland environments, or (3) associated with a development plan to be approved through a shoreline permit and/or land use permit for the Aquatic and adjacent upland environments.

<sup>6</sup> Development associated with the parking garage shall meet the requirements of WAC 173-26-241(3)(d)(i) and (ii) and PMC 16.08.300.

### **16.08.190 Shoreline Uses Prohibited in All Environments**

The following uses are prohibited in all shoreline environments:

- Agriculture
- Airplane runway (other than authorized runway in Liberty Bay), storage or service facilities
- Helicopter landing, storage or service facilities
- Floating homes
- Forest practices
- Industrial uses
- Mining
- Radio, electric, telephone and satellite communication towers and relay towers
- Recycling centers, landfills, and utility production and processing

### **16.08.200 Shoreline Development and Use Standards – All Environments and Uses**

The following standards in this section apply to all development, uses and activities within the shoreline zone that are commenced, constructed, altered or expanded after the effective date of this shoreline master program:

#### **A. Shoreline buffers and setbacks.**

1. For the shorelines of Liberty Bay, the shoreline buffer extends one hundred (100) feet from the OHWM. For the Dogfish Creek estuary, the buffer shall be one hundred fifty (150) feet (Type 3 stream buffer), as measured from the OHWM or top of bank of that portion of Dogfish Creek within the shoreline jurisdiction, whichever is greater. In general, activities and structures that are not for a water-dependent, water-related, public recreation or public access use are not permitted within a shoreline buffer.

2. The buffer setback for Liberty Bay and the Dogfish Creek Estuary extends twenty-five (25) feet from the outer edge of the buffer. In general, development activities may be permitted in a shoreline buffer setback, but structures that are not for a water-dependent or public access use may not be located within it.

3. Buffer and buffer setback areas shall be measured landward on the horizontal plane.

4. Uses and development that may be allowed within the A environment or shoreline setback and buffer area include water-dependent or water-related development and uses, public access and recreation facilities, and reasonable use of a highly constricted shoreline property, subject to other restrictions in this chapter and the city code.

B. When calculating lot size, lot coverage, yard setbacks or density, any land area located waterward of the OHWM, such as tidelands, shall not be included.

C. Where strict compliance with the shoreline buffer or buffer setback would result in a regulatory taking of the property based on its zoning and environment designation, a Shoreline Variance application to reduce the size of the buffer or buffer setback may be submitted pursuant to the requirements of PMC 16.09.160. However, land located entirely waterward of the OHWM, such as tidelands, has no vested development rights, and shall not qualify for relief from those provisions of the shoreline master program regulations preventing development on such areas of land, including but not limited to, those provisions regarding Shoreline Variances.

D. Public viewsheds and designated public view corridors, as identified according to PMC 16.08.360, shall be protected and preserved in all shoreline environment designations.

E. Parking.

1. New development shall provide the required amount of off-street parking and loading as required by the city zoning standards, or as otherwise indicated in this chapter.

2. When an existing structure is expanded, additional residential units are added, and/or its use is changed per PMC 16.08.180.A., additional off-street parking and loading shall be provided for the increased gross floor area and/or additional units as required by the city zoning standards, or as otherwise indicated in this chapter.

F. Mooring or anchoring (with or without a buoy) on state lands outside of designated harbor areas shall comply with the requirements of WAC 173-26-241(3)(c)(viii) or its successor, and other relevant state law pertaining to time limitations for temporary moorage.

G. New shoreline development or redevelopment by public entities, including local governments, port districts, state agencies, and public utility districts, shall include public access unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

H. New construction of structures waterward of the OHWM shall be limited to locations outside of critical saltwater habitat per WAC 173-26-221(2)(iii)(C) and structures that are permanently limited to water-dependent uses, and it shall be demonstrated that it is essential for the water-dependent use to have the structure located in the critical saltwater habitat area, either in or over the water, in order for the water-dependent use to function correctly. Also see Part V, Shoreline Modifications.

I. No new development or redevelopment shall be permitted within the stream channel or floodway of Dogfish Creek unless it meets the following exceptions: public access for recreational purposes per PMC 16.08.290.D; public utilities, public roads and associated

development per PMC 16.08.310; or habitat restoration and enhancement activities per PMC 16.08.470. Existing structures within the stream channel or floodway that do not meet these exception criteria may be maintained but not expanded, and removed or destroyed structures may not be replaced. Such structures are not eligible for a Shoreline Variance for expansion or replacement, or for any other exceptions under the nonconforming structures regulations of this chapter. Also see Part VI, Nonconformances.

#### **16.08.210 Land Division and Boundary Line Adjustments**

The creation of new lots or altered lots through subdivision or boundary line adjustment shall comply with the following requirements, in addition to the requirements of PMC Title 17:

A. New lots are prohibited in the following circumstances when the lot would not be able to accommodate development or provide a sufficient buildable area consistent with the zoning and environment designation of the lot:

1. Where a new lot would not have sufficient buildable area outside geologically hazardous areas;
2. Where a new lot would be entirely located within the A, N, UC or SR-1 environment, or would not have sufficient buildable area located outside of these environments;
3. Where a new lot would require a critical areas permit or variance to obtain a sufficient buildable area;
4. Where a new lot would be located entirely within the 100 year floodplain adjacent to the shoreline or streams within the shoreline jurisdiction, or would not have a sufficient buildable area located outside of the 100 year floodplain.

B. In the SR-2 and HI environments, new lots shall contain sufficient buildable area located outside of the shoreline buffer and buffer setback to accommodate development consistent with the environment designation and zoning.

C. The alteration of existing lots through a boundary line adjustment shall not create new nonconformities or increase existing nonconformities.

D. New shoreline subdivisions resulting in more than four parcels shall comply with the requirements of WAC 173-26-221(4)(d)(iii).

E. Public view corridors.

1. For new subdivisions with a designated public view corridor, the view corridor shall be established on the overall property as part of the subdivision review process, and shall be indicated in a plat condition to be recorded with the subdivision.
2. All lots within a public view corridor that has been designated as part of a development approval pursuant to PMC 16.08.360 shall have notice on title that the lot may be subject to development restrictions for view corridor protection.

### **16.08.220 Lot Coverage by Buildings and Structures**

The following maximum lot coverage limitations apply to new development, redevelopment and expansion of existing development after the effective date of this master program, for permitted and conditionally permitted land uses within the specified environments, unless alternative lot coverage standards are established for a water-dependent or water-related use through a Shoreline Conditional Use Permit or Shoreline Variance. These limitations do not apply to redevelopment of a structure of the same size and within the same footprint as the existing structure, with the exception of overwater structures, the redevelopment of which shall be limited to water-dependent uses. Development within the 0-125 ft area may be subject to shoreline buffer and setback and reasonable use limitations.

A. SR-1 environment: From 0 to 125 feet from the OHWM, maximum lot coverage shall be 35%. In all other areas, maximum lot coverage shall be 50%.

B. SR-2 environment: Maximum lot coverage shall be 50%.

C. HI environment: From 0 to 125 feet from the OHWM, maximum lot coverage shall be 50%. From 125-200 feet from the OHWM, maximum lot coverage shall be 80% if the property is within the downtown core and 50% in all other areas.

D. UC environment: From 0 to 125 feet from the OHWM, lot coverage shall not be increased beyond that existing at the time of adoption of this shoreline master program. In all other areas, maximum lot coverage shall be 50%.

E. N environment: From 0 to 125 feet from the OHWM, maximum lot coverage shall be 15% or as otherwise determined through a Shoreline Variance. In all other areas, maximum lot coverage shall be 25%, unless the development proposal is for a water-dependent use approved through a Shoreline Conditional Use Permit, in which case the maximum lot coverage shall be 35%.

F. A environment: Not applicable; allowable development in the A environment shall be determined through a Shoreline Conditional Use Permit.

### **16.08.230 Height Regulations**

The following height regulations apply to new development and expansion of existing development after the effective date of this master program. These limitations do not apply to the redevelopment of a structure as existing on the date of adoption of this master program within the HI environment or a primary structure within the SR-1, SR-2, UC, or N environments, which may be rebuilt to the pre-redevelopment height. Within the A environment, expansion and redevelopment of existing overwater structures is limited to water-dependent uses.

A. General. Building and structure height shall be calculated according to the definition in PMC 18.08, and shall comply with the standards in B. through H. below, with the exception of chimneys, church spires, belfries, cupolas, domes, flagpoles, elevator and stair access, vents, ducts, HVAC or other roof-mounted equipment and required screening, and similar design features and mechanical equipment.

B. Development in all environments is also subject to the height regulations in the Zoning Code. Where there is a conflict between this chapter and the Zoning Code regarding height regulations, the more stringent requirement shall apply.

C. SR-1 environment: Maximum height of a primary structure shall be 35 feet unless a lower height is required in a Shoreline Variance. Maximum height on an accessory detached structure shall be 20 feet.

D. SR-2 environment: Maximum height of a primary structure shall be 35 feet.

E. HI environment: Within 125 feet of the OHWM, maximum height shall be 25 feet. In other areas, maximum height shall be 35 feet.

F. UC environment: Within 125 feet of the OHWM, maximum height of a primary structure shall be 25 feet unless a lower height is required in a Shoreline Variance. In other areas, maximum height of a primary structure shall be 35 feet. Maximum height of an accessory detached structure shall be 20 feet.

G. N environment: Maximum height shall be 15 feet.

H. A environment: Maximum height of a floating structure shall be 15 feet. For a non-floating over-water or in-water structure, maximum height shall be 20 feet above the mean high water elevation.

#### **16.08.240 Residential Land Uses**

A. Single-family residences are the preferred shoreline residential use in the SR-1 and SR-2 environments per RCW 90.58.020, when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. However, a multi-family development with up to four units per building (development in a duplex, triplex, quadruplex or townhouse style) may be permitted within the SR-2 environment if consistent with the underlying zoning requirements and if no variances or conditional use permits would be required to accommodate the proposed development.

B. In the HI environment, new multi-family residential units may be permitted only as part of a mixed-use development that complies with the requirements of section 16.08.250.

C. Residential density.

1. In the SR-1 environment, no residential densities are established, as development of new or additional residential units in this environment is not permitted except through a Shoreline Variance.
2. In the SR-2 environment, residential density shall be a minimum of 4 dwelling units per acre and a maximum of 5 dwelling units per acre.
3. In the N environment, residential use is not allowed, and therefore no minimum or maximum density is established.
4. In the HI environment, the maximum density of residential development as part of a mixed-use development per section 16.08.250 is 14 dwelling units

per acre, or the limit of the residential percentage cap in the mixed use development standards in PMC Title 18, whichever is more restrictive. No minimum density is established.

5. In the UC environment, development of new or additional residential units is not permitted except as part of a mixed-use development in areas with commercial zoning. New or additional residential units shall not be constructed in City parks. No minimum or maximum density is established.
6. In the A environment, residential use is prohibited except for liveaboard vessels meeting the requirements of PMC 16.08.270.E. No minimum or maximum density is established.

D. New residential buildings and structures waterward of the OHWM, including accessory structures, are prohibited.

E. No new or expanded development associated with a residential use or a non-water dependent component of a commercial or mixed-use development shall be permitted waterward of the OHWM, including but not limited to docks, piers, floats, boat houses, boat lifts, boat launch ramps and haulouts.

F. Any new multi-family development of more than four total units on a property that is located directly on the shoreline shall be required to provide shoreline access which shall be available for public use, unless it can be demonstrated that access is infeasible due to topography (e.g., high or unstable bluffs) or other reasons of public safety, or where provision of access would result in impacts to a critical saltwater habitat area.

#### **16.08.250 Mixed Land Uses**

A. A new mixed use development, or an expansion to an existing development that will contain mixed uses, may consist of any combination of residential, commercial, marina or recreational uses as allowed in the underlying zoning category and standards, with the following requirements:

1. All new or expanded development within the Aquatic environment or within the shoreline buffer and setback in any other environment must be permanently occupied and maintained by one or more water-dependent and/or water-related uses that are permitted or conditionally permitted in the Aquatic environment, unless otherwise specified in 2.- 5. below.
2. Within the High Intensity environment of the Downtown planning segment, if the subject property has direct access to Liberty Bay, all new development within the shoreline buffer shall be permanently occupied and maintained as water-dependent and/or water-related uses. Outside of the shoreline buffer, an area or areas equivalent to at least 25% of the new or additional building square footage shall be permanently occupied and maintained as water-dependent and/or water-related uses. The area(s) may be located within a building and/or outdoors. Refer to PMC 16.08.480 for specific requirements and exceptions for the redevelopment and expansion of nonconforming structures, or structures with nonconforming uses.

3. Within the High Intensity environment of the Front Street planning segment, if the subject property has direct access to Liberty Bay, all new development within the shoreline buffer shall be permanently occupied and maintained as water-oriented uses. Outside of the shoreline buffer, an area or areas equivalent to at least 25% of the new or additional building square footage shall be permanently occupied and maintained as water-oriented uses. The area(s) may be located within a building and/or outdoors. Refer to PMC 16.08.480 for specific requirements and exceptions for the redevelopment and expansion of nonconforming structures, or structures with nonconforming uses.
4. If the subject property in any environment is separated from Liberty Bay by another property or a public right-of-way, an area or areas equivalent to at least 25% of the new or additional square footage shall be permanently occupied and maintained as water-enjoyment and/or water-related uses. The area(s) may be located within a building and/or outdoors.
5. If the subject property has direct access to Liberty Bay, a new mixed use development, or an addition to an existing development that will increase the gross building floor area by more than 25% over that existing after the effective date of this master program, shall provide public access to the shoreline unless such access is demonstrated to be incompatible due to reasons of safety, security or environmental impact. If public access cannot be provided for one or more of these reasons, the applicant shall provide one or more alternative forms of shoreline-related public benefit as approved by to the Planning Director, such as additional ecological restoration or visual access.
6. If a proposed mixed-use development is required to provide a dedicated view corridor per PMC 16.08.210.E and/or PMC 16.08.360.C, or a public access path per subsection 5. above, the area within the view corridor or public access path may apply toward the required percentage of site or building occupancy indicated in subsections 2. – 4. above.

#### **16.08.260 Commercial Land Uses**

This section does not apply to public and private marinas, port or boating facilities, including boat maintenance and service facilities, which are addressed in section 16.08.270.

New or expanded commercial development shall meet the following requirements:

A. All new or expanded development within the Aquatic environment or the shoreline buffer and setback in any other environment must be permanently occupied and maintained by one or more water-dependent uses and/or water-related uses that are permitted or conditionally permitted in the relevant environment , unless otherwise specified in B.- F. below.

B. Within the High Intensity environment of the Downtown planning segment, if the subject property has direct access to Liberty Bay, all new development within the shoreline buffer shall be permanently occupied and maintained as water-dependent and/or water-related uses. Outside of the shoreline buffer, an area or areas equivalent to at least 25% of the new or additional building square footage shall be permanently occupied and maintained as water-related and/or water-dependent uses. The area(s) may be located within a building and/or outdoors. Refer to PMC 16.08.480 for specific requirements and exceptions for the

redevelopment and expansion of nonconforming structures, or structures with nonconforming uses.

C. Within the High Intensity environment of the Front Street planning segment, if the subject property has direct access to Liberty Bay, all new development within the shoreline buffer shall be permanently occupied and maintained as water-oriented uses. Outside of the shoreline buffer, an area or areas equivalent to at least 25% of the new or additional building square footage shall be permanently occupied and maintained as water-oriented uses. The area(s) may be located within a building and/or outdoors. Refer to PMC 16.08.480 for specific requirements and exceptions for the redevelopment and expansion of nonconforming structures, or structures with nonconforming uses.

D. If the subject property in any environment is separated from Liberty Bay by another property or a public right-of-way, an area or areas equivalent to at least 25% of the new or additional building square footage shall be permanently occupied and maintained as water-enjoyment and/or water-related uses. The areas may be located within a building and/or outdoors.

E. If the subject property has direct access to Liberty Bay, a new commercial development, or an addition to an existing development that will increase the gross building floor area by more than 25% over that existing after the effective date of this master program, shall provide public access to the shoreline unless such access is demonstrated to be incompatible due to reasons of safety, security or environmental impact. If public access cannot be provided for one or more of these reasons, the applicant shall provide one or more alternative forms of shoreline-related public benefit as approved by to the Planning Director, such as additional ecological restoration or visual access.

F. If a proposed commercial development is required to provide a dedicated view corridor per PMC 16.08.210.E and/or PMC 16.08.360.C, or a public access path per subsection 5. above, the area within the view corridor or public access path may be permitted to apply toward the required percentage of site or building occupancy indicated in subsections B. – D. above.

#### **16.08.270     Marinas and Other Boating Facilities, and Boat Maintenance and Service Uses**

A.     The design and location of new, altered or expanded marinas and other boating service, maintenance and use facilities, and the appropriate locations for including public boat launches and public day use docks, shall comply with the following requirements:

1. The development or use shall not interfere with the public use and enjoyment of the water or create a hazard to navigation;
2. The development or use shall meet the requirements of Section 16.08.140 for mitigation sequencing;
3. The development or use shall be located only at sites with sufficient existing water depth to accommodate the proposed development, adequate navigational and vehicular access, and adequate parking;

4. The design of the development or use shall meet all state and federal regulations for habitat and fish protection.

5. New uses and structures shall avoid locations within critical saltwater habitat areas to the maximum extent feasible and shall comply with PMC 16.08.200.H and WAC 173-26-221(iii)(C) for protection of critical saltwater habitat. However, they may be located within the upland shoreline buffer and buffer setback areas provided that no net loss to critical saltwater habitat will occur as a result of the development. Development in a critical saltwater habitat area shall require a shoreline conditional use permit per WAC 173-26-241(2)(b)(ii)(C) and PMC 16.08.490.

6. Water-enjoyment and non-water-oriented uses and structures, such as vehicle and trailer parking, equipment and material storage not associated with water-dependent uses, office and administrative buildings, and accessory commercial development, shall not be located in the Aquatic environment and shall be located outside of the shoreline buffer and buffer setback areas to the maximum extent feasible.

7. Parking within the shoreline buffer and setback may be allowed according to the requirements of subsection 16.08.300.B.4.

8. In addition to the above requirements, proposed port development, expansions and other alterations shall be based upon and shall be consistent with a comprehensive plan for port improvements that has been officially adopted consistent with RCW 53.20.010 and .020 and any other applicable federal, state or local requirements, including consistency with the adopted Poulsbo comprehensive plan.

9. In addition to any other requirements of this chapter, all development and uses shall be consistent with the requirements of WAC 220-110-330, Marinas in Saltwater Areas, and with WAC 332-30-139, Marinas and Moorages.

10. All development and uses shall comply with the requirements of Part V, Shoreline Modifications, except as otherwise expressly stated in this chapter.

