

Members

Jeremy C. Doty, Chair
Donald Erickson, Vice-Chair
Chris Beale
Peter Elswick
Thomas C. O'Connor
Sean Gaffney
Scott Morris
Ian Morrison
Matthew Nutsch

Community and Economic Development Department

Ryan Petty, Director
Peter Huffman, Assistant Director
Charles Solverson, P.E., Building Official

Public Works and Utilities Representatives

Jim Parvey, City Engineer/Assistant Director, Public Works Department
Heather Pennington, Resource Planning Manager, Tacoma Water
Diane Lachel, Community and Government Relations Manager, Click! Network, Tacoma Power



Agenda

Tacoma Planning Commission

747 Market Street, Room 1036
Tacoma, WA 98402-3793
253-591-5365 (phone) / 253-591-2002 (fax)
www.cityoftacoma.org/planning

(Agenda also posted at: www.cityoftacoma.org/planning > "Planning Commission" > "Agendas-Minutes-Recordings")

MEETING: Regular Meeting

TIME: Wednesday, August 17, 2011, 4:00 p.m.

PLACE: Room 16, Tacoma Municipal Building North
733 Market Street, Tacoma, WA 98402

A. CALL TO ORDER

B. QUORUM CALL

C. APPROVAL OF MINUTES – Regular Meeting of July 20, 2011
Regular Meeting of August 3, 2011

D. GENERAL BUSINESS

(4:05 p.m.) **1. Development and Permitting Activity Reports**

Description: Review information on building and land use permits from the first half of 2011 and emerging trends in permit activity.
Actions Requested: Informational; Comment
Support Information: See "Agenda Item GB-1"
Staff Contact: Sue Coffman, 594-7905, sue.coffman@cityoftacoma.org

(4:30 p.m.) **2. Medical Marijuana Moratorium**

Description: Review and discuss the emergency moratorium enacted by the City Council concerning medical marijuana collective gardens and dispensaries, state law, and schedule of review for code development.
Actions Requested: Discussion; Direction
Support Information: See "Agenda Item GB-2"
Staff Contact: Donna Stenger, 591-5210, dstenger@cityoftacoma.org



(5:10 p.m.) **3. Master Program for Shoreline Development**

Description: Complete the review of the update to the Shoreline Master Program and associated documents.

Actions Requested: Recommendation to City Council

Support Information: See "Agenda Item GB-3"

Staff Contact: Steve Atkinson, 591-5531, satkinson@cityoftacoma.org

(5:50 p.m.) **4. 2012 Annual Amendment – Assessment Reports**

Description: Review draft assessment reports for the following applications for amending the Comprehensive Plan and the Land Use Regulatory Code for 2012:

- #2011-1 Container Port Element
- #2011-2 Housing Element
- #2011-3 Transportation Element
- #2011-4 Sign Code Revisions
- #2012-5 Platting and Subdivision Code Revisions
- #2012-6 Urban Forestry Code Revisions
- #2012-7 Minor Amendments and Refinements

Actions Requested: Discussion; Direction; Approval of Assessment Reports

Support Information: See "Agenda Item GB-4"

Staff Contact: Donna Stenger, 591-5210, dstenger@cityoftacoma.org

E. COMMUNICATION ITEMS

1. Planning Commission Opening – The City Council is seeking interested and qualified citizens to fill a vacant position on the Planning Commission, representing Council District No. 1 (West End and North End), for a term to expire June 30, 2014. Applications must be submitted to the Mayor's Office by Friday, August 19, 2011. (www.cityoftacoma.org/Planning > "Planning Commission")

F. COMMENTS BY LONG-RANGE PLANNING DIVISION

G. COMMENTS BY PLANNING COMMISSION

H. ADJOURNMENT

Members

Jeremy C. Doty, Chair
Donald Erickson, Vice-Chair
Chris Beale
Peter Elswick
Thomas C. O'Connor
Sean Gaffney
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Minutes

Tacoma Planning Commission

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(For Review/Approval on August 17, 2011)

MEETING: Regular Meeting

TIME: Wednesday, July 20, 2011, 4:00 p.m.

PLACE: Room 16, Tacoma Municipal Building North
733 Market Street, Tacoma, WA 98402

Members Present: Jeremy Doty (Chair), Donald Erickson (Vice-Chair), Chris Beale, Peter Elswick, Scott Morris, Ian Morrison, Matthew Nutsch, Thomas O'Connor

Members Absent: Sean Gaffney

Staff Present: Donna Stenger, Jana Magoon, Steve Atkinson, Brian Boudet, Karla Kluge, Chelsea Levy, Shanta Frantz, Lihuang Wung (Building and Land Use Services); Kim Van Zwalenburg (DOE); Mike Wark (University of Washington Tacoma)

Vice-Chair Erickson called the meeting to order at 4:06 p.m., and presided over the meeting until 4:20 p.m. when Chair Doty arrived.

GENERAL BUSINESS

1. Downtown Parking Requirements

Ms. Chelsea Levy, Long-Range Planning, presented some key issues and questions related to the proposed changes to downtown off-street parking requirements for the Commission to address.

The first question was relating to expanding the boundary of the proposed Reduced Parking Area (RPA) to include the entire University of Washington Tacoma (UWT) campus footprint. The expansion was requested by UWT to facilitate planning future campus developments under one set of planning requirements. Mr. Mike Wark, Director of External Relations, spoke on behalf of UWT. The Commissioners supported expanding the proposed boundary.



The second issue was a request from the City Council's Environment and Public Works Committee for restricting surface parking lots on designated Primary Pedestrian Streets within the proposed RPA. Ms. Levy commented that the Comprehensive Plan repeatedly directs the City to minimize the amount of land dedicated to parking by encouraging structured and on-street parking. Additionally, Ms. Levy compared Tacoma's surface parking lot regulations to 11 peer cities in the Northwest and concluded that Tacoma's regulations allow for more surface parking than most of the cities surveyed. Commissioners agreed to release a proposal for public comment that includes limiting surface parking lots on Primary Pedestrian Streets within the RPA boundary; specifically, prohibiting standalone surface parking lots; requiring on-site surface parking to be located to the side, rear, within or under a structure; limiting the maximum width of on-site surface parking to 60 feet; and prohibiting surface parking lot expansions.

Last, the Commissioners discussed what they would like to achieve from the off-street parking regulations. Commissioners identifying multiple goals including: economic development, compact urban form, encouraging transportation alternatives and controlling parking supply. Given these competing goals, the Commission would like public feedback on the proposal to retain and reduce the parking maximums to 2.5 stalls per 1,000 square feet in the RPA.

2. Critical Areas Preservation Ordinance (CAPO) Update

Ms. Karla Kluge, Building and Land Use Services, reviewed the first half of the proposed amendments to the Tacoma Municipal Code Chapter 13.11 Critical Areas Preservation Ordinance, as well as related revisions proposed to Chapter 13.05 Land Use Permit Procedures. She summarized the changes for voluntary restoration; small development projects; wetland buffer refinement, and mitigation revisions including wetland mitigation banks and in-lieu fee programs. She also summarized the stakeholder outreach plan including the Focus Group, City Departmental staff and wetland consultant input.

Ms. Kluge described a section of the proposed amendment that addresses routine maintenance and repair within "Allowed Activities" or "Activities Allowed with Staff Review" dependent upon the level of impact. She mentioned that concerns were raised regarding the language for storm water systems, primarily Holding Basins. She indicated that discussions will continue and she will touch on the resolution from those discussions at the next meeting. The proposed amendment provides new ways to review and allow voluntary restoration and enhancement. The new process may or may not require a written approval. However, Ms. Kluge also described how review and approval for a project will be tracked in SAP. Ms. Kluge reviewed in detail each new provision in the Allowed Activities and Activities Allowed with Staff Review, especially those that dealt with voluntary restoration and enhancement projects. The language under Hazard trees was modified to require tree stabilization recommendations, and tree pruning was separated from Hazard tree only to allow limited pruning when there is no impact to the tree or the critical area.

In response to the Commission's question regarding the reason for allowing for more qualified specialists outside of consulting an arborist, Ms. Kluge explained that the "qualified specialist" referred to a wetland or stream specialist which would be required for additional review in addition to the "tree" specialist. However, she said that she would take another look at the way this was written after the Commission brought this to her attention.

Ms. Kluge also reviewed the current and proposed permit processes, including the concept of identifying impacts through a Wetland Assessment and how sometimes a customer would have

to go through a permit process to demonstrate “no impact”. Under the proposed amendment, these same types of projects may now be assessed as a minor development permit, which is a streamlined process. She also commented that incentives for voluntary restoration through a programmatic permit are intended to promote a healthier, higher functioning, greener Tacoma. Incentives include an extended timeline for an additional 5 years and a template that may be used to simplify the permitting process.

Commissioners ask if there had been any changes with regard to the new requirements for Flood Plain compliance and Ms. Kluge acknowledged that there had been a change per consultation with Scott Beard of Building & Land Use staff and that she would cover that change in the second half of the presentation of the proposed amendment on August 3, 2011. Commissioners commended Ms. Kluge on a job well done.

3. Master Program for Shoreline Development

Mr. Stephen Atkinson, Long-Range Planning, distributed materials he would be reviewing: a copy of the PowerPoint presentation, copies of maps of the S-7 and S-8 shoreline districts which show existing parcels and ownership; and a letter from Gary Brackett, Chamber of Commerce, in reference to Council Resolution No. 36702. In addition, he referred to a letter included in the agenda packet as a communication item from Gary Coy which included recent pictures of Sperry Ocean Dock.

Mr. Atkinson discussed options for district boundaries in the S-7 and S-8 Districts. He pointed out that most of the comments received were in regard to these two distinct areas. In the case of S-7, water depth has been raised as an issue and he reviewed what water depths were needed for different types of ships and where these depths could be found in the shoreline.

Mr. Atkinson spoke about four options for setting the boundary between the S-7 shoreline district and the S-6 shoreline district: (1) retain existing zoning, (2) extend S-6 south up to Sperry site, (3) extend S-6 south to include Sperry site, and (4) extend S-6 to S-8 thus eliminating the S-7 district in its entirety. In addition, Mr. Atkinson discussed some of the relevant guidance in the WAC related to the prioritization of uses in shoreline jurisdiction. Discussion ensued among the Commissioners about the options; some felt that Sperry Ocean is appropriately zoned and should remain S-7 but others felt that the site should be included in the S-6 district. Discussion points included how the rezone of Sperry would make the existing use non-conforming and the effects of non-conforming status on the current use; the need to preserve shorelines for water-dependent uses; utilization of the deep water; economic impacts; impacts to the neighborhood from current operations; providing public access; other uses that could develop on the Sperry site under current zoning and proposed zoning; the misperception that a rezone would result in the current use being discontinued; and future vision for this waterfront area. By a vote of 5-3, the Commission recommended that S-6 be extended south to include Jack Hyde Park, Chinese Reconciliation Park, the Tahoma Salt Marsh and the Sperry properties and to add provisions that would encourage commercial uses that could utilize the deep water. (Commissioners Elswick, Doty and O'Connor opposed.)

The Commissioners next discussed the proposal to rezone the NuStar site on the east side of the Thea Foss to S-10 as requested by the property owner and testimony received to rezone the area north of East 11th to S-10. The Commissioners discussed rezoning that area north of East 7th Street as S-10 and including the Center for Urban Waters. The rationale was that the tank farms have been in place for some time and did not appear that they would discontinue in

the near future. Vice-Chair Erickson disagreed and noted the need to look beyond the existing uses and consider all of the uses that could be permitted in S-10. Mr. Atkinson clarified the allowed uses and requirements for S-10 and S-8 zoning. Ms. Donna Stenger brought out that there are limitations including narrow sites that may affect the desirability for some industrial users along the Foss Waterway. After discussion, the vote was 5-3 to expand the S-10 boundary to the south end of the NuStar property at approximately East 3rd Street just north of Urban Waters. (Commissioners Elswick, Morris and O'Conner opposed.)

Next the discussion centered on the existing provision that restricts industrial uses that existed in 1996 on the east side of the Foss from expanding beyond their property boundaries in the S-8 shoreline district. Considerable testimony was received asking for the restriction to be lifted. Ms. Stenger provided a map of S-8 zoning district and pointed out the affected properties. She noted that expansion was also affected by existing uses and rights-of-way. Many of the affected industries own property in other zoning districts where they could expand. The Commission concurred with the testimony and directed staff to remove this restriction from the code.

Ms. Stenger provided background information on City Council Resolution No. 36702 adopted in 2005. The resolution identifies actions that the City and others would take including actions to discourage the encroachment of incompatible uses in the industrial area lying eastward of the Foss Waterway shoreline district. A copy of the Resolution and a recent memo to the City Manager concerning the status of carrying out the City's actions was provided to the Commission. She noted that testimony received stated that the design standards to discourage non-industrial uses on the eastside of East 'D' Street called for in the Resolution have not been accomplished in the SMP update. Chair Doty expressed in his opinion that fulfillment of the Resolution's actions was outside the purview of the Commission. He said he did not see the connection of the testimony with the Commission's work. The Commission concurred.

Mr. Atkinson discussed two comments received by the Department of Ecology and staff's proposals on how to address the issues. The first concerned shoreline jurisdiction which extends 200 feet landward of the ordinary high water mark. In some cases, the shoreline zoning districts extend beyond 200 feet and the State requirements for oversight of permitting cannot apply. He indicated that additional text would be added to the Master Program code as well as the zoning code to address applicability of regulations outside of the 200 feet boundary. The second concern was clarification for those areas in the S-13 district for non-conforming uses. During the August 3, 2011 meeting, staff will be providing draft findings and recommendations including direction given by the Commission today. Ms. Stenger suggested that August 17th meeting should have a complete draft SMP for the Commission's final review and recommendation. Chair Doty expressed concern in having new Commissioners vote on the SMP and would like to see a delay in their appointment to allow the current Commissioners make the recommendation. Staff indicated that they would forward that request to the City Council's Appointments Committee.

COMMUNICATION ITEMS

Chair Doty acknowledged receipt of the following:

1. Letter and Photos from Gary Coy, Sperry Ocean Dock, July 11, 2011

COMMENTS BY LONG-RANGE PLANNING DIVISION

Ms. Stenger reported that on July 19, the City Council adopted the findings of fact, based on the Planning Commission's recommendations, to justify the retention of the emergency moratorium adopted in May 2011 concerning billboards. The Council made two amendments pertaining to maintenance and repair of billboards and to indicate that the banked credits for billboards that have been removed are not affected by the moratorium. The City Council also conducted a public hearing on July 19 on the Planning Commission's recommended amendments to the Land Use Regulatory Code relating to billboards in all zoning districts. Citizens who commented on the moratorium or testified at the public hearing highly commended the work that the Planning Commissioners have done. It was very rewarding to hear the testimony, Ms. Stenger stated.

ADJOURNMENT

The meeting adjourned at 7:47 p.m.

Members

Jeremy C. Doty, Chair
Donald Erickson, Vice-Chair
Chris Beale
Peter Elswick
Thomas C. O'Connor
Sean Gaffney
Scott Morris
Ian Morrison
Matthew Nutsch



Minutes

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MEETING: Regular Meeting

TIME: Wednesday, August 3, 2011, 4:00 p.m.

PLACE: Room 16, Tacoma Municipal Building North
733 Market Street, Tacoma, WA 98402

Members Present: Jeremy Doty, Thomas O'Connor, Chris Beale, Donald Erickson, Vice-Chair,
Sean Gaffney, Scott Morris, Matthew Nutsch, Ian Morrison

Members Absent: Peter Elswick

Staff Present: Donna Stenger, Steve Atkinson, Brian Boudet, Shanta Frantz, Karla Kluge,
Chelsea Levy, Lisa Spadoni, Lihuang Wung, Noah Yacker (Building and Land
Use Services); Josh Diekmann (Public Works)

Chair Doty called the meeting to order at 4:05 p.m. The minutes for the July 6, 2011 meeting were approved as submitted.

GENERAL BUSINESS

1. Downtown Parking Requirements

Ms. Chelsea Levy, Long-Range Planning, presented the staff report and draft code on the proposed changes to the downtown off-street parking regulations for the Commission's review, discussion and authorization for public review. She reviewed the policy analysis in the staff report, concluding that the proposed changes to the Regulatory Code are generally supported by the parking-related goals and policies in the Comprehensive Plan, which strive to balance strategies that support economic development with planning strategies that limit the amount of land dedicated to parking and encourage alternative types of transportation.

Ms. Levy reviewed the specific proposed changes to the Regulatory Code. Significant changes to the code include: reorganizing and creating a new section 13.06A.065 Parking Standards, which contains all downtown-specific parking regulations; establishing a Reduced Parking Area (RPA) in downtown and within this boundary eliminating the existing minimum parking



requirements for new development, while requiring accessible parking; reintroducing a parking maximum in the International Financial Services Area and reducing the existing parking maximum in the RPA; and reducing the existing minimum and maximum parking quantity requirements in the Downtown Mixed Used (DMU), Downtown Residential (DR) and Warehouse/Residential (WR) zones. Ms. Levy also described the proposal to prohibit new standalone surface parking lots and the expansion of surface parking lots along Primary Pedestrian Streets within the RPA. Expansions and new lots are allowed if they are set back 60 feet from a Primary Pedestrian Street. Commissioners discussed what temporary use amenities could be designed into the “hole” created between the street and a potential parking lot. Staff will return with a menu of design options to address this concern.

The Commissioners voted unanimously to authorize the proposed code revisions for public distribution and set the public hearing for September 21, 2011.

2. Critical Areas Preservation Ordinance (CAPO) Update

Ms. Karla Kluge, Building and Land Use Services, discussed the 2nd half of the proposed draft code including changes to the Wetland Buffer determination methodology, mitigation revisions and general Code cleanup issues which include the frequently flooded area changes and the Allowed Activities changes for storm-water holding basins. Ms. Kluge led off discussion with a “before picture” of how these topics were covered in the Code. She then went over the specific changes that are now a part of the new proposed Code and the reasons for these changes, including reverting back to the original Holding Basin provision in the current code. The Commissioners had questions for Ms. Kluge on holding basins and detention ponds. Ms. Kluge replied that the changes to the Holding Basin provision are minor and that staff will continue to discuss and clarify this provision and should future changes be necessary, they will be completed as part of a future Annual Amendment.

Ms. Kluge next reviewed the language and rationale for the standards that are established under general mitigation. These standards were moved from the condition section and are more appropriately considered by the Land Use Administrator in her decision. Including them under General Mitigation Standards provides customers a clearer understanding of what they must address in the permit process. She also talked about new guidance documents that the Department of Ecology has completed on “mitigation that works”. These documents provide guidance on mitigation banks and fee-in-lieu programs and how these types of mitigation may offer the best potential for success. She also indicated that the code was clarified regarding the types of sureties or bonds that customers and contractors must be bonded for when developing on properties under the development permit process.

Ms. Kluge went on to explain the standards for buffering of wetlands that are unique to an urban area. She noted that the language had been clarified in this section of the Code and in some cases shortened, eliminated and/or changed. Ms. Kluge summarized and made the points that the goal in developing this Code is to be customer assistance oriented and provide incentives and streamlined processes for voluntary restoration projects, and be less regulatory where possible. Staff would interact with environmental stewards and all customers on public and private land. Also, Ms. Kluge sees the development of the current proposal as a means to streamline the whole permitting process and create a healthy sustainable environment in Tacoma and meet the “best available science” requirements. The Commissioners voted unanimously to authorize the proposed code revisions for public distribution and set the public hearing for September 21, 2011.

3. Master Program for Shoreline Development

Mr. Stephen Atkinson, Long-Range Planning, presented a summary of a complete responsiveness table that identifies specific public comments submitted on the public hearing draft of the SMP and organizes the comments according to the Chapter of the draft SMP. Mr. Atkinson pointed out that the table summarizes both staff responses to comments as well as Planning Commission direction on specific policy issues. This table will be submitted to the Department of Ecology in fulfillment of the participation requirements in the WAC. Mr. Atkinson stated that there were several staff initiated modifications to the draft that would be summarized for the Commission for concurrence. In addition, Mr. Atkinson presented the Commission with a draft of the Commission's Findings and Recommendations for their review prior to their final vote and recommendation on August 17th. The Commission did not have any questions or suggested revisions for the draft Findings and Recommendations.

Prior to discussing the modifications to the draft SMP, Mr. Atkinson provided an update to the Commission on the Port of the Tacoma efforts to initiate a Port Public Access Plan in collaboration with City staff. Mr. Atkinson and other City staff will be working with Port staff to identify how the document will be adopted and used in the permit process as well as how to meet State guidelines. Due to this initiative, staff recommends that the Commission not forward the Public Access Alternatives Plan for Council adoption at this time, but hold back the document and continue to refine the plan concurrent with the Port of Tacoma's access plan process. Ms Stenger noted that a delay would enable staff to develop a more detailed framework for the fee-in-lieu option as well as address the Commission's concerns about the feasibility of potential access projects along Schuster Parkway. The expectation is that the final Public Access Alternative Plan would be completed by June 2012 and coincide with the expected approval by DOE of the SMP.

The Commission had questions and concerns about how a delay might impact the ability to implement the code if the companion PAAL is not adopted and in effect. The Commission also questioned whether the Port Public Access Plan could be incorporated into the Container Port Element of the Comprehensive Plan. Ms. Stenger replied that the Container Port Element covers a broader area than shoreline jurisdiction and although development of the plan is in process, the State deadline for adoption is June 2015. After additional discussion, the Commission determined that the best course of action was to recommend adoption of the City's Public Access Alternatives Plan as currently drafted so that a framework was in place. The Commission noted that upon adoption of the PAAL, work could continue on refinement to provide more detail and clarity and the document could be amended including revisions that are needed as a result of the Port's planning process.

Mr. Atkinson went over some new language on the flood hazard section of the draft SMP where staff was recommending additional standards for compensatory mitigation consistent with proposed changes to TMC 13.11. Mr. Atkinson also reviewed some staff recommended changes to the water quality and quantity chapter, primarily revising language consistent with the Surface Water Management Manual and consolidating references and standards for surface water and low impact development into one chapter, rather than dispersed throughout the draft. He also explained that there were some additional landscaping standards for surface parking that had been inadvertently omitted from the public hearing draft as well as additional "narrative" that has been added to introduce sections of the SMP and provide a more user-friendly document. Mr. Atkinson closed the presentation by stating that he would have all the draft changes available for the next meeting for the Commission's review and recommendation to the City Council.

COMMUNICATION ITEMS

Chair Doty acknowledged receipt of the following announcements:

1. Planning Commission Opening – The City Council is seeking interested and qualified citizens to fill a vacant position on the Planning Commission, representing Council District No. 1 (West End and North End), for a term to expire June 30, 2014. Applications must be submitted to the Mayor's Office by Friday, August 19, 2011.
2. 2011 Annual Amendment – The Planning Commission's recommendations for the 2011 Annual Amendment to the Comprehensive Plan and Land Use Regulatory Code were adopted by the City Council on June 14, 2011. The Comprehensive Plan and the Tacoma Municipal Code have been updated accordingly, and are available for review online at: www.cityoftacoma.org/Planning > "Comprehensive Plan" or "Zoning Code".

COMMENTS BY LONG-RANGE PLANNING DIVISION

Ms. Stenger distributed a revised adoption schedule for the Shoreline Master Program Update, and highlighted several important dates including September 20 for a joint study session of the City Council and the Planning Commission, and October 12 and 26 for joint meetings of the Council's Environment & Public Works and Economic Development Committees.

Ms. Stenger also distributed copies of Ordinance No. 28010, adopted by the City Council on August 2, 2011, declaring an emergency moratorium on the establishment of medical marijuana collective gardens or medical marijuana dispensaries. The Ordinance referred the matter to the Planning Commission to hold a public hearing and to develop findings on the need for and the duration of the moratorium and to provide a recommendation by September 7. Ms. Stenger stated that staff will provide more information at the next meeting on August 17. The Commissioners suggested that legal counsel be present to facilitate the Commission's review and discussion.

COMMENTS BY PLANNING COMMISSION

None.

ADJOURNMENT

The meeting adjourned at 6:05 p.m.



City of Tacoma
Community and Economic Development Department

Agenda Item
GB-1

TO: Planning Commission
FROM: Donna Stenger, Manager, Long-Range Planning Division
SUBJECT: Permitting and Development Reports
DATE: August 10, 2011

At the next meeting staff from Building and Land Use Services will provide its semi-annual report to the Commission on recent permitting and development trends. Sue Coffman, Permit Center Manager, Jana Magoon, Land Use Administrator, and Lisa Spadoni, Current Planning, will provide information on building and land use permits from the first half of 2011 as well as discuss with the Commission emerging trends in permit activity. Attached are reports outlining recent development and land use permit activity, as well as maps showing the geographic distribution of these permits.

If you have any questions, please contact Donna Stenger at 591-5210 or dstenger@cityoftacoma.org.

DS:bb

c: Peter Huffman, Assistant Director

Attachments

CITY OF TACOMA
COMMUNITY ECONOMIC DEVELOPMENT
BUILDING AND LAND USE SERVICES

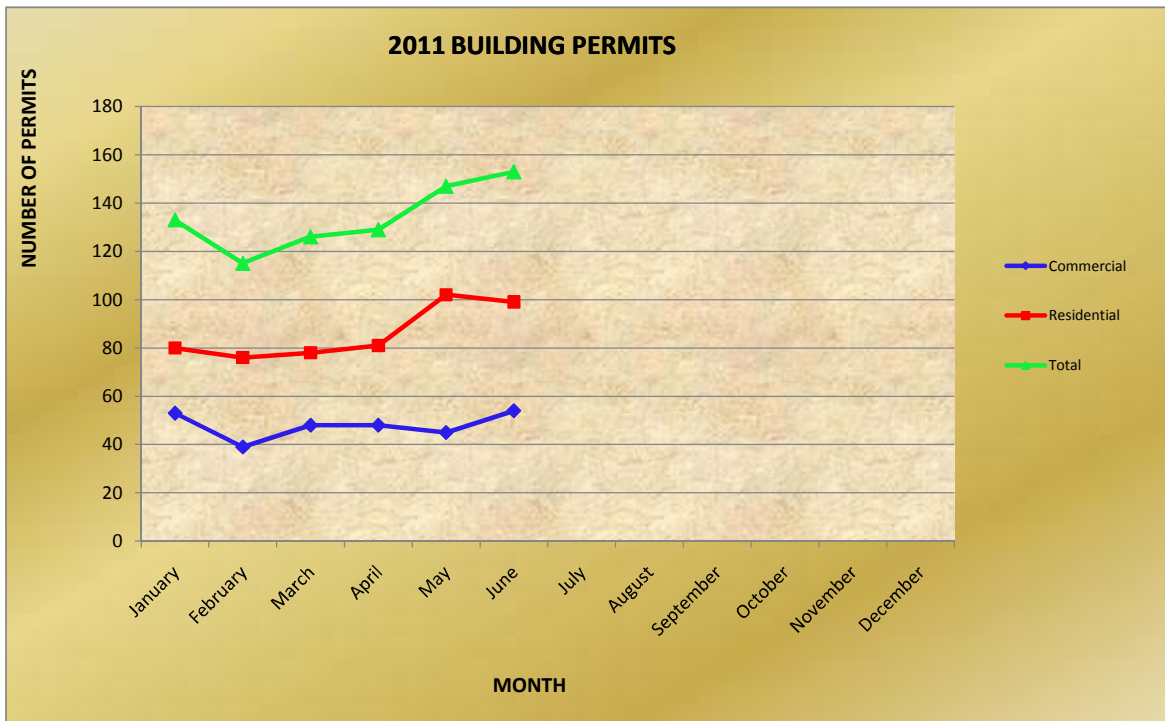
| 2011 | | June | | Totals for Year | |
|---|----------------|------------------------|---|-------------------------|--|
| Building Permit Category | No. of Permits | Value of Permits | No. of Permits | Value of Permits | |
| Residential: | | | | | |
| One-Family Dwellings | 22 | \$ 4,669,551.00 | 84 | \$ 17,581,949.00 | |
| Duplex Dwellings | | | 0 | \$ - | |
| Alter Residential Bldgs. | 59 | \$ 905,140.00 | 315 | \$ 4,781,048.00 | |
| Private Garages/Carports | 9 | \$ 181,721.00 | 61 | \$ 1,071,108.00 | |
| Mobile Homes | | | 0 | \$ - | |
| Miscellaneous Installations | 2 | \$ 24,580.00 | 16 | \$ 239,998.00 | |
| Residential Demolition | 7 | \$ 85,700.00 | 40 | \$ 1,165,900.00 | |
| Total Residential: | 99 | \$ 5,866,692.00 | 516 | \$ 24,840,003.00 | |
| Commercial: | | | | | |
| ***Multiple-Family Dwellings | | | 0 | \$ - | |
| Bank Buildings | | | 0 | \$ - | |
| Churches | | | 0 | \$ - | |
| Clinics | | | 0 | \$ - | |
| Industrial Buildings | | | 1 | \$ 478,720.00 | |
| Office Buildings | | | 1 | \$ 32,498.00 | |
| *Public Service Buildings | 4 | \$ 1,365,658.00 | 31 | \$ 15,476,841.00 | |
| Restaurants | | | 1 | \$ 8,874.00 | |
| Schools (Private) | | | 0 | \$ - | |
| Schools (Public) | 4 | \$ 120,000.00 | 4 | \$ 120,000.00 | |
| Service Stations | | | 0 | \$ - | |
| Store Buildings | | | 2 | \$ 1,439,856.00 | |
| Warehouses | | | 0 | \$ - | |
| Moved or Relocated Buildings | | | 0 | \$ - | |
| Recreation Buildings | | | 0 | \$ - | |
| Hotels/Motels | | | 0 | \$ - | |
| Hospitals/Institutions | | | 0 | \$ - | |
| Parking Garages | | | 0 | \$ - | |
| Miscellaneous Buildings | | | 5 | \$ 256,248.00 | |
| Commercial Grading and Filling | 3 | \$ 77,000.00 | 11 | \$ 6,289,000.00 | |
| Commercial Demolitions | 8 | \$ 373,287.00 | 22 | \$ 3,852,729.00 | |
| Miscellaneous Installations | 2 | \$ 25,482.00 | 17 | \$ 3,933,101.00 | |
| Alter Non-Residential Bldgs. | 33 | \$ 3,905,768.00 | 192 | \$ 21,069,062.00 | |
| Total Commercial: | 54 | \$ 5,867,195.00 | 287 | \$ 52,956,929.00 | |
| BUILDING PERMITS | | | | | |
| | | | Totals for Year | | |
| Totals for Month: | 153 | \$ 11,733,887.00 | 803 | \$ 77,796,932.00 | |
| Totals for Previous Month: | 147 | \$ 21,559,261.00 | Totals for Same Period Last Year | | |
| Totals For Same Month Last Year | 143 | \$ 16,211,901.00 | 793 | \$ 157,654,473.00 | |
| * Includes Alterations on Publicly Owned Buildings 4-ANRB | | | | | |
| **Multiple Family Units:-----> | | | | | |
| | | | MFD | | |
| | | | 2011 | | |
| | | | Total Units | 0 | |

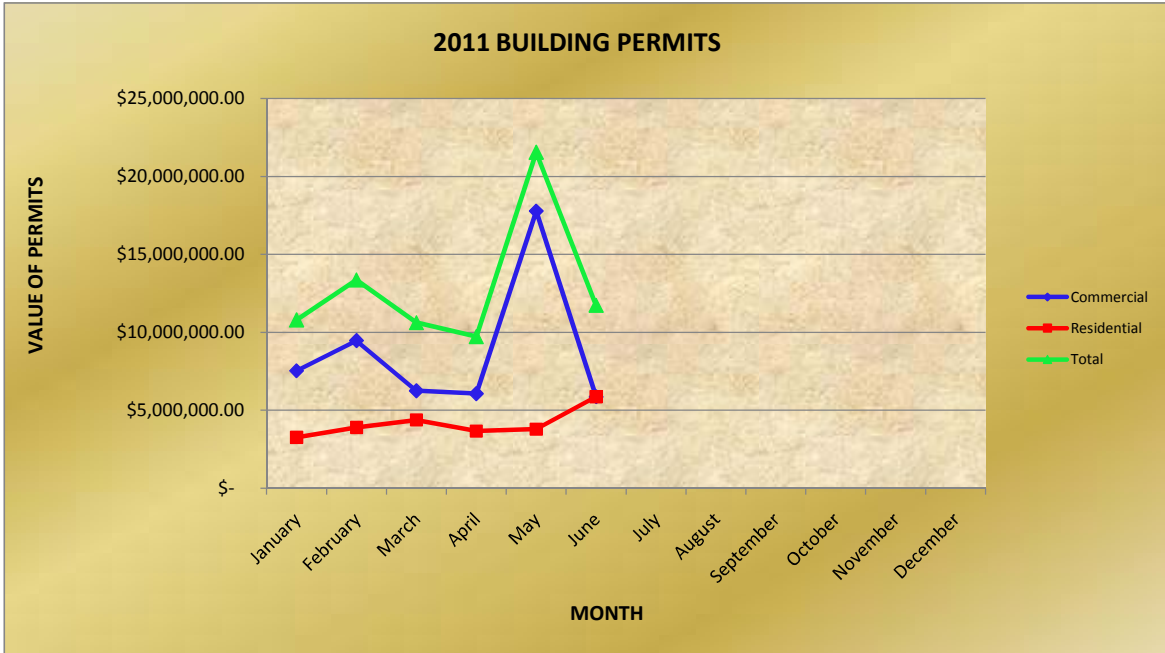
CITY OF TACOMA
COMMUNITY ECONOMIC DEVELOPMENT
BUILDING AND LAND USE SERVICES

| 2011 | | Totals for Year | | |
|-----------------------------------|------------|------------------------|-------------|------------------------|
| Plumbing Permits | 113 | | 578 | \$ - |
| Mechanical Permits | 118 | | 700 | \$ - |
| Other Permits: | | | | |
| Banner Permits | | | 3 | \$ - |
| Barricade Permits | 40 | | 183 | \$ - |
| Fire Sprinkler/Alarm/Suppression | 29 | \$ 362,388.00 | 155 | \$ 2,485,176.00 |
| Miscellaneous Trench Permits | 6 | | 12 | \$ - |
| Overtime Parking Permits | 12 | | 43 | \$ - |
| Parking Lot Permits | | | 2 | \$ - |
| Sanitary Sewer Permits | 53 | | 333 | \$ - |
| Sidewalk/Driveway Permits | 10 | | 50 | \$ - |
| Signs | 21 | \$ 109,605.00 | 97 | \$ 533,934.00 |
| Special Motor Vehicle Permits | 5 | | 66 | \$ - |
| Storm Sewer Permits | 6 | | 29 | \$ - |
| Tree Removal Permits | 4 | | 22 | \$ - |
| Utility Permits | 16 | | 102 | \$ - |
| Work Order Permits | 6 | | 38 | \$ - |
| Total Other Permits: | 208 | | 1135 | \$ 3,019,110.00 |
| Land Use Permits: | | | | |
| Shoreline Exemption | 1 | | 12 | |
| Shoreline Substantial Development | | | 11 | |
| Shoreline Conditional Use | | | 3 | |
| Shoreline Variance | | | 0 | |
| Shoreline Sign | | | 0 | |
| Shoreline Revision | | | 1 | |
| Wetland Development | | | 13 | |
| Wetland Assessment | | | 0 | |
| Wetland Delineation Verification | | | 0 | |
| Wetland Exemption | 3 | | 26 | |
| Rezone | | | 1 | |
| Site Approval | | | 0 | |
| Preliminary Plat | | | 1 | |
| Short Plat | 2 | | 10 | |
| Final Plat | | | 4 | |
| Conditional Use | | | 3 | |
| MLU Extension | | | 0 | |
| MLU Variance | 1 | | 15 | |
| MLU Waiver | | | 0 | |
| Boundary Line Adjustment | 1 | | 6 | |
| Binding Site Plan | | | 0 | |
| Interpretation/Determination | 2 | | 15 | |
| SEPA - Environmental | 6 | | 35 | |
| Special Development | | | 0 | |
| Annexation | | | 0 | |
| Administrative Plat | | | 0 | |
| LUA Determination | | | 0 | |
| Assessory Dwelling Unit (ADU) | 3 | | 9 | |
| Zoning Verification | 2 | | 19 | |
| Innocent Purchaser | | | 1 | |
| Wetland Interpretation | | | 0 | |
| Total Land Use Permits: | 21 | | 185 | |

CITY OF TACOMA 2011 BUILDING PERMITS

| MONTH | COMMERCIAL | | RESIDENTIAL | | TOTAL | |
|---------------------|------------|-------------------------|-------------|-------------------------|------------|-------------------------|
| | PERMITS | VALUE | PERMITS | VALUE | PERMITS | VALUE |
| January | 53 | \$ 7,532,703.00 | 80 | \$ 3,263,533.00 | 133 | \$ 10,796,236.00 |
| February | 39 | \$ 9,467,637.00 | 76 | \$ 3,890,777.00 | 115 | \$ 13,358,414.00 |
| March | 48 | \$ 6,248,509.00 | 78 | \$ 4,373,302.00 | 126 | \$ 10,621,811.00 |
| April | 48 | \$ 6,066,826.00 | 81 | \$ 3,660,497.00 | 129 | \$ 9,727,323.00 |
| May | 45 | \$ 17,774,059.00 | 102 | \$ 3,785,202.00 | 147 | \$ 21,559,261.00 |
| June | 54 | \$ 5,867,195.00 | 99 | \$ 5,866,692.00 | 153 | \$ 11,733,887.00 |
| July | | | | | | |
| August | | | | | | |
| September | | | | | | |
| October | | | | | | |
| November | | | | | | |
| December | | | | | | |
| Year to Date | 287 | \$ 52,956,929.00 | 516 | \$ 24,840,003.00 | 803 | \$ 77,796,932.00 |

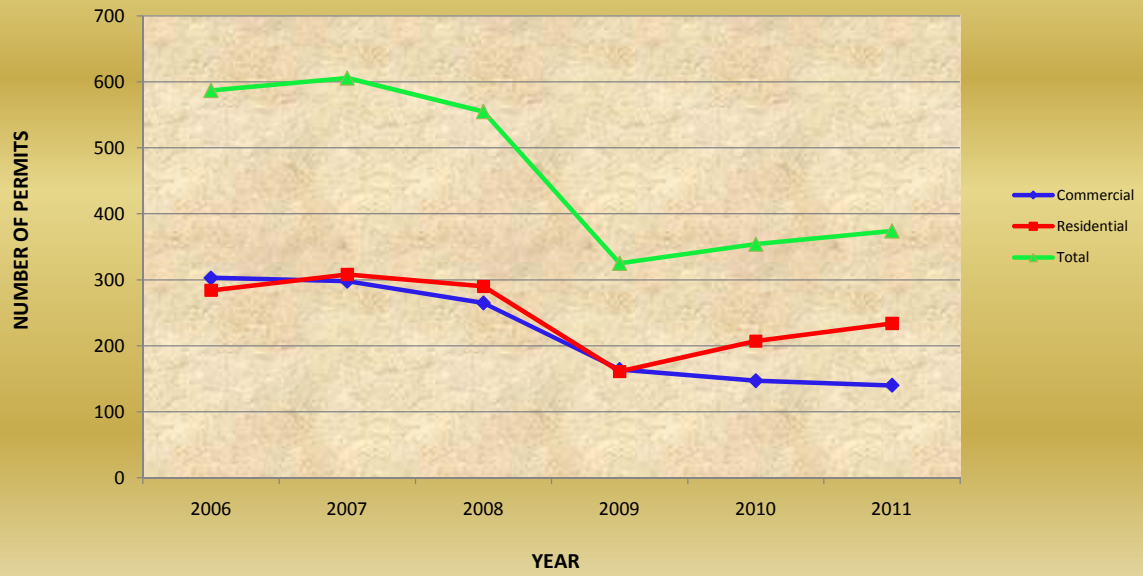




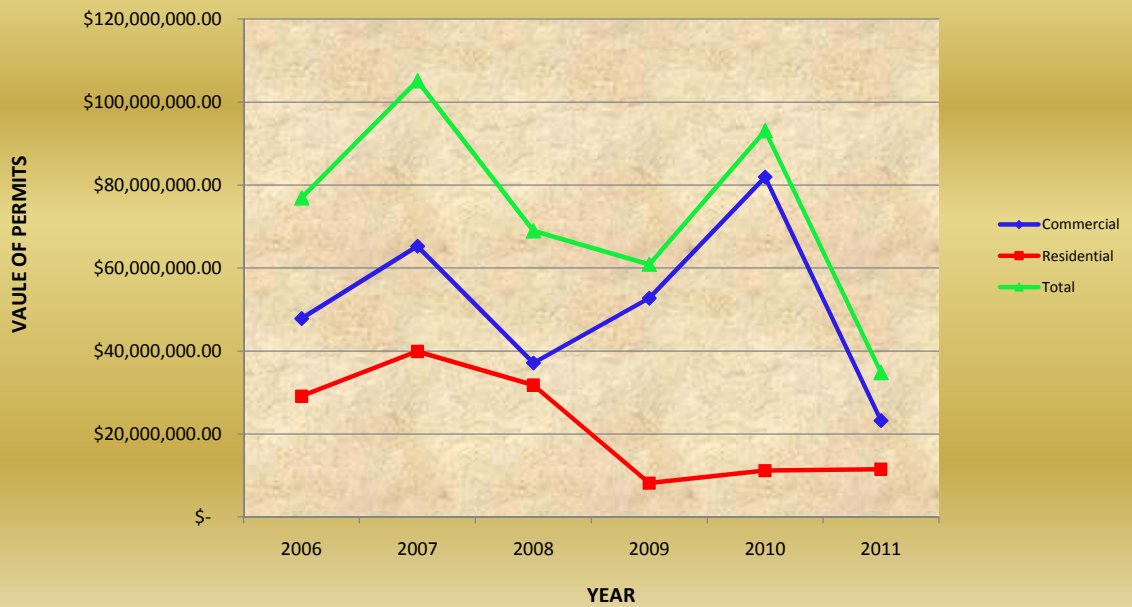
FIRST QUARTER 2006 - 2011 BUILDING PERMITS JANUARY 1ST - MARCH 31ST

| MONTH | COMMERCIAL | | RESIDENTIAL | | TOTAL | |
|--------------|-------------|--------------------------|-------------|--------------------------|-------------|--------------------------|
| | PERMITS | VALUE | PERMITS | VALUE | PERMITS | VALUE |
| 2006 | 303 | \$ 47,833,778.00 | 284 | \$ 29,087,814.00 | 587 | \$ 76,921,592.00 |
| 2007 | 298 | \$ 65,264,201.00 | 308 | \$ 39,896,972.00 | 606 | \$ 105,161,173.00 |
| 2008 | 265 | \$ 37,148,306.00 | 290 | \$ 31,812,699.00 | 555 | \$ 68,961,005.00 |
| 2009 | 164 | \$ 52,735,554.00 | 161 | \$ 8,158,970.00 | 325 | \$ 60,894,524.00 |
| 2010 | 147 | \$ 81,932,241.00 | 207 | \$ 11,175,266.00 | 354 | \$ 93,107,507.00 |
| 2011 | 140 | \$ 23,248,849.00 | 234 | \$ 11,527,612.00 | 374 | \$ 34,776,461.00 |
| TOTAL | 1317 | \$ 308,162,929.00 | 1484 | \$ 131,659,333.00 | 2801 | \$ 439,822,262.00 |

**FIRST QUARTER 2006 - 2011 BUILDING PERMITS
JANUARY 1st - MARCH 31st**



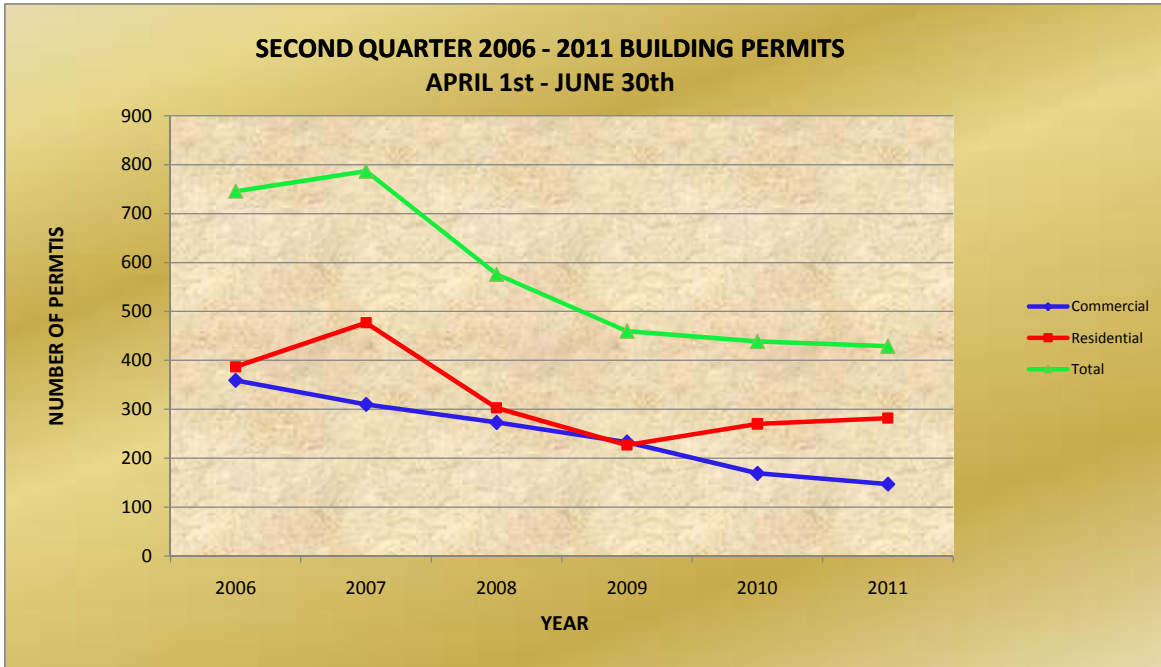
**FIRST QUARTER 2006 - 2011 BUILDING PERMITS
JANUARY 1st - March 31st**



SECOND QUARTER 2006 - 2011 BUILDING PERMITS

APRIL 1ST - JUNE 30TH

| MONTH | COMMERCIAL | | RESIDENTIAL | | TOTAL | |
|--------------|-------------|--------------------------|-------------|--------------------------|-------------|--------------------------|
| | PERMITS | VALUE | PERMITS | VALUE | PERMITS | VALUE |
| 2006 | 359 | \$ 124,552,124.00 | 387 | \$ 42,135,928.00 | 746 | \$ 166,688,052.00 |
| 2007 | 310 | \$ 143,684,403.00 | 477 | \$ 46,608,337.00 | 787 | \$ 190,292,740.00 |
| 2008 | 273 | \$ 63,837,476.00 | 303 | \$ 25,287,343.00 | 576 | \$ 89,124,819.00 |
| 2009 | 233 | \$ 24,878,265.00 | 227 | \$ 12,088,557.00 | 460 | \$ 36,966,822.00 |
| 2010 | 169 | \$ 50,409,958.00 | 270 | \$ 14,137,008.00 | 439 | \$ 64,546,966.00 |
| 2011 | 147 | \$ 29,708,080.00 | 282 | \$ 13,312,391.00 | 429 | \$ 43,020,471.00 |
| TOTAL | 1491 | \$ 437,070,306.00 | 1946 | \$ 153,569,564.00 | 3437 | \$ 590,639,870.00 |

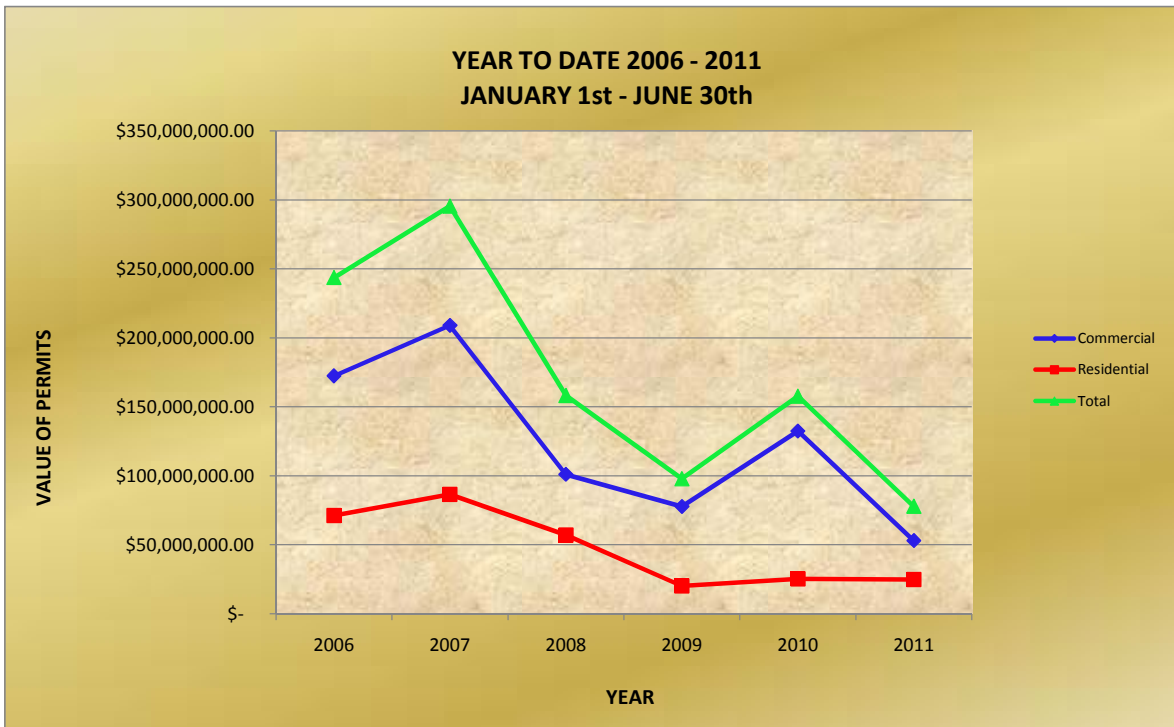
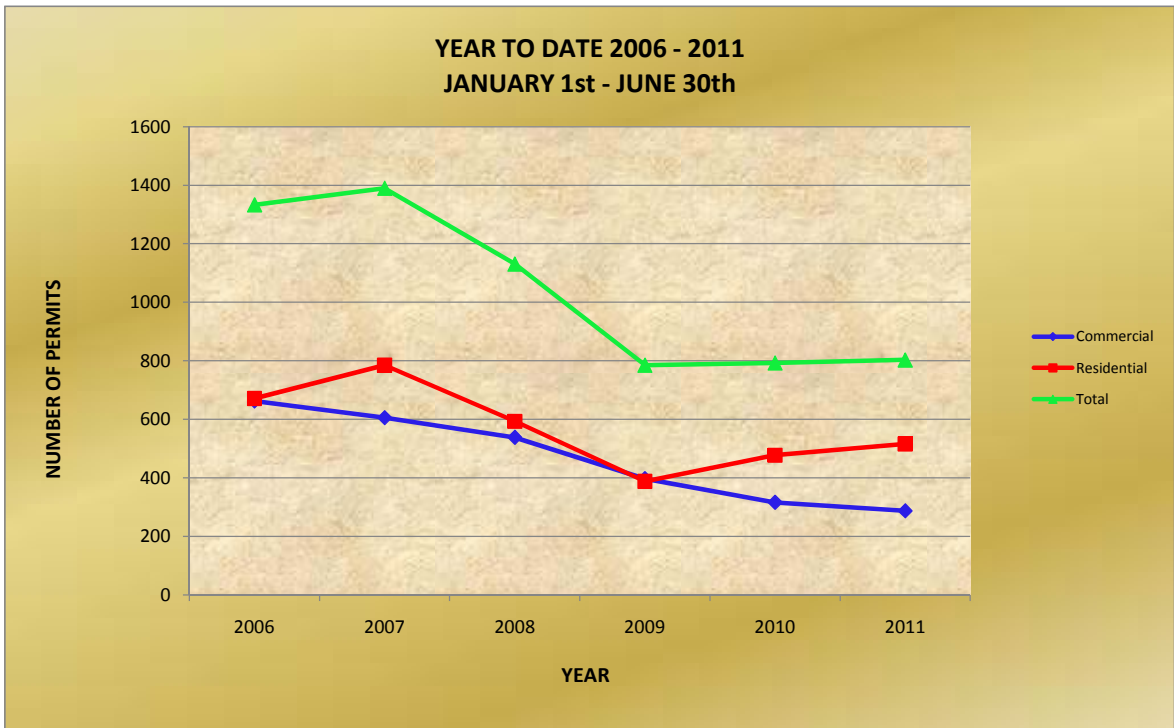


**SECOND QUARTER 2006 - 2011 BUILDING PERMITS
APRIL 1st - JUNE 30th**



**YEAR TO DATE 2006 - 2011
JANUARY 1ST - JUNE 30TH**

| MONTH | COMMERCIAL | | RESIDENTIAL | | TOTAL | |
|--------------|-------------|--------------------------|-------------|--------------------------|-------------|----------------------------|
| | PERMITS | VALUE | PERMITS | VALUE | PERMITS | VALUE |
| 2006 | 662 | \$ 172,385,902.00 | 671 | \$ 71,223,742.00 | 1333 | \$ 243,609,644.00 |
| 2007 | 605 | \$ 208,948,604.00 | 785 | \$ 86,505,309.00 | 1390 | \$ 295,453,913.00 |
| 2008 | 538 | \$ 100,985,782.00 | 593 | \$ 57,100,042.00 | 1131 | \$ 158,085,824.00 |
| 2009 | 397 | \$ 77,613,819.00 | 388 | \$ 20,247,527.00 | 785 | \$ 97,861,346.00 |
| 2010 | 316 | \$ 132,342,199.00 | 477 | \$ 25,312,274.00 | 793 | \$ 157,654,473.00 |
| 2011 | 287 | \$ 52,956,929.00 | 516 | \$ 24,840,003.00 | 803 | \$ 77,796,932.00 |
| TOTAL | 2805 | \$ 745,233,235.00 | 3430 | \$ 285,228,897.00 | 6235 | \$ 1,030,462,132.00 |



PROJECTS OVER \$500,000

JANUARY, 2011

rjh 02/07/11

| DATE ISSUED | PERMIT NUMBER | OWNER | CONTRACTOR | DESCRIPTION | ADDRESS | ESTIMATED VALUE |
|-------------|---------------|---|---|---|-----------------|-----------------|
| 01/13/11 | 40000153826 | FOSS WATERWAY DEVELOPMENT AUTHORITY 535 DOCK St Tacoma WA 98402 | MCCLURE & SONS INC 15714 Country Club Dr Mill Creek WA 98012-1203 #MCCLUSI101MJ - 06/07/11 | Replace 2-Floats at North Moorage Adjacent to Seaport Building | 705 DOCK ST | \$ 916,921.00 |
| 01/14/11 | 40000156987 | TACOMA ELKS LODGE #174 P O Box 11008 Tacoma WA 98411 | MC CONSTRUCTION CONSULTANTS INC P O Box 8478 Lacey WA 98509-8478 | Demolish Allenmore Elks Golf Course Club House | 2125 S CEDAR ST | \$ 1,000,000.00 |
| 01/25/11 | 40000152181 | FOSS WATERWAY DEVELOPMENT AUTHORITY 535 DOCK St Tacoma WA 98402 | COT PUBLIC WORKS 747 Market St Tacoma WA 98402-3701 | Structural Improvements to Existing Building - Foss Waterway Seaport | 705 DOCK ST | \$ 1,000,000.00 |
| 01/31/11 | 40000158523 | ST JOSEPH HOSPITAL & HEALTH CARE P O Box 2197 Tacoma WA 98401 | SELLEN CONSTRUCTION P O BOX 9970 Seattle WA 98109-0970 | 11th Floor Renovations - Mental Health Unit - St Joseph Hospital | 1717 S J ST | \$ 1,500,000.00 |
| | | | | | | |
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PROJECTS OVER \$500,000

FEBRUARY, 2011

rjh 03/08/11

| DATE ISSUED | PERMIT NUMBER | OWNER | CONTRACTOR | DESCRIPTION | ADDRESS | ESTIMATED VALUE |
|-------------|---------------|---|---|--|-----------------------|-----------------|
| 02/11/11 | 40000143190 | PAM MOORE P O Box 448 Fox Island WA 98333 | OWNER | Construct 2-Story SFD with Basement and Attached Garage | 2620 McCARVER ST | \$ 597,467.00 |
| 02/16/11 | 40000150119+ | METROPOLITAN PARK DISTRICT 4702 S 19th St Tacoma WA 98405 | WYSER CONSTRUCTION CO INC 17125 Sunset Rd Bothell WA 98012-6756 #WYSERCI045N9 - 01/26/12 | Kandle Park - Grade & Fill, Construct Pool, Mechanical Building, Office Building, Dressing Room Building, Restroom Building | 2323 N SHIRLEY ST | \$ 4,529,999.00 |
| 02/18/11 | 40000154992 | UNIVERSITY OF WASHINGTON P O Box 359446 Seattle WA 98195 | JOHN KORSMO CONST INC P O Box 1377 Tacoma WA 98401-1377 #JOHNKCI126BE - 01/01/12 | Demolish Jet Building - UofW- Tacoma | 2125 S CEDAR ST | \$ 835,600.00 |
| 02/23/11 | 40000157710 | McMENAMINS INC 6227 Mount Tacoma Dr SW Tacoma WA 98499-1539 | OWNER | Interior, non-structural exploratory demolition - McMenamins | 565 BROADWAY | \$ 1,000,000.00 |
| 02/24/11 | 40000159628 | TACOMA DODGE INC 4101 South Tacoma Way Tacoma WA 98409 | OWNER | Remodel for Fiat of Tacoma | 3808 SOUTH TACOMA WAY | \$ 750,000.00 |
| | | | | | | |
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PROJECTS OVER \$500,000

MARCH, 2011

rjh 04/05/11

| DATE ISSUED | PERMIT NUMBER | OWNER | CONTRACTOR | DESCRIPTION | ADDRESS | ESTIMATED VALUE |
|-------------|---------------|---|--|---|------------------|-----------------|
| 03/07/11 | 40000153808 | NORTHWEST EYE INVESTORS LLC 3602 S 19th St Tacoma WA 98405 | BERSCHAUER PHILLIPS CONST CO P O Box 11489 Olympia WA 98508-1489 #BERSCPC148CD - 08/09/12 | Initial TI - Northwest Eye Investors | 3602 S 19TH ST | \$ 1,276,701.00 |
| 03/15/11 | 40000158225 | KEVIN & MARY BYRNE 217 Belle Bella Dr Fox Island WA 98333 | NORTHWEST HOME BUILDER LLC 116 Meridan St S, Ste C Puyallup WA 98371-5912 #NORTHHB902MM - 09/30/12 | Construct 2-Story SFD with Basement and Attached Garage | 2915 N 31ST ST | \$ 524,981.00 |
| 03/16/11 | 40000157203 | CITY OF TACOMA 747 Market St, Rm 744 Tacoma WA 98402 | SERPANOK CONSTRUCTION INC 4519 S Orchard St Tacoma WA 98466-6621 #SERPACI984QO - 12/01/12 | Grade & Fill for Future Parking Lot - Old Sauro Site | 1401 PACIFIC AVE | \$ 700,000.00 |
| 03/22/11 | 40000160182 | ST JOSEPH HOSPITAL P O Box 2197 Tacoma WA 98401-2197 | ALDRICH & ASSOCIATES INC 810 240th St SE Bothell WA 98021-9357 #ALDRIA*202RU - 02/09/13 | Façade and Window Replacement - St Joseph Medical Pavilion | 1802 YAKIMA AVE | \$ 1,250,000.00 |
| 03/25/11 | 40000160611 | PACIFIC PLAZA DEVELOPMENT LLC P O Box 280 Puyallup WA 98371-0152 | ABSHER CONSTRUCTION COMPANY P O Box 280 Puyallup WA 98371-0152 #ABSHEC*345PS - 01/08/13 | Remodel for Pacific Plaza Grocery | 1250 PACIFIC AVE | \$ 640,000.00 |
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PROJECTS OVER \$500,000

May, 2011

rjh 06/02/11

| DATE ISSUED | PERMIT NUMBER | OWNER | CONTRACTOR | DESCRIPTION | ADDRESS | ESTIMATED VALUE |
|-------------|---------------|---|---|---|------------------------|-----------------|
| 05/03/11 | 40000155699 | UNIVERSITY OF WASHINGTON P O Box 359446 Seattle WA 98195 | JOHN KORSMO CONST INC P O Box 1377 Tacoma WA 98401-1377 #JOHNKCI126BE - 01/01/12 | Construct Tioga Library/Jefferson Building at UofW | 1903 JEFFERSON AVE | \$ 8,101,593.00 |
| 05/10/11 | 40000158807 | PORT OF TACOMA P O Box 1837 Tacoma WA 98401-1837 | OWNER | Grade & Fill and Demolish 7-Buildings for Auto Site Development | 1702 PORT OF TACOMA RD | \$ 1,100,000.00 |
| 05/10/11 | 40000159614 | PORT OF TACOMA P O Box 1837 Tacoma WA 98401-1837 | OWNER | Demolish Industrial Building | 1451 THORNE RD | \$ 510,700.00 |
| 05/13/11 | 40000156213 | G & J INVESTMENTS LLC 6004 South Tacoma Way Tacoma WA 98409-4124 | MOUNTAIN CONSTRUCTION INC 7457 S Madison St Tacoma WA 98409-1000 MOUNTCI179N2 - 01/01/13 | Construct Gilchrist Buick / GMC Auto Dealership | 5840 SOUTH TACOMA WAY | \$ 858,086.00 |
| 05/13/11 | 40000161191 | UNIVERSITY OF PUGET SOUND 1500 N Warner St Tacoma WA 98416-0005 | OWNER | Grade & Fill for UPS Commencement Walk - Phase 2 | 1500 N WARNER ST | \$ 1,500,000.00 |
| 05/19/11 | 40000156744 | SCHNITZER STEEL / GENERAL METALS P O Box 10047 Portland OR 97296-0047 | OWNER | Grade & Fill for Stormwater Improvements | 1902 MARINE VIEW DR | \$ 2,379,000.00 |
| 05/25/11 | 40000161716 | GOLD POINTE CONDOMINIUMS P O Box 99250 Lakewood WA 98496 | OWNER | New Windows, Siding, & Railings - Gold Points Condos | 3008 N NARROWS DR | \$ 1,000,000.00 |
| | | | | | | |
| | | | | | | |
| | | | | | | |

Land Use Permit Activity
January 1, 2011 - June 30, 2011

| Order Short Txt | Permit Description | Location | Issued | Approve/Deny |
|-----------------------|--|---------------------------|--------|--------------|
| CRITICAL AREAS | | | | |
| WET2010 4-156510 | FWHCA Exemption - Repair and Maintenance | 401 Alexander Avenue | Yes | Approve |
| WET2010 4-156769 | FWHCA Exemption - Repair and Maintenance | 5300 Salmon Beach Road | Yes | Approve |
| WET2010 4-151026 | Wetland Development - Alaska Street Improvements | 6810 South Cushman Avenue | Yes | Approve |
| WET2010 4-151023 | FWHCA Development - Float Reconfiguration | 820 East "D" Street | Yes | Approve |
| WET2010 4-157469 | FWHCA Exemption - Treatment Plant Floodwall/Levy | 2201 Portland Avenue | Yes | Approve |
| | | | | |
| WET2011 4-158658 | Wetland Exemption - I-5 Widening | | No | N/A |
| WET2011 4-158808 | Wetland Exemption - Demolition, etc | 1702 Port of Tacoma Road | Yes | Approve |
| WET2011 4-158816 | Wetland Exemption - Construction of Single Family Dwelling | 1708 Sweet Street | Yes | Approve |
| WET2011 4-158972 | Wetland Exemption - Construction of Single Family Dwelling | 2607 North 31st Street | Yes | Approve |
| WET2011 4-159332 | FWHCA Exemption - Float and dolphin Replacement | 516 East D Street | Yes | Approve |
| WET2011 4-159789 | FWHCA Development - New Restaurant and Floats | 9001 South 19th Street | No | N/A |
| WET2011 4-160132 | FWHCA Exemption - Various Repair (for 5 years) | Port of Tacoma | Yes | Approve |
| WET2011 4-160551 | FWHCA Exemption - Repair and Maintenance of Old Town Dock | 2123 Schuster Parkway | Yes | Approve |
| WET2011 4-160943 | Wetland Exemption | 1 Sitcum Plaza | No | N/A |
| WET2011 4-160946 | FWHCA Exemption - Replace up to 10 pilings | 1902 Marine View Drive | Yes | Approve |
| WET2011 4-161438 | FWHCA Exemption - Geotechnical Exploration | Murray Morgan Bridge | Yes | Approve |
| WET2011 4-161829 | FWHCA Exemption - Emergency Warning System @ Multiple Sites | Port of Tacoma | Yes | Approve |
| WET2011 4-161947 | FWHCA Development - Dock Repair and Improvement | 1902 Marine View Drive | No | N/A |
| WET2011 4-162339 | FWHCA Exemption - New Security Infrastructure @ Multiple Sites | Port of Tacoma | Yes | Approve |
| WET2011 4-162443 | FWHCA Exemption - Bank Stabilization @ 3 facilities | Port of Tacoma | Yes | Approve |
| WET2011 4-162963 | FWHCA Development - Renewable Fuel Project and New Tanks | Sound Refining | No | N/A |
| WET2011 4-163830 | FWHCA Exemption - Demolition | 1118 East "D" Street | Yes | Approve |
| WET2011 4-164721 | Wetland Exemption - Hazardous Tree Removal | 3802 East "R" Street | Yes | Approve |
| WET2011 4-165140 | FWHCA Exemption - Dock Repair @ Sperry | 611 Schuster Parkway | Yes | Approve |
| WET2011 4-165833 | Replace Retaining Wall | 3219 North 33rd Street | Yes | Approve |
| Total New | 20 | | | |
| SHORELINE | | | | |
| SHR2010 4-148395 | Shoreline Development Permit - Murray Morgan Bridge | Murray Morgan Bridge | Yes | Approve |
| SHR2010 4-156509 | Shoreline Exemption - Repair and Maintenance | 401 Alexander Avenue | Yes | Approve |
| SHR2010 4-156768 | Shoreline Development Permit - Salmon Beach Wastewater System | 5300 Salmon Beach Road | Yes | Approve |
| SHR2010 4-151025 | Shoreline Development Permit - Alaska Street Improvements | 6810 South Cushman Avenue | Yes | Approve |
| SHR2010 4-150917 | Shoreline Development Permit - Float Reconfiguration | 820 East "D" Street | Yes | Approve |