**B. Boat Slips and Moorages.**

1. The maximum allowable number of boat slips or moorages, and the appropriate locations for such slips or moorages, in any one marina facility shall be determined based on the following factors:

a. The suitability of the environmental conditions, such as but not limited to: the presence or proximity of submerged aquatic vegetation, shoreline associated wetlands, critical saltwater habitat, water depth, water circulation, sediment inputs and accumulation, and wave action, aesthetics and public views, and the ability of the applicant to mitigate for environmental impacts.

b. The applicant shall provide an analysis to demonstrate the proposed development's compatibility with surrounding land and aquatic conditions and uses, environment designations, and zoning, including impacts to existing public viewsheds and view corridors, parking, and adjacent properties and neighborhoods. The analysis shall address the ability of the land upland of the OHWM to accommodate the necessary support facilities, such as but not limited to access, vehicle traffic, vehicle and boat trailer parking, restrooms, and waste disposal.

c. A demand analysis submitted by the applicant. If the applicant is a port district, the demand analysis shall be consistent with the comprehensive port improvement plan referenced in 16.08.260.A.8, to demonstrate anticipated need for the requested number of slips or moorages to serve the residents of the city and the port district for recreational and commercial purposes during the stated planning period.

2. Slips and moorages in a public marina shall not be converted from public recreational use to other uses, unless the applicant demonstrates that there is no anticipated need for the existing number of recreational slips or moorage to serve the public during the foreseeable future.

C. Any proposal to expand an existing harbor area, or to extend docks, piers, slips or other moorage facilities into an area previously not developed for such a purpose, shall indicate why anticipated needs indicated in 16.08.270.B.1.c above cannot be accommodated in existing harbor areas and/or existing docks, piers, slips or moorage areas.

D. All new, expanded or redeveloped marinas and other boating facilities shall provide public pedestrian access to the shoreline.

E. Liveaboard vessels.

1. Liveaboard vessels are prohibited outside of marina facilities.

2. Each liveaboard vessel shall moor at a dedicated slip. Liveaboard vessels may not be anchored or moored in open water other than for temporary purposes.

3. New liveaboard vessel slips shall not be allowed on state lands leased after the effective date of the adoption of this shoreline master program.

4. The addition of new liveaboard vessel slips within any area owned by a marina, yacht club or port authority or leased from a private owner shall be subject to a Shoreline Conditional Use Permit. In addition to any other conditions required in the permit, the applicant shall demonstrate how the new liveaboard will comply with the requirements of WAC 332-30-171(4) and (5) related to waste disposal, and that a minimum of at least one permanent reserved parking space shall be provided for each new liveaboard vessel.

5. Liveaboard vessels shall comprise no more than 10% of the total non-guest or non-transient capacity of any marina, based on the number of slips and other mooring facilities.

F. New or enlarged covered or enclosed slips, floating storage buildings for motorized vehicles or vessels, or other covered or enclosed moorage added after the effective date of this shoreline master program, including floating boat and airplane houses and hangars, are prohibited. Maintenance, repair and replacement of existing covered or enclosed structures is acceptable; however, a cover or enclosure structure that is removed for more than six months shall be considered a discontinued use and shall not be replaced.

G. Boat service and repair. Businesses or facilities providing boat or boat motor service and repair (including facilities within marinas) shall be regulated as follows:

1. Storage of parts and equipment shall be entirely within an enclosed structure.
2. If the proposed maintenance, service or repair activities meet the definition of major boat repair and service, boats shall be removed from the water and debris shall be captured and disposed in a proper manner consistent with state and federal requirements.
3. Major boat repair and service activities shall be conducted on dry land and shall be located either totally within a building or totally sight-screened from adjoining properties and rights-of-way.
4. Repair and service activities shall meet all applicable city regulations for noise and lighting controls, and may have conditions placed upon the facility including but not limited to size, hours of operation, location on the site, screening measures, and number of daily launches to ensure compatibility with neighboring land uses and zones.
5. All dry land motor testing shall be conducted within an enclosed structure.
6. An appropriate storage, transfer, containment and disposal facility for liquid materials, such as oil, harmful solvents, antifreeze and paints shall be provided and maintained.
7. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum or hazardous products shall be provided.
8. Floating or mobile repair structures are prohibited.

H. Boat launches, piers and docks.

1. All new, redeveloped or expanded boat launch, pier and dock facilities outside of a marina shall meet the following requirements:
  - a. The facility shall comply with the requirements of PMC 16.08.150;
  - b. The facility shall not be located within a critical saltwater habitat area;

- c. A shoreline permit application is required, which shall include a demand analysis to evaluate the number of anticipated daily launches, parking needs, and impacts to adjacent properties and neighborhoods;
- d. The facility shall provide one or more-vehicle and trailer loading areas, at least 10 feet by 40 feet, commensurate with projected demand;
- e. Day use facilities shall provide signage indicating (1) the operational hours of the facility, (2) any daily parking time limit, if applicable, and (2) overnight parking, camping, moorage or vessel storage on the site is not permitted; and
- f. Prior to operation, the facility shall provide the City with evidence that all required state and federal permits have been obtained.

2. In addition to the requirements in 1. above, extended use facilities shall meet the following requirements:

- a. The facility shall provide parking for vehicles and trailers commensurate with projected demand. Parking for vehicles shall comply with Zoning Code dimensional standards. Parking for vehicles and trailers shall be at least 10 feet by 40 feet.
- b. Signage shall be provided indicating (1) the operational hours of the facility and (2) the applicable restrictions on parking, moorage and vessel storage time limits, camping, and any other uses as indicated in the shoreline permit conditions.

I. Accessory commercial uses.

- 1. Drive-in or drive-through uses are prohibited.
- 2. Commercial activities shall not be conducted upon any vessel or overwater structure located within a marina or other boating facility, including locations at slips, docks, buoys or independent anchoring, unless (1) the activity is water-dependent, (2) the commercial activity will not result in significant new impacts, including but not limited to parking, traffic and noise, and (3) the City has issued a shoreline permit or shoreline permit exemption to the facility owner or operator for such activities.

**16.08.280 Buoy**

A. Mooring buoys for private recreational use.

- 1. A single buoy for moorage of one boat for private recreational use may be allowed in Liberty Bay, outside of designated harbor areas, for each applicant who meets the following requirements:
  - a. The applicant is the owner of an upland residence who also owns the abutting tidelands or submerged lands where the buoy is proposed to be located, or the owner of an upland residence whose property abuts state-

owned shorelands, tidelands or related beds of navigable waters, and has received approval from the state to use such area for the buoy.

b. The buoy shall not be located in critical saltwater habitat.

2. Private recreational mooring buoys require permit and registration approval from the Washington Department of Natural Resources, and may require permits and review from other federal and state agencies such as the U.S. Army Corps of Engineers. The applicant shall provide documentation of these approvals upon issuance to the City Planning Director.

3. The location, design, use, operation and maintenance of private recreational mooring buoys and boats moored to them shall comply with the provisions of RCW 79.105.430 or its successor.

4. A private recreational mooring buoy that complies with subsections (1)-(3) above is not required to obtain a shoreline substantial development permit.

B. Buoys for purposes other than private recreational use.

1. New buoys for commercial, navigational, monitoring, or scientific uses, or purposes other than private recreational moorage for one residential owner, are required to obtain a shoreline substantial development permit.

2. New buoys require permit and registration approval from the Washington Department of Natural Resources, and may require permits and review from other federal and state agencies such as the U.S. Army Corps of Engineers. The applicant shall provide documentation of these approvals upon issuance to the City Planning Director.

3. A buoy may be located in critical saltwater habitat only when it has been demonstrated to be necessary for public safety for navigational purposes and there is no other feasible alternative location; or, if the buoy will be used for scientific purposes directly related to study or restoration of the critical saltwater habitat.

4. If a new buoy is part of an overall development plan, aquatic use plan, master plan or other action requiring a shoreline substantial development permit and/or land use permit, the buoy and all other relevant items shall be addressed in a combined review process.

#### **16.08.290 Park and Recreational Uses**

A. Park and recreational facilities located on the shoreline shall provide public access to the shoreline unless such access is demonstrated to be incompatible due to reasons of safety, security or environmental impact.

B. New recreation facilities or expansions to existing recreation facilities that include non-water-oriented, high-intensity activities, such as basketball and tennis courts, baseball and soccer fields, skate parks, and dog parks, shall be located outside of the shoreline jurisdiction to the extent feasible. Children's playgrounds and tot lots shall not be considered high-intensity

activities. Existing recreational facilities within the shoreline jurisdiction may continue to be maintained and utilized.

C. New parking lots or expansions to existing parking lots shall be located outside of the shoreline buffer unless allowed by the provisions of subsection 16.08.300.B.

D. New or expanded recreational facilities such as pedestrian and bicycle trails, shoreline access points, boardwalks, boat launches and day use docks may be permitted within the shoreline buffer and/or Aquatic environment provided that all requirements of this chapter for the specific development type are met, as well as the following criteria:

1. The recreational facilities shall be located and constructed to ensure no net loss of shoreline ecological functions and to minimize adverse impacts to natural shoreline resources and wildlife habitat.
2. Recreational facilities shall not require hard shoreline stabilization methods to maintain safety and functionality over the expected lifetime of the development, and shall meet the requirements of WAC 173-26-231(3)(a)(iii).
3. Recreational facilities that are over water or within 15 feet of the OHWM shall not have lighting other than safety lighting, which shall be elevated at 3 feet high or less and shall be directed downward and away from the water and neighboring properties.
4. A boardwalk may be permitted over water when an upland location for a trail connection or continuation is shown not to be feasible.

#### **16.08.300 Parking Lots and Parking Garages**

The following regulations shall apply to new or expanded parking lot facilities and parking structures constructed after the effective date of this shoreline master program:

A. Parking lots and parking structures shall comply with the requirements in sections 16.08.120.B and 16.08.140 and the land use table in section 16.08.180.

B. New parking lots or structures shall be located outside of the shoreline buffer, with the following exceptions:

1. ADA-accessible parking spaces and ramps.
2. Parking for shoreline access points, or day use boat launches, piers and docks, or other short-term public uses, either stand-alone or as part of an overall recreational development, up to a maximum of four parking spaces.
3. Short term parking for pickup and delivery to water-dependent or water-related uses, loading zones, and public transportation stops and pullouts.

4. Parking for a water-dependent development or use where insufficient upland area is available outside of the shoreline buffer to accommodate required parking.

**16.08.310 Public Services, Transportation Facilities and Utilities**

A. Development under this section shall comply with sections 16.08.120.B and 16.08.140 concerning avoidance and minimization of impacts for location, design and use of the subject facilities.

B. New or expanded transportation facilities and primary utilities shall use existing corridors and rights-of-way whenever feasible, provided that expansions and modifications shall not adversely impact shoreline resources and shall be otherwise consistent with this Chapter. If expansion of the existing corridor will result in significant adverse impacts, then a less disruptive alternative shall be utilized.

C. New or expanded transportation and primary utility corridors must be placed and designed to minimize negative impacts upon shoreline areas, protect designated public views and public access, and avoid and minimize impacts to existing conforming land uses and structures and the natural shoreline environment.

D. New or expanded transportation and primary or accessory utility facilities must be designed and maintained to prevent erosion and to permit the natural movement of surface water, and shall not require the construction of hard armoring or other shoreline stabilization measures to maintain the facility in a safe and operable condition over the estimated life of the facility.

E. New or expanded transportation and primary or accessory utility facilities that cross streams shall be designed to allow fish passage where it has been determined by the appropriate state or federal agency that fish inhabit the stream or may inhabit the stream in future, and shall minimize impact to the stream and its buffer to the maximum extent feasible.

F. Shoreline right-of-way may be used for public access or recreational purposes.

G. Shoreline right-of-way shall not be vacated, except in compliance with RCW 35.79.035 or its successor.

H. New or expanded primary or accessory utilities shall not be located within the Dogfish Creek floodway or waterward of the OHWM of Liberty Bay unless no other feasible alternative exists.

**16.08.320 Archeological Areas and Historic Sites**

A. Developers and property owners shall immediately stop work and notify the local government, the Washington State Department of Archaeology and Historic Preservation, and the Suquamish Tribe if archaeological resources are uncovered during excavation, and shall comply with relevant state and federal law regarding protection of archaeological sites and resources and required permits for activities affecting them, including RCW 27.53 (Archaeological Sites and Resources), or as subsequently amended.

B. If in the future any sites are listed on the Washington Heritage Register or the National Register of Historic Places, any proposed development or redevelopment of such sites shall be coordinated with the State Historic Preservation Office and shall be consistent with federal and state laws regarding historic preservation.

C. Prior to permit issuance, applications for site work or other development in sites documented to contain archeological resources shall require site inspection or evaluation by a professional archeologist in coordination with the Suquamish Tribe, consistent with WAC 173-26-221(1)(c)(i).

## **PART IV DESIGN REQUIREMENTS**

### **16.08.330 Site and Building Design Standards**

On sites where shoreline views are available, commercial, multi-family residential, mixed-use and recreational development that is newly constructed, redeveloped, or has its gross building floor area expanded by more than 50% after the effective date of this master plan is required to have the relevant new construction or expansion comply with the following design requirements, to enhance the ability of residents, visitors and the public to enjoy the physical and aesthetic benefits of the shoreline. Any other design standards that are relevant to the location, zone or use, such as those in the Zoning Code, shall also apply.

- A. Buildings shall be designed with windows oriented toward the shoreline.
- B. Buildings shall be designed to incorporate outdoor areas such as decks, patios or viewing platforms oriented toward the shoreline.
- C. Buildings shall be designed with entrances along the waterfront façade, and with connections between the buildings and any private or public walkways along or to the shoreline.
- D. Service areas, refuse and recycling containers, storage and equipment shall be located away from the shoreline, to the extent feasible, and shall be screened from public view from the water, adjacent properties, and public right-of-way.
- E. Buildings shall not incorporate materials that are reflective or mirrored.
- F. Within the HI environment, development in the Downtown Core commercial overlay zone shall also comply with the Downtown Core design requirements in PMC Title 18.
- G. For new construction, where feasible the location of required public view corridors shall be designed concurrently with building orientation, to maximize both public views and views from the proposed development. If there is a conflict between building orientation and the location of required or existing public view corridors, the public view corridor shall take precedence.

### **16.08.340 Signage**

The following regulations apply in addition to any other City requirements, including sign regulations in the Zoning Code for prohibited, exempt and temporary signs. If there is a conflict between other sign regulations and the regulations of this section, the more stringent regulation shall apply.

A. Signs shall be located on the same property or within the same development as the business or organization being advertised. Offsite advertising signs, including commercial billboards, are prohibited.

B. Freestanding signs may be allowed within the shoreline buffer and setback for water-dependent and water-related development and uses that are also located in the buffer and/or setback area, including on-site directory and public information signs, and for public access and park interpretative and directional signage, subject to the following requirements:

1. Signs are limited to 5 feet in height from the ground level and 20 square feet in area.
2. Signs shall not obscure or block designated public view corridors.

C. New, expanded or replacement signs shall not be internally illuminated. Lighting shall be directed downward upon the sign face, not toward the water or neighboring properties, and shall also meet the standards of the city zoning code.

D. New, expanded or replacement signs are shall not be oriented to face Liberty Bay and/or be located in the Aquatic environment, except as follows:

1. For retail establishments providing fuel and oil sales for boats, where the facility is accessible from the water, one sign not exceeding 20 square feet per sign face.
2. Boat traffic and directional signs associated with port and marina facilities, navigation channels and hazard warnings, and any other signage required by the U.S. Coast Guard or Federal Aviation Administration for navigational or float plane operation purposes.
3. Directional and interpretative signs for public access and public recreation amenities that can be accessed from the water.

### **16.08.350 Lighting**

Exterior lighting shall be controlled using limits on height, maximum lighting levels, light shields, lighting direction and other mechanisms in order to prevent light pollution, disturbance of aquatic or shoreline wildlife, or other adverse effects that could infringe on public enjoyment of the shoreline, affect neighboring properties, or have environmental impacts.

A. Review requirements. All development proposing exterior lighting within the shoreline jurisdiction, except as otherwise indicated in subsection E. below, shall submit a lighting plan for approval by the Planning Director. The plan shall contain the following information:

1. A brief written narrative that indicates the objectives of the lighting;

2. The location, fixture type, mounting height and wattage of all outdoor lighting and building security lighting, including exterior lighting mounted on docks, piers, or other in-water or over-water structures;
3. If building elevations are proposed for illumination, drawings shall be provided for all relevant building elevations showing the fixtures, the portions of the elevations to be illuminated, and the illuminate levels of the elevations.
4. Photometric data, such as that furnished by the manufacturers, showing the angle of light emissions and extrapolated foot-candle readings at the property boundaries, and at the shoreline if relevant.

B. Direction and shielding.

1. All exterior building-mounted and ground-mounted light fixtures shall be directed downward and use “fully shielded cut off” fixtures as defined by the Illuminating Engineering Society of North America (IESNA), or other appropriate measure to conceal the light source from adjoining uses, to direct the light towards the ground and away from the shoreline, and to prevent lighting from shining on the waters of Liberty Bay.
2. New and replacement exterior lighting mounted on piers, docks or other structures serving water-dependent uses at the shoreline or in the water shall be directed away from adjacent properties and the water, and be designed and located to prevent lighting from shining on the waters of Liberty Bay.
3. For properties located within the Natural environment, the amount and intensity of new and replacement exterior lighting shall be limited to those areas and hours where it is needed for safety, security and operational purposes.

C. Lighting levels.

1. For properties located adjacent to an A, N or UC environment, new and replacement exterior lighting fixtures shall produce a maximum initial luminance value of 0.1 foot-candle (as measured at three feet above grade) at the site property line or environment boundary.
2. For properties in the SR or HI environments located adjacent to residential uses, new and replacement exterior lighting fixtures shall produce a maximum initial luminance value of 0.6 foot-candle (as measured at three feet above grade) at the site boundary, and drop to 0.1 foot-candle on the abutting property as measured within 15 feet of the property line.
3. All other new and replacement light fixtures shall not exceed a maximum initial luminance value of 1 foot candle at the property boundary or at the water surface of Liberty Bay.

D. Other

1. Wash or general illumination of a commercial or office building façade to enhance architectural features or to draw attention to the building or its uses is not permitted.
2. Spotlights, search lights, strobe lights and flashing lights are prohibited in all environments.

E. Exemptions. The following development activities are exempt from the submittal and lighting standards established in subsection A:

1. Emergency lighting required for public safety.
2. Lighting for public rights-of-way.
3. Outdoor lighting for temporary or periodic events (e.g., community events at a public park, seasonal holiday lighting, etc.)
4. Sign lighting regulated by PMC 16.08.340.
5. Development of the following if located outside of the shoreline buffer and setback area: a single-family residence; an accessory dwelling unit associated with a single-family residence; a development of up to four multi-family units; and appurtenant structures.
6. Lighting associated with the U.S. Coast Guard's Navigation Safety Requirements, such as navigation aid beacons.

**16.08.360 Public Viewsheds and Public View Corridors**

The City does not establish, protect or maintain views from private property. However, public views of the shorelines and water on both public and private property shall be designated and maintained to enhance the public's ability to see and enjoy the shorelines and waters of Liberty Bay.

A. Within the 200-foot shoreline jurisdiction, the City has established public viewsheds from the following public streets and public properties to the Liberty Bay shoreline:

1. Front Street, extending from Bond Road south to Hostmark Avenue;
2. Fjord Drive, extending from Hostmark Avenue south to the city limit;
3. Lindvig Way;
4. East of Viking Avenue, from Lindvig Way south to the city limit;
5. Public parks.