Land Use Permit Activity
January 1, 2011 - June 30, 2011

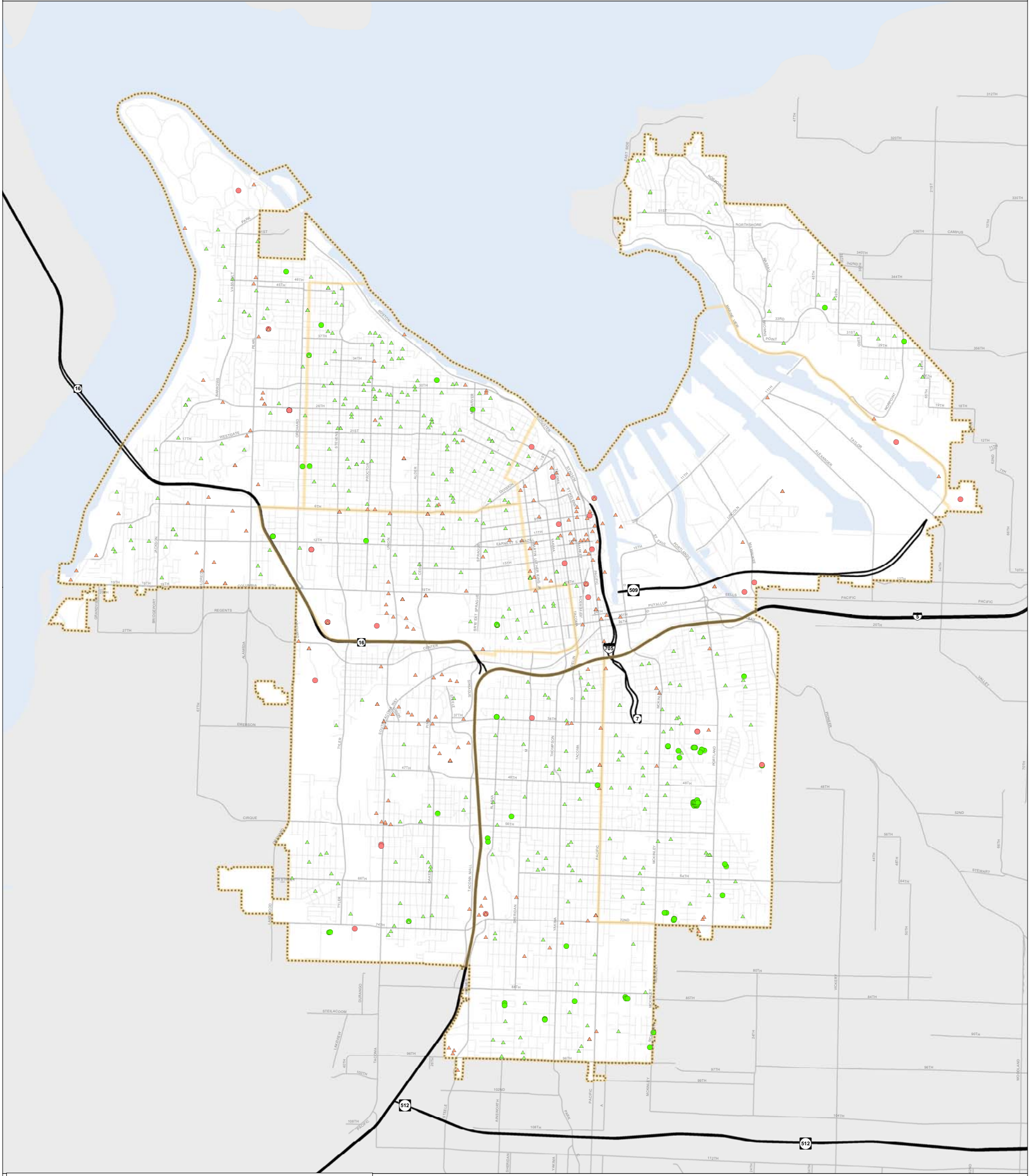
| Order Short Txt | Permit Description | Location | Issued | Approve/Deny |
|-----------------------|--|------------------------|--------|--------------|
| SHR2011 4-157468 | Shoreline Development - Treatment Plant Flood Wall/Levy | 2201 Portland Avenue | Yes | Approve |
| SHR2011 4-158452 | Shoreline Exemption - Various Repair (for 5 years) | Port of Tacoma | Yes | Approve |
| SHR2011 4-158657 | Shoreline Development - I-5 Widening | | No | N/A |
| SHR2011 4-159330 | Shoreline Exemption - Float and Dolphin Replacement | 516 East "D" Street | Yes | Approve |
| SHR2011 4-159787 | Shoreline Development - New Restaurant and Floats | 9001 South 19th Street | No | N/A |
| SHR2011 4-160258 | Shoreline Exemption - Bank Stabilization @ 3 facilities | Port of Tacoma | Yes | Approve |
| SHR2011 4-160550 | Shoreline Exemption - Repair and Maintenance of Old Town Dock | 2123 Schuster Parkway | Yes | Approve |
| SHR2011 4-161053 | Shoreline Exemption - Replace up to 10 pilings | 1902 Marine View Drive | Yes | Approve |
| SHR2011 4-161437 | Shoreline Exemption - Geotechnical Exploration | Murray Morgan Bridge | Yes | Approve |
| SHR2011 4-161828 | Shoreline Development - Emergency Warning System @ Multiple Sites | Port of Tacoma | Yes | Approve |
| SHR2011 4-161949 | Shoreline Development - Dock Repair and Improvement | 1902 Marine View Drive | No | N/A |
| SHR2011 4-162338 | Shoreline Development - New Security Infrastructure @ Multiple Sites | Port of Tacoma | Yes | Approve |
| SHR2011 4-162962 | Shoreline Development - Renewable Fuel Project and New Tanks | Sound Refining | No | N/A |
| SHR2011 4-164038 | Shoreline Permit Revision | 516 East "D" Street | Yes | Approve |
| SHR2011 4-164477 | Shoreline Exemption - Dock Repair @ Sperry | 611 Schuster Parkway | Yes | Approve |
| Total New | 15 | | | |
| REZONE | | | | |
| Total New | 0 | | | |
| PLAT | | | | |
| PLT2010 4-155278 | 13-Lot Final Plat "Olympic View South" | 8606 South Ainsworth | Yes | Approve |
| PLT2010 4-155601 | 6-Lot Final Plat "Founder's Circle" | 1101 South Shirley | Yes | Approve |
| | | | | |
| PLT2011 4-161299 | 8-Lot Final Plat "Highland Hills" | 1199 North Newton | Yes | Approve |
| Total New | 1 | | | |
| SHORT PLAT/BLA | | | | |
| MPD2011 4-160855 | 2-Lot Short Plat | 4615 - 35th Street NE | Yes | Approve |
| MPD2011 4-161051 | Boundary Line Adjustment | 7411 Pacific Avenue | Yes | Approve |
| MPD2011 4-162388 | 2-Lot Short Plat | 1206 North Washington | Yes | Approve |
| MPD2011 4-162467 | Boundary Line Adjustment | 609 South 17th Street | Yes | Approve |
| MPD2011 4-162958 | 2-Lot Short Plat | 5114 6th Avenue | Yes | Approve |
| MPD2011 4-164333 | 2-Lot Short Plat | 2119 North Stevens | Yes | Approve |
| MPD2011 4-165152 | Boundary Line Adjustment | 1419 South Prospect | No | N/A |
| Total New | 6 | | | |

Land Use Permit Activity
January 1, 2011 - June 30, 2011

| VARIANCE | | | | |
|--------------------|--|--------------------------|--------|------------------|
| MLU2011 4-160257 | Variance, Side and Rear Yard | 1313 South 13th Street | Yes | Partial Approval |
| Order Short Txt | Permit Description | Location | Issued | Approve/Deny |
| MLU2011 4-160650? | Variance, Side and Rear Yard | 4214 American Lake Blvd | Yes | Approve |
| MLU2011 4-160856 | Variance, Minimum Yard Space | 2916 North 31st Street | Yes | Deny |
| MLU2011 4-162215 | Variance, Rear Yard | 4112 South 69th Street | Yes | Deny |
| MLU2011 4-163231 | Variance, Height, Design, Parking | 2302 North 30th Street | No | N/A |
| MLU2011 4-163942 | Variance, Front Yard | 1420 East 44th Street | No | N/A |
| MLU2011 4-164037 | Variance, Side and Rear Yard | 3120 North 8th Street | No | N/A |
| MLU2011 4-164212 | Variance, Lot Width | 8813 "A" Street | No | N/A |
| MLU2011 4-164858 | Variance, Height | 410 North "D" Street | No | N/A |
| Total New | 9 | | | |
| CUP2010 4-148311 | Conditional Use Permit - Bates Tech. College Expansion | 2412 S 19th Street | Yes | Approve |
| | | | | |
| CUP2011 4-163940 | Conditional Use Permit - New Portables for SAMI | 5400 North Pearl | Yes | Approve |
| CUP2011 4-163941 | Conditional Use Permit - New Buildings for Buddhist Assoc. | 1420 East 44th Street | No | N/A |
| Total New | 1 | | | |
| INT2010 4-156068 | Reasonable Accommodation - Withdrawn | 5011 South Alaska Street | | |
| | | | | |
| INT2011 4-157599 | Accessory Dwelling Unit | 5018 North 33rd Street | Yes | Approve |
| INT2011 4-1588056 | Accessory Dwelling Unit | 4138 South Park Avenue | Yes | Approve |
| INT2011 4-160139 | Accessory Dwelling Unit | 5340 Frances Ave NE | ? | ? Noah |
| INT2011 4-164798 | Accessory Dwelling Unit | 1613 South 93rd Street | Yes | Approve |
| INT2011 4-165157 | Accessory Dwelling Unit | 1227 South Geiger Street | Yes | Approve |
| INT2011 4-165900 | Accessory Dwelling Unit | 1723 North Oakes Street | Yes | Approve |
| Total New | 6 | | | |
| Grand Total | 58 | | | |

Permits in purple are carry-over from second 1/2 of last year. Decision had not been issued at time of last Planning Commission Report

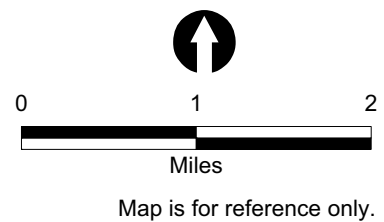
Building Permits Issued January - June 2011



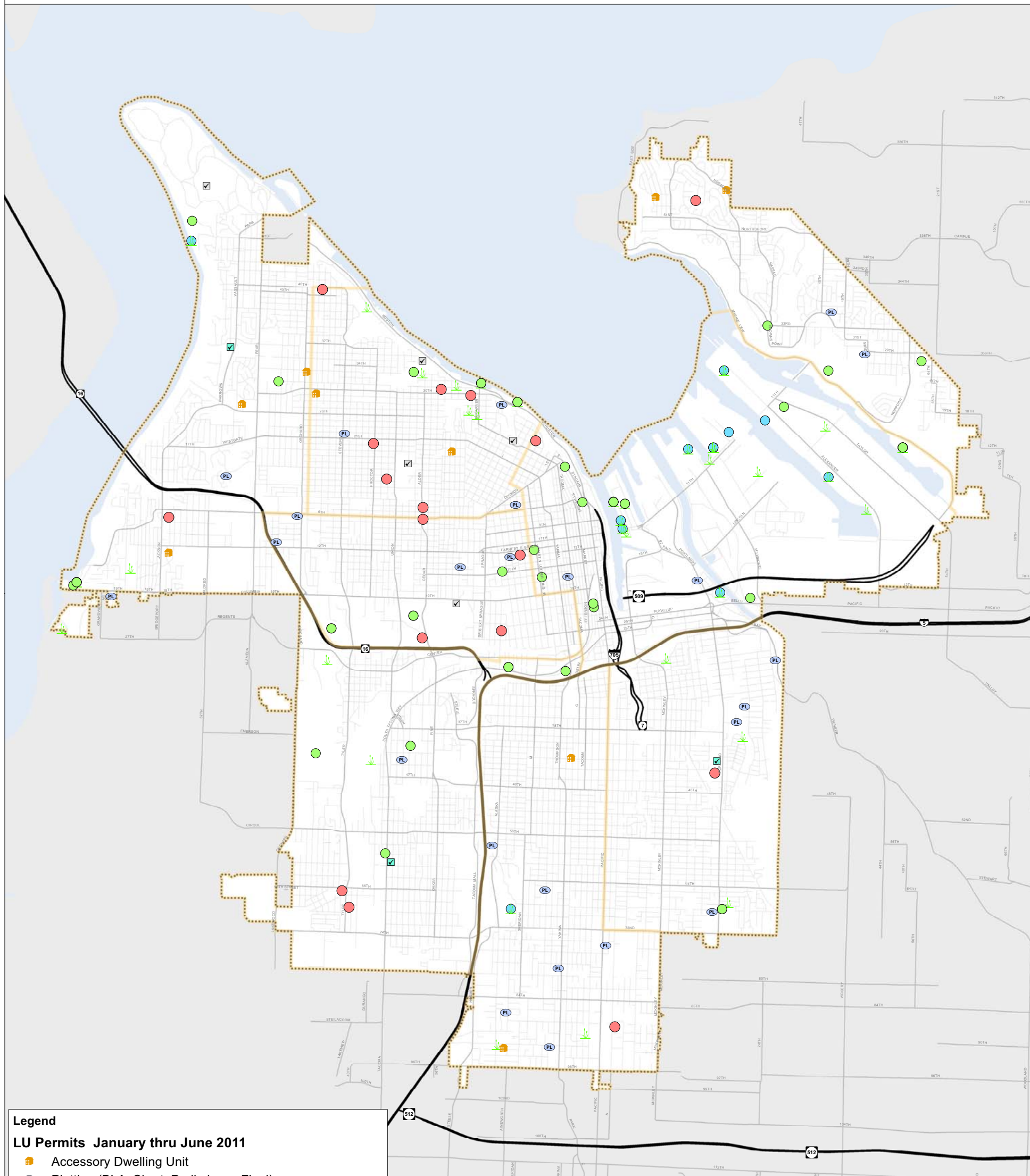
Building Permits - January thru June 2011

CATEGORY

- NEW SFD
- ▲ SFD ADDITIONS/REMODELS, GARAGES/CARPORTS
- COMMERCIAL NEW
- ▲ COMMERCIAL ADDITIONS/REMODELS
- ▭ Neighborhood Councils












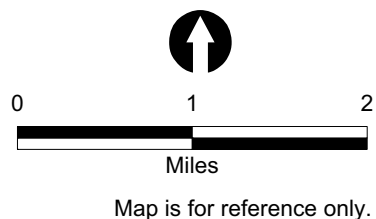
Land Use Permits Issued January - June 2011



Legend

LU Permits January thru June 2011

-  Accessory Dwelling Unit
-  Platting (BLA, Short, Preliminary, Final)
-  Conditional Use
-  Rezone
-  Variance
-  Shoreline (Cond. Use, Exemp., Revision, Substantial Dev.)
-  SEPA
-  Wetland (Development, Exemption, Determination)
-  Neighborhood Councils



Map is for reference only.





City of Tacoma
Community and Economic Development Department

Agenda Item
GB-2

TO: Planning Commission
FROM: Donna Stenger, Manager, Long-Range Planning Division
SUBJECT: Medical Marijuana Moratorium
DATE: August 10, 2011

The City Council passed Ordinance No. 28010 on August 2, 2011 declaring an emergency moratorium on the establishment of medical marijuana collective gardens or medical marijuana dispensaries. A copy of the Ordinance is attached. The Ordinance refers the matter to the Planning Commission to hold a public hearing and to develop findings on the need for and the duration of the moratorium and to provide a recommendation by September 7, 2011.

At your meeting on August 17, staff will discuss the procedures in the Tacoma Municipal Code and the Commission's responsibilities regarding moratoria. One procedural requirement is for the Commission to conduct a public hearing prior to making any recommendations on the emergency moratorium. Due to the moratorium Ordinance's requirement to both conduct a public hearing and provide recommendations on September 7, the Commission will need to have both items on the September 7, 2011 agenda. It is unusual, but not unprecedented, for the Commission to both conduct a public hearing and make a recommendation on the subject matter of the hearing at the same meeting. Written comments will be accepted prior to the public hearing and up to noon on September 7 (the end of the written comment period). Staff intends to provide any comments received before your September 7 meeting to allow you the opportunity to review the comments prior to making your recommendation. Due to the short timeline, you can expect these comments to be provided as we receive them.

To facilitate the Commission's discussion, staff will discuss potential findings that the Commission could consider based upon information contained in the moratorium Ordinance, state law, previous policy discussions by the City Council, and public comments to the City Council on the moratorium Ordinance. In addition, attached is a copy of the recently amended state law concerning medical marijuana. Please note that the Governor vetoed many sections approved by the legislature. A representative of the City Attorney's office will be at your meeting to review the state legislation and answer any questions that the Commission may have. I have also attached a fact sheet on the medical marijuana law prepared by the Association of Washington Cities.

The moratorium Ordinance also directs the Planning Commission to develop land use regulations. (See Section 10 of the Ordinance, page 10). Attached is a proposed schedule for the Commission to develop, review, and recommend regulations to the City Council to consider for adoption before the expiration of the moratorium.

If you have any questions, please contact me at 591-5210 or dstenger@cityoftacoma.org.

Attachments (4)

c: Peter Huffman, Assistant Director

ORDINANCE NO. 28010

BY REQUEST OF MAYOR STRICKLAND AND COUNCIL MEMBER
WOODARDS

AN ORDINANCE adopting an immediate six-month moratorium on the establishment, location, operation, licensing, permitting, maintenance or continuation of medical marijuana collective gardens or medical marijuana dispensaries that are asserted to be authorized, or actually authorized, under Chapter 69.51A Revised Code of Washington (RCW), or any other laws of the state of Washington; defining "medical marijuana collective gardens" and "medical marijuana dispensaries"; referring the moratorium to the Planning Commission to hold a public hearing to develop findings of fact and recommendation by September 7, 2011, including the need for and the duration of the moratorium; setting September 27, 2011 as the date for a public hearing on the moratorium; declaring an emergency in the passage of this ordinance providing that the moratorium will take effect immediately upon adoption and publication and, unless extended, will sunset within six (6) months of the date of adoption; and providing for severability.

WHEREAS, the City of Tacoma acknowledges the needs of persons suffering from debilitating or terminal conditions and the benefits that approved medical use of marijuana may provide these persons and believes that the medical use of cannabis should be conducted in a safe and fair manner for the health, safety, and welfare of the community, and

WHEREAS it is the policy desire of the City Council to continue to preserve legal access to medical cannabis for qualifying patients through the City's administration of its enforcement responsibilities under City, State and Federal Law during the moratorium period, and

WHEREAS, the possession or distribution of marijuana has been, and continues to be, a violation of state law pursuant to Chapter 69.50 RCW (Washington's Uniform Controlled Substances Act), and federal law, through

the Controlled Substances Act ("CSA"); and strict sentencing guidelines enhance the penalties for violations within 1,000 feet of a school, and

WHEREAS, Initiative Measure No. 692, approved by 59% of the voters of Washington State on November 3, 1998, now codified as Chapter 69.51A RCW, created an affirmative defense to marijuana charges under state, but not federal law, if the person charged could demonstrate that he or she was a qualifying patient or designated provider, as those terms are defined in Chapter 69.51A RCW, and

WHEREAS, the initiative and current Chapter 69.51A RCW are clear that nothing in its provisions are to be "construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of Cannabis for non-medical purposes," and

WHEREAS, the Washington State Department of Health opines that it is "not legal to buy or sell" medical marijuana, and further opines that "the law (Chapter 69.51.A RCW) does not allow dispensaries," leaving enforcement to local officials, and

WHEREAS, the City acknowledges the right of qualified health care professionals to recommend the medical use of cannabis, acknowledges the affirmative defense, under state law, available to qualifying patients from the possession of cannabis, as well as the right of patients to designate a "designated provider" who can "provide" rather than sell cannabis to "only one patient at any one time," and

WHEREAS, the City of Tacoma acknowledges federal prohibition but wants to respond to the changes in state law in a responsible manner that will minimize impacts on patients, providers, and the health, safety, and welfare of the community, and

WHEREAS, in 2011, the state legislature passed significant amendments to the law, Engrossed Second Substitute Senate Bill 5073 (“E2SSB 5073”) and the Governor signed E2SSB 5073, but vetoed several portions expressing her reservations about provisions that involved state employees in activities that could be interpreted as being in violation of federal laws, and

WHEREAS, prior to issuing her partial veto, the Governor received a letter signed by Washington’s top two U.S. Attorneys, Mike Ormsby and Jenny Durkin, dated April 14, 2011, in which they wrote that marijuana is a Schedule 1 controlled substance under federal law, and as such, “growing, distributing and possessing marijuana in any capacity, other than as a part of a federal authorized research program, is a violation of federal law regardless of state laws permitting such activities.” Further, the U.S. Attorneys concluded, “state employees who conducted activities mandated by the Washington legislative proposals would not be immune from liability under the CSA,” and

WHEREAS, E2SSB 5073 became effective on July 22, 2011, and

WHEREAS Tacoma has seen the establishment of medical marijuana “dispensaries” within the City limits that offer marijuana and marijuana products to numerous persons, asserting that they are operating as designated providers

within the meaning of Chapter 69.51A RCW, and these business are variously referred to as dispensaries, cooperatives, patient cooperatives, or patient networks, both for profit and not for profit, and

WHEREAS Section 404 of E2SSB 5073 effectively eliminates medical marijuana dispensaries as a legally viable model of operation under state law, and

WHEREAS these businesses are illegal under both state and federal law, and the City provided notice to these businesses that they are to cease illegal activity, and

WHEREAS persons or entities operating these purported medical marijuana dispensaries interpreted the law prior to E2SSB 5073 to allow storefront operation of distribution centers for medical marijuana and many of these dispensaries obtained business licenses to operate their business using false, misleading or vague statements and the City continues to receive new requests and inquiries from persons interested in operating additional dispensaries in Tacoma, and

WHEREAS E2SSB 5073 amends Chapter 69.51A RCW, changing the scope and effect of the law and the rights of qualifying patients and their designated providers, and operators of medical dispensaries are already interpreting the newly amended law to assert that they are permitted to continue to operate, and

WHEREAS the recent amendments authorize "collective gardens" where up to ten qualifying patients may join together to produce, process, transport,

and deliver up to 45 marijuana or cannabis plants for their own medical use and there is no limit set to the number of medical marijuana collective gardens that may be located at any site, nor any restrictions as to where collective gardens may be located in relation to other uses, and

WHEREAS many persons and entities who formerly represented themselves as “dispensaries” have notified the City that they will now operate as collective gardens with a business or administrative office at the same location where the dispensary was located and the City believes that marijuana will be delivered at these locations, and

WHEREAS the recent amendments clearly delegate to cities the authority to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements and business taxes on the production, processing, dispensing, and delivery of medical cannabis, and

WHEREAS the Tacoma Municipal Code does not currently address medical cannabis or medical marijuana and the Municipal Code could be changed to address ambiguities in the state law, and

WHEREAS the City requires time to conduct appropriate research to understand the extent of the changes provided in the new law; to analyze impacts and potential liabilities under federal law; and to determine the appropriate regulatory framework for any provision that is allowed under these laws, and

WHEREAS, the production, processing, dispensing, and delivery of medical cannabis, medical marijuana collective gardens or medical marijuana

dispensaries present issues of public safety for surrounding properties as well as for the property on which the uses and/or facilities exist. Furthermore, the location of such medical marijuana collective gardens or medical marijuana dispensaries near schools, daycare facilities and other lawful uses presents issues relating to the public welfare and the protection of minors, and

WHEREAS the City must ensure that proposed locations for medical marijuana collective gardens or medical marijuana dispensaries are appropriate and that any potential secondary impacts arising from the operation of these uses or facilities are minimized or mitigated, and

WHEREAS the Council finds that a zoning, licensing and permitting moratorium should be established pending local review of appropriate locations and other requirements for these operations, facilities and uses and the impacts of the newly amended law and its interaction with federal law, and

WHEREAS, unless a moratorium is imposed, medical marijuana dispensaries and medical marijuana collective gardens may be located within the City of Tacoma while the City lacks the necessary tools to ensure the location is appropriate and that the potential secondary impacts are minimized and mitigated, and

WHEREAS, pursuant to RCW 35.63.200 and RCW 36.70A.390, the City may adopt an immediate moratorium for a period of up to six months, provided that the City holds a public hearing on and adopts findings of fact related to the proposed moratorium within 60 days after its adoption; Now, Therefore

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That the Recitals above are hereby adopted by reference as the City Council's preliminary findings of fact, as if fully set forth herein. The City Council may, in its discretion, modify and/or adopt additional findings at the conclusion of the public hearing referenced in Section 7 below.

Section 2. That pursuant to the provisions of RCW 36.70A.390, a moratorium is hereby enacted to prohibit within the City of Tacoma the establishment, location, operation, licensing, permitting, maintenance or continuation of any medical marijuana collective garden or any medical marijuana dispensary, whether for profit or not for profit, asserted to be authorized or whether actually authorized under those portions of E2SSB 5073 signed into law, or any other laws of the State of Washington. No building permit, occupancy permit or other development permit or approval shall be issued for any of the purposes or activities listed above, and no business license shall be granted or accepted while this moratorium is in effect. Any land use permits, business licenses or the permits for any of these operations that are issued as a result of error or by use of vague or deceptive descriptions during the moratorium are null and void, and without legal force and effect.

Section 3. That the City Council deems it to be in the public interest to establish an emergency moratorium pending consideration of changes to regulations, requirements and taxes to address medical marijuana collective

gardens and dispensaries in order to preserve the public health, safety and welfare.

Section 4. That for the purposes of this moratorium, “Medical marijuana dispensary” means any person, business, corporation, partnership, joint venture, organization, association, agency, cooperative network, consultation operation and/or other entity or person no matter how described or defined, including its associated premises and equipment, which has for its purpose or which is used to grow, sell, provide, select, measure, package, label, dispense, deliver and/or otherwise transfer (for consideration or otherwise) marijuana for medical uses to more than one “qualifying patient” in any fifteen (15) day period, or to any person who does not meet the definition of “qualifying patient” under the terms of Chapter 69.51A RCW; and/or maintains and/or possesses more than the amounts of marijuana permitted to be possessed under RCW 69.51A.040 and Section 401 of E2SSB 5073. The receipt of cash or other legal tender in exchange for, contemporaneously with, or immediately following the delivery of marijuana to a qualifying patient shall be presumed to be a sale. Any person, business, corporation, partnership, joint venture, organization, association, and/or entity which sells, provides, and/or otherwise dispenses marijuana to more than one qualifying patient in any fifteen (15) day period is presumed to be a “medical marijuana dispensary,” unless as part of a “collective garden.” A person who is the designated provider for only one qualified patient during any fifteen (15) day period and who complies with

Chapter 69.51A RCW, shall not be deemed a medical marijuana dispensary for purposes of the moratorium.

Section 5. That for the purposes of this moratorium, “medical marijuana collective garden” means a group of qualifying patients that share responsibility for acquiring and supplying the resources required to produce and process marijuana for medical use of the 10 members of the collective garden. Examples of a collective garden resource would include, without limitation, the following: property used for a collective garden; equipment, supplies, and labor necessary to plant, grow and harvest marijuana; marijuana plants, seeds, and cuttings; and equipment, supplies and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of marijuana plants. A medical marijuana collective garden shall satisfy the above definition regardless of its formation, ownership, management, or operation as a business, agency, organization, cooperative, network, consultation operation, group, or person. A person who is designated for only one qualified patient during any fifteen (15) day period and who complies with Chapter 69.51A RCW, or a person who is a qualified patient and who complies with Chapter 69.51A RCW, shall not be deemed a medical marijuana collective garden for the purposes of this moratorium.

Section 6. That no use that constitutes or purports to be a medical marijuana dispensary or a medical marijuana collective garden, as those terms are defined in this ordinance, that was engaged in dispensing prior to the enactment of this ordinance shall be deemed to have been a legally established

use under the provisions of the Tacoma Municipal Code and that use shall not be entitled to claim legal nonconforming status.

Section 7. That, pursuant to Section 13.02.055 of the Tacoma Municipal Code, the City Council hereby refers the moratorium to the Planning Commission for its review at its next available meeting on August 17, 2011 and to hold a public hearing on September 7, 2011; to develop findings of fact and recommendation, including the need for and duration of the moratorium.

Section 8. That, under TMC 13.02.055, RCW 35.63.200, and RCW 36.70A.390, a public hearing must be held within 60 days of the passage of this Ordinance and September 27, 2011 is hereby set as the date for the public hearing in order to take public testimony and to consider adopting further findings justifying the imposition of the moratorium set forth in Section 2 above.

Section 9. That this Ordinance shall be transmitted to Washington State Department of Commerce, pursuant to RCW 36.70A.106.

Section 10. That the Planning Commission is hereby directed to develop appropriate zoning regulations pursuant to the newly amended law regarding medical marijuana collective gardens and/or medical marijuana dispensaries. Further, the Commission should evaluate secondary impacts of these uses and facilities which may include, but are not limited to, burglaries associated with cash and marijuana maintained on the site, or an increase of other illegal activities, such as drug use, within the vicinity of these uses and facilities. In particular, and without limitation, the Commission should analyze the impacts of allowing these uses and facilities in residential zones as well as

impacts arising from the proximity of these uses and facilities to schools, daycare facilities, parks, religious and cultural facilities, jails, courthouses and drug and alcohol rehabilitation facilities.

Section 11. That the City Manager is hereby authorized to direct appropriate staff to review and develop appropriate business licensing requirements, health and safety requirements and business taxes regarding medical marijuana collective gardens or medical marijuana dispensaries pursuant to the newly amended law for inclusion in the Tacoma Municipal Code.

Section 12. The City Manager is hereby directed to work with staff to administer the City's enforcement responsibilities under City, State, and Federal Law during the moratorium period in a manner that will continue to preserve legal access to medical cannabis for qualifying patients.

Section 13. That notice of and hearing on this ordinance, in the normal course, would undermine effective City planning by allowing the establishment of, or the submittal of permit applications between the time notice was published and the time the ordinance was passed to vest to City regulations which may be inadequate to protect the public health, safety, and general welfare. Therefore, for this reason, the City Council hereby finds and declares that an emergency exists and that the 180-day interim moratorium imposed by this ordinance shall become effective immediately upon passage of this ordinance and its publication, unless repealed, extended, or modified by the City Council after subsequent public hearings and entry of appropriate findings

of fact pursuant to RCW 35.63.200. Pursuant to Matson v. Clark County Board of Commissioners, 79 Wn. App. 641, 904 P.2d 317 (1995), underlying facts necessary to support this emergency declaration are included in the Recitals above, all of which are adopted by reference as findings of fact, as if fully set forth herein. This Ordinance, and the moratorium established herein, shall expire and terminate on January 29, 2012.

Section 14. That if any one or more section, subsection, 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 of the remaining section, subsection, sentence, clause or phrase of this ordinance and the same shall remain in full force and effect.

Passed _____

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

VETO MESSAGE ON E2SSB 5073

April 29, 2011

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, Engrossed Second Substitute Senate Bill 5073 entitled:

"AN ACT Relating to medical use of cannabis."

In 1998, Washington voters made the compassionate choice to remove the fear of state criminal prosecution for patients who use medical marijuana for debilitating or terminal conditions. The voters also provided patients' physicians and caregivers with defenses to state law prosecutions.

I fully support the purpose of Initiative 692, and in 2007, I signed legislation that expanded the ability of a patient to receive assistance from a designated provider in the medical use of marijuana, and added conditions and diseases for which medical marijuana could be used.

Today, I have signed sections of Engrossed Second Substitute Senate Bill 5073 that retain the provisions of Initiative 692 and provide additional state law protections. Qualifying patients or their designated providers may grow cannabis for the patient's use or participate in a collective garden without fear of state law criminal prosecutions. Qualifying patients or their designated providers are also protected from certain state civil law consequences.

Our state legislature may remove state criminal and civil penalties for activities that assist persons suffering from debilitating or terminal conditions. While such activities may violate the federal Controlled Substances Act, states are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. However, absent congressional action, state laws will not protect an individual from legal action by the federal government.

Qualifying patients and designated providers can evaluate the risk of federal prosecution and make choices for themselves on whether to use or assist another in using medical marijuana. The United States Department of Justice has made the wise decision not to use federal resources to prosecute seriously ill patients who use medical marijuana.

However, the sections in Part VI, Part VII, and Part VIII of Engrossed Second Substitute Senate Bill 5073 would direct employees of the state departments of Health and Agriculture to authorize and license commercial businesses that produce, process or dispense cannabis. These sections would open public employees to federal prosecution, and the United States Attorneys have made it clear that state law would not provide these individuals safe harbor from federal prosecution. No state employee should be required to violate federal criminal law in order to fulfill duties under state law. For these reasons, I have vetoed Sections 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806 and 807 of Engrossed Second Substitute Senate Bill 5073.

In addition, there are a number of sections of Engrossed Second Substitute Senate Bill 5073 that are associated with or dependent upon these licensing sections. Section 201 sets forth definitions of terms. Section 412 adds protections for licensed producers, processors and dispensers. Section 901 requires the Department of Health to develop a secure registration system for licensed producers, processors and dispensers. Section 1104 would require a review of the necessity of the cannabis production and dispensing system if the federal government were to authorize the use of cannabis for medical purposes. Section 1201 applies to dispensaries in current operation in the interim before licensure, and Section 1202 exempts documents filed under Section 1201 from disclosure. Section 1203 requires the department of health to report certain information related to implementation of the vetoed sections. Because I have vetoed the licensing provisions, I have also vetoed Sections 201, 412, 901, 1104, 1201, 1202 and 1203 of Engrossed Second Substitute Senate Bill 5073.

Section 410 would require owners of housing to allow the use of medical cannabis on their property, putting them in potential conflict with federal law. For this reason, I have vetoed Section 410 of Engrossed Second Substitute Senate Bill 5073.

Section 407 would permit a nonresident to engage in the medical use of cannabis using documentation or authorization issued under other state or territorial laws. This section would not require these other state or territorial laws to meet the same standards for health care professional authorization as required by Washington law. For this reason, I have vetoed Section 407 of Engrossed Second Substitute Senate Bill 5073.

Section 411 would provide that a court may permit the medical use of cannabis by an offender, and exclude it as a ground for

finding that the offender has violated the conditions or requirements of the sentence, deferred prosecution, stipulated order of continuance, deferred disposition or dispositional order. The correction agency or department responsible for the person's supervision is in the best position to evaluate an individual's circumstances and medical use of cannabis. For this reason, I have vetoed Section 411 of Engrossed Second Substitute Senate Bill 5073.

I am approving Section 1002, which authorizes studies and medical guidelines on the appropriate administration and use of cannabis. Section 1206 would make Section 1002 effective January 1, 2013. I have vetoed Section 1206 to provide the discretion to begin efforts at an earlier date.

Section 1102 sets forth local governments' authority pertaining to the production, processing or dispensing of cannabis or cannabis products within their jurisdictions. The provisions in Section 1102 that local governments' zoning requirements cannot "preclude the possibility of siting licensed dispensers within the jurisdiction" are without meaning in light of the vetoes of sections providing for such licensed dispensers. It is with this understanding that I approve Section 1102.

I have been open, and remain open, to legislation to exempt qualifying patients and their designated providers from state criminal penalties when they join in nonprofit cooperative organizations to share responsibility for producing, processing and dispensing cannabis for medical use. Such exemption from state criminal penalties should be conditioned on compliance with local government location and health and safety specifications.

I am also open to legislation that establishes a secure and confidential registration system to provide arrest and seizure protections under state law to qualifying patients and those who assist them. Unfortunately, the provisions of Section 901 that would provide a registry for qualifying patients and designated providers beginning in January 2013 are intertwined with requirements for registration of licensed commercial producers, processors and dispensers of cannabis. Consequently, I have vetoed section 901 as noted above. Section 101 sets forth the purpose of the registry, and Section 902 is contingent on the registry. Without a registry, these sections are not meaningful. For this reason, I have vetoed Sections 101 and 902 of Engrossed Second Substitute Senate Bill 5073. I am not vetoing Sections 402 or 406, which establish affirmative defenses for a qualifying patient or designated provider who is not registered with the registry established in section 901. Because these sections govern those who have not registered, this section is meaningful even though section 901 has been vetoed.

With the exception of Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, Engrossed Second Substitute Senate Bill 5073 is approved.

Respectfully submitted,
Christine Gregoire
Governor

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5073

Chapter 181, Laws of 2011

(partial veto)

62nd Legislature
2011 Regular Session

MEDICAL CANNABIS

EFFECTIVE DATE: 07/22/11

Passed by the Senate April 21, 2011
YEAS 27 NAYS 21

BRAD OWEN

President of the Senate

Passed by the House April 11, 2011
YEAS 54 NAYS 43

FRANK CHOPP

Speaker of the House of Representatives

Approved April 29, 2011, 3:00 p.m., with the exception of Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, which are vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5073** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 29, 2011

**Secretary of State
State of Washington**

1 (c) Health care professionals may authorize the medical use of
2 cannabis in the manner provided by this act without fear of state
3 criminal or civil sanctions.

4 (2) This act is not intended to amend or supersede Washington state
5 law prohibiting the acquisition, possession, manufacture, sale, or use
6 of cannabis for nonmedical purposes.

7 (3) This act is not intended to compromise community safety.
8 State, county, or city correctional agencies or departments shall
9 retain the authority to establish and enforce terms for those on active
10 supervision.

*Sec. 101 was vetoed. See message at end of chapter.

11 **Sec. 102.** RCW 69.51A.005 and 2010 c 284 s 1 are each amended to
12 read as follows:

13 (1) The ~~((people of Washington state))~~ legislature finds that:

14 (a) There is medical evidence that some patients with terminal or
15 debilitating ~~((illnesses))~~ medical conditions may, under their health
16 care professional's care, ~~((may))~~ benefit from the medical use of
17 ~~((marijuana))~~ cannabis. Some of the ~~((illnesses))~~ conditions for which
18 ~~((marijuana))~~ cannabis appears to be beneficial include ~~((chemotherapy-~~
19 related)), but are not limited to:

20 (i) Nausea ~~((and)),~~ vomiting ~~((in cancer patients; AIDS-wasting~~
21 syndrome)), and cachexia associated with cancer, HIV-positive status,
22 AIDS, hepatitis C, anorexia, and their treatments;

23 (ii) Severe muscle spasms associated with multiple sclerosis,
24 epilepsy, and other seizure and spasticity disorders; ~~((epilepsy;))~~

25 (iii) Acute or chronic glaucoma;

26 (iv) Crohn's disease; and

27 (v) Some forms of intractable pain.

28 ~~((The people find that))~~ (b) Humanitarian compassion necessitates
29 that the decision to ~~((authorize the medical))~~ use ~~((of marijuana))~~
30 cannabis by patients with terminal or debilitating ~~((illnesses))~~
31 medical conditions is a personal, individual decision, based upon their
32 health care professional's professional medical judgment and
33 discretion.

34 (2) Therefore, the ~~((people of the state of Washington))~~
35 legislature intends that:

36 (a) Qualifying patients with terminal or debilitating ~~((illnesses))~~
37 medical conditions who, in the judgment of their health care

1 professionals, may benefit from the medical use of ((marijuana))
2 cannabis, shall not be ((found guilty of a crime under state law for
3 their possession and limited use of marijuana)) arrested, prosecuted,
4 or subject to other criminal sanctions or civil consequences under
5 state law based solely on their medical use of cannabis,
6 notwithstanding any other provision of law;

7 (b) Persons who act as designated providers to such patients shall
8 also not be ((found guilty of a crime under state law for)) arrested,
9 prosecuted, or subject to other criminal sanctions or civil
10 consequences under state law, notwithstanding any other provision of
11 law, based solely on their assisting with the medical use of
12 ((marijuana)) cannabis; and

13 (c) Health care professionals shall also ((be excepted from
14 liability and prosecution)) not be arrested, prosecuted, or subject to
15 other criminal sanctions or civil consequences under state law for the
16 proper authorization of ((marijuana)) medical use ((to)) of cannabis by
17 qualifying patients for whom, in the health care professional's
18 professional judgment, the medical ((marijuana)) use of cannabis may
19 prove beneficial.

20 (3) Nothing in this chapter establishes the medical necessity or
21 medical appropriateness of cannabis for treating terminal or
22 debilitating medical conditions as defined in RCW 69.51A.010.

23 (4) Nothing in this chapter diminishes the authority of
24 correctional agencies and departments, including local governments or
25 jails, to establish a procedure for determining when the use of
26 cannabis would impact community safety or the effective supervision of
27 those on active supervision for a criminal conviction, nor does it
28 create the right to any accommodation of any medical use of cannabis in
29 any correctional facility or jail.

30 **Sec. 103.** RCW 69.51A.020 and 1999 c 2 s 3 are each amended to read
31 as follows:

32 Nothing in this chapter shall be construed to supersede Washington
33 state law prohibiting the acquisition, possession, manufacture, sale,
34 or use of ((marijuana)) cannabis for nonmedical purposes. Criminal
35 penalties created under this act do not preclude the prosecution or
36 punishment for other crimes, including other crimes involving the
37 manufacture or delivery of cannabis for nonmedical purposes.

PART II
DEFINITIONS

*Sec. 201. RCW 69.51A.010 and 2010 c 284 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Cannabis" means all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. For the purposes of this chapter, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term "cannabis" includes cannabis products and useable cannabis.

(2) "Cannabis analysis laboratory" means a laboratory that performs chemical analysis and inspection of cannabis samples.

(3) "Cannabis products" means products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three-tenths of one percent, and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term "cannabis products" does not include useable cannabis. The definition of "cannabis products" as a measurement of THC concentration only applies to the provisions of this chapter and shall not be considered applicable to any criminal laws related to marijuana or cannabis.

(4) "Correctional facility" has the same meaning as provided in RCW 72.09.015.

(5) "Corrections agency or department" means any agency or department in the state of Washington, including local governments or jails, that is vested with the responsibility to manage those individuals who are being supervised in the community for a criminal conviction and has established a written policy for determining when the medical use of cannabis, including possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, is inconsistent with and contrary to the person's supervision.

1 (6) "Designated provider" means a person who:

2 (a) Is eighteen years of age or older;

3 (b) Has been designated in ((writing)) a written document signed
4 and dated by a qualifying patient to serve as a designated provider
5 under this chapter; and

6 ~~(c) Is ((prohibited from consuming marijuana obtained for the~~
7 ~~personal, medical use of the patient for whom the individual is acting~~
8 ~~as designated provider; and~~

9 ~~(d) Is the designated provider to only one patient at any one time.~~

10 ~~(2)) in compliance with the terms and conditions set forth in RCW~~
11 ~~69.51A.040.~~

12 A qualifying patient may be the designated provider for another
13 qualifying patient and be in possession of both patients' cannabis at
14 the same time.

15 (7) "Director" means the director of the department of agriculture.

16 (8) "Dispense" means the selection, measuring, packaging, labeling,
17 delivery, or retail sale of cannabis by a licensed dispenser to a
18 qualifying patient or designated provider.

19 (9) "Health care professional," for purposes of this chapter only,
20 means a physician licensed under chapter 18.71 RCW, a physician
21 assistant licensed under chapter 18.71A RCW, an osteopathic physician
22 licensed under chapter 18.57 RCW, an osteopathic physicians' assistant
23 licensed under chapter 18.57A RCW, a naturopath licensed under chapter
24 18.36A RCW, or an advanced registered nurse practitioner licensed under
25 chapter 18.79 RCW.

26 ~~((3))~~ (10) "Jail" has the same meaning as provided in RCW
27 70.48.020.

28 (11) "Labeling" means all labels and other written, printed, or
29 graphic matter (a) upon any cannabis intended for medical use, or (b)
30 accompanying such cannabis.

31 (12) "Licensed dispenser" means a person licensed to dispense
32 cannabis for medical use to qualifying patients and designated
33 providers by the department of health in accordance with rules adopted
34 by the department of health pursuant to the terms of this chapter.

35 (13) "Licensed processor of cannabis products" means a person
36 licensed by the department of agriculture to manufacture, process,
37 handle, and label cannabis products for wholesale to licensed
38 dispensers.

1 (14) "Licensed producer" means a person licensed by the department
2 of agriculture to produce cannabis for medical use for wholesale to
3 licensed dispensers and licensed processors of cannabis products in
4 accordance with rules adopted by the department of agriculture pursuant
5 to the terms of this chapter.

6 (15) "Medical use of ((marijuana)) cannabis" means the manufacture,
7 production, processing, possession, transportation, delivery,
8 dispensing, ingestion, application, or administration of ((marijuana,
9 as defined in RCW 69.50.101(q),)) cannabis for the exclusive benefit of
10 a qualifying patient in the treatment of his or her terminal or
11 debilitating ((illness)) medical condition.

12 ((+4)) (16) "Nonresident" means a person who is temporarily in the
13 state but is not a Washington state resident.

14 (17) "Peace officer" means any law enforcement personnel as defined
15 in RCW 43.101.010.

16 (18) "Person" means an individual or an entity.

17 (19) "Personally identifiable information" means any information
18 that includes, but is not limited to, data that uniquely identify,
19 distinguish, or trace a person's identity, such as the person's name,
20 date of birth, or address, either alone or when combined with other
21 sources, that establish the person is a qualifying patient, designated
22 provider, licensed producer, or licensed processor of cannabis products
23 for purposes of registration with the department of health or
24 department of agriculture. The term "personally identifiable
25 information" also means any information used by the department of
26 health or department of agriculture to identify a person as a
27 qualifying patient, designated provider, licensed producer, or licensed
28 processor of cannabis products.

29 (20) "Plant" means an organism having at least three
30 distinguishable and distinct leaves, each leaf being at least three
31 centimeters in diameter, and a readily observable root formation
32 consisting of at least two separate and distinct roots, each being at
33 least two centimeters in length. Multiple stalks emanating from the
34 same root ball or root system shall be considered part of the same
35 single plant.

36 (21) "Process" means to handle or process cannabis in preparation
37 for medical use.

1 (22) "Processing facility" means the premises and equipment where
2 cannabis products are manufactured, processed, handled, and labeled for
3 wholesale to licensed dispensers.

4 (23) "Produce" means to plant, grow, or harvest cannabis for
5 medical use.

6 (24) "Production facility" means the premises and equipment where
7 cannabis is planted, grown, harvested, processed, stored, handled,
8 packaged, or labeled by a licensed producer for wholesale, delivery, or
9 transportation to a licensed dispenser or licensed processor of
10 cannabis products, and all vehicles and equipment used to transport
11 cannabis from a licensed producer to a licensed dispenser or licensed
12 processor of cannabis products.

13 (25) "Public place" includes streets and alleys of incorporated
14 cities and towns; state or county or township highways or roads;
15 buildings and grounds used for school purposes; public dance halls and
16 grounds adjacent thereto; premises where goods and services are offered
17 to the public for retail sale; public buildings, public meeting halls,
18 lobbies, halls and dining rooms of hotels, restaurants, theatres,
19 stores, garages, and filling stations which are open to and are
20 generally used by the public and to which the public is permitted to
21 have unrestricted access; railroad trains, stages, buses, ferries, and
22 other public conveyances of all kinds and character, and the depots,
23 stops, and waiting rooms used in conjunction therewith which are open
24 to unrestricted use and access by the public; publicly owned bathing
25 beaches, parks, or playgrounds; and all other places of like or similar
26 nature to which the general public has unrestricted right of access,
27 and which are generally used by the public.

28 (26) "Qualifying patient" means a person who:

29 (a)(i) Is a patient of a health care professional;

30 ((b)) (ii) Has been diagnosed by that health care professional as
31 having a terminal or debilitating medical condition;

32 ((c)) (iii) Is a resident of the state of Washington at the time
33 of such diagnosis;

34 ((d)) (iv) Has been advised by that health care professional
35 about the risks and benefits of the medical use of ((marijuana))
36 cannabis; ((and

37 (e)) (v) Has been advised by that health care professional that

1 ((they)) he or she may benefit from the medical use of ((marijuana))
2 cannabis; and

3 (vi) Is otherwise in compliance with the terms and conditions
4 established in this chapter.

5 (b) The term "qualifying patient" does not include a person who is
6 actively being supervised for a criminal conviction by a corrections
7 agency or department that has determined that the terms of this chapter
8 are inconsistent with and contrary to his or her supervision and all
9 related processes and procedures related to that supervision.

10 ((+5)) (27) "Secretary" means the secretary of health.

11 (28) "Tamper-resistant paper" means paper that meets one or more of
12 the following industry-recognized features:

13 (a) One or more features designed to prevent copying of the paper;

14 (b) One or more features designed to prevent the erasure or
15 modification of information on the paper; or

16 (c) One or more features designed to prevent the use of counterfeit
17 valid documentation.

18 ((+6)) (29) "Terminal or debilitating medical condition" means:

19 (a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis,
20 epilepsy or other seizure disorder, or spasticity disorders; or

21 (b) Intractable pain, limited for the purpose of this chapter to
22 mean pain unrelieved by standard medical treatments and medications; or

23 (c) Glaucoma, either acute or chronic, limited for the purpose of
24 this chapter to mean increased intraocular pressure unrelieved by
25 standard treatments and medications; or

26 (d) Crohn's disease with debilitating symptoms unrelieved by
27 standard treatments or medications; or

28 (e) Hepatitis C with debilitating nausea or intractable pain
29 unrelieved by standard treatments or medications; or

30 (f) Diseases, including anorexia, which result in nausea, vomiting,
31 ((wasting)) cachexia, appetite loss, cramping, seizures, muscle spasms,
32 or spasticity, when these symptoms are unrelieved by standard
33 treatments or medications; or

34 (g) Any other medical condition duly approved by the Washington
35 state medical quality assurance commission in consultation with the
36 board of osteopathic medicine and surgery as directed in this chapter.

37 ((+7)) (30) "THC concentration" means percent of

1 tetrahydrocannabinol content per weight or volume of useable cannabis
2 or cannabis product.

3 (31) "Useable cannabis" means dried flowers of the Cannabis plant
4 having a THC concentration greater than three-tenths of one percent.
5 Useable cannabis excludes stems, stalks, leaves, seeds, and roots. For
6 purposes of this subsection, "dried" means containing less than fifteen
7 percent moisture content by weight. The term "useable cannabis" does
8 not include cannabis products.

9 (32)(a) Until January 1, 2013, "valid documentation" means:

10 ((+a)) (i) A statement signed and dated by a qualifying patient's
11 health care professional written on tamper-resistant paper, which
12 states that, in the health care professional's professional opinion,
13 the patient may benefit from the medical use of ((marijuana)) cannabis;
14 ((and

15 (b)) (ii) Proof of identity such as a Washington state driver's
16 license or identicard, as defined in RCW 46.20.035; and

17 (iii) In the case of a designated provider, the signed and dated
18 document valid for one year from the date of signature executed by the
19 qualifying patient who has designated the provider; and

20 (b) Beginning July 1, 2012, "valid documentation" means:

21 (i) An original statement signed and dated by a qualifying
22 patient's health care professional written on tamper-resistant paper
23 and valid for up to one year from the date of the health care
24 professional's signature, which states that, in the health care
25 professional's professional opinion, the patient may benefit from the
26 medical use of cannabis;

27 (ii) Proof of identity such as a Washington state driver's license
28 or identicard, as defined in RCW 46.20.035; and

29 (iii) In the case of a designated provider, the signed and dated
30 document valid for up to one year from the date of signature executed
31 by the qualifying patient who has designated the provider.

*Sec. 201 was vetoed. See message at end of chapter.

PART III

PROTECTIONS FOR HEALTH CARE PROFESSIONALS

34 **Sec. 301.** RCW 69.51A.030 and 2010 c 284 s 3 are each amended to
35 read as follows:

36 ~~((A health care professional shall be excepted from the state's~~

1 ~~criminal laws and shall not be penalized in any manner, or denied any~~
2 ~~right or privilege, for))~~ (1) The following acts do not constitute
3 crimes under state law or unprofessional conduct under chapter 18.130
4 RCW, and a health care professional may not be arrested, searched,
5 prosecuted, disciplined, or subject to other criminal sanctions or
6 civil consequences or liability under state law, or have real or
7 personal property searched, seized, or forfeited pursuant to state law,
8 notwithstanding any other provision of law as long as the health care
9 professional complies with subsection (2) of this section:

10 ~~((1))~~ (a) Advising a ~~((qualifying))~~ patient about the risks and
11 benefits of medical use of ~~((marijuana))~~ cannabis or that the
12 ~~((qualifying))~~ patient may benefit from the medical use of ~~((marijuana~~
13 ~~where such use is within a professional standard of care or in the~~
14 ~~individual health care professional's medical judgment))~~ cannabis; or

15 ~~((2))~~ (b) Providing a ~~((qualifying))~~ patient meeting the criteria
16 established under RCW 69.51A.010(26) with valid documentation, based
17 upon the health care professional's assessment of the ~~((qualifying))~~
18 patient's medical history and current medical condition, ~~((that the~~
19 ~~medical use of marijuana may benefit a particular qualifying patient))~~
20 where such use is within a professional standard of care or in the
21 individual health care professional's medical judgment.

22 (2)(a) A health care professional may only provide a patient with
23 valid documentation authorizing the medical use of cannabis or register
24 the patient with the registry established in section 901 of this act if
25 he or she has a newly initiated or existing documented relationship
26 with the patient, as a primary care provider or a specialist, relating
27 to the diagnosis and ongoing treatment or monitoring of the patient's
28 terminal or debilitating medical condition, and only after:

29 (i) Completing a physical examination of the patient as
30 appropriate, based on the patient's condition and age;

31 (ii) Documenting the terminal or debilitating medical condition of
32 the patient in the patient's medical record and that the patient may
33 benefit from treatment of this condition or its symptoms with medical
34 use of cannabis;

35 (iii) Informing the patient of other options for treating the
36 terminal or debilitating medical condition; and

37 (iv) Documenting other measures attempted to treat the terminal or

1 debilitating medical condition that do not involve the medical use of
2 cannabis.

3 (b) A health care professional shall not:

4 (i) Accept, solicit, or offer any form of pecuniary remuneration
5 from or to a licensed dispenser, licensed producer, or licensed
6 processor of cannabis products;

7 (ii) Offer a discount or any other thing of value to a qualifying
8 patient who is a customer of, or agrees to be a customer of, a
9 particular licensed dispenser, licensed producer, or licensed processor
10 of cannabis products;

11 (iii) Examine or offer to examine a patient for purposes of
12 diagnosing a terminal or debilitating medical condition at a location
13 where cannabis is produced, processed, or dispensed;

14 (iv) Have a business or practice which consists solely of
15 authorizing the medical use of cannabis;

16 (v) Include any statement or reference, visual or otherwise, on the
17 medical use of cannabis in any advertisement for his or her business or
18 practice; or

19 (vi) Hold an economic interest in an enterprise that produces,
20 processes, or dispenses cannabis if the health care professional
21 authorizes the medical use of cannabis.

22 (3) A violation of any provision of subsection (2) of this section
23 constitutes unprofessional conduct under chapter 18.130 RCW.

24 **PART IV**

25 **PROTECTIONS FOR QUALIFYING PATIENTS AND DESIGNATED PROVIDERS**

26 **Sec. 401.** RCW 69.51A.040 and 2007 c 371 s 5 are each amended to
27 read as follows:

28 ~~((1) If a law enforcement officer determines that marijuana is~~
29 ~~being possessed lawfully under the medical marijuana law, the officer~~
30 ~~may document the amount of marijuana, take a representative sample that~~
31 ~~is large enough to test, but not seize the marijuana. A law~~
32 ~~enforcement officer or agency shall not be held civilly liable for~~
33 ~~failure to seize marijuana in this circumstance.~~

34 ~~(2) If charged with a violation of state law relating to marijuana,~~
35 ~~any qualifying patient who is engaged in the medical use of marijuana,~~
36 ~~or any designated provider who assists a qualifying patient in the~~

1 ~~medical use of marijuana, will be deemed to have established an~~
2 ~~affirmative defense to such charges by proof of his or her compliance~~
3 ~~with the requirements provided in this chapter. Any person meeting the~~
4 ~~requirements appropriate to his or her status under this chapter shall~~
5 ~~be considered to have engaged in activities permitted by this chapter~~
6 ~~and shall not be penalized in any manner, or denied any right or~~
7 ~~privilege, for such actions.~~

8 ~~(3) A qualifying patient, if eighteen years of age or older, or a~~
9 ~~designated provider shall:~~

10 ~~(a) Meet all criteria for status as a qualifying patient or~~
11 ~~designated provider;~~

12 ~~(b) Possess no more marijuana than is necessary for the patient's~~
13 ~~personal, medical use, not exceeding the amount necessary for a sixty-~~
14 ~~day supply; and~~

15 ~~(c) Present his or her valid documentation to any law enforcement~~
16 ~~official who questions the patient or provider regarding his or her~~
17 ~~medical use of marijuana.~~

18 ~~(4) A qualifying patient, if under eighteen years of age at the~~
19 ~~time he or she is alleged to have committed the offense, shall~~
20 ~~demonstrate compliance with subsection (3)(a) and (c) of this section.~~
21 ~~However, any possession under subsection (3)(b) of this section, as~~
22 ~~well as any production, acquisition, and decision as to dosage and~~
23 ~~frequency of use, shall be the responsibility of the parent or legal~~

24 ~~guardian of the qualifying patient.)) The medical use of cannabis in~~
25 ~~accordance with the terms and conditions of this chapter does not~~
26 ~~constitute a crime and a qualifying patient or designated provider in~~
27 ~~compliance with the terms and conditions of this chapter may not be~~
28 ~~arrested, prosecuted, or subject to other criminal sanctions or civil~~
29 ~~consequences, for possession, manufacture, or delivery of, or for~~
30 ~~possession with intent to manufacture or deliver, cannabis under state~~
31 ~~law, or have real or personal property seized or forfeited for~~
32 ~~possession, manufacture, or delivery of, or for possession with intent~~
33 ~~to manufacture or deliver, cannabis under state law, and investigating~~
34 ~~peace officers and law enforcement agencies may not be held civilly~~
35 ~~liable for failure to seize cannabis in this circumstance, if:~~

36 ~~(1)(a) The qualifying patient or designated provider possesses no~~
37 ~~more than fifteen cannabis plants and:~~

38 ~~(i) No more than twenty-four ounces of useable cannabis;~~

1 (ii) No more cannabis product than what could reasonably be
2 produced with no more than twenty-four ounces of useable cannabis; or

3 (iii) A combination of useable cannabis and cannabis product that
4 does not exceed a combined total representing possession and processing
5 of no more than twenty-four ounces of useable cannabis.

6 (b) If a person is both a qualifying patient and a designated
7 provider for another qualifying patient, the person may possess no more
8 than twice the amounts described in (a) of this subsection, whether the
9 plants, useable cannabis, and cannabis product are possessed
10 individually or in combination between the qualifying patient and his
11 or her designated provider;

12 (2) The qualifying patient or designated provider presents his or
13 her proof of registration with the department of health, to any peace
14 officer who questions the patient or provider regarding his or her
15 medical use of cannabis;

16 (3) The qualifying patient or designated provider keeps a copy of
17 his or her proof of registration with the registry established in
18 section 901 of this act and the qualifying patient or designated
19 provider's contact information posted prominently next to any cannabis
20 plants, cannabis products, or useable cannabis located at his or her
21 residence;

22 (4) The investigating peace officer does not possess evidence that:

23 (a) The designated provider has converted cannabis produced or
24 obtained for the qualifying patient for his or her own personal use or
25 benefit; or

26 (b) The qualifying patient has converted cannabis produced or
27 obtained for his or her own medical use to the qualifying patient's
28 personal, nonmedical use or benefit;

29 (5) The investigating peace officer does not possess evidence that
30 the designated provider has served as a designated provider to more
31 than one qualifying patient within a fifteen-day period; and

32 (6) The investigating peace officer has not observed evidence of
33 any of the circumstances identified in section 901(4) of this act.

34 NEW SECTION. Sec. 402. (1) A qualifying patient or designated
35 provider who is not registered with the registry established in section
36 901 of this act may raise the affirmative defense set forth in
37 subsection (2) of this section, if:

1 (a) The qualifying patient or designated provider presents his or
2 her valid documentation to any peace officer who questions the patient
3 or provider regarding his or her medical use of cannabis;

4 (b) The qualifying patient or designated provider possesses no more
5 cannabis than the limits set forth in RCW 69.51A.040(1);

6 (c) The qualifying patient or designated provider is in compliance
7 with all other terms and conditions of this chapter;

8 (d) The investigating peace officer does not have probable cause to
9 believe that the qualifying patient or designated provider has
10 committed a felony, or is committing a misdemeanor in the officer's
11 presence, that does not relate to the medical use of cannabis;

12 (e) No outstanding warrant for arrest exists for the qualifying
13 patient or designated provider; and

14 (f) The investigating peace officer has not observed evidence of
15 any of the circumstances identified in section 901(4) of this act.

16 (2) A qualifying patient or designated provider who is not
17 registered with the registry established in section 901 of this act,
18 but who presents his or her valid documentation to any peace officer
19 who questions the patient or provider regarding his or her medical use
20 of cannabis, may assert an affirmative defense to charges of violations
21 of state law relating to cannabis through proof at trial, by a
22 preponderance of the evidence, that he or she otherwise meets the
23 requirements of RCW 69.51A.040. A qualifying patient or designated
24 provider meeting the conditions of this subsection but possessing more
25 cannabis than the limits set forth in RCW 69.51A.040(1) may, in the
26 investigating peace officer's discretion, be taken into custody and
27 booked into jail in connection with the investigation of the incident.

28 NEW SECTION. **Sec. 403.** (1) Qualifying patients may create and
29 participate in collective gardens for the purpose of producing,
30 processing, transporting, and delivering cannabis for medical use
31 subject to the following conditions:

32 (a) No more than ten qualifying patients may participate in a
33 single collective garden at any time;

34 (b) A collective garden may contain no more than fifteen plants per
35 patient up to a total of forty-five plants;

36 (c) A collective garden may contain no more than twenty-four ounces

1 of useable cannabis per patient up to a total of seventy-two ounces of
2 useable cannabis;

3 (d) A copy of each qualifying patient's valid documentation or
4 proof of registration with the registry established in section 901 of
5 this act, including a copy of the patient's proof of identity, must be
6 available at all times on the premises of the collective garden; and

7 (e) No useable cannabis from the collective garden is delivered to
8 anyone other than one of the qualifying patients participating in the
9 collective garden.

10 (2) For purposes of this section, the creation of a "collective
11 garden" means qualifying patients sharing responsibility for acquiring
12 and supplying the resources required to produce and process cannabis
13 for medical use such as, for example, a location for a collective
14 garden; equipment, supplies, and labor necessary to plant, grow, and
15 harvest cannabis; cannabis plants, seeds, and cuttings; and equipment,
16 supplies, and labor necessary for proper construction, plumbing,
17 wiring, and ventilation of a garden of cannabis plants.

18 (3) A person who knowingly violates a provision of subsection (1)
19 of this section is not entitled to the protections of this chapter.

20 NEW SECTION. **Sec. 404.** (1) A qualifying patient may revoke his or
21 her designation of a specific provider and designate a different
22 provider at any time. A revocation of designation must be in writing,
23 signed and dated. The protections of this chapter cease to apply to a
24 person who has served as a designated provider to a qualifying patient
25 seventy-two hours after receipt of that patient's revocation of his or
26 her designation.

27 (2) A person may stop serving as a designated provider to a given
28 qualifying patient at any time. However, that person may not begin
29 serving as a designated provider to a different qualifying patient
30 until fifteen days have elapsed from the date the last qualifying
31 patient designated him or her to serve as a provider.

32 NEW SECTION. **Sec. 405.** A qualifying patient or designated
33 provider in possession of cannabis plants, useable cannabis, or
34 cannabis product exceeding the limits set forth in RCW 69.51A.040(1)
35 but otherwise in compliance with all other terms and conditions of this
36 chapter may establish an affirmative defense to charges of violations

1 of state law relating to cannabis through proof at trial, by a
2 preponderance of the evidence, that the qualifying patient's necessary
3 medical use exceeds the amounts set forth in RCW 69.51A.040(1). An
4 investigating peace officer may seize cannabis plants, useable
5 cannabis, or cannabis product exceeding the amounts set forth in RCW
6 69.51A.040(1): PROVIDED, That in the case of cannabis plants, the
7 qualifying patient or designated provider shall be allowed to select
8 the plants that will remain at the location. The officer and his or
9 her law enforcement agency may not be held civilly liable for failure
10 to seize cannabis in this circumstance.

11 NEW SECTION. **Sec. 406.** A qualifying patient or designated
12 provider who is not registered with the registry established in section
13 901 of this act or does not present his or her valid documentation to
14 a peace officer who questions the patient or provider regarding his or
15 her medical use of cannabis but is in compliance with all other terms
16 and conditions of this chapter may establish an affirmative defense to
17 charges of violations of state law relating to cannabis through proof
18 at trial, by a preponderance of the evidence, that he or she was a
19 validly authorized qualifying patient or designated provider at the
20 time of the officer's questioning. A qualifying patient or designated
21 provider who establishes an affirmative defense under the terms of this
22 section may also establish an affirmative defense under section 405 of
23 this act.

24 ****NEW SECTION. Sec. 407. A nonresident who is duly authorized to***
25 ***engage in the medical use of cannabis under the laws of another state***
26 ***or territory of the United States may raise an affirmative defense to***
27 ***charges of violations of Washington state law relating to cannabis,***
28 ***provided that the nonresident:***

29 ***(1) Possesses no more than fifteen cannabis plants and no more than***
30 ***twenty-four ounces of useable cannabis, no more cannabis product than***
31 ***reasonably could be produced with no more than twenty-four ounces of***
32 ***useable cannabis, or a combination of useable cannabis and cannabis***
33 ***product that does not exceed a combined total representing possession***
34 ***and processing of no more than twenty-four ounces of useable cannabis;***

35 ***(2) Is in compliance with all provisions of this chapter other than***

1 requirements relating to being a Washington resident or possessing
2 valid documentation issued by a licensed health care professional in
3 Washington;

4 (3) Presents the documentation of authorization required under the
5 nonresident's authorizing state or territory's law and proof of
6 identity issued by the authorizing state or territory to any peace
7 officer who questions the nonresident regarding his or her medical use
8 of cannabis; and

9 (4) Does not possess evidence that the nonresident has converted
10 cannabis produced or obtained for his or her own medical use to the
11 nonresident's personal, nonmedical use or benefit.

**Sec. 407 was vetoed. See message at end of chapter.*

12 NEW SECTION. **Sec. 408.** A qualifying patient's medical use of
13 cannabis as authorized by a health care professional may not be a sole
14 disqualifying factor in determining the patient's suitability for an
15 organ transplant, unless it is shown that this use poses a significant
16 risk of rejection or organ failure. This section does not preclude a
17 health care professional from requiring that a patient abstain from the
18 medical use of cannabis, for a period of time determined by the health
19 care professional, while waiting for a transplant organ or before the
20 patient undergoes an organ transplant.

21 NEW SECTION. **Sec. 409.** A qualifying patient or designated
22 provider may not have his or her parental rights or residential time
23 with a child restricted solely due to his or her medical use of
24 cannabis in compliance with the terms of this chapter absent written
25 findings supported by evidence that such use has resulted in a long-
26 term impairment that interferes with the performance of parenting
27 functions as defined under RCW 26.09.004.

28 *NEW SECTION. **Sec. 410.** (1) Except as provided in subsection (2)
29 of this section, a qualifying patient may not be refused housing or
30 evicted from housing solely as a result of his or her possession or use
31 of useable cannabis or cannabis products except that housing providers
32 otherwise permitted to enact and enforce prohibitions against smoking
33 in their housing may apply those prohibitions to smoking cannabis
34 provided that such smoking prohibitions are applied and enforced

1 equally as to the smoking of cannabis and the smoking of all other
2 substances, including without limitation tobacco.

3 (2) Housing programs containing a program component prohibiting the
4 use of drugs or alcohol among its residents are not required to permit
5 the medical use of cannabis among those residents.

*Sec. 410 was vetoed. See message at end of chapter.

6 *NEW SECTION. Sec. 411. In imposing any criminal sentence,
7 deferred prosecution, stipulated order of continuance, deferred
8 disposition, or dispositional order, any court organized under the laws
9 of Washington state may permit the medical use of cannabis in
10 compliance with the terms of this chapter and exclude it as a possible
11 ground for finding that the offender has violated the conditions or
12 requirements of the sentence, deferred prosecution, stipulated order of
13 continuance, deferred disposition, or dispositional order. This
14 section does not require the accommodation of any medical use of
15 cannabis in any correctional facility or jail.

*Sec. 411 was vetoed. See message at end of chapter.

16 *Sec. 412. RCW 69.51A.050 and 1999 c 2 s 7 are each amended to read
17 as follows:

18 (1) The lawful possession, delivery, dispensing, production, or
19 manufacture of ((medical-marijuana)) cannabis for medical use as
20 authorized by this chapter shall not result in the forfeiture or
21 seizure of any real or personal property including, but not limited to,
22 cannabis intended for medical use, items used to facilitate the medical
23 use of cannabis or its production or dispensing for medical use, or
24 proceeds of sales of cannabis for medical use made by licensed
25 producers, licensed processors of cannabis products, or licensed
26 dispensers.

27 (2) No person shall be prosecuted for constructive possession,
28 conspiracy, or any other criminal offense solely for being in the
29 presence or vicinity of ((medical-marijuana)) cannabis intended for
30 medical use or its use as authorized by this chapter.

31 (3) The state shall not be held liable for any deleterious outcomes
32 from the medical use of ((marijuana)) cannabis by any qualifying
33 patient.

*Sec. 412 was vetoed. See message at end of chapter.

34 NEW SECTION. Sec. 413. Nothing in this chapter or in the rules
35 adopted to implement it precludes a qualifying patient or designated

1 provider from engaging in the private, unlicensed, noncommercial
2 production, possession, transportation, delivery, or administration of
3 cannabis for medical use as authorized under RCW 69.51A.040.

4 **PART V**
5 **LIMITATIONS ON PROTECTIONS FOR QUALIFYING**
6 **PATIENTS AND DESIGNATED PROVIDERS**

7 **Sec. 501.** RCW 69.51A.060 and 2010 c 284 s 4 are each amended to
8 read as follows:

9 (1) It shall be a (~~misdemeanor~~) class 3 civil infraction to use
10 or display medical (~~marijuana~~) cannabis in a manner or place which is
11 open to the view of the general public.

12 (2) Nothing in this chapter (~~requires any health insurance~~
13 ~~provider~~) establishes a right of care as a covered benefit or requires
14 any state purchased health care as defined in RCW 41.05.011 or other
15 health carrier or health plan as defined in Title 48 RCW to be liable
16 for any claim for reimbursement for the medical use of (~~marijuana~~)
17 cannabis. Such entities may enact coverage or noncoverage criteria or
18 related policies for payment or nonpayment of medical cannabis in their
19 sole discretion.

20 (3) Nothing in this chapter requires any health care professional
21 to authorize the medical use of (~~medical marijuana~~) cannabis for a
22 patient.

23 (4) Nothing in this chapter requires any accommodation of any on-
24 site medical use of (~~marijuana~~) cannabis in any place of employment,
25 in any school bus or on any school grounds, in any youth center, in any
26 correctional facility, or smoking (~~medical marijuana~~) cannabis in any
27 public place (~~as that term is defined in RCW 70.160.020~~) or hotel or
28 motel.

29 (5) Nothing in this chapter authorizes the use of medical cannabis
30 by any person who is subject to the Washington code of military justice
31 in chapter 38.38 RCW.

32 (6) Employers may establish drug-free work policies. Nothing in
33 this chapter requires an accommodation for the medical use of cannabis
34 if an employer has a drug-free work place.

35 (7) It is a class C felony to fraudulently produce any record
36 purporting to be, or tamper with the content of any record for the

1 purpose of having it accepted as, valid documentation under RCW
2 69.51A.010(~~((7))~~) (32)(a), or to backdate such documentation to a time
3 earlier than its actual date of execution.

4 ~~((6))~~ (8) No person shall be entitled to claim the ~~((affirmative~~
5 ~~defense—provided—in—RCW—69.51A.040))~~ protection from arrest and
6 prosecution under RCW 69.51A.040 or the affirmative defense under
7 section 402 of this act for engaging in the medical use of
8 ~~((marijuana))~~ cannabis in a way that endangers the health or well-being
9 of any person through the use of a motorized vehicle on a street, road,
10 or highway, including violations of RCW 46.61.502 or 46.61.504, or
11 equivalent local ordinances.

12 PART VI

13 LICENSED PRODUCERS AND LICENSED PROCESSORS OF CANNABIS PRODUCTS

14 ****NEW SECTION. Sec. 601. A person may not act as a licensed***
15 ***producer without a license for each production facility issued by the***
16 ***department of agriculture and prominently displayed on the premises.***
17 ***Provided they are acting in compliance with the terms of this chapter***
18 ***and rules adopted to enforce and carry out its purposes, licensed***
19 ***producers and their employees, members, officers, and directors may***
20 ***manufacture, plant, cultivate, grow, harvest, produce, prepare,***
21 ***propagate, process, package, repackage, transport, transfer, deliver,***
22 ***label, relabel, wholesale, or possess cannabis intended for medical use***
23 ***by qualifying patients, including seeds, seedlings, cuttings, plants,***
24 ***and useable cannabis, and may not be arrested, searched, prosecuted, or***
25 ***subject to other criminal sanctions or civil consequences under state***
26 ***law, or have real or personal property searched, seized, or forfeited***
27 ***pursuant to state law, for such activities, notwithstanding any other***
28 ***provision of law.***

**Sec. 601 was vetoed. See message at end of chapter.*

29 ****NEW SECTION. Sec. 602. A person may not act as a licensed***
30 ***processor without a license for each processing facility issued by the***
31 ***department of agriculture and prominently displayed on the premises.***
32 ***Provided they are acting in compliance with the terms of this chapter***
33 ***and rules adopted to enforce and carry out its purposes, licensed***
34 ***processors of cannabis products and their employees, members, officers,***
35 ***and directors may possess useable cannabis and manufacture, produce,***

1 prepare, process, package, repack, transport, transfer, deliver,
2 label, relabel, wholesale, or possess cannabis products intended for
3 medical use by qualifying patients, and may not be arrested, searched,
4 prosecuted, or subject to other criminal sanctions or civil
5 consequences under state law, or have real or personal property
6 searched, seized, or forfeited pursuant to state law, for such
7 activities, notwithstanding any other provision of law.

**Sec. 602 was vetoed. See message at end of chapter.*

8 ***NEW SECTION.** Sec. 603. The director shall administer and carry
9 out the provisions of this chapter relating to licensed producers and
10 licensed processors of cannabis products, and rules adopted under this
11 chapter.

**Sec. 603 was vetoed. See message at end of chapter.*

12 ***NEW SECTION.** Sec. 604. (1) On a schedule determined by the
13 department of agriculture, licensed producers and licensed processors
14 must submit representative samples of cannabis grown or processed to a
15 cannabis analysis laboratory for grade, condition, cannabinoid profile,
16 THC concentration, other qualitative measurements of cannabis intended
17 for medical use, and other inspection standards determined by the
18 department of agriculture. Any samples remaining after testing must be
19 destroyed by the laboratory or returned to the licensed producer or
20 licensed processor.

21 (2) Licensed producers and licensed processors must submit copies
22 of the results of this inspection and testing to the department of
23 agriculture on a form developed by the department.

24 (3) If a representative sample of cannabis tested under this
25 section has a THC concentration of three-tenths of one percent or less,
26 the lot of cannabis the sample was taken from may not be sold for
27 medical use and must be destroyed or sold to a manufacturer of hemp
28 products.

**Sec. 604 was vetoed. See message at end of chapter.*

29 ***NEW SECTION.** Sec. 605. The department of agriculture may contract
30 with a cannabis analysis laboratory to conduct independent inspection
31 and testing of cannabis samples to verify testing results provided
32 under section 604 of this act.

**Sec. 605 was vetoed. See message at end of chapter.*

33 ***NEW SECTION.** Sec. 606. The department of agriculture may adopt
34 rules on:

1 (1) Facility standards, including scales, for all licensed
2 producers and licensed processors of cannabis products;

3 (2) Measurements for cannabis intended for medical use, including
4 grade, condition, cannabinoid profile, THC concentration, other
5 qualitative measurements, and other inspection standards for cannabis
6 intended for medical use; and

7 (3) Methods to identify cannabis intended for medical use so that
8 such cannabis may be readily identified if stolen or removed in
9 violation of the provisions of this chapter from a production or
10 processing facility, or if otherwise unlawfully transported.

**Sec. 606 was vetoed. See message at end of chapter.*

11 *NEW SECTION. Sec. 607. The director is authorized to deny,
12 suspend, or revoke a producer's or processor's license after a hearing
13 in any case in which it is determined that there has been a violation
14 or refusal to comply with the requirements of this chapter or rules
15 adopted hereunder. All hearings for the denial, suspension, or
16 revocation of a producer's or processor's license are subject to
17 chapter 34.05 RCW, the administrative procedure act, as enacted or
18 hereafter amended.

**Sec. 607 was vetoed. See message at end of chapter.*

19 *NEW SECTION. Sec. 608. (1) By January 1, 2013, taking into
20 consideration, but not being limited by, the security requirements
21 described in 21 C.F.R. Sec. 1301.71-1301.76, the director shall adopt
22 rules:

23 (a) On the inspection or grading and certification of grade,
24 grading factors, condition, cannabinoid profile, THC concentration, or
25 other qualitative measurement of cannabis intended for medical use that
26 must be used by cannabis analysis laboratories in section 604 of this
27 act;

28 (b) Fixing the sizes, dimensions, and safety and security features
29 required of containers to be used for packing, handling, or storing
30 cannabis intended for medical use;

31 (c) Establishing labeling requirements for cannabis intended for
32 medical use including, but not limited to:

33 (i) The business or trade name and Washington state unified
34 business identifier (UBI) number of the licensed producer of the
35 cannabis;

36 (ii) THC concentration; and

1 (iii) Information on whether the cannabis was grown using organic,
2 inorganic, or synthetic fertilizers;

3 (d) Establishing requirements for transportation of cannabis
4 intended for medical use from production facilities to processing
5 facilities and licensed dispensers;

6 (e) Establishing security requirements for the facilities of
7 licensed producers and licensed processors of cannabis products. These
8 security requirements must consider the safety of the licensed
9 producers and licensed processors as well as the safety of the
10 community surrounding the licensed producers and licensed processors;

11 (f) Establishing requirements for the licensure of producers, and
12 processors of cannabis products, setting forth procedures to obtain
13 licenses, and determining expiration dates and renewal requirements;
14 and

15 (g) Establishing license application and renewal fees for the
16 licensure of producers and processors of cannabis products.

17 (2) Fees collected under this section must be deposited into the
18 agricultural local fund created in RCW 43.23.230.

19 (3) During the rule-making process, the department of agriculture
20 shall consult with stakeholders and persons with relevant expertise, to
21 include but not be limited to qualifying patients, designated
22 providers, health care professionals, state and local law enforcement
23 agencies, and the department of health.

*Sec. 608 was vetoed. See message at end of chapter.

24 ***NEW SECTION.** Sec. 609. (1) Each licensed producer and licensed
25 processor of cannabis products shall maintain complete records at all
26 times with respect to all cannabis produced, processed, weighed,
27 tested, stored, shipped, or sold. The director shall adopt rules
28 specifying the minimum recordkeeping requirements necessary to comply
29 with this section.

30 (2) The property, books, records, accounts, papers, and proceedings
31 of every licensed producer and licensed processor of cannabis products
32 shall be subject to inspection by the department of agriculture at any
33 time during ordinary business hours. Licensed producers and licensed
34 processors of cannabis products shall maintain adequate records and
35 systems for the filing and accounting of crop production, product
36 manufacturing and processing, records of weights and measurements,

1 product testing, receipts, canceled receipts, other documents, and
2 transactions necessary or common to the medical cannabis industry.

3 (3) The director may administer oaths and issue subpoenas to compel
4 the attendance of witnesses, or the production of books, documents, and
5 records anywhere in the state pursuant to a hearing relative to the
6 purposes and provisions of this chapter. Witnesses shall be entitled
7 to fees for attendance and travel, as provided in chapter 2.40 RCW.

8 (4) Each licensed producer and licensed processor of cannabis
9 products shall report information to the department of agriculture at
10 such times and as may be reasonably required by the director for the
11 necessary enforcement and supervision of a sound, reasonable, and
12 efficient cannabis inspection program for the protection of the health
13 and welfare of qualifying patients.

*Sec. 609 was vetoed. See message at end of chapter.

14 *NEW SECTION. Sec. 610. (1) The department of agriculture may give
15 written notice to a licensed producer or processor of cannabis products
16 to furnish required reports, documents, or other requested information,
17 under such conditions and at such time as the department of agriculture
18 deems necessary if a licensed producer or processor of cannabis
19 products fails to:

20 (a) Submit his or her books, papers, or property to lawful
21 inspection or audit;

22 (b) Submit required laboratory results, reports, or documents to
23 the department of agriculture by their due date; or

24 (c) Furnish the department of agriculture with requested
25 information.

26 (2) If the licensed producer or processor of cannabis products
27 fails to comply with the terms of the notice within seventy-two hours
28 from the date of its issuance, or within such further time as the
29 department of agriculture may allow, the department of agriculture
30 shall levy a fine of five hundred dollars per day from the final date
31 for compliance allowed by this section or the department of
32 agriculture. In those cases where the failure to comply continues for
33 more than seven days or where the director determines the failure to
34 comply creates a threat to public health, public safety, or a
35 substantial risk of diversion of cannabis to unauthorized persons or
36 purposes, the department of agriculture may, in lieu of levying further

1 fines, petition the superior court of the county where the licensee's
2 principal place of business in Washington is located, as shown by the
3 license application, for an order:

4 (a) Authorizing the department of agriculture to seize and take
5 possession of all books, papers, and property of all kinds used in
6 connection with the conduct or the operation of the licensed producer
7 or processor's business, and the books, papers, records, and property
8 that pertain specifically, exclusively, and directly to that business;
9 and

10 (b) Enjoining the licensed producer or processor from interfering
11 with the department of agriculture in the discharge of its duties as
12 required by this chapter.

13 (3) All necessary costs and expenses, including attorneys' fees,
14 incurred by the department of agriculture in carrying out the
15 provisions of this section may be recovered at the same time and as
16 part of the action filed under this section.

17 (4) The department of agriculture may request the Washington state
18 patrol to assist it in enforcing this section if needed to ensure the
19 safety of its employees.

*Sec. 610 was vetoed. See message at end of chapter.

20 *NEW SECTION. Sec. 611. (1) A licensed producer may not sell or
21 deliver cannabis to any person other than a cannabis analysis
22 laboratory, licensed processor of cannabis products, licensed
23 dispenser, or law enforcement officer except as provided by court
24 order. A licensed producer may also sell or deliver cannabis to the
25 University of Washington or Washington State University for research
26 purposes, as identified in section 1002 of this act. Violation of this
27 section is a class C felony punishable according to chapter 9A.20 RCW.

28 (2) A licensed processor of cannabis products may not sell or
29 deliver cannabis to any person other than a cannabis analysis
30 laboratory, licensed dispenser, or law enforcement officer except as
31 provided by court order. A licensed processor of cannabis products may
32 also sell or deliver cannabis to the University of Washington or
33 Washington State University for research purposes, as identified in
34 section 1002 of this act. Violation of this section is a class C
35 felony punishable according to chapter 9A.20 RCW.

*Sec. 611 was vetoed. See message at end of chapter.

1 PART VII
2 LICENSED DISPENSERS

3 *NEW SECTION. Sec. 701. A person may not act as a licensed
4 dispenser without a license for each place of business issued by the
5 department of health and prominently displayed on the premises.
6 Provided they are acting in compliance with the terms of this chapter
7 and rules adopted to enforce and carry out its purposes, licensed
8 dispensers and their employees, members, officers, and directors may
9 deliver, distribute, dispense, transfer, prepare, package, repackage,
10 label, relabel, sell at retail, or possess cannabis intended for
11 medical use by qualifying patients, including seeds, seedlings,
12 cuttings, plants, useable cannabis, and cannabis products, and may not
13 be arrested, searched, prosecuted, or subject to other criminal
14 sanctions or civil consequences under state law, or have real or
15 personal property searched, seized, or forfeited pursuant to state law,
16 for such activities, notwithstanding any other provision of law.

**Sec. 701 was vetoed. See message at end of chapter.*

17 *NEW SECTION. Sec. 702. (1) By January 1, 2013, taking into
18 consideration the security requirements described in 21 C.F.R. 1301.71-
19 1301.76, the secretary of health shall adopt rules:

20 (a) Establishing requirements for the licensure of dispensers of
21 cannabis for medical use, setting forth procedures to obtain licenses,
22 and determining expiration dates and renewal requirements;

23 (b) Providing for mandatory inspection of licensed dispensers'
24 locations;

25 (c) Establishing procedures governing the suspension and revocation
26 of licenses of dispensers;

27 (d) Establishing recordkeeping requirements for licensed
28 dispensers;

29 (e) Fixing the sizes and dimensions of containers to be used for
30 dispensing cannabis for medical use;

31 (f) Establishing safety standards for containers to be used for
32 dispensing cannabis for medical use;

33 (g) Establishing cannabis storage requirements, including security
34 requirements;

35 (h) Establishing cannabis labeling requirements, to include
36 information on whether the cannabis was grown using organic, inorganic,
37 or synthetic fertilizers;

1 (i) Establishing physical standards for cannabis dispensing
2 facilities. The physical standards must require a licensed dispenser
3 to ensure that no cannabis or cannabis paraphernalia may be viewed from
4 outside the facility;

5 (j) Establishing maximum amounts of cannabis and cannabis products
6 that may be kept at one time at a dispensary. In determining maximum
7 amounts, the secretary must consider the security of the dispensary and
8 the surrounding community;

9 (k) Establishing physical standards for sanitary conditions for
10 cannabis dispensing facilities;

11 (l) Establishing physical and sanitation standards for cannabis
12 dispensing equipment;

13 (m) Establishing a maximum number of licensed dispensers that may
14 be licensed in each county as provided in this section;

15 (n) Enforcing and carrying out the provisions of this section and
16 the rules adopted to carry out its purposes; and

17 (o) Establishing license application and renewal fees for the
18 licensure of dispensers in accordance with RCW 43.70.250.

19 (2)(a) The secretary shall establish a maximum number of licensed
20 dispensers that may operate in each county. Prior to January 1, 2016,
21 the maximum number of licensed dispensers shall be based upon a ratio
22 of one licensed dispenser for every twenty thousand persons in a
23 county. On or after January 1, 2016, the secretary may adopt rules to
24 adjust the method of calculating the maximum number of dispensers to
25 consider additional factors, such as the number of enrollees in the
26 registry established in section 901 of this act and the secretary's
27 experience in administering the program. The secretary may not issue
28 more licenses than the maximum number of licenses established under
29 this section.

30 (b) In the event that the number of applicants qualifying for the
31 selection process exceeds the maximum number for a county, the
32 secretary shall initiate a random selection process established by the
33 secretary in rule.

34 (c) To qualify for the selection process, an applicant must
35 demonstrate to the secretary that he or she meets initial screening
36 criteria that represent the applicant's capacity to operate in
37 compliance with this chapter. Initial screening criteria shall
38 include, but not be limited to:

1 (i) Successful completion of a background check;
2 (ii) A plan to systematically verify qualifying patient and
3 designated provider status of clients;
4 (iii) Evidence of compliance with functional standards, such as
5 ventilation and security requirements; and
6 (iv) Evidence of compliance with facility standards, such as zoning
7 compliance and not using the facility as a residence.

8 (d) The secretary shall establish a schedule to:

9 (i) Update the maximum allowable number of licensed dispensers in
10 each county; and

11 (ii) Issue approvals to operate within a county according to the
12 random selection process.

13 (3) Fees collected under this section must be deposited into the
14 health professions account created in RCW 43.70.320.

15 (4) During the rule-making process, the department of health shall
16 consult with stakeholders and persons with relevant expertise, to
17 include but not be limited to qualifying patients, designated
18 providers, health care professionals, state and local law enforcement
19 agencies, and the department of agriculture.

**Sec. 702 was vetoed. See message at end of chapter.*

20 ***NEW SECTION.** Sec. 703. A licensed dispenser may not sell cannabis
21 received from any person other than a licensed producer or licensed
22 processor of cannabis products, or sell or deliver cannabis to any
23 person other than a qualifying patient, designated provider, or law
24 enforcement officer except as provided by court order. A licensed
25 dispenser may also sell or deliver cannabis to the University of
26 Washington or Washington State University for research purposes, as
27 identified in section 1002 of this act. Before selling or providing
28 cannabis to a qualifying patient or designated provider, the licensed
29 dispenser must confirm that the patient qualifies for the medical use
30 of cannabis by contacting, at least once in a one-year period, that
31 patient's health care professional. Violation of this section is a
32 class C felony punishable according to chapter 9A.20 RCW.

**Sec. 703 was vetoed. See message at end of chapter.*

33 ***NEW SECTION.** Sec. 704. A license to operate as a licensed
34 dispenser is not transferrable.

**Sec. 704 was vetoed. See message at end of chapter.*

1 ****NEW SECTION.*** Sec. 803. (1) A prior conviction for a cannabis or
2 marijuana offense shall not disqualify an applicant from receiving a
3 license to produce, process, or dispense cannabis for medical use,
4 provided the conviction did not include any sentencing enhancements
5 under RCW 9.94A.533 or analogous laws in other jurisdictions. Any
6 criminal conviction of a current licensee may be considered in
7 proceedings to suspend or revoke a license.

8 (2) Nothing in this section prohibits either the department of
9 health or the department of agriculture, as appropriate, from denying,
10 suspending, or revoking the credential of a license holder for other
11 drug-related offenses or any other criminal offenses.

12 (3) Nothing in this section prohibits a corrections agency or
13 department from considering all prior and current convictions in
14 determining whether the possession, manufacture, or delivery of, or for
15 possession with intent to manufacture or deliver, is inconsistent with
16 and contrary to the person's supervision.

**Sec. 803 was vetoed. See message at end of chapter.*

17 ****NEW SECTION.*** Sec. 804. A violation of any provision or section of
18 this chapter that relates to the licensing and regulation of producers,
19 processors, or dispensers, where no other penalty is provided for, and
20 the violation of any rule adopted under this chapter constitutes a
21 misdemeanor.

**Sec. 804 was vetoed. See message at end of chapter.*

22 ****NEW SECTION.*** Sec. 805. (1) Every licensed producer or processor
23 of cannabis products who fails to comply with this chapter, or any rule
24 adopted under it, may be subjected to a civil penalty, as determined by
25 the director, in an amount of not more than one thousand dollars for
26 every such violation. Each violation shall be a separate and distinct
27 offense.

28 (2) Every licensed dispenser who fails to comply with this chapter,
29 or any rule adopted under it, may be subjected to a civil penalty, as
30 determined by the secretary, in an amount of not more than one thousand
31 dollars for every such violation. Each violation shall be a separate
32 and distinct offense.

33 (3) Every person who, through an act of commission or omission,
34 procures, aids, or abets in the violation shall be considered to have
35 violated this chapter and may be subject to the penalty provided for in
36 this section.

**Sec. 805 was vetoed. See message at end of chapter.*

1 rules for the creation, implementation, maintenance, and timely
2 upgrading of a secure and confidential registration system that allows:

3 (a) A peace officer to verify at any time whether a health care
4 professional has registered a person as either a qualifying patient or
5 a designated provider; and

6 (b) A peace officer to verify at any time whether a person,
7 location, or business is licensed by the department of agriculture or
8 the department of health as a licensed producer, licensed processor of
9 cannabis products, or licensed dispenser.

10 (2) The department of agriculture must, in consultation with the
11 department of health, create and maintain a secure and confidential
12 list of persons to whom it has issued a license to produce cannabis for
13 medical use or a license to process cannabis products, and the physical
14 addresses of the licensees' production and processing facilities. The
15 list must meet the requirements of subsection (9) of this section and
16 be transmitted to the department of health to be included in the
17 registry established by this section.

18 (3) The department of health must, in consultation with the
19 department of agriculture, create and maintain a secure and
20 confidential list of the persons to whom it has issued a license to
21 dispense cannabis for medical use that meets the requirements of
22 subsection (9) of this section and must be included in the registry
23 established by this section.

24 (4) Before seeking a nonvehicle search warrant or arrest warrant,
25 a peace officer investigating a cannabis-related incident must make
26 reasonable efforts to ascertain whether the location or person under
27 investigation is registered in the registration system, and include the
28 results of this inquiry in the affidavit submitted in support of the
29 application for the warrant. This requirement does not apply to
30 investigations in which:

31 (a) The peace officer has observed evidence of an apparent cannabis
32 operation that is not a licensed producer, processor of cannabis
33 products, or dispenser;

34 (b) The peace officer has observed evidence of theft of electrical
35 power;

36 (c) The peace officer has observed evidence of illegal drugs other
37 than cannabis at the premises;

1 (d) The peace officer has observed frequent and numerous short-term
2 visits over an extended period that are consistent with commercial
3 activity, if the subject of the investigation is not a licensed
4 dispenser;

5 (e) The peace officer has observed violent crime or other
6 demonstrated dangers to the community;

7 (f) The peace officer has probable cause to believe the subject of
8 the investigation has committed a felony, or a misdemeanor in the
9 officer's presence, that does not relate to cannabis; or

10 (g) The subject of the investigation has an outstanding arrest
11 warrant.

12 (5) Law enforcement may access the registration system only in
13 connection with a specific, legitimate criminal investigation regarding
14 cannabis.

15 (6) Registration in the system shall be optional for qualifying
16 patients and designated providers, not mandatory, and registrations are
17 valid for one year, except that qualifying patients must be able to
18 remove themselves from the registry at any time. For licensees,
19 registrations are valid for the term of the license and the
20 registration must be removed if the licensee's license is expired or
21 revoked. The department of health must adopt rules providing for
22 registration renewals and for removing expired registrations and
23 expired or revoked licenses from the registry.

24 (7) Fees, including renewal fees, for qualifying patients and
25 designated providers participating in the registration system shall be
26 limited to the cost to the state of implementing, maintaining, and
27 enforcing the provisions of this section and the rules adopted to carry
28 out its purposes. The fee shall also include any costs for the
29 department of health to disseminate information to employees of state
30 and local law enforcement agencies relating to whether a person is a
31 licensed producer, processor of cannabis products, or dispenser, or
32 that a location is the recorded address of a license producer,
33 processor of cannabis products, or dispenser, and for the dissemination
34 of log records relating to such requests for information to the
35 subjects of those requests. No fee may be charged to local law
36 enforcement agencies for accessing the registry.

37 (8) During the rule-making process, the department of health shall
38 consult with stakeholders and persons with relevant expertise, to

1 include, but not be limited to, qualifying patients, designated
2 providers, health care professionals, state and local law enforcement
3 agencies, and the University of Washington computer science and
4 engineering security and privacy research lab.

5 (9) The registration system shall meet the following requirements:

6 (a) Any personally identifiable information included in the
7 registration system must be "nonreversible," pursuant to definitions
8 and standards set forth by the national institute of standards and
9 technology;

10 (b) Any personally identifiable information included in the
11 registration system must not be susceptible to linkage by use of data
12 external to the registration system;

13 (c) The registration system must incorporate current best
14 differential privacy practices, allowing for maximum accuracy of
15 registration system queries while minimizing the chances of identifying
16 the personally identifiable information included therein; and

17 (d) The registration system must be upgradable and updated in a
18 timely fashion to keep current with state of the art privacy and
19 security standards and practices.

20 (10) The registration system shall maintain a log of each
21 verification query submitted by a peace officer, including the peace
22 officer's name, agency, and identification number, for a period of no
23 less than three years from the date of the query. Personally
24 identifiable information of qualifying patients and designated
25 providers included in the log shall be confidential and exempt from
26 public disclosure, inspection, or copying under chapter 42.56 RCW:
27 PROVIDED, That:

28 (a) Names and other personally identifiable information from the
29 list may be released only to:

30 (i) Authorized employees of the department of agriculture and the
31 department of health as necessary to perform official duties of either
32 department; or

33 (ii) Authorized employees of state or local law enforcement
34 agencies, only as necessary to verify that the person or location is a
35 qualified patient, designated provider, licensed producer, licensed
36 processor of cannabis products, or licensed dispenser, and only after
37 the inquiring employee has provided adequate identification.
38 Authorized employees who obtain personally identifiable information

1 under this subsection may not release or use the information for any
2 purpose other than verification that a person or location is a
3 qualified patient, designated provider, licensed producer, licensed
4 processor of cannabis products, or licensed dispenser;

5 (b) Information contained in the registration system may be
6 released in aggregate form, with all personally identifying information
7 redacted, for the purpose of statistical analysis and oversight of
8 agency performance and actions;

9 (c) The subject of a registration query may appear during ordinary
10 department of health business hours and inspect or copy log records
11 relating to him or her upon adequate proof of identity; and

12 (d) The subject of a registration query may submit a written
13 request to the department of health, along with adequate proof of
14 identity, for copies of log records relating to him or her.

15 (11) This section does not prohibit a department of agriculture
16 employee or a department of health employee from contacting state or
17 local law enforcement for assistance during an emergency or while
18 performing his or her duties under this chapter.

19 (12) Fees collected under this section must be deposited into the
20 health professions account under RCW 43.70.320.

**Sec. 901 was vetoed. See message at end of chapter.*

21 ***NEW SECTION. Sec. 902.** A new section is added to chapter 42.56
22 RCW to read as follows:

23 Records containing names and other personally identifiable
24 information relating to qualifying patients, designated providers, and
25 persons licensed as producers or dispensers of cannabis for medical
26 use, or as processors of cannabis products, under section 901 of this
27 act are exempt from disclosure under this chapter.

**Sec. 902 was vetoed. See message at end of chapter.*

28 **PART X**
29 **EVALUATION**

30 **NEW SECTION. Sec. 1001.** (1) By July 1, 2014, the Washington state
31 institute for public policy shall, within available funds, conduct a
32 cost-benefit evaluation of the implementation of this act and the rules
33 adopted to carry out its purposes.

34 (2) The evaluation of the implementation of this act and the rules

1 adopted to carry out its purposes shall include, but not necessarily be
2 limited to, consideration of the following factors:

3 (a) Qualifying patients' access to an adequate source of cannabis
4 for medical use;

5 (b) Qualifying patients' access to a safe source of cannabis for
6 medical use;

7 (c) Qualifying patients' access to a consistent source of cannabis
8 for medical use;

9 (d) Qualifying patients' access to a secure source of cannabis for
10 medical use;

11 (e) Qualifying patients' and designated providers' contact with law
12 enforcement and involvement in the criminal justice system;

13 (f) Diversion of cannabis intended for medical use to nonmedical
14 uses;

15 (g) Incidents of home invasion burglaries, robberies, and other
16 violent and property crimes associated with qualifying patients
17 accessing cannabis for medical use;

18 (h) Whether there are health care professionals who make a
19 disproportionately high amount of authorizations in comparison to the
20 health care professional community at large;

21 (i) Whether there are indications of health care professionals in
22 violation of RCW 69.51A.030; and

23 (j) Whether the health care professionals making authorizations
24 reside in this state or out of this state.

25 (3) For purposes of facilitating this evaluation, the departments
26 of health and agriculture will make available to the Washington state
27 institute for public policy requested data, and any other data either
28 department may consider relevant, from which all personally
29 identifiable information has been redacted.

30 NEW SECTION. **Sec. 1002.** A new section is added to chapter 28B.20
31 RCW to read as follows:

32 The University of Washington and Washington State University may
33 conduct scientific research on the efficacy and safety of administering
34 cannabis as part of medical treatment. As part of this research, the
35 University of Washington and Washington State University may develop
36 and conduct studies to ascertain the general medical safety and

1 efficacy of cannabis and may develop medical guidelines for the
2 appropriate administration and use of cannabis.

3 **PART XI**
4 **CONSTRUCTION**

5 NEW SECTION. **Sec. 1101.** (1) No civil or criminal liability may be
6 imposed by any court on the state or its officers and employees for
7 actions taken in good faith under this chapter and within the scope of
8 their assigned duties.

9 (2) No civil or criminal liability may be imposed by any court on
10 cities, towns, and counties or other municipalities and their officers
11 and employees for actions taken in good faith under this chapter and
12 within the scope of their assigned duties.

13 NEW SECTION. **Sec. 1102.** (1) Cities and towns may adopt and
14 enforce any of the following pertaining to the production, processing,
15 or dispensing of cannabis or cannabis products within their
16 jurisdiction: Zoning requirements, business licensing requirements,
17 health and safety requirements, and business taxes. Nothing in this
18 act is intended to limit the authority of cities and towns to impose
19 zoning requirements or other conditions upon licensed dispensers, so
20 long as such requirements do not preclude the possibility of siting
21 licensed dispensers within the jurisdiction. If the jurisdiction has
22 no commercial zones, the jurisdiction is not required to adopt zoning
23 to accommodate licensed dispensers.

24 (2) Counties may adopt and enforce any of the following pertaining
25 to the production, processing, or dispensing of cannabis or cannabis
26 products within their jurisdiction in locations outside of the
27 corporate limits of any city or town: Zoning requirements, business
28 licensing requirements, and health and safety requirements. Nothing in
29 this act is intended to limit the authority of counties to impose
30 zoning requirements or other conditions upon licensed dispensers, so
31 long as such requirements do not preclude the possibility of siting
32 licensed dispensers within the jurisdiction. If the jurisdiction has
33 no commercial zones, the jurisdiction is not required to adopt zoning
34 to accommodate licensed dispensers.

1 NEW SECTION. **Sec. 1103.** If any provision of this act or the
2 application thereof to any person or circumstance is held invalid, the
3 invalidity does not affect other provisions or applications of the act
4 that can be given effect without the invalid provision or application,
5 and to this end the provisions of this act are severable.

6 ****NEW SECTION. Sec. 1104. In the event that the federal government***
7 ***authorizes the use of cannabis for medical purposes, within a year of***
8 ***such action, the joint legislative audit and review committee shall***
9 ***conduct a program and fiscal review of the cannabis production and***
10 ***dispensing programs established in this chapter. The review shall***
11 ***consider whether a distinct cannabis production and dispensing system***
12 ***continues to be necessary when considered in light of the federal***
13 ***action and make recommendations to the legislature.***

**Sec. 1104 was vetoed. See message at end of chapter.*

14 NEW SECTION. **Sec. 1105.** (1)(a) The arrest and prosecution
15 protections established in section 401 of this act may not be asserted
16 in a supervision revocation or violation hearing by a person who is
17 supervised by a corrections agency or department, including local
18 governments or jails, that has determined that the terms of this
19 section are inconsistent with and contrary to his or her supervision.

20 (b) The affirmative defenses established in sections 402, 405, 406,
21 and 407 of this act may not be asserted in a supervision revocation or
22 violation hearing by a person who is supervised by a corrections agency
23 or department, including local governments or jails, that has
24 determined that the terms of this section are inconsistent with and
25 contrary to his or her supervision.

26 (2) The provisions of RCW 69.51A.040 and sections 403 and 413 of
27 this act do not apply to a person who is supervised for a criminal
28 conviction by a corrections agency or department, including local
29 governments or jails, that has determined that the terms of this
30 chapter are inconsistent with and contrary to his or her supervision.

31 (3) A person may not be licensed as a licensed producer, licensed
32 processor of cannabis products, or a licensed dispenser under section
33 601, 602, or 701 of this act if he or she is supervised for a criminal
34 conviction by a corrections agency or department, including local
35 governments or jails, that has determined that licensure is
36 inconsistent with and contrary to his or her supervision.

1 (c) Be registered with the secretary of state as of May 1, 2011;
2 (d) File a letter of intent with the department of agriculture or
3 the department of health, as the case may be, asserting that the
4 producer or dispenser intends to become licensed in accordance with
5 this chapter and rules adopted by the appropriate department; and

6 (e) File a letter of intent with the city clerk if in an
7 incorporated area or to the county clerk if in an unincorporated area
8 stating they operate as a producer or dispensary and that they comply
9 with the provisions of this chapter and will comply with subsequent
10 department rule making.

11 (4) Upon receiving a letter of intent under subsection (3) of this
12 section, the department of agriculture, the department of health, and
13 the city clerk or county clerk must send a letter of acknowledgment to
14 the producer or dispenser. The producer and dispenser must display
15 this letter of acknowledgment in a prominent place in their facility.

16 (5) Letters of intent filed with a public agency, letters of
17 acknowledgement sent from those agencies, and other materials related
18 to such letters are exempt from public disclosure under chapter 42.56
19 RCW.

20 (6) This section expires upon the establishment of the licensing
21 programs of the department of agriculture and the department of health
22 and the commencement of the issuance of licenses for dispensers and
23 producers as provided in this chapter. The department of health and
24 the department of agriculture shall notify the code reviser when the
25 establishment of the licensing programs has occurred.

**Sec. 1201 was vetoed. See message at end of chapter.*

26 ***NEW SECTION.** Sec. 1202. A new section is added to chapter 42.56
27 RCW to read as follows:

28 The following information related to cannabis producers and
29 cannabis dispensers are exempt from disclosure under this section:

30 (1) Letters of intent filed with a public agency under section 1201
31 of this act;

32 (2) Letters of acknowledgement sent from a public agency under
33 section 1201 of this act;

34 (3) Materials related to letters of intent and acknowledgement
35 under section 1201 of this act.

**Sec. 1202 was vetoed. See message at end of chapter.*

1 ***NEW SECTION.** **Sec. 1203.** (1)(a) On July 1, 2015, the department of
2 health shall report the following information to the state treasurer:

3 (i) The expenditures from the health professions account related to
4 the administration of chapter 69.51A RCW between the effective date of
5 this section and June 30, 2015; and

6 (ii) The amounts deposited into the health professions account
7 under sections 702, 802, and 901 of this act between the effective date
8 of this section and June 30, 2015.

9 (b) If the amount in (a)(i) of this subsection exceeds the amount
10 in (a)(ii) of this subsection, the state treasurer shall transfer an
11 amount equal to the difference from the general fund to the health
12 professions account.

13 (2)(a) Annually, beginning July 1, 2016, the department of health
14 shall report the following information to the state treasurer:

15 (i) The expenditures from the health professions account related to
16 the administration of chapter 69.51A RCW for the preceding fiscal year;
17 and

18 (ii) The amounts deposited into the health professions account
19 under sections 702, 802, and 901 of this act during the preceding
20 fiscal year.

21 (b) If the amount in (a)(i) of this subsection exceeds the amount
22 in (a)(ii) of this subsection, the state treasurer shall transfer an
23 amount equal to the difference from the general fund to the health
24 professions account.

**Sec. 1203 was vetoed. See message at end of chapter.*

25 **NEW SECTION.** **Sec. 1204.** RCW 69.51A.080 (Adoption of rules by the
26 department of health--Sixty-day supply for qualifying patients) and
27 2007 c 371 s 8 are each repealed.

28 **NEW SECTION.** **Sec. 1205.** Sections 402 through 411, 413, 601
29 through 611, 701 through 705, 801 through 807, 901, 1001, 1101 through
30 1105, and 1201 of this act are each added to chapter 69.51A RCW.

31 ***NEW SECTION.** **Sec. 1206.** **Section 1002 of this act takes effect**
32 **January 1, 2013.**

**Sec. 1206 was vetoed. See message at end of chapter.*

Passed by the Senate April 21, 2011.

Passed by the House April 11, 2011.

Approved by the Governor April 29, 2011, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State April 29, 2011.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, Engrossed Second Substitute Senate Bill 5073 entitled:

"AN ACT Relating to medical use of cannabis."

In 1998, Washington voters made the compassionate choice to remove the fear of state criminal prosecution for patients who use medical marijuana for debilitating or terminal conditions. The voters also provided patients' physicians and caregivers with defenses to state law prosecutions.

I fully support the purpose of Initiative 692, and in 2007, I signed legislation that expanded the ability of a patient to receive assistance from a designated provider in the medical use of marijuana, and added conditions and diseases for which medical marijuana could be used.

Today, I have signed sections of Engrossed Second Substitute Senate Bill 5073 that retain the provisions of Initiative 692 and provide additional state law protections. Qualifying patients or their designated providers may grow cannabis for the patient's use or participate in a collective garden without fear of state law criminal prosecutions. Qualifying patients or their designated providers are also protected from certain state civil law consequences.

Our state legislature may remove state criminal and civil penalties for activities that assist persons suffering from debilitating or terminal conditions. While such activities may violate the federal Controlled Substances Act, states are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. However, absent congressional action, state laws will not protect an individual from legal action by the federal government.

Qualifying patients and designated providers can evaluate the risk of federal prosecution and make choices for themselves on whether to use or assist another in using medical marijuana. The United States Department of Justice has made the wise decision not to use federal resources to prosecute seriously ill patients who use medical marijuana.

However, the sections in Part VI, Part VII, and Part VIII of Engrossed Second Substitute Senate Bill 5073 would direct employees of the state departments of Health and Agriculture to authorize and license commercial businesses that produce, process or dispense cannabis. These sections would open public employees to federal prosecution, and the United States Attorneys have made it clear that state law would not provide these individuals safe harbor from federal prosecution. No state employee should be required to violate federal criminal law in order to fulfill duties under state law. For these reasons, I have vetoed Sections 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806 and 807 of Engrossed Second Substitute Senate Bill 5073.

In addition, there are a number of sections of Engrossed Second Substitute Senate Bill 5073 that are associated with or dependent upon these licensing sections. Section 201 sets forth definitions of terms. Section 412 adds protections for licensed producers, processors and dispensers. Section 901 requires the Department of Health to develop a secure registration system for licensed producers,

processors and dispensers. Section 1104 would require a review of the necessity of the cannabis production and dispensing system if the federal government were to authorize the use of cannabis for medical purposes. Section 1201 applies to dispensaries in current operation in the interim before licensure, and Section 1202 exempts documents filed under Section 1201 from disclosure. Section 1203 requires the department of health to report certain information related to implementation of the vetoed sections. Because I have vetoed the licensing provisions, I have also vetoed Sections 201, 412, 901, 1104, 1201, 1202 and 1203 of Engrossed Second Substitute Senate Bill 5073.

Section 410 would require owners of housing to allow the use of medical cannabis on their property, putting them in potential conflict with federal law. For this reason, I have vetoed Section 410 of Engrossed Second Substitute Senate Bill 5073.

Section 407 would permit a nonresident to engage in the medical use of cannabis using documentation or authorization issued under other state or territorial laws. This section would not require these other state or territorial laws to meet the same standards for health care professional authorization as required by Washington law. For this reason, I have vetoed Section 407 of Engrossed Second Substitute Senate Bill 5073.

Section 411 would provide that a court may permit the medical use of cannabis by an offender, and exclude it as a ground for finding that the offender has violated the conditions or requirements of the sentence, deferred prosecution, stipulated order of continuance, deferred disposition or dispositional order. The correction agency or department responsible for the person's supervision is in the best position to evaluate an individual's circumstances and medical use of cannabis. For this reason, I have vetoed Section 411 of Engrossed Second Substitute Senate Bill 5073.

I am approving Section 1002, which authorizes studies and medical guidelines on the appropriate administration and use of cannabis. Section 1206 would make Section 1002 effective January 1, 2013. I have vetoed Section 1206 to provide the discretion to begin efforts at an earlier date.

Section 1102 sets forth local governments' authority pertaining to the production, processing or dispensing of cannabis or cannabis products within their jurisdictions. The provisions in Section 1102 that local governments' zoning requirements cannot "preclude the possibility of siting licensed dispensers within the jurisdiction" are without meaning in light of the vetoes of sections providing for such licensed dispensers. It is with this understanding that I approve Section 1102.

I have been open, and remain open, to legislation to exempt qualifying patients and their designated providers from state criminal penalties when they join in nonprofit cooperative organizations to share responsibility for producing, processing and dispensing cannabis for medical use. Such exemption from state criminal penalties should be conditioned on compliance with local government location and health and safety specifications.

I am also open to legislation that establishes a secure and confidential registration system to provide arrest and seizure protections under state law to qualifying patients and those who assist them. Unfortunately, the provisions of Section 901 that would provide a registry for qualifying patients and designated providers beginning in January 2013 are intertwined with requirements for

registration of licensed commercial producers, processors and dispensers of cannabis. Consequently, I have vetoed section 901 as noted above. Section 101 sets forth the purpose of the registry, and Section 902 is contingent on the registry. Without a registry, these sections are not meaningful. For this reason, I have vetoed Sections 101 and 902 of Engrossed Second Substitute Senate Bill 5073. I am not vetoing Sections 402 or 406, which establish affirmative defenses for a qualifying patient or designated provider who is not registered with the registry established in section 901. Because these sections govern those who have not registered, this section is meaningful even though section 901 has been vetoed.

With the exception of Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, Engrossed Second Substitute Senate Bill 5073 is approved."

Medical marijuana

Changes to Washington's medical marijuana law took effect on July 22, 2011. What does this mean for cities?

Cities should pay close attention to several key provisions in the law:

Civil and criminal protections

The new law grants some additional civil protections for medical marijuana patients. (For example, a patient cannot be denied an organ transplant based solely on use of medical marijuana.) The bill as passed by the Legislature would have granted protection from arrest and prosecution to those participating in a voluntary state registry. However, the registry provisions were among the vetoed sections. The result is a continuation of the status quo, where qualified patients and providers may use an affirmative defense at trial, but have no specific protection from arrest and prosecution.

Dispensaries

The proliferation of retail medical marijuana dispensaries was one of the primary drivers behind the legislation and one of the most compelling issues facing cities. The law, as it takes effect, does not legalize dispensaries. In fact, the law contains a more stringent requirement with a new 15-day waiting period before a provider can switch to serving a new patient. It is widely understood that the changes clarify that dispensaries are not permitted under state law.

Collective gardens

The law provides a new option for marijuana production in the form of collective gardens. A collective garden can serve up to 10 qualified patients and can have up to 15 plants per patient, but no more than 45 plants and no more than 24 ounces of useable cannabis per patient up to a total of 72 ounces. Only qualified patients may participate in or receive cannabis from a collective garden. However, there is no limit on the number of collective gardens a patient may be a member of and no limit on the amount of time that they must maintain their membership. The lack of regulations is cause for concern that a system of interconnected collective gardens could effectively operate as commercial dispensaries.

Land use regulations

Cities are allowed to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes on the production, processing, and dispensing of cannabis. Based on this provision, a number of jurisdictions are weighing the need to adopt regulations specific to collective gardens. Those considering this type of action should consult with their city attorney.

Local government liability

The law provides for immunity from civil and criminal liability for actions taken by cities and their employees in good faith and within the scope of their duties.

continued

The Medical Marijuana Act

In November 1998, Washington voters approved Initiative 692 – the Medical Marijuana Act. The initiative's primary focus was to create an affirmative defense against criminal prosecution for marijuana possession for qualifying patients, their providers, and their physicians.

With the exception of a few amendments in 2007, the Act remained relatively unchanged until the proliferation of marijuana dispensaries led to a call for statewide regulation.

In 2011, the Legislature passed **E2SSB 5073**, which would have created a state system of regulation for producing and dispensing marijuana for medical purposes. However, significant sections of the bill were vetoed by the Governor – including all provisions for state regulation.

What are cities doing in response?

There are still many unanswered questions about the changes to state law, especially around collective gardens. A number of cities are concerned about the possible proliferation of collective gardens, multiple collective gardens co-locating, and the potential impacts on neighbors.

Cities are responding in a variety of ways including enacting moratoria, prosecuting dispensaries, establishing regulations, and simply taking no action. In addition, the City of Seattle recently passed an ordinance that would require any commercial medical marijuana operation to comply with all applicable laws including city business licensing and taxing requirements.

With the ambiguity surrounding medical marijuana, AWC recommends that cities consult with their legal counsel and carefully weigh the risks before taking any action.

Can we expect clarification or changes to the medical marijuana law?

The Legislature is likely to revisit marijuana laws during the 2012 session. In fact, they may have little choice as an Initiative to the Legislature – backed by Seattle City Attorney Pete Holmes, former U.S. Attorney John McKay, the American Civil Liberties Union, and others – is in the signature-gathering process.

This initiative goes beyond medical marijuana: it would legalize marijuana for people older than 21 and authorize the state Liquor Control Board to regulate and tax marijuana. Proponents have until December 30 to get the required 241,153 signatures. If they succeed, the Legislature has three options when they convene in January 2012:

- Approve the initiative and it becomes law;
- Reject or refuse to act on the initiative, and it will be placed on the November 2012 ballot; or
- Pass an amended version, and both versions go to the November ballot.

What are other states and the federal government doing?

Sixteen other states and Washington, D.C., have some form of medical marijuana law. Of particular note is Colorado, with 17,000 registered patients and new dispensary regulations, and California, with 11,000 registered patients and unregulated dispensaries that have an affirmative criminal defense.

Any use of marijuana, including the medical use, remains prohibited under the federal Controlled Substances Act. Anyone who manufactures, distributes, dispenses, or possesses marijuana for any purpose still may be prosecuted under federal law. (This is why medical providers are unable to “prescribe” marijuana and pharmacies are unable to dispense it.)

In June 2011, the U.S. Department of Justice issued a memo reiterating its position that marijuana in any form remains illegal under the Controlled Substances Act and that the Department retains its right to prosecute those who produce or possess marijuana, as well as those who knowingly facilitate such activities. They continue to indicate that they will prioritize their resources in such a way that they are unlikely to target an individual patient who is in compliance with state law, but expressed concerns about the proliferation of commercial operations.

Where can I get more information?

MRSC has posted a variety of useful information, including examples of ordinances, on its website at www.mrsc.org/subjects/legal/medmarireg.aspx

AWC contacts

Candice Bock, Legislative & Policy Advocate
candiceb@awcnet.org

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Medical Cannabis

DRAFT PROPOSED SCHEDULE *August 10, 2011*

| Date | Event |
|-------------------------|--|
| August 2, 2011 | City Council adopts emergency moratorium; Ordinance No. 28010 |
| August 17 | Planning Commission discussion of Ordinance No. 28010, State law, Council direction and proposed code amendment schedule |
| August 17 | Provide notice for Commission public hearing on emergency moratorium |
| August 31 | Draft Findings of Fact completed |
| September 7 | Planning Commission public hearing on emergency moratorium. Recommendation to City Council on Findings of Fact |
| September 14 | Draft preliminary code options completed |
| September 15 | Public Safety Committee review of Commission's moratorium recommendation and Findings of Fact |
| September 15 | Provide notice of Commission's recommendation on moratorium in advance of Council public hearing |
| September 19 | Medical Cannabis Committee submits memo to the Planning Commission with recommended considerations for potential code options |
| September 21 | Commission discussion of potential code options |
| September 27 | City Council conducts public hearing on moratorium Retains, modifies or rescinds moratorium |
| September 28 | Preliminary draft code completed |
| September 29 | Preliminary draft code provided to Medical Cannabis Committee |
| October 5 | Commission review of preliminary draft code |
| October 5 | Medical Cannabis Committee to provide written or verbal feedback to the Planning Commission on preliminary draft code |
| October 12 | Public review draft code completed |
| October 19 | Commission authorizes proposed amendments for public review and sets a public hearing date |
| October 24 | Distribution of public notice for Planning Commission public hearing |
| October 27 | Public Safety Committee review of draft code amendments |
| November 1 | Medical Cannabis Committee completes review of Planning Commission proposed amendments and submits recommendation to Commission on draft code amendments |
| November 2, 2011 | Planning Commission public hearing on draft amendments |
| November 4 | Last day to submit written comments on draft amendments |
| November 16 | Planning Commission discussion of hearing testimony |
| December 7 | Planning Commission makes recommendation to City Council |

| | |
|--------------------------|--|
| December 8 | Public Safety Committee review of Commission's recommendation on code amendments |
| December 13 or January 3 | City Council study session on proposed amendments |
| December 13 | City Council sets hearing date |
| December 15 | Distribution of public notice for City Council public hearing |
| December 29 | Medical Cannabis Committee completes review of Planning Commission's final code amendments and submits recommendations to the City Council |
| January 3, 2012 | City Council conducts public hearing on proposed amendments |
| January 10 | City Council – first reading of ordinance(s) to adopt amendments |
| January 12 | Public Safety Committee "do pass" recommendation |
| January 17 | City Council – second reading and adoption of amendments |
| January 27 | Submit final amendments to State |
| January 29 | Effective date of amendments |
| January 29, 2012 | Moratorium expires |

KEY

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|--|--|
| | City Council activities and actions |
| | Public Safety, Human Services & Education Committee activities and actions |
| | Medical Cannabis Committee activities and actions |



City of Tacoma
Community and Economic Development Department

Agenda Item
GB-3

TO: Planning Commission
FROM: Donna Stenger, Manager, Long-Range Planning Division
SUBJECT: Shoreline Master Program Update
DATE: August 10, 2011

At your meeting on August 17, staff will discuss the modifications that have been made to the public hearing draft of the Shoreline Master Program. The Planning Commission will be asked for their recommendation to forward the draft, with the attached modifications, to the City Council for adoption. In support of this discussion, staff are providing the following documents:

- Letter of Recommendation
- Findings and Recommendations
- Summary of Planning Commission Modifications to the Public Hearing Draft
- Recommended Text, Policy, Map and Code Amendments
 - Shoreline Master Program – Policy and Code Amendments, recommended draft
 - Summary of Modifications to the Shoreline Restoration Plan
 - Summary of Modifications to the Public Access Alternatives Plan with Updated Map
 - Amendments to TMC 13.06 Parking Landscape Standards
 - Amendments to TMC 13.06.602 regarding regulation of areas outside shoreline jurisdiction.
 - Summary of Modifications to the Cumulative Impacts Analysis

If you have any questions, please contact Stephen Atkinson at 591-5531 or satkinson@cityoftacoma.org.

Attachments (4)

c: Peter Huffman, Assistant Director



**City of Tacoma
Planning Commission**

August 17, 2011

HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL,

On behalf of the Planning Commission, I am pleased to forward our recommendations to amend Tacoma's Shoreline Master Program (SMP), including modifications to the Comprehensive Plan and Land Use Regulatory Code and to adopt new associated documents. Enclosed you will find our "Findings and Recommendations" that summarize the public review process and the Commission's actions, as well as the recommended policy, code and map revisions, including area-wide zoning reclassifications.

This amendment was initiated to meet the update requirement of the Shoreline Management Act (SMA) and to achieve consistency with guidelines adopted in the Washington Administrative Code. Tacoma is required to complete its update by December 1, 2011. The update must promote the SMA's core policies of giving priority to uses that require a shoreline location; promoting public access and enjoyment opportunities; and, protecting the environmental resources of state shorelines. The City initiated its update ahead of schedule, in 2006, and has devoted nearly five years to complete the necessary analysis, prepare the amendments, conduct public outreach, and facilitate public discussion of the policy options.

The considerable investment of time, funds and energy was worthwhile. Tacoma, a City with 46 miles of shoreline, is in very large measure shaped by our connection and interaction with the water. Our shorelines are the location of many valued and important institutions, activities and spaces--including the second largest port in the state, treasured public spaces such as those found on the Thea Foss Waterway, along Ruston Way, and in Point Defiance and Titlow Parks, businesses that are an important part of our economy and community, and unique residential neighborhoods. Views of the water, if not actual access to the shoreline itself, are a daily part of life for many Tacomans.

The deep water of Commencement Bay and protected waterways of the tideflats is the reason Tacoma is here today and will continue to be a determining force in shaping the future of this City. As the City changes over time, so do the values and priorities of our citizens. Not all citizens agree on every aspect of the vision for our shorelines. The public discussion throughout the update process has engendered lively debate on certain issues—not surprising given the range of issues and stakeholders associated with our shorelines. That said, the broad mandate to strike the appropriate balance between active port, industrial and water-dependent uses; public access to attractive waterfront spaces; and environmental protection has been reaffirmed and strengthened in the update to the Master Program and, we feel, supported by the great majority of our citizens.

In addition to the policy and regulatory elements of the Master Program, there are additional documents, required under the WAC, that have supported this effort. The Shoreline Restoration Plan documents existing restoration programs and ongoing public and private restoration efforts as well as the identification of goals, objectives and strategic restoration opportunities. Furthermore, for your review, the Commission is forwarding the Shoreline Inventory and Characterization report and the Cumulative Impacts Analysis. The Shoreline Inventory and Characterization documents the most current and complete technical information related to the City's shorelines and the existing ecological conditions and land use patterns. This document provides a foundation for the policy and regulatory documents that

Honorable Mayor and Members of the City Council

August 17, 2011

Master Program Update

Page 2

constitute the Master Program. Likewise, the Cumulative Impacts Analysis provides an analysis that supports the Commission's findings that the document we are forwarding for Council review will adequately address the cumulative impacts of new development over time and achieves the "no net loss" mandate.

In addition to the Master Program, the Commission is forwarding for your consideration and adoption, two supporting documents that supplement the Master Program and provide additional guidance on its implementation. These are 1) the Public Access Alternatives Plan, a tool to help plan how citizens and visitors will access our waterfront and to help facilitate the design, location, and implementation of new access opportunities; and 2) the Thea Foss Waterway Design Guidelines, which provide guidance for the design of public access and the interaction of public and private spaces on the Foss Waterway. Taken together, we believe the enclosed documents will make Tacoma's Master Program consistent with state guidelines, incorporate the most up-to-date approaches to protect and restore the environment; provide priority for water-dependent uses on our shorelines; and create a system to enhance public access.

The Commission wants to express our appreciation for the many citizens, civic groups, property and business owners, who have been actively involved in the development and review of the Shoreline Master Program amendments. In addition, thanks are due to the many stakeholder organizations and agencies that were involved, including the Port of Tacoma, Tacoma-Pierce County Chamber of Commerce, Citizens for a Healthy Bay, Walk the Waterfront and the Foss Waterway Development Authority. We especially want to acknowledge the funding and technical assistance provided by the Department of Ecology (DOE) staff, particularly Kim Van Zwalenburg, who was in attendance and available at many of our meetings as well as numerous public workshops.

We respectfully request the City Council adopt the enclosed amendments, as recommended by the Planning Commission, and commit to their full implementation. We strongly believe that the enclosed amendments reflect the community's vision for its shorelines, support other shoreline related plans and programs including those of other agencies, provide predictability, accountability, and efficiency in permit decision-making, respect private property rights, maintain economic opportunity and will achieve no net loss of shoreline ecological functions. We hope that the City Council will concur.

Sincerely,

JEREMY DOTY
Chair

JD:ds

Enclosures



**SHORELINE MASTER PROGRAM UPDATE
PROPOSED AMENDMENTS
TO THE
COMPREHENSIVE PLAN AND LAND USE REGULATORY CODE**

TACOMA PLANNING COMMISSION
FINDINGS AND RECOMMENDATIONS
AUGUST 17, 2011

A. SUBJECT:

Adoption of amendments to the Master Program for Shoreline Development including modifications to the Comprehensive Plan and Title 13 of the Tacoma Municipal Code (Land Use Regulatory Code), and including area-wide zoning reclassifications.

B. SUMMARY OF PROPOSED AMENDMENTS:

Most jurisdictions in the state had not conducted comprehensive updates of their Shoreline Master Programs (SMPs) since their original adoption in the mid 1970s. This prompted state legislation in 2003 to require updates of local SMPs by specific dates. Tacoma last amended its Master Program in 1996 and is now required to complete a comprehensive update by December 1, 2011.

The Shoreline Management Act of 1971 (SMA) requires SMPs to meet three basic policies: a) give priority to uses that require a shoreline location; b) promote public access and enjoyment opportunities; and c) protect the environmental resources of state shorelines. The Department of Ecology guidelines (2003) which are codified in the Washington Administrative Code (WAC 173-26) are to be used and followed by local jurisdictions in the comprehensive update. The guidelines include substantive, procedural and process requirements. The update needs to be based on scientific and technical information to assure no net loss of shoreline ecological functions. The City initiated its Master Program update process with an inventory and characterization of the 46 miles of shorelines in 2006. Subsequently, a waterfront land use analysis to determine needs for water-dependent activities was prepared to guide the Master Program re-evaluation process.

The Shoreline Master Program includes goals, policies, environment designations, shoreline district designations (zoning), and development regulations for the following shorelines of the state located within the city limits: Commencement Bay and its waterways, the Tacoma Narrows, the Puyallup River, Hylebos Creek, Wapato Lake and associated streams and wetlands. The Puyallup River and marine areas waterward of extreme low tide are designated as “shorelines of statewide significance”, requiring additional attention.

The proposed Tacoma Shoreline Master Program (TSMP) would rescind and replace in its entirety the City’s existing Master Program for Shoreline Development which guides activities and development along the City’s shorelines and which includes shoreline goals and policies in the Comprehensive Plan and development regulations found in Chapter 13.10 Shoreline Management within the Land Use Regulatory Code. The amendment will also rescind the Thea Foss Waterway Design and Development Plan (last amended in 2005), the Ruston Way Plan (1981) and the Shoreline Trails Plan (1989); all elements of the Comprehensive Plan and of the existing Master Program. Relevant portions of these plans have been integrated into the TSMP and companion documents.

The following table provides a summary of the proposed amendments:

| TOPIC | DESCRIPTION OF CHANGES |
|---|--|
| Administrative Provisions | The current Master Program references state-developed procedures. The update to the TSMP includes compliance requirements for non-conforming uses, shoreline substantial development permits and exemptions, shoreline conditional use permits, and shoreline variances, consistent with State requirements. |
| Shoreline Environment Designations | The TSMP includes a revised Shoreline Environment Designation system based on the recommended classifications in State guidelines. Designation criteria, purpose statements, and management policies are provided for each designation. A unique designation of "Downtown Waterfront" has been added for the Thea Foss Waterway. |
| Shorelines of Statewide Significance | New policies for Shorelines of Statewide Significance have been included. Tacoma's Shorelines of Statewide Significance include marine waters seaward from the line of extreme low tide, as well as the Puyallup River and its associated shorelands. |
| Shoreline Districts | Shoreline districts are the zoning designations for areas within shoreline jurisdiction. The amendment establishes three new shoreline districts and combines two existing districts into one district. In addition, changes are recommended to the former shoreline district boundaries (S-1 through S-14) for consistency with the new shoreline environment designation system and to address future local land use planning preferences. Properties within the new districts and modified districts will be reclassified as a part of the amendments. |
| Shoreline Uses & Development | A Use and Development Table is proposed as a new feature to facilitate a quick overview of the uses and development allowed, not allowed or allowed through a shoreline conditional use permit in each shoreline district. The table also identifies general dimensional standards. Development standards for shoreline uses have been revised and updated to meet requirements for no net loss of ecological functions. Shoreline use categories have been updated to reflect the classifications in the State guidelines. The use and development standards for each district have also been updated to be consistent with and implement the shoreline environment designation and the policies for that designation, as well as to achieve consistency with the intent for each district. |
| Shoreline Modifications | The proposed TSMP increases the protection of nearshore habitats and encourages non-structural and softshore shoreline protection measures while allowing for protection of existing structures and uses. |

| TOPIC | DESCRIPTION OF CHANGES |
|---|--|
| <p>General Policies and Regulation</p> | <p><i>Critical Areas Protection.</i> Existing regulations for critical areas located in the shoreline jurisdiction have been reviewed for consistency with the “no net loss” standard, incorporated into the development regulations and modified consistent with the City’s shoreline goals and policies. Critical areas located in the shoreline jurisdiction will be regulated under the provisions of the Shoreline Management Act and consistent with the no net loss standard, as required by State law.</p> <p><i>Overwater Structures.</i> The proposed TSMP strengthens the protections of the shoreline environment by limiting the types of uses allowed over water, limiting overwater coverage and introduces new standards for docks and piers.</p> <p><i>Vegetation Conservation.</i> Vegetation conservation policies and standards are proposed, consistent with State guidelines, that give priority to the conservation and enhancement of native vegetation and that recognize the ecosystem-wide functions that native vegetation provides.</p> <p><i>Water Quality and Quantity.</i> New water quality and quantity policies and standards are proposed consistent with State guidelines that protect against adverse impacts to the public health, to the land and wildlife, and the waters of the state.</p> <p><i>Views and Aesthetics.</i> Policies and development standards are proposed that will ensure that new development takes advantage of the shoreline location in design and orientation and will give protection to public views of the shoreline and waters of the state, as well as other scenic and aesthetic values.</p> <p><i>Public Access.</i> The shoreline public access requirements have been clarified in the proposed TSMP. A draft Public Access Alternatives Plan (PAAL) has been developed to assist with the implementation of access when required and to guide the development of visual and physical access to the City’s shorelines.</p> <p><i>Archaeological, Cultural and Historic Resources.</i> Policies and development standards provide protection for known archaeological, cultural and historic resources and provide standards and notification requirements in the case of an unanticipated discovery.</p> |
| <p>Restoration Plan</p> | <p>The Shoreline Restoration Plan has been developed as required by the State guidelines. This is an entirely new element of the Shoreline Master Programs to improve shoreline conditions over time, and includes provisions for ongoing regional and local efforts and conceptual restoration opportunities.</p> |

| TOPIC | DESCRIPTION OF CHANGES |
|---|---|
| Public Access Alternatives Plan | The Public Access Alternatives Plan (PAAL) includes an inventory of existing public access sites and integrates planned public access projects from the Shoreline Trails Plan, Ruston Way Plan, and Thea Foss Waterway Design and Development Plan. The Plan also incorporates planned or potential access sites and opportunities from other planning documents and studies. The PAAL is not part of the Master Program but is a complementary guidance document that will be adopted separately by the City Council. |
| Shoreline Trails Plan | Identified shoreline trails and associated amenities have been integrated into the proposed public access system as conceptualized in the Public Access Alternatives Plan. The Shoreline Trails Plan will be rescinded as part of this update. |
| Ruston Way Plan | Use and development standards for Ruston Way are integrated into the TSMP for the S-6 Shoreline District. Public access that was implemented under the Ruston Way Plan has been included in the inventory of existing public access. Proposed access projects are also integrated into the PAAL. The Ruston Way Plan will be rescinded as part of this update. |
| Thea Foss Waterway Design and Development Plan | The goals and policies of the Foss Plan have been incorporated where applicable into the TSMP. Public access projects identified in the Foss Plan that have been completed are included in the inventory of existing public access in the PAAL. Proposed access projects are incorporated into the PAAL as well. Design guidelines and standards have been relocated and updated to reflect public comment and testimony into a new stand alone Thea Foss Waterway Design Guidelines document. The Design Guidelines are not part of the Master Program and will be adopted separately by the City Council to supplement the S-6 development regulations. The Foss Plan will be rescinded as part of this update. |
| TMC 13.11 Critical Areas Preservation | TMC 13.11 requires amendment to address consistency with the changes in the proposed TSMP, i.e., the integration of critical areas standards within the TSMP and regulation of critical areas within shorelines of the state consistent with the no net loss standard and solely under the requirements of the Shoreline Management Act and the TSMP. |
| TMC 13.06 Zoning | TMC 13.06 is proposed for amendment to include dimensional sign standards for signs within shoreline jurisdiction and to address applicability of zoning and development regulations of shoreline district designations that exceed shoreline jurisdiction. |
| TMC 13.05 Land Use Permit Procedures | TMC 13.05 is proposed for amendment to streamline the permit appeal process by moving appeals of Land Use Administrator shoreline decisions directly to the Shoreline Hearings Board. |

C. FINDINGS OF FACT:

1. The Comprehensive Plan, adopted in 1993 by Ordinance No. 25360 and amended by ordinance once every year thereafter, is Tacoma's comprehensive plan as required by the Growth Management Act (GMA) and consists of several plan and program elements, including the SMP.
2. The GMA allows counties and cities to amend their comprehensive land use plans generally only once each year except that amendments may be considered more frequently for a limited set of circumstances. The adoption or amendment of a Shoreline Master Program qualifies as an exception.
3. The GMA requires that any change to development regulations shall be consistent with the Comprehensive Plan. Development regulations, as defined by GMA, include, but are not limited to, zoning controls, critical area ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances.
4. The GMA goes beyond a consistency standard and imposes a substantive requirement that any change to development regulations shall be demonstrably consistent with and *implement* the Comprehensive Plan.
5. Proposed amendments to the Land Use Regulatory Code, (Title 13 Tacoma Municipal Code), and area-wide zoning reclassifications fall within the GMA definition of development regulations.
6. Chapter 13.02 of the Tacoma Municipal Code sets forth the procedures and criteria for amending the Comprehensive Plan and development regulations and for area-wide zoning reclassifications.
7. The City Council adopted Resolution No. 37070 on December 19, 2006, approving the four guiding principles for planning the future growth of the City of Tacoma: (1) to protect neighborhoods, (2) to protect critical areas, (3) to protect port, industrial and manufacturing uses, and (4) to increase densities in the downtown and neighborhood business districts.
8. The City Council directed staff to initiate an update of the Shoreline Master Program three years ahead of the state's schedule in RCW 90.58.080(4) to integrate critical areas protection with the Shoreline Master Program.
9. ESA was selected and approved by City Council to assist with the Shoreline Master Program update and approved for the on-call contract in September 2006. Reid-Middleton was selected and approved to assist with the Thea Foss Waterway Design and Development Plan update with a team that included BST and Associates and Atelier-Jones LLC.
10. Between April 2006 and April 2007, the City held a series of meetings on the Shoreline Inventory and Characterization, including internal and external shoreline stakeholders, committees, and individual parties.
11. The draft Shoreline Inventory and Characterization Report was distributed to the technical advisory committee for comments. Approximately 15 comment letters were submitted on the draft Shoreline Inventory and Characterization Report.
12. On October 18, 2006, the Planning Commission discussed the Shoreline Master Program update, including scope of work, schedule, and key issues.

13. On October 23, 2008, the City re-initiated the update of the Shoreline Master Program, having completed the Critical Areas Preservation Ordinance (CAPO) amendment. The City held a public workshop at the Foss Waterway Seaport to present and take public comment on the following draft documents:
 - Draft Shoreline Restoration Plan
 - Draft Waterfront Lands Analysis
 - Draft Public Access Inventory and Opportunities
 - Draft Foss Waterway Public Access and Use Analysis
14. Public notice for the workshop was extensive and included taxpayers of record for properties for all shoreline districts and within 400 feet of these properties. The public notice was sent to interested stakeholders, Neighborhood Council representatives, business and community organizations, City departments, State and federal agencies, adjacent jurisdictions, other governmental agencies, the Puyallup Tribe, large institutions, environmental organizations and others. In all, over 5,700 public notices were distributed for this workshop.
15. City staff and consultants documented the public comments provided at the workshop and posted the meeting summaries on the City of Tacoma Shoreline Master Program update webpage.
16. On November 19, 2008, the Planning Commission discussed the draft documents presented at the workshop and the comments on those documents from the October 23rd public workshop.
17. On December 17, 2008, the draft documents were presented to the technical advisory committee and additional comments were received.
18. On May 6, 2009, the Department of Ecology offered the City of Tacoma a grant to support the Shoreline Master Program update. The City of Tacoma entered into a grant agreement with DOE on October 1, 2009 for \$125,000 in grant funds to be applied to work occurring between July 1, 2009 and June 30, 2011.
19. On January 27, 2009, staff presented background information on the Shoreline Management Act, the DOE guidelines, as well as an update on the process, schedule, and public participation for the Master Program update to the City Council at the Council's Study Session.
20. On September 10, 2009, staff held a public meeting with shoreline stakeholders and interested parties to discuss Washington Administrative Code (WAC) requirements for the designation of shoreline environments and the proposed changes to the City's shoreline environment designations.
21. On October 29, 2009, the City held a shoreline visioning meeting that focused on specific shoreline districts, the intent statements for those districts, the permitted uses, and potential restoration and public access projects. Public notice for the workshop was extensive. Notice was mailed to taxpayers of record for properties within all shoreline districts and within 400 feet of these properties. In all, over 2,300 notices were mailed. A summary of the comments and questions from the meeting were posted to the City's Shoreline Master Program update webpage.
22. On November 4, 2009, staff from the Department of Ecology provided the Commission with an

overview of the Shoreline Management Act and the guidelines in Washington Administrative Code (WAC) for amending Shoreline Master Programs. City staff presented a summary of key issues as well as a schedule for Planning Commission review and recommendation.