B. Intent. The intent of the viewshed designation is to promote an aesthetically attractive view of Liberty Bay and the shoreline environment from public parks and major public streets near the shoreline, with limited visual obstruction from buildings and other structures.

C. Applicability.

1. The requirements in 2. and 3. below shall apply to any property of one acre or greater in size, excluding tidelands, where views of the shoreline are available. For the purposes of this section, "property" shall mean the total area included in a development proposal, which may involve one or more lots or parcels. This section shall not apply to redevelopment of a structure of the same size and within the same footprint as the existing structure.

2. Within designated viewsheds, when a new development is proposed that requires preliminary plat, site plan, planned residential development, planned urban development or binding site plan review (such as a new commercial development, a residential development of four or more units, or a mixed-use development), one or more view corridors shall be established where the corridor can meet the standard of subsection D.2. below.

3. Within designated viewsheds, when an existing structure is expanded or the site is redeveloped to contain more than 50% over the gross building square footage existing upon the effective date of this shoreline master plan, one or more view corridors shall be established where the corridor can meet the standard of subsection D.2. below,

D. Standards.

1. Within a new or expanded development that requires establishment of view corridors per PMC 16.08.320(C.2 and 3), buildings and structures shall be clustered to provide and maintain a maximum-width contiguous public view corridor from the relevant street or park.

2. A view corridor shall be a minimum of 20 feet wide or 30 percent of the total average property width, whichever is greater, unless the Planning Director determines that this requirement would result in a regulatory taking of the property based on its zoning and shoreline environment, and accepts an alternative width.

3. Although new landscaping on properties within public viewsheds is encouraged to be designed, located and maintained for maximum retention of shoreline views, the City shall not regulate private landscaping or other private native or non-native vegetation within a viewshed for the purposes of view preservation, except for approved view corridors.

E. View corridor location. When a view corridor is required, it shall be designed to meet the following location standards and must be approved by the City Planning Director:

1. If the subject property does not directly abut the shoreline, the view corridor shall be designed to coincide with any existing view corridors on properties that lie between the subject property and the shoreline.
2. The view corridor location shall be adjacent to a side property line in order to obtain the widest view corridor in combination with adjacent properties, unless an alternative location can be shown to provide a larger and more aesthetically rewarding view, and shall consider the following criteria in order of priority:
  - a. Potential impacts to critical areas.
  - b. Locations of existing view corridors.
  - c. Existing development or potential development on adjacent properties, given the topography, access and likely location of future improvements.
  - d. The availability of actual views of the water and the potential of the property for providing those views from the relevant street or park.
  - e. Location of sight-obscuring structures, parking areas or vegetation that are likely to remain in place in the foreseeable future.
3. The view corridor shall be in one continuous piece throughout the subject property.
4. For land divisions, the view corridor shall be established as part of the land division, either as a tract or a permanent easement across common open space which shall be maintained for public viewing benefit, recorded on the face of the plat, and located to create the largest and most aesthetically pleasing view.
5. Where feasible and desirable, view corridors may be co-located with proposed or existing public shoreline access.

F. Permitted structures and uses within a view corridor. The following new structures, uses and landscaping and native vegetation plantings shall be permitted within a view corridor.

1. Areas provided for public access and recreational facilities, such as pedestrian and bicycle pathways, playgrounds, viewing platforms and picnic areas.
2. Structures, including below-grade structures, where the slope of the subject property allows unobstructed views of the shoreline over the structures from the street or park.
3. Landscape plantings, including required landscaping in setbacks and buffers, provided it is of a size that will not obscure the view from the street or park to the shoreline at the time of planting or upon reaching maturity. In the event of a

conflict between required new landscaping for site screening/buffering and view preservation, view preservation shall take precedence.

4. Native vegetation plantings to maintain or restore shoreline habitat areas, provided that such plantings shall be of a size that will not obscure the view from the street or park to the shoreline at the time of planting or upon reaching maturity.

5. Open fencing that is designed not to obscure the view from the street or park to the shoreline.

6. Electric distribution lines (excluding major electric transmission lines), cable and telephone lines and similar wire facilities are permitted, but for new or expanded development and redevelopment these should be located underground whenever feasible.

7. Surface parking that is permitted under 16.08.300.B, and which does not obscure the view from the street or park to the shoreline.

G. Dedication.

1. For land divisions and site plans, the view corridor shall be established as part of the land division or site plan approval, either as a tract or as a permanent easement across common open space for public viewing benefit, and shall be recorded on the face of the plat or site plan.

2. The applicant shall execute a covenant or similar legal agreement, in a form acceptable to the City Attorney, to maintain and protect the public view corridor.

**16.08.370 Public Access Design Standards**

A. New and expanded public access to the shoreline that is intended to meet the requirements of this Chapter shall comply with the following standards:

1. Walkways shall be designed and sited to minimize the amount of native vegetation removal, impact to existing trees, soil disturbance, and disruption of existing habitat corridor structures and functions, according to the requirements in sections 16.08.120.B and 16.08.140.

2. Where feasible, walkways that are adjacent to other public shoreline access areas such as street ends, walkways, parks and other connections, shall maximize the public nature and connectivity of the access.

3. Walkways shall minimize intrusions of privacy for occupants and residents of the site, by avoiding locations directly adjacent to residential windows and outdoor private open spaces and recreational amenities.

4. Public access shall be indicated by signs installed at each entrance to the public pedestrian walkway, and on the abutting rights-of way that lead into the

development site. Signs shall be located for maximum visibility. Design, materials and mounting requirements shall meet City specifications.

5. All public pedestrian walkways and access points shall be in a minimum 6-foot wide easement or tract, or similar legal agreement in a form acceptable to the City Attorney, and recorded on the plat or site plan. Easements extending through individual lots shall have required notice on title. Land survey information for these purposes shall be provided by the applicant in a format approved by the shoreline administrator.

B. Operation and maintenance requirements. The following operation and maintenance requirements apply to all new and expanded public pedestrian walkways and shoreline access points required under this section:

1. Hours of operation: Unless otherwise established by the shoreline administrator, all required pedestrian walkways and shoreline access points shall be open to the public between dawn and dusk.

2. The applicant is permitted to secure the subject property outside of the hours of operation by a security gate, subject to the following provisions:

3. The gate shall remain unlocked and in an open position during hours of permitted public access;

C. Signage shall be included noting the hours of permitted public access.

D. The City Planning Director is authorized to approve temporary closures for maintenance and repair, or if hazardous conditions are present that would affect public safety.

E. No certificate of occupancy or final inspection approval shall be issued until all required public access improvements are completed.

F. The applicant, and its successor or assigns, shall be responsible for the completion and maintenance of all waterfront public walkways and access points and signage on the subject property, and shall keep these in a safe, accessible and functioning condition.

## **PART V SHORELINE MODIFICATIONS**

### **16.08.380 Shoreline Modifications - General Requirements**

The standards in this section apply to all shoreline modifications in the City's shoreline jurisdiction.

A. All shoreline modifications shall be reviewed in accordance with the avoid, minimize, mitigate sequence in subsections 16.08.120.B and 16.08.140.

B. Shoreline modifications shall not individually or cumulatively result in a net loss of ecological functions or habitat. Preference shall be given to those types of shoreline

modifications that have a lesser impact on ecological functions and require less mitigation of identified impacts resulting from shoreline modifications.

C. During construction or repair work on a shoreline stabilization measure, areas of temporary disturbance within the shoreline buffer or buffer setback shall be restored as quickly as possible to their pre-disturbance condition or better.

D. Shoreline banks and bluffs (steep slopes) within the shoreline buffer and setback shall not be modified to enlarge buildable area, or to provide or enhance physical support for new development or redevelopment, unless there is no other feasible method to prevent a regulatory taking of the property based on its zoning and environment designation of the property, in which case a Shoreline Variance shall be required.

#### **16.08.390 Shoreline Modifications Prohibited in All Environments**

The following shoreline modifications are prohibited in all shoreline environments, unless otherwise specified elsewhere in this Chapter:

- Boat haulouts and boat lifts; outside of a marina or other boating facility
- Boat houses and float plane houses
- Boat launches; outside of a marina, park or other approved boating facility
- Covered or enclosed moorage
- Dikes and levees
- Docks and piers; outside of a marina, park or other approved boating facility
- Dredge spoil disposal; for activities other than habitat restoration or enhancement
- Fill; for activities other than habitat restoration or enhancement
- Floats
- In-stream structures; for activities other than public access, public utilities or habitat restoration and enhancement
- Removal of gravel for flood control
- Weirs

#### **16.08.400 Shoreline Modifications Table**

##### **Shoreline Modifications Table**

**The table is coded according to the following legend:**

**P= Permitted, when meeting requirements for the specific modification and shoreline environment; may be subject to shoreline substantial development permit or shoreline exemption requirements**

**C or MC = Conditional use or minor conditional use, when approved by the city and the Department of Ecology. See PMC 16.09 for conditional use and minor conditional use permit requirements.**

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

**N/A= Not applicable in the specific environment, due to the intrinsic nature of the modification. For example, a buoy can only be located in an Aquatic environment.**

**See PMC 16.08.390 for modifications prohibited in all shoreline environments.**

**See PMC 16.09 for permit application and processing requirements.**

<b>Environment Designations</b>	<b>SR-1</b>	<b>SR-2</b>	<b>HI</b>	<b>UC</b>	<b>N</b>	<b>A</b>
<b>Shoreline Modifications</b>						
Boat launch – public or private, in a marina, park or other approved boating facility	C	N/A	P	X	C	P <sup>1</sup>
Boat haulouts and boat lifts – public or private, in a marina or other approved boating facility	C	N/A	P	X	X	P <sup>1</sup>
Docks and piers – public or private, in a marina, park or other approved boating facility	N/A	N/A	N/A	N/A	N/A	P
Dredging - maintenance	N/A	N/A	N/A	N/A	N/A	P <sup>2</sup>
Dredging - new	N/A	N/A	N/A	N/A	N/A	C
Fill – for habitat restoration or enhancement activities	N/A	N/A	N/A	N/A	N/A	C
Habitat restoration or enhancement activities	P	P	P	P	P	P
Shoreline stabilization measures <sup>3</sup> - soft	P	P	P	MC	C	P <sup>1</sup>
Shoreline stabilization measures <sup>3</sup> - hard	P	P	P	MC	C	P <sup>1</sup>
Structural flood hazard reduction measures	MC	N/A	MC	MC	X	N/A

<sup>1</sup> If a modification project includes work above the ordinary high water mark as well as in the Aquatic environment, and if the proposed modification is conditional in the affected upland environment(s), the entire modification project shall be reviewed as a conditional use.

<sup>2</sup> Refer to PMC 16.08.440 for standards on maintenance dredging vs. new dredging activity.

<sup>3</sup> Refer to PMC 16.08.420 for requirements on soft vs. hard stabilization measures, and necessary supporting documentation.

#### **16.08.410 Piers, Docks and Boat Launches**

New or expanded piers, docks, or boat launches are prohibited outside of boating facilities such as marinas, public boat launches and day use recreational facilities, public and private parks, and boat repair and maintenance operations. Existing piers, docks and boat launches outside of boating facilities and boat repair and maintenance operations may be maintained, repaired and redeveloped in compliance with state regulations and city and state permitting requirements.

**16.08.420 Shoreline Stabilization Measures**

A. The following table is a summary of the key requirements found in this section:

<b>Shoreline Stabilization Measures</b>	<b>Requirements</b>
Structural vs. Nonstructural Methods	Nonstructural methods are preferred, but if there is demonstrated need for structural stabilization measures to protect a principal use or structure then soft structural stabilization must be considered prior to hard structural stabilization.
New or enlarged hard or soft shoreline structural measures (including additions and increases in size such as height, width, length or depth)	<p>A geotechnical report is required to demonstrate need, and shall include design recommendations for minimizing structural measures and impacts to natural sediment transport.</p> <p>For hard structural proposals, the geotechnical report shall also include an evaluation of the feasibility of soft vs. hard shoreline structural measures.</p> <p>It must be demonstrated that the erosion is being caused by waves, tides or currents, and not by loss of upland vegetation or drainage issues.</p> <p>Mitigation for habitat impacts shall be required.</p>
Major repair or replacement of hard or soft shoreline structural measures	<p>A major repair is a collapsed or eroded structure or a demonstrated loss of structural integrity, or repair of toe rock or footings, and the repair is over more than 50% of the structure's continuous linear length; or</p> <p>A major repair is repair to more than 75% of the linear length of the structure that involves replacement of top or middle course rocks or similar repair.</p> <p>A geotechnical report is required to demonstrate need, and shall include design recommendations for minimizing structural measures and impacts to natural sediment transport.</p> <p>For hard structural proposals, the geotechnical report shall also include an evaluation of the feasibility of soft vs. hard shoreline structural measures.</p>
Minor repair of hard or soft shoreline stabilization measures	<p>Does not meet threshold for new, enlarged, major repair or replacement measures.</p> <p>No geotechnical report or needs assessment required.</p>

B. All new stabilization measures, and major repairs, replacement, and enlargements to existing structural stabilization shall comply with the requirements of sections 16.08.120.B and 16.08.140.

C. New or enlarged structural shoreline stabilization.

1. For the purposes of this section, enlargement of an existing structural stabilization method shall include additions to increases in size (such as height, width, length or depth).

2. New or enlarged structural shoreline stabilization measures shall only be allowed landward of the ordinary high water mark of Liberty Bay.

3. The City shall only approve a new or enlarged hard or soft structural stabilization measure to protect a principal structure or shoreline use in the following circumstances:

- a. For new or enlarged hard structural stabilization, conclusive evidence, documented by a geotechnical analysis, that the primary structure or shoreline use is in danger from shoreline action caused by waves, tidal action or currents. The analysis must show that there is a significant possibility that the structure will be damaged within 3 years or the shoreline use will be impaired as a result of shoreline erosion in the absence of hard structural stabilization measures, or where waiting until the need is immediate would result in the loss of opportunity to use measures that would avoid impacting ecological functions.
- b. For new soft structural stabilization measures, provide narrative demonstrating need for structural stabilization to protect the principal structure or shoreline use
- c. For hard and soft stabilization proposals, it must be demonstrated that erosion is not due to loss of upland vegetation, natural bluff sloughing, or onsite drainage.

D. Replacement or major repair of hard structural shoreline stabilization.

1. For the purposes of this section, major repair or replacement of a hard shoreline stabilization measure shall include the following activities:

a. A repair needed to a portion of an existing stabilization structure that has collapsed, eroded away or otherwise demonstrated a loss of structural integrity, or in which the repair work involves modification of the toe rock or footings, and the repair is 50 percent or greater than the linear length of the shoreline stabilization measure; or

b. A repair to more than 75 percent of the linear length of the existing hard structural shoreline stabilization measure in which the repair work involves replacement of top or middle course rocks or other similar repair activities.

2. A major repair or a replacement of an existing hard structural stabilization measure with another hard structural stabilization measure shall only be approved to protect a principal structure, or shoreline use if not associated with a

principal structure, if conclusive evidence is provided, documented by a geotechnical analysis, that the primary structure or use would be in danger from shoreline erosion caused by waves, tidal action or currents without the existing hard structural stabilization, and the repair or replacement proposal is consistent with the requirements of 16.08.380(B).

- E. Minor repairs of hard shoreline stabilization.

Minor repairs of hard shoreline stabilization include those maintenance and repair activities not otherwise addressed in the subsection above. The City shall allow minor repair activities to existing hard structural shoreline stabilization measures.

- F. Repair or replacement of soft shoreline stabilization and submittal requirements.

1. The City shall allow repair or replacement of soft shoreline stabilization.
2. The applicant shall provide design recommendations for minimizing impacts and ensuring that the replacement or repaired soft stabilization measure is designed, located, sized and constructed to ensure no net loss of ecological functions, and

G. A new, repaired or replaced soft or hard shoreline stabilization measure shall not result in significant adverse impacts to adjacent or down-current properties from changes in sedimentation or tidal impacts.

H. The City may require peer review by a civil engineer for proposed designs for new hard shoreline stabilization.

#### **16.08.430 Breakwaters, Jetties and Groins**

Breakwaters, jetties and groins are not permitted in any shoreline environment unless associated with moorage in a marina or port facility, public access or public recreation facility, public shoreline stabilization, or another specific public purpose. In addition to compliance with the other requirements of this chapter, an approved breakwater, jetty or groin must meet the following criteria. A Shoreline Conditional Use Permit is required.

A. The structure is essential to the safe operation of a moorage or marina facility or the maintenance of other public water-dependent uses, such as a swimming beach.

B. The location, size, design and accessory components of the moorage or marina facility or public water-dependent use to be protected shall not result in undesirable or adverse impacts to the shoreline and aquatic environment, navigation, or nearby waterfront properties.

C. All breakwaters, jetties or groins must be designed and constructed under the supervision of a civil engineer or other qualified engineering professional. As part of the application, the engineer shall demonstrate based on accepted industry engineering standards or guidelines that the structure is the smallest feasible structure to meet the requirements of this Chapter and accomplish its purpose, and that the design will result in the minimum feasible adverse impacts upon the environment, nearby waterfront properties, and navigation. Peer review of the proposed design may be required.

D. Breakwaters may only use floating or open-pile designs unless such a design is demonstrated to not be practicable.

#### **16.08.440 Dredging and Dredge Material Disposal**

A. A Shoreline Conditional Use Permit is required for new dredging proposals, i.e., dredging of areas that have not previously been dredged under state and/or federal dredging approvals. A Shoreline Substantial Development Permit is required for maintenance dredging of areas that have previously received state and/or federal dredging permits, such as navigational channels and marina basins.

Maintenance dredging qualifies as normal maintenance when:

1. There is a designated and authorized facility, such as a federal navigational channel or berth, authorized by a previously-issued shoreline conditional use permit or shoreline substantial development permit,
2. The dredging is limited to restoring previously-existing contours within the channel or berth as approved in the previous permit, and does not expand the channel or berth, and
3. The person or entity proposing the maintenance dredging demonstrates that the work is exempt to the satisfaction of the shoreline administrator. A Shoreline Exemption application is required.

B. New or expanded development shall be sited and designed to avoid or, if that is not feasible, to minimize the need for new and maintenance dredging.

C. Dredging waterward of the OHWM may be allowed only for the following purposes:

1. To establish, expand, relocate, maintain or reconfigure navigation channels and basins where necessary for assuring safe and efficient accommodation of navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided.
2. To establish, expand, relocate, maintain or reconfigure private or public marina facilities, water-dependent uses, or other public access uses.
3. Maintenance dredging of established navigation channels and basins shall be restricted to maintaining previously dredged and/or existing authorized location, depth and width consistent with section A above; otherwise, the project shall be reviewed as a new or expanded dredging application.
4. To restore ecological functions, provided the applicant can demonstrate a clear connection between the proposed dredging and the expected environmental benefits to water quality or degraded tidelands or submerged lands, native vegetation, and/or critical saltwater habitat.

5. To obtain fill or construction material when necessary for the restoration of ecological functions. Dredging waterward of the OHWM for the primary purpose of obtaining fill or construction materials is not permitted in other circumstances. When allowed, the site where the fill is to be placed must be located waterward of the OHWM. The fill must be located with a significant in-water habitat enhancement or restoration project.

D. Dredging that is allowed under section B shall meet the requirements of sections 16.08.120 and 16.08.140.

E. Dredge materials may be deposited waterward of the OHWM of Liberty Bay only when the material is considered suitable under, and the activity is conducted in accordance with, the dredged material management program of the state department of natural resources, and in accordance with applicable state and federal permit authorizations, and is associated with a permitted in-water habitat enhancement or restoration project. Dredge materials may not be deposited in the floodway or waters of Dogfish Creek.

F. All permitted dredging must be the minimum area and volume necessary to accommodate the existing or proposed use, and must be implemented using practices that do not exceed state water quality standards.

G. Dredging projects shall be designed and carried out to prevent direct and indirect impacts on adjacent properties.

**16.08.450 Fill**

A. A Shoreline Conditional Use Permit is required for fill .

B. Fills landward and waterward shall be permitted only if the fill:

1. Is necessary to support: water-dependent use; public access; cleanup and disposal of contaminated sediments as part of an interagency environmental cleanup plan; expansion or alteration of transportation facilities of statewide significance currently located on the shoreline, and then only upon a demonstration that alternatives to fill are not feasible; mitigation action; environmental restoration; or a beach nourishment or enhancement program.

2. Will not result in significant damage to water quality, fish or other species, or net loss of aquatic habitat or shoreline habitat including critical saltwater habitat; and

3. Will not adversely alter natural drainage, currents, sedimentation, or circulation patterns.

C. Fill shall not be permitted in regulated wetlands or streams.

D. Refuse disposal sites, solid waste disposal sites and sanitary fills are prohibited in the shoreline zone.

E. In addition to the above requirements, a proposal to fill shall also comply with the requirements of PMC 15.35, Clearing and Grading.

#### **16.08.460 Tree and Vegetation Maintenance and Removal**

To maintain the ecological functions that trees provide for the shoreline environment, any proposal to remove trees or other vegetation in the shoreline buffer area or in an aquatic area shall be subject to the following requirements:

A. Significant native trees shall be retained in the shoreline buffer unless removal is required due to documented hazardous conditions, approved as part of a Shoreline Variance for reasonable use of property, or for approved shoreline access where no other feasible solution is available. In such circumstances, removal of significant native trees shall be subject to the requirements of B. below.

B. Removal, pruning, thinning, limbing or cutting of native trees or native vegetation within the shoreline buffer or in an aquatic area, with the exception of normal and routine tree and vegetation maintenance within rights-of-way, utility corridors, public access points and pathways, park and recreational facilities, existing landscaped areas, and public safety purposes, shall be subject to the following standards:

1. Existing native shoreline vegetation in an aquatic area or within a shoreline buffer shall be preserved and permanently protected, with limited exceptions to remove and/or maintain native vegetation to establish and maintain the following: water dependent and water related uses; public recreation and public access uses; City-approved public view corridors; and utilities and roads; or in the case of a documented hazardous condition or Shoreline Variance

2. Proposed removal of native shoreline vegetation as described in subsection 1. shall comply with sections 16.08.120.B and 16.08.140. When approved projects will result in an unavoidable loss of native shoreline or aquatic vegetation within an aquatic area or a buffer area, mitigation shall be required to ensure no net loss of shoreline habitat value and functions. Additional conditions or restrictions may apply if removal is proposed on steep slopes or unstable soils.

3. Proposals to remove, prune, thin, limb or cut trees or native vegetation within the shoreline buffer or in an aquatic area shall be subject to the standards of the city's clearing and grading ordinance and critical areas ordinance, and may be subject to the findings of the city arborist regarding preservation of the health and appearance of the tree(s) and surrounding native vegetation. Danger tree abatement may be achieved by felling or topping the tree. Habitat needs may require leaving the fallen tree in the riparian corridor or maintaining a high stump.

4. Non-destructive pruning or thinning of lateral branches to preserve or enhance views, or trimming, shaping, thinning or pruning of a tree necessary to its health and growth shall be consistent with the following standards:

a. In no circumstance shall removal of more than one-fifth (1/5) of the original crown or canopy be permitted.

b. Pruning shall not include topping, stripping of branches or creation of an imbalanced canopy.

C. In addition to the requirements of A. and B. above, a tree removal request shall be submitted in writing to the City prior to any native tree removal, and shall include information on the location, number, type and size of tree(s) being removed, and information on any replacement tree(s) or other vegetation to be planted.

D. Removal of non-native or invasive vegetation within the shoreline buffer is permitted provided that the removal shall not cause damage to the buffer's native vegetated habitat values and functions. Additional restrictions or conditions may apply if removal is proposed on steep slopes or unstable soils.

E. The City Planning Director may condition an approval for tree or native vegetation removal approval to require replacement trees, restoration of native vegetation, stabilization of soil and steep slopes, or other requirements as appropriate to protect shoreline habitat.

#### **16.08.470 Habitat Restoration and Enhancement Activities**

Habitat restoration activities include those shoreline habitat and natural systems enhancement projects that are proposed and conducted specifically for the purpose of establishing, restoring or enhancing habitat that supports or contributes to the welfare of priority species in the shoreline. Requirements for project impact mitigation are also addressed in 16.08.140.

A. Restoration of ecological functions and processes shall be carried out in accordance with a city-approved habitat restoration or enhancement plan and the requirements of this chapter. Activities within critical areas or their buffers shall also meet the requirements of the city's critical areas ordinance.

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

C. Long-term maintenance and monitoring shall be included in any habitat restoration or enhancement proposal.

D. Covered Activities. The following actions are allowed under this section:

1. Establishment or enhancement of native vegetation;

2. Removal of non-native or invasive plants upland of the OHWM;

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

## **PART VI      NONCONFORMANCES**

### **16.08.480      Nonconforming Shoreline Uses and Structures**

A.      Structures and uses that were legally established prior to the effective date of this shoreline master program (Ordinance \*\*\*), but that do not conform to the use and development regulations in PMC 16.08.180 through 16.08.320, shall be subject to the applicable requirements in subsections B. through E. below, unless the criteria of subsection F. can be met.

“Nonconforming” does not apply to uses or structures approved with a Shoreline Conditional Use Permit or a Shoreline Variance after the adoption of this shoreline master program, which shall be considered conforming for the purposes of this chapter.

B.      If a structure or use is nonconforming according to this chapter, that structure or use shall be subject only to the nonconforming provisions of this chapter, and not the nonconforming provisions of any other part of the city code.

C.      For the purposes of this section, “damage” shall refer to those impacts from sudden and unforeseeable events out of the property owner’s control, such as fires or windstorms, and shall not include the gradual deterioration of a structure due to lack of maintenance or repair.

D.      Nonconforming Shoreline Uses.

1. A structure that houses a nonconforming use may not be expanded, redeveloped, or relocated unless the nonconforming use is eliminated.
2. The planning director may allow a nonconforming use within a structure or site to be replaced with another nonconforming use, upon determining that:
  - a. The replacement use is less intensive and will result in reduced impacts to shoreline habitat and resources;
  - b. The replacement use is consistent with the zoning code.
3. A nonconforming use shall be considered abandoned if it is discontinued for more than twelve months, and may not be resumed, unless the discontinuance was due to damage or destruction of the structure, in which case the nonconforming use may only be resumed in accordance with subsection E. below.

4. An over-water or in-water structure which is being used for a nonconforming use may not be expanded or redeveloped unless the use is brought into conformance with the requirements of this chapter.

E. Nonconforming Shoreline Structures.

1. Routine maintenance and repair of legally established nonconforming structures is permissible. Repair in excess of fifty percent of a structure shall be considered restoration or rebuilding per 16.08.040.

2. A nonconforming structure that is relocated within the shoreline jurisdiction shall be brought into conformance with shoreline master program and zoning regulations in effect on the date of the proposed relocation.

3. Damage or destruction of nonconforming structures. A nonconforming structure that is damaged or destroyed may be restored or rebuilt subject to the following requirements:

a. The applicant shall apply for permits needed to restore or rebuild the structure within twelve months of the date when the damage occurred. The City Council may extend this twelve-month period if extenuating circumstances (e.g., insurance litigation) have prevented the applicant from applying for permits;

b. The restoration or rebuilding of the structure shall be complete within two years of permit issuance;

c. If a structure located in a landslide hazard area is destroyed, it may be rebuilt only if the rebuilt structure is located outside of the landslide hazard area;

d. The planning director may allow a destroyed nonconforming structure to be rebuilt at another nonconforming location on the same site, upon determining that the new location of the nonconforming structure is less nonconforming and will result in reduced impacts to shoreline habitat and resources than if the structure were to be rebuilt in the original location;

e. The structure shall be restored or rebuilt in compliance with current building code requirements and other applicable city and state regulations;

f. All other requirements of this chapter and PMC 16.09 shall be met; and

g. No net loss of shoreline habitat values or functions on the site or adjacent waters shall occur.

4. A nonconforming structure, or a structure (conforming or nonconforming) that contains a nonconforming use or uses, may be expanded or redeveloped with a Shoreline Variance subject to the following requirements:

- a. No portion of the structure that is located over-water or in-water may be expanded or redeveloped;
- b. Structures or other development shall not extend further waterward;
- c. No other nonconformities shall be created or be increased;
- d. A variance is not needed for any other purpose;
- e. No additional or enlarged building footprint or new development area shall be located within 50 feet of the OHWM;
- f. A redevelopment or expansion shall not be located within a landslide hazard area, flood hazard area or other critical area, or the buffer and setback required for such areas according to PMC 16.20.
- g. All other requirements of this chapter and PMC 16.09 shall be met; and
- h. No net loss of shoreline habitat values or functions on the site or adjacent waters shall occur.

5. A nonconforming structure that is removed other than for reasons of damage shall not be replaced unless it is brought into conformance with the requirements of this chapter.

F. If a property owner wishes to establish the status of a primary residential structure as conforming to the shoreline master program according to RCW 90.58.620, the criteria in 1.-2. below must be met. Nothing in this subsection exempts any residential structure from the requirement that all future development, redevelopment, expansion or alteration of the structure shall be in compliance with the provisions of this master program. Additionally, this subsection does not address other nonconformances that may exist according to the zoning code or other City regulations.

1. The owner shall provide evidence that demonstrates to the satisfaction of the planning director that the structure was legally permitted and built according to all City requirements in effect at the time of building permit approval; and
2. The structure shall not be located in a landslide hazard area.

## **PART VII   CONDITIONAL USES AND VARIANCES**

### **16.08.490   Conditional Uses and Variances**

A request for a Shoreline Conditional Use Permit or a Shoreline Variance shall be subject to the criteria of WAC 173-27, and to the regulations in the City's Zoning Ordinance, Subdivision Ordinance and Critical Areas Ordinance. Where a conflict exists between regulations, the more restrictive shall apply. An application for a Shoreline Conditional Use Permit or a Shoreline Variance shall be processed according to the requirements of PMC 16.09. In addition, the following criteria shall apply in all shoreline areas:

- A. All development and uses indicated as conditionally permitted land uses in the relevant shoreline environment according to PMC 16.08.190 shall require a Shoreline Conditional Use Permit.
- B. A new or expanded use or development which is otherwise permitted, but which would significantly impair or alter the public's access to or use of the waters of Liberty Bay, shall require a Shoreline Conditional Use permit.
- C. A new or expanded use or development which by its intrinsic nature may have a significant ecological impact on shoreline ecological functions or shoreline resources at a particular location, whether or not the impacts can be mitigated, shall require a Shoreline Conditional Use permit.
- D. A new or expanded use or development that is proposed in critical saltwater habitat shall require a Shoreline Conditional Use permit.
- E. Development of an undeveloped legal shoreline lot that is nonconforming (i.e., a lot which because of its size, configuration, presence of critical areas or other reason cannot meet the requirements of the Zoning Code, Critical Areas Ordinance or Shoreline Master Program requirements for development setbacks and buffers) shall require a Shoreline Variance. All development regulations and requirements that can be met without a Shoreline Variance shall be met. Development allowed through a Shoreline Variance shall be the minimum allowed to prevent a regulatory taking of the lot based on its zoning and shoreline environment.
- F. Nonconforming lots within the shoreline zone are not eligible for a Shoreline Variance to allow further subdivision.
- G. Any habitat impacts resulting from development permitted under a Shoreline Conditional Use Permit or a Shoreline Variance shall be mitigated to ensure no net loss of shoreline habitat or ecological function.

## **PART VIII   ENFORCEMENT**

### **16.08.500   Enforcement**

A. Authorization. The City Planning Director is authorized to enforce this chapter, and to designate city employees as authorized representatives of the city to investigate suspected violations of this chapter, and to issue orders to correct violations and notices of infractions. In the event of a violation of this chapter, the Planning Director shall be authorized to

require complete or partial restoration of shoreline habitat including compensatory mitigation to rectify any net loss to its function and values.

B. Right of Entry. When it is necessary to make an inspection to enforce the provisions of this chapter, or when the City Planning Director or his/her designee has reasonable cause to believe that a condition exists on property which is contrary to, or in violation of this chapter, the Planning Director or his/her designee may enter the property for the purposes of inspection.

C. Stop Work Orders. Whenever any work or activity is being done contrary to the provisions of this chapter or conditions of an approved permit, the City Planning Director or his/her designee may order the work stopped by notice in writing, served on any persons engaged in doing or causing such work to be done, or by posting the property, and any such persons shall forthwith stop such work or activity until authorized by the City Planning Director or his/her designee to proceed.

D. Revocation of Permits or Variances. Any permit or variance granted in accordance with the terms of this title may be revoked if any of the conditions or terms of such permit or variance are violated, or if any law or ordinance is violated in connection therewith. Any such revocation shall be processed as a Type III application under the provisions of Title 19 of this code.

E. Penalties. The violation of any provision of this chapter shall constitute a civil and criminal infraction. Each violation shall constitute a separate infraction for each and every day or portion thereof during which the violation is committed, continued or permitted. Every person convicted by the municipal court of a violation of the criminal provisions, or the provisions of this chapter, shall be punished by a fine of not more than five thousand dollars or imprisonment in the county jail for a period not to exceed one year, or both such fine and imprisonment.

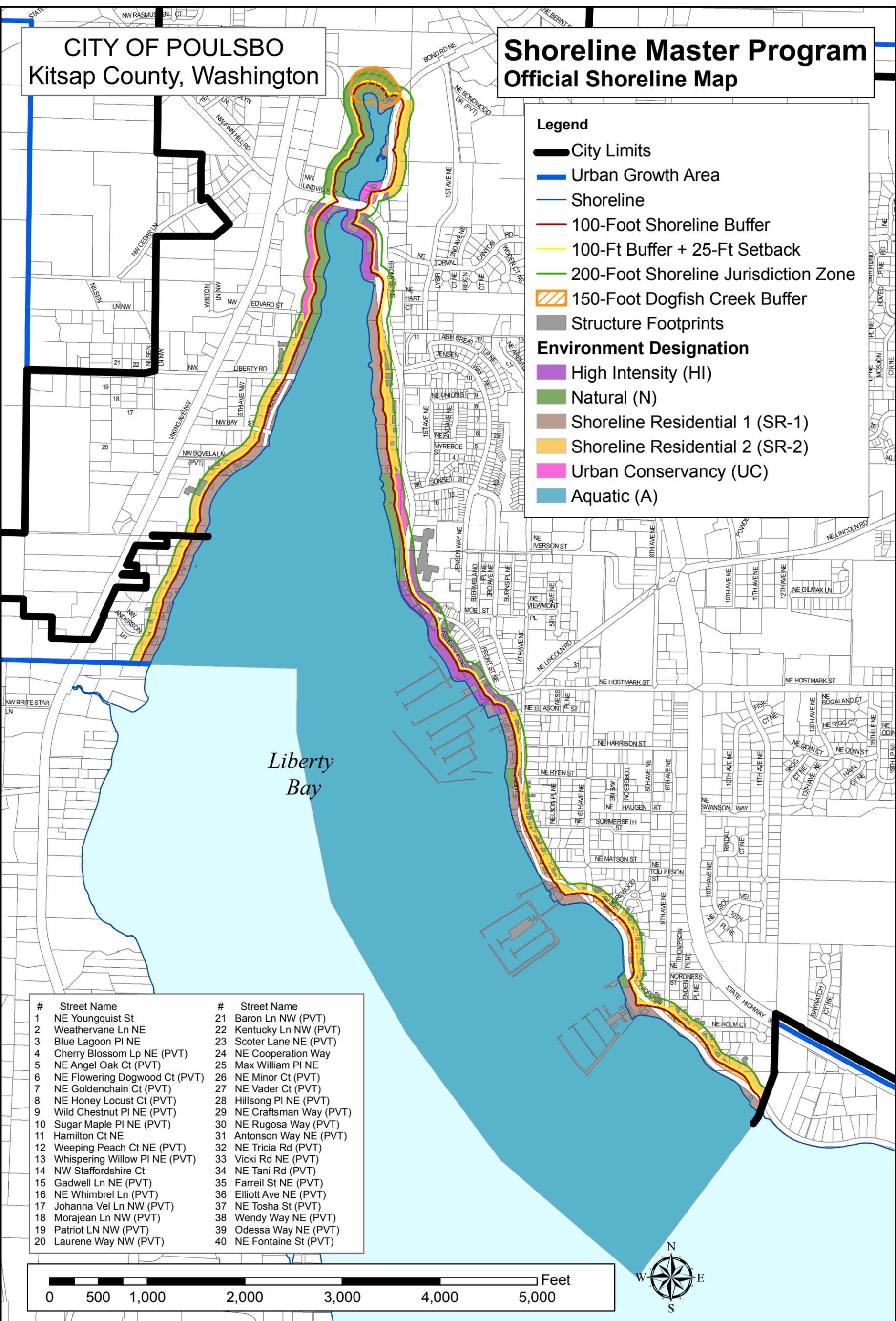
F. Other Enforcement Actions. Violations under this Chapter may be subject to additional enforcement action according to other City enforcement regulations, including but not limited to those in the Critical Areas Ordinance and Zoning Code.