23. On December 2, 2009, the Planning Commission discussed Washington Administrative Code (WAC) requirements for the designation of shoreline environments and the proposed changes to the City's shoreline environment designations. According to state guidelines, the shoreline environment designations, which are to be assigned to each distinct shoreline section, "provide the framework for implementing shoreline policies and regulatory measures specific to the environment designation."
24. On January 20, 2010, the Planning Commission discussed Washington Administrative Code (WAC) requirements for listing shoreline uses and modifications. The WAC Guidelines establish a framework for determining which uses and modifications may be considered allowed, conditional or prohibited, both City-wide and per shoreline environment designation. The City of Tacoma has established shoreline districts as a means of implementing the shoreline environment designations and as a strategy for distinguishing the character of different shoreline areas.
25. On February 3, 2010, the Planning Commission discussed the integration of the Thea Foss Plan into the Shoreline Master Program, and public participation in the update of the Foss Plan.
26. On March 3, 2010, the Planning Commission discussed the existing public access regulations, draft public access policies and regulations, and key issues.
27. On March 30, 2010, the City Council was updated during a Study Session on the key concepts from the Washington Administrative Code requirements, progress to date on the update to the Master Program, local issues, and next steps in the schedule and process.
28. Between April and June 2010, the City Council's Standing Committees for Economic Development and for Environment and Public Works convened three joint committee meetings to discuss status, key issues and to listen to public comments on issues of concern from interested parties.
29. On September 1, 2010, the Planning Commission and members of the public toured several shoreline areas including the Schuster Parkway Shoreline, Foss Waterway, and a portion of the Port Industrial Area.
30. On September 15, 2010, staff released a preliminary draft of the TSMP for public comment. Public comment was requested to be submitted by November 30, 2010 for consideration by the Planning Commission in preparing the final public review draft.
31. On October 20, 2010, City staff held an informational meeting on the preliminary draft TSMP. The meeting was held at the Center for Urban Waters. Notification was sent by e-mail to all interested parties.
32. On October 27, 2010, City staff held an informational meeting on the preliminary draft elements of the TSMP related to the Thea Foss Waterway, including use, design, and public access standards. The meeting was held at the Center for Urban Waters. Notification was sent by email to all interested parties.

33. In December 2010, the Planning Commission received a draft Cumulative Impacts Analysis (CIA), as required by WAC 173-26-201 (3) (d) (iii). The draft CIA reviewed the existing shoreline conditions as documented in the Inventory and Characterization Report, estimated reasonably foreseeable development within the City of Tacoma Shorelines, and assessed how the protective provisions of the draft Shoreline Master Program would apply to future development to ensure no net loss of ecological functions.
34. The December 2010 draft of the CIA was incorporated into the Shoreline Master Program draft that was released for public hearing in April 2011.
35. On November 3, 17, and December 15, 2010 the Planning Commission began their review of the comments submitted on the preliminary draft TSMP and were provided with a summary of comments from the informational meetings held in October.
36. Public comments submitted on the preliminary draft were compiled into a comment book and CD-Rom and were distributed to the Planning Commissioners and City Council. Fifty (50) comment letters were submitted with over 300 pages of attachments.
37. On January 5, 2011, the Planning Commission discussed public comments, responses, and policy options related to the general public access requirements in the preliminary draft TSMP.
38. In support of this discussion, the Planning Commission reviewed the following materials:
 - A memo from Jeff Capell, Deputy City Attorney, responding to questions raised about requiring public access in the shoreline;
 - Shoreline Management Act RCW 90.58.020 Legislative findings – State policy enunciated – Use preference;
 - Washington Administrative Code WAC 173-26-251 Shorelines of statewide significance;
 - *Chapter 9: Public Access* from the Department of Ecology’s Shoreline Master Program Handbook;
 - A comparison table of public access policy and requirements from Tacoma’s existing
 - Master Program and proposed requirements contained in the preliminary draft TSMP.
 - An excerpt from the draft Public Access Alternatives Plan that discusses the applicable WAC Guidelines and the specific policies and development standards in the Preliminary Draft TSMP that implements them.
39. On January 19, 2011, the Planning Commission discussed public comments and policy proposals related to the S-7 Schuster Parkway Shoreline District.
40. On February 2, 2011, the Planning Commission discussed public comments and policy proposals related to the S-8 Thea Foss Waterway Shoreline District.
41. On February 16, the Planning Commission reviewed their prior discussions, related to public access, S-7 Schuster Parkway and the S-8 Thea Foss Waterway Shoreline Districts and recommended modifications to the preliminary draft. In support of this discussion, the

Commission was provided with a *Public Access Primer* prepared by the City's outside legal counsel Jay Derr, with GordonDerr LLP.

42. On March 2, 2011, the Planning Commission discussed the draft Cumulative Impacts Analysis.
43. On March 16, the Planning Commission discussed public comments and policy proposals related to nonconforming uses and development, log rafting and storage, and Wetlands of Local Significance.
44. On February 9, 23, March 9, and May 10, 2011 the City Council Standing Committees for Economic Development and for Environment and Public Works discussed the preliminary draft and public comments submitted on that draft, took additional public comment, and were updated on the process to date and next steps. In support of these discussions, the Council was provided with a *Public Access Primer* on February 9th prepared by the City's legal counsel Jay Derr, with GordonDerr LLP. Staff from the Department of Ecology was on hand to answer questions from the City Council and to discuss the Department of Ecology's role in updating Master Programs.
45. Pursuant to the State of Environmental Policy Act (SEPA), the City of Tacoma issued a preliminary Determination of Environmental Nonsignificance (DNS) and Adoption of Existing Environmental Document on May 2, 2011 based upon a review of a completed environmental checklist. Public comment was accepted until June 10, 2011. A legal notice was published in the *Daily Index* on May 9, 2011 and additional notification of the environmental review was provided in conjunction with the Planning Commission public hearing notice. Pursuant to WAC 197-11 and Tacoma's SEPA procedures, the preliminary DNS, SEPA File Number: SEP2011-40000162367 was made final on June 17, 2011. No comments were submitted. The determination was made that this project does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2) (c). This decision was made after review of a completed environmental checklist and other information on file.
46. On April 6, 2011, The Planning Commission reviewed a staff report that was prepared by the Long-Range Planning Division. The report provides a general description of the proposed amendments and identifies applicable provisions of the Shoreline Management Act, Growth Management Act, Comprehensive Plan and the Land Use Regulatory Code. The amendment is analyzed using the ten criteria found in Chapter 13.02 of the Tacoma Municipal Code pertaining to proposed amendments to the Comprehensive Plan or development regulations. Area-wide zoning reclassifications also are reviewed using six additional criteria found in Chapter 13.02. An economic impact assessment of the amendment was also provided. Other information is used during the review of the proposed amendments including but not limited to state laws, City ordinances, similar provisions used by other municipalities, and City Council direction. The Commission also reviewed proposed revisions to the preliminary draft TSMP shown with tracked-changes.
47. A public review document was developed which included a copy of the public hearing notice, the 18 page staff report described above, a copy of the completed Department of Ecology Shoreline Master Program Submittal Checklist, and the preliminary environmental determination and completed checklist.
48. The public review document also included the draft Shoreline Master Program with appendices, the draft Public Access Alternatives Plan, draft Thea Foss Waterway Design Guidelines, draft

revisions to Chapter 13.11 Critical Areas Preservation, 13.05 Land Use Permit Procedures, and 13.06 Zoning, and the draft Cumulative Impacts Analysis.

49. After completing a review of the amendment proposals and staff reports and modifying the proposals as warranted, the Planning Commission, on April 20, 2011, authorized the proposed amendments for distribution for public review and comment and set a public hearing date for June 1, 2011. The public comment period was held open until 5:00 pm on Friday June 10.
50. Pursuant to RCW 36.70A.530(4), the Community and Economic Development Department notified the Director of Public Works for Joint Base Lewis-McChord on May 9, 2011 of the City's intent to amend its Comprehensive Plan and Land Use Regulatory Code. No response was received within the 60 days required by law.
51. In accordance with RCW 36.70A.106, the Community and Economic Development Department, on May 10, 2011, notified the State Department of Commerce and other required State agencies of its intent to adopt amendments to its Comprehensive Plan and development regulations. No comments were received from the Department of Commerce. Comments were submitted by the Department of Ecology.
52. Proper written or electronic notice of the Planning Commission's public hearing was distributed to Neighborhood Council board members, other neighborhood groups, business district associations, civic organizations, environmental groups, development interests, adjacent jurisdictions, Puyallup Tribe, major employers and institutions, City and State departments, taxpayers of record both within shoreline jurisdiction and within 400' of a shoreline district, and other known interested individuals or groups. In addition, the notice could also be viewed and downloaded at the Long-Range Planning Division's website (www.cityoftacoma.org/planning). The notice was also posted on the public information bulletin boards on the first and second floors of the Tacoma Municipal Building. In all, more than 2,100 public notices were distributed.
53. Public notice signs were posted in areas proposed for area-wide rezones, including Marine View Drive, Hylebos Creek, Thea Foss Waterway, Schuster Parkway, Ruston Way, Narrows Marina, and Titlow Park. The public notice signs included maps and descriptions of the proposed changes, background information, and staff contact information.
54. The notice stated the time and place of the public hearing, the purpose of the public hearing, information pertaining to the environmental determination, where and how additional information could be obtained, and how to provide comments. Advertisement of the public hearing and community informational session was published in *The News Tribune* on May 12, 2011.
55. The public hearing notice indicated that written comments are welcome and must be submitted by 5:00 p.m., June 10, 2011 to the Tacoma Planning Commission, 747 Market St., Rm. 1036, Tacoma, WA 98402, or faxed to (253) 591-2002, or e-mailed to planning@cityoftacoma.org.
56. The public review document was made available for public review at the office of the Community and Economic Development Department and all branches of the Tacoma Public Library and on the City's website (www.cityoftacoma.org/planning) and made available on CD-ROM upon request.

57. A 24-hour planning inquiry phone line was established (573-2529) where citizens could call in to receive more information about the proposed amendments and leave messages.
58. Pursuant to RCW 36.70A.370 and following the guidelines prepared by the Washington State Attorney General pursuant to RCW 36.70A.370, the draft amendments were reviewed by the City Attorney to assure that adoption of the changes will not result in an unconstitutional taking of property.
59. An informational public meeting was held on May 19, 2011. The purpose of this meeting was to provide an overview of the proposed amendments and to answer questions about the proposed changes. Notice of this meeting was included in the public hearing notice and advertised in *The News Tribune*.
60. The Planning Commission held a public hearing on the draft amendments to the Comprehensive Plan and Land Use Regulatory Code on Wednesday, June 1, at 5:00 p.m. 41 individuals provided testimony at the public hearing and an additional 52 comment letters or emails were submitted by the June 10 deadline.
61. On June 7, 2011, the Tacoma City Council and Port of Tacoma Commission held a joint study session and heard an update on the Shoreline Master Program process and schedule.
62. On June 15, 2011, the Commission heard an overview of testimony received at the June 1, 2011 public hearing and through the comment period ending on June 10. The comments were compiled into a book which included a summary of the oral testimony and all written comments and other submitted materials. In all, 509 pages of comments and attachments were submitted. A copy of the public testimony book was provided to the Commission and posted on the Shoreline Master Program update page.
63. On June 22, 2011, at a joint meeting of the City Council's Standing Committees for Environment and Public Works and for Economic Development, staff reviewed the key issues from the public testimony, schedule, and next steps. Council members were provided a copy of the public testimony book.
64. On July 6, 2011, the Commission reviewed the comments related to public access and critical areas issues. Tadas Kisielius, Partner in the firm GordonDerr, Betty Renkor, Shoreline Policy Lead for the Department of Ecology (DOE), Kathy Taylor, Senior Marine Ecologist for DOE, and Kim Van Zwalenburg, Project Officer for DOE were present for the discussion and to respond to Commission questions. In support of this discussion the Commission reviewed the following materials:
- A summary of comments received relating to public access and critical areas with preliminary staff responses;
 - A memorandum from Jay Derr of the firm GordonDerr relating to public access;
 - Background information on the Bayside Trail, including
 - i. A GeoEngineer's study on the Schuster Slope where the Bayside Trails are located; and
 - ii. A summary of public comment from a public workshop on the Bayside Trail held on March 31, 2011 by City staff;

- A memorandum from Teresa Vanderburg of Environmental Science Associates (ESA) providing background information on the marine buffer standards in the existing CAPO;
 - A memorandum from Teresa Vanderburg of ESA, from 2008, summarizing the Best Available Science (BAS) that was developed in support of the City's critical areas preservation ordinance.
65. On July 20, 2011, the Commission discussed public comments and staff responses regarding the S-7 Schuster Parkway Shoreline District, S-8 Thea Foss Waterway Shoreline District, and those comments submitted by Kim Van Zwalenburg, Project Officer for the Department of Ecology. Detailed maps of the two affected shoreline districts were available at the meeting to facilitate the Commission's review. In addition, Gary G. Coy, Sperry Ocean Dock, Ltd. submitted photos of his property for the Commission's consideration, Communication item C-1, attached to the agenda. In support of these discussions, staff is provided the following documents for Commission review:
- A Preliminary Responsiveness Summary for the issues to be discussed;
 - Maps prepared by BST and Associates for the Waterfront Lands Analysis (2008) identifying the prevalence of water-depths necessary to support deep draft vessels; and
 - Memorandum from Dick McKinley, Public Works Director, and Ryan Petty, Community and Economic Development Director, to City Manager Eric Anderson, June 22, 2011.
66. Based upon their review, the Planning Commission directed to staff to modify the draft TSMP public access chapter to differentiate requirements and process for evaluating public access on private lands and public lands or public projects. The Commission additionally directed staff to modify the marine buffer modifications to respond to comments submitted. The revisions including a change in standards from a minimum buffer to a maximum buffer reduction based on a percentage of the standard buffer width, basing the buffer modifications on the designation to more adequately protect intact shoreline ecological functions while maintaining flexibility for higher intensity shorelines, and a shift in designation for the S-3 Western Slope South Shoreline District, from Urban Conservancy to Natural.
67. On August 3, 2011, the Planning Commission reviewed a complete Responsiveness Summary which included a summary of all testimony and preliminary staff responses and draft report of the Commission's Findings and Recommendations.
68. On August 9, 2011, staff presented to the City Council Standing Committees on Economic Development and on Environment and Public Works a report on the Planning Commission's review of the public testimony and preliminary recommendations to modify the draft Master Program based upon the comments received and additional review.
69. On August 17, 2011, the Planning Commission approved a revised draft TSMP and associated documents, and their Findings and Recommendations and forwarded their recommendations to the City Council.

Critical Areas

70. Department of Ecology has outlined multiple options for integrating critical areas standards into shoreline regulations.

71. The City of Tacoma began an update to its Critical Areas Preservation Ordinance (CAPO) in 2003, a process that resulted in the regulations that govern protections of critical areas within the shoreline until such time as the City completes its SMP update. Under the requirements of the Growth Management Act (GMA) the City was required to update its critical areas regulations in consideration of “best available science”.
72. In 2004, the City hired GeoEngineers to create a map portfolio of critical areas and an inventory of shoreline elements within the City, to research and identify the Best Available Science (BAS) for each critical area, and list the BAS references in a bibliography. The final report included a CAPO audit, a narrative summary of BAS alternatives for each critical area and application to the urban landscape, information gaps, and recommendations for interim actions and further research.
73. On November 15, 2005, the City of Tacoma adopted amendments to Chapter 13.11 Critical Areas Preservation as required by the Growth Management Act.
74. On January 13, 2006, the Tahoma Audubon, Citizens for a Healthy Bay, People for Puget Sound and Futurewise petitioned the Central Puget Sound Growth Management Hearings Board (GMHB) alleging that the updated Critical Areas Preservation Ordinance (CAPO) was not in compliance with the GMA for failing to protect critical areas, specifically Fish and Wildlife Habitat Conservation Areas designated along Tacoma’s marine shorelines.
75. On November 1, 2007, the GMHB ruled that the updated CAPO did not comply with GMA provisions (Case No. 06-3-0001) requiring the application of best available science (BAS), and for special consideration of measures necessary to preserve salmon. The CAPO was remanded back to the City to develop standards to protect functions and values of critical areas. In particular, the specific measure identified as lacking was buffers for marine fish and wildlife habitat conservation areas.
76. The Planning Commission directed the review and amendment of CAPO to comply with Hearings Board order and recommended to the City Council on May 21, 2008 revisions to Chapter 13.11. The City Council adopted the revised regulations on July 1, 2008. The Commission’s Findings and Recommendations were adopted by the City Council in the adoption of the recommended amendments to the CAPO (Ordinance No. 27728) and are incorporated herein by reference.
77. On August 7, 2008, the Hearings Board issued an Order of Compliance (Re: Ordinance No. 27728) based upon the City’s record of Best Available Science, and held that the adoption of the ordinance complies with the goals and requirements of the GMA and enters a Finding of Compliance.
78. The 2008 CAPO amendment in Ordinance No. 27728 established the following buffer standards for marine critical areas according to Shoreline District (SD):
 - 200’ from OHWM for areas approximating the existing S-3 and S-4 shorelines;
 - 115’ from OHWM for areas approximating the existing S-2, S-5, S-6, S-7, S-11 and S-12 shorelines;

- 50' from OHWM for areas approximating the existing S-1, S-8, S-10 shorelines as well as the Point Ruston and Slag Peninsula portions of the S-6.
79. Buffer standards for streams and wetlands were not appealed or changed during this process. These standards included:
- 150' stream buffer from OHWM for the Puyallup River and Hylebos Creek
 - 300' wetland buffer for Wapato Lake and associated wetlands
80. State law now requires the regulation of critical areas within shoreline jurisdiction be accomplished under the Shoreline Management Act and must be included in the update to the Master Program.
81. The City determined that incorporating critical areas standards directly into the Master Program satisfies the “no net loss” standard for protection of critical areas in the shoreline, was consistent with the legislative intent, would prevent the dual regulatory coverage of shoreline permits and critical area permits, and allows a seamless integration of critical area preservation standards, including buffers, with the use and development preferences of the Shoreline Management Act.
82. While the GMA requires critical area standards to be based on the Best Available Science (BAS) the Shoreline Management Act requires jurisdictions to review scientific and technical information. The WAC guidelines state that the City is to:
- “identify and assemble the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern”
 - “base master program provisions on an analysis incorporating the most current, accurate, and complete scientific or technical information available.”
83. The Shoreline Inventory and Characterization Report establishes the baseline shoreline conditions from which the City can assess compliance with no net loss and includes documentation of the most “current, accurate and complete” scientific and technical information.
84. According to NOAA Fisheries, the waters of Commencement Bay and Tacoma Narrows are designated critical habitat for Puget Sound Chinook and Puget Sound Resident Orca. It is documented that juvenile salmonids rear in the delta area of the Puyallup River in Commencement Bay and that the bay itself provides important rearing and migratory habitat for several species of salmon that spawn in the tributaries to the Puyallup River and the Hylebos (Simenstad, 2000). While shorelines are urban in nature throughout much of the City of Tacoma, the marine nearshore and waters provide important critical habitats to federally-listed salmonid species and marine mammals.
85. The Master Program must include standards that ensure “no net loss of ecological functions including critical saltwater and freshwater habitats and species” – a standard similar to that used in the CAPO.
86. State law clarifies that shorelines of the state shall not be considered critical areas except to the extent that specific areas qualify for critical area designation based upon the definition of critical areas in the RCW. The City of Tacoma Shoreline Inventory and Characterization identifies existing and probable critical areas within the City’s shorelines of the state.

87. The critical area standards and buffers adopted in the CAPO and now integrated into the proposed Master Program have been adjusted consistent with the SMA's no net loss standard to allow for buffer modifications related to water-dependent and water-oriented uses, including public access, and to revise the permit procedures consistent with shoreline permit and exemption processes.
88. No changes to the existing stream buffers for the Puyallup River and the Hylebos Creek are proposed as part of the Shoreline Master Program update.
89. The CIA concludes that cumulative actions taken over time in accordance with the City's proposed TSMP are not likely to result in a net loss of shoreline ecological functions from existing baseline conditions. Conclusions on the future performance of key shoreline functions are summarized as follows:
- **Hydrology:** Hydrology is likely to be unchanged and has the potential for improvement in most of the shoreline districts. Because of the presence of the railroad along districts S-1a through S-3, the coastal bluffs have been disconnected from the shoreline and hydrologic processes have been altered. The railroad is unlikely to be removed during the planning horizon of this plan (20 years) and this condition is unlikely to change.
 - **Water Quality:** Water quality is likely to remain unchanged or improved in all shoreline districts. Regulations would limit any additional impacts to wetlands, and any impacts would be mitigated. SMP policies and regulations encourage use of LID techniques, addressing non-point source pollution. Past and future restoration activities are addressing ongoing point source contributors to water quality degradation.
 - **Large Woody Debris and Organic Contributions:** These elements comprise shoreline habitats and have been altered in most of the City's shoreline (S-4 and S-5, Point Defiance - is the exception). This function is expected to remain unchanged or improve overtime under the proposed TSMP. Provisions of the proposed TSMP require that impacts to vegetation functions be mitigated to achieve no net loss; vegetated buffers are established for new development or as part of redevelopment; and the restoration plan includes a fee-in-lieu program that will allow mitigation to be conducted off site – in larger projects and in locations with potentially more benefit than smaller, individual, dispersed projects.

Environment Designations and Shoreline Districts

90. On December 2, 2009, staff presented a memorandum to the Planning Commission reviewing the existing environment designations in *Tacoma Municipal Code 13.10 Shoreline Management* and the recommended classification system in WAC 173-26-211 (4). Staff and Commission discussed the designation criteria and proposed classification system. The Planning Commission proposed that the City utilize the recommended classifications in the WAC. Staff presented findings from the Inventory and Characterization Report (2008) that supported the proposal. The proposed classification system included 'natural', 'aquatic', 'urban-conservancy', 'high-intensity' and 'shoreline residential.'
91. On February 3, 2010, staff presented an update on the integration of the *Foss Plan* into the draft Shoreline Master Program. The Planning Commission recommended the creation of a

'downtown waterfront' designation for the S-8 Thea Foss Waterway with specific designation criteria and management policies in support of the proposal, consistent with the provisions of WAC 173-26-211 (4) (c) that gives jurisdictions the authority to adopt alternative shoreline environment designations.

92. In proposing a revised shoreline environment designation system, the Planning Commission finds:

Natural Environment

- The purpose of the "natural" environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of this designation, the City of Tacoma should plan for the restoration of degraded shorelines within this environment.
- The "natural" environment designation should be assigned to shoreline areas that have the following characteristics:
 - i. The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;
 - ii. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or
 - iii. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.
- The following areas are appropriately designated 'natural':
 - i. District S-4 Point Defiance
 - ii. District S-3 Western Slope North
 - iii. District S-12 Hylebos Creek

Aquatic Environment

- The purpose of the "aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the marine areas waterward of the ordinary high-water mark.
- The "aquatic" environment designation should be assigned to marine waters below the ordinary high-water mark and the underlying lands.
- The Planning Commission finds that the following areas are appropriately designated 'aquatic':

i. District S-13 Waters of the State

Shoreline Residential Environment

- The purpose of the 'shoreline residential' designation is to accommodate residential development and accessory structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.
- The "shoreline residential" environment designation should be assigned to shoreline areas in the city if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.
- The Planning Commission finds that the following areas are appropriately designated 'shoreline residential':

i. District S-1b Western Slope South

Urban Conservancy Environment

- The "urban conservancy" environment is intended to protect and restore the public benefits and ecological functions of open space, natural areas and other sensitive lands where they exist within the City, while allowing a variety of compatible uses. It is the most suitable designation for shoreline areas that possess a specific resource or value that can be protected without excluding or severely restricting all other uses. It should be applied to those areas that would most benefit the public if their existing character is maintained, but which are also able to tolerate limited or carefully planned development or resource use. Permitted uses may include recreational, cultural and historic uses provided these activities are in keeping with the goals of protection and restoration as stated.
- The "urban conservancy" environment designation should be assigned to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring the ecological functions of the area and that are not generally suitable for water-dependent uses, if any of the following characteristics apply:

- i. They are suitable for water-related or water-enjoyment uses;
 - ii. They are open space or other sensitive areas that should not be more intensively developed;
 - iii. They have potential for ecological restoration;
 - iv. They retain important ecological functions, even though partially developed; or
 - v. They have the potential for development that is compatible with ecological restoration.
- The Planning Commission finds that areas appropriately designated ‘urban conservancy’ includes:
 - i. District S-2 Western Slope Central
 - ii. District S-5 Point Defiance – Urban Conservancy
 - iii. District S-6 Ruston Way
 - iv. District S-9 Puyallup River
 - v. District S-11 Marine View Drive
 - vi. District S-14 Wapato Lake

High Intensity Environment

- The purpose of the "high-intensity" environment is to provide for high-intensity water-dependent and water-oriented mixed use commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.
- The "high-intensity" environment designation should be assigned to shoreline areas if they currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses.
- The Planning Commission finds that areas appropriately designated ‘high intensity’ include:
 - i. District S-1a Western Slope South
 - ii. District S-7 Schuster Parkway
 - iii. District S-10 Port Industrial Area
 - iv. District S-15 Point Ruston/Slag Peninsula

Downtown Waterfront Environment

- The Planning Commission finds that the purposes of the ‘downtown waterfront’ environment is to:
 - i. Foster a mix of private and public uses, including parks and recreation facilities, that are linked by a comprehensive public access system;

- ii. Strengthen the pedestrian-orientation of development on the *Thea Foss Waterway*;
 - iii. Promote the design vision for the Thea Foss Waterway through the establishment and implementation of design guidelines and standards;
 - iv. Manage the shoreline area in a way that optimizes circulation, public access, development, and environmental protection;
 - v. Encourage and provide opportunities for mixed-use development that supports water-oriented uses and provides significant public benefit and enjoyment of the Waterway for the citizens of Tacoma;
 - vi. Promote the east side of the Foss Waterway as a center for industries and firms specializing in the design, research, development, and implementation of clean technology;
 - vii. Encourage a mix of uses, including water-oriented industrial and commercial uses, and residential uses on the west side of the Waterway and in that area of the east side of the Foss Waterway south of 11th Street; and
 - viii. Retain and enhance characteristics of the Thea Foss Waterway that support marine and recreational boating activities.
- The "Downtown Waterfront" environment designation should be generally assigned to shoreline areas that are contained within the Downtown Tacoma Regional Growth Center and comprised of or planned for a mix of high intensity uses in mixed use structures or facilities. The Downtown Waterfront designation is applied to shoreline areas that:
 - i. Are within the designated downtown core and the Downtown Regional Growth Center; and
 - ii. Are planned for mixed-use development; and
 - iii. Are primarily developed with high intensity uses; and
 - iv. Are currently characterized by a dense mix of residential, commercial and industrial uses; and
 - v. Contain historic structures, sites related to the Foss Waterway's maritime history as well as cultural, educational and institutional uses.
 - The Planning Commission finds that areas appropriately designated 'downtown waterfront' include:
 - i. District S-8 Thea Foss Waterway

Area-wide zoning reclassifications

93. Chapter 13.02 of the Tacoma Municipal Code defines an area-wide zoning reclassification as a legislative action to change zoning classifications on an area-wide basis in order to implement and maintain consistency with the Comprehensive Plan. The Planning Commission may consider

area-wide zoning reclassifications in association with, or independent of, proposed amendments to the Comprehensive Plan.

94. Area-wide zoning reclassifications are subject to review based on the amendment procedures and the review criteria contained in TMC 13.02.053.3. Proposed reclassifications are required to meet at least one of the six review criteria to be considered by the Planning Commission.
95. In conjunction with the proposed environment designations, the Planning Commission recommends that the boundaries of shoreline zoning districts be aligned with the proposed designation boundaries to achieve consistency of intent, use allowances, marine buffer standards, and implementation of the designation policies.
96. Having reviewed the public comment on the proposed draft, the Planning Commission recommended several modifications to their initial proposal. In their review of the public comments, the Commission considered changes to both the environment designations and shoreline districts simultaneously in order to ensure consistency between the purposes and policies of the designations and the implementing intent and use and development standards of the shoreline districts. The Commission's modifications included:
 - **S-3 Western Slope North**: The Commission found that the S-3 Western Slope North Shoreline District would be appropriately designated as 'natural' rather than the proposed 'urban-conservancy.' In support of this finding, the Commission reviewed information from the Inventory and Characterization Report that identified this shoreline area as having active feeder bluffs, geologically hazardous areas, vegetated steep slopes, and marine riparian vegetation along the ordinary high water mark, as well as public comments.
 - **S-7 Schuster Parkway**: Based on the review of public comment and with consideration given to the characteristics of the Schuster Parkway shoreline, including existing uses, water depths, topography, proximity to residential neighborhoods, and upland land supply, the Commission directed staff to expand the 'urban-conservancy' designation to the southern boundary of the Sperry Ocean Dock property. At their meeting on July 20, 2011 the Commission made the following findings in support of this recommendation:
 - That the area had deep water access and was suitable for uses requiring access to deep water; and
 - That deep water is available throughout the Ruston Way shoreline and Commencement Bay and not exclusively in the S-7 Shoreline District; and
 - That giving priority to water-dependent uses and, in particular, uses that require deep water, does not inherently require that the City give preference to Port, Terminal and Industrial related uses; and
 - That water-oriented commercial uses are similarly permitted in the S-6 Ruston Way Shoreline District and the S-7 Schuster Parkway Shoreline District; and
 - That special consideration could be given to water oriented commercial uses requiring deep water in that portion of the S-6; and
 - That there was available capacity in the S-10 Shoreline District for future water-oriented port, terminal and industrial uses requiring deep water access; and

- That existing uses as well as uses that could be allowed under the High Intensity S-7 Schuster Parkway District, with a permitted height allowance of up to 100', did have and would continue to have impacts on public views from nearby public parks and open spaces; and a substantial number of residences; and
 - That height allowances in the S-6 Ruston Way Shoreline District of 35 feet would serve to minimize future view impacts; and
 - That the Sperry Ocean Dock site was a logical 'book end' to the Ruston Way Shoreline District as it is separated from the activity at TEMCO by the BNSF railroad which is located immediately adjacent to the ordinary high water mark between Sperry Ocean Dock and TEMCO; and
 - That TEMCO was a high intensity port-related use and was appropriately designated High Intensity and retained in an S-7 Schuster Parkway Shoreline District; and
 - That consideration should be given to the long-term goals and aspirations of the community as expressed in the public comment; and
 - That re-designating a portion of the S-7 district from High Intensity to Urban Conservancy was consistent with the designation criteria under WAC and that the overall approach to balancing different shoreline designations adequately and reasonably provided for the protection of natural areas, the reservation of a sufficient land supply necessary to accommodate future water-dependent and related uses, and the reservation of shoreline areas for water-enjoyment activities.
- **S-8 Thea Foss Waterway**: The Planning Commission reviewed the public comments on the proposed Downtown Waterfront Designation and the implementing S-8 Thea Foss Waterway Shoreline District and found that a boundary change was appropriate. The Commission determined that the E 3rd Street right-of-way is an appropriate boundary for the northeast corner of the S-8 Foss Waterway Shoreline District.

97. The Commission finds that the area-wide rezones and concomitant changes to the shoreline environment designation boundaries are necessary to implement the Comprehensive Plan. The proposed amendment includes a new environment designation system, developed in accordance with WAC 173-26-211(5). The WAC requires specific use and development standards per designation. The City of Tacoma uses specific shoreline zoning districts to implement the use and development policies associated with the designations. Therefore, in updating the designation system, the shoreline zoning districts must also be updated to be consistent with the permitted uses and associated development standards.

98. The following table summarizes the shoreline areas proposed for re-designation and the related area-wide rezones:

| EXISTING DISTRICT | EXISTING SED | NEW DISTRICT | NEW SED | NOTES |
|-------------------|--------------|--------------|-----------------------|---|
| S1 | Urban | → S1a | High Intensity | • Split out marinas from residential areas |
| | | → S1b | Shoreline Residential | |
| S2 | Conservancy | → S2 | Urban Conservancy | • Shifted south to the 6th Ave right-of-way extension |
| S3 | Conservancy | → S3 | Natural | |
| S4 | Natural | → S4 | Natural | |
| S5 | Conservancy | → S5 | Urban Conservancy | • Created new district for Point Ruston and Slag Peninsula |
| | | → S15 | High Intensity | |
| S6 | Urban | → S6 | Urban Conservancy | • Changed to Urban Conservancy • Created new district for Point Ruston and Slag Peninsula • S-6 extended south to include Jack Hyde Park, Chinese Reconciliation Park and the Sperry Ocean Dock site (Parcel #8950002312) |
| | | → S15 | High Intensity | |
| S7 | Urban | → S7 | High Intensity | • S7 northern boundary retracted to exclude Jack Hyde Park, Chinese Reconciliation Park and the Sperry Ocean Dock site (Parcel #8950002312) |
| S8 | Urban | → S8 | Downtown Waterfront | • Applied new designation, Downtown Waterfront • Northeast boundary line retracted to center line of E 3rd St |
| S9 | Urban | → S9 | Urban Conservancy | • Changed to Urban Conservancy |
| S10 | Urban | → S10 | High Intensity | • New S-12: Hylebos Creek east of SR 509 designated Natural • Expanded to center line of E 3rd St |
| | | → S12 | Natural | |
| S11 | Urban | } → S11 | Urban Conservancy | • Combined to one district and changed designation to Urban Conservancy |
| S12 | Urban | | | |
| S13 | | → S13 | Aquatic | • Open waters of Commencement Bay designated Aquatic |
| S14 | Urban | → S14 | Urban Conservancy | |

Shoreline Restoration Plan

99. WAC 173-26-251 (3) (b); 201 (2) (c) & (f) require that the City develop a Restoration Plan that accomplishes the following:

- Identifies degraded areas, impaired ecological functions, and potential restoration sites;
- Establishes restoration goals and priorities, including SMP goals and policies that provide for restoration of impaired ecological functions;
- Identifies existing restoration projects and programs;
- Identified additional projects and programs needed to achieve local restoration goals, and implementation strategies including identifying prospective funding sources;
- Sets timelines and benchmarks for implementing restoration projects and programs;
- Provides mechanisms or strategies to ensure that restoration projects and programs will be implemented according to plans and to appropriately review the effectiveness of the projects and programs in meeting the overall restoration goals.

100. On September 11, 2008, consultants ESA Adolfson transmitted a draft Shoreline Restoration Plan to the City in fulfillment of the WAC requirements.

101. On October 23, 2008, City staff held a public workshop on the draft Shoreline Restoration Plan.

102. On November 19, 2008, staff reviewed the comments submitted on the draft Shoreline Restoration Plan with the Planning Commission.

103. On December 17, 2008, staff presented the draft Shoreline Restoration Plan to the technical advisory committee and received additional comments on the draft.

104. In May 2010, ESA Adolfson prepared a memorandum with guidance on establishing a shoreline mitigation fee-in-lieu program.

105. In September 2010, an updated Shoreline Restoration Plan was included as part of the Preliminary Draft TSMP.

106. Final revisions to the draft Shoreline Restoration Plan were prepared in response to the review of public comments received during the Planning Commission public comment period in June 2011.

107. The Commission finds that the Shoreline Restoration Plan has been developed in fulfillment of WAC 173-26-251 and recommends adoption of the Shoreline Restoration Plan as Appendix B of the TSMP.

Public Access

108. On July 6, 2011, the Planning Commission reviewed the public comments submitted on the draft public access policies and regulations. The Commission reviewed the comments and staff responses and recommended modifications to their proposal. These modifications included:

- The Commission determined that an on-site preference for public access was generally desirable with one exception. The Commission found that projects located within the S-10 Port Industrial Shoreline District, due to the likelihood of potential conflicts between uses and public access, should have additional flexibility to address potential public health, safety or security concerns. Therefore, the Commission finds that when public access is required, permit applicants within this shoreline area should have the full range of options available and should not be required to meet waiver criteria for on-site access before proceeding to other off-site mitigation options.
- The Commission found that the draft TSMP adequately responded to comments concerning nexus and proportionality but recommended further text and organization changes to clarify differences between public and private projects and to more clearly identify that the burden of proof for establishing nexus is on the City for private projects.

109. The Commission found that the preferred public access for the S-6 and S-7 Schuster Parkway Shoreline Districts would be an on-site public access walkway that would establish an improved linkage between the Thea Foss Waterway and Ruston Way. Where access cannot be provided on-site, the Commission finds that projects identified in the Public Access Alternatives Plan should be considered; however, further study is needed concerning the costs, feasibility, and practicality of each option. This study should commence and be concluded to coincide with the effective date of the TSMP. The options listed below are not in any priority order:

- Completion of the multi-modal Schuster Parkway Trail, as identified in the Public Access Alternatives Plan, including site amenities;
- Improvement of the Bayside Trail, including site amenities; as identified in the Public Access Alternatives Plan
- Improving connections between Schuster Parkway and the Bayside Trail or Schuster Parkway and Stadium Way;
- Provide access to the shoreline via flyovers or pedestrian bridges to permit viewing of Commencement Bay.

110. In addition to the recommended modifications, the Commission recommended that the City establish a public access fund that would provide permit applicants additional flexibility in meeting their public access obligations when required. The 'fee-in-lieu' would be an option for new uses and development that have qualified for an on-site waiver or for new uses and development occurring within the S-10 Port Industrial Area Shoreline District. In support of this proposal the Commission finds:

- That establishing a public access fund will allow for a more coordinated and efficient approach to providing public access in the shoreline.
- That the public access fund option will facilitate a more streamlined permit process.
- That the public access fund option will enable the City to more effectively implement the goals and objectives of the TSMP and the planned access envisioned for the City's shorelines.

Thea Foss Waterway Design and Development Plan (Foss Plan)

111. Since the early 1970s, the City has been planning for the redevelopment of the Thea Foss Waterway (“Waterway”) into an intensely developed and vibrant place with a mix of uses and activities and the generous provision of public access and amenities; a place where people can live, work, and play.
112. In 1991, to reclaim the Waterway and realize the vision, the City purchased 27 acres of contaminated property on the Waterway and took the lead in cleanup of the Superfund-listed Waterway that once held the dubious distinction of being one of the nation’s most contaminated. The City began cleaning the sites through an environmental master plan, which formed the basis of a 1994 consent decree with the Department of Ecology. Under an agreement with the U.S. Environmental Protection Agency, the City began a \$95 million Superfund cleanup of this area.
113. The revitalization of the Waterway to a vibrant people place with an abundance of amenities and public access to the shoreline is dependent, in part, on the investment of the private sector. Without development, these access and amenities would not be built and maintained, and the shoreline area would continue in an underutilized and uninviting state. Through private development, the vision of the Shoreline Master Program for establishing a continuous system of substantial public access along the Waterway can be realized.
114. Now, more than ten years after the creation of the initial Thea Foss Waterway Design and Development Plan (“Foss Plan”) and the formation of the Foss Waterway Development Authority (“FWDA”), the revitalization vision for the Waterway is starting to come to fruition, as can be evidenced by the mix of cultural, park, marina, and residential uses, combined with special events such as the Tall Ships Festival and the annual Maritime Fest. In order to continue this success and realize the vision for a completely redeveloped Waterway and recoup the public investment, changes are needed to accommodate private investment.
115. In addition, several limited amendments to the Foss Plan and the implementing S-8 Thea Foss Waterway Shoreline District regulations pointed to the need to perform a comprehensive update of the Foss Plan. These previous amendments included revisions to height allowances and building envelope standards on the Westside of the Waterway and use allowances on the Eastside of the Waterway.
116. On November 29, 2007, the City held a public “re-visioning” for the Thea Foss Waterway. Public notice was disseminated widely. City staff presented background information on the history of planning efforts for the Foss Waterway, environmental remediation, as well as the scope of work and schedule for the Foss Plan update. City staff and consultants prepared presentation materials and solicited public comments and discussion on the following topics:
 - Design Standards and Site Development
 - Public Access, Views and Open Space
 - Parking and Circulation
 - Land Uses and Vision
117. On December 18, 2007, Reid-Middleton provided the City with a memorandum summarizing the public comments received at the public workshop on November 29. This document is posted and available on the City of Tacoma shoreline update webpage.

118. On October 23, 2008, a draft of the Thea Foss Waterway Public Access Plan was presented at a public workshop and staff presented the draft and a summary of the public comments to the Planning Commission on November 19, 2008.
119. In January, April and October 2009, City staff and consultants met and discussed the planning effort for the Thea Foss Waterway with business and property owners on the east side of the Waterway, including discussions of existing and potential public access projects.
120. City staff and Foss Waterway Development Authority staff held a site visit on June 24, 2009 to assess existing conditions along the east side of the Foss Waterway.
121. The Thea Foss Waterway Public Access Plan was integrated into the Draft Public Access Alternatives Plan as part of the September 2010 preliminary draft TSMP.
122. City staff and consultants held multiple meetings with design guidelines 'user' groups, including City permit staff, Foss Waterway Development Authority (FWDA), and the FWDA Urban Design Review Committee.
123. On February 3, 2010, the Planning Commission was given a report on the update of the Thea Foss Waterway Design and Development Plan (Foss Plan). The Foss Plan Update will result in three major components (goals and policies to be incorporated into the Shoreline Master Program, design guidelines to be adopted as a stand-alone document with code references, and code revisions to the Tacoma Municipal Code 13.10). The Planning Commission discussed potential issues, the need for stronger design guidelines to accentuate historic uniqueness and significance, and environmental concerns.
124. In addition to the integration of the Foss Plan into the draft TSMP, additional revisions to the policies and development standards have been undertaken to respond to public comments and to more effectively implement the vision for the Waterway.
125. The existing Thea Foss Waterway Design and Development Plan envisions the Westside of the Foss Waterway as an area for retail commercial, office, hotel and residential use in a mixed-use configuration, with a strong emphasis on residential development between South 15th and South 21st Street. The Shoreline Master Program included development standards to implement this vision. Some of the relevant standards include:
 - Policies that the ground level of new buildings should be design and occupied to create an exciting pedestrian environment and to promote the enjoyment of the water.
 - Policies discouraging residential uses, non-water-oriented uses, and uses that are not pedestrian friendly from occupying the frontage along the esplanade and view/access corridors.
 - Requirements for pedestrian oriented uses to occupy a minimum of 50% of the esplanade frontage and 20% of the frontage along the view/access corridors and Dock Street.
 - In addition, pedestrian oriented uses are required to locate at or near the corners where possible.
 - Lastly, a majority of the ground level floor are required to be occupied by water-oriented uses.

- Non-water-oriented commercial uses are allowed through a CUP.
126. Since 1996, the mixed-use structures that have been built along the Westside of the Foss Waterway have struggled to sustain the preferred uses on the ground level and the expectations for build-out of the Westside have changed significantly.
 127. Currently, only the Glass Museum, Albers Mill (a small residential mixed-use building) Thea's Landing (a mixed-use residential building with 486 units of apartments and condominiums) and The Esplanade (a largely vacant mixed-use building) have been constructed between South 15th and South 21st Streets. In addition, the esplanade public accessway has not been completed. At this time, no hotels or commercial office buildings have been completed as envisioned. Also, the plan for angled parking along Dock Street has been eliminated as the result of the expansion of railroad lines by BNSF. Moreover, anticipated visits to the Glass Museum are about one-half of that expected at the time it was constructed. These conditions have led to only minimal pedestrian traffic along both the esplanade and Dock Street.
 128. The FWDA and developers along the Westside have consistently cited concerns about the development standards that have led to unnecessary permitting conflicts and complexities.
 129. In response, the Planning Commission recommends revising the development standards to do the following: replace the term 'pedestrian-oriented' uses with the more broadly encompassing 'water-oriented' uses; delete the requirement for a majority of the ground level to be water-oriented, focusing more on the esplanade frontage; and deleting the requirement for pedestrian-oriented uses to cluster at or near the corners of view/access corridors.
 130. From a pedestrian-oriented standpoint, water-oriented uses along the frontage of Dock Street and the esplanade have a more direct interface with the public and a more direct role in creating the desired environment than requiring 51% of the entire ground level to be water-oriented. This will provide additional flexibility for new development.
 131. In addition, increasing pedestrian traffic will largely be influenced by achieving the full build-out as envisioned in the existing Foss Plan and within the draft TSMP. To respond to the conditions above and to further the implementation of the vision for the Foss Waterway, use allowances are proposed that would provide additional flexibility for new development at the outset, while still ensuring that in the long-term, uses locate on the Foss Waterway that are consistent with the vision.
 132. These proposals include allowing a new or existing mixed-use structure to occupy 100% of the ground level with non-water-oriented uses for a period of 10 years through a conditional use permit. Alternatively, if at least 25% of the esplanade frontage is occupied with water-oriented uses, the development would be permitted through a shoreline substantial development permit. In either case, the remaining frontage requirements would have to be built to suit a future conversion to water-oriented uses. The permits would have to be reviewed after 10 years and would be eligible for a 5-year extension.
 133. Since the opening of Thea's Landing in 2003, the vacancy rate for the commercial space has fluctuated between 46% and 96%. The proposed changes to the S-8 regulations will go a considerable way towards alleviating these conditions in the near-term, accelerating the pace of development and creating a more pedestrian-oriented environment by allowing vacant

commercial spaces to be leased for short term uses, while not foreclosing on the long-term vision for water-oriented uses along Dock Street and the esplanade.

134. The proposed amendment to allow non-water-oriented uses for a limited term until economic conditions improve to support the development of the preferred uses is consistent with the City's overall growth strategy as expressed in Generalized Land Use Element for the Downtown Mixed-Use Center and is consistent with policies to foster commercial and civic uses and attractions of regional scale and high-density residential development.
135. The proposed amendment is consistent with Downtown Tacoma's regional designation as a growth center. Downtown Tacoma, which encompasses the shoreline area affected by the proposed amendment, is designated as a regional growth center in Vision 2040. The proposed amendment is consistent with the zoning and the Downtown Waterfront environmental designation of the Waterway and the vision and policies of the Foss Plan
136. The proposed amendments have been designed to maximize the public's opportunity to enjoy the physical and aesthetic qualities of the shoreline to the greatest extent feasible.
137. The amendment to the S-8 Thea Foss Waterway Shoreline regulations is warranted and is in the overall interest of the public because it supports the goals of the GMA, is consistent with the requirements of the Shoreline Management Act, and implements the policies in the City's Comprehensive Plan, including those in the Master Program for Shoreline Development.
138. The revisions to the Tacoma Shoreline Master Program are in the public interest. The overriding interests of the public will be served which provides an appropriately balanced approach for continuing to pursue the community's longstanding vision for creating a vibrant, thriving neighborhood and urban waterfront with a mix of uses and public amenities adjacent to a cleaner Waterway. This amendment:
 - Provides a solution for an area that has development constraints and is not redeveloping as planned; and
 - Increases public access to the Waterway; and
 - Supports economically viable redevelopment; and
 - Helps to ensure a financial return to the FWDA and/or the City of Tacoma; and
 - Is consistent with GMA goals and the City's Comprehensive Plan growth strategy; and
 - Is consistent with the public policy objective to redevelop the Waterway with development projects that are consistent with the Foss Plan; and
 - Enhances the pedestrian experience along the Waterway.
139. The *Foss Waterway Design and Development Plan* was originally adopted in 1992 and last amended in 2006. The Plan was reviewed to identify recommended projects that had been successfully implemented, policy elements, regulatory elements, and design elements. These elements were incorporated into the draft TSMP. The design guidelines were moved into a new stand-alone document, *Thea Foss Waterway Design Guidelines*. This new document will be adopted separately as an implementing tool to be used in reviewing future Foss development projects. Complementary revisions are proposed to the shoreline development regulations as a

part of the TSMP update. These actions carry forward the relevant policy guidance and regulatory controls. As a result, the Thea Foss Waterway Design and Development Plan should be rescinded upon adoption of the updated TSMP.

Shoreline Trails Plan and Ruston Way Plan

140. The Ruston Way Plan was adopted in 1981 and the Shoreline Trails Plan was adopted in 1989 as elements of the Comprehensive Plan and the Shoreline Master Program. Both plans were adopted prior to the adoption of the Washington State Growth Management Act. The documents have not been updated since they were first adopted.

141. As part of the Shoreline Master Program update, staff evaluated the plans to determine which elements are still applicable and which elements were either out-dated or had successfully been implemented. As part of this review, public access projects that were identified in these plans that had been implemented were incorporated into the inventory and documentation of existing public access. Those projects that had not been implemented were incorporated into the documentation of potential public access sites.

142. Other relevant policy guidance was incorporated into the appropriate chapter and section of the draft TSMP.

143. A number of elements of these plans were determined to be no longer applicable, including design elements of the Ruston Way Plan as well as the public access design elements and project cost estimates in the Shoreline Trails Plan.

144. Many of the subjects addressed in these plans, including view and vegetation policies, have been updated to address WAC requirements and have been replaced by general policy and regulatory elements in the draft TSMP that apply city-wide.

145. As a result, the Commission finds that it is appropriate to rescind the Ruston Way Plan and Design Booklet and the Shoreline Trails Plan as part the update to Master Program.

Public Outreach Summary

146. City staff developed a Public Participation Plan, dated August 2009, that identifies public participation objectives, roles and responsibilities, interested parties, technical advisory committee participants, and public outreach methods.

147. In addition to the shoreline stakeholder meetings, public open houses and workshops, Planning Commission discussions and City Council presentations, City staff conducted additional, extensive public outreach efforts above and beyond the requirements of WAC 173-26-201(3)(b). These efforts included:

- **Webpage:** City staff maintains a webpage with status updates, schedule for adoption, draft documents, public comments, existing documents, background information, and links to related websites.
- **Waterfront Conference:** City staff participated in a waterfront conference hosted by the University of Washington, Tacoma, Department of Urban Studies.

- Additional Meetings: City staff presented to Neighborhood Councils, the Community Council, the Foss Waterway Development Authority Board, the Tacoma-Pierce County Chamber of Commerce Shoreline Task Force, Metro Parks Tacoma Nature and Environment Advisory Committee, Union Station District Coordinating Group, the Tacoma Waterfront Association, Master Builder's Association Legislative Committee, Walk the Waterfront and S-7 Stakeholders, and the City of Tacoma Sustainability Commission.

Applicable Provisions of the Comprehensive Plan

148. Periodic review and evaluation of the Master Program for Shoreline Development and implementing development regulations is important in order that these programs maintain their effectiveness. Changing conditions, such as updates of state laws and community needs necessitate amendments.
149. The proposed Master Program will rescind and replace the existing goals and policies of the Comprehensive Plan found in the Master Program element. As noted previously, the Master Program contains components which are considered a part of the Comprehensive Plan and components which are considered a part of the City's development regulations; i.e., the Land Use Regulatory Code.
150. Other elements of the Comprehensive Plan contain intents goals and policies, which relate to the management and development of shoreline areas. These include the Environmental Policy, Transportation, Urban Forestry, and the Open Space Habitat and Recreation elements. A full discussion of all of the policies would be extensive but the following provides a summary of the key components of the Comprehensive Plan that will be carried out through the adoption of the updated Master Program.

Environmental Policy Element

151. The general goal in the Environmental Policy Element of the City of Tacoma's Comprehensive Plan (last amended 6/30/2009) is to "ensure conservation, protection, enhancement and proper management of natural resources and shoreline, while providing for a balanced pattern of development and the needs of the citizens of the City of Tacoma." There is a strong environmental policy basis in the Comprehensive Plan for the restoration of shoreline resources.

Generalized Land Use Element

152. The Generalized Land Use Element of the Comprehensive Plan includes a policy regarding the provision of open space and quality of life:
- LU-MUD-3 – Open Space: Provide a diverse array of usable open spaces including small parks, plazas, playgrounds, and others within centers to balance higher density development, enhance the quality of the living environment and provide social and recreational opportunities for residents, employees and visitors.

Open Space Habitat and Recreation Plan

153. The Open Space Habitat and Recreation Plan (OSHRP) was adopted by the City Council on December 9, 2008. The OSHRP sets forth goals, policies, and implementation plans for Tacoma municipal open spaces and natural areas. The Plan was prepared to meet Goals 9 and 10 of the GMA. Goal 9 encourages cities and counties to retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water and develop parks and recreation facilities. Goal 10 encourages cities and counties to protect the environment and enhance Washington's high quality of life, including air and water quality, and the availability of water.

154. The overall purpose of the OSHRP is established in the Plan's vision statement: "Create an integrated system of habitat and recreation lands and facilities in Tacoma that defines and enhances the built and natural environment, supports and nurtures plant and wildlife habitat, offers a well-balanced range of recreation opportunities and enriches the lives of Tacoma's current and future citizens." The OSHRP includes policies and other guidance intended to enact and achieve this vision. The OSHRP notes that Tacoma's shorelines and waterfront areas are a source of economic activity, entertainment and recreation, as well as providing invaluable ecological and cultural functions. It further notes that Tacoma has a legacy of industrial development along its shorelines, which has reduced public access. At the same time, the Port of Tacoma and other industrial areas are major economic assets to the City. The OSHRP notes the importance of reclaiming shoreline areas for public access, recreation, educational and interpretive displays, public art, community events, habitat restoration and other open space purposes. To those ends, the OSHRP includes the following policies specific to shoreline public access:

- OS-SH-1 Prioritize Tacoma's Shorelines and Waters - Recognize the strong community connection to Tacoma's shorelines and waters as cultural, historic, recreational, educational, economic, natural and aesthetic assets of tremendous value. Work with partners to undertake a broad range of activities that enhance Tacoma's identity as a waterfront community, including designating and enhancing shoreline areas for public access, recreation, educational and interpretive displays, public art, community events, habitat restoration and other activities.
- OS-SH-2 Shoreline and Water Access - Develop opportunities for public access to the Puget Sound for water-oriented recreation and enjoyment of shorelines, including public access to both natural and man-made waterfront features such as beaches, tidelands, wharfs, piers, esplanades, parks, heritage sites, and waterfront trails and paths.
- OS-SH-3 Shoreline and Water Activities - Develop and enhance opportunities for swimming, boating including use of Tacoma's water trails, fishing, SCUBA diving, educational activities, wildlife observation and other shoreline and water-dependent activities.
- OS-SH-4 Reconnect Shorelines and Uplands Habitat - Recognize the critical habitat functions and the loss of historic habitat connectivity between shorelines and upland areas and water courses, and seek to re-create these connections through habitat conservation and restoration efforts.
- OS-SH-5 Shoreline Trail Connections – Recognizing that many of Tacoma's existing and planned trails follow the shoreline or connect shoreline and upland areas, partner to develop and maintain trails oriented to the shorelines, slopes and gulches. Development of trails should be coordinated with habitat restoration efforts.

- OS-MUC-5 Reconnect the Waterfront – Seek opportunities to re-connect downtown and the Thea Foss Waterway through developing multifunctional open spaces, trails and/or recreational facilities that provide or enhance pedestrian connectivity between downtown and the waterfront.

Transportation Element and Mobility Master Plan

155. The goal of the Transportation Element is to “Achieve a multimodal transportation system that efficiently moves people and goods with optimum safety and appropriate speed, maximizes the conservation of energy, and minimally disrupts the desirable features of the environment”.
156. The Mobility Master Plan outlines a vision in which: “Tacoma is a world-class walking and biking community in which pedestrians and bicyclists are top priorities in transportation planning. Tacoma's transportation system is useable and welcoming to people of all abilities. Streets accommodate bicyclists in large numbers, sidewalks are user friendly, and residents share the road safely and are fully mobile without an automobile.”
157. The goals of the Mobility Master Plan that support the draft PAAL and the Transportation goals, policies and standards of the proposed draft TSMP include:
- Complete a safe and comfortable bicycling system that connects all parts of the city (north to south/east to west) and accommodates all types of cyclists by 2025.
 - Create a safer street environment that reduces intermodal crashes involving bicyclists, pedestrians and motor vehicles by at least 10% from 2010 rates by 2015 and work to meet Washington State’s Target Zero goal of eliminating fatal and serious injuries by 2030
 - Increase transit use by enhancing pedestrian access and bicycle support facilities through the development of bikeways and walkways that serve transit hubs.
 - Promote healthy lifestyles by offering improved opportunities for active living for people of all abilities through the development of a robust nonmotorized network, including bikeways, sidewalks, and linear parks.

The Downtown Plan

158. The City adopted an update to its Downtown Plan in December of 2008. The updated Downtown Element of the Comprehensive Plan includes specific direction for creating and enhancing the connection between Downtown and the waterfront, particularly the Thea Foss Waterway, capitalizing on its proximity to the downtown area. The element acknowledges that there are impediments to this connection and plots a strategy for removing some of these over time.
159. The Downtown Element states: “There is also a strong desire from the community to fully integrate the downtown to its waterfront. Physical impediments remain extreme, including railroad rights of way and a freeway. Near term enhanced connections are planned for 15th Street, with hopes for a restored Murray Morgan Bridge, and potential public access from Fireman’s Park tied to future development.”

D. CONCLUSIONS:

The Planning Commission concludes that:

The City is obligated, pursuant to RCW 90.58.080(2)(a)(iii) to update its Shoreline Master Program and adopt its updated SMP on or before December 1, 2011; and

In order to meet the December 1, 2011 deadline, the City Council has to “locally approve” an SMP and forward it (with other documents and work products) to the State Department of Ecology well in advance of that deadline so that Ecology can review the SMP, subject it to its public participation process (RCW 90.58.090) and render a decision on whether it can be approved, approved with conditions or rejected; and

The recommended draft TSMP has been developed in full compliance with Tacoma Municipal Code 13.02 and the Revised Code of Washington’s procedural requirements for amendments to the City’s Comprehensive plan and development regulations; and

The recommended draft TSMP appropriately balances the goals of the Shoreline Management Act, the Growth Management Act and incorporates the most current, accurate, and complete scientific and technical information available, as per WAC 173-26-201; and

In concert with implementation of restoration actions in the city and other on-going state and federal programs, and as analyzed in the Cumulative Impacts Analysis, the regulatory provisions of the proposed TSMP would serve to maintain the overall condition of shoreline resources in the city, successfully mitigate the cumulative impacts of all reasonably foreseeable development, and in certain circumstances improve the overall condition; and

As described in the shoreline inventory and characterization report, past and ongoing uses along Tacoma’s shorelines have led to degraded shoreline functions. However, updates to shoreline environment designations, use regulations and development standards, and implementation of the shoreline restoration plan provide substantially improved protection of shoreline functions; and

The recommended draft TSMP is consistent with the City of Tacoma Comprehensive Plan; and

The Planning Commission further concludes that local approval of this TSMP will benefit the City as a whole, will not adversely affect the City’s public facilities and services and advances and supports the general health, safety and welfare of the citizens of this City.

E. RECOMMENDATIONS:

The Planning Commission recommends that the City Council adopt the proposed amendments, as set forth in the document entitled *Shoreline Master Program and Land Use Regulatory Code, Proposed Update for 2011, Planning Commission Recommendation, August 17, 2011*:

- Master Program for Shoreline Development (Comprehensive Plan and Land Use Regulatory Code Elements)
 - Appendix A: Shoreline Restoration Plan
 - Appendix B: Shoreline Inventory and Characterization
- Amendments to TMC 13.11 Critical Areas Preservation
- Amendments to TMC 13.06 Zoning
- Amendments to TMC 13.05 Land Use Permit Procedures

- Thea Foss Waterway Design Guidelines as a supplement to and implementation guide for proposed development in the S-8 Shoreline District
- Public Access Alternatives Plan as a supplement to and implementation guide for the public access standards contained in the Master Program

The Planning Commission further recommends that the City Council amend the official zoning map to reflect the proposed area-wide zoning reclassifications recommended by the Planning Commission on August 17, 2011.

The Planning Commission further recommends that the City Council rescind the *Thea Foss Waterway Design and Development Plan*, the *Shoreline Trails Plan*, and the *Ruston Way Plan* and associated *Design Booklet*.

The Planning Commission further recommends that the City continue to collaborate with the Port of Tacoma to develop a public access plan for the port industrial area. Further, staff should continue to refine the Public Access Alternatives Plan to provide further predictability, flexibility and accountability for the provision of public access in the shoreline by both public and private entities including further guidance on the use of the public access fund.

The Planning Commission further recommends that the City Council establish a public access fund and administrative procedures for the deposit and expenditure of those funds to implement priority public access projects.

The Planning Commission further recommends that the City Council accept and approve the Cumulative Impacts Analysis as meeting the requirements of WAC 173-26-201(3)(d)(iii).

SHORELINE MASTER PROGRAM UPDATE

SUMMARY OF PLANNING COMMISSION ACTIONS AND KEY CHANGES TO THE PUBLIC HEARING DRAFT

Shoreline Zoning

Change zoning of Jack Hyde Park, Chinese Reconciliation Park, Tahoma Saltmarsh and Sperry Ocean Dock from S-7 Schuster Parkway to S-6 Ruston Way. This rezone would prohibit new port, terminal, or industrial uses in those locations.

Change zoning for NW corner of NuStar property on the east side of the Foss Waterway from S-8 Thea Foss Waterway to S-10 Port Industrial.

Revised applicability of the Shoreline Master Program to differentiate between shoreline jurisdiction and shoreline zoning and to articulate that uses occurring within a shoreline zone but outside shoreline jurisdiction shall meet the development standards in the Master Program but shall be processed in accordance with the procedures in TMC 13.05.

Public Access

Retain 'fee-in-lieu' as an option when public access is required and cannot be provided on site.

Retain for now all options for providing public access, when required, in the S-7 and in the southern portion of the S-6 Shoreline District until additional review of practicality, feasibility, and costs for identified projects can be completed.

Allow new uses and development in the S-10 Port Industrial Area to receive greater flexibility to provide public access off-site, when access is required.

Revise the requirement for a waterside esplanade to apply only to those properties south of E 11th Street on the east side of the Foss Waterway.

Differentiate between public and private properties when applying public access procedures.

Port, Terminal and Industrial Uses

Remove the prohibition on the expansion of existing industrial uses on the East Foss and regulate in the same manner as new industrial uses.

Permit log storage and rafting in the S-11 Marine View Drive Shoreline District.

Environment Designations

Change the Tacoma Narrows shoreline between Highway 16 and Point Defiance Park from 'Urban Conservancy' to 'Natural.'

Change the NW corner of NuStar property on the east side of the Foss Waterway from 'Downtown Waterfront' to 'High Intensity,' consistent with zoning change

Retain the designation of Jack Hyde Park, Chinese Reconciliation Park, Tahoma Saltmarsh and Sperry Ocean Dock as 'Urban Conservancy,' consistent with zoning change

Critical Areas Standards

Revised buffer reduction standards for marine buffers to address Department of Ecology concerns that buffer reduction allowances through the permit process were not protective enough. Additional buffer reductions, beyond the administrative reductions, would be allowed through a shoreline variance. Water-dependent uses and public access facilities would still be permitted direct water access.

Added standards for compensatory mitigation for flood hazard areas.

Added standards for Aquifer Recharge Areas consistent with TMC 13.11.

Non-Conforming Uses and Structures

Revised non-conforming use and structure standards to achieve consistency with policies and standards for in-water uses.

Water Quality and Quantity

Consolidated low impact development and stormwater management standards in the chapter on water quality and quantity and revised standards to clarify the applicability of the standards and to ensure consistency with the City of Tacoma Surface Water Management Manual.

Permit Submittal Requirements

Revised submittal requirements for exemptions and permits to allow applicants to use the JARPA as applicable and to provide the discretion for the Land Use Administrator to waive permit submittal requirements as necessary and to request additional information as necessary to ensure compliance with the Act and the Master Program.

Technical Edits/Cleanup

Added introductions and narrative to the Master Program to make the document more user-friendly and explanative.

Revised out of date references, corrected formatting, and re-organized chapters to make the document more user-friendly.



Shoreline Master Program

AUGUST 17, 2011
CITY OF TACOMA, WASHINGTON

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CHAPTER 1 INTRODUCTION

1.1 Introduction

The shorelines of Tacoma have great social, ecological, recreational, cultural, economic and aesthetic value. Wapato Lake, the Puyallup River and Tacoma's marine shoreline lake, river, and near-shore areas provide citizens with clean water; deepwater port and industrial sites; habitat for a variety of fish and wildlife including salmon, shellfish, forage fish, and waterfowl; archaeological and historical sites; open space; and areas for boating, fishing, and other forms of recreation. However, in many cases, Tacoma's shoreline resources are limited and irreplaceable. Use and development of shoreline areas must be carefully planned and regulated to ensure that these values are maintained over time.

The City of Tacoma Shoreline Master Program (TSMP or the Program) is a result of Washington State legislation requiring all jurisdictions to adequately manage and protect shorelines of the state. Washington's Shoreline Management Act (SMA or Act) (Revised Code of Washington [RCW] 90.48) was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The goal of the SMA is "to prevent the inherent harm of uncoordinated and piecemeal development of the state's shorelines." The Act specifically states:

"It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner, which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto."

The City of Tacoma prepared this SMP to meet the requirements of the Washington State SMA. This SMP provides goals, policies, and regulations for shoreline use and protection and establishes a permit system for administering the Program. The goals, policies, and regulations contained herein are tailored to the specific geographic, economic, and environmental needs of the City of Tacoma.

The Shoreline Management Act and its implementing legislation (Washington Administrative Code [WAC] 173-26 or Shoreline Guidelines) establish a broad policy giving preference to shoreline uses that:

- Depend on proximity to the shoreline ("water-dependent uses"),
- Protect biological and ecological resources, water quality and the natural environment, and
- Preserve and enhance public access or increase recreational opportunities for the public along shorelines.

The overall goal of this SMP is to:

Develop the full potential of Tacoma's shoreline in accord with the unusual opportunities presented by its relation to the City and surrounding area, its natural resource values, and its unique aesthetic qualities offered by water, topography, views, and maritime character; and to develop a physical environment which is both ordered and diversified and which integrates water, shipping activities, and other shoreline uses with the structure of the City while achieving a net gain of ecological function.

In implementing this Program, the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the State shall be preserved to the greatest extent feasible. Implementing the SMP must protect the ecological functions of shorelines and, at a minimum, achieve a 'no net loss' of ecological functions. Single-family residences; ports; shoreline recreational uses (including but not limited to parks, marinas, piers, and other improvements); water-dependent industrial and commercial developments; and

other developments that depend on a shoreline location shall be given priority. Permitted shoreline uses shall be designed and conducted to minimize damage to the ecology of the shoreline and/or interference with the public's use of the water and, where consistent with public access planning, provide opportunities for the general public to have access to the shorelines.

The City of Tacoma last updated its SMP in 1996. Since that time, there have been substantial changes in the way shorelines are regulated. New scientific data and research methods have improved our understanding of shoreline ecological functions and their value in terms of fish and wildlife, water quality and human health. This information also helps us understand how development in these sensitive areas impacts these functions and values. The new Shoreline Guidelines, upon which this SMP is based, reflect this improved understanding and place a priority on protection and restoration of shoreline ecological functions.

The City of Tacoma's Role in Implementing the Shoreline Management Act

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

- A. Development of an inventory of the natural characteristics and land use patterns along "shorelines of the state" within the City's territorial limits. This inventory provides the foundation for development of a system that classifies the shoreline into distinct "environments". These environments provide the framework for implementing shoreline policies and regulatory measures.
- B. Preparation of a "Shoreline Master Program" to determine the future of the shorelines. This future is defined through the goals developed for the following land and water use elements: economic development, public access, circulation, recreation, shoreline use, conservation, historical/cultural protection, and floodplain management. Local government is encouraged to adopt goals for any other elements, which, because of present uses or future needs, are deemed appropriate and necessary to implement the intent of the Shoreline Management Act. In addition, policy statements are developed to provide a bridge between the goals of the Master Program and the use activity regulations developed to address different types of development along the shoreline. Master Program regulations are developed and adopted, as appropriate, for various types of shoreline development, including the following: agriculture, aquaculture, forest management, commercial development, marinas, mining, outdoor advertising and signs, residential development, utilities, ports and water related industries, bulkheads, breakwaters, jetties and groins, landfills, solid waste disposal, dredging, shoreline protection, road and railroad design, piers, and recreation.
- C. Development of a permit system to further the goals and policies of both the Act and the local Master Program.

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

Purposes of the Shoreline Master Program

The Shoreline Management Act defines a Master Program as a "comprehensive use plan for a described area." The shoreline planning process differs from the more traditional planning process in that the

emphasis is on protecting the shoreline environment through management of uses. The purposes of this Master Program are:

- A. To carry out the responsibilities imposed on the City of Tacoma by the Washington State Shoreline Management Act (RCW 90.58).
- B. To promote uses and development of the City of Tacoma shoreline consistent with the City's Comprehensive Plan while protecting and restoring environmental resources.
- C. To promote the public health, safety, and general welfare by providing a guide and regulation for the future development of the shoreline resources of the City of Tacoma.

How to Use This Document

The following summary provides an overview of the Tacoma Shoreline Master Program (TSMP or Program) contents with a brief explanation of its general format and procedures.

Program Format

The City of Tacoma SMP includes goals, policies and regulations. The TSMP is a comprehensive plan for how shorelines should be used and developed over time. Goals, policies and regulations provide direction for shoreline users and developers on issues such as use compatibility, setbacks, public access, building height, parking locations, mitigation, and the like.

TSMP Chapter 1 introduces the purposes and intent of the Program, explains the City's authority to regulate shorelines and explains the Program's relationship to other ordinances and laws. Chapter 1 also explains the types of development the Program has jurisdiction over.

TSMP Chapter 2 Explains which activities are recognized as exempt or non-conforming and contains procedures and review criteria for substantial development permits, conditional use permits and shoreline variances as well as the administration of the Program's regulations and other legal provisions.

The general, goals and objectives are found in TSMP Chapter 3. Together they provide direction and context for the specific policies and regulations in the Program. Policies are broad statements of intention that are generally phrased using words such as "should." For example, "marinas and boat launch facilities should be designed in a manner that will reduce damage to fish and shellfish resources." In contrast, regulations are requirements that are necessary to implement the policies. For example, "New or expanding marinas with dredged entrances that adversely affect littoral drift to the detriment of other shores and their users shall be required to periodically replenish such shores with the requisite quantity and quality of aggregate as determined by professional coastal geologic engineering studies."

Shorelines designated as "shorelines of statewide significance" (SSWS) by the Shoreline Management Act (RCW 90.58) are listed in TSMP Chapter 4 (TSMP4.2), along with policies for their use. Shorelines of statewide significance are major resources from which all people of the state derive benefit. These areas must be managed to ensure optimum implementation of the Act's objectives.

TSMP Chapter 5 describes the shoreline jurisdiction consistent with state regulations as well as the shoreline environment designations that are applied to each shoreline reach. The environment designation section includes information on interpretation, purpose, management policies and general regulations such as buffers. The shoreline designations function similar to zoning districts in that they determine which uses are allowed, which are conditional, and which are prohibited in shoreline areas.

General policies and regulations that apply throughout the shoreline, in all shoreline districts and environment designations, are contained in TSMP Chapter 6. Provisions of this chapter address Shoreline use, site planning, archeological and historic resources, marine shoreline and critical areas protection, public access, vegetation conservation, views and Aesthetics, and water quality. The treatment of critical

areas in the shorelines, uses allowed in required buffers, and circumstances under which buffers may be modified are found in TSMP 6.4. Policies and regulations for public access including when and under what circumstances public access is required as part of a proposed project are contained in TSMP 6.5.

TSMP Chapter 7 includes policies and regulations for specific shoreline uses such as commercial, port, terminal, Industrial, transportation, and the like. Some developments may be subject to more than one of the subsections. TSMP includes policies and regulation addressing shoreline modifications, including shoreline armoring or bulkheads, dredging and filling, and moorage. Lastly, TSMP Chapter 8 includes policies and regulations that are specific to each shoreline district as well as a table of allowed and prohibited uses.

Initial Procedures

If you intend to develop or use lands adjacent to a shoreline of the state as defined in TSMP 4.1, consult first with Building and Land Use Services to determine if you need a shoreline permit; they will also tell you about other necessary government approvals. To find out if your proposal is permitted by the Program, first determine which shoreline district and shoreline environment designation applies to your site. Then check TSMP 2.3 to determine if your proposal is exempt from a shoreline permit. If not, refer to Table 9-2 to see if the proposed use is allowed outright, allowed as a conditional use or prohibited. Then refer to the policies and shoreline district regulations in TSMP Chapters 6 through 9. In some cases your proposal may be prohibited, but because of dimensional or other constraints, may be eligible for a shoreline variance (TSMP 2.3.5).

Although your proposal may be permitted by Program regulations or even exempt from specific permit requirements, all proposals must comply with all relevant policies and regulations of the entire Program as well as the general purpose and intent of the SMP.

For development and uses allowed under this Program, the City must find that the proposal is generally consistent with the applicable policies and regulations, unless a variance is to be granted. When your proposal requires a Letter of exemption, submit the proper application to the City's Permit Intake Center. Processing of your application will vary depending on its size, value, and features. Contact Building and Land Use Services for additional information.

1.2 Purpose and Intent

The purposes of this Tacoma Shoreline Master Program (TSMP) are:

1. To guide the future development of shorelines in the City of Tacoma in a positive, effective, and equitable manner consistent with the Washington State Shoreline Management Act of 1971 (the "Act") as amended (RCW 90.58).
2. To promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of Tacoma's shorelines; and
3. To ensure, at minimum, no net loss of shoreline ecological functions and processes and to plan for restoring shorelines that have been impaired or degraded by adopting and fostering the following policy contained in RCW 90.58.020, Legislative Findings for shorelines of the State:

"It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner, which, while allowing for limited reduction

of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto...

In the implementation of this policy 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. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent upon use of the State's shoreline. Alterations of the natural condition of the shorelines of the State, in those limited instances when authorized, shall be given priority for single family residences, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the State, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the State, and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the State.

Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water."

1.21.3 Title

This document shall be known and may be cited as the Tacoma Shoreline Master Program (the "Program", "Master Program" or "TSMP").

1.31.4 Governing Principles

1. The goals, policies, and regulations of this Program are intended to be consistent with the State shoreline guidelines in Chapter 173-26 of the Washington Administrative Code (WAC). The goals, policies and regulations are informed by the Governing Principles in WAC 173-26-186, and the policy statements of RCW 90.58.020.
2. Any inconsistencies between this Program and the Act must be resolved in accordance with the Act.
3. Regulatory or administrative actions contained herein must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.
4. The regulatory provisions of this Program are limited to shorelines of the state, whereas the planning functions of this Program may extend beyond the designated shoreline boundaries.
5. The policies and regulations established by the Program must be integrated and coordinated with those policies and rules of the Tacoma Comprehensive Plan and development

regulations adopted under the Growth Management Act (RCW 36.70A) and RCW 34.05.328, Significant Legislative Rules.

6. Protecting the shoreline environment is an essential statewide policy goal, consistent with other policy goals. This Program protects shoreline ecology from such impairments in the following ways:
 - a. By using a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by shorelines.
 - b. By including policies and regulations that require mitigation of adverse impacts in a manner that ensures no net loss of shoreline ecological functions. The required mitigation shall include avoidance, minimization, and compensation of impacts in accordance with the policies and regulations for mitigation sequencing in WAC 173-26-201(2)(e)(i), Comprehensive Process to Prepare or Amend Shoreline Master Programs.
 - c. By including policies and regulations to address cumulative impacts, including ensuring that the cumulative effect of exempt development will not cause a net loss of shoreline ecological functions, and by fairly allocating the burden of addressing such impacts among development opportunities.
 - d. By including regulations and regulatory incentives designed to protect shoreline ecological functions, and restore impaired ecological functions where such functions have been identified.

1.41.5 Adoption Authority

1. This Master Program is adopted under the authority granted by the Act and WAC Chapter 173-26.

1.51.6 Master Program Amendments

A. General

1. Any of the provisions of this Master Program may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173-26 WAC. Amendments or revision to the Master Program, as provided by law, do not become effective until approved by the Washington State Department of Ecology.
2. Proposals for shoreline environment re-designation (i.e., amendments to the shoreline maps and descriptions) must demonstrate consistency with the criteria set forth in TSMP 5.5.WAC 173-22-040.

B. Planning Commission

1. The Tacoma Planning Commission shall be responsible for hearing and making recommendations for action to the City Council on the following types of matters:
2. Amendments to the Shoreline Master Program. Any of the provisions of this Master Program may be amended as provided for in WAC 173-26-100.

C. City Council

1. The Tacoma City Council shall be responsible for making final determinations on amendments to the Shoreline Master Program, for review and approval by Ecology, which shall be adopted by ordinance. The Council shall enter findings and conclusions setting forth the factors it considered in reaching its decision.

D. State Department of Ecology

1. The duties and responsibilities of the Washington Department of Ecology shall include, but are not limited to the following:
 - a. Reviewing and approving Master Program amendments prepared by the City of Tacoma pursuant to WAC 173-26-120 (State Process for Approving/Amending Shoreline Master Programs). Amendments or revisions to the Master Program, as provided by law, do not become effective until approved by the Washington State Department of Ecology.
 - ~~b. Final approval and authority to condition or deny Shoreline Conditional Use Permits and Shoreline Variance Permits filed in the City of Tacoma.~~

1.61.7 Relationship to Other Plans and Regulations

1. Uses, developments and activities regulated by this Master Program may also be subject to the provisions of the Tacoma Comprehensive Plan, the Washington State Environmental Policy Act ("SEPA," Chapter 43.21C RCW and Chapter 197-11 WAC), other provisions of the Tacoma Municipal Code, including Title 13 Land Use Regulatory Code and various other provisions of local, state and federal law, as may be amended.
2. Pursuant to RCW 90.58, in the event this Program conflicts with other applicable City policies or regulations, all regulations shall apply and unless otherwise stated, the more restrictive provisions shall prevail.
3. Proponents of shoreline use/development shall comply with all applicable laws prior to commencing any shoreline use, development, or activity.
4. Where this Program makes reference to any RCW, WAC, or other state, or federal law or regulation the most recent amendment or current edition shall apply.

1.71.8 Applicability

1. The Act and this Program adopted pursuant thereto comprise the basic state and city law regulating use of shorelines in the City of Tacoma. In the event provisions of this Program conflict with other applicable city policies or regulations, the policies of the Act shall prevail.
2. All proposed uses and development occurring within shoreline jurisdiction must conform to the Shoreline Management Act and this Program. The policies and regulations of this Program apply to all shoreline uses and developments within shoreline jurisdiction whether or not a shoreline permit or statement of permit exemption is required.

3. This Master Program shall apply to all of the lands and waters within the City limits of Tacoma that fall under the jurisdiction of the Act. This includes the portions of the Puget Sound, the Puyallup River and Wapato Lake that meet the definition of ‘shorelines of the state.’
- ~~4.~~ 2. The City of Tacoma has established shoreline zoning districts to implement the goals and policies of the Master Program. These zoning districts are described in Chapter 9 of this Program and are regulated under TMC 13.10. In several instances, shoreline zoning has been expanded outside the jurisdiction of the Shoreline Management Act (shoreline jurisdiction is described in Chapter 4 of this program) in order to establish consistent use and development standards for adjacent lands. These are described in Chapter 9 for Districts S-1a, S-6, S-8 and S-15. In these circumstances new uses and development that are located entirely outside the shoreline jurisdiction but wholly within the shoreline zoning district shall be regulated under Chapters 13.05 and 13.06 of the Tacoma Municipal Code.
- ~~3.~~
- ~~4.5.~~ This Master Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or non-federal entity which develops, owns, leases, or administers lands, wetlands, or waters that fall under the jurisdiction of the Act.
- ~~5-6.~~ Classification of a use or development as permitted does not necessarily mean the use/development is allowed. It means the use/development may be allowed subject to review and approval by the City and/or the Department of Ecology. The City may attach conditions of approval to any permitted use via a permit or statement of exemption as necessary to assure consistency of the project with the Act and the Program.
- ~~6.~~ Federal agency actions must comply with this Master Program and the Act.
- ~~7.~~ Consistent with WAC 173-27-060, federal agency activities affecting the uses or resources subject to the Act must be consistent to the maximum extent practicable with the Act and this Program. The policies and provisions of this Program shall apply to all nonfederal developments and uses undertaken on federal lands and on lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.
- ~~8.~~ Pursuant to RCW 90-58-350, nothing in this chapter shall affect any rights established by treaty to which the United States is a party. The rights of treaty tribes to resources within their usual and accustomed areas should be accommodated.
- ~~7.~~ ~~Non federal agency actions undertaken on private lands must comply with this Master Program and the Act when such lands fall within the external boundaries of federally owned lands (e.g., private in holdings in the National Forest).~~

1.81.9 **Liberal Construction**

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

1.91.10 Severability

Should any section or provision of this program be declared invalid, such decision shall not affect the validity of this Program as a whole.

1.101.11 Effective Date

This Master Program shall take effect on _____ and shall apply to new applications submitted on or after that date and to incomplete applications submitted prior to that date.

1.111.12 Master Program Review

This Master Program shall be periodically reviewed and adjustments shall be made as are necessary to reflect changing local circumstances, new information or improved datae, and changes in State statutes and regulations. This review process shall be consistent with WAC 173-26 requirements and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

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CHAPTER 2 ADMINISTRATION

2.1 General Compliance

1. To be authorized under this Program, all uses and developments shall be planned and carried out in a manner that is consistent with the TMC and this Program regardless of whether a shoreline substantial development permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.
2. The City shall not issue any permit for development within shoreline jurisdiction until approval has been granted pursuant to the adopted Program.
3. A development or use that does not comply with the bulk, dimensional and/or performance standards of this Program shall require a shoreline variance even if the development or use does not require a substantial development permit.
4. A development or use that is listed as a conditional use pursuant to this Program, or is an unlisted use, must obtain a conditional use permit even if the development or use does not require a substantial development permit.
5. Issuance of a shoreline substantial development permit, shoreline variance or shoreline conditional use permit does not constitute approval pursuant to any other federal, state or City laws or regulations.
6. All shoreline permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Land Use Administrator, documenting compliance with bulk and dimensional policies and regulations of this Program. The Land Use Administrator may attach conditions to the approval as necessary to assure consistency with the RCW 90.58 and this Program. Such conditions may include a requirement to post a performance bond assuring compliance with permit requirements, terms and conditions.
7. Proposed actions that would alter designated critical areas or their buffers, as established by this Program (TSMP section 6.4) shall be reviewed for compliance with the provisions of this Program. Applicable critical area report and/or mitigation plan and/or habitat management plan shall be prepared consistent with the requirements of TSMP section 2.4.2 and submitted as part of the development application or request for statement of exemption. The critical area review shall be conducted and processed in conjunction with the highest threshold of review that is applicable to the primary development proposed:
 - a. Review pursuant to TSMP Section 2.3.3 (List of Exemptions);
 - b. Land Use Permit or Building Permit;
 - c. Excavation, Grading, Clearing and Erosion Control Permit;
 - d. SEPA Threshold Determination;
 - e. Shoreline Substantial Development Permit;

- f. Shoreline Conditional Use Permit; or
- g. Shoreline Variance.

2.2 Administrative Authority and Responsibility

A. Land Use Administrator

1. The Land Use Administrator shall have the authority to act upon the following matters:
 - a. Interpretation, enforcement, and administration of the City’s Shoreline Master Program as prescribed in this title;
 - b. Applications for Shoreline Management Substantial Development Permits as prescribed in this title;
 - c. Applications for Shoreline Conditional Use Permits as prescribed in this title;
 - d. Applications for Shoreline Variances as prescribed in this title;
 - e. Modifications or revisions to any of the above approvals.

2.3 Shoreline Permits and Exemptions

2.3.1 Shoreline Substantial Development Permit Required

1. A shoreline substantial development permit shall be required for all proposed use and development of shorelines unless the use or development is specifically identified as exempt from a substantial development permit.
2. The Land Use Administrator may grant a substantial development permit only when the development proposed is consistent with the policies and procedures of RCW.90.58; the provisions of WAC 173-27; and this Program.
3. In the granting of all shoreline substantial development permits, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area. For example, if shoreline substantial development permits were granted for other developments in the area where similar circumstances exist, the sum of the permitted actions should also remain consistent with the policy of RCW 90.58.020 and should not produce significant adverse effects to the shoreline ecological functions and processes or other users.

2.3.2 Exemptions from a Substantial Development Permit

1. All uses within shoreline jurisdiction must be consistent with the regulations of this Master Program whether or not they require a Shoreline Substantial Development Permit. An exemption from the Substantial Development Permit requirements does not constitute an exemption from the policies and use regulations of the Shoreline Management Act, the provisions of this Master Program, and other applicable City, state, or federal permit requirements.

2. The Land Use Administrator is hereby authorized to grant or deny requests for a letter of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in TSMP Section 2.3.3. Letters of exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and Act.
- ~~2. Uses and developments that are not considered substantial developments pursuant to RCW 90.58.030(3)(e), WAC 173-27-040 (List of Exemptions), and TSMP Section 2.3.3 shall not require a substantial development permit but shall conform to the policies and regulations of this Program.~~
3. If any part of a proposed development is not eligible for exemption as defined in RCW 90.58.030(3)(e), WAC 173-27-040 and TSMP Section 2.3.3, then a substantial development permit is required for the entire proposed development project.
4. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.
5. Exemptions shall not be issued for a series of inter-dependent activities that in sum would require a permit (i.e. a project cannot be submitted in a piece-meal fashion to avoid the requirement for a substantial development permit).
6. The burden of proof that a development or use is exempt is on the applicant or proponent of the development action.

2.3.3 Exemptions Listed

The following activities shall be considered exempt from the requirement to obtain a shoreline substantial development permit but shall obtain a statement of exemption, as provided for in Section 2.3.4:

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand seven hundred and eighteen dollars (\$5,718.00), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW [90.58.030](#) (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;
2. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not

limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment. Relocation and reconfiguration of the structure or development may be performed within the existing property boundaries if the relocation or reconfiguration results in a measurable and sustainable ecological improvement;

3. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the state department of fish and wildlife.
4. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Land Use Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter [90.58](#) RCW, these regulations, or this Program, shall be obtained. All emergency construction shall be consistent with the policies of chapter [90.58](#) RCW and this Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;
5. Construction or modification of navigational aids such as channel markers and anchor buoys;
6. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the City and state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter [90.58](#) RCW. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and

developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards (250 cy) and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program. Construction authorized under this exemption shall be located landward of the ordinary high water mark;

7. Construction of a dock, including a community dock, designed for pleasure craft only, for the private non-commercial use of the owner, lessee, or contract purchaser of a single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if either:
 - a. In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars (\$2,500.00); For purposes of this section salt water shall include the tidally influenced marine and estuarine water areas of the state including Puget Sound and all bays and inlets associated with such water body; or
 - b. In fresh waters the fair market value of the dock does not exceed ten thousand dollars (\$10,000.00), but if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500.00) occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.
8. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands;
9. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
10. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;
11. Any project with a certification from the governor pursuant to chapter [80.50 RCW](#) (certification from EFSEC);
12. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
 - a. The activity does not interfere with the normal public use of the surface waters;
 - b. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

- c. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
 - d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to pre-existing conditions; and
 - e. The activity is not subject to the permit requirements of RCW [90.58.550](#) (Oil & Natural Gas Exploration in Marine Waters);
13. The process of removing or controlling aquatic noxious weeds, as defined in RCW [17.26.020](#), through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department of ecology jointly with other state agencies under chapter [43.21C](#) RCW;
14. Watershed restoration projects as defined in Chapter 10. The City shall review the projects for consistency with this Program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. ~~Signs and public art projects approved by the City of Tacoma Arts Administrator that are no larger or taller than the allowance for free standing signs in the applicable Shoreline District in which they are located, provided that the installation does not degrade any stream, wetland and/or associated buffers and the proposal complies with sections 13.06.520, 13.06.521 and 13.06.522 of the TMC.~~
15. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:
- a. The project has been approved in writing by the state department of fish and wildlife;
 - b. The project has received hydraulic project approval by the state department of fish and wildlife pursuant to chapter [77.55](#) RCW; and
 - c. The City has determined that the project is substantially consistent with the shoreline master program. The City shall make such determination in a timely manner and provide it by letter to the project proponent.

2.3.4 Statement Letter of Exemption

~~1. The Land Use Administrator is hereby authorized to grant or deny requests for a letter of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in TSMP Section 2.3.3. Letters of exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and Act.~~

- 1. Exempt activities related to any of the following shall not be conducted until a letter of exemption has been obtained from the Land Use Administrator or designated signatory: dredging, flood control works, in-water structures, archaeological or historic site alteration,

clearing and ground disturbing activities such as filling and excavation, docks, shore stabilization, or activities determined to be located within a critical area or buffer.

2. Other activities specifically listed in TSMP Section 2.3.3 that do not involve one of the activities specified in Section 2.3.4(2) above, may be undertaken without a letter of exemption provided that notification of the action has been provided to the City. If the Land Use Administrator determines that the activity presents a substantial risk to cause detrimental impacts to shoreline functions, or that the activity requires a letter of exemption under 2.3.4 (2) above, a ~~Letter of e~~Exemption may be required.

~~The Land Use Administrator is hereby authorized to grant or deny requests for statements of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in TSMP Section 2.4.3. The statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the Land Use Administrator's analysis of the consistency of the project with this Program and the Act. Statements of exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and Act.~~

3. A Letter of Exemption shall expire one year after the date of issuance unless otherwise specified in the Letter of Exemption. The same measures used to calculate time periods for Shoreline Permits as set forth in WAC 173-27-090(3) shall be used for Letters of Exemption.

~~Exempt activities related to any of the following shall not be conducted until a statement of exemption has been obtained from the Land Use Administrator: dredging, flood control and in-water structures, archaeological or historic site alteration, clearing and ground disturbing activities such as filling and excavation, docks, shore stabilization, free standing signs, public art projects approved by the Arts Administrator, or activities determined to be located within a wetland, stream or FWHCA critical area and/or its buffer.~~

5. ~~No statement of exemption shall be required for other uses or developments exempt pursuant to TSMP 2.3.3 unless the administrator has cause to believe a substantial question exists as to qualifications of the specific use or development for the exemption or there is a likelihood of adverse impacts to shoreline ecological functions.~~

~~Whether or not a written statement of exemption is issued, all permits and decisions issued within the area of shorelines shall include a record of review actions prepared by the Administrator.~~

4. No written statement of exemption is required for emergency development pursuant to WAC 173-~~27~~44-040(2)(d).
5. A notice of decision for shoreline ~~statements~~letters of exemption shall be provided to the applicant/proponent and any party of record. Such notices shall also be filed with the Department of Ecology, pursuant to the requirements of WAC 173-27-050 when the project is subject to one or more of the following Federal Permitting requirements:
 - a. A U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899; or
 - b. A Section 404 permit under the Federal Water Pollution Control Act of 1972.

6. All applications for a letter of exemption shall provide at a minimum, the Joint Aquatic Resource Permit Application (JARPA). Information shall be provided that is sufficient for Land Use Administrator or designated signatory to determine if the proposal will comply with the requirements of this Program.
7. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial. ~~In accordance with TSMP Section 2.7,~~ The Land Use Administrator's decision on a statement of exemption is not subject to administrative appeal.

2.3.5 Shoreline Variance

1. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Program would impose unnecessary hardships on the applicant/proponent or thwart the policies set forth in RCW 90.58.020 and this program.
2. When a shoreline variance permit is requested, the Land Use Administrator shall be the final approval authority for the City. However, shoreline variance permits must have approval from the state. Department of Ecology shall be the final approval authority under the authority of WAC 173-27-200.
3. Shoreline variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in the SMA (RCW 90.58.020). In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.
4. The Land Use Administrator is authorized to grant a variance from the ~~performance~~ standards of this Program only when all of the following criteria are met (WAC 173-27-170).
 - a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;
 - b. That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;
 - c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;
 - d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - e. That the variance requested is the minimum necessary to afford relief; and
 - f. That the public interest will suffer no substantial detrimental effect.

5. Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:
 - a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;
 - b. That the proposal is consistent with the criteria established under subsection (3)(b) through (f) of this section; and
 - c. That the public rights of navigation and use of the shorelines will not be adversely affected.
6. In the granting of all shoreline variances, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area.
7. Before making a determination to grant a shoreline variance, the City shall consider issues related to the conservation of valuable natural resources, and the protection of views from nearby public roads, surrounding properties and public areas.
8. A variance from City development code requirements shall not be construed to mean a shoreline variance from shoreline master program use regulations and vice versa.
9. Shoreline variances may not be used to permit a use or development that is specifically prohibited in an environment designation.
10. The burden of proving that a proposed shoreline variance meets the conditions in this section and the criteria of this program shall be on the applicant. Absence of such proof shall be grounds for denial of the application.

2.3.6 Shoreline Conditional Use Permit

1. The purpose of the conditional use permit is to provide greater flexibility in varying the application of the use regulations of this Program in a manner which will be consistent with the policies of RCW 90.58, particularly where denial of the application would thwart the policies of the Shoreline Management Act.
2. When a conditional use is requested, the Land Use Administrator shall be the final approval authority for the City. However, shoreline conditional uses must have approval from the state. Department of Ecology shall be the final approval authority under the authority of WAC 173-27-200.
3. Conditional use permits shall be authorized only when they are consistent with the following criteria:
 - a. The proposed use is consistent with the policies of RCW 90.58.020, WAC 173-27-160 and all provisions of this Program;
 - b. The use will not interfere with normal public use of public shorelines;

- c. The proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located;
 - d. 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 comprehensive plan and this Program;
 - e. The public interest will suffer no substantial detrimental effect;
 - f. Consideration has been given to cumulative impact of additional requests for like actions in the area.
4. Other uses which are not classified or set forth in this Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Program.~~Other uses not set forth in the shoreline master program may be authorized through a conditional use permit if the applicant can demonstrate that the proposed use is consistent with the purpose of the shoreline environment designation and compatible with existing shoreline improvements.~~ However, uses specifically prohibited by this master program shall not be authorized.
 5. The burden of proving that a proposed shoreline conditional use meets the criteria of this program in WAC 173-27-160 shall be on the applicant. Absence of such proof shall be grounds for denial of the application.
 6. The City is authorized to impose conditions and standards to enable a proposed shoreline conditional use to satisfy the conditional use criteria.

2.3.7 Ecology Review

1. Ecology shall be notified of any Substantial Development, Conditional Use or Variance Permit decisions made by the Land Use Administrator (or Hearing Examiner when required pursuant to TMC 13.05.060), whether it is an approval or denial. The notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a Substantial Development Permit and either Conditional Use or Variance Permit are required for a development, the submittal of the permits shall be made concurrently. The Land Use Administrator shall file the following with the Department of Ecology and Attorney General:
 - a. A copy of the complete application per WAC 173-27-180;
 - b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable Master Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);
 - c. The final decision of the City;
 - d. The permit data sheet per WAC 173-27-990;
 - e. Affidavit of public notice; and

- f. Where applicable, the Land Use Administrator shall also file the applicable documents required by the State Environmental Policy Act (RCW 43.21C).
2. When the project has been modified in the course of the local review process, plans or text shall be provided to Ecology that clearly indicates the final approved plan.
3. If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and notify the City and the applicant in writing. Ecology will not act on Conditional Use or Variance Permit submittals until the material requested in writing is submitted to them.
4. Ecology shall convey to the City and applicant its final decision approving, approving with conditions, or disapproving the permit within thirty days (30) of the date of submittal by the City. The Land Use Administrator will notify those interested persons having requested notification of such decision.
5. Ecology shall base its determination to approve, approve with conditions or deny a Conditional Use Permit or Variance Permit on consistency with the policy and provisions of the SMA, the criteria listed in WAC 173-27 and this Program.
6. No construction pursuant to a substantial development permit, shoreline variance, or shoreline conditional use authorized by this program shall begin or be authorized and no building, grading or other construction permits shall be issued by the City until twenty-one (21) days from the date of receipt by the applicant and the City of Ecology’s decision or until all review proceedings are terminated.

2.3.8 Request for Reconsideration

1. A request for reconsideration may be made on any decision or ruling of the Land Use Administrator by any aggrieved person or entity having standing under this chapter.
2. Requests for reconsideration shall be made in accordance with TMC 13.05.040.

2.3.82.3.9 Relief from Development Standards and Use Regulations

1. The City may grant relief from Program development standards and use regulations when a shoreline restoration project causes or would cause a landward shift in the ordinary high water mark, resulting in one of the following:
 - a. Land that had not been regulated under this Program being brought into shoreline jurisdiction; or
 - b. Additional regulatory requirements applying due to a landward shift in required shoreline buffers or other regulations; or
 - c. Application of shoreline master program regulations would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent;

2. The relief shall be proposed by the land use administrator and must be the minimum necessary to relieve the hardship; result in a net environmental benefit from the restoration project; and be consistent with the objectives of the restoration project and consistent with this Program.
3. Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under this section; and
4. The application for relief must be submitted to the State Department of Ecology for written approval or disapproval. This review must occur during the department's normal review of a shoreline substantial development permit, conditional use permit, or variance. If no such permit is required, then Ecology shall conduct its review when the City provides a copy of a complete application and all supporting information necessary to conduct the review.

2.4 Minimum Permit Application Submittal Requirements

2.4.1 General Requirements

Pursuant to WAC 173-27-180, all applications for a shoreline substantial development permit, conditional use, or variance shall provide, at a minimum, the following information: ÷

1. The name, address and phone number of the applicant. The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.
2. The name, address and phone number of the applicant's representative if other than the applicant.
3. The name, address and phone number of the property owner, if other than the applicant.
4. Location of the property. This shall, at a minimum, include the property address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location.
5. Identification of the name of the shoreline (water body) that the site of the proposal is associated with. This should be the water body from which jurisdiction of the act over the project is derived.
6. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.
7. A general description of the property as it now exists including its physical characteristics and improvements and structures.
8. A general description of the vicinity of the proposed project including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics.

9. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:
 - a. The boundary of the parcel(s) of land upon which the development is proposed.
 - b. The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.
 - c. Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.
 - d. A delineation of all wetland areas that will be altered or used as a part of the development.
 - e. A general indication of the character of vegetation found on the site.
 - f. The dimensions and locations of all existing and proposed structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.
 - g. Where applicable, a landscaping plan for the project.
 - h. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.
 - i. Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.
 - j. Quantity, composition and destination of any excavated or dredged material.
 - k. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.
 - l. Where applicable, a depiction of the impacts to views from existing residential uses and public areas.
 - m. On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances

on the property that provide a basis for the request, and the location of adjacent structures and uses.

- 10. The Land Use Administrator may accept a JARPA in lieu of these submittal requirements where applicable.
- 11. The Land Use Administrator may waive permit submittal requirements on a case by case basis and may request additional information as necessary.

2.4.2 Critical Areas

A. Shoreline Critical Areas Review

- 1. City staff will provide an initial site review based on existing information, maps and a potential site visit to identify marine buffers, wetlands, streams, FWHCA, and their associated buffers within 300 feet of a proposed project. The review distance for FWHCA management areas will be based on the type of priority habitat or species and WDFW recommendations. Site reviews are completed on a site by site basis and the City may provide preliminary information or require an applicant provide information regarding the ordinary high water mark location, wetland delineation, wetland categorization, stream type, hydrology report, or priority fish and wildlife species and habitat presence information. Formal Priority Habitats and Species (PHS) information is available from WDFW.
- 2. The Building and Land Use Services Division may utilize information from the United States Department of Agriculture Natural Resource Conservation Service, the United States Geological Survey, the Washington Department of Ecology, the Coastal Zone Atlas, the Washington Department of Fish and Wildlife stream maps and Priority Habitat and Species maps, Washington DNR Aquatic Lands maps, the National Wetlands Inventory maps, Tacoma topography maps, the City’s Generalized Wetland and Critical Areas Inventory maps, and Pierce County Assessor’s maps to establish general locations and/or verify the location of any wetland, or stream, or FWHCA site. The City’s Generalized Wetland and Critical Area Inventory maps and other above-listed sources are only guidelines available for reference. The actual location of critical areas must be determined on a site by site basis according to the classification criteria.
- 3. The Land Use Administrator shall determine whether application for a shoreline permit or exemption will be required to include the marine shoreline and critical areas information specified in 2.4.2(B), below.
- 4. The Land Use Administrator may require additional information on the physical, biological, and anthropogenic features that contribute to the existing ecological conditions and functions to make this determination.

B. Application Requirements

- 1. Application for any shoreline development permit for a project or use which includes activities within a marine shoreline buffer, wetland, stream, fish and wildlife habitat conservation area (FWHCA) or their associated buffer shall comply with the provisions of this section and shall contain the following information:

- a. ~~A Joint Aquatic Resources Permit Application and including, but not limited to, a description of the proposal, vicinity map for the project and identification of all the local, state and/or federal related permit(s) required for the project.~~
- b. A surveyed site plan that includes the following:
 - i. Parcel line(s), north arrow, scale and two foot contours.
 - ii. Location and square footage for existing and proposed site improvements including, utilities, stormwater and drainage facilities, construction and clearing limits, and off-site improvements. Include the amounts and specifications for all draining, excavation, filling, grading or dredging.
 - iii. The location and specifications of barrier fencing, silt fencing and other erosion control measures.
 - iv. Base flood elevation, floodplain type and boundary and floodways, if site is within a floodplain.
 - v. Critical Areas including all surveyed, delineated wetland boundaries, and the ordinary high water mark of any stream and their buffers, and all Fish and Wildlife Conservation Areas (FWHCA), marine buffers and any FWHCA Management Areas.
 - vi. The square footage of the existing critical areas and buffers located on-site and the location and square footage of any impacted areas.
 - vii. Locations of all data collection points used for the field delineation and general location of off-site critical areas and any buffer that extends onto the project site. Location and dominant species for significantly vegetated areas.
 - a. The location and square footage of impact areas, mitigation areas and remaining critical areas and buffers; including areas proposed for buffer modification.
- c. A Critical Area report prepared by a qualified professional. -The report must include the following where appropriate:
 - i. Delineation, characterization and square footage for critical areas on or within 300 feet of the project area and proposed buffer(s). Delineation and characterization is based on the entire critical area. When a critical area is located or extends off-site and cannot be accessed, estimate off-site conditions using the best available information and appropriate methodologies.
 - Wetland Delineations will be conducted in accordance with the current manual designated by the Department of Ecology, including federally approved manuals and supplements.

- The wetland characterization shall include physical, chemical, and biological processes performed as well as aesthetic, and economic values and must use a method recognized by local or state agencies. Include hydrogeomorphic and Cowardin wetland -type.
 - Ordinary high water mark determination shall be in accordance with methodology from the Department of Ecology.
 - Priority species and habitat identification shall be prepared according to professional standards and guidance from the Washington Department of Fish and Wildlife. Depending on the type of priority species, the review area may extend beyond 300 feet.
- ii. Field data sheets for all fieldwork performed on the site. The field assessment shall identify habitat elements, rare plant species, hydrologic information including inlet/outlets, water depths, and hydro-period patterns based on visual cues, and/or staff/crest gage data.
- iii. Provide a detailed description of the project proposal including off-site improvements. Include alterations of ground or surface water flow, clearing and grading, construction techniques, materials and equipment, and best management practices to reduce temporary impacts.
- iv. Assess potential direct and indirect physical, biological, and chemical impacts as a result of the proposal. Provide the square footage for the area of impact with the analysis. The evaluation must consider cumulative impacts.
- v. Identification of priority species/habitats and any potential impacts. Incorporate Washington State Department of Fish and Wildlife and/or US Department of Fish and Wildlife management recommendations where applicable. When required, plan shall include at a minimum the following:
- Special management recommendations which have been incorporated and any other mitigation measures to minimize or avoid impacts, including design considerations such as reducing impacts from noise and light.
 - Ongoing management practices which will protect the priority species and/or habitat after development, including monitoring and maintenance programs.
- vi. A hydrologic report or narrative demonstrating that pre and post development flows to wetlands and streams will be maintained.
- vii. Runoff from pollution generating surfaces proposed to be discharged to a critical area shall receive water quality treatment in accordance with the current City's Surface Water Management Manual, where applicable. Water quality treatment and monitoring may be required irrespective of the thresholds established in the manual. Water quality treatment shall be

required for pollution generating surfaces using all known, available and reasonable methods of prevention, control and treatment.

viii. Studies of potential flood, erosion, geological or any other hazards on the site and measures to eliminate or reduce the hazard.

b. ~~A technical report that identifies and characterizes all critical areas, including wetlands, streams, fish and wildlife conservations areas and their associated priority species and/or habitats, water bodies, shorelines, marine buffer areas, floodplains and associated buffers on or adjacent to the project area. For areas off site but within 300 feet of the project boundaries, estimate conditions using best available information. Review for priority species may extend beyond 300 feet and will be based on WDFWs published management recommendations for each species. The report shall include the following:~~

~~i. The name, qualifications, and contact information for the primary author(s);~~

~~ii. Documentation of any fieldwork performed on the site, including field data sheets for delineations, functional assessments, baseline hydrologic data, etc. Wetland Delineations shall be prepared according to the currently adopted Department of Ecology, Washington State Wetlands Identification and Delineation Manual; FWHCA Delineations and ordinary high water mark shall be prepared according to professional standards;~~

~~iii. A description of the methodologies used to conduct the wetland delineations, functional assessments, or impact analyses including references;~~

~~iv. The appropriate wetland rating, stream type, type of priority species and/or habitat, any critical marine resources, any WDFW management recommendations and required buffers for each critical area identified;~~

~~v. A characterization of the marine shoreline or critical area including but not limited to size, rating and classification will be based on the entire system, not only the portions present on the project site;~~

~~vi. For wetlands, the Cowardin classification and hydrogeomorphic classification, habitat elements, and to the extent possible hydrologic information such as location of inlet/outlets (if they can be legally accessed), estimate water depths and hydro period patterns within the wetland based on visual cues (e.g. algal mats, drift lines, flood debris, etc.);~~

~~vii. A discussion of the proposed project and the potential direct and indirect physical and biological impacts;~~

~~viii. A hydrologic study or narrative as required by staff, for the wetland or stream identifying the contributing basin and demonstrating that pre and post development flows will be maintained;~~

~~Demonstration that all runoff from pollution generating surfaces discharging to shorelines, wetlands, streams or FWHCA shall receive water quality treatment in accordance with the current City's Surface~~

~~Water Management Manual. Water quality treatment is required for all sites irrespective of the thresholds established in this Manual;~~

~~x.ix. Documentation of the presence of contaminated sediments or soils if publically available and a description of planned management actions, and~~

~~i. Any other information deemed necessary to verify compliance with the provisions of this chapter.~~

~~b. A copy of the site plan sheet(s) for the project must be included with the written report and must include, at a minimum:~~

~~i. A surveyed site plan that identifies the development proposal, all shorelines of the state and marine buffers, critical areas and their associated buffers including square footage estimates for critical areas, buffers, and areas of proposed impacts. The on-site marine buffer shall be surveyed and based on the ordinary high water mark. Wetland boundaries shall be surveyed and based upon a wetland delineation. On-site stream boundaries shall be surveyed and based on the stream's ordinary high water mark;~~

~~ii. Buffers for off-site critical areas that extend onto the project site;~~

~~iii. The development proposal including the location of proposed utilities including stormwater management facilities, specification of all proposed draining, excavation, filling, grading and dredging; and~~

~~iv. Two foot contours, terrain, and drainage flow, significantly vegetated areas and dominate vegetation, existing site improvements/structures, drainage control facilities (natural and artificial), existing utilities above and below ground where appropriate and required by the City.~~

~~d. For shoreline permits that will have impacts to Wetland/Stream/FWHCA or marine buffers, the additional following information is required;~~

~~i. A description of reasonable efforts made to apply mitigation sequencing pursuant to TSMP Section 6.4.2(C);~~

~~ii. An analysis of site development alternatives including a no development alternative that demonstrates why the use or development requires a buffer reduction and the minimum reduction necessary to support the use or development;~~

~~iii. An assessment and documentation of the shoreline and/or critical areas functional characteristics, along with its ecological, aesthetic, economic, and other values. Functional analysis must be done using a functional assessment method recognized by local or state agency staff and shall include a reference for the method and all data sheets.~~

~~iv. An assessment of the probable cumulative impacts resulting from the proposed development;~~

- v. A mitigation plan for impacts associated with actions. The mitigation plan must be in conformance with the General Mitigation Requirements under TSMP Section 6.4.2(C) and (D) as well as the specific mitigation requirements contained in this section;
 - vi. A study of potential flood, erosion or other hazards on the site and provisions for protective measures that might be taken to reduce such hazards as required by City staff; and
 - vii. A Construction Stormwater Pollution Prevention Plan that shall be submitted by the applicant in accordance with the current City's Surface Water Management Manual.
- e. For development proposals that will have impacts to an FWHCA or marine buffer, a habitat management plan, biological evaluation, or equivalent shall be submitted. The report shall incorporate the items within this section and shall also include at a minimum:
- i. Analysis and discussion of the project's effects on critical fish and wildlife habitat;
 - ii. An assessment and discussion on special management recommendations which have been developed for species or habitats located on the site by any federal or state agency;
 - iii. Proposed mitigation measures which could minimize or avoid impacts and are consistent with 6.4.2(C);
 - iv. An assessment and evaluation of the effectiveness of mitigation measures proposed; and
 - v. An assessment and evaluation of ongoing management practices which will protect critical fish and wildlife habitat after development of the project site, including proposed monitoring and maintenance programs.
- f. In the event of conflicts regarding information in the report, the Land Use Administrator may, at the applicant's expense, obtain competent expert services to verify information and establish a final delineation;
2. ~~Technical-Critical Area~~ reports shall be submitted and the Land Use Administrator shall review all information submitted as to its validity and may reject it as incomplete or incorrect. All ~~technical~~ reports shall be prepared by a qualified professional as defined in TSMP Chapter 10.
3. The Land Use Administrator may waive permit submittal requirements on a case by case basis and may request additional information as necessary to ensure compliance with this Master Program and the Act.

2.4.3 Boating Facilities

1. Application Requirements. Applications for new boating facilities, including marinas and launch ramps, shall be approved only if enhanced public access to public waters outweighs the potential adverse impacts of the use. Applications shall be accompanied by supporting application materials that document the market demand for such facilities, including
 - a. The total amount of moorage proposed;
 - b. The proposed supply, as compared to the existing supply within the service range of the proposed facility, including vacancies or waiting lists at existing facilities;
 - c. The expected service population and boat ownership characteristics of the population;
 - d. Existing approved facilities or pending applications within the service area of the proposed new facility.
2. New marinas with in-water moorage and expansion of in-water moorage facilities in existing marinas shall be approved only when:
 - a. Opportunities for upland storage sufficient to meet the demand for moorage are not available on site.
3. Applications for launch ramps shall contain:
 - a. A habitat survey;
 - b. A slope bathymetry map;
 - c. Evaluation of effects on littoral drift.
4. Applications for marinas, launch ramps, and accessory uses shall include an assessment of existing water-dependent uses in the vicinity including, but not limited to, navigation, fishing, shellfish harvest, pleasure boating, swimming, beach walking, picnicking and shoreline viewing and document potential impacts and mitigating measures. Impacts on these resources shall be considered in review of proposals and specific conditions to avoid or minimize impacts may be imposed.
5. Marina and launch ramp proposals may be required to prepare a visual assessment of views from surrounding residential properties, public viewpoints and the view of the shore from the water surface.

2.4.4 Moorage Facilities

1. As part of any application for shoreline substantial development that involves the construction of piers, wharves, docks, and floats, the applicant shall provide the following:
 - a. Environmental and navigational impact, pier density, waste disposal, oil and gas spillage, parking availability, and impact on adjacent lands;
 - b. Whether cooperative use is present or may be present in the future;

- c. Whether existing facilities may be used or expanded to be used in preference to the construction of new facilities. New facilities should require a demonstration of public benefit as appropriate;
- d. Whether an open pile or floating structure is the appropriate design.

2.4.5 Major Utilities

1. Application Requirements. Application requirements for the installation of major utility facilities shall include the following:
 - a. Description of the proposed facilities;
 - b. Reasons why the utility facility requires a shoreline location; Alternative locations considered and reasons for elimination; Location of other utility facilities in the vicinity of the proposed project and any plans to include the other types of utilities in the project;
 - c. Plans for reclamation of areas disturbed both during construction and following decommissioning and/or completion of the useful life of the utility;
 - d. Plans for control of erosion and turbidity during construction and operation; and Identification of any possibility for locating the proposed facility at another existing location.

2.4.6 Archaeological, Cultural and Historic Resources

A. Known Archaeological, Cultural and Historic Resources

1. Applications for a shoreline permit shall identify whether the property is within 500 feet of a site known to contain an historic, cultural or archaeological resource(s). Records of known sites are restricted. Consultation with Washington Department of Archaeology and Historic Preservation or a certified archaeologist will be required. If the property is determined to be within 500 feet of a site known to contain an historic, cultural, or archaeological resources, the City shall require a cultural resource site assessment; provided that, the provisions of this section may be waived if the Land Use Administrator determines that the proposed development activities do not include any ground disturbing activities and will not impact a known historic, cultural or archaeological site. The site assessment shall be conducted in accordance with Washington State Department of Archaeology and Historic Preservation guidelines for survey and site reporting to determine the presence of significant historic or archaeological resources. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible party.
2. If the cultural resource site assessment identifies the presence of significant historic or archaeological resources, a Cultural Resource Management Plan (CRMP) shall be prepared by a professional archaeologist or historic preservation professional ~~shall be paid~~ by the landowner or responsible party. In the preparation of such plans, the professional archaeologist or historic preservation professional shall solicit comments from the Washington State Department of Archaeology and Historic Preservation, and the Puyallup Tribe. Comments received shall be incorporated into the conclusions and recommended conditions of the CRMP to the maximum extent practicable.

3. A CRMP shall contain the following minimum elements:
 - a. The CRMP shall be prepared by a qualified cultural resources consultant, as defined by the Washington State Department of Archaeology and Historic Preservation.
 - b. The CRMP shall include the following information:
 - i. Description of the Area of Potential Effect (APE) for the project, including a general description of the scope of work for the project and the extent and locations of ground disturbing activities. Ground disturbing activities include excavations for footings, pilings, utilities, environmental testing or sampling, areas to be cleared and/or graded, demolition, removal or relocation of any existing structures, and any other ground disturbances that may occur as a result of construction activities.
 - ii. Photographs of the APE, including existing structures and areas of construction activities.
 - iii. An examination of project on-site design alternatives;
 - iv. An explanation of why the proposed activity requires a location on, or access across and/or through, a significant historic or archaeological resource; and
 - v. Citations with dates, of any previous written documentation on listed or known culturally significant sites. In compiling this information consultations with the following agencies shall be necessary. A list of the agency officials that were consulted with shall be included:
 - State Department of Archaeology and Historic Preservation to identify buildings, sites or objects within the APE that are listed on or the National Register of Historic Places or the Washington State Heritage Register.
 - City of Tacoma Historic Preservation Office to identify any buildings, sites, or objects within the APE listed on the Tacoma Register of Historic Places.
 - The Puyallup Tribe of Indians Historic Preservation Section to identify any buildings, sites, or objects within the APE within the 1873 Land Claims Settlement Survey Area, and areas regulated under TMC 13.10 Shoreline Management.
 - vi. An assessment of probable adverse impacts to culturally significant buildings, sites or objects, resulting from:
 - Demolition of any buildings or structures over 50 years of age.
 - The potential for the site to contain historic or prehistoric archaeological materials, based on the topography of the property, historical literature, geological data, geographical context, or proximity to areas of known cultural significance.

- vii. A description of how potential adverse effects to cultural resources as a result of construction activities will be mitigated or minimized. Mitigation includes but is not limited to:
 - Additional consultation with Federal, State, local and Tribal officials or Tacoma Landmarks Commission.
 - Additional studies such as pedestrian surveys, subsurface testing, remote sensing, phased or periodic testing as a part of any geotechnical assessment or soil testing required for the project, or monitoring during construction.
 - Subject to review and approval of the City’s Historic Preservation Officer other potential mitigation measures may include:
 - Avoidance of historic/cultural resources
 - Retention of all or some of historic structure into a new development
 - Interpretive/educational measures
 - Off-site/on site preservation of another historic resource
 - Recording the site with the State Department of Archaeology and Historic Preservation, or listing the site in the National Register of Historic Places, Washington Heritage Register, as applicable, or any locally developed historic registry formally adopted by the City of Tacoma;
 - Preservation in place;
 - Reinterment in the case of grave sites;
 - Covering an archaeological site with a nonstructural surface to discourage pilferage (e.g., maintained grass or pavement); Excavation and recovery of archaeological resources;
 - Inventorying prior to covering of archaeological resources with structures or development; and
 - Monitoring of construction excavation.
4. Upon receipt of a complete development permit application in an area of known historic/archaeological resources, the City shall notify and request a recommendation from appropriate agencies such as the Washington State Department of Archaeology and Historic Preservation, and the Puyallup Tribe. Recommendations of such agencies and other affected persons shall be duly considered and adhered to whenever possible and reasonable.
 5. The recommendations and conclusions of the CRMP shall be used to assist the Administrator in making final administrative decisions concerning the presence and extent of historic/archaeological resources and appropriate mitigating measures. The Administrator shall consult with the Washington State Department of Archaeology and Historic Preservation, and the Puyallup Tribe prior to approval of the CRMP.
 6. The Administrator may reject or request revision of the conclusions reached in a CRMP when the Administrator can demonstrate that the assessment is inaccurate or does not fully address the historic/archaeological resource management concerns involved.

B. Unanticipated Discovery of Archaeological, Cultural and Historic Resources

1. All applications for a shoreline permit shall prepare a plan for the possible unanticipated discovery of historic, cultural or archaeological resource(s), including a point of contact, procedure for stop-work notification, and for notification of appropriate agencies.

2.5 Non-Conforming Uses and Development

A. Nonconforming Uses

1. Nonconforming uses include shoreline uses which were lawfully established prior to the effective date of the Act or this Master Program, or amendments thereto, but which do not conform to the present regulations or standards of this Program. The continuance of a nonconforming use is subject to the following standards:
 - a. Change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status, provided that the use does not change or intensify;
 - b. Additional development or use of any property on which a nonconforming use exists shall ~~require that all new uses conform to this Master Program and the Act.~~ Limited expansion of a nonconforming use may occur subject to 2.5 (B) (3) below;
 - c. If a nonconforming use is converted to a conforming use, no nonconforming use may be resumed;
 - d. A nonconforming use which is moved any distance must be brought into conformance with the Master Program and the Act;
 - e. A nonconforming use may convert to another nonconforming use of a similar intensity, through a conditional use permit, provided the conversion does not increase any detrimental impact to the shoreline environment;
 - f. When the operation of a nonconforming use is vacated or abandoned for a period of 12 consecutive months or for 18 months of any 3-year period, the nonconforming use rights shall be deemed extinguished and the future use of such property shall be in accordance with the permitted and conditional use regulations of the Shoreline District in which it is located;
 - g. If a nonconforming use is damaged by fire, flood, explosion, or other natural disaster such use may be resumed at the time the building is repaired; Provided, such restoration shall be undertaken within 18 months following said damage;
 - h. Normal maintenance and repair of a nonconforming use ~~or structure~~ may be permitted provided all work is consistent with the provisions of this Program.

B. Nonconforming Structures

1. Nonconforming structures includes shoreline structures which were lawfully constructed or placed prior to the effective date of the Act or the Master Program, or amendments thereto, but which do not conform to present bulk, height, dimensional, setback, or density requirements. ~~Existing nonconforming structures shall be considered permitted for the purposes of this Program and may continue even though the structures fail to conform to the~~

~~present requirements of the district in which they are located.~~ A legally nonconforming structure may be maintained as follows:

- a. If a nonconforming structure or development is damaged by fire, flood, explosion, or other natural disaster and the damage is less than seventy-five percent (75%) of the replacement cost of the structure or development, it may be restored or reconstructed to those configurations existing at the time of such damage, provided:
 - i. The rebuilt structure shall not expand the footprint or height of the damaged structure;
 - ii. No degree of relocation shall occur, except to increase conformity or to increase ecological function, in which case the structure shall be located in the least environmentally damaging location possible;
 - iii. The submittal of applications for permits necessary to restore the development is begun within eighteen (18) months of the damage. The Land Use Administrator may waive this requirement in situations with extenuating circumstances; and
 - iv. The reconstruction is commenced within one (1) year of the issuance of permits. The Land Use Administrator may allow a one (1) year extension.
 - b. Except where otherwise specified in this Program, if a non-conforming structure or development is damaged by fire, flood, explosions, or other natural disaster and the damage exceeds seventy-five percent (75%) of the replacement cost of the original structure or development, all reconstructed or restored structures shall conform to the provisions of this Program and all applicable City codes. Where the strict application of this provision may result in a ‘taking’ the Administrator may permit the restoration or reconstruction of the structure to those configurations existing at the time of such damage through a shoreline variance.
 - c. A nonconforming building or structure may be repaired and maintained as provided in and as limited by this section. The maintenance of such building or structure shall include only necessary repairs and incidental alterations, which alterations, however, shall not extend the nonconformity of such building or structure; provided that necessary alterations may be made as required by other law or ordinance.
 - d. Changes to interior partitions or other nonstructural improvements and repairs may be made to a nonconforming structure; provided that the cost of the desired improvement or repair does not exceed one-half of the replacement cost of the nonconforming structure over any consecutive five-year period, with replacement cost determined according to the Building Code.
2. ~~A nonconforming building or structure, nonconforming as to the bulk, dimensional and density requirements of this title,~~ with a conforming use, may be added to or enlarged if such addition or enlargement conforms to the regulations of the shoreline environment and district in which it is located. In such case, such addition or enlargement shall be treated as a separate building or structure in determining conformity to all of the requirements of this title, ~~and shall be subject to the following:~~

3. A conforming or nonconforming structure with a nonconforming use may expand in the following limited circumstances:

- a. The Land Use Administrator may allow a one time expansion of ~~nonconforming~~ overwater structures of up to ten (10) percent of the total square footage of the structure, provided there is no increase in overwater area or shading, or overall height of the structure and the expansion is consistent with all other provisions of this Program. The applicant shall record notice on Title.
- b. Minor expansions, up to ten (10) percent of the total square footage of the structure, may be permitted when necessary to provide public access, to facilitate environmental restoration, or to meet building safety codes. The applicant shall record notice on Title.

4. No other expansion may occur which extends or otherwise increases the nonconformity.

C. Nonconforming Lots

1. Undeveloped lots, tracts, parcels, or sites located landward of the ordinary high water mark that were established prior to the effective date of the Act and the Master Program, or amendments thereto, but that do not conform to the present lot size or density standards are considered nonconforming lots of record and are legally buildable subject to the following conditions:

- a. All new structures or additions to structures on any nonconforming lot must meet all setback, height and other construction requirements of the Master Program and the Act.
- b. Parcel modifications, such as a boundary line adjustment, property combinations, segregations, and short and long plats shall be allowed, without need for a variance, to modify existing parcels that are nonconforming to minimum lot size requirements, such as minimum area, width or frontage, as long as such actions would make the nonconforming parcel(s) more conforming to the minimum lot size requirements and would not create any new or make greater any existing nonconformities.

2.6 Public Notice Requirements

- A. Public notice for applications shall be provided in accordance with TMC 13.05 Land Use Permit Procedures. This may include mailed public notice, posting signs on the site, newspaper notice and notice to qualified neighborhood groups. The public shall be provided with opportunity to comment upon applications in accordance with TMC 13.05.

2.7 Appeals

A. Shoreline Hearings Board

- 1. Appeals of any final permit decision may be made to the Shorelines Hearing Board as governed by the procedures established in RCW 90.58.180 (Appeals from Granting, Denying, or Rescinding Permits) and WAC 461-08 (Practice and Procedure, Review of the Granting, Denying or Rescinding of Substantial Development Permits, Hearings). All

appeals of any final permit decision must be made to the Shorelines Hearing Board within twenty-one (21) days after the date of filling of receipt of the City's or Ecology's final decision concerning the shoreline permit or formal approval or revisions of the permit.

2.8 Enforcement

A. Enforcement

1. The enforcement provisions of RCW 90.58.210 through 90.58.230 and WAC 173-27-240 through 173-27-310 shall apply.
2. The Shoreline Management Act calls for a cooperative enforcement program between local and state government. It provides for both civil and criminal penalties, orders to cease and desist, orders to take corrective action and permit rescission. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action, the benefits that accrue to the violator, and the cost of obtaining compliance may also be considered.
3. The Land Use Administrator, and/or authorized representative, shall have the authority to enforce the land use regulations of the City of Tacoma in accordance with the TMC 13.05.100.

B. Penalties

1. Any person found to have willfully engaged in activities on the City's shorelines in violation of the Shoreline Management Act of 1971 or in violation of the City's Shoreline Master Program, rules or regulations adopted pursuant thereto shall be subject to the penalty provisions of the TMC 13.05.100.

CHAPTER 3 GOALS AND OBJECTIVES

3.1 Overarching Shoreline Goal of the City of Tacoma

Develop the full potential of Tacoma's shoreline in accord with the unusual opportunities presented by its relation to the City and surrounding area, its natural resource values, and its unique aesthetic qualities offered by water, topography, views, and maritime character; and to develop a physical environment which is both ordered and diversified and which integrates water, shipping activities, and other shoreline uses with the structure of the City while achieving a net gain of ecological function.

3.2 Shoreline Land Use

The shoreline use element considers the use and development of shorelines and adjacent land areas for housing, business, industry, transportation, recreation, education, public institutions, utilities and other categories of public and private land use with respect to the general distribution, location and extent of such uses and developments.

3.2.1 Shoreline Land Use Goal

To preserve and develop shorelines in a manner that allows for an orderly balance of uses.

3.2.2 Shoreline Land Use Objectives

1. Encourage new water-dependent, water-related, and water-enjoyment uses in priority order.
2. Support the City Comprehensive Plan policies as they relate to the shoreline
3. Implement regulations and standards in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.
4. Encourage mixed use developments that include and support water-oriented uses and provide a substantial public benefit consistent with the public access and ecological restoration goals and policies of the Act.
5. Balance the location, design, and management of shoreline uses throughout the city to prevent a net loss of shoreline ecological functions and processes over time.
6. Encourage shoreline uses and development that enhance shoreline ecological functions and/or processes or employ innovative features that further the purposes of this Program.
7. Discourage new non-water-oriented industrial uses from locating inside shoreline jurisdiction, in order to reserve adequate land supply to serve future water-dependent and water-related industrial uses.
8. Support the long-term and widespread economic contribution of our international container ports and related industrial lands and transportation systems, and ensure that container ports continue to function effectively alongside vibrant city waterfronts.
9. Encourage shoreline uses and development that enhance and/or increase public access to the shoreline.

3.3 Economic Development

The economic development element provides for the location and design of industries, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent upon a shoreline location and/or use of the shorelines of the state.

3.3.1 Economic Development Goal

To create and maintain a dynamic and diversified economic environment that can coexist harmoniously with the natural and human environments.

3.3.2 Economic Development Objectives

1. ~~Encourage new economic uses in priority order.~~ Preference should be given to water-dependent uses. Secondary preference should be given to water-related and water-enjoyment uses.
2. Encourage new economic development to locate in areas that are already developed with similar uses.
3. Encourage new economic uses that create family wage jobs and employment.
- ~~3.4.~~ Ensure that only those new industries that are either water-dependent or water-related operate in the shoreline area.
- ~~4.5.~~ Implement economic development policies contained in the Comprehensive Plan in shoreline areas consistent with this Program and the Act.
- ~~5.6.~~ Encourage economic development that has minimal adverse effects and mitigates unavoidable impacts upon shoreline ecological functions and processes and the built environment.
- ~~6.7.~~ Support the long-term and widespread economic contribution of our international container ports and related industrial lands and transportation systems, and ensure that container ports continue to function effectively alongside vibrant city waterfronts.
- ~~7.8.~~ Encourage shoreline development that has a positive effect upon economic and social activities of value to the City and region.

3.4 Conservation

The shoreline conservation element provides for the protection of natural resources, and shoreline ecological functions and processes. Resources to be conserved and protected include, but are not limited to, wetlands; riparian, nearshore, and aquatic habitats; priority fish and wildlife habitats and species; floodplains; feeder bluffs and other geological features; cultural and historic resources; as well as scenic vistas and aesthetics.

3.4.1 Conservation Goal

To conserve shoreline resources and important shoreline features, and protect shoreline ecological functions and the processes that sustain them to the maximum extent practicable.

3.4.2 Conservation Objectives

1. Ensure new shoreline developments achieve no net loss of shoreline ecological functions and processes.
2. Prioritize protection and/or conservation of shoreline areas that are ecologically intact and minimally developed or degraded.
3. Acquire or otherwise protect a maximum amount of prime habitat for conservation purposes.
4. Conserve urban open space to provide habitat for wildlife and native plants.
5. Require that all shoreline uses conform to applicable federal, state, and local laws and regulations relating to environmental quality and resource protection.
6. Encourage public and private property owners to protect beneficial shoreline plants and animals.
7. Conserve, to the greatest extent feasible, the streams and ravines, steep slopes, and the anadromous fish runs of Commencement Bay and the City of Tacoma.

3.5 Restoration

This element provides for the timely restoration and enhancement of ecologically impaired areas in a manner that achieves a net gain in shoreline ecological functions and processes above baseline conditions as of the adoption of this Program.

3.5.1 Restoration Goal

To re-establish, rehabilitate and/or otherwise improve impaired shoreline ecological functions and/or processes through voluntary and incentive-based public and private programs and actions that are consistent with the Shoreline Master Program Restoration Plan and other approved restoration plans.

3.5.2 Restoration Objectives

1. Restore, replenish, and maintain publically-owned shoreline beach properties to as natural a condition as possible.
2. Overtime the City will strive to reduce the total amount of shoreline armoring and restore natural shoreline functions.
3. Identify, enhance and restore shoreline areas that have exceptional geological, ecological or biological significance, or are required to support publically-owned natural resources, or are required for resource conservation and improvements to urban life.
4. Coordinate with federal and State agencies that have jurisdiction over fish and wildlife resources.
5. Encourage and facilitate voluntary, cooperative restoration and enhancement programs between local, state, and federal public agencies, tribes, non-profit organizations, and landowners to address shorelines with impaired ecological functions and/or processes.

6. Direct restoration and enhancement efforts towards improving the habitat of priority wildlife species.
7. Ensure restoration and enhancement is consistent with and, where practicable, prioritized based on the biological recovery goals for early Chinook, bull trout populations and other species and/or populations for which a recovery plan is available.
8. Integrate restoration and enhancement with other parallel natural resource management efforts such as the WRIA 10 and 12 Salmon Habitat and Protections Strategy, Lower Puyallup Watershed Action Plan, NRDA Trustees Commencement Bay Natural Resource Restoration Plan, and the Puget Sound Salmon Recovery Plan.

3.6 Flood Prevention and Flood Damage Minimization

This element provides for minimization and/or prevention of flood damages within the City of Tacoma shoreline jurisdiction

3.6.1 Flood Prevention and Flood Damage Minimization Goal

Protect shoreline resources and shoreline development and ensure public safety through land use controls and implementation of federal, state and local flood hazard programs, development standards and building codes.

3.6.2 Flood Prevention and Flood Damage Minimization Objectives

1. Manage flood protection in accordance with the City’s current flood hazard regulations; Sections 2.12.040 through 2.12.050, Flood Hazard and Coastal High Hazard Areas, and Chapter 12.08 Surface Water Management Manual of the TMC for general and specific flood hazard protection.
2. Participate in regional efforts on flood protection issues, coordinating with the Federal Emergency Management Agency (FEMA), the State of Washington, Pierce County as well as other jurisdictions, particularly those with jurisdiction of the Puyallup River and neighboring Puget Sound shorelines.
3. Discourage development in floodplains, channel migration zones and coastal high hazard areas associated with the City’s shorelines that would individually or cumulatively result in an increased risk of flood damage.
4. Give preference to flood hazard avoidance and non-structural flood hazard reduction measures over structural measures.

3.7 Archaeological, Historic, and Cultural Resources

The archaeological, historic, cultural element provides for protection, preservation and/or restoration of buildings, sites, and areas having archaeological, historic, or cultural value or significance.

3.7.1 Archaeological, Historic and Cultural Resources Goal

Protect and enhance shoreline features of archaeological, historic, and cultural value or significance and to preserve these features for the public benefit through coordination and consultation with the appropriate local, state and federal authorities, including affected Indian tribes.

3.7.2 Archaeological, Historic and Cultural Resources Objectives

1. Recognize the importance of the waterfront to Tacoma's history and character.
2. Recognize the high probability that development may encounter archaeological, historic and cultural resources, and ensure that appropriate measures are taken to protect, preserve, and enhance sites and features of archaeological, historic, and cultural value or significance.
3. Collaborate on cultural resource management issues with the appropriate tribal, state, federal and local governments and entities.
4. Encourage cooperation between public and private entities in the identification, protection and management of cultural resources.
5. Where appropriate, make access to such sites available to parties of interest, provided that access to such sites must be designed and managed in a manner that gives maximum protection to the resource.
6. Provide opportunities for education related to archaeological, historical and cultural features where appropriate and incorporated into public and private programs and development.

3.8 Public Access

The public access element provides for public access to publicly owned or privately owned shoreline areas where the public is granted a right of use or access.

3.8.1 Public Access Goal

To increase the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and/or to view the water and the shoreline from adjacent locations, provided that private rights, the public safety, and shoreline ecological functions and processes are protected consistent with the U.S. and State constitutions, state case law, and state statutes.

3.8.2 Public Access Objectives

1. Establish public access to and along the City's shorelines that is safe and compatible with adjacent and planned uses. ~~to the maximum extent feasible.~~
2. Develop a ~~continuous~~ system of vistas, view areas, view corridors, scenic drives, trails, and bike paths that capitalize on Tacoma's unique relationship to Puget Sound.
3. The City should take full advantage of public access opportunities throughout the City's shorelines as identified in an adopted public access plan.
4. Establish a linear system of public access along the Tacoma shoreline, starting with high-density intensive-use urban activity on the Thea Foss Waterway, moving to moderate-use paved walkways on Schuster Parkway, to an intensive-use, multimodal pathway along Ruston Way, to a moderate-intensity promenade in Point Defiance Park from the boathouse to Owen Beach, and finally to a completely natural beach walk from Owen Beach to Salmon Beach.

5. Locate, design, manage and maintain public access in a manner that protects shoreline ecological functions and processes and public health and safety.
6. Design and manage public access in a manner that ensures compatibility with water-oriented uses.
7. Encourage cooperation among the City, landowners, developers, other agencies and organizations to enhance and increase public access to shorelines as specific opportunities arise. Provide for diverse shoreline access and recreational experiences for the citizen's of the City of Tacoma and the Puget Sound region.
8. Design public access sites to provide continuity of site details to increase the ability of the public to discern public from private spaces.

3.9 Recreation

The recreation element provides for the preservation and expansion of water-oriented recreational opportunities that facilitate the public's ability to enjoy the physical and aesthetic qualities of the shoreline through parks, public access to tidelands and beaches, bicycle and pedestrian paths, viewpoints and other recreational amenities.

3.9.1 Recreation Goal

To provide opportunities, spaces, and appropriate facilities for diverse forms of water-oriented recreation that takes advantage of the unique waterfront setting.

3.9.2 Recreation Objectives

1. Locate only water-oriented recreational uses in the shoreline area.
2. Locate, design, manage and maintain recreation uses and facilities in a manner that protects shoreline ecological functions and processes and public health and safety.
3. Locate, design, and operate recreational development in a manner that minimizes adverse effects on adjacent properties as well as other social, recreational, or economic activities.
4. Provide recreation opportunities that meet the diverse needs and interests of the citizens of Tacoma and distribute recreation facilities throughout the City's shorelines to serve the City's many neighborhoods and employment centers.
- ~~4.5.~~ Acquire additional recreation areas and public access areas with a high recreation value prior to demand to assure that sufficient shoreline recreation opportunities are available to serve future recreational needs.
- ~~5.6.~~ Encourage cooperation among public agencies, non-profit groups, and private landowners and developers to increase and diversify recreational opportunities through a variety of means including incorporating water-oriented recreational opportunities into mixed use developments and other innovative techniques.
- ~~6.7.~~ Recognize and protect the interest of all people of the state by providing increased recreational opportunities within shorelines of statewide significance and associated shorelands.

7.8. Encourage private and public investment in recreation facilities.

3.10 Transportation and Essential Public Facilities

The transportation and essential public facilities element provides for the general location and extent of existing and proposed public thoroughfares, transportation routes, terminals, and other public utilities and facilities.

3.10.1 Transportation and Essential Public Facilities Goal

To provide transportation systems and essential public facilities in shoreline areas without adverse effects on existing shoreline use and development or shoreline ecological functions and/or processes.

3.10.2 Transportation and Essential Public Facilities Objectives

1. Locate, develop, manage, and maintain transportation systems and essential public facilities in a manner that protects shoreline ecological functions and processes.
2. Locate and design transportation systems and essential public facilities to be harmonious with the existing and future economic and social needs of the community.
3. Discourage the development of non-water-dependent transportation systems and essential public facilities unless no feasible alternatives exist.
4. Encourage alternate modes of travel and provide multiple use transportation corridors where compatible in association with shoreline transportation development.
5. Require transportation systems and essential public facility development in shoreline areas to protect and enhance physical and visual shoreline public access.
6. Develop a coherent network of motorized and non-motorized transportation facilities that relate the circulation system more closely to the shoreline area that it serves.
7. Protect the public's right to use navigable waters, together with the right to use state-owned Harbor Areas for the development of landings, wharves, and associated facilities.

3.11 View and Aesthetics

This element provides for preservation and/or protection of scenic vistas, views of the water, and other aesthetic qualities of shorelines for public enjoyment.

3.11.1 View and Aesthetics Goals

To assure that the public's ability and opportunity to enjoy shoreline views and aesthetics is protected.

3.11.2 View and Aesthetics Objectives

1. Preserve, to the greatest extent feasible, the public's opportunity to enjoy the physical and aesthetic qualities of the City's shorelines.
2. Identify and protect areas with scenic vistas and areas where the shoreline has high aesthetic value.

3. Minimize adverse impacts from new development on views from public property or views enjoyed by a substantial number of residences.
4. Enhance the shoreline's positive and distinct features, unify shoreline areas visually, and give definition to sub-areas.
5. Encourage design details such as form, scale, proportion, color, materials, and texture to be compatible with shoreline areas wherever feasible.
6. Improve the appearance of the shoreline for those who live and work there and make it a more attractive and interesting place to visit.
7. Design shoreline areas for a variety of uses and users and to improve accessibility to all of Tacoma's residents.
8. Design and locate new shoreline uses to take full advantage of the waterfront views and location.