**CITY OF POULSBO**  
Kitsap County, Washington

**Shoreline Master Program**  
**Official Shoreline Map**

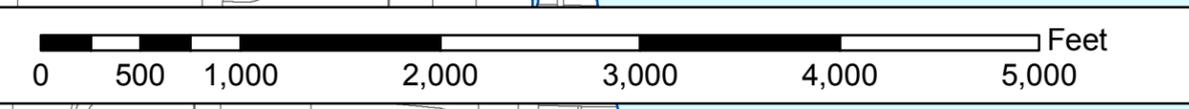
**Legend**

-  City Limits
  -  Urban Growth Area
  -  Shoreline
  -  100-Foot Shoreline Buffer
  -  100-Ft Buffer + 25-Ft Setback
  -  200-Foot Shoreline Jurisdiction Zone
  -  150-Foot Dogfish Creek Buffer
  -  Structure Footprints
- Environment Designation**
-  High Intensity (HI)
  -  Natural (N)
  -  Shoreline Residential 1 (SR-1)
  -  Shoreline Residential 2 (SR-2)
  -  Urban Conservancy (UC)
  -  Aquatic (A)



*Liberty Bay*

#	Street Name	#	Street Name
1	NE Youngquist St	21	Baron Ln NW (PVT)
2	Weathervane Ln NE	22	Kentucky Ln NW (PVT)
3	Blue Lagoon PI NE	23	Scoter Lane NE (PVT)
4	Cherry Blossom Lp NE (PVT)	24	NE Cooperation Way
5	NE Angel Oak Ct (PVT)	25	Max William PI NE
6	NE Flowering Dogwood Ct (PVT)	26	NE Minor Ct (PVT)
7	NE Goldenchain Ct (PVT)	27	NE Vader Ct (PVT)
8	NE Honey Locust Ct (PVT)	28	Hillsong PI NE (PVT)
9	Wild Chestnut PI NE (PVT)	29	NE Craftsman Way (PVT)
10	Sugar Maple PI NE (PVT)	30	NE Rugosa Way (PVT)
11	Hamilton Ct NE	31	Antonson Way NE (PVT)
12	Weeping Peach Ct NE (PVT)	32	NE Tricia Rd (PVT)
13	Whispering Willow PI NE (PVT)	33	Vicki Rd NE (PVT)
14	NW Staffordshire Ct	34	NE Tani Rd (PVT)
15	Gadwell Ln NE (PVT)	35	Farreil St NE (PVT)
16	NE Whimbrel Ln (PVT)	36	Elliott Ave NE (PVT)
17	Johanna Vel Ln NW (PVT)	37	NE Tosha St (PVT)
18	Morajean Ln NW (PVT)	38	Wendy Way NE (PVT)
19	Patriot LN NW (PVT)	39	Odessa Way NE (PVT)
20	Laurene Way NW (PVT)	40	NE Fontaine St (PVT)



Primary Map Sources & Original Scales:  
 Kitsap County Assessor's Tax Maps 1:12,000, Kitsap County IT, GIS Division.  
 (Downloaded May 2011)  
 Kitsap County Building Footprints, updated by the City of Poulsbo  
 Planning Department (Downloaded October 26, 2009)

This shoreline map series is intended for general shoreline planning. These maps are schematic representations of physical features, infrastructure, and land ownership boundaries. The map information was derived from available public records and existing sources, not from surveys. Studies may be necessary with project review to verify information.

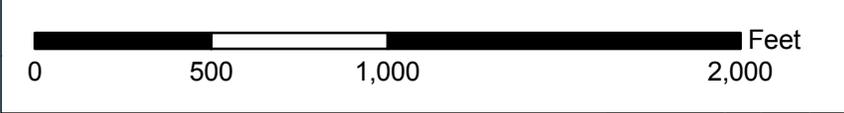
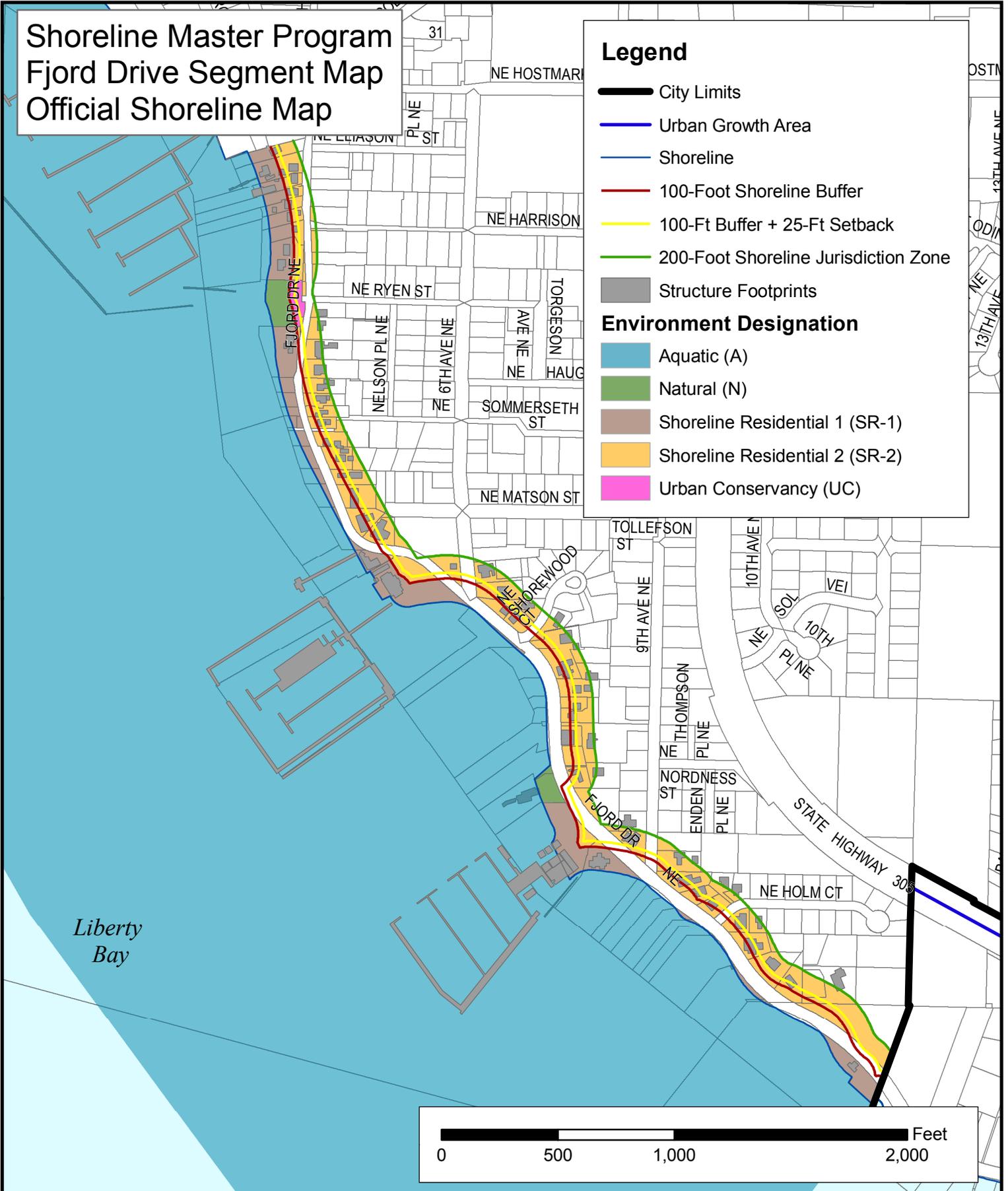
# Shoreline Master Program Fjord Drive Segment Map Official Shoreline Map

## Legend

-  City Limits
-  Urban Growth Area
-  Shoreline
-  100-Foot Shoreline Buffer
-  100-Ft Buffer + 25-Ft Setback
-  200-Foot Shoreline Jurisdiction Zone
-  Structure Footprints

## Environment Designation

-  Aquatic (A)
-  Natural (N)
-  Shoreline Residential 1 (SR-1)
-  Shoreline Residential 2 (SR-2)
-  Urban Conservancy (UC)



Primary Map Sources & Original Scales: Kitsap County Assessor's Tax Maps 1:12,000, Kitsap County IT, GIS Division. (Downloaded May 2011), Building Footprints, Kitsap County GIS. (Downloaded 10/16/09, updated by Poulsbo GIS).

City of Poulsbo Planning Department GIS  
Printed on May 2, 2012

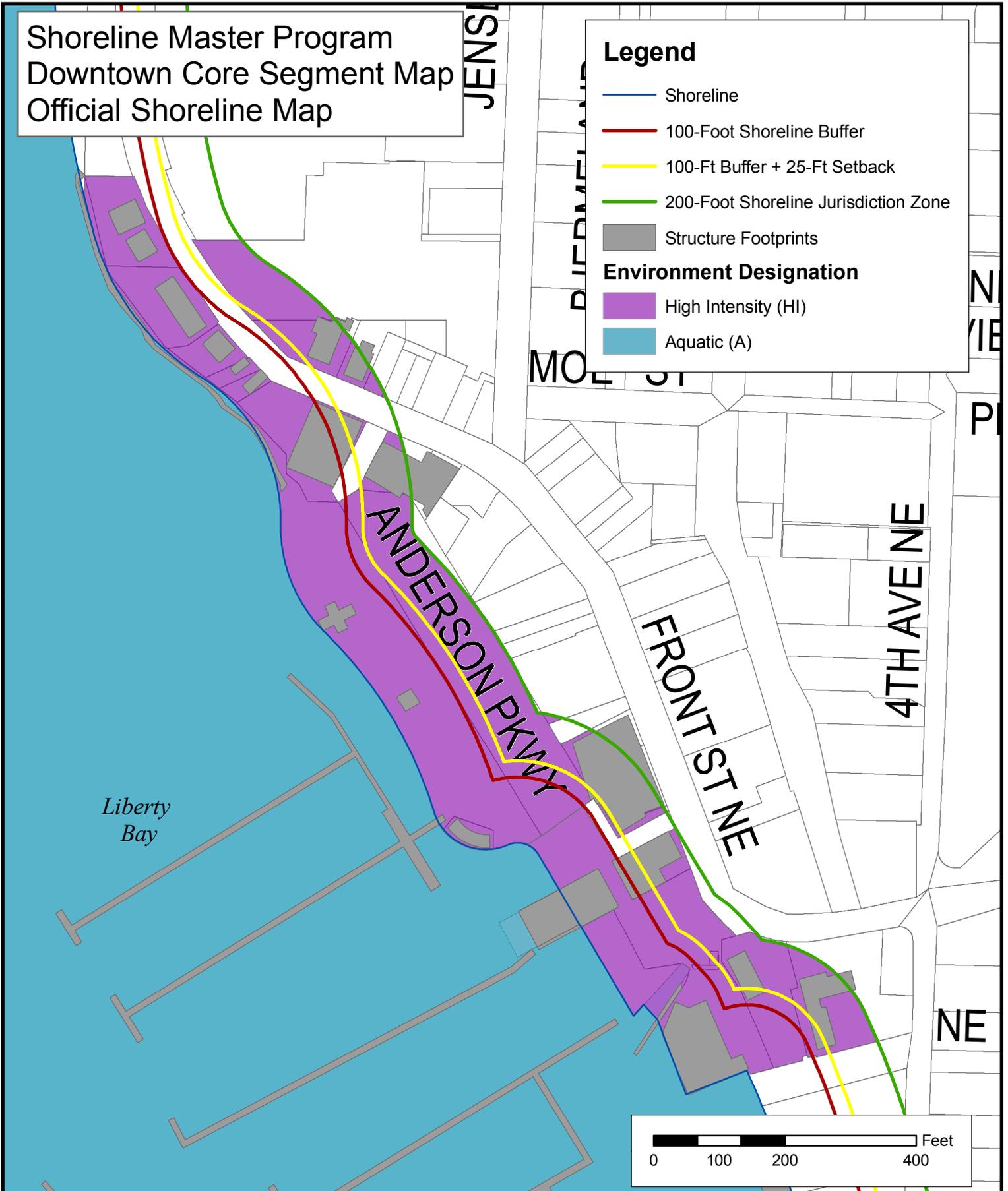


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Shoreline Master Program  
 Downtown Core Segment Map  
 Official Shoreline Map

**Legend**

-  Shoreline
  -  100-Foot Shoreline Buffer
  -  100-Ft Buffer + 25-Ft Setback
  -  200-Foot Shoreline Jurisdiction Zone
  -  Structure Footprints
- Environment Designation**
-  High Intensity (HI)
  -  Aquatic (A)



Primary Map Sources & Original Scales: Kitsap County Assessor's Tax Maps 1:12,000, Kitsap County IT, GIS Division. (Downloaded May 2011), Building Footprints, Kitsap County GIS. (Downloaded 10/16/09, updated by Poulsbo GIS).

City of Poulsbo Planning Department GIS  
 Printed on Oct. 25, 2011



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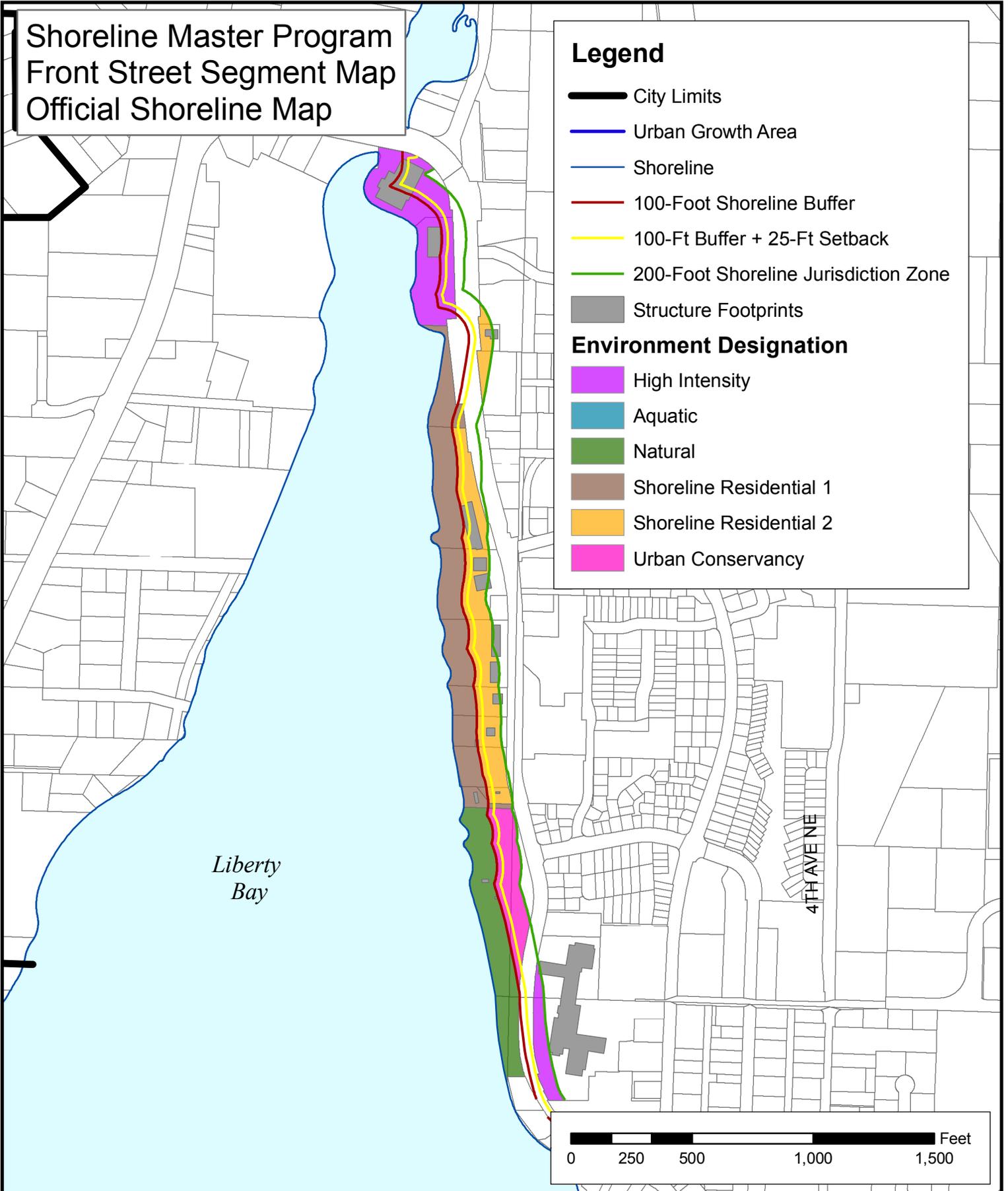
Shoreline Master Program  
 Front Street Segment Map  
 Official Shoreline Map

**Legend**

-  City Limits
-  Urban Growth Area
-  Shoreline
-  100-Foot Shoreline Buffer
-  100-Ft Buffer + 25-Ft Setback
-  200-Foot Shoreline Jurisdiction Zone

**Environment Designation**

-  High Intensity
-  Aquatic
-  Natural
-  Shoreline Residential 1
-  Shoreline Residential 2
-  Urban Conservancy



*Liberty Bay*

4TH AVENUE NE

0 250 500 1,000 1,500 Feet

Primary Map Sources & Original Scales: Kitsap County Assessor's Tax Maps 1:12,000, Kitsap County IT, GIS Division. (Downloaded May 2011), Building Footprints, Kitsap County GIS. (Downloaded 10/16/09, updated by Poulsbo GIS).

City of Poulsbo Planning Department GIS  
 Printed on March 9, 2012



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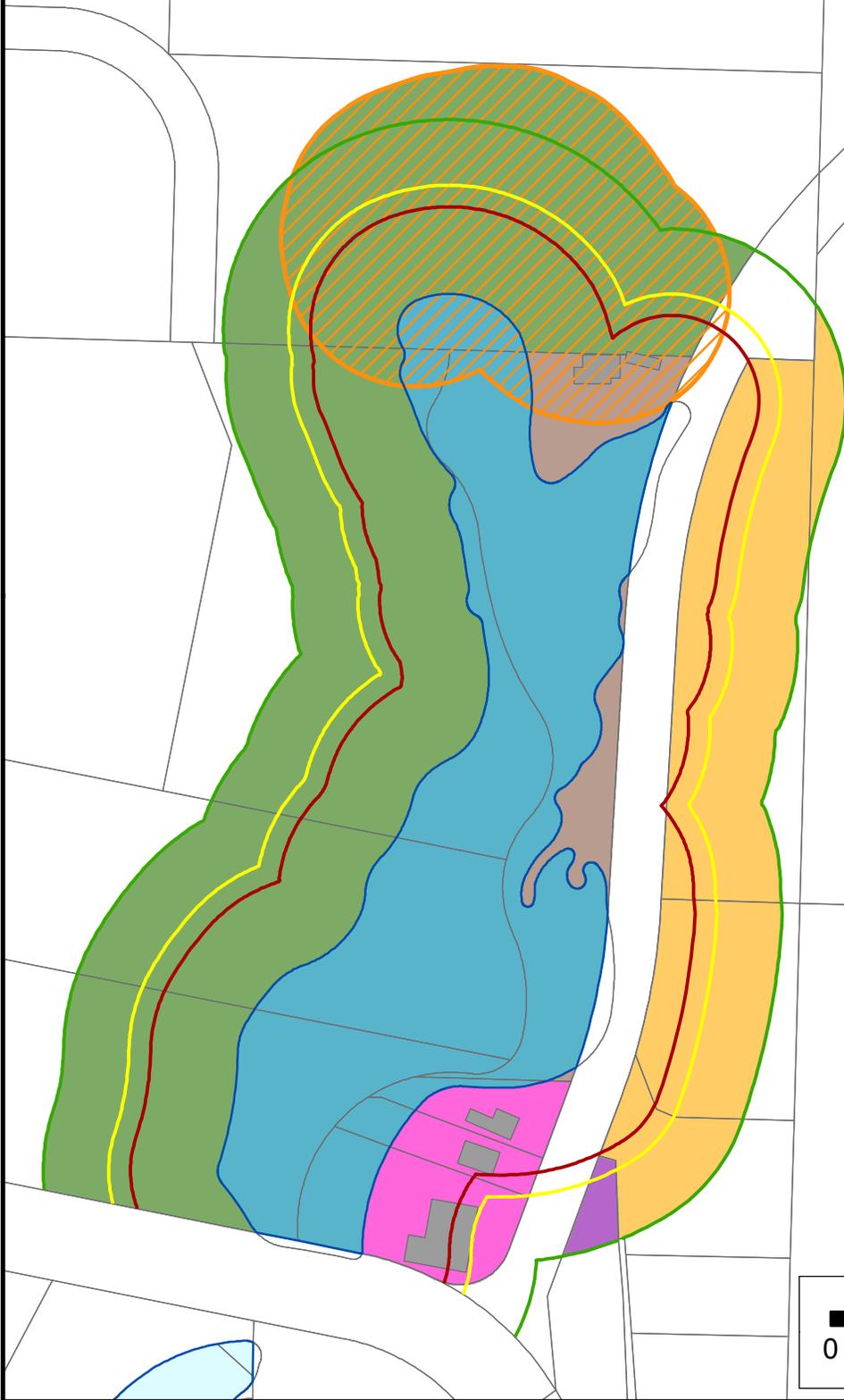
Shoreline Master Program  
 Estuary Segment Map  
 Official Shoreline Map