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CHAPTER 4 SHORELINES OF THE STATE

4.1 Shoreline Jurisdiction

Per the SMA (RCW 90.58.030), the shoreline area to be regulated under the City of Tacoma's TSMP includes all "shorelines of statewide significance", "shorelines of the state" and their adjacent shorelands, defined as the upland area within 200 feet of the OHWM, as well as any associated wetlands. "Associated wetlands" means those wetlands that are in proximity to and either influence or are influenced by tidal waters or lake or streams subject to the SMA (WAC 173-22-030(1)).

So as to avoid any duplication of regulation between the TSMP and TMC 13.11 Critical Areas, associated wetlands and their buffers shall be regulated solely under the TSMP; where the buffer of an unassociated wetland is determined to overlap shoreline jurisdiction, that portion of the buffer that is within shoreline jurisdiction shall be regulated solely under the TSMP, whereas the area outside shoreline jurisdiction shall be regulated by TMC 13.11.

The City's shoreline jurisdiction is also required to include, at a minimum, the floodway and contiguous areas of the 100-year floodplain landward 200 feet from such floodways (RCW 90.58.030(f)). Under SMA (RCW 90.58.030(f)(i) and (ii)), the City may determine that portion of the 100-year floodplain to be included in its master program provided the minimum required extent, noted in RCW 90.58.030(f) is included. The City may also include those critical areas buffers regulated under TMC 13.11, that are located landward of the minimum shoreline extent required under SMA.

For the purposes of this Program, shoreline jurisdiction shall include designated floodways and the minimum 100-year floodplain, as outlined above, that are within 200 feet of the designated floodway. Areas of the 100-year floodplain that are landward beyond 200 feet from the floodway are not included in the shoreline jurisdiction and are not regulated by this Program.

Water bodies in Tacoma regulated under the SMA and this Program include the marine shorelines of Puget Sound and Commencement Bay, the Puyallup River, and Wapato Lake. Portions of Hylebos Creek in the City are also regulated under this Program. The Puyallup River and marine areas waterward of extreme low tide are designated as "shorelines of statewide significance." Wapato Lake and marine areas landward of extreme low tide are designated as "shorelines of the state." For non-SMA streams, only that portion of the stream that is located within shoreline jurisdiction shall be regulated by this Program.

For other critical areas that occur within shoreline jurisdiction, such as geologically hazardous areas, only that portion of the critical area and its buffer that is within 200' of the ordinary high water mark (OHWM) of a marine or freshwater shoreline shall be regulated by this Program. That portion of the critical area that occurs outside 200' of the OHWM shall be regulated by TMC 13.11. To avoid dual regulatory coverage of a critical area by the TSMP and TMC 13.11 Critical Areas, TMC 13.11 shall not apply to any portion of a critical area and/or its buffer that is within the jurisdiction of this Program.

4.2 Designation of Shorelines of Statewide Significance

In accordance with RCW 90.58.030(2)(f), the following City of Tacoma shorelines are designated shorelines of statewide significance:

1. The Puyallup River and associated shorelands within the City boundary consistent with RCW 90.58.030(2)(f)(v)(A) and (vi); and
2. Those areas of the Puget Sound and Commencement Bay within the City lying seaward from the line of extreme low tide.-

4.3 Statewide Interests Protected

In accordance with RCW 90.58.020, the City shall manage shorelines of statewide significance in accordance with this section and in accordance with this Program as a whole. Preference shall be given to uses that are consistent with the statewide interest in such shorelines. Uses that are not consistent with this section or do not comply with the other applicable policies and regulations of this Program shall not be permitted on shorelines of statewide significance. In managing shorelines of statewide significance, The City of Tacoma shall:

1. Recognize and protect the statewide interest over local interest;
2. Preserve the natural character of the shoreline;
3. Seek long-term benefits 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.

4.4 Policies for Shorelines of Statewide Significance

The statewide interest should be recognized and protected over the local interest in shorelines of statewide significance. To ensure that statewide interests are protected over local interests, the City shall review all development proposals within shorelines of statewide significance for consistency with RCW 90.58.020 and the following policies:

1. Redevelopment of shorelines should be encouraged where it restores or enhances shoreline ecological functions and processes impaired by prior development activities.
2. The Washington Departments of Fish and Wildlife and Ecology, the Puyallup Tribe, and other resource agencies should be consulted for development proposals that could affect anadromous fisheries.
3. The range of options for shoreline use should be preserved to the maximum possible extent for succeeding generations. Development that consumes valuable, scarce or irreplaceable natural resources should not be permitted if alternative sites are available.
4. Potential short term economic gains or convenience should be measured against potential long term and/or costly impairment of natural features.
5. Protection or enhancement of aesthetic values should be actively promoted in new or expanding development.
6. Resources and ecological systems of shorelines of statewide significance should be protected.

7. Those limited shorelines containing unique, scarce and/or sensitive resources should be protected to the maximum extent feasible.
8. Erosion and sedimentation from development sites should be controlled to minimize adverse impacts on ecosystem processes. If site conditions preclude effective erosion and sediment control, excavations, land clearing, or other activities likely to result in significant erosion should be severely limited.
9. Public access development in extremely sensitive areas should be restricted or prohibited. All forms of recreation or access development should be designed to protect the resource base upon which such uses in general depend.
10. Public and private developments should be encouraged to provide trails, viewpoints, water access points and shoreline related recreation opportunities whenever possible. Such development is recognized as a high priority use.
11. Development not requiring a waterside or shoreline location should be located upland so that lawful public enjoyment of shorelines is enhanced.
12. Lodging and related facilities should be located upland and provide for appropriate means of access to the shoreline.

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CHAPTER 5 SHORELINE ENVIRONMENT DESIGNATIONS

5.1 Introduction

The intent of designating shoreline environment is to encourage development that will enhance the present or desired character of the shoreline. To accomplish this, segments of shoreline are given an environment designation based on existing development patterns, natural capabilities and limitations, and the aspirations of the local community. Environment designations are categories that reflect the type of development that has occurred, or should take place in a given area. The scheme of classifications represents a relative range of development, from high to low intensity land use, and targets types of development to specific areas. The environment classification scheme is intended to work in conjunction with local comprehensive planning and zoning.

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

5.2 Authority

Local governments are required, under the Washington State Shoreline Management Act of 1971 through WAC 173-26, to develop and assign a land use categorization system for shoreline areas as a basis for effective Shoreline Master Programs. The state's Shoreline Master Program Guidelines describe the purpose of environment designations in WAC 173-26-191(1)(d): Shoreline management must address a wide range of physical conditions and development settings along shoreline areas. Effective shoreline management requires that the Shoreline Master Program prescribe different sets of environmental protection measures, allowable use provisions, and development Regulations for each of these shoreline segments.

The method for local government to account for different shoreline conditions is to assign an environment designation to each distinct shoreline section in its jurisdiction. The environment designation assignments provide the framework for implementing shoreline policies and regulatory measures specific to the environment designation.

5.3 Shoreline Environment Designations

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

1. Aquatic
2. Natural

3. Residential
4. Urban Conservancy
5. High Intensity
6. Downtown Waterfront

5.4 Official Shoreline Environment Designation Map

5.4.1 Map Established

The location and extent of areas under the jurisdiction of this Master Program, and the boundaries of the various shoreline environments affecting the lands and waters of the City shall be ~~as shown on the map included as Figure 5-1 and~~ entitled, “Official Shoreline Environments Designation Map, City of Tacoma, Washington.” The official shoreline map and all the notations, references, and amendments thereto and other information shown thereon are hereby made a part of this Master Program, just as if such information set forth on the map were fully described and set forth herein.

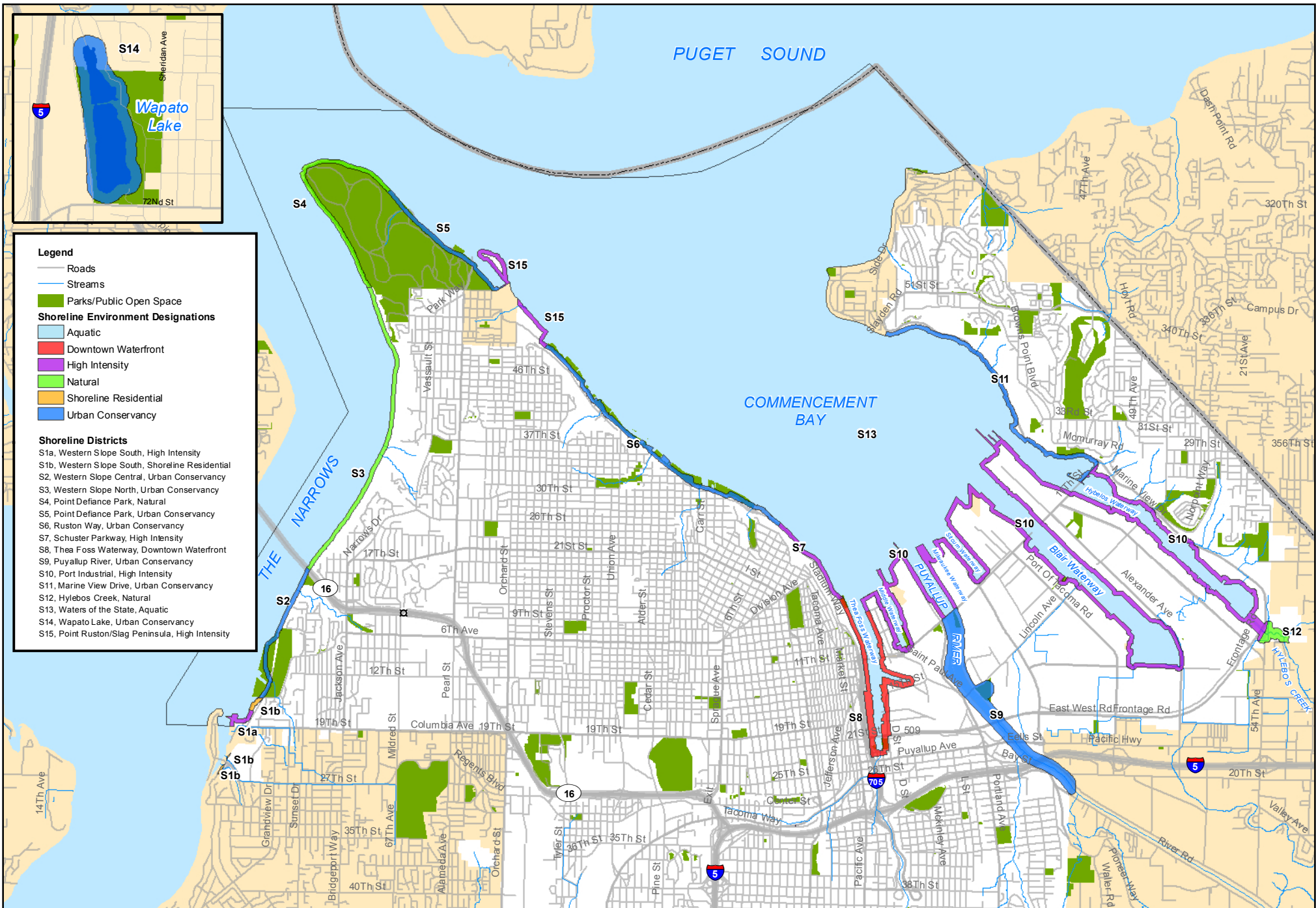
In the event that new shoreline areas are discovered (e.g., associated wetlands) that are not mapped and/or designated on the official shoreline map, these areas are automatically assigned a Natural designation if they include critical areas, or, if no critical areas are included, an Urban Conservancy designation shall be applied until the shoreline can be re-designated through an TSMP amendment (WAC 173-26-211(2)(e)).

5.4.2 File Copies

The official shoreline district maps shall be kept on file in the office of the City of Tacoma Building and Land Use Services Division, ~~and the Washington State Department of Ecology, and the Washington State Code reviser.~~ Unofficial copies of the map may be prepared for administrative purposes. To facilitate use of this Master Program unofficial shoreline district maps and boundary descriptions are provided in TSMP Chapter 9. An unofficial city-wide Shoreline Environment Designations map is included with this Program as Appendix A.

5.4.3 Map Amendments

The designation map is an integral part of this Master Program and may not be amended except upon review and approval by the City and the Washington State Department of Ecology, as provided under the Shoreline Management Act. A change in use or condition of shorelines, shall not, in and of themselves, constitute the basis for amending the designations map.



Legend

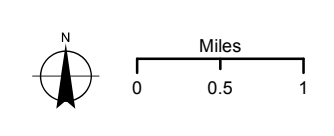
- Roads
- Streams
- Parks/Public Open Space

Shoreline Environment Designations

- Aquatic
- Downtown Waterfront
- High Intensity
- Natural
- Shoreline Residential
- Urban Conservancy

Shoreline Districts

- S1a. Western Slope South, High Intensity
- S1b. Western Slope South, Shoreline Residential
- S2. Western Slope Central, Urban Conservancy
- S3. Western Slope North, Urban Conservancy
- S4. Point Defiance Park, Natural
- S5. Point Defiance Park, Urban Conservancy
- S6. Ruston Way, Urban Conservancy
- S7. Schuster Parkway, High Intensity
- S8. Thea Foss Waterway, Downtown Waterfront
- S9. Puyallup River, Urban Conservancy
- S10. Port Industrial, High Intensity
- S11. Marine View Drive, Urban Conservancy
- S12. Hylebos Creek, Natural
- S13. Waters of the State, Aquatic
- S14. Wapato Lake, Urban Conservancy
- S15. Point Ruston/Slag Peninsula, High Intensity



Map data are the property of the sources listed below. Inaccuracies may exist, and Adolfson Associates, Inc. implies no warranties or guarantees regarding any aspect of data depiction.

SOURCE: City of Tacoma GIS, 2009; King County, 2005; Pierce County, 2005-2008.

**Figure 5-1: SHORELINE ENVIRONMENT DESIGNATIONS
TACOMA SHORELINE MASTER PROGRAM UPDATE
TACOMA, WASHINGTON**

5.4.4 Boundary Interpretation

A. Boundary Interpretation

1. If disagreement develops as to the exact location of a shoreline environment designation boundary line shown on the Official Shoreline Map, the following rules shall apply:
 - a. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.
 - b. Boundaries indicated as approximately following roads or railways shall be respectively construed to follow their centerlines.
 - c. Boundaries indicated as approximately parallel to or extensions of features indicated in (1) or (2) above shall be so construed.
 2. Whenever existing physical features are inconsistent with boundaries on the Official Shoreline Map, the ~~Shoreline Land Use~~ Administrator shall interpret the boundaries, with deference to actual conditions. Appeals of such interpretations may be filed pursuant to the applicable appeal procedures described in TMC 13.05.040~~Chapter 2, Administrative Provisions~~.
- 2.3. In the event of a mapping error, the jurisdiction will rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2) and chapter 173-22 WAC pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map.

B. Split Zoning

1. Whenever a zone boundary line passes through a single unified parcel of land as indicated by record of the Pierce County Auditor as of the adoption of the Shoreline Management Act and such parcel is of an area equal to the minimum requirements of either zone, the entire parcel may be used in accordance with the provisions of the least restrictive of the two zones; provided, more than 50 percent of the parcel is located within the least restrictive of the two zones.
2. Whenever a shoreline jurisdiction boundary line passes through a single unified parcel of land as indicated by record of the Pierce County Auditor as of the adoption of the Shoreline Management Act, the shoreline zone may be applied to the whole parcel where the conditions in (a) above are met; in no instance shall non-shoreline zoning be applied to that portion of the parcel that is within shoreline jurisdiction.

5.5 Shoreline Environment Designations

The following section contains purpose statements, designation criteria and management policies for each of the six shoreline environment designations established by this Program. Areas included in each shoreline environments are listed in this section and shown in TSMP Chapter 9. The management policies are implemented through use regulations and development standards included in Table 9-2 and TSMP Chapters 6 through 9.

5.5.1 Natural Environment

A. Purpose

The purpose of the "natural" environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of this designation, the City of Tacoma should plan for the restoration of degraded shorelines within this environment.

B. Areas Proposed for Designation

1. District S-3 Western Slope North
2. District S-4 Point Defiance – Natural
3. District S-12 Hylebos Creek

C. Designation Criteria

The "natural" environment designation is assigned to shoreline areas that have the following characteristics:

1. The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;
2. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or
3. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

D. Management Policies

1. Preservation of the area's ecological functions, natural features and overall character must receive priority over any other potential use. Uses should not degrade shoreline ecological functions or processes or the natural character of the shoreline area.
2. New development or significant vegetation removal that would reduce the capability of the shoreline to perform a full range of ecological functions or processes should not be permitted.
3. Private and/or public enjoyment of natural shoreline areas should be encouraged and facilitated through low intensity recreational, scientific, historical, cultural, and educational research uses such as walking/hiking trails, provided that no significant ecological impact on the area will result.
4. Beaches, sea cliffs, and forests ~~shall~~ should be retained in their natural state.

5.5.2 Aquatic Environment

A. Purpose

The purpose of the "aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the marine areas waterward of the ordinary high-water mark.

B. Areas Proposed for Designation

1. District S-13 Marine Waters of the State

C. Designation Criteria

The "aquatic" environment designation is assigned to marine waters below the ordinary high-water mark and the underlying lands.

D. Management Policies

1. Uses

- a. Limit new uses and activities within the Aquatic environment, with few exceptions, to water-dependent uses and public access/recreational improvements designed to provide access to the shoreline for a substantial number of people.
- b. ~~Permit w~~Water-enjoyment and water-related uses may be permitted on/in existing over-water buildings.
- c. ~~Permit n~~Non-water oriented uses should only be permitted on/in existing over-water structures ~~only~~ where they are in support of water-oriented uses and the size of the use is limited to the minimum necessary to support the structure's intended use.
- d. New uses and development in the Aquatic environment that have an upland connection should also be consistent with the permitted uses in the adjacent upland shoreline designation and district. Uses prohibited in the upland shoreline district should not be permitted overwater.
- e. Aquatic uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrologic conditions including sediment transport and benthic drift patterns.
- f. Water oriented recreational uses in the aquatic environment should not detrimentally impact the operations of existing water-dependent port, terminal and industrial uses.

2. New Over-Water Structures

- a. ~~Permit n~~New over-water structures may be permitted only for water-dependent uses, restoration projects, public access, or emergency egress. New over-water structures must show significant public benefits. ~~Pursuant to this policy, upper story balconies or cantilevered decks may be permitted for the purpose of dedicated public access if attached to an existing legally established building, provided that ecological functions are not impacted.~~
- b. New overwater structures for non-water-dependent uses, including residential, restaurants, hotels and office buildings, should be strictly prohibited. Prohibit non-water dependent uses on new overwater structures.

~~e. New overwater residential uses are strictly prohibited.~~

~~d.c. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.~~

~~e.d. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.~~

3. Reuse of Over-water Structures

~~a. Permit minor expansions, up to ten (10) percent of the total square footage of the structure, of existing over-water structures when necessary to provide public access, to facilitate environmental restoration, or to meet building safety codes.~~

a. Refurbish or rebuild existing piers and wharves along Thea Foss Waterway and Ruston Way to maintain a modern-day link with the community’s maritime history.

b. Develop, in coordination with the Foss Waterway Development Authority, a moorage float and dock facility for passenger-only ferries and other seasonal commercial tour vessels at the Municipal Dock site on the Thea Foss Waterway.

4. Design Elements

a. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to be compatible with adjacent aquatic and upland uses, and to consider impacts to public views.

5. Environmental Protection

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

b. Remove abandoned over-water structures when they no longer serve their permitted use unless:

i. Retaining such structures provides a net environmental benefit, for example, artificial reef effect of concrete anchors; or

ii. Such structures can be reused in a manner that helps maintain the character of the City’s historic waterfront; or

iii. Removing such structures would have substantial potential to release harmful substances into the waterways despite use of reasonable precautions.

5.5.3 Shoreline Residential Environment

A. Purpose

The Shoreline Residential designation accommodates residential development and accessory structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

B. Areas Proposed for Designation

1. District S-1b Western Slope South – Shoreline Residential

C. Designation Criteria

The "shoreline residential" environment designation is assigned to shoreline areas in the city if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.

D. Management Policies

Development within Shoreline Residential shoreline areas shall be consistent with the following policies:

1. New development should be designed and located to preclude the need for shoreline armoring, flood control works, vegetation removal and other shoreline modifications.
2. The scale and density of new uses and development should be compatible with the existing residential character of the area while sustaining or enhancing shoreline ecological functions and processes.
3. Public outdoor recreation facilities should be encouraged if compatible with the character of the area. Preferred uses include water-dependent and water-enjoyment recreation facilities that provide opportunities for substantial numbers of people to access and enjoy the shoreline.
4. Commercial development should be limited to water-oriented uses.
5. Low impact development should be implemented to the maximum extent possible to avoid and minimize impacts to water quality and quantity.
6. Multi-family residential, multi-lot (4 or more lots) and recreational developments should provide shoreline areas for joint use, and public access to the shoreline.
7. Establishment of native vegetation within a required buffer to slow surface and ground water movement and for improvement of the near-shore function including habitat and natural resources should be a priority.

5.5.4 Urban Conservancy Environment

A. Purpose

The "urban conservancy" environment is intended to protect and restore the public benefits and ecological functions of open spaces, natural areas, restoration sites, and other sensitive lands where they exist within the City, while allowing a variety of compatible uses. It is the most suitable designation for shoreline areas that possess a specific resource or value that can be protected without excluding or severely restricting all other uses. It should be applied to those areas that would most benefit the public if their existing character is maintained, but which are

also able to tolerate limited or carefully planned development or resource use. Permitted uses may include recreational, cultural and historic uses provided these activities are in keeping with the goals of protection and restoration as stated.

B. Areas Proposed for Designation:

1. District S-2 Western Slope Central
2. District S-5 Point Defiance – Urban Conservancy
3. District S-6 Ruston Way
4. District S-9 Puyallup River
5. District S-11 Marine View Dr.
6. District S-14 Wapato Lake

C. Designation Criteria

The "urban conservancy" environment designation is assigned to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring the ecological functions of the area and that are not generally suitable for water-dependent uses, if any of the following characteristics apply:

- a. They are suitable for water-related or water-enjoyment uses;
- b. They are open space or other sensitive areas that should not be more intensively developed;
- c. They have potential for ecological restoration;
- d. They retain important ecological functions, even though partially developed; or
- e. They have the potential for development that is compatible with ecological restoration.

D. Management Policies

1. Permitted uses should be those that would preserve the natural character of the area and/or promote the protection and restoration of ecological function within critical areas and public open spaces, either directly or over the long term.
2. When development is propose adjacent to Natural Resource Damage Assessment (NRDA) restoration sites, special consideration should be given to their protection during the City's permit review.
3. Restoration of shoreline ecological function concurrent with development and redevelopment within Urban Conservancy shorelines should be a priority.
4. New development should be designed and located to preclude the need for shoreline armoring, flood control works, vegetation removal and other shoreline modifications.

5. When development requires shoreline modification or stabilization, bioengineered shoreline stabilization measures, conservation of native vegetation, and Low Impact Development techniques for surface water management should be implemented to minimize adverse impacts to existing shoreline ecological functions.
6. Public access and public recreation objectives should be implemented whenever feasible and adverse ecological impacts can be avoided. ~~Continuous~~ Public access along the marine shoreline should be provided, preserved, or enhanced consistent with this policy.
7. Protection of ecological functions should have priority over public access, recreation and other development objectives whenever a conflict exists.
8. Permitted uses should consist of low intensity uses that preserve the natural character of the area or promote preservation of open space and critical areas.
9. Water-oriented commercial uses are encouraged when specific uses and design result in substantial open space, public access and/or restoration of ecological functions and if compatible with surrounding uses.
10. Existing historic and cultural buildings and areas should be preserved, protected and reused when feasible.

5.5.5 High-Intensity Environment

A. Purpose

The purpose of the "high-intensity" environment is to provide for high-intensity water-dependent and water-oriented mixed-use commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

B. Areas Proposed for Designation:

1. District S-1a Western Slope South – High-intensity
2. District S-7 Schuster Parkway
3. District S-10 Port Industrial Area
4. District S-15 Point Ruston/Slag Peninsula

C. Designation Criteria

The "high-intensity" environment designation is assigned to shoreline areas if they currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses.

D. Management Policies

1. First priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Non-water oriented uses should not be permitted except as part of mixed use developments and where they do not conflict with or limit

opportunities for water oriented uses or on sites where there is no direct access to the shoreline.

2. Full utilization of existing high intensity areas should be achieved before further expansion of intensive development is permitted.
3. Policies and regulations shall assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with relevant state and federal law.
4. Where feasible, visual and physical public access should be required as provided for in WAC 173-26-221(4)(d). Pedestrian and bicycle paths should be permitted as public access opportunities.
5. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.
6. Require new development to provide physical and visual access to shorelines whenever possible and consistent with constitutional and statutory limitations, provided such access does not interfere with industrial operations or endanger public health and safety.

5.5.6 Downtown Waterfront

A. Purpose

1. Foster a mix of private and public uses, including parks and recreation facilities, that are linked by a comprehensive public access system, ~~including a continuous walkway encircling the entire Thea Foss Waterway;~~
2. Strengthen the pedestrian-orientation of development on the Thea Foss Waterway;
3. Promote the design vision for the Thea Foss Waterway through the establishment and implementation of design guidelines and standards;
4. Manage the shoreline area in a way that optimizes circulation, public access, development, and environmental protection;
5. Encourage and provide opportunities for mixed-use development that supports water-oriented uses and provides significant public benefit and enjoyment of the Waterway for the citizens of Tacoma;
6. Promote the east side of the Foss Waterway as a center for industries and firms specializing in the design, research, development, and implementation of clean technology.
7. Encourage a mix of uses, including water-oriented industrial uses and ~~and~~ commercial uses, ~~that are compatible with public access objectives,~~
8. and Encourage residential uses on the west side of the Waterway and in that area of the east side of the Foss Waterway south of 11th Street, except in that area of the east side of the Foss Waterway north of 11th Street,

9. ~~Reserve the east side of the Foss Waterway north of 11th Street~~ and primarily for water-oriented industrial uses and commercial development; and

8-10. Retain and enhance characteristics of the Thea Foss Waterway that support marine and recreational boating activities.

B. Areas Proposed for Designation

1. District S-8 Thea Foss Waterway

C. Designation Criteria

The "Downtown Waterfront" environment designation is generally assigned to shoreline areas that are contained within the Downtown Tacoma Regional Growth Center and comprised of or planned for a mix of higher intensity uses in mixed use buildings. The Downtown Waterfront designation is applied to shoreline areas that:

1. Are zoned for commercial, industrial and high density residential uses;
2. Are within or adjacent to the downtown core;
3. Are primarily developed with high intensity uses;
4. Are currently characterized by a dense mix of residential, commercial and industrial uses;
5. Contain historic structures, sites related to the Foss Waterway’s maritime history as well as cultural, educational and institutional uses; and

D. General Management Policies

1. Land Use

a. General

- i. Retain and enhance characteristics of the Thea Foss Waterway that support marine and boating activities.
- ii. Buildings adjacent to the esplanade/public walkway and public access/view corridors should provide ground-level uses that are pedestrian-friendly and publicly accessible where appropriate.
- iii. Encourage and provide opportunities for mixed use development that supports water-oriented uses and provides significant public benefit and enjoyment of the Waterway for the citizens of Tacoma.
- iv. Encourage uses that generate significant walk-in and casual visitors.
- v. Promote diverse, high-quality, pedestrian-related development that highlights the rich cultural, natural and maritime history of the Thea Foss Waterway.

b. East Foss

- i. Retain the “working waterfront” by encouraging a mix of water-oriented commercial, industrial, retail and office uses, and industries specializing in the design and development of clean technology.
- ii. Encourage residential uses only in that area south of 11th Street.
- iii. Residential and hotel/motel uses are not permitted north of 11th Street.

2. Views and Aesthetics

- a. Emphasize the uniqueness of the Thea Foss Waterway as a protected waterway immediately adjacent to a downtown core, bringing together the attractions of the downtown area, the industrial, mixed-use waterfront, and public spaces.
- b. Important public views of the Thea Foss Waterway from downtown should be protected.
- c. Encourage existing industrial and commercial uses to improve the aesthetics of the Waterway through techniques such as aesthetic treatments of storage tanks, cleanup of blighted areas, landscaping, exterior cosmetic improvements, landscape screening, and support of the Waterway environmental cleanup and remediation.
- d. Foster desirable character through the establishment and application of design guidelines and standards.
- e. Public art, historical interpretation and/or design elements which enrich the area are encouraged.
- f. Encourage the incorporation of aesthetic elements and/or artwork in the design of public facilities and amenities.
- g. Historic markers and design elements that reflect the history and culture of local and indigenous peoples should be encouraged where appropriate.
- h. Develop site features that facilitate public participation in maritime events and activities.

3. Public Access

- a. Provide a wide variety of physical settings, landscaped parks, plazas, and pedestrian attractions.
- b. Unify and link parks, public areas, uses and attractions by a public walkway along the shoreline edge, where appropriate.
- c. Public spaces should be designed to be recognizable as ‘public’ areas and to promote a unified access system, including the design and location of site details and amenities consistent with the Thea Foss Waterway Design Guidelines and Standards.
- d. Public attractions on the Thea Foss Waterway should give preference to those which are water-oriented or relate to the Waterway’s maritime history.

DRAFT

CHAPTER 6 GENERAL POLICIES AND REGULATIONS

The following regulations shall apply to all uses and all districts in the City of Tacoma shoreline jurisdiction.

6.1 Shoreline Use

Shoreline uses refer to specific common uses and types of development (e.g. residential recreation, commercial, industrial, etc.) that may occur in the City's shoreline jurisdiction. Shoreline areas are a limited ecological and economic resource and are the setting for multiple competing uses. The purpose of this section is to establish preferred shoreline uses. These preferences are employed in deciding what uses should be allowed in shorelines and resolving use conflicts. Consistent with the Act and Guidelines, preferred include, in order of preference: shoreline enhancement and restoration; water-dependent uses; water-related and –enjoyment uses; and single-family development when developed without significant impacts to shoreline functions. Mixed-use developments may also be considered preferred if they include and support water-oriented uses. All uses and development must be consistent with the provisions of the environment designation in which they are located and the general regulations of this Program.

6.1.1 Policies

1. Shoreline uses that are water-dependent, water-related or water-enjoyment should be given preference (RCW 90.58.020). Such uses should be located, designed, and maintained in a manner that minimizes adverse impacts to shoreline ecological functions and/or processes.
2. Non-water-oriented uses may be permitted, provided that existing water-dependent uses and water-related uses are not displaced and the future supply of sites for water-dependent or water-related uses is not compromised, or, when the non-water-oriented use is part of a mixed use project or facility that supports water-oriented uses.
3. Adequate space should be reserved on shorelines to meet the current and projected demand for water-dependent uses.
4. Encourage close cooperation and coordination between both public and private shoreline interests including private property owners, the City, the Metropolitan Park District and the Port of Tacoma in the overall management and/or development of shorelines land use.
5. Shoreline uses should not deprive other uses of reasonable access to navigable waters. Public recreation activities such as fishing, swimming, boating, wading, and water-related recreation should be preserved and enhanced. ~~The rights of treaty tribes to resources within their usual and accustomed areas should be accommodated.~~
6. Mixed-use projects or facilities that result in significant public benefit are encouraged in shoreline locations designated High Intensity and Downtown Waterfront.

6.1.2 Regulations

1. Restoration of ecological functions and processes shall be permitted on all shorelines and shall be located, designed and implemented in accordance with applicable policies and regulations of this Program.

2. In order to protect the City's shoreline land resource for preferred uses, Shoreline uses and developments shall be located, designed, and managed so that other appropriate uses are neither subjected to substantial or unnecessary adverse impacts, nor deprived of reasonable, lawful use of navigable waters, publicly owned shorelines, or private property.
3. Shoreline uses and developments shall be designed and located to minimize the need for future shoreline stabilization.
4. Water-enjoyment uses shall be designed to be oriented towards the shoreline such that the general public has the opportunity to enjoy the aesthetics of a shoreline location and have physical and/or visual access to the shoreline.
5. Water-dependent uses shall be given preference over water-related and water-enjoyment uses. Prior to approval of water-dependent uses, the Land Use Administrator shall review a proposal for design, layout and operation of the use and shall make specific findings that the use qualifies as a water-dependent use.
6. Water-related uses may not be approved if they displace existing water dependent uses. Prior to approval of a water-related use, the Land Use Administrator shall review a proposal for design, layout and operation of the use and shall make specific findings that the use qualifies as a water-related use.
7. Water-enjoyment uses may not be approved if they displace existing water-dependent or water-related uses or if they occupy space designated for water dependent or water-related use identified in a substantial development permit or other approval. Prior to approval of water-enjoyment uses, the Administrator shall review a proposal for design, layout and operation of the use and shall make specific findings that the use qualifies as a water-enjoyment use.
8. Non-water oriented uses may be permitted only when one of the following conditions is met:
 - a. The use is part of a mixed-use project or facility that includes water-oriented uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
 - b. Navigability is severely limited at the proposed site and the use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.
 - c. The use is within the shoreline jurisdiction but physically separated from the shoreline by a separate property, public right-of-way (excluding public access features), or existing use.
9. Non-water-oriented uses within a mixed-use project or facility, as specified in 8(a) above, shall be established or developed concurrently with a water-oriented use and shall provide public access and habitat restoration subject to the requirements in 10(a) through (e), below.
10. The following standards apply to non-water-oriented uses permitted, in accordance with 8(a) through (c) above, in the shoreline:

- a. When a mixed-use project or facility that contains non-water-oriented uses is proposed in the shoreline, public access shall be provided between the subject development and the adjacent shoreline concurrently and shall be consistent with an adopted public access plan. In cases where said public access cannot be provided due to seasonal constraints, including fish windows, the timing with other planned / ongoing soil remediation or implementation of a habitat restoration project, said public access shall be secured with a financial surety totaling 150% of the cost of the required access or some other acceptable surety as may be specified by the Land Use Administrator.
 - b. When a mixed-use project or facility that contains non-water-oriented uses is proposed in the shoreline, restoration of shoreline functions shall be provided consistent with an adopted Restoration Plan and shall meet the mitigation requirements in TSMP Section 6.4.2 (C) and (D) and the following:
 - i. 80% of the remaining buffer area shall be enhanced on site or an equivalent shall be restored off site-;
 - ii. Required restoration shall be completed prior to occupancy of the subject use. In cases where the required mitigation cannot be provided due to seasonal constraints, including fish windows, or the timing with other planned / ongoing soil remediation or implementation of public access projects, said mitigation shall be secured with a financial surety totaling 150% of the required restoration project or some other acceptable surety as may be specified by the Land Use Administrator.
 - c. Non-water-oriented uses shall not occupy the portion of the ground floor of a mixed-use structure that fronts on or is adjacent to the shoreline, except where specifically authorized in this Program.
 - d. Only parking on the landward side of the ground floor of a shoreline mixed-use structure is permitted. Where a mixed-use development is separated from the shoreline by a separate property, public right-of-way (excluding public access features), or existing use, parking may be allowed anywhere around the building provided that it does not interfere with the normal operation of adjacent or nearby water-oriented uses.
 - e. In no case may residential uses within a shoreline mixed-use structure occupy the ground floor.
11. Non-water-dependent loading and service areas shall not be located between the shoreline and the development.
12. All uses and developments in Shoreline Districts shall comply with the use regulations and developments standards contained in Table 9-2. Refer to TSMP Chapter 7 for all applicable provisions related to specific uses and development standards.

6.2 Site Planning

The Purpose of this chapter is to establish the City's policies related to the location and dimensions of shoreline uses. This section implements the Act's and Guidelines' policies to protect shoreline ecological

functions from the adverse effects of shoreline development and use and ensure that proposed uses are developed in a manner that is compatible with a shoreline location, public access and adjacent uses. The section establishes policies and includes regulations and development standards to ensure that shoreline development considers the physical and natural features of the shoreline and assures no net loss of ecological functions.

6.2.1 Policies

1. The design, density and location of all permitted uses and development should consider physical and natural features of the shoreline and should assure no net loss of ecological functions by avoiding and minimizing adverse effects on shoreline ecology.
2. Site plans and structural designs for shoreline development in shoreline areas should acknowledge the water's proximity and value as an ecological and scenic resource.
3. Development and use should be designed in a manner that directs land alteration to the least sensitive portions of the site to maximize vegetation conservation; minimize impervious surfaces and runoff; protect riparian, nearshore and wetland habitats; protect wildlife and habitats; protect archaeological, historic and cultural resources; and preserve aesthetic values. This may be accomplished by minimizing the project footprint and other appropriate design approaches.
4. Low impact and sustainable development practices such as rain gardens and pervious surfacing methods including but not limited to, porous paving blocks, porous concrete and other similar materials, should be incorporated in developments where site conditions allow to maintain shoreline ecological functions and processes. Topographic modification, vegetation clearing, use of impervious surfaces and alteration of natural drainage or other features should be limited to the minimum necessary to accommodate approved uses and development. An engineering geologist should be consulted prior to using infiltration practices on shore bluffs.
5. Accessory development or use that does not require a shoreline location should be located outside of shoreline jurisdiction unless such development is necessary to serve approved uses. When sited within shorelines jurisdiction, uses and/or developments such as parking, service buildings or areas, access roads, utilities, signs and storage of materials should be located inland away from the land/water interface and landward of water-oriented developments and/or other approved uses.
6. Development should be located, designed, and managed so that impacts on shoreline or upland uses are minimized through setbacks, buffers, and control of proximity impacts such as noise or light and glare.

6.2.2 Regulations

1. All shoreline uses and developments shall provide setbacks from adjacent property lines or the landward edge of marine shoreline buffers in accordance with the standards contained in this Program and Table 9-2.
2. Side and front setbacks shall be of adequate width to attenuate proximity impacts such as noise, light and glare, scale, and aesthetic impacts. Fencing or landscape areas may be

required to provide a visual screen. Refer to Chapter 9 for all applicable provisions related to district-specific setback regulations.

3. Rear setback from the landward edge of the marine shoreline buffer shall be no less than 10 feet unless otherwise specified in Table 9-2.
4. Unless otherwise stated elsewhere in this Program, modifications to front and side setbacks within shoreline districts may be authorized by the Land Use Administrator under the following circumstances:
 - a. The adjacent land use is of such a character as to render a setback unreasonable or unnecessary (e.g., industrial development);
 - b. Increased physical or visual access by the public to the shorelines and adjacent waters is reasonable and provides enhanced public benefit;
 - c. Better and/or more environmentally sensitive site and structure design will achieve greater protection of or lessen impacts upon ecological functions with a lesser setback;
 - d. Where a previously established setback line can be ascertained on adjacent properties, structures may be permitted similar setback as if a line were extended across the subject property from nearest points of the adjacent structures;
 - e. For side setback/view corridors: two or more contiguous properties are being developed under an overall development plan where view corridors will be provided which meet the intent and purposes of this Program and the Act;
 - f. A significant portion of the site, greater than that required, is being set aside for public access, public open space, or public access elements; or
 - g. Excessive removal of vegetation would be necessary to meet the required setback.
5. Reductions of front and/or rear yard setbacks may be allowed to accommodate required wetland and stream buffers in the shoreline as described in TSMP 6.4.5(D) for wetlands and 6.4.6(E) for streams.
6. In authorizing a lesser setback, the Land Use Administrator shall determine that the following criteria have been met:
 - a. One or more of the circumstances set forth in TSMP Section 6.2.2(4) are present or will occur;
 - b. The reduction or elimination of the setback is consistent with the intended character of the shoreline district as well as the purpose and Management Policies of the Shoreline Environment Designation and will not adversely affect the rights of neighboring property owners and will secure for neighboring properties substantially the same protection that the regulation, if enforced literally, would have provided;
 - c. Vehicular sight distance and pedestrian safety will not be adversely affected; and

- d. Undue view blockage or impairment of existing or proposed pedestrian access to the shorelines and adjacent waters will not result.
7. In authorizing modifications to required setbacks, the Land Use Administrator may impose conditions on the permit as necessary to ensure compliance with this Program.
8. Design of structures shall conform to natural contours and minimize disturbance to soils and native vegetation.
9. Stormwater infiltration systems shall be employed to mimic the natural infiltration and ground water interflow processes where appropriate.
10. Fences, walls and similar structures shall only be permitted as normal appurtenances to single-family developments, water-dependent uses, for protecting critical areas, and where there is a safety or security issue. Fencing, walls and similar structures shall be designed in a manner that does not significantly interfere with public views of the shoreline.
11. Accessory uses that do not require a shoreline location shall be sited away from the shoreline and upland of the principal use.
12. Unless integral to a permitted water-oriented use, accessory uses shall observe the marine shoreline and critical area regulations in TSMP Section 6.4.
13. Development shall be located, designed, and managed so that impacts on public use of the shoreline are minimized.
14. Interior and exterior lighting shall be designed and operated to avoid illuminating nearby properties, public areas, or waters; prevent glare on adjacent properties, public areas or roadways to avoid infringing on the use and enjoyment of such areas, and to prevent hazards. Methods of controlling spillover light include, but are not limited to, limits on height of structure, limits on light levels of fixtures, light shields, setbacks, buffer areas and screening.

6.3 Archeological, Cultural and Historic Resources

The following policies and regulations apply to archaeological and historic resources that are either recorded with the State Department of Archeology and Historic Preservation (DAHP) and/or the City or have been inadvertently uncovered during a site investigation or construction. Archeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archeological sites and records). Development or uses that could impact these sites must comply with the State's guidelines on archaeological excavation and removal (WAC 25-48) as well as the provisions of this Program. Archeological and historic resources are limited and irreplaceable. Therefore the purpose of these policies and regulations is to prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes.

6.3.1 Policies

1. The City should work with tribal, state, federal and local governments as appropriate to identify and maintain an inventory of all known significant local historic, cultural and archaeological sites in observance of applicable state and federal laws protecting such

information from general public disclosure. As appropriate, such sites should be protected, preserved and/or restored for study, education and/or public enjoyment to the maximum possible extent.

2. Where adverse impacts are unavoidable, the City should require documentation and data recovery consistent with the requirements of this chapter. Adverse impacts should be mitigated according to the requirements of this chapter.
3. If development is proposed adjacent to an identified historic, cultural or archaeological site, then the proposed development should be designed and operated so as to be compatible with continued protection of the historic, cultural or archaeological site.
4. Owners of property containing identified historic, cultural or archaeological sites should make development plans known well in advance of application, so that appropriate agencies have ample time to assess the site and make arrangements to preserve historical, cultural and archaeological values as applicable.
5. Private and public owners of historic sites should be encouraged to provide public access and educational opportunities in a manner consistent with long term protection of both historic values and shoreline ecological functions.
6. Cooperation among involved private and public parties is encouraged to achieve the Archaeological, Historical and Cultural element goals and objectives of this Program.

6.3.2 Regulations

A. General

1. Archaeological sites located in shoreline jurisdiction are subject to RCW 27.44 (Indian Graves and Records) and RCW 27.53 (Archaeological Sites and Records).
2. Development or uses that may impact such sites shall comply with WAC 25-48 as well as the requirements within this Program, where applicable.
3. Development that is proposed in areas documented to contain archaeological resources shall have a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes.

B. Unanticipated Discovery of Historic, Cultural or Archaeological Resource

1. Consistent with TSMP 2.4, all applications for a shoreline permit ~~or request for a statement of exemption~~ shall prepare a plan for the possible unanticipated discovery of historic, cultural or archaeological resource(s), including a point of contact, procedure for stop-work notification, and for notification of appropriate agencies.
2. Whenever historic, cultural or archaeological sites or artifacts are discovered in the process of development on shorelines, work on that portion of the development site shall be stopped immediately, the site secured and the find reported as soon as possible to the Administrator. Upon notification of such find, the property owner shall notify the Washington State Department of Archaeology and Historic Preservation and the Puyallup Tribe, and the Administrator shall conduct a site investigation to determine the significance of the

discovery. Based upon the findings of the site investigation and consultation with the Washington State Department of Archaeology and Historic Preservation, the Puyallup Tribe, and the proponents unanticipated discovery plan prepared consistent with TSMP 2.4, the Administrator may require that an immediate site assessment be conducted or may allow stopped work to resume.

3. If a site assessment is required, the area of inadvertent discovery shall be stabilized, contained or otherwise protected until the site assessment and/or CRMP is completed. The site assessment shall be prepared to determine the significance of the discovery and the extent of damage to the resource and shall be distributed to the Washington State Department of Archaeology and Historic Preservation, and the Puyallup Tribe
4. Upon receipt of a positive determination of a site's significance, the Administrator may invoke the provisions of TSMP 2.4.6 for a Cultural Resource Management Plan (CRMP), if such action is reasonable and necessary to implement.

6.4 Marine Shoreline and Critical Areas Protection

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

The Shoreline Management Act (SMA) mandates the preservation of the ecological functions of the shoreline by preventing impacts that would harm the fragile shorelines of the state. When impacts cannot be avoided, impacts must be mitigated to assure no-net-loss of ecological function necessary to sustain shoreline resources (WAC 173-26-201(2)(C)). The SMA also mandates that local master programs include goals, policies and actions for the restoration of impaired shoreline ecological functions to achieve overall improvements in shoreline ecological functions over time (WAC 173-26-201(f)).

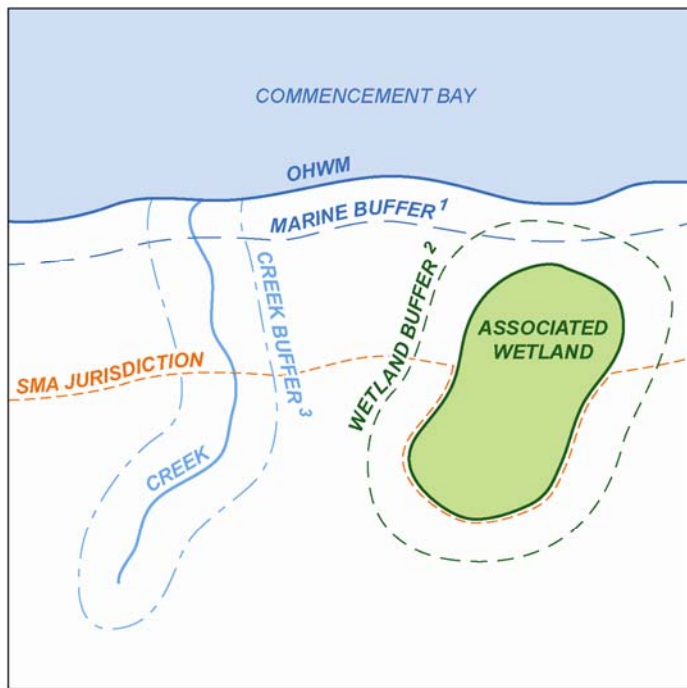
The environment protection policies and regulations of this Master Program address general environmental impacts and critical areas. General environmental impacts include effects upon the elements of the environment listed in the State Environmental Policy Act (SEPA) (WAC 197-11-600 and WAC 197-11-666). This chapter is not intended to limit the application of SEPA.

Organization

This chapter first presents General Policies and Regulations including critical area buffer modifications, mitigation sequencing, and sureties. Second, it provides standards for marine shoreline buffers, which provide an 'avoidance' function for ecosystem-wide processes and functions and are based upon a review of the existing ecological functions as well as land use patterns and level of alteration. These standards additionally act as shoreline setbacks, establishing buffer reductions based upon the use orientation, ensuring that valuable and scarce shoreline frontage is reserved for priority uses. Thirdly, this chapter presents policies and regulations for specifically defined "critical areas" including: Fish and Wildlife Habitat Conservation Areas, Wetlands, Streams and Riparian Habitats, Geologically Hazardous Areas, and Aquifer Recharge Areas. When using this chapter, a permit applicant should review the general policies and regulations first, which establishes standards applicable to all of the specific critical areas. Then, review the specific type of critical area that is applicable to the permit. For instance, the General Regulations establish standards for buffer modifications and for mitigation, but each section thereafter will have additional detail for buffer reductions and mitigation that are specific to each type of critical area. Figure 6.1 provides a graphic illustration of the types of buffers present in the shoreline and the

TSMP location of relevant regulations. Finally, Chapter 2 Administration outlines the permit submittal requirements necessary for critical areas review.

Figure 6-1. Multiple Types of Shoreline Buffers



1. Marine Shoreline buffer standards — TSMP 6.43 (B) & (C)
2. Wetland buffer standards — TSMP 6.4.5 (B) through (F)
3. Stream buffer standards — TSMP 6.4.6 (B) through (F)

6.4.1 General Policies

1. Maintain healthy, functioning ecosystems through the protection of ground and surface waters, marine shorelines, wetlands, and fish and wildlife and their habitats, and to conserve biodiversity of plant and animal species.
2. Prevent cumulative adverse impacts to water quality, streams, FWHCAs, shoreline functions and processes, and wetlands over time.
3. Give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.
4. Shoreline use and development should be carried out in a manner that achieves no net loss of ecological functions; in assessing the potential for net loss of ecological functions or processes, project specific and cumulative impacts should be considered.
5. The City should encourage innovative restoration strategies to provide for comprehensive and coordinated approaches to mitigating cumulative impacts and restoration rather than piecemeal mitigation.
6. Required mitigation should be in-kind and on-site, when feasible and practicable, and sufficient to maintain the functions and processes of the modified critical area or buffer.

7. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, volcanic eruptions, flooding or similar events.

6.4.2 General Regulations

A. General Regulations

1. Shoreline use and development shall be carried out in a manner that prevents or mitigates adverse impacts so that no net loss of existing ecological functions occurs; in assessing the potential for net loss of ecological functions or processes, project specific and cumulative impacts shall be considered.
2. Any shoreline development proposal that includes modification to a marine shoreline, marine buffer, critical area or buffer is subject to the Review Process in TSMP section 2.4.2.

B. Critical Area Buffer Modification

1. Modification of a critical area and/or marine buffer is prohibited except when:
 - a. Modification is necessary to accommodate an approved water-dependent or public access use, including trails and/or pedestrian/bicycle paths; provided, that such development is operated, located, designed and constructed to minimize and, where possible, avoid disturbance to shoreline functions and native vegetation to the maximum extent feasible; or
 - b. Modification is necessary to accommodate a water-related or water-enjoyment use or mixed-use development if it includes a water-oriented component provided that the proposed development is operated, located, designed and constructed to minimize and, where possible, avoid disturbance to native vegetation and shoreline and critical area functions to the maximum extent feasible; or
 - c. Modification is associated with a mitigation, restoration, or enhancement action that has been approved by the City and which complies with all of the provisions of this Program; or
 - d. Modification is approved pursuant to the variance provisions of this Program (TSMP section 2.3.5).
2. The following specific activities may be permitted within a critical area or marine buffer as part of an authorized use or development, subject to submittal of a critical area report, when they comply with the applicable policies and regulations of this Program.
 - a. Clearing, filling and grading;
 - b. New, replacement, or substantially improved shoreline modification and/or stabilization features;
 - c. Construction of trails, roadways, and parking;
 - d. New utility lines and facilities; and

~~e. Stormwater conveyance facilities (this does not include stormwater management facilities such as detention ponds, stormwater vaults or wetlands) may be permitted within a required buffer when all of the following are demonstrated:~~

~~i. No other feasible alternatives with less impact exist; Mitigation for impacts including water quality is provided;~~

~~ii. Stormwater conveyance facilities shall incorporate fish habitat features;~~

~~iii. Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water;~~

~~iv.i. Vegetation shall consist of species capable of achieving a height sufficient to provide substantial shade to the adjacent water body provided they do not alter channel migration and flood conveyance capacity.~~

~~1. To avoid penalizing property owners or development proponents wishing to voluntarily restore shoreline conditions by removing riprap, bulkheads, or other shoreline modifications, and promoting development of natural vegetation, or where adjacent property owners may be harmed by mitigation actions that modify or relocate the OHWM, thereby expanding the critical area or marine shoreline buffer onto adjacent properties, the Land Use Administrator may approve a site specific alternative to the standard buffer on restored shorelines. The buffer alternative shall not create encumbrances on adjoining properties. The Land Use Administrator shall require the project proponent to prepare a restoration plan showing the pre and post restoration conditions, the proposed building envelope, and shoreline setback and buffer. In granting this relief, the Land Use Administrator may consider the quality and function of the remaining buffer, the type, intensity and location of adjacent uses, and any other information as necessary to ensure the sustained function of the critical area or marine shoreline.~~

~~2. Modification of a shoreline or critical area buffer is subject to the site review requirements in TSMP section 2.4.2.~~

C. General Mitigation Requirements

1. If modification to a marine shoreline, wetland, stream, FWHCA, or buffer is unavoidable, all adverse impacts resulting from a development proposal or alteration shall be mitigated so as to result in no net loss of shoreline and/or critical area functions or processes.

2. Mitigation shall occur in the following prioritized order:

a. Avoiding the adverse impact altogether by not taking a certain action or parts of an action, or moving the action;

b. Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts;

c. Rectifying the adverse impact by repairing, rehabilitating or restoring the affected environment;

- d. Reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of action;
- e. Compensating for the adverse impact by replacing, enhancing, or providing similar substitute resources or environments and monitoring the adverse impact and the mitigation project and taking appropriate corrective measures;
- f. Monitoring the impact and compensation projects and taking appropriate corrective measures.

3. Type and Location of Mitigation

- a. Preference shall be given to mitigation projects that are located within the City of Tacoma. Prior to mitigating for impacts outside City of Tacoma jurisdiction, applicants must demonstrate that the preferences herein cannot be met within City boundaries.
- b. Natural, Shoreline Residential and Urban Conservancy Environments:
 - i. Compensatory mitigation for ecological functions shall be either in-kind and on-site, or in-kind and within the same reach, subbasin, or drift cell, except when all of the following apply:
 - There are no reasonable on-site or in subbasin opportunities (e.g. on-site options would require elimination of high functioning upland habitat), or on-site and in subbasin opportunities do not have a high likelihood of success based on a determination of the natural capacity of the site to compensate for impacts. Considerations should include: anticipated marine shoreline/wetland/stream mitigation ratios, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands, or streams when restored, proposed flood storage capacity, potential to mitigate riparian fish and wildlife impacts (such as connectivity); and
 - Off-site mitigation has a greater likelihood of providing equal or improved critical area functions than the impacted critical area.
- c. High-Intensity and Downtown Waterfront Environments:
 - i. The preference for compensatory mitigation is for innovative approaches that would enable the concentration of mitigation into larger habitat sites in areas that will provide greater critical area or shoreline function.
 - ii. The Administrator may approve innovative mitigation projects including but not limited to activities such as advance mitigation, mitigation banking and preferred environmental alternatives. Innovative mitigation proposals must offer an equivalent or better level of protection of critical area functions and values than would be provided by a strict application of on-site and in-kind mitigation. The Administrator shall consider the following for approval of an innovative mitigation proposal:

- Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas;
 - Consistency with Goals and Objectives of the Shoreline Restoration Plan and the Goals and Objectives of this Program;
 - The applicant demonstrates that long-term management and protection of the habitat area will be provided;
 - There is clear potential for success of the proposed mitigation at the proposed mitigation site;
 - Restoration of marine shoreline functions or critical areas of a different type is justified based on regional needs or functions and processes;
 - Voluntary restoration projects initiated between 2006 and the adoption of this program when they comply with Section D Mitigation Plan Requirements;
 - The replacement ratios are not reduced or eliminated, unless the reduction results in a preferred environmental alternative; and
 - Public entity cooperative preservation agreements such as conservation easements.
- d. Aquatic Environments:
- i. Compensatory mitigation should be consistent with the preference and requirements of the adjacent upland designation.
4. Fee-in-lieu.
- a. In cases where mitigation pursuant to this section (TSMP 6.4) is not possible, or where the maximum possible onsite mitigation will not wholly mitigate for anticipated impacts, or where an alternative location, identified in an adopted restoration plan, would provide greater ecological function, the Land Use Administrator may approve a payment of a fee-in-lieu of mitigation. The fee shall be reserved for use in high value restoration actions identified through the Shoreline Restoration Plan (Appendix AB).
 - b. To aid in the implementation of off-site mitigation, the City may develop a formal program which prioritizes wetland and/or other critical areas for use as mitigation and/or allows payment in lieu of providing mitigation on a development site. This program shall be developed and approved through a public process and be consistent with state and federal rules. The program should address:
 - i. The identification of sites within the City that are suitable for use as off-site mitigation. Site suitability shall take into account critical area functions, potential for degradation, and potential for urban growth and service expansion; and

- ii. The use of fees for mitigation on available sites that have been identified as suitable and prioritized for restoration and/or enhancement.
 - c. Any off-site mitigation would have to be consistent with the goals and objectives of the Shoreline Restoration Plan.
- 5. Timing of Compensatory Mitigation. Compensation projects should be completed prior to activities that will disturb the on-site critical area. If not completed prior to disturbance, compensatory mitigation shall be completed immediately following the disturbance and prior to final occupancy. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.
- 6. The Land Use Administrator may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified professional as to the rationale for the delay (i.e. seasonal planting requirements, fisheries window).

D. Mitigation Plan

- 1. A mitigation plan shall be prepared consistent with best available science. The intent of these provisions is to require a level of technical study and analysis sufficient to protect the shoreline and critical areas and/or protect developments and occupants from critical areas involving hazards. The analysis shall be commensurate with the value or sensitivity of a particular shoreline or critical area and relative to the scale and potential impacts of the proposed activity.
- 2. The mitigation plan shall provide for construction, maintenance, monitoring, and contingencies as required by conditions of approval and consistent with the requirements of this Program.
- 3. The mitigation plan shall be prepared by a qualified professional; provided, that the Land Use Administrator may waive the requirement to hire a qualified professional to prepare a mitigation plan when the required mitigation involves standard planting or enhancement practices. The waiver shall not be granted for mitigation practices involving critical area creation, rehabilitation and/or restoration.
- 4. A Compensatory mitigation plan shall be provided for all permanent impacts and will conform to the general mitigation requirements listed in TSMP 6.4.2(C) and any specific requirements identified in this chapter for the critical area. The plan shall include the following:~~The mitigation plan shall contain the following information:~~
 - a. Mitigation sequencing. The applicant shall demonstrate that an alternative design could not avoid or reduce impacts and shall provide a description of the specific steps taken to minimize impacts.
 - b. Assessment of impacts including the amount, existing condition and anticipated functional loss. Include probable cumulative impacts.
 - c. The amount and type of mitigation. Include goals, objectives, and clearly defined and measurable performance standards. Include contingency plans that define the specific course of action if mitigation fails.

- d. A description of the existing conditions and anticipated future conditions for the proposed mitigation area(s) including future successional community types for years 1,5,10 and 25, future wildlife habitat potential, water quality and hydrologic conditions. Compare this to the future conditions if no mitigation actions are undertaken;
- e. A description of the shoreline ecological functions or critical areas functions and values that the proposed mitigation area(s) shall provide, and/or a description of the level of hazard mitigation provided;
- f. A description and scaled drawings of the activities proposed to reduce risks associated with geologic hazards and/or flooding, and/or to mitigate for impacts to shoreline buffers or critical area functions and values. This shall include all clearing, grading/excavation, drainage alterations, planting, invasive weed management, installation of habitat structures, irrigation, and other site treatments associated with the development activities;
- g. Specifications of the mitigation design and installation ~~Specific information on construction or the proposed mitigation activity including~~ construction techniques, equipment, timing, sequence, equipment needs, and best management practices to reduce temporary impacts;
- h. Plan sheets showing the edge of the shoreline marine buffer, critical area and/or critical area buffer. The affected area shall be clearly staked, flagged, and/or fenced prior to and during any site clearing and construction to ensure protection for the critical area and buffer during construction;
- i. A plant schedule including number, spacing, species, size and type, source of plant material, watering schedule and measures to protect plants from destruction;
- e. ~~The goals, objectives, and performance standards that the proposed mitigation action(s) shall achieve;~~
- j. Monitoring methods and schedule for a minimum of five years; A description of how the mitigation area(s) will be evaluated and monitored to determine if the performance standards are being met;
- k. A maintenance schedule to include ongoing maintenance and responsibility for removal of non-native, invasive vegetation and debris after monitoring is complete;
- l. A hydrologic report including any mitigative measures for alterations of the hydroperiod. The City may require additional pre- and post-development field studies and/or monitoring to establish water levels, hydroperiods, and water quality. Water quality shall be required for pollution generating surfaces using all known, available, and reasonable methods of prevention, control, and treatment.
- m. When mitigation includes creation or restoration of critical areas, surface and subsurface hydrologic conditions including existing and proposed hydrologic regimes shall be provided. Describe the anticipated hydrogeomorphic class and illustrate how data for existing hydrologic conditions were utilized to form the estimates of future hydrologic conditions;

- n. Existing topography must be ground-proofed at two foot contour intervals in the zone of any proposed creation or rehabilitation actions. Provide cross-sections of existing wetland and/or streams that are proposed to be impacted and cross-section(s) (estimated one-foot intervals) for the proposed areas of creation and/or rehabilitation;
- ~~g. A program and schedule for construction and post construction monitoring of the mitigation project;~~
- o. An evaluation of potential adverse impacts on adjacent property owners resulting from the proposed mitigation and measures to address such impacts;
- ~~i. Identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates that project performance standards are not being met;~~
- p. A description of other permits and approvals being sought, including the need for permits from state and/or federal agencies; and
- q. Additional information as required by the subsequent articles of this Program.

E. Sureties

1. The City will accept performance and monitoring and maintenance sureties in the form of bonds or other sureties in a form accepted in writing by the City. Sureties shall be posted prior to issuance of any shoreline permit.
2. Performance Surety. Except for public agencies, applicants receiving a permit involving compensation for mitigation are required to post a cash performance bond or other acceptable security to guarantee compliance with this chapter prior to beginning any site work. The surety shall guarantee that work and materials used in construction are free from defects. All sureties shall be approved by the City Attorney. The surety cannot be terminated or cancelled without written approval. The Land Use Administrator shall release the surety after documented proof that all structures and improvements have been shown to meet the requirements of this chapter.
3. Monitoring and Maintenance Surety. Except for public agencies, an applicant shall be required to post a cash maintenance bond or other acceptable security guaranteeing that structures and improvements required by this chapter will perform satisfactorily for a minimum of five (5) years after they have been constructed and approved. The value of the surety shall be based on the average or median of three contract bids that establish all costs of compensation, including costs relative to performance, monitoring, maintenance, and provision for contingency plans. The amount of the surety shall be set at 150 percent of the average expected cost of the compensation project. All surety shall be on a form approved by the City Attorney. Without written release, the surety cannot be cancelled or terminated. The Land Use Administrator shall release the surety after determination that the performance standards established for measuring the effectiveness and success of the project have been met.

6.4.3 Marine Shorelines

Nearly all shoreline areas, even substantially developed or degraded areas, retain important ecological functions. For example, an intensely developed harbor area may also serve as a fish migration corridor and feeding area critical to species survival. Also, ecosystems are interconnected. For example, the life cycle of anadromous fish depends upon the viability of freshwater, marine, and terrestrial shoreline ecosystems, and many wildlife species associated with the shoreline depend on the health of both terrestrial and aquatic environments. Therefore, the marine shoreline buffer standards for protecting ecological functions generally apply to all shoreline areas, not just those that remain relatively unaltered.

Managing shorelines for protection of their natural resources depends on sustaining the functions provided by:

- Ecosystem-wide processes such as those associated with the flow and movement of water, sediment and organic materials; the presence and movement of fish and wildlife and the maintenance of water quality.
- Individual components and localized processes such as those associated with shoreline vegetation, soils, water movement through the soil and across the land surface and the composition and configuration of the beds and banks of water bodies.

The loss or degradation of the functions associated with ecosystem-wide processes, individual components and localized processes can significantly impact shoreline natural resources and may also adversely impact human health and safety.

In addition, shoreline areas, being a limited ecological and economic resource, are the setting for competing uses and ecological protection and restoration activities. Therefore, marine buffer standards also implement the use priorities of the WAC by:

- Reserving appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.
- Reserving shoreline areas for water-dependent and associated water related uses.

A. Classification

1. Marine shorelines include all marine “shorelines of the state”, including commencement Bay and the Tacoma Narrows, as defined in RCW 90.58.030 within the City of Tacoma.

B. Marine Shoreline Buffers

1. A buffer area shall be maintained on all marine shorelines for all non-water-dependent and public access uses adjacent to the marine shoreline to protect and maintain the integrity, functions and processes of the shoreline and to minimize risks to human health and safety. The buffer shall be measured horizontally from the edge of the ordinary high water mark landward.
2. Buffers shall consist of an undisturbed area of native vegetation or areas ~~identified for~~ reserved for priority uses (water-dependent uses and public access), including restoration established to protect the integrity, functions and processes of the shoreline. Required buffer widths shall reflect the sensitivity of the shoreline functions and the type and intensity of human activity proposed to be conducted nearby.

3. Buffer widths shall be established according to Table 6-1. Buffer widths may be increased under the following circumstances:
 - a. The Administrator determines that the minimum width is insufficient to prevent loss of shoreline functions.
 - b. The Administrator determines that the proposed shoreline modification would result in an adverse impact to critical saltwater habitats including kelp beds, eelgrass beds, or spawning and holding areas for forage fish.

Table 6-1 Minimum Marine Buffers

| Marine Habitat Area | Buffer Width (feet) |
|---------------------|---------------------|
| S-1a, S1b | 50 |
| S-2 | 115 |
| S-3, S-4 | 200 |
| S-5, S-6, S-7 | 115 |
| S-8, S-10 | 50 |
| S-11 | 115 |
| S-15 | 50 |

C. Marine Shoreline Buffer Reductions

1. In all shoreline designations, water-dependent and public access uses and development may reduce the standard buffer such that direct water access is provided.
2. ‘Natural’ Designated Shorelines: Buffer reductions shall not be permitted for non-water-dependent and public access uses and development except through a shoreline variance.
3. ‘Urban-Conservancy’ and ‘Shoreline Residential’ Designated Shorelines: The buffer shall not be reduced to any less than ¾ of the standard buffer width ~~Buffer reductions for water-related and water-enjoyment uses and development, including mixed-use development, shall not exceed ¾ of the standard buffer width.~~ Further reductions shall only be allowed through a shoreline variance.
4. ‘High-Intensity’ and ‘Downtown Waterfront’ Designated Shorelines: Buffer reductions for water-related and water-enjoyment uses, including mixed-use development, shall not exceed ½ the standard buffer width. Further reductions shall only be allowed through a shoreline variance.
5. Reductions of the standard buffer for any stand-alone non-water-oriented use or development shall not be allowed except through a shoreline variance.
6. Reduction of the standard buffer may be permitted for stairs or walkways necessary to access the shoreline or access an existing use or structure provided that any stair or walkway in the marine shoreline complies with all provisions of the Program, conforms to the existing topography and, to the extent feasible, minimizes impervious surfaces.

7. Where a marine buffer geographically coincides with a stream, FWHCA or wetland, provisions for increasing buffers, buffer averaging, and buffer reductions for the wetland and stream component shall apply as described within this chapter only when there is no impact to shoreline functions associated with the marine shoreline.

D. Marine Shoreline Mitigation Requirements

1. All marine shoreline buffer mitigation shall comply with applicable mitigation requirements specified in TSMP Section 6.4.2(C) and (D) and 6.4.3 (D) and (E) including, but not limited to, mitigation plan requirements, monitoring and bonding.
2. Where a designated marine shoreline geographically coincides with a FWHCA, stream or wetland, mitigation will comply with applicable mitigation requirements for those resources as described within this Program.

E. Marine Shoreline Mitigation Ratios

1. The following mitigation ratios are required for impacts to the marine shoreline buffer. The first number specifies the area of replacement shoreline buffer area, and second specifies the area of altered shoreline buffer area.
 - a. 1:1 for areas on the parcel or on a parcel that abuts the ordinary high watermark within one quarter (1/4) mile along the shoreline from where the vegetation removal, placement of impervious surface or other loss of habitat occurred.
 - b. 3:1 for off-site mitigation that occurs more than one quarter (1/4) mile along the shoreline from where the vegetation removal, placement of impervious surface or other loss of habitat occurred. Mitigation must be consistent with the Shoreline Restoration Plan (Appendix AB).
2. If mitigation is performed off-site, a conservation easement or other legal document must be provided to the City to ensure that the party responsible for the maintenance and monitoring of the mitigation has access and the right to perform these activities.

6.4.4 Fish and Wildlife Habitat Conservation Areas (FWHCAs)

This section provides policies and regulations that apply to critical saltwater habitats as defined by WAC 173-26-221(2)(c)(iii). Kelp beds, eelgrass beds, herring spawning areas, smelt and sand lance spawning areas and other critical saltwater habitats are classified as fish and wildlife habitat conservation areas and are designated as “critical areas” in WAC 365-190-080(5)(a)(6). The guidelines for classifying critical areas also include commercial and recreational shellfish areas. The Department of Fish and Wildlife has identified the following habitats of special concern: kelp beds, eelgrass beds, herring spawning areas, sand lance spawning areas, smelt spawning areas, juvenile salmonid migration corridors, rock sole spawning beds, rockfish settlement and nursery areas, and lingcod settlement and nursery areas.