**Legend**

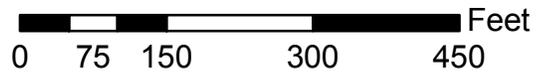
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-  Urban Conservancy (UC)



1ST AVENUE



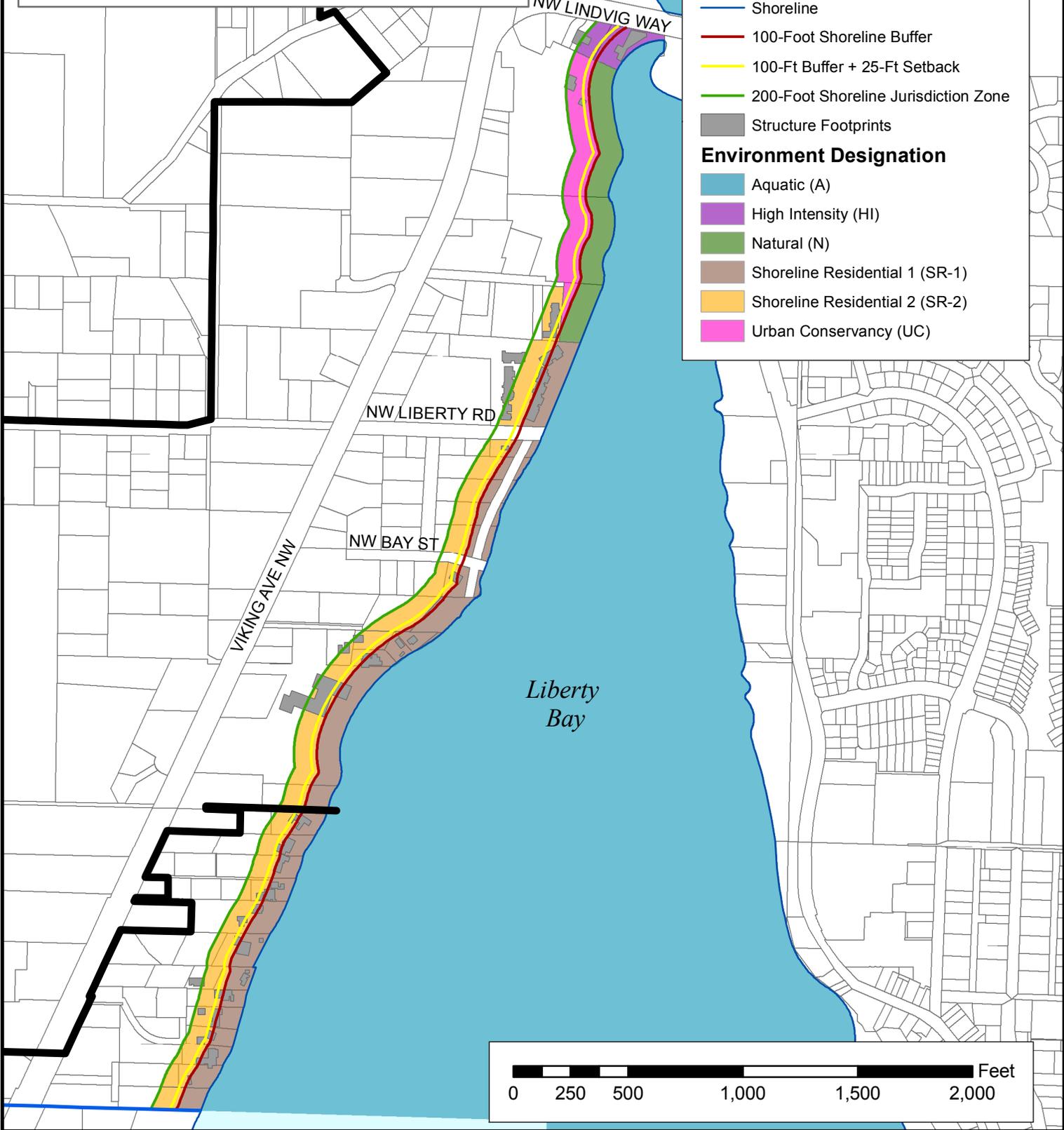
Primary Map Sources & Original Scales: Kitsap County Assessor's Tax Maps 1:12,000, Kitsap County IT, GIS Division. (Downloaded May 2011), Building Footprints, Kitsap County GIS. (Downloaded 10/16/09).

City of Poulsbo Planning Department GIS  
 Printed on Oct. 18, 2011



This shoreline map series is intended for general shoreline planning. These maps are schematic representations of physical features, infrastructure, and land ownership boundaries. The map information was derived from available public records and existing sources, not from surveys. Studies may be necessary with project review to verify information.

# Shoreline Master Program Western Shoreline Segment Map Official Shoreline Map



## Legend

- City Limits
- Urban Growth Area
- Shoreline
- 100-Foot Shoreline Buffer
- 100-Ft Buffer + 25-Ft Setback
- 200-Foot Shoreline Jurisdiction Zone
- Structure Footprints

## Environment Designation

- Aquatic (A)
- High Intensity (HI)
- Natural (N)
- Shoreline Residential 1 (SR-1)
- Shoreline Residential 2 (SR-2)
- Urban Conservancy (UC)

Primary Map Sources & Original Scales: Kitsap County Assessor's Tax Maps 1:12,000, Kitsap County IT, GIS Division. (Downloaded May 2011), Building Footprints, Kitsap County GIS. (Downloaded 10/16/09, updated by Poulsbo GIS).

City of Poulsbo Planning Department GIS  
Printed on Oct. 25, 2011



This shoreline map series is intended for general shoreline planning. These maps are schematic representations of physical features, infrastructure, and land ownership boundaries. The map information was derived from available public records and existing sources, not from surveys. Studies may be necessary with project review to verify information.

# **CITY OF POULSBO – SHORELINE MASTER PROGRAM UPDATE**

## **SHORELINE MASTER PROGRAM REGULATIONS**

**CITY COUNCIL APPROVED – MAY 2, 2012**

### **CHAPTER 16.09 SHORELINE ADMINISTRATION AND PROCEDURES**

#### **16.09.010 Purpose.**

This chapter contains the provisions regarding the City's administration and enforcement of the Shoreline Management Act and the Poulsbo shoreline master program (Chapter 16.08 of the Poulsbo Municipal Code), as well as the permit system applicable to the Shoreline Management Act and shoreline master program of the city.

#### **16.09.020 Shoreline administrator.**

The city planning director is the shoreline administrator, and is responsible for the administration of the Shoreline Management Act and the shoreline master program of the city.

#### **16.09.030 Applicability of the shoreline master program.**

Within the shoreline jurisdiction, the shoreline master program applies to all development as that term is defined in RCW 90.58.030, whether or not that development is exempt from the requirements of obtaining a permit under this chapter.

#### **16.09.040 Exemption from permit requirements.**

All shoreline development, except as specified in WAC 173-27-040 and RCW 98.58.030(3)(e), RCW 90.58.140(9), RCW 90.58.147, RCW 90.58.355 and RCW 90.58.515, must obtain a permit prior to commencement. Chapter 16.08 and this chapter indicate which permit is required for specific development types that do not meet the exemption criteria.

#### **16.09.050 Letter of exemption issued in certain cases.**

WAC Section 173-27-050 establishes the circumstances under which the planning director will issue a letter stating that a proposed development is exempt from the permit requirements of the Shoreline Management Act and this chapter.

#### **16.09.060 Review of exempt actions.**

Applicants shall consult with the planning director prior to commencing any work on a development which the applicant believes is exempt from the permit requirements of the Shoreline Management Act and this chapter. The planning director will review these proposed developments for consistency with the requirements of the Shoreline Management Act and the shoreline master program to determine whether the city concurs that the development is exempt from permit requirements. If the planning director determines that the development is not

exempt from the permit requirements, the applicant shall be required to submit an application for a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance application, as well as any other permit applications deemed necessary by the planning director.

**16.09.070 Application materials.**

The planning director is directed to adopt and publish application forms and materials for permits required under this chapter. At a minimum, these application forms and materials will require the information specified in WAC 173-127-130. An applicant for a permit shall be required to submit all of the forms and materials specified by the planning director, together with the application fee, in order for the application to be considered complete.

**16.09.080 Concurrent review of permit applications.**

Where the city must approve more than one type of shoreline permit and/or other land use permit application for a proposed development or use, all of the applications shall be submitted, reviewed and processed concurrently, according to the requirements of the highest-level permit and its relevant permit type (Type I, II or III). The review and approval process shall be consistent with the requirements of PMC Title 19 (Project Permit Application Procedures) and WAC 173-27. Type IV and V applications are not subject to this subsection.

**16.09.090 Developments and uses located both inside and outside of the shoreline.**

When a proposed development or use includes both shoreline and non-shoreline areas, and any type of shoreline permit is required, the shoreline permit must be obtained before any part of the development, including the development activity that is entirely confined to the upland areas, can proceed.

**16.09.100 Notice of applications and hearings.**

Public notices of pending applications and hearings on permits under the Shoreline Management Act, including substantial development permits, shoreline conditional use permits, and shoreline variances, will, at a minimum, contain the information specified in WAC 173-27-110 and PMC 19.01.045 according to the permit type (Type I, II or III), and will be distributed according to the requirements of those regulations.

**16.09.110 General review criteria for all substantial development permits.**

WAC 173-27-150 establishes that a minor shoreline substantial development permit or a shoreline substantial development permit may only be granted when the proposed development is consistent with all of the following:

1. The policies and procedures of the Shoreline Management Act;
2. The provisions of Chapter 173-27 WAC;
3. Chapter 16.08, PMC;

4. Any conditions attached by the City to the permit approval as necessary to ensure compliance with the Act and Chapter 16.08, PMC.

**16.09.120 Minor shoreline substantial development permits (Type II).**

A. Applicable development activities. A development activity that does not qualify for a shoreline exemption per PMC 16.09.040, but that meets one or more of the following criteria, shall be processed as a minor shoreline substantial development permit unless the planning director determines that section B is applicable to the proposed development.

1. Development that meets the requirements for minor site plan review in PMC 18.270.020.B.
2. Public access and other associated amenities (such as trails, signage, benches, educational or recreational facilities) that are located landward of the ordinary high water mark, and that do not have a fair market value of more than \$50,000.
3. Underground utility improvements, including utility extensions, within an existing right-of-way or an existing public or private street.
4. Habitat restoration activities that are not associated with a development plan or mitigation for development or use impacts.

B. Exceptions. Any development that is determined by the planning director to have a probable detrimental impact to shoreline habitat functions and values, or that will be located waterward of the ordinary high water mark, or that will reduce public shoreline access or public views of the shoreline, does not qualify for a minor shoreline substantial development permit.

C. Review process. A minor shoreline substantial development permit shall be processed as a Type II administrative permit application, according to the requirements of PMC 19.01.035 and WAC 173-27. The decision maker shall be the planning director, and appeals shall be heard by the city hearing examiner.

**16.09.130 Shoreline substantial development permits (Type III).**

A. Applicable development activities. A development activity that meets one or more of the following criteria shall be processed as a shoreline substantial development permit if it does not qualify for a shoreline exemption or a minor shoreline substantial development permit.

B. Review process. A shoreline substantial development permit shall be processed as a Type III quasi-judicial permit application, according to the requirements of PMC 19.01.040 and WAC 173-27. The decision maker shall be the city hearing examiner, and appeals shall be heard by the city council.

**16.09.140 General review criteria for all shoreline conditional use permits.**

The requirements of this section apply to all minor shoreline conditional use permits and shoreline conditional use permits:

A. Purpose. Per WAC 173-27-160, the purpose of a shoreline conditional use permit is to allow flexibility within the shoreline master program in the application of use regulations in a manner consistent with the policies of RCW [90.58.020](#). In authorizing a conditional use, special conditions may be attached to the permit by the city or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Shoreline Management Act and the city's shoreline master program.

B. Criteria for approval. Uses which are classified or set forth in the city's shoreline master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:

1. That the proposed use is consistent with the policies of RCW [90.58.020](#) and the city's shoreline master program;
2. That the proposed use will not interfere with the normal public use of public shorelines;
3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the city's comprehensive plan and shoreline master program;
4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
5. That the public interest will suffer no substantial detrimental effect.

C. Cumulative effects. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW [90.58.020](#) and shall not produce substantial adverse effects to the shoreline environment.

D. Unclassified uses. Uses which are not classified in the city's shoreline master program as shown on the official shoreline use table may be authorized as conditional uses, provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the city's shoreline master program, and receives a conditional use permit for such use.

E. Uses which are specifically prohibited by the master program may not be authorized through a conditional use permit.

#### **16.09.150 Minor shoreline conditional use permits (Type II)**

A. Applicable uses. A use that is classified as a conditional use by the city's shoreline master program shall be processed as a minor conditional use if it meets the requirements of PMC 16.09.140, and if one or more of the following are met:

1. The use will occur entirely within an existing building and involve no changes to the building exterior.

2. The use will be associated with development activities that qualify for a shoreline exemption or a minor substantial development permit.
3. The use does not involve any development activities, but is classified as a conditional use by the city's shoreline master program.

B. Review process. A minor shoreline conditional use permit shall be processed as a Type II administrative permit application, according to the requirements of PMC 19.01.035 and WAC 173-27. The decision maker shall be the planning director, and appeals shall be heard by the city hearing examiner.

**16.09.160 Shoreline conditional use permits (Type III)**

A. Applicable uses. A use that is classified as a conditional use by the city's shoreline master program may be authorized if it meets the requirements of PMC 16.09.140.

B. Review process. A shoreline conditional use permit shall be processed as a Type III quasi-judicial permit application according to the requirements of PMC 19.01.040 and WAC 173-27. The decision maker shall be the city hearing examiner, and appeals shall be heard by the city council.

C. Approval by Department of Ecology. Shoreline conditional use permits require approval by the Department of Ecology. When the city has approved a minor conditional use permit or a conditional use permit the city will forward it to the Department of Ecology for its review and approval, approval with conditions, or disapproval according to the requirements of WAC 173-27-200.

**16.09.160 Shoreline variances.**

A. General. This section establishes the procedures and criteria that the city will use to review and decide upon each application for a shoreline variance under the Shoreline Management Act. PMC 16.08 establishes when a shoreline variance shall be required.

B. Purpose of a shoreline variance. Under WAC 173-27-170, the purpose of a variance is strictly limited to granting relief to specific bulk, dimensional or performance standards of the shoreline master program where there are extraordinary or unique circumstances relating to the subject property such that the strict implementation of the shoreline master program would impose unnecessary hardship on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the shoreline use regulations of the master program are prohibited.

C. Review process.. A shoreline variance shall be reviewed as a Type III permit pursuant to the requirements of PMC Title 19.040 and WAC 173-27. The review authority is the city hearing examiner and appeals shall be heard by the city council. If any conflict should exist between the provisions of Title 19 and this chapter, the provisions of this chapter will be followed.

D. Criteria for approval. WAC 173-27-170 establishes the criteria under which the city may grant a variance. Additionally, the city shall review the proposal against any relevant zoning variance criteria in PMC Chapter 16.20 and PMC Title 18. If there is a conflict between

WAC 173-27-170 and PMC Chapter 16.20 or PMC Title 18, the more stringent variance criteria shall apply.

E. Approval by Department of Ecology. Shoreline variances require approval by the Department of Ecology. When the city has approved a variance, the city will forward it to the Department of Ecology for its review and approval, approval with conditions, or disapproval according to the requirements of WAC 173-27-200.

**16.09.170 Issuance of permits.**

After approving a shoreline substantial development permit, shoreline conditional use permit or shoreline variance under the Shoreline Management Act and the shoreline master program, the city will issue a permit containing, at a minimum, the information specified in WAC 173-27-190.

**16.09.180 Filing with Department of Ecology.**

WAC 173-27-130 establishes the requirements and procedures for filing decisions on permits with the Department of Ecology.

**16.09.190 Requests for review.**

WAC 173-27-220 establishes the procedures and time periods for requesting review of decisions that have been issued by either the city or the Department of Ecology on substantial development permits, conditional use permits and variances and other decisions under the Shoreline Management Act and the shoreline master program.

**16.09.200 Time to commence and complete development.**

WAC 173-27-090 establishes time requirements for commencing and completing work authorized by a permit under the Shoreline Management Act and the shoreline master program. The city may, on a case-by-case basis, issue permits for an alternative fixed time period as authorized in WAC 173-27-090.

**16.09.210 Revision to issued permits.**

WAC 173-27-100 establishes the procedure and criteria under which the city may approve a revision to a permit issued under the Shoreline Management Act and the shoreline master program.

**16.09.220 Enforcement authority.**

WAC 173-27, Part II, contains enforcement regulations, including authority for the city to issue regulatory orders to enforce the Shoreline Management Act and the shoreline master program. The city's shoreline enforcement regulations are in PMC 16.08.480. Enforcement authority established in any other city code, including but not limited to the Critical Areas Ordinance (PMC 16.20) and the Zoning Ordinance (PMC Title 18) shall also be applicable. In addition, the city shall have any and all other powers and authority granted to or devolving upon municipal corporations to enforce ordinances, resolutions, regulations, and other laws within its territorial limits.

**16.09.230 Additional authorities and responsibilities.**

The city shall have any and all additional authority and perform any and all additional responsibilities now or hereafter granted to or devolving upon municipal corporations with respect to the administration and enforcement of the Shoreline Management Act and shoreline master program.

# Shoreline Master Program Update

## Comprehensive Plan Natural Resources Element

### Shoreline Goals and Policies

## 1. Natural Resources Element

### 5.1 Community Key Goals – Natural Environment

- Support standards that maintain or improve environmental quality.
- Preserve the City’s natural systems to protect public health, safety and welfare, and to maintain the integrity of the natural environment.
- Support regulation of activities in sensitive and hazardous areas to ensure high environmental quality and to avoid risks or actual damage to life and property.
- Coordinate implementation of regulation and preservation efforts through the Comprehensive Plan, Critical Areas Ordinance, Shoreline Master Program, and other applicable City plans and regulations, depending on the nature and location of the natural resource to be protected.

### 5.2 Plan Context

As Poulsbo continues to grow, the impact of that growth on the natural environment becomes more pronounced. In order to adequately meet the need for protection and preservation, the Natural Environment Chapter provides a framework that recognizes the relationship between Poulsbo’s natural environment, land use planning, and a variety of regulatory and non-regulatory efforts.