In addition, it’s important to give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries, such as juvenile salmon (RCW 36.70A.172), some of which are classified as “Threatened” under the Endangered Species Act. Critical fish and wildlife habitat conservation areas include, but are not limited to, areas with which endangered, threatened, and sensitive species have a “primary association” (see WAC 365-190-080(5)(a)(i)). Critical Saltwater Habitats include these “primary association” areas. Examples of “primary association” areas include, but are not limited to, the following:

- Shallow water/low gradient habitats along shorelines
- Migratory corridors that allow juvenile salmon to move within and between habitats (e.g., beaches, as well as eelgrass, kelp, etc.).

In addition, a diversity of shoreline habitats is essential for providing adequate functions for juvenile salmon.

A. FWHCA Classification

1. Fish and Wildlife Habitat Conservation Areas (FWHCAs) shall include:

- a. Lands containing priority habitats and species;
- b. All public and private tidelands or bedlands suitable for shellfish harvest, including any shellfish protection districts established pursuant to RCW 90.72. The Washington Department of Health’s classification system shall be used to classify commercial shellfish areas;
- c. Critical saltwater habitats including kelp and eelgrass beds and herring, sand lance, and smelt spawning areas. Kelp and eelgrass beds may be classified and identified by the Washington Department of Natural Resources Aquatic Lands Program and the Washington Department of Ecology. Locations are compiled in the WDNR Aquatic Lands Shore Zone Inventory, and the Puget Sound Environmental Atlas, Volumes 1 and 2. Herring, sand lance, and surf smelt spawning times and locations are outlined in RCW 220-110, Hydraulic Code Rules and the Puget Sound Environmental Atlas;
- d. Natural ponds or lakes under 20 acres and their submerged aquatic beds that provide critical fish or wildlife habitat; and
- e. Lakes, ponds, streams and rivers planted with game fish, including those planted under the auspices of a federal, state, local, or tribal program and waters which support priority fish species as identified by the Washington Department of Fish and Wildlife.

B. FWHCA Standards

1. Whenever activities are proposed within or adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report and habitat management plan prepared by a qualified professional and approved by the City.
2. If the Administrator determines that a proposal is likely to adversely impact a FWHCA, s/he may require additional protective measures such as a buffer area.
3. Any activity proposed in a designated FWHCA shall be consistent with the species located there and all applicable state and federal regulations regarding that species. In determining allowable activities for priority habitats and species that are known or that become known, the provisions of the Washington State Hydraulic Code and Department of Fish and

Wildlife’s (WDFW) Management Recommendations for Washington Priority Habitats and Species shall be reviewed.

4. Where a designated FWHCA geographically coincides with a marine shoreline, stream or wetland, the appropriate wetland or stream buffer and associated buffer requirements shall apply as described in this Program.
5. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). The City shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the Washington Department of Fish and Wildlife.
6. All activities, uses and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat.
7. No structures of any kind shall be placed in or constructed over critical saltwater habitats unless they result in no net loss of ecological function, are associated with a water-dependent or public access use, comply with the applicable requirements within this Program and meet all of the following conditions:
 - a. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat;
 - b. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;
 - c. The project is consistent with the state's interest in resource protection and species recovery;
 - d. The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;
 - e. Shorelands that are adjacent to critical saltwater habitats shall be regulated per the requirements within this Program;
 - f. A qualified professional shall demonstrate compliance with the above criteria in addition to the required elements of a critical area report as specified in this Chapter.

C. FWHCA Mitigation Requirements

1. All FWHCA mitigation shall comply with applicable mitigation requirements specified in TSMP Section 6.4.2 including, but not limited to, mitigation plan requirements, monitoring and bonding.
2. Where a designated FWHCA geographically coincides with a marine shoreline, stream or wetland, mitigation will comply with applicable mitigation requirements for those resources as described within this Program.

3. Mitigation sites shall be located to preserve or achieve contiguous wildlife habitat corridors, in accordance with a mitigation plan that is part of an approved critical area report, to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.
4. Mitigation shall achieve equivalent or greater biological and hydrological functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

6.4.5 Wetlands

Wetlands are those areas that are inundated or saturated by ground or surface water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. A wetland directly impacts water quality and stormwater control by trapping and filtering surface and ground water. Wetlands also provide valuable habitat for fish and wildlife. Because of the difficulty in replacing these rare and valuable areas, these regulations control development adjacent to and within wetlands, and limit the amount of wetlands, which may be altered. The purpose of these regulations is to protect the public from harm by preserving the functions of wetlands as recharge for ground water, flood storage, floodwater conveyance, habitat for fish and wildlife, sediment control, pollution control, surface water supply, aquifer recharge and recreation.

A. Wetland Classification

1. Wetlands shall be classified Category I, II, III, and IV, in accordance with the criteria from the Washington State Wetlands Rating System for Western Washington, August 2004, Revised Annotated Version, August 2006, Publication Number 04-06-025, August 2004.
2. Category I wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of functions. Category I wetlands include the following types of wetlands: Estuarine wetlands, Natural Heritage wetlands, Bogs, Mature and Old-growth Forested wetlands; wetlands that perform many functions very well and that score 70 or more points in the Washington Wetlands Rating System for Western Washington.
3. Category II wetlands are those that are difficult to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection. Category II wetlands include the following types of wetlands: Estuarine wetlands, and wetlands that perform functions well and score between 51-69 points.
4. Category III wetlands are those that perform functions moderately well and score between 30-50 points, and. These wetlands have generally been disturbed in some way and are often less diverse or more isolated from other natural resources in the landscape than Category II.
5. Category IV wetlands are those that have the lowest levels of functions (less than 30 points) and are often heavily disturbed. These are wetlands that may be replaced, and in some cases may be improved.

6. In addition, wetlands that require special protection and are not included in the general rating system shall be rated according to the guidelines for the specific characteristic being evaluated. The special characteristics that should be taken into consideration are as follows:
 - a. The wetland has been documented as a habitat for any Federally -listed Threatened or Endangered plant or animal species. In this case, “documented” means the wetland is on the appropriate state or federal database.
 - b. The wetland has been documented as a habitat for State- listed Threatened or Endangered plant or animal species. In this case “documented” means the wetland is on the appropriate state database.
 - c. The wetland contains individuals of Priority Species listed by the WDFW for the State.
 - d. The wetland has been identified as a Wetland of Local Significance.

B. Wetland Buffers

1. A buffer area shall be provided for all uses and activities adjacent to a wetland area to protect the integrity, function, and value of the wetland. The buffer shall be measured horizontally from the delineated edge of the wetland.
2. Wetland buffer widths shall be established according to the following tables (Tables 6-2 through 6-3):

Table 6-2. Wetland Buffer Widths

| Wetland Category | Buffer Width (feet) |
|--|----------------------------|
| Category I | 200 |
| Category II | 100 |
| Category III | 75 |
| Category IV | 50 |
| *Best Available Science Review, City of Tacoma, Critical Areas Preservation Ordinance, Tacoma, Washington, June 15, 2004, prepared by GeoEngineers | |

Table 6-3. Lakes of Local Significance*

| Site | Buffers (feet) |
|---|---|
| Wapato Lake and associated wetlands | 200, but not to exceed the centerline of Alaska Street. |
| *Best Available Science Review Recommendation from City of Tacoma Critical Areas Task Force June 2004 | |

C. Wetland Buffer Reductions

1. A wetland buffer may be reduced only for a water-oriented use, per 6.4.2(B) and in accordance with the provisions of this Section, when mitigation sequencing has been applied to the greatest extent practicable. The buffer shall not be reduced to any less than ¾ of the standard buffer width. The remaining buffer on-site shall be enhanced or restored to provide improved wetland function. Any other proposed wetland buffer reduction shall require a shoreline variance.
2. Low impact uses and activities consistent with the wetland buffer function may be permitted within a buffer that has not been reduced depending upon the sensitivity of wetland and intensity of activity or use. These may include pedestrian trails, viewing platforms, utility easements and storm water management facilities such as grass-lined swales that are used to sustain existing hydrologic functions of the wetland.
3. Measures identified in Table 6-4 shall be used to minimize impacts to the wetland to the greatest extent practicable.

Table 6-4. Examples to Minimize Disturbance*

| Disturbance element | Minimum measures to minimize impacts | Activities that may cause the disturbance |
|--|---|--|
| Lights | Direct lights away from wetland | Parking Lots, Warehouses, Manufacturing, High Density Residential |
| Noise | Place activity that generates noise away from the wetland | Manufacturing, High Density Residential |
| Toxic runoff | Route all new untreated runoff away from wetland, Covenants limiting use of pesticides within 150 feet of wetland | Parking Lots, Roads, Manufacturing, residential Areas, Application of Agricultural Pesticides, Landscaping |
| Change in water regime | Infiltrate or treat, detain and disperse into buffer new runoff from surface | Any impermeable surface, lawns, tilling |
| Pets and Human disturbance | Fence around buffer, Plant buffer with “impenetrable” natural vegetation appropriate for region | Residential areas |
| Dust | Best Management Practices for dust | Tilled fields |
| *Washington State Department of Ecology and Washington State Department of Fish and Wildlife’s Wetlands in Washington State; Volume 2: Guidance for Protecting and Managing Wetlands, Buffer Alternative 3 | | |

4. As an incentive, when the buffer area between a wetland and a regulated activity is reduced or averaged, the applicant may dedicate the wetland and buffer to the City, in lieu of providing compensatory mitigation, depending upon the intensity of use and the wetland

category. The Land Use Administrator shall determine whether the dedication is of benefit to the City for the protection of natural resources.

D. Yard Reduction

1. In order to accommodate for the required buffer zone, the Land Use Administrator may reduce the front and/or rear yard set-back requirements on individual lots. The front and/or rear yard shall not be reduced by more than 50 percent. In determining whether or not to allow the yard reduction, the Land Use Administrator shall consider the impacts of the reduction on adjacent land uses.

E. Buffer Averaging

1. The widths of buffers may be averaged if this will improve the protection of wetland functions, or if it is the only way to allow for use of the parcel. Averaging may not be used in conjunction with the provisions for reductions in buffers listed above.
2. Averaging to improve wetland protection may be approved when all of the following conditions are met:
 - a. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a dual-rated wetland with a Category I area adjacent to a lower rated area, and
 - b. The buffer is increased adjacent to the high-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion; and
 - c. The total area of the buffer after averaging is equal to the area required without averaging; and
 - d. The buffer at its narrowest point is never less than $\frac{3}{4}$ of the standard width.
3. Averaging to allow a reasonable use of a legal lot of record may be permitted when all of the following conditions are met:
 - a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging;
 - b. The averaged buffer will not result in degradation of the wetland's functions as demonstrated by a report from a qualified wetland expert;
 - c. The total area of the buffer after averaging is equal to the area required without averaging; and
 - d. The buffer at its narrowest point is never less than $\frac{3}{4}$ of the standard width.

F. Buffer Increases

1. The widths of the buffers may be required to be increased if the following conditions are found on the subject site:

- a. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with non-native species that do not perform needed functions, the buffer must either be planted to create the appropriate plant community or the buffer must be widened to the maximum buffer for the land use intensity to ensure that adequate functions in the buffer are provided.
- b. If the buffer for a wetland is based on the score for water quality, rather than habitat, then the buffer should be increased by 50% if the slope is greater than 30% (a 3-foot rise for every 10 feet of horizontal distance).
- c. If the wetland provides habitat for a particularly sensitive species (such as threatened or endangered species), the buffer must be increased to provide adequate protection for the species based on its particular life history needs as required by the Washington State Department of Fish and Wildlife.

G. Wetland Standards

1. General standards. No regulated activity or use shall be permitted within a wetland or stream corridor without prior approval and without meeting the provisions of this Program. All development proposals that are anticipated to impact a wetland or stream corridor are subject to the review process in TSMP section 2.4.2. Any permitted wetland modification shall demonstrate the following:
 - a. The applicant has taken appropriate action to first, avoid adverse impacts, then minimize impacts and finally, compensate or mitigate for unavoidable impacts;
 - b. The result of the proposed activity is no net loss of wetland functions;
 - c. The existence of plant or wildlife species appearing on the federal or state endangered or threatened species list will not be jeopardized;
 - d. The proposal will not lead to significant degradation of groundwater or surface water quality; and
 - e. The proposal complies with the remaining standards of this chapter, which include those pertaining to wetland compensation and the provision of bonds.

H. Wetland Mitigation Requirements

1. Methods to achieve compensation for wetland functions shall be approached in the following order of preference:
 - a. Restoration (re-establishment and rehabilitation) of wetlands on upland sites that were formerly wetlands.
 - b. Creation (Establishment) of wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of non-native introduced species. This should only be attempted when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is being designed.

- c. Enhancement of significantly degraded wetlands in combination with restoration or creation. Such enhancement should be part of a mitigation package that includes replacing the impacted area and meeting appropriate ratio requirements.

2. Wetland Mitigation Banks

- a. Credits from a wetland mitigation bank may be approved for use as mitigation for unavoidable impacts to wetlands when:
- b. The bank is certified under Chapter 173-700 WAC or as otherwise amended;
- c. The Administrator determines that the wetland mitigation bank provides appropriate mitigation for the authorized impacts; and
- d. The proposed use of credits is consistent with the terms and conditions of the bank’s certification.
- e. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank’s certification.
- f. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank’s certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

I. Mitigation Ratios

- 1. The ratios contained within Table 6-4 shall apply to all Creation, Re-establishment, Rehabilitation, and Enhancement compensatory mitigation.
- 2. The Land Use Administrator may increase the ratios under the following circumstances:
 - a. Uncertainty exists as to the probable success of the proposed restoration or creation;
 - b. A significant period of time will elapse between impact and replication of wetland functions;
 - c. Proposed mitigation will result in a lower category wetland or reduced function relative to the wetland being impacted; or
 - d. The impact was an unauthorized impact.

Table 6-5 Mitigation ratios for projects in Western Washington that do not alter the hydro-geomorphic setting of the site***

| Category and Type of Wetland | Re-establishment or Creation | Rehabilitation | 1:1 Re-establishment or Creation (R/C) and Enhancement (E) | Enhancement only |
|---|---|--|--|------------------|
| All Category IV | 4:5:1 | 3:1 | 1:1 R/C and 2:1 E | 6:1 |
| All Category III | 2:1 | 4:1 | 1:1 R/C and 2:1 E | 8:1 |
| Category II Estuarine | Case-by-case | 4:1 rehabilitation of an estuarine wetland | Case-by-case | Case-by-case |
| Category II Interdunal | 2:1 Compensation has to be interdunal wetland | 4:1 compensation has to be interdunal | 1:1 R/C and 2:1 E | 8:1 |
| All other Category II | 3:1 | 8:1 | 1:1 R/C and 4:1 E | 12:1 |
| Category I Forested | 6:1 | 12:1 | 1:1 R/C and 10:1 E | 24:1 |
| Category I based on score for functions | 4:1 | 8:1 | 1:1 R/C and 6:1 E | 16:1 |
| Category I Natural Heritage site | Not considered possible | 6:1 | Case-by-case | Case-by-case |
| Category I Bog | Not considered possible | 6:1 | Case-by-case | Case-by-case |
| Category I Estuarine | Case-by-case | 6:1 | Case-by-case | Case-by-case |
| <p>*Natural heritage site, coastal lagoons, and bogs are considered irreplaceable wetlands, and therefore no amount of compensation would replace these ecosystems. Avoidance is the best option. In the rare cases when impacts cannot be avoided, replacement ratios will be assigned on a case-by-case basis. However, these ratios will be significantly higher than the other ratios for Category I wetland.</p> <p>**Rehabilitation ratios area based on the assumption that actions judged to be most effective for that site are being implemented.</p> <p>**Rehabilitation ratios area based on the assumption that actions judged to be most effective for that site are being implemented.</p> <p>***Washington State Department of Ecology and Washington State Department of Fish and Wildlife’s Wetlands in Washington State; Volume 2: Guidance for Protecting and Managing Wetlands, Buffer Alternative 3</p> | | | | |

J. Compensatory Mitigation Plan Requirements

1. When a project involves wetland or buffer impacts, a compensatory mitigation report shall be prepared consistent with the requirement in 6.4.2(D) of this Program.

6.4.6 Streams and Riparian Habitats

This section provides policies and regulations that apply to critical freshwater habitats as defined by WAC 173-26-221(2)(c)(iv). The regulations here-in apply only to those critical freshwater habitats defined as streams using the classification system below. Other critical freshwater habitats include wetlands, floodplains, and channel migration zones and are regulated separately under this Master Program.

A. Stream Classification

1. Streams shall be generally classified in accordance with the Washington State Water Typing System set forth in WAC 222-16-030 to describe Type “S,” “F,” “Np” and “Ns” streams. Additional criteria typing for “F1”, and “F2” and “Ns1” and “Ns2” streams are included within this section.
- ~~2. For permits previously issued, and non-conforming uses and structures, refer to WAC 222-16-031, the interim water typing system that describes stream categories utilized prior to the adoption of this Program. The new water typing system described in WAC 222-16-030 separates streams and other water courses into Type S, F, Np and Ns Water. The interim water typing system described in WAC 222-16-031 separates streams into Type I, II, III, IV, and V streams and their respective conversions to the types described in WAC 222-16-030.~~
2. General descriptions of the new water typing system are as follows:
 - a. Type “S” Water means all streams or rivers, within their bankfull width, inventoried as “shorelines of the state” or “shorelines of statewide significance” under this Program
 - b. Type “F” Water means segments of natural waters other than Type S Waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, ~~or~~ within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat or as further described within WAC 222-16-030~~4~~. Type “F1” Water means segments of natural waters containing salmonid fishes. Type “F2” Water means segments of natural water containing fish that are not salmonids.
 - c. Type “Np” Water means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall or as further described within WAC 222-16-030~~4~~.
 - d. Type “Ns” Water means all segments of natural waters within the bankfull widths of the defined channels that are not Type S, F, or Np Water. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. “Ns1” Waters must be physically connected by an above ground channel system to Type, F, or Np Waters. “Ns2” Waters may not be physically connected by an above ground channel system to Type, F, or Np Waters.

B. Stream Buffers

1. A buffer area shall be provided for all uses and activities adjacent to a stream to protect the integrity and function of the stream. The buffer shall be measured horizontally from the edge of the ordinary high water mark.
2. Stream buffer widths shall be established according to Table 6-5, which is based on stream classification. Stream buffers for “Streams of local significance” are shown in Table 6-6.

Table 6-6 Stream Types

| Stream Type | Buffer (feet) |
|--|----------------------|
| Type S or Streams of local significance | 150 |
| Type F1 (Salmonids) | 150 |
| Type F2 (Non-Salmonids) | 100 |
| Type Np (No fish) | 100 |
| Type Ns1 (Connected to S, F, or Np) | 75 |
| Type Ns2 (Not connected to S, F, or Np) | 25 |

Table 6-7 Streams of local significance

| Name | Buffer (feet) |
|----------------|----------------------|
| Puyallup River | 150 |
| Hylebos Creek | 150 |
| Puget Creek | 150 |
| Wapato Creek | 150 |
| Swan Creek | 150 |

C. Stream Buffer Increase

1. The required buffer widths shall be increased as follows:
 - a. When the Land Use Administrator determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area;
 - b. When the frequently flooded area exceeds the recommended buffer width, the buffer area may extend to the outer edge of the frequently flooded area, where appropriate;

- c. When a channel migration zone is present, the stream buffer area width shall be measured from the outer edge of the channel migration zone;
- d. When the stream buffer is in an area of high blowdown potential, the stream buffer area width shall be expanded an additional fifty feet on the windward side; or
- e. When the stream buffer is within an erosion or landslide area, or buffer, the stream buffer area width shall be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.

D. Stream Buffer Reduction

1. A stream buffer may be reduced only for a water-oriented use, per 6.4.2(B) and in accordance with the provisions of this Section, when mitigation sequencing has been applied to the greatest extent practicable. The buffer shall not be reduced to any less than $\frac{3}{4}$ of the standard buffer width. The remaining buffer on-site shall be enhanced or restored to provide improved stream and riparian function. Any other proposed stream buffer reduction shall require a shoreline variance.
2. Low impact uses and activities consistent with the stream buffer function may be permitted within a buffer that has not been reduced depending upon the sensitivity of stream riparian area and intensity of activity or use. These may include pedestrian trails, viewing platforms, utility easements and storm water management facilities such as grass-lined swales that are used to sustain existing hydrologic functions of the critical area.
3. As an incentive, when the buffer area between a stream and a regulated activity is reduced or averaged, the applicant may dedicate the buffer to the City, in lieu of providing compensatory mitigation, depending upon the intensity of use and the stream type. The Land Use Administrator shall determine whether the dedication is of benefit to the City for the protection of natural resources.

E. Yard Reduction

1. In order to accommodate for the required buffer zone, the Land Use Administrator may reduce the front and/or rear yard set-back requirements on individual lots. The front and/or rear yard shall not be reduced by more than 50 percent. In determining whether or not to allow the yard reduction, the Land Use Administrator shall consider the impacts of the reduction on adjacent land uses.

F. Stream Buffer Averaging

1. The Land Use Administrator may allow the recommended stream buffer width to be averaged in accordance with a stream habitat analysis report only if:
 - a. The stream buffer areas that are reduced through buffer averaging will not reduce stream or habitat functions, including those of nonfish habitat;
 - b. The stream buffer areas that are reduced will not degrade the habitat, including habitat for anadromous fish;
 - ~~c. The proposal will provide additional habitat protection;~~

- c. The total area contained in the stream buffer of each stream on the development proposal site is not decreased;
- d. The recommended stream buffer width is not reduced by more than twenty-five (25%) percent in any one location;
- e. The stream buffer areas that are reduced will not be located within another critical area or associated buffer; ~~and~~
- f. When averaging the stream buffer, the proposal will provide additional habitat protection by including more highly functioning areas and reducing the buffer only in the low functioning areas; and
- g. When reducing the stream buffer, and the buffer is sparsely vegetated or vegetated with invasive species that do not perform needed functions, the remaining buffer shall be planted to create the appropriate plant community.

G. Stream Standards

- 1. Type F1, F2, Np, and Ns1, and Ns2 streams may be relocated or placed in culverts provided it can be demonstrated that:
 - a. There is no other feasible alternative route with less impact on the environment;
 - b. Existing location of the stream would prevent a reasonable economic use of the property;
 - c. No significant habitat area will be destroyed;
 - d. The crossing minimizes interruption of downstream movement of wood and gravel;
 - e. The new channel or culvert is designed and installed to allow passage of fish inhabiting or using the stream, and complies with WDFW requirements;
 - f. The channel or culvert complies with the current adopted City of Tacoma Storm Water Manual;
 - g. The applicant will, at all times, keep the channel or culvert free of debris and sediment to allow free passage of water and fish;
 - h. Roads in riparian habitat areas or buffers shall not run parallel to the water body;
 - i. Crossing, where necessary, shall only occur as near to perpendicular with the water body as possible;
 - j. Road bridges are designed according to Washington Department of Fish and Wildlife Design of Road Culverts for Fish Passage, 2003, and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossing, 2000; and
 - k. Proposals for a steam crossing are subject to the review process in TSMP Section 2.4.2~~±~~.

H. Public Access within a Stream Buffer

- a. Where possible, trails and associated viewing platforms shall not be made of continuous impervious materials. Natural trails with pervious surfaces such as, but not limited, to bark chip are encouraged.
- b. Trails shall be located on or near the outer edge of the riparian area or buffer, where possible, except for limited viewing platforms and crossings;

I. Stream Mitigation Requirements

1. Where a riparian wetland exists, all proposed alterations in the buffer of a stream shall be in accordance with the standards for the applicable wetland category.
- ~~2. Where riparian habitat does not exist, restoration, enhancement or creation will be required within the standard or modified buffer width.~~
2. In the event stream corridor alterations or relocations, as specified above, are permitted, the applicant shall submit an alteration or relocation plan prepared in association with a qualified professional with expertise in this area. In addition to the general mitigation plan standards, the plan shall address the following information:
 - a. Creation of natural meander patterns and gentle side slope formations;
 - b. Creation of narrow sub channel, where feasible, against the south or west bank;
 - c. Provisions for the use of native vegetation;
 - d. Creation, restoration or enhancement of fish spawning and nesting areas;
 - e. The proposed reuse of the prior stream channel;
 - f. Provision of a qualified consultant, approved by the City, to supervise work to completion and to provide a written report to the Land Use Administrator stating the new channel complies with the provisions of this chapter; and
 - g. When streambank stabilization is necessary, bioengineering or soft armoring techniques are required, where possible.
3. The Washington Department of Fish and Wildlife has authority over all projects in State Waters which impact fish. Construction in State Waters is governed by Chapter 75.20 RCW, Construction Projects in State Waters.

6.4.7 Geologically Hazardous Areas

Geologically hazardous areas are areas susceptible to severe erosion; slide activity, or other geologic events. In the City of Tacoma shoreline, high marine bluffs, like those along the Tacoma Narrows, are the most visible type of geologically hazardous area, although seismic, tsunami and erosion hazards have also been mapped.

The more severe hazard areas are not suitable for placing structures or locating intense activities or uses due to the inherent threat to public health and safety. Vegetation removal during construction and

development of adjacent properties alters surface runoff and ground water infiltration patterns that can lead to increased slope instability.

A certain level of erosion of shorelines and marine bluffs is natural to the Puget Sound area. Erosion from “feeder bluffs” is the primary source of sand and gravel found on beaches including accretion beaches (gravel bars, sand pits and barrier beaches). Extensive “hardening” of feeder bluff areas can eventually starve beaches down drift of the bluff, resulting in lowered beach profiles and the potential for increased erosion. Changes in the beach substrate resulting from reduced sediment deposition may result in negative habitat impacts. Erosion and accretion are natural processes that provide ecological functions and thereby contribute to sustaining the natural resource and ecology of the shoreline.

A. Designation.

1. Designation of Geologically Hazardous Areas. Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. Areas susceptible to one or more of the following types of geo-hazards shall be designated as a geologically hazardous area:

- a. Erosion hazard;
- b. Landslide hazard;
- c. Seismic hazard;
- d. Mine hazard;
- e. Volcanic hazard; and
- f. Tsunami hazard.

B. Classification

1. Erosion hazard areas. Erosion hazard areas generally consist of areas where the combination of slope and soil type makes the area susceptible to erosion by water flow, either by precipitation or by water runoff. Concentrated stormwater runoff is a major cause of erosion and soil loss. Erosion hazard critical areas include the following:

- a. Areas with high probability of rapid stream incision, stream bank erosion or coastal erosion, or channel migration.
- b. Areas defined by the Washington Department of Ecology Coastal Zone Atlas as one of the following soil areas: Class U (Unstable) includes severe erosion hazards and rapid surface runoff areas, Class Uos (Unstable old slides) includes areas having severe limitations due to slope, Class Urs (Unstable recent slides), and Class I (Intermediate).
- c. Any area characterized by slopes greater than 15 percent; and the following types of geologic units as defined by draft geologic USGS maps: m (modified land), Af (artificial fill), Qal (alluvium), Qw (wetland deposits), Qb (beach deposits), Qtf (tide-flat deposits), Qls (landslide deposits), Qmw (mass-wastage deposits), Qf (fan deposits), Qvr and Qvs series of geologic material types (Vashon recessional outwash and Steilacoom Gravel), and Qvi (Ice-contact deposits).

- d. Slopes steeper than 25% and a vertical relief of 10 or more feet.
2. Landslide Hazard Areas. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope, slope aspect, structure, hydrology, or other factors. Landslide hazard areas are identified as any area with all three of the following characteristics:
 - a. Slopes steeper than 25 percent and a vertical relief of ten (10) or more feet.
 - b. Hillsides intersecting geologic contacts that contain impermeable soils (typically silt and clay) frequently inter-bedded with permeable granular soils (predominantly sand and gravel), or impermeable soils overlain with permeable soils.
 - c. Springs or groundwater seepage.
 - d. Any area which has exhibited movement during the Holocene epoch (from 10,000 years ago to present) or that are underlain or covered by mass wastage debris of that epoch.
 - e. Any area potentially unstable due to rapid stream incision stream bank erosion or undercutting by wave action.
 - f. Any area located on an alluvial fan presently subject to, or potentially subject to, inundation by debris flows or deposition of stream-transported sediments.
 - g. Any area where the slope is greater than the angle of repose of the soil.
 - h. Any shoreline designated or mapped as Class U, Uos, Urs, or I by the Washington Department of Ecology Coastal Zone Atlas.
 3. Seismic hazard areas. Seismic hazard areas shall include areas subject to severe risk of damage as a result of seismic-induced settlement, shaking, lateral spreading, surface faulting, slope failure, or soil liquefaction. These conditions occur in areas underlain by soils of low cohesion or density usually in association with a shallow groundwater table. Seismic hazard areas shall be as defined by the Washington Department of Ecology Coastal Zone Atlas (Seismic Hazard Map prepared by GeoEngineers) as: Class U (Unstable), Class Uos (Unstable old slides), Class Urs (Unstable recent slides), Class I (Intermediate), and Class M (Modified) as shown in the Seismic Hazard Map.
 4. Mine Hazard Areas. Mine hazard areas are those areas underlain by or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of probable sink holes, gas releases, or subsidence due to mine workings. Underground mines do not presently exist within City limits¹.

¹ An underground structure, consisting of a partially completed underground railroad tunnel, exists within City limits, as defined in the mine hazard areas map. The tunnel was constructed in 1909 and discontinued that same year due to excessive groundwater flows within the tunnel. The dimensions of the tunnel are presently unknown, and it was reportedly backfilled with wood, sand, and gravel in 1915.

5. Volcanic Hazard Areas. Volcanic hazard areas are areas subject to pyroclastic flows, lava flows, debris avalanche, and inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity. The most likely types of volcanic hazard within the City are mudflows, lahars, or flooding relating to volcanic activity. The boundaries of the volcanic hazard areas within the City are shown in the volcanic hazard map.
6. Tsunami hazard areas. Tsunami hazard areas are coastal areas and large lake shoreline areas susceptible to flooding and inundation as the result of excessive wave action derived from seismic or other geologic events. Currently, no specific boundaries have been established in the City limits for this type of hazard area.

C. General Regulations

1. The following regulations apply to all geologically hazardous areas:
 - a. New development or the creation of new lots that would cause foreseeable risk from geological conditions to people or improvements during the life of the development shall be prohibited.
 - b. New development or the creation of new lots that would require structural shoreline stabilization over the life of the development shall be prohibited, except where:
 - i. stabilization is necessary to protect an permitted use; and
 - ii. no alternative location is available; and
 - iii. no net loss of ecological functions will result.
 - c. Under such circumstances, the stabilization measures shall conform to all provisions included in Chapter 8 of this Program.
 - d. Stabilization structures or measures to protect existing primary residential structures may be permitted where no alternatives, including relocation or reconstruction of existing structures, are found to be feasible, and less expensive than the proposed stabilization measure provided they are designed and constructed consistent with ~~conform with~~ the provisions of Chapter 8 of this Program.

D. Erosion and Landslide Hazards - Development Standards

1. Structures and improvements shall be required to maintain a minimum 50-foot geo-setback from the boundary of all erosion and landslide hazard areas (Note: where no distinct break exists, the top of a steep slope is the upper most limit of the area where the ground surface drops greater than 10 feet or more vertically within a horizontal distance of 25 feet). No geo-setback shall be required where the vertical relief of the slope is 10 feet or less. The geo-setback may be reduced to 30 feet where the vertical relief of the slope is greater than 10 feet but no more than 20 feet.
2. The 30-foot or 50-foot geo-setback may be reduced to a minimum of 10 feet for the following:

- a. Construction of one-story detached accessory structures (garages, sheds, playhouses of similar structures not used for continuous occupancy) with less than 1,000 square feet of floor area, whichever is greater for existing residences.
- b. Addition to existing residences, including decks that have a maximum 250 square feet footprint of building, deck or roof area, whichever is greater, and are not closer to the top or bottom of the slope than the existing residence.
- c. Installation of fences where they do not impede emergency access.
- d. Clearing only up to 2,000 square feet during May 1 to October 1, if determined by the Building Official to not cause significant erosion hazard.
- e. Grading up to 5 cubic yards during April 1 to October 1 over an area not to exceed 2,000 square feet, if determined by the Building Official that such grading will not cause a significant erosion hazard.
- f. Removal of noxious or invasive weeds, provided such areas are protected from erosion with either native vegetation or other approved erosion protection.
- g. Forest practices regulated by other agencies.
- h. The construction of public or private utility corridors; provided it has been demonstrated that such construction will not significantly increase erosion risks.
- i. Trimming and limbing of vegetation for the creation and maintenance of view corridors, removal of site distance obstructions as determined by the City Traffic Engineer, removal of hazardous trees, or clearing associated with routine maintenance by utility agencies or companies; provided that the soils are not disturbed and the loss of vegetative cover will not significantly increase risks of landslide or erosion.
- j. The construction of approved public or private trails; provided they are constructed in a manner which will not contribute to surface water runoff.
- k. Remediation or critical area restoration project under the jurisdiction of another agency.
- l. Where it can be demonstrated through an erosion and/or landslide hazard analysis prepared by a geotechnical hazards specialist that there is no significant risk to the development proposal or adjacent properties, or that the proposal can be designed so that any erosion hazard is significantly reduced, the geo-setback may be reduced as specified by the geotechnical specialist. This geo-setback may be increased where the Building Official determines a larger geo-setback is necessary to prevent risk of damage to proposed and existing development. The development must also comply with the Specific Development Standards for Erosion and Landslide Hazard Areas.
- m. The erosion hazard analysis shall provide the following information:
 - i. Alternative setbacks to the erosion hazard area.

- ii. Recommended construction techniques for minimizing erosional damage.
- iii. Location and methods of drainage and surface water management.
- iv. Recommended time of year for construction to occur.
- v. Permanent erosion control (vegetation management and/or replanting plan) to be applied at the site.
- n. The geotechnical analysis report shall include the following:
 - i. A description of the extent and type of vegetative cover.
 - ii. A description of subsurface conditions based on data from site-specific explorations.
 - iii. Descriptions of surface runoff and groundwater conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements.
 - iv. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm.
 - v. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties.
 - vi. A study of the slope stability, including an analysis of proposed cuts, fills, and other site grading; and the effect construction and placement of structures will have on the slope over the estimated life of the structures.
 - vii. Recommendations for building site limitations, specifically, a recommendation for the minimum geo-buffer and minimum-setback.
 - viii. Recommendations for proposed surface and subsurface drainage, considering the soil and hydrology constraints of the site.
- ~~m. The erosion hazard analysis shall include the information specified in TMC 13.11.730(A)(1)(l) and the landslide hazard analysis shall include information specified in TMC 13.11.730(B)(1)(e).~~
- o. In addition to the erosion hazard analysis, a Construction Stormwater Pollution Prevention Plan shall be required that complies with the requirements in the currently adopted City Stormwater Management Manual. Clearing and grading activities in an erosion hazard area shall also be required to comply with the City amendments to the most recently adopted International Building Code.

E. Erosion and Landslide Hazard Areas - Specific Development Standards

- 1. The development shall not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions. Note that point discharges onto adjacent properties is not permitted without approved easements. Dispersed flows meeting pre-developed flows will be permitted provided other development standards can be met.

2. The development shall not decrease slope stability on adjacent properties.
3. Such alterations shall not adversely impact other critical areas.
4. The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the International Building Code.
5. Structures and improvements shall minimize alterations to the natural contour of the slope, and the foundation shall be tiered where possible to conform to existing topography. Terracing of the land; however, shall be kept to a minimum to preserve natural topography where possible. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation.
6. Development shall be designed to minimize impervious lot coverage. All development shall be designed to minimize impervious lot coverage and should incorporate understructure parking and multi-level structures within the existing height limit.
7. Roads, walkways, and parking areas should be designed parallel to topographic contours with consideration given to maintaining consolidated areas of natural topography and vegetation.
8. Removal of vegetation shall be minimized. Any replanting that occurs shall consist of trees, shrubs, and ground cover that is compatible with the existing surrounding vegetation, meets the objectives of erosion prevention and site stabilization, and does not require permanent irrigation for long-term survival.
9. The proposed development shall not result in greater risk or need for increased geo-buffers on neighboring properties.
10. Structures and improvements shall be clustered where possible. Driveways and utility corridors shall be minimized through the use of common access drives and corridors where feasible. Access shall be in the least sensitive area of the site.

F. Seismic Hazard Areas - General Development Standards

1. A hazard analysis report, which shall include the information specified in TMC 13.11.730(D)(2), will be required for structures and improvements in a seismic hazard area. All developments shall be required to comply with the requirements of the most recently adopted edition of the International Building Code. The following types of projects will not require a seismic hazardous analysis report:
 - a. Construction of new buildings with less than 2,500 square feet footprint of floor or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly.
 - b. Additions to existing residences, including decks that have a maximum 250 square feet footprint of building, deck or roof area, whichever is greater.
 - c. Installation of fences where they do not impede emergency access.

2. The exceptions above may not apply to areas that are also landslide hazard areas.
3. All developments shall be required to comply with the requirements of the most recently adopted edition of the International Building Code.

G. Volcanic Hazard Areas - General Development Standards

1. Development in volcanic hazard areas shall comply with the zoning and Building Code requirements of the TMC. New developments in volcanic hazard areas shall be required to submit an evacuation and emergency management plan, with the exception of the following:
 - a. Construction of new buildings with less than 2,500 square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;
 - b. Additions to existing residences, including decks that have a maximum 250 square feet footprint of building, deck or roof area, whichever is greater; and
 - c. Installation of fences where they do not impede emergency egress.

H. Mine Hazard Areas - General Development Standards

1. Critical facilities, as defined by the currently adopted version of International Building Code, are not permitted in the area of the former railroad tunnel. Other development within 50 feet of the mapped location of the former railroad tunnel shall be required to perform a hazard analysis that includes the information specified in TMC 13.11.730(F)

I. Tsunami Hazard Areas - General Development Standards

1. Development in tsunami hazard areas shall comply with the zoning and Building Code requirements of the TMC. There are no other specific development standards for tsunami hazard areas.

6.4.8 Flood Hazard Areas

Portions of Tacoma’s shoreline are subject to periodic flooding that may result from factors including, but not limited to, unusual amount of rainfall over a short period of time, high tides, and wind driven waves. Tsunamis also pose a less frequent, but potentially more hazardous, type of flooding event.

A. Classification.

1. Classifications of flood hazard areas shall be consistent with the most recent official map of the Federal Insurance Administration that delineates areas of special flood hazards and includes the risk premium zones applicable to the City or as determined by the FIA. Also known as “flood insurance rate map” or “FIRM.”
2. Where the flood insurance map and studies do not provide adequate information, the City, through its Public Works Department, shall consider and interpret information produced by the Army Corps of Engineers, Natural Resource Conservation Service, Department of Housing and Urban Development, or any other qualified person or agency to determine the location of Flood Hazard Areas and Coastal High Hazard Areas.

B. Flood Hazard Area Standards

1. All development proposals shall comply with TMC 2.12.040 through 2.12.050, Flood Hazard and Coastal High Hazard Areas, and TMC 12.08 Surface Water Management Manual for general and specific flood hazard protection.
2. Development shall not reduce the base flood water storage ability.
3. Construction, grading, or other regulated activities which would reduce the flood water storage ability must be mitigated by creating compensatory storage on- or off-site.
 - a. Compensatory storage provided off-site for the purposes of mitigating habitat shall comply with all applicable wetland, stream and fish and wildlife habitat conservation area requirements.
 - b. Compensatory storage provided off-site for purposes of providing flood water storage capacity shall be of similar elevation in the same floodplain as the development.
 - c. Compensatory storage is not required in Coastal A and V Zone flood hazard areas or in flood hazard areas with a mapped floodway but containing no functional salmonid habitat on the site.
 - d. For sites with functional connection to salmonid bearing waters that provide a fish accessible pathway during flooding, compensatory storage areas shall be graded and vegetated to allow fish refugia during flood events and their return to the main channel as floodwater recedes without creating flood stranding risks.
4. Development in floodplains shall not significantly or cumulatively increase flood hazard or be inconsistent with a comprehensive flood hazard management plan adopted pursuant to chapter 86.12 RCW, provided the plan has been adopted after 1994 and approved by the department. New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway. The following uses and activities may be appropriate and or necessary within the channel migration zone or floodway:
 - a. Actions or projects that protect or restore the ecosystem-wide processes or ecological functions.
 - b. Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost. Where such structures are permitted, mitigation shall address impacted functions and processes in the affected section of watershed or drift cell.
 - c. Repair and maintenance of an existing legal use, provided that such actions do not cause significant ecological impacts or increase flood hazards to other uses.
 - d. Modifications or additions to an existing non-agricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions.

- e. Development in incorporated municipalities and designated urban growth areas, as defined in Chapter 36.70A RCW, where existing structures prevent active channel movement and flooding.
 - f. Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and that the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.
5. The owner of any property upon which new development occurs is required to record a Notice on Title if the property contains land within the 100-year floodplain and/or the Riparian Buffer zone, before a permit may be issued.
 6. Base flood data and flood hazard notes shall be shown on the face of any recorded plat or site plan, including, but not limited to, base flood elevations, flood protection elevation, boundary of floodplain, and zero rise floodway.
 7. Allow new structural flood hazard reduction measures in shoreline jurisdiction only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate vegetation conservation actions are undertaken consistent with WAC 173-26-221(5).
 8. Structural flood hazard reduction measures shall be consistent with an adopted comprehensive flood hazard management plan approved by the department that evaluates cumulative impacts to the watershed system.
 9. New structural flood hazard reduction measures shall be placed landward of the associated wetlands, and designated vegetation conservation areas, except for actions that increase ecological functions, such as wetland restoration, or as noted below. Provided that such flood hazard reduction projects be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis.
 10. Require that new structural public flood hazard reduction measures, such as dikes and levees, dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and un-mitigable significant ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.
 11. Require that the removal of gravel for flood management purposes be consistent with an adopted flood hazard reduction plan and with this chapter and permitted only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

6.4.9 Aquifer Recharge Areas

A. Classification

1. Classification of recharge areas shall be based upon the susceptibility of the aquifer to degradation and contamination. High susceptibility is indicative of land uses which produce contaminants that may degrade groundwater and low susceptibility is indicative of land uses which will not. The following criteria should be considered in designating areas with critical recharging effects:
 - a. Availability of adequate information on the location and extent of the aquifer;
 - b. Vulnerability of the aquifer to contamination that would create a significant public health hazard. When determining vulnerability, depth of groundwater, macro and micro permeability of soils, soil types, presence of a potential source of contamination and other relevant factors should be considered; and
 - c. The extent to which the aquifer is an essential source of drinking water.

- B. Aquifer Recharge Area Standards for development in aquifer recharge areas shall be in accordance with the standards in Chapter 13.09, South Tacoma Groundwater Protection District, of the TMC and other local, state, and federal regulations.

6.5 Public Access

6.5.1 Introduction

Shoreline public access is the physical ability of the general public to reach and touch the water's edge or the ability to have a view of the water and the shoreline from upland locations. There are a variety of types of public access, including docks and piers, boat launches, pathways and trails, promenades, street ends, picnic areas, beach walks, viewpoints and others.

An important goal of the Shoreline Management Act is to protect and enhance public access to the state's shorelines. Specifically, the SMA states:

RCW 90.58.020: "[T]he public's ability to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."

"Alterations of the natural conditions of the shorelines of the state, in those limited instances when authorized, shall be given priority for ...development that will provide an opportunity for substantial numbers of people to enjoy the shorelines of the state."

Public access and use of the shoreline is supported, in part, by the Public Trust Doctrine. The essence of the doctrine is that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses, and that this trust is not invalidated by private ownership of the underlying land. The doctrine limits public and private use of tidelands and other shorelands to protect the public's right to use the waters of the state. The Public Trust Doctrine does not allow the public to trespass over privately owned uplands to access the tidelands. It does, however, protect public use of navigable waterbodies.

6.5.2 Background

This Public Access Chapter is preceded by several planning efforts to maintain and enhance public access to the shoreline in Tacoma. These efforts include the Ruston Way Plan, Shoreline Trails Plan, and the Thea Foss Waterway Design and Development Plan. The public access policies and strategies included in this Master Program build on those established in past planning documents and gives consideration to other recreation, mobility and open space goals and policies of the Comprehensive Plan. Public access projects identified in these plans have been integrated into a single, comprehensive Public Access Alternatives Plan. This plan will complement the policies and regulations of this Chapter by providing guidance for off-site mitigation and public expenditures towards public access and recreation within the shoreline. .

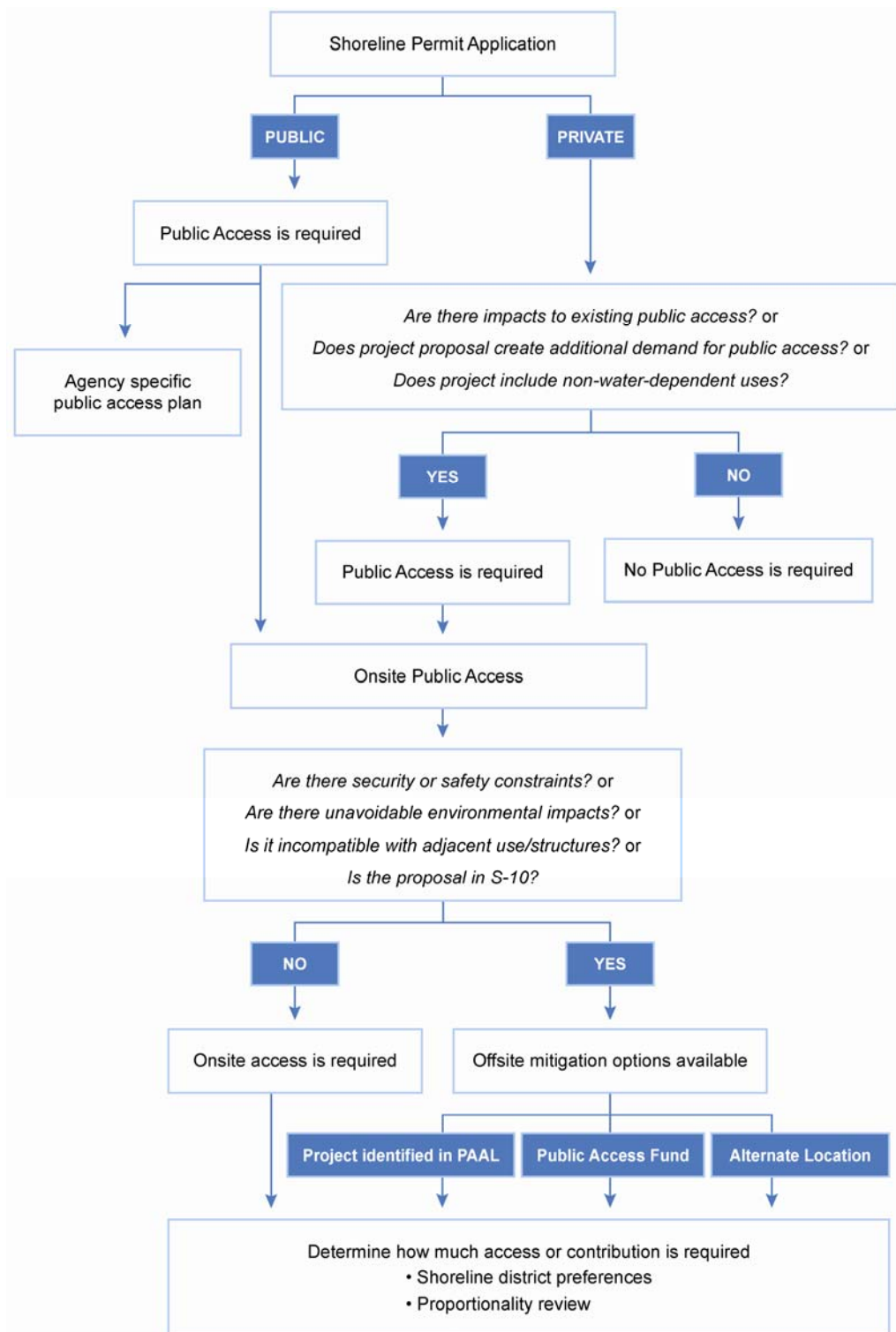
6.5.3 Organization

This Chapter is organized around three primary issues:

1. Determining when public access should be required as a condition of a shoreline permit (i.e. nexus)
2. The preferences and alternatives available for the provision of public access when required; and
3. Design considerations for the implementation of access projects.

When public access is required, the permit applicant should review the preferences and available alternatives and consider these in their permit application. Access preferences and alternatives may depend on a number of factors including the type of use and the district in which it is located. When off-site public access mitigation is appropriate, the permit applicant should review the Public Access Alternatives Plan for guidance and to identify priority projects. Permit applications that are not required to provide public access under the General Policies and Regulations, are not subject to the policies and regulations that follow. The following flow chart (Figure 6-1-2) depicts how the public access evaluation will occur within the permit process.

Figure 6-2. Public Access Requirements Flow Chart



6.5.16.5.4 Policies

A. General Policies

1. Developments, uses, and activities should be designed and operated to avoid or minimize blocking, reducing, or adversely interfering with the public's visual or physical access to the water and the shorelines.
2. Public access should be ~~provided to the shoreline~~ as a primary use in its own right or as a secondary use that is created or enhanced ~~provided~~ as development or redevelopment occurs, provided that private property rights and public safety are protected. Public access elements may include, but should not be limited to the following:
 - a. Bicycle paths along or adjacent to the shoreline;
 - b. Shoreline parks;
 - c. Beach areas;
 - d. Piers, wharves, docks, and floats;
 - e. Transient moorage;
 - f. Trails, promenades, or other pedestrian ways along or adjacent to the shoreline edge.
3. New development should avoid or minimize conflict with existing public access or planned public access projects and provide mitigation if impacts cannot be avoided.
- ~~3.4.~~ Impacts to public access from new development should be mitigated through the provision of on-site visual and physical public access, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline.
- ~~3.~~ ~~New development should avoid or minimize conflict with existing public access or planned public access projects and provide mitigation if impacts cannot be avoided.~~
5. Development projects on public property or proposed by public entities should be required to incorporate public access features except where access is incompatible with safety, security, or environmental protection.
6. Public access provisions should be consistent with all relevant constitutional and other limitations that apply to ~~public requirements~~ regulations that are placed on private property, including the nexus and proportionality requirements.
7. Public access requirements on privately owned lands should be commensurate with the scale of the development and should be reasonable, effective and fair to all affected parties including but not limited to the landowner and the public.
8. Public access should not compromise, in any significant manner, the rights of navigation and space necessary for water-dependent uses.

9. Where ~~visual access~~ public views and water-dependent uses conflict, the water-dependent use should prevail.

9-10. Public access provided by street-ends, utility corridors, and public rights-of-way should be addressed in public access plans and should be preserved, maintained and improved.

B. Access Preferences and Alternatives

1. Preference should be given generally to provision of on-site public access. Off-site public access is appropriate where it would provide more meaningful public access, prevent or minimize safety or security conflicts, or where off-site public access is consistent with an approved public access plan.

2. Public access improvements should be generally consistent with the Public Access Alternatives Plan, the Open Space Habitat and Recreation Plan, the Mobility Master Plan, and any other adopted public access plan if the project area is covered by these plans. However, an alternative proposed by the Applicant may be approved if it is consistent with the goals, objectives, and policies in this TSMP.

3. When public access is provided off-site, via off-site mitigation, public access fund expenditures, or public agency master plans, priority should be given to projects that help to complete or enhance the continuous public access system planned from the Tacoma Dome to Point Defiance, as identified in the Public Access Alternatives Plan.

4. Public and private property owners should use a variety of techniques, including acquisition, leases, easements and design and development innovations, in order to achieve the public access goals and to provide diverse public access opportunities.

5. Where public access cannot be provided on-site, the City should consider innovative measures to allow permit applicants to provide public access off-site, including contributing to a public access fund to develop planned shoreline access projects.

6. Water-enjoyment and non-water-oriented uses that front on the shoreline should provide continuous public access along the water's edge.

~~7. Public access should be provided as close as possible to the water's edge without significantly adversely affecting a sensitive environment or resulting in significant safety hazards. Improvements should allow physical contact with the water where feasible.~~

8-7. Developments within shoreline jurisdiction that do not have shoreline frontage should provide public access by providing trails or access corridors through or from their sites or by providing view improvements, including viewing platforms.

9-8. Where new development occurs in a location where access along or to the shoreline already exists, the new development should either contribute additional recreation or access facilities to enhance the existing access, or consider view improvements.

9. An applicant may construct public access improvements before site development as a part of an overall site master plan, which may be phased. The applicant would receive credit for those improvements at time of development.

14.10. Public agencies are encouraged to develop their own public access plans, consistent with the policies and regulations of this Chapter, provided they meet the requirements specified in WAC 173-26-221 (4) (c).

C. Design

1. Public access should be designed and located in such a way that does not result in a net loss of ecological functions.
2. Public access should be provided as close as possible to the water's edge without significantly adversely affecting a sensitive environment or resulting in significant safety hazards. Improvements should allow physical contact with the water where feasible.
- ~~2. Public access should be located as close as possible to the water's edge while protecting shoreline ecological functions and avoiding conflicts with public safety or security.~~
3. Public spaces should be designed to be recognizable as 'public' areas and to promote a unified access system, including the design and location of site details and amenities, and to provide a safe and welcoming experience for the public.
4. Public spaces should be designed for the greatest number and diversity of people and for a variety of interests.
5. Public spaces should be designed and located to connect to other public areas, street-ends and other pedestrian or public thoroughfares.
6. New public access should be sited and appropriately designed to avoid causing detrimental impacts to the operations of existing water-dependent and water-related uses.

6.5.26.5.5 Regulations

A. General Regulations

1. Where feasible, new development, uses and activities shall be designed and operated to avoid and minimize blocking, reducing, or adversely interfering with the public's physical access to the water and shorelines.
2. Public access provided by street ends, public utilities, and public rights-of-way shall not be diminished without full mitigation for those impacts.
3. Existing public access shall not be eliminated unless the Applicant shows that there is no feasible alternative and replaces the public access with access of comparable functions and value at another location, consistent with C.2.
- ~~3. Public access is not required if the applicant can demonstrate, to the satisfaction of the Administrator, that there exists no substantiated nexus between the project and public access improvements and/or statutory limitations would be violated.~~

4. Publicly financed or subsidized shoreline erosion control measures shall not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, or security.
5. Public access easements and shoreline permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition of approval. Said recording with the County Auditor's Office shall occur at the time of shoreline permit approval. Future actions by the applicant and/or successors in interest or other parties shall not diminish the usefulness or value of the public access provided, unless a new shoreline permit is secured
6. Required public access improvements shall be fully developed and available for public use at the time of occupancy of the use or activity unless there are mitigating circumstances and an agreement setting forth an alternative schedule acceptable to the Land Use Administrator is in place.

B. When Public Access is Required

~~3.1.~~ Public access shall be required to the extent allowed by law in the review of all shoreline substantial development permits and conditional use permits ~~where any of the following conditions exist~~ in the following circumstances:

- a. The project is publicly funded or on public lands.
- b. Where any of the following conditions exist:
 - i. The project increases or creates ~~public~~ demand for public access;
 - ii. The project impacts or interferes with existing access by blocking access or discouraging use of existing access;
 - iii. The project impacts or interferes with public use of waters subject to the Public Trust Doctrine; or
 - iv. The project is a non-water-dependent use, or a non-preferred use under the SMA; ~~or~~
- ~~b.~~ ~~The project is publicly funded or on public lands.~~

~~4.2.~~ The City bears the burden of demonstrating that a proposed use or development ~~satisfies any~~ of the preceding conditions.

~~5.3.~~ If public access is required pursuant to section 6.5.52.BA.13.b, the City shall impose permit conditions requiring public access that is roughly proportional to the impacts caused by the proposed use or development. The City bears the burden of demonstrating that any public access required pursuant to section 6.5.52.BA.13.b is roughly proportional to the impacts caused by the proposed use or development.

~~6.4.~~ When public access is required pursuant to TSMP 6.5.5.B.1.b, ~~t~~The Land Use Administrator shall ~~review the proposed use or development~~ make specific findings ~~demonstrating the essential nexus between that the use or development and the permit conditions requiring public access~~ satisfies any of the conditions in section 6.5.5.B.1.b 6.5.2.A.3.b and - Findings

~~shall also include a determination that the permit conditions requiring public access are roughly proportional to the impacts caused by the proposed use or development.~~

~~7.5. Pedestrian access shall be required along new and reconstructed dikes, jetties, and groins, except where the access meets the test in 6.5.52(CA)(27).~~

~~9. Publicly financed or subsidized shoreline erosion control measures shall not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, or security.~~

~~10. Public access easements and shoreline permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition of approval. Said recording with the County Auditor's Office shall occur at the time of shoreline permit approval. Future actions by the applicant and/or successors in interest or other parties shall not diminish the usefulness or value of the public access provided, unless a new shoreline permit is secured.~~

~~11. Required public access improvements shall be fully developed and available for public use at the time of occupancy of the use or activity unless there are mitigating circumstances and an agreement setting forth an alternative schedule acceptable to the Land Use Administrator is in place.~~

C. Access Preferences and Alternatives

1. Onsite, physical access is preferred except in S-10 as provided in 6.5.5.D.4.

~~1.2. The Administrator may approve alternatives to on-site, physical access to the shoreline provided that on-site access alternatives such as limiting hours to daylight use, or altering site configurations or incorporating design elements, such as fences, terraces, hedges, and/or other landscaping to separate uses and activities cannot first be accommodated, and if the applicant can demonstrate with substantial and credible evidence that one or more of the following conditions exist:~~

- a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
- b. ~~Access is not feasible due to~~ The configuration of existing parcels and structures, ~~such that access areas are blocked~~ potential access areas in such a way that cannot be reasonably remedied by the proposed development;
- c. Public access will jeopardize ~~inherent~~ security requirements of the proposed development or use and the impacts on security cannot be satisfied through the application of alternative design features or other solutions;
- d. The cost of providing on-site access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development;
- e. Environmental impacts that cannot be mitigated, such as damage to spawning areas or nesting areas, will result from the public access; or

- f. Public access is infeasible due to incompatible adjacent uses where the incompatibility cannot be mitigated.
- g. If the required required pursuant to 6.5.5.B.1 band access consistent with these standards is access is disproportionate to the impact of the use or development, the Land Use Administrator may consider alternative on-site access, including a reduced minimum average width, or different types of access, such as a viewing platform.

~~Provided further that first, Prior to approving alternatives to on-site physical access due to one or more of the conditions listed in C.2 the land use administrator should first consider on-site access alternatives such as limiting hours to daylight use, or alternative site configurations or incorporating design elements, such as fences, terraces, hedges, and/or other landscaping to separate uses and activities cannot be accommodated., and second, that the applicant provides substantial, credible evidence demonstrating how the proposal meets the criteria.~~

~~2.3. In determining whether the proposed use or development meets one or more of the criteria in 6.5.2(A)(7) above, the City shall require substantial, credible evidence furnished by the applicant demonstrating how the proposal meets the criteria.~~

~~3.4. Projects which meet the criteria in TSMP 6.5.52.(CA.)(27) above must construct off-site public access improvements of comparable function and value to the public access that would otherwise be required on-site or contribute funds of equivalent value to a locally established public access fund that will be used for developing or enhancing system capacity.~~

5. When off-site public access is required, including contributions to an established public access fund, preference will be given to projects that further implement the continuous access system between the Foss Waterway and Point Defiance and projects listed in the Public Access Alternatives Plan for this shoreline area.

~~14. When public access is required it shall be provided on the waterward side of the proposed development or use or, where safety or security considerations prevent access in close proximity to the water, the access shall be provided as close to the shoreline edge as is practicable.~~

~~15. Water enjoyment uses and non water oriented uses that front on the shoreline shall provide a continuous public access walkway between the use and the shoreline edge.~~

~~7.6. Required public access may include the preservation of shoreline views consistent with Section 6.7, the establishment of public access easements to and along the shoreline, enhancement of an adjacent street-end or park or other public access features commensurate with the degree of impact caused by the development.~~

~~8.7. Where a project is located within an area covered by an adopted public access plan, including the Open Space Habitat and Recreation Plan, the Public Access Alternatives Plan, Mobility Master Plan, or any other adopted public access plan, public access improvements shall be generally consistent with the adopted plan. However, the City may approve an alternative proposed by the Applicant that meets the goals, objectives, and policies in this Program.~~

~~9.8.~~ A project applicant may participate in “advance mitigation” by providing public access improvements prior to the time a project is constructed.

~~10.9.~~ Public agencies may rely on their own master plans that incorporate public access planning in-lieu of providing public access on a permit by permit basis for development identified in the master plan, provided that the agency’s public access planning satisfies the following requirements: a) the City of Tacoma must first approve and adopt the master plan including City review for consistency with the requirements of this Program and WAC 173-27-221(4); b) the planned public access shall be commensurate with the agency’s projected development plans for a time period to be established as part of the agency’s master plan; c) the agency’s adoption of its plan must provide public participation consistent with RCW 90.58.130 and WAC 173-26-201(3)(b)(i); and d) the plan shall include a timeline for implementation, a maintenance plan, and a schedule for reporting and monitoring to ensure ongoing compliance with the requirements of this Program.

D. Area District-Specific Standards

1. ~~If the preferred access identified for the shoreline districts in this section is determined to be disproportionate to the impact of the use or development, the Land Use Administrator shall consider alternative on-site access, including a reduced minimum average width, or different types of access, such as a viewing platform or beach access.~~

~~1.2.~~ “S-15” Point Ruston/Slag Peninsula Shoreline District, “S-6” Ruston Way Shoreline District,

- a. All new development that fronts on the shoreline shall provide a continuous public access walkway along the entire site’s shoreline adjacent to the OHWM, improved to a minimum average width of 15 feet and ADA accessible. A public access/view corridor from the street right-of-way to the public walkway shall be provided for each development and shall be a minimum of 10 feet wide and ADA accessible. The required pedestrian circulation link shall be located within the required side yard/view corridor and be counted toward said side yard/view corridor requirement. Provision shall be made to provide access from the parking lot to the main building entrance.

~~2.3.~~ “S-7” Schuster Parkway Shoreline District

- a. All new development that fronts on the shoreline shall provide a continuous public access walkway along the entire site’s shoreline, improved to a minimum average width of 15 feet and ADA accessible. ~~is~~
- b. When public access ~~requirements cannot be met or are not required on site~~ cannot be provided on site, off-site improvements shall be accomplished that helps to implements one of the following access priorities projects:
 - i. Completion of the multi-modal Schuster Parkway Trail, as identified in the Public Access Alternatives Plan, including site amenities;
 - ii. Completion of the Bayside Trail, including site amenities;

- iii. Improving connections between Schuster Parkway and the Bayside Trail or Schuster Parkway and Stadium Way;
- ~~iv.~~ Provide access to the shoreline via flyovers or pedestrian bridges to permit viewing of industrial properties and Commencement Bay.

3.4. “S-8” Thea Foss Waterway Shoreline District

- a. On the west side of the Thea Foss Waterway, new development shall provide a continuous, unobstructed, publicly accessible esplanade or boardwalk fronting on the shoreline edge where the minimum improved surface shall be 20 feet wide. Connections between Dock Street and the esplanade or boardwalk shall be provided through designated public access/view corridors, and possibly additional public access corridors.
- b. On the east side of the Thea Foss Waterway, new development located to the south of, and including, the East 11th Street right of way, shall provide a continuous, unobstructed, publicly accessible walkway or boardwalk fronting on the shoreline edge where the improved surface shall be a minimum of 15 feet wide. Connections between the walkway and East D Street shall be provided through public access/view corridors as required in TSMP 6.5.2.
- c. A public access/view corridor from the street right-of-way to the public esplanade, walkway or boardwalk shall be provided for each development, and shall be a minimum of 10 feet wide and ADA accessible. The required pedestrian circulation link shall be located within the required side yard/view corridor and be counted toward said side yard/view corridor requirement. Provision shall be made to provide access from the parking lot to the main building entrance.
- d. On both the west and east sides of the Thea Foss Waterway, site amenities, such as benches, lights, and landscaping, as well as surfacing materials shall be included as part of the esplanade, walkway or boardwalk construction consistent with the Thea Foss Waterway Design Guidelines ~~and Standards, Appendix D~~.
- e. On the western side of the Thea Foss Waterway, new permanent buildings are not permitted in any designated waterfront esplanade, boardwalk, or public access/view corridor unless otherwise specified, except that pedestrian bridges connecting development site buildings, weather protection features, public art or structures provided primarily as public access or a public amenity such as viewing towers, decks, and public restrooms may be located in or over these areas.

5. “S-10” Port Industrial Area

- a. When new water-oriented uses or development are required to provide public access, the access may be provided on-site or off-site or via a public access fund contribution and shall not be subject to the on-site preference or waiver criteria in 6.5.5 (B) (1).

E. Design

1. When public access is provided it shall be designed and located to achieve no net loss of existing shoreline ecological functions.
2. New public access shall be sited and appropriately designed to avoid causing detrimental impacts to the operations of existing water-dependent and water-related uses.
3. Public access shall be provided on the waterward side of the proposed development or use or, where safety or security considerations prevent access in close proximity to the water, the access shall be provided as close to the shoreline edge as is practicable.
4. Water-enjoyment uses and non-water-oriented uses that front on the shoreline shall provide a continuous public access walkway between the use and the shoreline edge.
- ~~3.5.~~ Public access improvements shall be designed to minimize impacts to critical areas, ecological functions, and ecosystem-wide processes. A biological assessment or a habitat management plan consistent with TSMP section 6.4 may be required for public access developments in shoreline jurisdiction. The City may require that buffers be increased based upon the results of that assessment. Full mitigation of impacts shall be required.
- ~~4.6.~~ In instances where public access is proposed in conjunction with a restoration or environmental mitigation project that includes work within a critical area or its buffer, the public access element may be provided within a critical area or its buffer provided it is the minimum necessary to provide an access function appropriate to the site and is consistent with applicable requirements in this Program. The design and location of said access feature shall not compromise the ability of the restoration project's ability to achieve its intended objectives.
- ~~5.7.~~ Public access sites shall be connected directly to adjacent public streets and trails.
- ~~6.8.~~ The standard state approved logo or other signs that indicate the public's right of access and hours of access shall be constructed, installed, and maintained by the applicant. Signs may control or restrict public access as a condition of permit approval.
- ~~7.9.~~ All public access sites city wide shall provide site furnishings appropriate for the intended use of the access site, the estimated demand, site context and hours of use.
- ~~6.~~ Existing public access shall not be eliminated unless the Applicant shows that there is no feasible alternative and replaces the public access with access of comparable functions and value at another location, consistent with C.2.
- ~~9.10.~~ Public access improvements shall include provisions for disabled and physically impaired persons where reasonably feasible.

6.6 Vegetation Conservation

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

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

6.6.1 Policies

1. Where new developments and/or uses are proposed, native shoreline vegetation should be conserved and/or enhanced to maintain shoreline ecological functions and/or processes and mitigate the direct, indirect and/or cumulative impacts of shoreline development, wherever feasible. It is recognized that all vegetation is beneficial to the shoreline; however, native vegetation is preferable and is the term used in this section. Important functions of shoreline vegetation include, but are not limited to:
 - a. Providing shade necessary to maintain water temperatures required by salmonid, forage fish, and other aquatic biota;
 - b. Regulating microclimate in riparian and nearshore areas;
 - c. Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macro invertebrates;
 - d. Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence/severity of landslides;
 - e. Reducing fine sediment input into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff;
 - f. Improving water quality through filtration and vegetative uptake of nutrients and pollutants;
 - g. Providing a source of large woody debris to moderate flows, create hydraulic roughness, form pools, and increase aquatic diversity for salmonid and other species;
 - h. Providing habitat for wildlife, including connectivity for travel and migration corridors.
2. Limit removal of native vegetation to the minimum necessary to accommodate shoreline development.
3. Restrict native vegetation removal within shoreline jurisdiction in order to maintain the functions and values of the shoreline environment, including protection of habitat and shoreline bluffs.
4. Use best management practices (BMPs) to control erosion.
5. Voluntary restoration plans and projects should incorporate native vegetation management plans that are similar to the standards as specified in 6.6.2(3) below.

6. Maintaining well-vegetated shorelines is preferred over clearing vegetation to create views or provide lawns. Limited and selective clearing for views and lawns may be permitted when slope stability and ecological functions are not compromised. Trimming and pruning are generally preferred over removal of native vegetation.
7. Property owners are strongly encouraged to avoid use of fertilizers, herbicides and pesticides.
8. Shoreline landowners are encouraged to preserve and enhance native woody vegetation and native groundcovers to stabilize soils and provide habitat.