This Chapter includes goals and policies to protect the natural environment and to guide future growth in a manner that minimizes impacts. Impacts of development are minimized primarily through regulations on development, while most enhancements to the natural environment are primarily through non-regulatory and voluntary efforts.

The Washington State Growth Management Act requires every county and city to adopt policies and development regulations that designate and protect critical areas (RCW 36.70A.060(2)). Critical areas are defined in RCW 36.70A.030(5) as:

- a) Wetlands
- b) Areas with a critical recharging effect of aquifers used for potable water

- c) Frequently flooded areas
- d) Geologically hazardous areas
- e) Fish and wildlife habitat conservation areas.

These five critical areas are defined, mapped and regulated in the City’s Critical Areas Ordinance (CAO), which was revised to ensure the inclusion of Best Available Science in 2007. As part of the public hearing process to the 2007 update, the City prepared a CAO Adoption Document which provides a detailed explanation of how the ordinance is in compliance with GMA; how best available science was applied; and addressed many of the public comments received during the course of the public process. It is recommended to review the current CAO and the Adoption Document to fully ascertain the how, why, and what of the City’s critical area protection measures.

The Natural Environment goals and policies address:

- Environmental Stewardship
- Wetlands
- Aquifer Recharge Areas
- Frequently Flooded Areas
- Geologically Hazardous Areas
- Fish and Wildlife Habitat Conservation Areas
- Shorelines and Liberty Bay

Poulsbo faces a number of challenges in continuing to achieve the community’s desired land use vision, while accommodating the growth that is expected over the next twenty years. These include:

- Making choices about the City’s future that balances consideration of environmental stewardship and urban growth and development.
- Improving the water quality of Liberty Bay and creeks within the city limits and urban growth area.
- Storm flow surges in stream systems due to existing development that was not required to meet today’s storm water regulations.
- Need for basin-wide control and management of storm water, at existing and future developments, to minimize changes to stream hydrology. Improving the City-owned storm water facilities annual inspection and maintenance program.

## **2. 5.3 Shoreline Management**

### **A. Purpose.**

The shorelines of Liberty Bay and the Dogfish Creek estuary are regulated through the Shoreline Master Program (SMP). RCW 90.58.020 and .100 provide policy direction for the SMP to:

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

The Shoreline Management Act (RCW 90.58) establishes the concepts of *preferred uses* and *priority uses* in shoreline areas. RCW 90.58.020 indicates that *preferred uses* are those “which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state’s shorelines.” This section further states that *priority uses* include single family residences, ports, shoreline recreational uses, water dependent industrial and commercial developments and other developments that provide opportunities for the public to access the shoreline environment. To the maximum extent possible, the shorelines should be reserved for "water-oriented" uses, including "water-dependent", "water-related" and "water-enjoyment" uses, as defined in the Act.

The overarching policy is that “the public’s opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally.” Coordinated planning is necessary in order to protect the public interests associated with the shorelines of the state, while, at the same time, recognizing and protecting private property rights.

The 2003 SMP Guidelines (WAC 173-26, Part III) includes a requirement for “no net loss” of shoreline ecological function. The Department of Ecology’s SMP Handbook indicates that “no net loss” means that “over time, the existing condition of shoreline ecological functions should remain the same as when the SMP is implemented. The no net loss standard is designed to halt the introduction of new detrimental impacts to shoreline ecological functions resulting from new development.” WAC 173-26-186(8) directs that master programs “include policies and regulations designed to achieve no net

loss of those ecological functions.” The goals and policies of the SMP are required to be incorporated into the City’s comprehensive plan.

### **3. ~~5.45.3~~ Goals and Policies**

#### **Goals and Policies - General**

##### **GOAL NE-1**

**Protect, sustain, and provide for healthy and diverse ecosystems within the Liberty Bay watershed.**

##### ***Policy NE-1.1***

*The City shall protect environmental quality through land use plans, surface water management plans and programs, comprehensive park plans, the shoreline master program, development regulations and site-specific project review.*

##### ***Policy NE-1.2***

*The City shall maintain regulations such as the Critical Areas Ordinance, which provide protection for all regulated critical areas – a) wetlands; b) areas with a critical recharging effect on aquifers; c) frequently flooded areas; d) fish and wildlife habitat conservation areas; and e) geologically hazardous areas. The City’s development standards shall incorporate and utilize appropriate and applicable best available science for purposes of designating and protecting all regulated critical areas.*

##### ***Policy NE-1.3***

*The City should work in concert with state and regional agencies, as well as with neighboring jurisdictions and tribes, to protect sensitive areas and the City’s natural environment.*

##### ***Policy NE-1.4***

*The City will continue to require completion of environmental studies by qualified professionals to assess the impact of proposed development on critical areas. The Critical Areas Ordinance shall set forth when and how the environmental studies shall be required.*

##### ***Policy NE-1.5***

*The City shall continue to participate in Low Impact Development technique classes and programs, such as the Kitsap County Homebuilders Kitsap Low Impact Development Leadership team. The City shall implement as appropriate the “Low Impact Development (LID) Guidance Manual- A Practical Guide to LID Implementation in Kitsap County.”*

***Policy NE-1.6***

*The City shall encourage, where appropriate, public-private partnerships and voluntary efforts to protect, restore and enhance the quality and functions of the City’s critical areas and their associated buffers.*

***Policy NE-1.7***

*City regulated environmental protection cannot constitute a legal “takings” of land and the City must provide provisions for reasonable use of property according to legal precedent and laws.*

***Policy NE-1.8***

*Critical areas within the shoreline shall be protected by the standards in the CAO, unless the SMP provides protection for a critical area that is more stringent than that provided in the CAO, in which case the more stringent protection shall apply.*

**4. WETLANDS**

**GOAL NE-2**

**Protect the water quality, flows and ecological integrity of wetlands by appropriately regulating land uses and storm water, through the development review process.**

Wetlands are designated critical areas that are integral features of Poulsbo landscape and the local hydrologic cycle. In wetlands, the presence of water at or near the surface creates distinct soil types and supports a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, such as irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm pond, and landscape amenities, or those wetlands created after July 1, 1990 that were unintentionally created as a result of the construction of a road, street or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands. (See RCW 36.70A.030(20) for complete wetland definition).

Wetlands reduce floods, contribute to stream flows, and improve water quality. Each wetland provides various beneficial functions, but not all wetlands perform all functions, nor do they perform all functions equally well. Large wetlands, and those hydrologically associated with lakes and streams, have relatively more important functions in the watershed than small, hydrologically isolated wetlands.

Undeveloped land adjacent to a wetland provides a buffer to help minimize the impacts of urbanization. The long-term function of a wetland is dependent on land development strategies that protect wetland buffers.

Poulsbo has successfully (through acquisition and regulation) protected its larger wetlands, specifically those wetlands associated with the Dogfish Creek estuary. In addition to fish and wildlife benefits, publicly owned wetlands provide significant value to the community in the form of open space, passive recreation, education and cultural resources. Privately owned wetlands are important components of the hydrologic cycle and are amenities for property owners.

The City has mapped general locations of wetland areas for planning purposes, but the large-scale mapping is too imprecise to record the location of wetlands on specific sites. The City's wetland mapping combines the National Wetlands Inventory, hydric soils maps from the U.S. Department of Agriculture, and wetlands identified and delineated through the development review process. Site-specific wetland delineations by qualified professionals are required during the development review process.

***Policy NE-2.1***

*The City's Critical Areas Ordinance shall protect existing wetland functions in order to maintain water quality, retention, and wildlife habitat. New development adjacent to protected wetlands shall be subject to vegetative buffers as identified in the Critical Areas Ordinance and other applicable development standards.*

***Policy NE-2.2***

*The City shall continue to update its existing wetland database using the most recent information available. Wetland identification and delineations completed in conjunction with a land use permit will be entered into the database.*

***Policy NE-2.3***

*Use of fencing, flagging, or tape to mark wetland boundaries and buffers during construction shall be required as a land use permit condition. No construction activity or mechanical equipment shall be allowed in these delineated areas.*

***Policy NE-2.4***

*The City's Critical Areas Ordinance shall include penalties to be imposed on property owners or developers who degrade the function or values of wetlands.*

***Policy NE-2.5***

*Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements, as indicated in the City's Critical Areas Ordinance.*

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## **5. FISH AND WILDLIFE HABITAT CONSERVATION AREAS**

Fish and wildlife habitat conservation means land management to maintain species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean that cooperative and coordinated land use planning is critically important among counties and cities in a region (WAC 365-190-130(1)).

Fish and wildlife habitat conservation areas include (WAC 365-190-130(2)):

1. Areas with which endangered, threatened and sensitive species have a primary association;
2. Habitats and species of local importance;
3. Commercial and recreational shellfish areas;
4. Kelp and eelgrass beds, herring, and smelt spawning areas;
5. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;
6. Waters of the State;
7. Lakes, ponds, streams and rivers planted with game fish by a government or tribal entity; or
8. State natural area preserves and natural resource conservation areas.

### ***Basin Overview***

The Poulsbo watershed is defined by the convergence of two glacially formed hills and contains a series of small natural systems. The largest stream system in the City is Dogfish Creek. The Dogfish Creek watershed includes the main stem of Dogfish Creek, and the East and South Forks. The main stem flows in a southerly direction, draining the Big Valley area. The East Fork flows in a southwesterly direction draining Lincoln Hill and Bond Road areas. The South Fork flows north and northwest along and adjacent to State Highway 305 and is located entirely within the existing city limits.

The South Fork is smaller in size than the other two forks; however, it drains a much more urbanized watershed, and is subject to periodic flooding. All of the creeks and small streams within the city limits drain into Liberty Bay. The watershed has no lakes, but some surface storage is provided in the large marshy area near the main stem of Dogfish Creek. The water quality of streams is generally suitable for most purposes throughout most of the year.

North Fork of Johnson Creek is a Type 3 stream that lies primarily in the unincorporated portion of the City's Urban Growth Area, with only the headwaters, upper and lower stream reach located in the city limits at this time. Bjorgen Creek is a Type 3 stream that flows south from the Deer Run subdivision through recently annexed land and ultimately ends at Liberty Bay. Lemolo Creek is located just east of the Poulsbo UGA boundary in the Noll Road vicinity and flows south into Liberty Bay. The majority of these three stream systems run through undeveloped or low-density areas within the City or its outlying area.

Poulsbo Creek is a small stream system that flows through a portion of the City known as Old Town. Historically, this creek has been regulated only as a drainage way, but through the City's CAO update, Washington State Fish and Wildlife reclassified the creek as a regulated stream.

Liberty Bay is and the Liberty Bay Estuary are the major body of surface water in the City.

Beneficial uses of surface water are listed in the Water Quality Standards for Surface Water of the State of Washington (WAC 173-201). These include drinking water; salmonid and fish habitat; shellfish; wildlife habitat; recreation; commerce and navigation; stock and crop water. Water quality is especially important for maintaining safe drinking water and swimming areas, and for maintaining healthy fish, shellfish and wildlife populations.

Although urbanization within the city limits has affected shoreline and instream habitat conditions, watershed-scale processes (especially processes occurring in the upper basin) have also affected the health of Poulsbo's streams and shoreline areas. Many of the factors that affect habitat quality are the result of actions that extend beyond the City's jurisdiction. Additional measures that address basin hydrology, sediment transport, impervious surface area, and water quality on a watershed scale will need to be explored and pursued in conjunction with Kitsap County if long-term and sustainable habitat improvements are to be achieved.

Streams in Poulsbo's urban area have all been impacted to some degree by development. Challenges include blocked culverts, severe channel down-cutting, areas of moderate to severe erosion, invasive non-native vegetation, and inadequate vegetative cover and lack of large woody debris. Recommendations to improving the existing conditions have been identified through the Critical Area Ordinance update process. Improvements include replacing culverts to allow for fish passage; develop and implement a stream channel rehabilitation program for degraded reaches in Wilderness Park; implementation of a vegetation management plan to improve/enhance vegetated buffer areas; and ensure storm water receive maximum water quality treatment per the City's adopted storm water management manual.

## **6. GOAL NE-6**

**Protect biological diversity by appropriately regulating fish and wildlife habitat conservation areas.**

### ***Policy NE-6.1***

*The City's Critical Areas Ordinance and Shoreline Master Program shall require vegetative buffers along surface waters to protect anadromous fish and wildlife habitat.*

*New development shall be subject to buffers or resource management areas, as identified in the Critical Areas Ordinance, the Shoreline Master Program, and other applicable development standards.*

## **7. SHORELINES AND LIBERTY BAY**

### **Shoreline management**

The City’s shoreline jurisdiction includes all Liberty Bay shorelines and aquatic areas within the City limits and the tidally-influenced (estuarine) portion of Dogfish Creek north of Lindvig Way, and shorelands from 0-200 feet of the ordinary high water mark (OHWM) of Liberty Bay. The City has also “predesignated” all of the shorelines within its unincorporated Urban Growth Area, and the SMP will address these shorelines as well as those located within the City limits. However, in the absence of an interlocal agreement with Kitsap County, the City will not have any regulatory authority in the predesignated areas until they are annexed. No “optional expansion” of jurisdiction for critical areas and buffers per RCW 90.58.030(2)(f)(ii) and WAC 173-26-221(2)(a) is included in this SMP.

There are a number of local tools used to implement the goals and policies of the Act. Development regulations such as the Zoning Ordinance and Critical Areas Ordinance support the SMP in regulating development along the City’s shorelines. Capital improvement plans, such as sewer, water, parks and transportation, also help the City maintain a balance of providing public services and access on the shoreline, while ensuring environmental protection.

As required by the Shoreline Management Act, the City has established shoreline environment designations, which serve as an “overlay” to the City’s comprehensive plan land use designations. These designations are applied to specific shoreline areas to guide the use and development of these areas. There are five environments applied to the City’s shorelines – Shoreline Residential, High Intensity, Urban Conservancy, Natural and Aquatic; these environments have been mapped and are identified on Figure NE-6.

### **GOAL NE-7**

**Ensure no net loss of shoreline ecological values and functions, as required by the Shoreline Management Act 90.58 RCW.**

#### **Policy NE-7.1**

Proposed development projects shall be reviewed for consistency with the no net loss policy, taking into account (1) the environmental limitations and sensitivity of the shoreline area; (2) proposed mitigation for anticipated impacts; (3) the level of infrastructure and services available; and (4) other comprehensive planning considerations.

**Policy NE-7.2**

New development and redevelopment in all shoreline environment designations shall be consistent with the “preferred use” and “priority use” provisions as set forth in 90.58.020 RCW and WAC 173-26-201, or their successors.

**Policy NE-7.3**

The City should identify potential opportunities within City-owned shoreline properties for offsite mitigation of shoreline impacts, through restoration of native vegetation and/or habitat functions within the shoreline buffer area.

**Policy NE-7.4**

The City should encourage appropriate multiple users and uses to share current and future over-water and in-water facilities and structures, to minimize the need for new, individual over-water and in-water facilities and structures.

**GOAL NE-8**

**Manage the City’s shorelines by implementing specific policies, use regulations, and development standards for each of the shoreline environments identified in the City’s Shoreline Master Plan.**

**Shoreline Residential**

The Shoreline Residential environment is intended to accommodate residential development consistent with the City’s shoreline management standards; protect ecological functions and natural habitat, and restoration when feasible; and provide public access and recreational uses, where appropriate.

The Shoreline Residential environment is identified on Figure NE-6, and is divided into two sub-designations Shoreline Residential-1 (SR-1) and Shoreline Residential-2 (SR-2).

The SR-1 environment primarily includes those areas of the shorelands waterward of the established shoreline buffer, and/or on the water side of “buffer interruptions” such as major roads.

The SR-2 environment primarily includes those areas of the shorelands outside of the established shoreline buffer, and/or on the upland side of “buffer interruptions,” such as major roads. Within these areas, new residential development is permitted according to the applicable shoreline and zoning development standards, with an emphasis on transition from the preservation-oriented focus of SR-1 to adjacent residential development located outside of the shoreline jurisdiction.

**Policy NE-8.1**

New development and redevelopment in the Shoreline Residential (SR) environment shall be of a type consistent with a residential environment and shall be compatible with surrounding residential land uses.

**Policy NE-8.2**

In the SR-1 environment, the existing natural environment should be preserved as much as possible, with new development and enlargement of existing structures within the buffer area being limited to water-dependent use, reasonable use, and/or limited expansion.

**Policy NE-8.3**

The SR-2 environment use regulations shall provide a transition between the preservation focus of the SR-1 environment, to the adjacent residential development outside of the shoreline jurisdiction.

**Policy NE-8.4**

When new development or redevelopment is proposed, designated public access and designated public views shall be preserved, and enhanced when possible.

**High Intensity**

The High Intensity (HI) shoreline environment provides for those areas of existing moderate commercial and mixed commercial/residential development. This environment allows for optimum use of shoreline areas that are presently developed with commercial uses, while seeking opportunities to protect habitat and ecological functions from further degradation. The identified HI areas include the downtown waterfront and an area near the head of Liberty Bay.

**Policy NE-8.5**

As set forth in WAC 173-26-211(5)(d) or as subsequently amended, new uses in the HI environment should be prioritized. First priority should be given to water-dependent uses. Second priority should be given to water-related uses and third priority to water-enjoyment uses. New non-water oriented uses are allowed under the following circumstances: as a minor part of mixed use development that includes water-dependent uses; when accessory to uses that are water-dependent, water-related or for water-enjoyment; when the site is physically separated from the shoreline from another property or public right-of-way; or when there is no direct access to the shoreline from the site.

**Policy NE-8.6**

Full utilization of the area designated as the HI environment should be achieved before further expansion of the HI environment is allowed unless it is demonstrated that the demand for water-oriented commercial uses cannot be satisfied within the existing HI environment designation.

**Policy NE-8.7**

Existing non-water oriented uses in the HI environment, such as restaurants and retail shops, may continue to operate under the provisions of the City's zoning ordinance. Redevelopment, should be encouraged as water related or water enjoyment uses that will take advantage of water views, and provide public views and public access where feasible.

**Policy NE-8.8**

Compatibility of adjacent land uses and activities in the HI environment shall be encouraged through the design and location of new development and redevelopment, as well as landscaping, visual screening, signage, and lighting, to minimize potential adverse impacts to neighboring properties and protect the aesthetic qualities of the shoreline.

**Urban Conservancy**

The Urban Conservancy (UC) shoreline environment preserves existing natural landforms and native shoreline vegetation as much as possible, while promoting public shoreline access, views and recreation along with continuance of existing developed uses. The UC designation applies to several shoreline properties located at the west side of the intersection of Lindvig Way and Bond Rd, adjacent to the Dogfish Creek estuary.

**Policy NE-8.9**

New development, or redevelopment or change of land use on commercially-zoned property in the UC environment shall not increase the existing density or intensity of land use, exceed the size and scale of existing structures within the shoreline buffer and setback, or extend further waterward than the existing development.

**Policy NE-8.10**

Standards should be established for shoreline stabilization measures, vegetation conservation, and shoreline modification in the UC environment, with the intent to protect against further degradation of shoreline values and functions.

**Policy NE-8.11**

In the UC environment, water-oriented uses shall be encouraged over nonwater-oriented uses for new development or redevelopment.

**Policy NE-8.12**

Restoration of shoreline ecological functions, maintenance of designated public views, and establishment/maintenance of public access shall be priorities when new development or redevelopment is proposed in the UC environment.

**Policy NE-8.13**

The City should explore opportunities to acquire property from willing landowners within the UC areas where there are opportunities for expanding public park lands, improving shoreline and estuary restoration and protection efforts, and increasing public access.

**Natural**

The Natural (N) shoreline environment is established to protect and restore shoreline areas that are relatively free from human influence, undeveloped, and/or include intact or minimally degraded shoreline functions that are sensitive to proposed impacts from development. N areas within the city include the majority of Fish Park, and areas of Muriel Iverson Waterfront Park, Net Shed Park, American Legion Park and Nelson Park,

that are within 0-100 feet of the ordinary high water mark of Liberty Bay and/or the estuarine portion of Dogfish Creek.

**Policy NE-8.14**

The N environment in public shoreline parks should be retained for public recreation and public access, and managed to maximize environmental preservation, with a focus on retaining and restoring natural shoreline and habitat functions.

**Policy NE-8.15**

Within the N environment, scientific, historical, cultural and educational research uses, and low-intensity recreational access uses, may be allowed provided that no net loss of shoreline values and functions will result.

**Policy NE-8.16**

N areas along the Dogfish Creek estuary shall continue to be preserved and restored, and the establishment and maintenance of public access, public enjoyment, and public views shall be encouraged where a net loss of ecological functions will not occur.

**Policy NE-8.17**

The City should explore opportunities to acquire property or obtain public use easements from willing landowners within 0-100 feet of the shoreline, when such acquisition would benefit existing and proposed shoreline public access paths and/or would adjoin existing public shoreline parks.

**Aquatic**

The Aquatic (A) shoreline environment includes all lands waterward of the ordinary high water mark within the City's jurisdiction, including public and private tidelands, state submerged lands, and areas designated as critical saltwater habitat.

**Policy NE-8.18**

Regulations for the A environment should promote preservation and restoration of nearshore ecological function, and preservation and restoration of identified critical saltwater habitat areas.

**Policy NE-8.19**

Overwater on in-water development and uses on navigable waters or submerged lands should be located and designed to minimize interference with surface navigation; to minimize adverse visual impacts; and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration or on the nearshore environment.

**Policy NE-8.20**

Uses and activities in the A environment should be reviewed for compatibility with adjacent upland uses and environments.

**Policy NE-8.21**

New or expanded overwater or in-water structures should not be allowed except as part of a permitted water-dependent use that requires the specific overwater or in-water structure to function correctly.

**Policy NE-8.22**

Public recreational use of state uplands and submerged lands shall be protected against competing uses that would interfere with or restrict these uses.

**Policy NE-8.23**

Future aquaculture uses are not anticipated within the City's shoreline jurisdiction, for reasons including geographical limitations (shallow, tidal bay), potential conflicts with navigation, and water-quality concerns. However, some scale or form of non-commercial aquaculture in support of future restoration or enhancement efforts may be appropriate, and may be considered by the City on a case-by-case basis through a Shoreline Conditional Use Permit.

**Public Access**

The Shoreline Master Program Guidelines require dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the subdivision of land into more than four parcels, except when it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable. [WAC 173-26-221(4)(d)(iii)] Alternatively, the local government may opt to develop a shoreline public access plan that provides more effective public access than the above requirement, as described in WAC 173-26-221(4)(c).

**GOAL NE-9**

**The City shall develop a shoreline public access plan, consistent with the requirements of WAC 173-26-221(4)(c), which identifies existing and proposed public shoreline access points, requirements for dedication of public shoreline access with new shoreline development or redevelopment, and other opportunities for increasing and improving public access to the City's shorelines and the waters of Liberty Bay.**

**Policy NE-9.1**

The shoreline public access plan should be consistent with and supportive of other relevant comprehensive plan elements, especially the transportation and recreation elements, and with other approved plans and projects for public shoreline access, circulation and recreation.

Policy NE-9.2

Public participation and input shall be invited, in accordance with the requirements of WAC 173-26-201 (3)(b)(i), to identify and prioritize in the shoreline access plan the preferences of the City's residents for new and improved access points and other amenities that will increase the public's ability to enjoy the City's shorelines and the waters of Liberty Bay.

## **8. Liberty Bay**

Water quality is the primary consideration for the continued health of Liberty Bay. Good water quality sustains aquatic life, but quickly deteriorates when pollutants, such as sediment, nutrients, organic material, and toxicants are either dumped or discharged into the surface water, or are washed in by storm runoff.

Control of pollutants at their source is the first and best method to prevent water quality problems. Reducing non-point source pollution, the contaminated runoff from land surfaces, remains a major goal that involves the entire community. Each individual, business, and government entity is a potential contributor to water quality improvements by reducing or eliminating erosion, the use of herbicides, pesticides and fertilizers; and by properly using and disposing of oil and grease and hazardous materials like paints and solvents.

Liberty Bay, like much of Puget Sound, has experienced significant impacts on its ecological integrity and water quality. About half of the shoreline of Liberty Bay is armored and a greater portion has been developed. These shoreline modifications have altered nearshore processes and affected nearshore habitat conditions.

In addition, violations of water quality standards, most notably for microbial pollution, are a recurring problem in Liberty Bay. As a result, tribal, commercial and recreational shellfish harvest is now restricted to a fraction of historic levels. However, in spite of negative impacts on its water quality, Liberty Bay retains a level of natural ecosystem structure and function. Ecological conditions in the Liberty Bay watershed are generally supportive of aquatic life – although there is room for improvement. Water quality conditions are also generally supportive of recreational beneficial uses such as swimming and boating activities, although there are improvements still needed to fully support shellfish harvesting throughout the bay.

Much has been accomplished within the Liberty Bay watershed in the past decade. The Kitsap County Health District (KCHD) Pollution Identification and Correction program has significantly reduced bacterial pollution in Dogfish Creek and Liberty Bay. The City and KCHD have also been working to reduce bacterial pollution from storm water draining into the South Fork of Dogfish Creek and Liberty Bay. The Port of Poulsbo and the three marinas located in Liberty Bay have all instituted best management practices to reduce pollution. A historic undersized culvert located at the mouth of Dogfish Creek

was replaced with a bridge, now allowing unrestricted passage to salmonids and other aquatic biota, as well as restoring natural tidal flushing into the creek. New parks established by the City along the Liberty Bay shoreline and two existing parks along the shoreline, have enhanced the shoreline with natural vegetation.

Continuing improvements in nearshore habitat conditions, water quality, and biological integrity could eventually result in the full restoration of beneficial uses throughout Liberty Bay.

The City is responsible for the improvement of Liberty Bay primarily through its regulation of land uses and development along the Liberty Bay shoreline, and its storm water management of water quality that enters Liberty Bay through culverts. The Washington State Shoreline Management Act of 1971 requires local governments to adopt and maintain a Shoreline Master Program (SMP) that provides land use regulations and restrictions for shoreline management.

## **GOAL NE-10 ~~NE-7~~**

**Protect the water quality and ecological integrity of Liberty Bay by appropriately regulating land uses and storm water, through the development review process.**

### ***Policy NE-107.1***

*Protect shoreline ecological processes and functions through regulatory and non-regulatory means, including acquisition of key properties on the Liberty Bay estuary and shoreline; regulation of new development through the City's Shoreline Master Program; and incentives to encourage ecologically sound design.*

### ***Policy NE-107.2***

*Protect critical saltwater habitats in recognition of their importance to the marine ecosystem of Liberty Bay and Puget Sound. These habitats can provide critical reproduction, rearing and migratory nursery areas for fish, juvenile salmon, marine plants and animals. Habitats of special concern include kelp beds; eelgrass beds; spawning areas for herring, smelt and sand lance; juvenile salmonid migration corridors; rock sole spawning beds; rockfish settlement and nursery areas; and lingcod settlement and nursery areas.*

### ***Policy NE-107.3***

*The City will implement as appropriate, any remaining recommendations of the Kitsap County Health Department in its "City of Poulsbo Nonpoint Pollution Impacts to South Fork of Dogfish Creek Final Report 2002" not already implemented, to improve the surface water quality in SF Dogfish Creek and Liberty Bay.*

### ***Policy NE-107.4***

*The City will build on the data collected and conclusions derived from the Kitsap County Health Department's "City of Poulsbo Storm water Outfall Inventory and Illicit*

*Discharge Detection and Elimination Program.” Based on this assessment, the City will prioritize problem facilities and prepare a feasibility analysis and cost estimate to retrofit problem facilities.*

## **9. GOAL NE-11**

### **Protect the historic, archaeological and cultural features and qualities of the Poulsbo shoreline.**

#### **Policy NE-11.1**

*Where possible, identified archaeological areas and historic sites along the City’s shorelines should be permanently preserved.*

#### **Policy NE-11.2**

*Consideration should be given to the National Historic Preservation Act of 1966 and Chapter 43.51 RCW to provide for the protection, rehabilitation, restoration and reconstruction of sites, buildings, and structures located along the shoreline that are significant to history, architecture, archaeology or culture.*

Y

**Shoreline Master Program-  
“Cleanup/Consistency” Revisions to Critical Areas Ordinance  
(PMC Chapter 16.20)**

Strikeout and underline format:

**(1) 16.20.115 Applicability.**

B. Requirements for critical areas are in addition to, or to be combined with, requirements of other development regulations, including, but not limited to, the Poulsbo zoning ordinance, clearing and grading ordinance, subdivision ordinance and the shoreline master program ~~management plan~~. In case of conflict with other development regulations or other critical area requirements, the more restrictive provision or combinations of provisions shall apply. Further, any parts of wetland or non-wetland fish and wildlife critical areas also included in the one-hundred-year floodplain by the city of Poulsbo Ordinance 87-20, Flood Prevention Damage Program, shall also be subject to the provisions of that ordinance.

**(2) Article II. Wetlands**

Wetlands located outside of the city’s shoreline jurisdiction are regulated by the provisions of this chapter. Wetlands located within the city’s shoreline jurisdiction are regulated by the city’s shoreline master program.

**(3) 16.20.210 Wetland categories.**

Wetlands are those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturation soil conditions. Wetlands generally include swamps, estuaries, marshes, bogs, and similar areas. 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 meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Chapter. ~~For regulatory purposes, wetland delineations shall be determined by using the Washington State Wetland Identification and Delineation Manual, March 1997, or as amended hereafter.~~

The city of Poulsbo uses the Department of Ecology’s Washington State Wetland Rating System for Western Washington, 2004, or as amended hereafter, to categorize wetlands for the purposes of establishing wetland buffer widths, wetland uses and replacement ratios for wetlands. This system

consists of four wetland categories generally designated as in Section 16.20.115. (Ord. 2007-24 § 2 (part), 2007)

**(4) 16.20.235 Additional development standards.**

In addition to meeting the development standards in Section 16.20.230, the regulated uses identified below shall also comply with the standards of this section and other applicable state, federal and local ordinances.

A. Docks. Construction of a dock, pier, moorage, float or launch facility may be permitted subject to criteria in the city's ~~of Peuls~~ shoreline master program, ~~and where no existing buffer or wetland vegetation would be significantly altered.~~

**(5) Article III. Fish and Wildlife Habitat Conservation Critical Areas**

**16.20.305 Purpose.**

This article applies to all uses and activities regulated under this chapter within or adjacent to areas designated as fish and wildlife habitat conservation areas or resource management areas, as categorized in Section 16.20.310. The purpose of this chapter is to:

A. Preserve existing ecological functions of fish and wildlife habitat conservation areas normally associated with streams, ~~nearshore~~, riparian areas (freshwater areas and estuarine areas not regulated by the city's shoreline master program ~~marine~~), wetland and upland wildlife habitat;

**(6) 16.20.310 Fish and wildlife habitat conservation area—Designations.**

The following designations shall be used in classifying fish and wildlife habitat conservation areas:

A. South Fork of Dogfish Creek Stream/Riparian Corridor Conservation Areas. The following reaches of stream channel and riparian area of the South Fork of Dogfish Creek:

1. Headwater. Between the northernmost extent of the drainage north of NE Lincoln Road and Wilderness Park;
2. Canyon. Between the east end of Wilderness Park and SR 305;
3. Urban/Commercial. Between SR 305 (culvert south of NE Lincoln Road) and culvert north of NE Liberty Road;

4. Lower Forested. Between SR 305 (culvert north of NE Liberty Road) and the confluence with Dogfish Creek main stem, north of Bond Road; and

5. ~~Main Stem/Tidewater/Estuarine~~. Dogfish Creek between the junction of South Fork and Liberty Bay, ~~to the boundary of the city's shoreline jurisdiction, including commercial and recreational shellfish areas, marine riparian areas, tidewater/estuarine habitats (herring, sand lance, and smelt spawning areas, kelp, and eelgrass), and juvenile salmonid rearing and feeding areas.~~

B. Streams. All streams which meet the criteria for Types 1, 2, 3, 4 and 5 waters as set forth in WAC 222-16-031 of the DNR Water Typing System.

~~C. Saltwater Shorelines—Lakes Twenty Acres and Greater in Surface Area. Those saltwater shorelines and lakes defined as shorelines of the state in the Shoreline Management Act of 1971 and the city of Poulsbo shoreline master program, as now or hereafter amended. Shorelines include: Type 1 waters as set forth in WAC 222-16-031 (DNR Water Typing System), as now or hereafter amended; commercial and recreational shellfish areas; riparian areas (freshwater and marine), shoreline feeder bluffs, kelp and eelgrass beds; and herring, sand lance, and smelt spawning areas, and juvenile salmonid migratory corridors.~~

**(7) 16.20.315 Development standards.**

The following development standards shall apply to fish and wildlife habitat conservation areas:

...

B. Changes to Standard Buffers.

3. Conditional Alterations. The director may alter the standard buffer, RMA and setback for water-dependent structures and utilities within a stream or its buffer when no other reasonable or practical alternative exists ~~and the development is consistent with the city shoreline master program~~. Any alteration of a buffer or RMA shall be the least necessary and shall require a habitat management plan which identifies and adequately protects any affected fish and wildlife conservation area.

**Table 16.20.315**  
**—Fish and Wildlife Habitat Conservation Area Development Standards**

**Standard Buffers and Setback Requirements**

**Freshwater Streams**

<b>Stream Water Type</b>	<b>Buffer Width (feet, each side of stream)</b>	<b>Setback from RMA</b>
2	200	25
3	150	25
4	100	25
5	75	25
<b>Saltwater Shorelines and Lakes</b>		
<b>Shoreline Environment</b>	<b>Buffer Width (feet above ordinary high water mark)</b>	<b>Setback from RMA</b>
Urban, semi-rural, conservancy, and Lakes	400	25
<b>Stream-Reach-Specific Resource Management Area and Setback Requirements</b> Additional protections are required for development subject to the following RMA requirements. Letters listed after the RMA width in parentheses indicate which protections are applicable to the particular stream reach. Protections are listed below.		
<b>Stream Reach</b>	<b>Resource Management Area (feet, each side of stream)</b>	<b>Setback from RMA</b>
South Fork of Dogfish Creek RMA determined by stream reach as follows:		
<u>Main Stem</u> Tidewater/estuary	100 (a, b)	25
Lower forested	75, or top of adjacent slope, whichever is greater (a, b, c, d)	25
Urban/commercial	50 for new development and redevelopment; extent of existing constraints for existing development (b, e)	25
Canyon	Park boundary or top of slope, whichever is closest to stream, otherwise 100 or top of steep slope, whichever is greater (a, b, f, g)	25
Headwater	50 (b, h, i)	25
<b>Additional Protections Required for Properties within 300 Feet of the South Fork of Dogfish Creek</b>		
(a) Maintain a 50-foot no-cut area on both sides of stream, measured from outer edge of riparian area. Edge of		

- riparian area shall be determined in the field by a qualified biologist where there is existing forest.
- (b) Maximum stormwater treatment required for new construction; retrofit existing impervious areas with minimum stormwater treatment when expansions or alterations trigger a major site plan amendment.
  - (c) Maintain vegetation on hill slopes adjacent to stream.
  - (d) Retain curb along SR 305 to direct stormwater runoff, and provide stormwater treatment facilities prior to runoff entering creek.
  - (e) Pruning of riparian vegetation is prohibited. Removal of invasive species and replanting of existing buffer areas with native riparian vegetation may be required at the time of major site plan amendments or redevelopment.
  - (f) No tree cutting (except for removal of danger trees in accordance with Section 16.20.120(H)) on canyon side slopes and bottoms in Wilderness Park.
  - (g) No tree cutting (except for removal of danger trees in accordance with Section 16.20.120(H)) or land clearing along both sides of stream between Wilderness Park and SR 305.
  - (h) Retain forested wetland at downstream side of Lincoln Road.
  - (i) Require on-site infiltration of stormwater, where soils are appropriate, for new construction; establish downspout disconnection program for existing development.

<b>Wildlife Habitat Conservation Areas</b>	
Class 1	RMA widths and setbacks will be determined through mandatory habitat plan.
Class 2	Site-specific conditions will determine the need for preparation of a habitat plan for RMA widths and setbacks.
<b>Areas of Rare Plant Species and High Quality Ecosystems</b>	
RMA widths and setbacks will be determined through a mandatory habitat plan.	

**(8) 16.20.320 Additional development standards.**

...

F. Poulsbo Shoreline Master Program. All development along the saltwater shoreline ~~and lakes~~ defined as shorelines of the state shall be consistent with the city of Poulsbo shoreline master program, as now or hereafter amended.

I. Bank Stabilization. A stream channel and bank, ~~bluff and shoreline~~ may be stabilized when naturally occurring earth movement threatens existing structures (defined as requiring a building permit pursuant to the International Building Code), public improvements, unique natural resources, public health, safety or welfare, or is the only feasible access to property; and ~~in case of streams,~~ when such stabilization results in maintenance of fish and wildlife habitat, flood control and improvement of water quality. ~~Bluff, bank and~~

~~Shoreline stabilization is regulated by shall also be subject to the standards of the city's shoreline master program, and any floodplain ordinance adopted by the city.~~

When bank stabilization is determined to be necessary, bioengineering or other non-structural methods should be the first option for protection. 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 hydraulic project approval from the Washington Department of Fish and Wildlife. (Ord. 2007-24 § 2 (part), 2007)

## **(9) Article VI. Frequently Flooded Areas**

### **16.20.605 Purpose.**

The purpose of this article is to protect the public health, safety and welfare from harm caused by flooding. It is also the intent to prevent damage and/or loss to both public and private property. Pursuant to this purpose, the city uses floodplain management regulations contained in Chapter [15.24](#), adopted by reference, which designates special flood hazard areas and establishes requirements for these areas. Areas within the city's shoreline jurisdiction are regulated by floodway and floodplain regulations in the city's shoreline master program. (Ord. 2007-24 § 2 (part), 2007)

### **(10) 16.20.735 Geotechnical report and geological report.**

C. Report recommendations for siting structures in high risk areas shall be based on existing site conditions rather than measures that have not been successfully approved, designed or constructed (e.g., slope recontouring, slope retaining walls, vegetation improvements, bulkheads, etc.). ~~Shoreline 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 necessary to provide a stable building area for the structure.~~ (Ord. 2007-24 § 2 (part), 2007)