6.6.2 Regulations

1. Proponents of all new shoreline uses or developments shall demonstrate that site designs and layouts are consistent with the policies of this section to ensure shoreline functions, values, and processes are maintained and preserved. A shoreline permit or written statement of exemption shall not mandate, nor guarantee, unobstructed horizontal or lateral visibility of the water, shoreline or any specific feature near or far.
2. Proponents of all new shoreline uses or developments shall maintain existing native shoreline vegetation to the maximum extent practicable.
3. Removal of native vegetation within shoreline jurisdiction shall only be permitted upon approval of a detailed vegetation management plan prepared by a qualified landscape professional. The vegetation management plan shall include:
 - a. A map illustrating the distribution of existing plant communities in the area proposed for clearing and/or grading. The map must be accompanied by a description of the vegetative condition of the site, including plant species, plant density, any natural or manmade disturbances, overhanging vegetation, ~~and~~ the functions served by the existing plant community (e.g., fish and wildlife habitat values, slope stabilization) and the presence and distribution of noxious weeds.
 - b. A description of the shade conditions created by existing vegetation. This description shall include an inventory of overhanging vegetation as well as a determination of how much shade is created by standing trees, during midday at midsummer.
 - c. A detailed landscape map indicating which areas will be preserved and which will be cleared, including tree removal.
 - d. Drawings illustrating the proposed landscape scheme, including the species, distribution, and density of plants. Any pathways or non-vegetated portions shall be noted.
 - e. ~~A description of the maintenance and monitoring strategies to ensure the replacement vegetation meets the standards contained herein.~~
4. The following standards shall apply for removal and replacement of existing native vegetation and the removal of noxious weeds that occurs outside of a shoreline critical area and/or buffer:

- a. Proponents shall replace vegetation in such a way as to ensure that post-development functions are at least equal to the pre-development functions as identified in the vegetation management plan and to prevent site erosion.
 - b. Proponents shall use native species approved by the Land Use Administrator that are of a similar diversity, density, and type to that occurring in the general vicinity of the site prior to any shoreline alteration. The vegetation shall be nurtured and maintained to ensure establishment of a healthy and sustainable native plant community over time;
 - c. A minimum of 4 inches of wood chip mulch, or equivalent, distributed over the entire planting area;
 - d. The applicant may be required to install and implement an irrigation system to insure survival of vegetation planted. For remote areas lacking access to a water-system, an alternative method (e.g., hand watering) may be approved;
 - e. Replacement shall occur as close to the ordinary high water mark as practicable and shall include overhanging vegetation where feasible;
 - f. A description of the maintenance and monitoring strategies to ensure the replacement vegetation meets the standards contained herein.
 - g. For a period of three (3) years after initial planting, the applicant shall replace any unhealthy or dead vegetation planted as part of ~~the~~ a vegetation management plan.
5. Trimming of trees is allowed without a vegetation management plan, provided:
- a. This provision is not interpreted to allow clearing of vegetation;
 - b. Trimming does not include topping, stripping or imbalances; a minimum of 60% of the original crown shall be retained to maintain tree health;
 - c. Trimming does not directly impact the nearshore functions including fish and wildlife habitat;
 - d. Trimming is not within a wetland, stream or their buffers;
 - e. Trimming will not adversely impact a priority species; and
 - f. Trimming in landslide and erosion hazard areas does not impact soil stability.
6. Removal of native vegetation within the marine buffer, critical areas and/or their buffers shall provide a vegetation management plan consistent with the provisions of this chapter and shall additionally comply with the ~~mitigation requirements in TSMP Section 6.4.2~~ applicable critical area standards of TSMP Section 6.4.
7. Hazard trees that are within a marine buffer or critical area and/or its buffer, that pose a threat to public safety or an imminent risk of damage to private property may be removed provided that a report from a certified arborist (or related professional) is submitted to the City for review and approval. The report must include removal techniques, procedures for

protecting the surrounding area and/or critical area and its buffer, and replacement of native trees. Where possible, cut portions of hazard trees are to be left on site as a habitat element such as a standing snag tree or downed woody debris.

8. The City may require a performance bond as a condition of shoreline exemption or shoreline permit approval, to ensure compliance with this Master Program.
9. If the timing of required installation occurs between April 1st and October 1st of any given year, said installation may be postponed until after October 1st of the same year, provided a written request for postponement is submitted by the proponent, the financial surety has been secured by the City and the Land Use Administrator has issued a letter of approval for said postponement of native vegetation installment.
10. Materials required in TSMP section 6.6.2(3) and (4), above, shall be submitted, reviewed and approved by the Land Use Administrator prior to issuance of any development permits on the site. Installation of all required vegetation and submittal of the maintenance and monitoring report shall be completed prior to occupancy for the subject use. As-installed reports shall be submitted to the Land Use Administrator at the end of each year for the five-year maintenance and monitoring period to assure compliance.
- ~~11. Unless otherwise stated, native vegetation management does not include those activities covered under the Washington State Forest Practices Act, except for conversion to other non forestry uses and those other forest practice activities over which the City has authority.~~
- ~~12. As with all Master Program provisions, native vegetation management provisions apply even to those shoreline uses and developments that are exempt from the requirement to obtain a permit.~~
- ~~13. Like other Master Program provisions, native vegetation management standards do not apply retroactively to existing uses and structures.~~

6.7 Views and Aesthetics

The following provisions provide for preservation and/or protection of scenic vistas, views of the water, and other aesthetic qualities of shorelines for public enjoyment. They include policies and regulations which protect public views of the City’s shorelines and waters; encourage shoreline uses to orient toward the City’s shoreline resources and ensure that landscaping of the uplands are consistent with the City’s vision of its shorelines.

6.7.1 View Policies

1. Shoreline use and development activities should be oriented to take the greatest advantage of shoreline views. Buildings should be designed to provide maximum view opportunities from within.
2. Shoreline use and development activities should be designed and operated to minimize obstructions to the public’s visual access to the water and shoreline.
3. As mandated by the Act (RCW 90.58.320), no permit should be issued for any new or expanded building or structure of more than 35 feet above average grade level on shorelines that will obstruct the view of a substantial number of residences on areas adjoining such

shorelines, except where this Program does not prohibit such development and only when overriding considerations of the public interest will be served.

4. Views and the physical form of the waterfront should be preserved by maintaining low structures near the water and at the tops of the bluffs, and by allowing non view blocking vertical development at the base of the bluffs.
5. Encourage the development of viewing areas wherever appropriate and feasible.

6.7.2 Aesthetic Policies

1. To the extent feasible and consistent with the overall best interest of the state and the people generally, the public's opportunity to enjoy the aesthetic qualities of shorelines of the state, including views of the water, should be advanced.
2. Shoreline use and development that are adjacent to pedestrian access ways should orient building facades to those pedestrian routes and utilize façade treatments that maximize the enjoyment of shoreline areas.
3. Shoreline use and development should not significantly detract from shoreline scenic and aesthetic qualities that are derived from natural or cultural features, such as shoreforms, vegetative cover and historic sites/structures.
4. New development should emphasize the water as a unique community asset.
5. New development should emphasize the bluffs abutting waterfront areas as natural design features that give definition to the urban form.
6. New uses and developments in shoreline areas should be designed and constructed for a "human scale" and pedestrian orientation.
7. Encourage design details such as form, scale, proportion, color, materials and texture to be compatible within shoreline areas wherever feasible.
8. Provide for uniform and recognizable design and signage elements in public access and recreational areas.
9. Locate paths, benches, and picnic areas to take full advantage of marine views.
10. Consider the use of rooftop surfaces for open space and public recreation purposes.
11. View and public access corridors should be designed and developed to encourage pedestrian uses.

6.7.3 Landscaping Policies

1. Continuous planting or other ground surface treatment should be used to physically and visually link the waterfront areas to the City and to each other.

6.7.4 Regulations

A. General View Regulations

1. New development shall be located and designed to mitigate adverse impacts to views from public vistas, viewpoints, parks and scenic drives.
2. View corridors, as specified in Table 9.2, shall be provided concurrent with any new use or development.
3. Structures are not permitted in any required view corridor, except that weather protection features, public art, and areas provided primarily for public access, such as viewing towers and pedestrian bridges, may be located in or over these areas.
4. As mandated by the Act (RCW 90.58.320), no permit may be issued for any new or expanded building or structure of more than 35 feet above average grade level on shorelines that will obstruct the view of a substantial number of residences on areas adjoining such shorelines, except where this Program does not prohibit such development and only when overriding considerations of the public interest will be served. Private views of the shoreline, although considered during the review process, are not expressly protected. Property owners concerned with the protection of views from private property are encouraged to obtain view easements, purchase the intervening property, and/or seek other similar private means of minimizing view obstruction.
5. Protection and/or enhancement of critical areas and their associated buffers shall be preferred over provisions for visual access, when there is an irreconcilable conflict between the two.
6. Water-dependent uses and/or public access uses shall be preferred over provisions for visual access, when there is an irreconcilable conflict between the two.
7. View protection does not justify the excessive removal of vegetation to create views or enhance partial existing views. Retaining vegetation and “windowing” or other pruning techniques shall always be preferred options over vegetation removal.

B. Aesthetic Regulations

- a.1. Buildings shall incorporate architectural features that reduce scale such as setbacks, pitched roofs, offsets, angled facets, and recesses;
2. The first floor of structures adjacent to pedestrian public access-ways or street ROW shall be designed to maximize transparency, where appropriate given the type of use and its location in the shoreline;
3. Building surfaces on or adjacent to the water shall employ materials that minimize reflected light;
4. Building mechanical equipment shall be incorporated into building architectural features, such as pitched roofs, to the maximum extent possible. Where mechanical equipment cannot be incorporated into architectural features, a visual screen shall be provided consistent with building exterior materials that obstructs views of such equipment;
5. Fences, walls, hedges and other similar appurtenances and accessory structures shall be designed in a manner that does not preclude or significantly interfere with the public’s view of the water, to the extent feasible.

7. ~~New development shall be located and designed to mitigate adverse impacts to views from public vistas, viewpoints, and scenic drives.~~
8. ~~View corridors, as specified in Table 9.2, shall be provided concurrent with any new use or development.~~
9. ~~Structures are not permitted in any required view corridor, except that weather protection features, public art, and areas provided primarily for public access, such as viewing towers and pedestrian bridges, may be located in or over these areas.~~
10. ~~As mandated by the Act (RCW 90.58.320), no permit may be issued for any new or expanded building or structure of more than 35 feet above average grade level on shorelines that will obstruct the view of a substantial number of residences on areas adjoining such shorelines, except where this Program does not prohibit such development and only when overriding considerations of the public interest will be served. Private views of the shoreline, although considered during the review process, are not expressly protected. Property owners concerned with the protection of views from private property are encouraged to obtain view easements, purchase the intervening property, and/or seek other similar private means of minimizing view obstruction.~~
11. ~~Protection and/or enhancement of critical areas and their associated buffers shall be preferred over provisions for visual access, when there is an irreconcilable conflict between the two.~~
12. ~~View protection does not justify the excessive removal of vegetation to create views or enhance partial existing views. Retaining vegetation and “windowing” or other pruning techniques shall always be preferred options over vegetation removal.~~
13. ~~Water dependent uses and/or public access uses shall be preferred over provisions for visual access, when there is an irreconcilable conflict between the two.~~

B. Landscaping

1. As part of meeting project site area landscaping requirements, the applicant for a proposed new development or redevelopment project upland of the ordinary high water mark, must submit a landscaping plan for approval specifying installation of minimum ten-foot wide planting bed(s) of native riparian vegetation within and along portions of the fifteen-foot wide strip of land lying immediately landward of (a) the ordinary high water mark (OHWM) for currently unarmored shorelines, or (b) the landward edge of existing shoreline armoring for currently armored shorelines. (Where portions of already-developed sites are proposed to be redeveloped, the planting bed(s) shall only be required along those redeveloping portion(s) of the site actually abutting the shoreline). Riparian vegetation should be encouraged, but not required, elsewhere on the project site for aesthetic continuity with the riparian vegetation within the bed(s) required along the shoreline. The landscaping plan must also meet the following requirements:
 - a. Locations and Sizes of Required Shoreline Planting Beds. The landscaping plan shall specify (a) particular species of native salt tolerant riparian vegetation that are to be planted in ground-level or raised planting beds (see the next section), (b) that each planting bed shall be a minimum of ten feet in width and a minimum of ten feet in length (a minimum of one hundred square feet), and (c) that the total

minimum linear footage of planting beds along the project's shoreline shall be fifty percent of the project's shoreline length;

- b. **Plant Selection.** The native riparian plant species shall be specified on the landscaping plan. The suitability of the species must be reviewed and approved by a biologist/riparian plant specialist. The plant names listed on the landscaping plan shall comply with the names generally accepted in the riparian plant nursery trade. The plan shall further specify that (a) all plant materials shall be true to species and variety and legibly tagged, and (b) riparian plant materials shall be nursery grown in the Puget Sound area of Washington except that dug plants may be used upon approval of the biologist/riparian plant specialist;
- c. **Plant Sizes.** The landscaping plan shall specify the sizes of the riparian plants to be installed. The plan may also specify that larger stock may be substituted provided that (a) it has not been cut back to the specified size, and (b) the root ball is proportionate to the size of the plant. Because smaller stock may be acceptable based upon site-specific conditions, the plan may specify that the biologist/riparian plant specialist may make field determinations to substitute smaller stock for the stock size set forth on the plan.
- d. **Site Preparation.** The landscaping plan shall specify that (a) an amended planting soil shall be placed in the planting beds if needed, (b) all existing exotic vegetation must be removed from the planting beds, and (c) the project biologist/riparian plant specialist may make field determinations for the installation of barriers to limit Canada geese intrusion and feeding on installed plants;
- e. **Plant Monitoring.** The landscaping plan shall specify that five year monitoring will be conducted to ensure the long-term survival and stability of the riparian planting beds, with the elements of the monitoring to be (a) annual inspections of the plants, (b) replacement of failed riparian plants, (c) removal of exotic invasive species that may have become established, and (d) photographic documentation of planting success;
- f. **Criteria for Success.** The landscaping plan shall specify that, at the end of the fifth year of the monitoring, the riparian planting beds shall be considered successful if the following performance standards are met: (1) a minimum eighty percent survival rate of the riparian vegetation within the planting beds; and (2) a minimum of fifty percent cover within the planting beds by riparian vegetation four feet tall or taller.

2. Where the strict application of the landscaping standards would pose an irreconcilable conflict with required public access, the required landscaped area may be reduced by 50% or fulfilled off site.

3. Where vegetation enhancement has been required along the OHWM as mitigation for shoreline impacts, per the mitigation sequencing standards in Chapter 6.4, that enhancement may additionally fulfill the landscaping requirements set forth herein.

C. S-8 Thea Foss Waterway

1. All new development in the “S-8” Thea Foss Waterway Shoreline District shall also be designed in accordance with the Thea Foss Waterway Design Guidelines and Standards.
2. For all new development that exceeds 35 feet in height, the project proponents shall conduct a view impact analysis. The purposes of the view analysis are to assist in addressing the requirements of the Act, including RCW 90.58.320, and to protect a locally significant public view. The analysis shall be submitted to the City as a part of the shoreline permit application. In addition, for projects utilizing the FWDA design review process, the analysis shall be submitted to and reviewed as part of their design review process.
3. The view analysis required under TSMP 6.7.2(C)(2) shall include the following:
 - a. The view analysis shall identify potential impacts to public access to the shorelines of the state and the view obstruction of a substantial number of residences on areas adjoining the west side of the Waterway.
 - b. The view analysis shall also identify potential impacts to the locally significant public view of Mount Rainier, behind the Murray Morgan Bridge, as seen from the northern end of the southernmost viewpoint projection in Fireman’s Park.
 - c. In addition to the requirements found in the Shoreline Management Act, including RCW 90.58.320, shoreline permits shall not be approved for any new or expanded building or structure of more than 50 feet in height that will obstruct the locally significant public view of Mount Rainier, as described above.

6.8 Water Quality and Quantity

The following section applies to all development and uses in the City’s shorelines, that affect water quality. The provisions protect against adverse impacts to the public health, to the land and its vegetation and wildlife, and to the waters of the state and their aquatic life. The purpose of these policies and regulations is to prevent impacts to water quality and storm water quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities. They are also meant to ensure mutual consistency between shoreline management provisions and other regulations that address water quality and storm water quantity.

6.8.1 Policies

1. Shoreline master programs shall, as stated in RCW 90.58.020, protect against adverse impacts to the public health, to the land and its vegetation and wildlife, and to the waters of the state and their aquatic life, through implementation of the following principles:
 - a. Prevent impacts to water quality and surface water quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities or recreational opportunities.
 - b. Ensure mutual consistency between shoreline management provisions and other regulations that address water quality and surface water quantity. The regulations that are most protective of ecological functions shall apply.
 - a. ~~Stormwater should be managed through the Tacoma Stormwater Management Manual (TMC 12.08) and the Comprehensive Plan.~~

- c. The location, construction, operation and maintenance of all shoreline uses and developments should maintain or enhance the quantity and quality of surface and ground water over the long term.
- d. Shoreline use and development should ~~minimize~~ avoid the need for use of chemical fertilizers, pesticides or other similar chemical treatments to prevent contamination of surface and ground water and/or soils, and adverse effects on shoreline ecological functions and values.
- e. Existing public surface water management systems and facilities should be retrofitted and improved to incorporate Low Impact Development techniques whenever feasible and as specified in TMC 12.08.
- f. Improving water quality is one of the primary goals within the Restoration Plan (Appendix AB). The water quality improvement objectives should be considered and implemented into future watershed planning including prioritization and identification of retrofitting opportunities.
- g. Effective erosion/sedimentation controls for construction in the shoreline areas should be required.

6.8.2 Regulations

1. Shoreline use and development shall incorporate measures to protect and maintain surface and ground water quantity and quality in accordance with all applicable laws and in such as a manner as to ensure no net loss of ecological function.
2. All proposed developments shall include measures to prevent the contamination of surface waters, depletion and contamination of ground water supplies, and the generation of increased surface runoff.
3. New All phases of development shall provide stormwater management facilities designed, constructed, and maintained in accordance with TMC 12.08 and the current stormwater Surface Water Management standards Manual. Deviations from these standards may be approved where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan.
4. All phases of development shall provide an 'enhanced' level of surface water management per the current Tacoma Surface Water Management Manual.
5. Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all development in shorelines through an approved temporary erosion and sediment control (TESC) plan, or administrative conditions.
6. Low Impact Development (LID) techniques shall be considered and implemented to the greatest extent feasible throughout the various stages of development including site assessment, planning and design, vegetation conservation, retrofitting and built-out management techniques.

7. ~~All materials that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic or pentachlorophenol is prohibited in or above shoreline water bodies.~~
8. All proposed developments shall include measures to ~~prevent~~ minimize erosion during and after project construction and for the replanting of the site after construction in such a manner as to ensure no net loss of ecological function.
9. All proposed developments shall provide storm drainage facilities which are separate from sewage disposal systems and which are constructed and maintained to meet all applicable standards for ~~of~~ water quality, including TMC 12.08, Health Department Regulations, and other applicable Federal, State, and local regulations.
6. ~~All proposed developments shall include measures to prevent the~~ minimize contamination of surface waters, depletion and contamination of ground water supplies, and the generation of increased surface runoff.
7. ~~All proposed developments shall provide for the disposal of any increased surface runoff without damage to streams or other wetlands.~~
8. ~~All proposed developments shall provide storm drainage facilities which are separate from sewage disposal systems and which are constructed and maintained to meet all applicable standards for of water quality, including the Tacoma Stormwater Management Manual (TMC 12.08), Health Department Regulations, and other applicable Federal, State, and local regulations.~~
10. Chemical pesticides using aerial spraying techniques within the shoreline jurisdiction, including over waterbodies or wetlands, shall be prohibited unless specifically permitted by the Washington Departments of Agriculture or Public Health.
11. Pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary shall be restricted in accordance with the a) state Department of Fish and Wildlife Management Recommendations b) the regulations of the state Department of Ecology as the Environmental Protection Agency's delegated authority and permitting body for the application of pesticides and herbicides to the waters of Washington State, and c) pesticide labels as per the authority of the state Department of Agriculture.
12. Pesticides shall be used, handled, and disposed of in accordance with provisions of the Washington State Pesticide Application Act (RCW 17.21) and the Washington State Pesticide Control Act (RCW 15.58) to prevent contamination and sanitation problems.
8. ~~All proposed developments shall provide facilities or appurtenances for disposal of sanitary waste and shall manage and monitor the use of chemicals, fertilizers and other pollutants in such a manner so as to not degrade existing levels of water quality.~~

CHAPTER 7 GENERAL USE POLICIES AND REGULATIONS

Development and use proposals may involve a number of uses and shoreline modifications and must comply with the policies and regulations for each. For example, uses associated with a new marina may include boat launches, parking facilities, and recreational facilities. Construction of a marina may involve numerous shoreline modifications, including dredging, dredge material disposal, a breakwater, and perhaps landfill. Each project is reviewed for compliance with the applicable “use” policies and regulations in these regulations and with the applicable “modification” policies and regulations in Chapter 8.

All shoreline developments and uses must comply with the standards of this Master Program whether or not a shoreline substantial development permit is required. Specific conditions that ensure such compliance may be attached as a condition of permit approval of a shoreline permit or shoreline exemption.

This chapter provides specific policies and regulations for the following types of specific uses. Refer to Chapter 8 for shoreline modifications.

1. Aquaculture
2. Boating Facilities
3. Commercial Use
4. Port, Terminal and Industrial Use
5. Recreational Development
6. Residential Development
7. Signs
8. Parking
9. Transportation
10. Solid Waste Disposal
11. Utilities

The following policies and regulations shall apply in all City of Tacoma shoreline districts.

7.1 Prohibited Uses

The following uses are prohibited in all shoreline environments:

1. Agriculture;
2. Forest Practices; and
3. Mining.

7.2 Aquaculture

Aquaculture refers to the farming or culture of food fish, shellfish, or other aquatic plants or animals in freshwater or saltwater, and may include development such as structures, as well as use of natural spawning and rearing areas.

7.2.1 Policies

1. Commercial aquaculture should be prohibited within the City of Tacoma.

7.2.2 Regulations

1. Aquaculture is prohibited in all shoreline districts, except for aquaculture for the purpose of enhancing indigenous salmonid populations and fisheries or for educational purposes.~~the following~~
 - B. ~~for the purpose of enhancing indigenous salmonid populations and fisheries or for educational purposes shall be permitted.~~

7.3 Boating Facilities

Boating facilities includes marinas, launching facilities, storage, supplies, moorage, and other services for five or more pleasure and commercial watercraft. Commercial development, not accessory to the operation of a marina or boating facility, shall comply with Section 7.4 Commercial Use. Shoreline modifications associated with marinas, including docks, piers, and floats, shall also comply with Chapter 8 Shoreline Modification Policies and Regulations, including foreshore and backshore types, dry storage and wet moorage types, covered moorage, boat launches, and marine travel lifts. For purposes of the Shoreline Master Program, boating facilities excludes docks serving four or fewer single-family residences.

7.3.1 Policies

A. General Policies

1. Proposals for boating facilities development should ensure that there will be no net loss of ecosystem functions associated with the development.
2. In locating marinas and boat launch facilities, provisions for protection and/or improvement of resources shall be incorporated within the design of the facility.
3. Marinas and boat launch facilities should be designed in a manner that will ~~reduce~~ avoid and prevent damage to fish and shellfish resources.
4. Marinas are encouraged to co-locate wherever feasible.
5. Marinas and boat launch facilities should be designed and located to be aesthetically compatible with adjacent areas.
6. Special attention should be given to the design and development of operational procedures for fuel handling and storage in order to minimize accidental spillage and provide satisfactory means for handling those spills that do occur.
7. Shallow water areas with poor flushing action should not be considered for overnight and long-term moorage facilities.
8. To conserve limited shoreline resources, upland boat storage should be preferred over new marinas.

9. Boat launch facilities should be located in areas to minimize water pollution and should be separated from swimming beaches.
 10. New enclosed and/or covered moorages and boathouses should be prohibited.
 11. Encourage the installation of new technology and materials which will conserve space, be less damaging to the environment, and be more efficient.
 12. Encourage more efficient use and additions to existing marinas where appropriate rather than construction of new marinas.
 13. Parking areas for marinas and boat launch facilities should be located on the landward side of the primary use, outside of the marine buffer, and should be properly screened from adjacent uses.
 14. Marinas should incorporate public access and viewing opportunities, overwater where possible, and with regard for public safety.
 15. Live-aboard vessels should only be permitted where adequate marina facilities exist to prevent impacts to water quality.
 16. Marinas and boating facilities should implement best management practices to prevent water pollution. Applicants should consult the Department of Ecology's current Resource Manual for Pollution Prevention in Marinas. Boaters should be encouraged to use biodegradable cleaning products to help minimize the introduction of pollutants into the water.
 17. Encourage guest/transient moorage as part of tourist and recreational attractions.
- B. "S-8" Thea Foss Waterway Shoreline District
1. Boating facilities are encouraged on the Thea Foss Waterway, provided they are developed consistent with the provisions of this Program.
 2. Encourage the establishment of new harbor areas where they do not impede with navigability of existing uses on the Waterway.

7.3.2 Regulations

A. General Regulations

1. Any new shoreline substantial development or conditional use permit for a marina or boat launch facility shall include provisions for site restoration once any permitted facility or facilities ceases to be in water-oriented use for a continuous twelve month period.
2. All facilities shall be constructed so as not to interfere with or impair the navigational use of surface water.
3. New marinas and/or boating facilities shall only be permitted where it can be demonstrated that:
 - a. That the proposed site has the flushing capacity required to maintain water quality;

- b. That adequate facilities for the prevention and control of fuel spillage are incorporated into the marina proposal;
- c. That there shall be no net loss of ecological functions as a result of the development of boating facilities and associated recreational opportunities;
- d. The proposed design will minimize impediments to fish migration.

B. Site Location

1. Marinas or launch ramps shall not be permitted on the following marine shores unless it can be demonstrated that interference with littoral drift and/or degradation or loss of shoreline ecological functions and processes, especially those vital to maintenance of nearshore habitat, will not occur. Such areas include:
 - a. Feeder bluffs; and
 - b. High energy input driftways.
2. Marinas or launch ramps shall not be permitted within the following marine shoreline habitats because of their scarcity, biological productivity and sensitivity unless no alternative location is feasible, the project would result in a net enhancement of shoreline ecological functions, and the proposal is otherwise consistent with this Program:
 - a. Marshes, estuaries and other wetlands;
 - b. Kelp beds, eelgrass beds, spawning and holding areas for forage fish (such as herring, surf smelt and sandlance);
 - c. Other critical saltwater habitats.
3. Foreshore marinas or launch ramps may be permitted on low erosion rate marine feeder bluffs or on low energy input erosional driftways if the proposal is otherwise consistent with this Program.
4. Where foreshore marinas are permitted, the following conditions shall be met:
 - a. Open pile or floating breakwater designs shall be used unless it can be demonstrated that riprap or other solid construction would not result in any greater net impacts to shoreline ecological functions or processes or shore features; and
 - b. Solid structures that block fish passage shall not be permitted to extend without openings from the shore to zero tide level (Mean Lower Low Water, or MLLW), but shall stop short to allow sufficient shallow fringe water for fish passage.
5. Foreshore and backshore marinas shall be designed to allow the maximum possible circulation and flushing of all enclosed water areas.
6. New or expanding marinas with dredged entrances that adversely affect littoral drift to the detriment of other shores and their users shall be required to periodically replenish such shores with the requisite quantity and quality of aggregate as determined by professional coastal geologic engineering studies.

7. Design and other standards for physical improvement of docks and piers are found in TSMP Section 7.6, Moorage Facilities: Docks, Wharves, Piers, Floats, and Buoys.

C. Public Access Associated with Marinas and Boating Facilities

1. New launch ramps shall be approved only if they provide public access to public waters, which are not adequately served by existing access facilities, or if use of existing facilities is documented to exceed the designed capacity. Prior to providing ramps at a new location, documentation shall be provided demonstrating that expansion of existing launch facilities would not be adequate to meet demand. Public access areas shall provide space and facilities for physical and/or visual access to water bodies, including feasible types of public shore recreation.
2. Marinas and boat launches shall provide public access for as many water-dependent recreational uses as possible, commensurate with the scale of the proposal. Features for such access could include, but are not limited to docks and piers, pedestrian bridges to offshore structures, fishing platforms, artificial pocket beaches, and underwater diving and viewing platforms.
3. Marinas over 25 slips in size must provide public access to the water, where feasible, consistent with the public access requirements of TSMP Section 6.5. An additional public access feature or equivalent increase in size of an existing feature shall be provided with each additional 75 slips. Expansion of existing marinas shall meet these standards when an additional 25 slips, or more, are added.

D. Site Considerations

1. Marinas, launch ramps, and accessory uses shall be designed so that lawfully existing or planned public shoreline access is not unnecessarily blocked, obstructed nor made dangerous.
2. Public launch ramps and/or marina entrances shall not be located near beaches commonly used for swimming, valuable fishing and shellfish harvest areas, or sea lanes used for commercial navigation unless no alternative location exists, and mitigation is provided to minimize impacts to such areas and protect the public health, safety and welfare.
3. Marinas and accessory uses shall be located only where adequate utility services are available, or where they can be provided concurrent with the development.
4. Marinas, launch ramps, and accessory uses shall be located where water depths are adequate to avoid the need for dredging and minimize potential loss of shoreline ecological functions or processes.
5. Marinas, launch ramps, and accessory uses shall be located and designed with the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft from floods, abnormally high tides, and/or destructive storms.

E. Boat Storage

1. Marinas, with the exception of facilities for transient or guest moorage, shall provide dry upland boat storage with a launch mechanism to protect shoreline ecological functions and

processes, efficiently use shoreline space, and minimize consumption of public water surface area unless:

- a. No suitable upland locations exist for such facilities; or
 - b. It can be demonstrated that wet moorage would result in fewer impacts to ecological functions and processes; and
 - c. It can be demonstrated that wet moorage would enhance public use of the shoreline.
2. Dry storage areas shall be located away from the shoreline and be landscaped with native vegetation to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas.

F. Waste Disposal at Boating Facilities

1. Marinas shall provide pump out, holding, and/or treatment facilities for sewage contained on boats or vessels. These facilities shall be low-cost or free, visible, and readily accessible by marina patrons. The responsibility for providing adequate facilities for the collection of vessel sewage and solid waste is that of the marina operator.
2. Marinas and boating facilities shall implement best management practices to prevent and minimize water pollution. Applicants should consult the Department of Ecology's current Resource Manual for Pollution Prevention in Marinas.
3. Discharge of solid waste or sewage into a water body is prohibited. Marinas and boat launch ramps shall provide adequate restroom and sewage disposal facilities in compliance with applicable health regulations.
4. Garbage, litter, and recycling receptacles and facilities shall be provided and maintained by the marina operator as required by federal, state, and local laws and regulations.
5. Marinas shall provide adequate disposal facilities for the discarding of fish or shellfish cleaning wastes, scrap fish, viscera, or unused bait.
6. Marina operators shall post all regulations pertaining to handling, disposal and reporting of waste, sewage, fuel, oil or toxic materials where all users may easily read them.

G. Oil Product Handling, Spills, and Wastes

1. Fail safe facilities and procedures for receiving, storing, dispensing, and disposing of oil or hazardous products, as well as a spill response plan for oil and other products, shall be required of new marinas and expansion or substantial alteration of existing marinas. Compliance with federal or state law may fulfill this requirement.
2. Handling of fuels, chemicals or other toxic materials must be in compliance with all applicable Federal and State water quality laws as well as health, safety and engineering requirements.
3. Rules for spill prevention and response, including reporting requirements, shall be posted on site.

H. Parking and Vehicle Access

1. Public or private launch ramps shall provide trailer spaces commensurate with projected demand.
2. Connecting roads between marinas and public streets shall have all weather surfacing, and be satisfactory to the City Engineer in terms of width, safety, alignment, sight distance, grade and intersection controls.

I. Launch Ramp Design

1. Preferred ramp designs, in order of priority, are:
 - a. Open grid designs with minimum coverage of beach substrate;
 - b. Seasonal ramps that can be removed and stored upland; and
 - c. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in beach profile.
2. Ramps shall be placed and maintained near flush with the foreshore slope.

J. Accessory Uses

1. Accessory uses at marinas or launch ramps including parking, boat repair and services, open air storage, waste storage and treatment, in-water net pens for baitfish, stormwater management facilities, utility and upland transportation development, shall be permitted provided they are consistent with all other provisions of this Program (including those for parking, transportation, and utilities) and, where possible, provide public physical or visual shoreline access.
2. Water-oriented accessory uses reasonably related to marina operation may be located over water or at the waters edge by conditional use provided the operator can demonstrate that an over-water or waters'-edge location is essential to the operation of the use and that the accessory use will avoid or mitigate any impacts to shoreline functions so that no net loss of shoreline functions results.
3. Minor boat repair and maintenance shall be permitted in conjunction with marina operation provided that the operator can demonstrate such accessory use is clearly incidental and subordinate to the marina development, and that best management practices for small boat yards are employed.

K. Live-Aboards

1. No vessel berthed in a marina shall be used as a place of residence except as authorized by the marina operator in conjunction with a permit from the City.
2. No more than twenty (20) percent of the slips at a marina shall be occupied by live-aboard vessels ~~without a shoreline substantial development permit or shoreline variance granted in accordance with the provisions of TSMP Chapters 1 and 2 of this Program.~~ Any marina with live-aboard vessels shall require:

- a. That all live-aboard vessels are connected to utilities that provide sewage conveyance to an approved disposal facility; or
 - b. That marina operators or live-aboards are contracted with a private pump-out service company that has the capacity to adequately dispose of live-aboard vessel sewage; or
 - c. That a portable pump-out facility is readily available to live-aboard vessel owners²;
 - d. That all live-aboard vessels shall have access to utilities that provide potable water;
 - e. That live-aboard vessels are of the cruising type, and are kept in good repair and seaworthy condition.
3. Marinas with live-aboard vessels shall only be permitted where compatible with the surrounding area and where adequate sanitary sewer facilities exist (as listed in section K.1.a, b, and c above) within the marina and on the live-aboard vessel.
- L. “S-8” Thea Foss Waterway Shoreline District
- 1. New marina development may only occur in conjunction with an adjacent upland, non-marina use.
 - 2. For purposes of marina location, the designated primary or secondary public access/view corridors specified in TSMP section 9.9 are extended into the Waterway on the west side, and are fixed in location. Marinas may not be located in or within 20 feet of these public access/view corridors. Further, marinas are prohibited south of the extension of South 18th Street to the south end of the Waterway. Visitor moorage is permitted, and required public access features for marinas such as viewing platforms and piers may be located in the public access/view corridors.

7.4 Commercial Use

Commercial use regulations apply to business uses or activities at a scale greater than a home occupation or cottage industry involving retail or wholesale marketing of goods and services. Examples include, but are not limited to, hotels, motels, grocery stores, restaurants, shops, offices, and indoor recreation facilities.

7.4.1 Policies General

A. General Policies

- 1. Commercial uses and development should be designed and constructed in such a manner as to result in no net loss of ecosystem functions ~~including implementation of Low Impact Development techniques to the maximum extent feasible.~~

² These requirements are in addition to the requirement that all marinas provide portable, floating, or stationary facilities for the disposal of sanitary waste as stated above.

2. Priority should be given to those commercial uses which are determined to be water-dependent uses or uses that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Non water-oriented uses should be conditional uses in shoreline areas.
3. New commercial uses on shorelines should be encouraged to locate in those areas where current commercial uses exist.
4. An assessment should be made of the effect a commercial structure will have on a scenic view significant to a given area or enjoyed by a significant number of people.
5. Commercial uses should contain provisions for substantial public access to the shoreline. Such access should be appropriately signed and may be regulated to a reasonable degree, but should be generally available to the public and guaranteed by dedication, easement, or other legally binding document.
6. Public access and ecological restoration should be considered as potential mitigation of impacts to shoreline resources for all water-related and -dependent commercial uses consistent with all relevant constitutional and other legal limitations on the regulation of private property.
7. Design non-water-dependent commercial uses adjacent to the ordinary high water mark in a manner that provides shoreline setback enhancement and environmental restoration at the water's edge consistent with constitutional and other limitations on the regulation of private property.
8. New non-water dependent commercial uses should not interfere with or compromise the operation of existing adjacent water-dependent uses or decrease opportunities for the general public to access adjacent shorelines.
9. Non-water-dependent commercial uses should take advantage of the shoreline location by locating and designing the use to bring a large number of citizens to the shorelines.
10. Where commercial uses are separated from the shoreline by a public right of way, they should be designed to facilitate pedestrian traffic from the adjacent right of way.
11. The following provisions should be considered in evaluating proposals for commercial uses:
 - a. Structure orientation and location which provide for large open spaces between structures providing views of the shorelines;
 - b. Building design which provides for significant viewing opportunities from within buildings and which may include viewing areas specifically designed and designated for the general public;
 - c. Decks and rooftop structures which provide -public views of the shoreline.

B. "S-8" Thea Foss Waterway Shoreline District

1. Non-water-oriented commercial uses should be permitted only in combination with water-oriented uses as part of a mixed-use development or facility.
2. Commercial water-related activities such as boat building and repair on the east side of the Waterway should be encouraged where appropriate.
3. Commercial uses specializing in clean technology are encouraged on the east side of the Waterway north of the centerline of 15th Street.
4. Mixed-use projects should support the development and sustainability of water-oriented uses such as retail, including marine supplies, restaurants, and other uses that allow people to enjoy the waterfront on a casual basis.
5. Water-oriented retail uses should be clustered and incorporated into mixed-use development on the ground floor near pedestrian access points and centers of activity.
6. Outdoor commercial uses and activities (such as restaurants, retail facilities, public markets, and mobile vendors) are encouraged. Such uses should be designed and located to be compatible with the surrounding environment. Such uses and activities may be located in public access/view corridors, but should not unduly or unreasonably obstruct circulation in the public right-of-way. Vendor carts should be located along the esplanade and view corridors.

7.4.2 Regulations

A. General Regulations

1. Commercial uses shall achieve no net loss of ecological function.
- ~~2. Commercial uses shall incorporate Low Impact Development techniques where feasible.~~
2. New non-water dependent commercial uses shall not interfere with or compromise the operation of existing adjacent water-dependent uses or decrease opportunities for the general public to access adjacent shorelines.
3. In construction of commercial uses, it is the intent of the City to require that all permitted commercial uses, either through the nature of their use, their design and location, and/or through provisions for public access, take full advantage of the waterfront setting to maximize views of the shoreline both for the commercial use and for the general public, and enhance the aesthetic value of the shoreline through appropriate design treatments. An applicant for a commercial use shall demonstrate the following:
 - a. That the proposed development will be designed and oriented to take advantage of the waterfront setting and the water view;
 - b. That the proposed development will be designed to maximize to the greatest extent feasible public view and public access to and along the shoreline, as provided in Section 6.5 of this Program;

- c. That the proposed development will be designed to be compatible with existing and/or proposed uses and plans for adjacent properties;
 - d. That landscaping for proposed developments will ~~receive special consideration to~~ screen unsightly aspects of their operation from the public view ~~but~~ to minimize blockage of the existing water scenic view;
 - e. That the proposed development will be designed to be compatible with the character of the Shoreline District in which it is located;
 - f. That the proposed development will be designed to have a minimum adverse impact on the natural environment of the site, and shall fully mitigate for any adverse impact.
4. New non-water-oriented commercial uses or development are prohibited unless they meet one of the following tests and as a conditional use unless otherwise specified:
- a. The use is part of a mixed-use project or facility that supports water-oriented uses and provides a significant public benefit with respect to the public access and restoration goals of this Program.
 - b. Navigability is severely limited at the proposed site and the use provides a significant public benefit with respect to the public access and restoration goals of this Program.
 - c. The use is within the shoreline jurisdiction but physically separated from the shoreline by a separate property, public right-of-way, or existing use, and provides a significant public benefit with respect to the public access and restoration goals of this Program. For the purposes of this Program, public access trails and facilities do not constitute a separation.
5. An applicant for a non-water-oriented commercial use shall demonstrate ecological restoration is undertaken to the greatest extent feasible.
6. Non-water-dependent commercial uses shall avoid impacts to existing navigation, recreation, and public access.
7. Non-water-dependent commercial uses are prohibited over water except for water-related and water-enjoyment commercial uses in an existing structures, and where necessary to support a water-dependent uses.
8. Artisan/craftsperson uses must demonstrate that the use is compatible with surrounding uses and protection of public safety. Further, the site must be consistent with public access components as specified for water-enjoyment uses.
9. -Outdoor uses are encouraged, including mobile vendors and uses associated with permitted indoor uses such as a restaurant or cafe. Outdoor uses shall not obstruct public accessways or access to public recreation facilities.

~~B. "S-5" Pt. Defiance Shoreline District~~

~~1. New commercial development shall be limited to upland locations only. Existing water-oriented commercial uses at the Point Defiance Marina Complex may be continued and be modified provided modifications do not adversely affect ecological conditions and comply with all other provisions of this Program.~~

B. “S-8” Thea Foss Shoreline District

~~1. Artisan/craftsperson uses must demonstrate that the use is compatible with surrounding uses and protection of public safety. Further, the site must be consistent with public access components as specified for water enjoyment uses.~~

~~Uses may be permitted to occur outdoors; provided that shoreline permits involving outdoor activities may be reviewed on a five-year basis for ongoing compatibility. Permitted outdoor uses include: uses associated with permitted indoor use, mobile vendors, and permanent outdoor structures.~~

~~1. Outdoor uses are encouraged, including mobile vendors and uses associated with permitted indoor uses such as a restaurant or cafe. Outdoor uses shall not obstruct public accessways or access to public recreation facilities. MM~~ Mobile vendors shall not be permitted in the Dock Street and East D Street rights-of-way.

~~3. Hotel/Motel uses are permitted on the west side of the Foss Waterway, and on the east side of the Foss Waterway only south of the centerline of 11th Street.~~

7.5 Port, Terminal and Industrial Use

The past geologic development of the Puget Sound Basin has created one of the few areas in the world which provides several deepwater inland harbors. The use of Puget Sound waters by deep-draft vessels is increasing due in part to its proximity to the Pacific Rim countries. This increased trade will attract more industry and more people which will put more pressure on the Sound in the forms of recreation and the requirements for increased food supply.

The Port of Tacoma is a major center for waterborne traffic and as such has become a gravitational point for industrial and manufacturing firms. Heavy industry may not specifically require a shoreline location, but is attracted to the port because of the variety of transportation modes available.

In applying the regulations of this section, the following definitions are used:

- “Port” means a center for water-borne commerce and traffic.
- “Terminal” means a building or complex containing facilities needed by transportation operators and passengers at either end of a travel or shipping route by air, rail, road or sea.
- “Industrial” means the production, processing, manufacturing, or fabrication of goods or materials. Warehousing and storage of materials or production is considered part of the industrial process.

Some port, terminal and industrial developments are often associated with a number of uses and modifications that are identified separately in this Master Program (e.g., parking, dredging). Each use activity and every type of shoreline modification should be carefully identified and reviewed for compliance with all applicable sections.

Port, terminal and industrial facilities are intensive and have the potential to negatively impact the shoreline environment. When impacts cannot be avoided, they must be mitigated to assure no net loss of the ecological function necessary to sustain shoreline resources.

7.5.1 Policies

A. General Policies

1. Because of the great natural deep water potential of Commencement Bay, new deep water terminal and port-related industrial development is encouraged.
2. Because of the exceptional value of Puget Sound shorelines for residential, recreational, resource and other economic elements requiring clean water, deep water terminal expansion should not include oil super tanker transfer or super tanker storage facilities.
3. Public access and ecological restoration should be considered as potential mitigation of impacts to shoreline resources for all water-related and -dependent industrial uses consistent with all relevant constitutional and other legal limitations on the regulation of private property.
4. Expansion or redevelopment of water-dependent industrial facilities and areas should be encouraged, provided it results in no net loss of shoreline functions.
5. Industrial uses and related redevelopment projects are encouraged to locate where environmental cleanup can be accomplished.
6. The preferred location for future non-water-dependent industry is in industrial areas away from the shoreline.
7. The cooperative use of docking, parking, cargo handling and storage facilities should be strongly encouraged in waterfront industrial areas.
8. Land transportation and utility corridors serving ports and water-related industry should follow the guidelines provided under the sections dealing with utilities and road and railroad construction. Where feasible, transportation and utility corridors should not be located in the shoreline to reduce pressures for the use of waterfront sites.
9. Port, terminal, and industrial uses should be encouraged to permit viewing of harbor areas from viewpoints, and similar public facilities which would not interfere with operations or endanger public health and safety.
10. Special attention should be given to the design and development of facilities and operational procedures for fuel handling and storage in order to minimize accidental spills and to the provision of means for satisfactorily handling those spills which do occur.

B. "S-8" Thea Foss Shoreline District

~~1. Existing industrial uses should be allowed to continue current operations.~~

1. Improvements to existing industrial uses, such as the aesthetic treatment of storage tanks, cleanup of blighted areas, landscaping, exterior cosmetic improvements, landscape screening, and support of the Waterway environmental cleanup and remediation plan effort ~~should be~~ are encouraged.

7.5.2 Regulations

A. General Regulations

1. Water-dependent port, terminal, and industrial uses shall have shoreline location priority over all other uses in the S-7 and S-10 Shoreline Districts.
2. The location, design, and construction of port, terminal, and industrial uses shall assure no net loss of ecological functions.
3. New non-water-oriented port, terminal, and industrial uses are prohibited unless they meet one of the following criteria:
 - a. The use is part of a mixed-use project or facility that supports water-oriented uses and provides a significant public benefit with respect to the public access and restoration goals of this Program;
 - b. Navigability is severely limited at the proposed site and the use provides a significant public benefit with respect to the public access and restoration goals of this Program;
 - c. The use is within the shoreline jurisdiction but physically separated from the shoreline by a separate property, public right-of-way, or existing use, and provides a significant public benefit with respect to the public access and restoration goals of this Program. For the purposes of this Program, public access trails and facilities do not constitute a separation.
4. Deep-water terminal expansion shall not include oil super tanker transfer or super tanker storage facilities.
5. Where shoreline stabilization or in-water structures are required to support a water-dependent port, terminal or industrial use, the applicant shall be required to demonstrate:
 - a. That the proposed action shall give special consideration to existing ecological function shall be improved, especially in regard to viability for of migratory salmonids and other aquatic species;
 - b. That contaminated sediments are managed and/or remediated in accordance with state and federal laws;
 - c. That public access to the water body is provided where safety and operation of use are not compromised;
 - d. That shading and water surface coverage is the minimum necessary for the use.
6. Port, terminal and industrial development shall comply with all federal, state, regional and local requirements regarding air and water quality.
7. Where possible, oxidation and waste stabilization ponds shall be located outside the Shoreline District.

8. Best management practices shall be strictly adhered to for facilities, vessels, and products used in association with these facilities and vessels.
9. All developments shall include the capability to contain and clean up spills, discharges, or pollutants, and shall be responsible for any water pollution which they cause.
10. Petroleum products sump ponds shall be covered, screened, or otherwise protected to prevent bird kill.
11. Procedures for handling toxic materials in shoreline areas shall prevent their entering the air or water.

B. Log Rafting and Storage

1. New Log Rafting and storage shall only be allowed in the “S-10” Port Industrial Area Shoreline District, the S-11 Marine View Drive Shoreline District and in the ~~corresponding~~ associated portions of the “S-13” Marine Waters of the State Shoreline District.
2. Restrictions shall be considered in public waters where log storage and handling are a hindrance to other beneficial water uses.
3. Offshore log storage shall only be allowed on a temporary basis, and should be located where natural tidal or current flushing and water circulation are adequate to disperse polluting wastes.
4. Log rafting or storage operations are required to implement the following, whenever applicable:
 - a. Logs shall not be dumped, stored, or rafted where grounding will occur.
 - b. Easy let-down devices shall be provided for placing logs in water. The freefall dumping of logs into water is prohibited.
 - c. Bark and wood debris controls and disposal shall be implemented at log dumps, raft building areas, and mill-side handling zones. Accumulations of bark and wood debris on the land and docks around dump sites and upland storage sites shall be kept out of the water. After cleanup, disposal shall be at an upland site where leachate will not enter surface or ground waters.
 - d. Where water depths will permit the floating of bundled logs, they shall be secured in bundles on land before being placed in the water. Bundles shall not be broken again except on land or at mill sites.
 - e. Stormwater management facilities shall be provided to protect the quality of affected waters.
5. Log storage facilities shall be located upland and properly sited to avoid fish and wildlife habitat conservation areas.
6. Log storage facilities must be sited to avoid and minimize the need for dredging in order to accommodate new barging activities at the site.

7. Log booming shall only be allowed offshore in sub-tidal waters in order to maintain unimpeded nearshore migration corridors for juvenile salmonids and to minimize shading impacts from log rafts. Log booming activities include the placement in or removal of logs and log bundles from the water, and the assembly and disassembly of rafts for waterborne transportation.

8. Log storage and log booming facilities shall be adequately maintained and repaired to prevent log escapement from the storage site.

~~8.9.~~ A Debris Management Plan describing the removal and disposal of wood waste must be developed and submitted to the City. Debris monitoring reports shall be provided, where stipulated.

~~9.10.~~ Existing in-water log storage and log booming facilities in critical habitats utilized by threatened or endangered species classified under ESA shall be reevaluated if use is discontinued for two (2) years or more, or if substantial repair or reconstruction is required. The evaluation shall include an alternatives analysis in order to determine if logs can be stored upland and out of the water. The alternatives analysis shall include evaluation of the potential for moving all, or portions of, log storage and booming to uplands.

~~C. "S-8" Thea Foss Waterway Shoreline District~~

~~1. Water-oriented industrial development shall be permitted on the easterly side of the Waterway, north of the centerline of East 15th Street only.~~

~~1. Existing industrial uses may expand, adapt, repair, replace, or otherwise modify, including changes necessitated by technological advancements; provided, however, that the uses may not be expanded beyond property boundaries currently owned, leased, or operated by the industrial user at the time of adoption of this Master Program.~~

7.6 Recreational Development

Recreational development provides opportunities for play, sports, relaxation, amusement, or contemplation. It includes facilities for passive recreational activities, such as hiking, photography, viewing, and fishing. It also includes facilities for active or more intensive uses such as parks, campgrounds, public and private marinas, and golf courses. This section applies to both publicly- and privately-owned shoreline facilities intended for use by the public or a private club, group, association, or individual. Commercial recreational development must be consistent with the provisions of this section and the provisions of Section 7.4 for commercial uses. Recreational development refers to commercial and public facilities designed and used to provide recreational opportunities to the public. Recreation means the refreshment of body and mind through forms of play, sports, relaxation, or contemplation. This Master Program gives priority to recreational development that is primarily related to access to, enjoyment of, and use of the water and shorelines of the state as reflected in the Table 9.2 Shoreline Use and Development Standards.

7.6.1 Policies

A. General Policies

1. Priority should be given to commercial or public recreational development that provides access to and use of the water.

2. The public's right to the use of navigable waters should be strongly protected.
3. Only water-oriented recreational uses should be permitted on the shorelines.
4. Non-water-oriented recreational facilities should be located outside the shoreline area.
5. The City should insure that any recreational use is consistent with the ability of the shoreline to support that use.
6. Recreational uses should achieve no net loss of ecological function.
7. Recreational developments should be located, designed and operated to be compatible with and minimize adverse effects on environmental quality and valuable natural features, as well as on adjacent and surrounding land and water uses.
8. In approving shoreline recreational developments, the City should ensure that the development will preserve, enhance, restore or create desirable shoreline features. Such features include unique and fragile areas, scenic vistas and aesthetic values.
9. Encourage development of marina and boat launch facilities where appropriate, where physical space is available to alleviate unmet needs, and where it can be accommodated with minimal damage to the environment.
10. Public recreation activities such as fishing, clam digging, swimming, boating, wading, and water-related recreation should be permitted provided they do not adversely affect shoreline functions.
11. Shoreline parks and public access points should be linked through a continuous linear route, abutting the shoreline where feasible and appropriate. Preference is given to non-motorized uses such as pedestrian easements along tidelands, hiking paths and bicycle trails.
12. Diversity of recreational uses should be based on the natural features of the shorelines and the preservation of scenic views.
13. Recreational development in commercial projects which promotes multiple use of the shoreline is encouraged.
14. Additional shoreline recreational lands should be acquired through a variety of means including donations and fee purchase. Acquisition of easements, options and development rights can also provide recreational opportunities.
15. To avoid wasteful use of the limited supply of recreational shoreline, parking areas should be located inland away from the immediate edge of the water. Access should be provided by walkways or other methods.
16. Maintain level of service to ensure that all people have access to the shoreline. Overuse of shoreline areas should be addressed by adding shoreline recreational capacity.

B. "S-4" Point Defiance Shoreline District

1. Recreational uses should not require structural modification of the shoreline.

C. “S-8” Thea Foss Shoreline District

1. Recreational boat building and restoration activities associated with maritime organizations (such as, but not limited to, the Sea Scouts and Maritime Center) are encouraged.

7.6.2 Regulations

A. General Regulations

1. Recreational development shall achieve no net loss of ecological processes and functions and should be designed to be compatible with surrounding properties.
2. Proposals for recreational developments which would substantially alter the natural characteristics of the shoreline shall be considered a conditional use.
3. Any recreational building or structure, excluding piers or docks or floats, proposed to be built over water, shall be considered a conditional use.
4. Non-water-oriented recreational development shall be located outside the shoreline jurisdiction.
5. Recreational development shall be designed and constructed so as to not unnecessarily interfere with public use of shorelines.
6. Recreational uses and improvements shall include public access to shorelines.
7. Proposals for recreational development shall be found to not have an adverse effect on industrial deep water terminal operations and facilities.
8. Accretional beaches shall be retained in their natural state for water-dependent uses such as swimming, clamming, and beachcombing.
9. Underwater parks and artificial reefs established in cooperation with State agencies shall include safety provisions to warn boating traffic of their location and shall not include materials toxic or otherwise hazardous to persons, fish, or wildlife.
10. Accesses for boats shall allow safe and convenient passage to the public water, dictated by the class of boats using the access; the public’s right to use navigable waters shall be protected.
11. Where public access has been unlawfully appropriated to private use, or otherwise unlawfully denied to the public, such prohibition shall be abated, and the area made accessible to the public.
12. Trails shall be permitted, where they will not cause erosion or landslides, and will not result in a net loss of ecological functions. Trails in the marine buffer may be permitted consistent with TSMP Section 6.4.3.

B. “S-2” Western Slope Central Shoreline District

1. In the Hidden Beach Rocky Point area, the only recreational use permitted which requires structural modification of the shoreline shall be the construction and maintenance of walkways, trails and adjacent seating.

C. “S-4” Point Defiance Shoreline District

1. Recreational uses shall not require structural modification of the shoreline.

7.7 Residential Development

Residential development refers to one or more buildings, structures, lots, parcels, or portions of parcels that are used or intended to be used to provide a dwelling for human beings. Residential development includes single-family residences, duplexes, other detached dwellings, multifamily residences, apartments, townhouses, mobile home parks, group housing, condominiums, subdivisions, planned unit developments, and short subdivisions. Residential development also includes accessory uses and structures such as garages, sheds, tennis courts, swimming pools, driveways, parking areas, fences, cabanas, and saunas, but not guest cottages. Residential development does not include hotels, motels, or camping facilities. Bed and Breakfast establishments proposed within a shoreline district are required to meet the policies and regulations for both Residential and Commercial use. Residential development regulations apply to the development of single family residences, including appurtenant structures and uses; multifamily development; and the creation of new residential lots through land division.

Uses and facilities associated with residential development, which are identified as separate use activities or modifications in this Master Program, such as clearing, grading and fill, are subject to the regulations established for those uses in addition to this section.

7.7.1 Policies

A. General Policies

1. Single family residences should be identified as a priority use only when developed in a manner consistent with control of pollution and with prevention of damage to the natural environment.
2. Development of residential units should result in no net loss of ecological function.
3. Any residential development along the shoreline should be set back from steep slopes and eroding shoreline areas so that the shoreline is not further eroded and structural improvements are not required to protect property.
- ~~4. Residential development should be designed to minimize the amount of impervious area and should utilize Low Impact Development techniques to the greatest extent practicable (e.g., permeable pavers, stormwater infiltration and filtration).~~
4. In cases where either large tracts are subdivided into single-family residential parcels or where contiguous individual building sites are developed for single-family residences, community access areas and one joint-use dock should be developed for the use of residents of the subject subdivision.
5. Residential development should be designed at a level of density that is compatible with the adjoining uses and the physical capabilities of the shoreline and water.

6. Multiple-family residential development of more than four (4) units, should be required to provide public pedestrian access to and along the waterfront within the project where appropriate.
 7. Residential developments should be designed to adequately protect the water and shoreline aesthetics.
 8. New residential development overwater and floating homes should be prohibited.
 9. Residential proposals should be required to provide plans that ensure the preservation of existing native vegetation and the control of erosion, to the greatest extent possible.
 10. Sewage disposal, water supply and storm drainage facilities should be provided in full compliance with ~~City and State health regulations~~ TMC 12.08.
 11. In mixed-use development with a residential component, residential units should occupy the upper floors of structures and ground floors should be occupied by water-oriented uses.
 12. Parking for residential development should be located on uplands or on the street/landward side of the building.
- B. "S-8" Thea Foss Waterway Shoreline District
1. Residential uses should promote a variety of housing types, including live/work arrangements.

7.7.2 Regulations

- A. General Regulations
1. Residential development shall achieve no net loss of ecological function.
 2. Single family residences shall be permitted only when developed in a manner consistent with control of pollution and with prevention of damage to the natural environment.
 3. Residential development over water, including garages, accessory buildings, houseboats, and floating homes, are prohibited.
 4. Mobile homes shall not be permitted within the shoreline.
 5. New multifamily residential uses and development is prohibited unless they meet one of the following criteria:
 - a. The use is part of a mixed-use project or facility that supports water-oriented uses and provides a significant public benefit with respect to the public access and restoration goals of this Program;
 - b. Navigability is severely limited at the proposed site and the use provides a significant public benefit with respect to the public access and restoration goals of this Program;

- c. The use is within the shoreline jurisdiction but physically separated from the shoreline by a separate property, public right-of-way, or existing use, and provides a significant public benefit with respect to the public access and restoration goals of this Program. For the purposes of this Program, public access trails and facilities do not constitute a separation.
- 6. Residential uses shall not be permitted on the ground floor of mixed-use structures.
- 7. Outdoor parking areas shall be located on the street/landward side of residential units.
- 8. Public access to and from the water’s edge shall be included in multiple-family developments of four or more dwelling units.
- 9. Residential development shall be designed, located and developed to avoid the need for future stabilization.
- 10. Sewage disposal, water supply and storm drainage facilities shall be provided in full compliance with ~~City and State health regulations~~ TMC 12.08.
- 11. New (subdivided) lots shall be designed, configured, and developed to:
 - a. Prevent the loss of ecological functions at full build-out of all lots; and
 - b. Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

B. “S-3” Western Slope North Shoreline District

- 1. Due to the historic nature of the Salmon Beach residential community, any residential structure existing at the time of the adoption of this Program may be rebuilt in accordance with the Non-Conforming Use and Development regulations in ~~2.56~~.
- 2. Structures, including accessory buildings, shall not be permitted on the steep slope area to the east. The existing stairways and trail systems which provide access from the two off-street parking areas serving Salmon Beach shall be permitted within the steep slope area.

~~C. “S-8” Thea Foss Waterway Shoreline District~~

- ~~1. Residential development shall be permitted in upland locations on the west side of the waterway and on the east side only, south of the East 11th Street right of way, and shall be designed for multiple family development only, excluding duplex and/or triplex development.~~

~~D. “S-11” Marine View Drive Shoreline District~~

- ~~1. New single family and multi-family residential development is permitted only in that area north of 5410 Marine View Drive.~~

7.8 Signs

The following sign regulations apply to any device, flag, light, figure, picture, letter, work, message, symbol, plaque, poster or building face that is visible from outside the lot on which it is located and that is designed to inform or attract the attention of the public through visual communication.

7.8.1 Policies

1. Signs in the shoreline should be designed and placed in a manner that will not interfere with the public's ability to access the shoreline, will minimize light impacts to the nearshore area, and will achieve no net loss of shoreline ecological functions.
2. Vistas and viewpoints should not be degraded and visual access to the water from such vistas should not be impaired by the design, placement, or lack of maintenance of signs.
3. When feasible, signs should be constructed against existing buildings to minimize visual obstructions of the shoreline and water bodies.

7.8.2 Regulations

1. Signs in the shoreline shall be designed and placed in a manner that:
 - ~~1~~a. does not interfere with the public's ability to access the shoreline;
 - ~~2~~b. does not interfere or degrade the public's ability to view the shoreline from view corridors, vistas and viewpoints;
 - ~~3~~c. minimizes light impacts to the nearshore area; and
 - ~~4~~d. will not result in a net loss of shoreline ecological functions.
- ~~5~~2. Replacement of signs in-kind may be allowed when an existing building changes tenants.
3. Signs located within a Shoreline District are subject to the standards and regulations included in TMC 13.06. Variances to the sign provisions of Sections 13.06.520, 13.06.521, and 13.06.522 shall be granted according to the criteria listed in TMC 13.06.645.

7.9 Parking Facilities

Parking is the use of land for storage of motor vehicles, motorized equipment, or accessory units, such as trailers. Land used for this purpose is leveled, cleared and often covered with an impermeable surface. Parking includes areas for scenic vista parking. The following parking regulations apply to parking, which is the principal use on a property, as well as accessory parking, which is accessory to an approved use and directly serves that use.

7.9.1 Policies

1. Parking as a primary use (stand-alone use) within the shoreline jurisdiction should be prohibited.
2. Parking should not be permitted between the development and the adjacent water body.

3. Parking for permitted uses should be in a structure.
4. Visual impacts of surface parking facilities should be effectively mitigated. Parking for permitted uses within the shoreline jurisdiction (but not including parking that is underground) should be minimized and screened from adjacent public access and buffer areas.
5. Where surface parking is developed within the shoreline jurisdiction, Low Impact Development techniques should be implemented.
6. Lighting for parking areas should be oriented away from nearshore areas and sensitive habitat sites to minimize impacts on the nearshore environment, except where needed to promote public safety and CPTED considerations.
7. Loading and unloading zones, especially those inherent to a permitted use, parking for ADA and public parking on improved public rights-of-way, should be allowed when within shoreline jurisdiction.

7.9.2 Regulations

1. Parking as a primary or stand-alone use is prohibited.
 - ~~1. Parking shall not be located within a required critical area and/or marine buffers except when the parking is integral to a water-oriented use or when the parking is within or beneath a permitted use.~~
 - ~~3.2. Parking facilities are not required, for new uses and development, but when parking is provided, it should be provided in accordance with the development regulations dimensional standards in TMC 13.06 unless otherwise specified in this Chapter. Requirements shall be a condition of a Shoreline Management Substantial Development Permit when not specifically set forth in TMC 13.06.~~
 - ~~4.3. Parking for a permitted use or activity shall not be permitted between the development and the adjacent shoreline.~~
 - ~~5.4. Parking, loading and unloading zones shall be located outside of required buffers except when that are it is -an inherent element of a water-dependent or a water-related water-oriented use and is necessary for the operation of the primary use. -are permitted between the shoreline and the use area when it is adjacent to the shoreline but, when feasible, should not be within or adjacent to a required buffer.~~
5. Parking, loading and unloading zones shall be located on the street/landward side of the structure, unless the same are incorporated within a structure.
6. Where parking areas are located adjacent to a required buffer the parking area shall be setback from the required buffer an additional 15 feet for installation of landscape screening.
7. Parking areas shall be landscaped in accordance with the standards in TMC 13.06.

- 8. Parking areas shall contain lighting not exceeding 20 feet in height, except in the “S-7” Schuster Parkway, “S-9” Puyallup River, and “S-10” Port Industrial Shoreline District
- ~~8.9.~~ Required landscaping, as specified in 7.9.2 (8)7 above, shall include a mix of native trees and shrubs that effectively screen headlights from vehicles to the abutting buffer area. Gaps in screening are permitted to allow access to viewing areas or public areas where applicable.
- ~~8.~~ When surface parking areas for permitted uses are designed and constructed, they shall achieve the following objectives:
 - 10. Parking facilities shall provide a safe and signed pedestrian entry point to an established or proposed shoreline trail / walkway or viewing area for physical and visual access to the shoreline.
 - 11. Subsurface parking is allowed under view/access corridors, provided the structure is designed to optimize public access and views of the water. Public access over subsurface parking structures shall be designed to minimize grade discontinuation and meet the requirements for ADA accessibility.
 - 12. Subsurface parking should be located outside of any critical area and/or marine buffers.
 - 13. Above-grade structured parking shall not be allowed as a visible use on the waterward side of any building.
- ~~9.~~
 - ~~a.~~ Implementation of Low Impact Development techniques for stormwater management and provide for the disposal of any increased surface runoff without damage to surrounding waters, wetlands, or waterfront areas;
- ~~10.~~ 14. Parking facilities shall locate as far from a required shoreline the ordinary high water mark or critical area buffer as possible is feasible.
- ~~11.~~ 15. Public parking on public street ends that are within shorelines but outside of required buffers is permitted.
- 16. Angled street parking shall be prohibited where it conflicts with public transportation.
- ~~12.~~ 17. For developments which include public access features, one parking space for each 20 parking spaces provided shall be set aside and appropriately marked for public access-use only, except as specified in Section ~~6.5.2(D)~~ 9.9.2 for the western side of Thea Foss Waterway.
- ~~13.~~ 18. Parking areas for public water access areas shall be connected to the water by access paths.

7.10 Transportation

Transportation facilities are those structures and developments that aid in land and water surface movement of people, goods, and services. The following transportation regulations apply to transportation. They include facilities that include roads and railways, related bridges and culverts, fills,

~~embankments~~, causeways, ferry terminals, boat and floatplane terminals, and bus and truck terminals. Off-street bicycle or recreational trails are not included.

7.10.1 Policies

A. General Policies

1. New roadways, arterials, and railways, including expansions of these systems, should be designed and located to assure no net loss of shoreline ecological functions.
2. New roadways, arterials, and railways, including expansions or reconstruction of these systems, should be designed to accommodate transit, bicycle and pedestrian transportation facilities consistent with the Complete Streets Design Guidelines and the Non-Motorized Transportation Element of the Comprehensive Plan.
3. Only under exceptional circumstances should major highways, freeways and railways be located near shorelines, except in port and heavy industrial areas, so that existing shoreline roads may be reserved for slow moving recreational traffic.
4. Maximize the capacity of existing roadways to minimize the need for new streets and arterials.
5. Location and design of new roadways including arterials should not compromise existing and planned shoreline public access and existing and planned habitat restoration and enhancement.
6. New roadways, especially arterials, should be designed to be the minimum length necessary to serve a circulation function for vehicular modes of travel.
7. When it is required for new roadways including arterials to be located within ~~a critical area and/or critical area or marine buffers~~ shoreline jurisdiction, the absolute minimum necessary amount of improved right-of-way should be developed for vehicular modes of travel.
8. New roadways including access roads and driveways associated with a permitted use should be the minimum necessary to serve the required access function.
9. New roadways including arterials should be designed and constructed to implement ~~a range of available Low Impact Development techniques~~ the ‘Green Street’ guidelines contained within the City of Tacoma Complete Streets Guidelines.
10. High Intensity shorelines and shorelines having water-enjoyment uses or recreation activities should be adequately served by public transportation. Public transportation facilities may include:
 - a. Streetcars
 - b. Inter- and intra-city commuter water transportation and ferry service
 - c. Transient moorage
 - d. Non-motorized transportation facilities

e. Public transit

11. Pedestrian overpasses should be built where access to the shoreline has been or could be cut off by transportation facilities.
12. Transportation facilities should be designed and located to avoid air and noise impacts to the shoreline environment and adjacent residential and recreational areas.
13. Transient moorage is encouraged at marinas where feasible.
14. New ferry service that utilizes existing moorage facilities should be permitted.
15. Transportation modes that are pollution free should be encouraged.

B. "S-8" Thea Foss Shoreline District

1. Pursue the development of an integrated Thea Foss Waterway transportation system that features pedestrian and bicycle pathways, passenger ferries, vehicular, freight, and transit connections.
2. The Thea Foss Waterway area should be well connected with neighboring districts, especially the downtown, Ruston Way, and Tacoma Dome areas.
3. Encourage improved transportation linkages between Downtown and the Thea Foss Peninsula Waterway.
4. Transportation improvements or expansions should remain within the existing rights-of-way with the exception of the SR-509 ramps.
5. The streetscape encircling the Waterway should provide for comfortable pedestrian circulation and bicycle transportation.
6. East D Street should be designed and reconstructed as a transition between the mixed-use shoreline zoning and the industrial zoning east of East D Street and to achieve functional separation of industrial and nonindustrial traffic where feasible.
7. Existing access points directly to Dock Street and on adjacent streets should be improved to reduce traffic obstructions from railroad crossings and future congestion.
8. Expansion of railroad right-of-way should not be permitted.

7.10.2 Regulations

A. General Regulations

1. Proposed transportation facilities are required to be planned, located, and designed in such a manner that routes will have the least possible adverse effect on unique or fragile shoreline features and will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses and public access.

2. Transportation system plans shall include pedestrian, bicycle, and public transportation facilities and be consistent with the Complete Streets Design Guidelines and the Non-Motorized Transportation Element of the Comprehensive Plan where applicable.
 3. Where proposed transportation facilities will cut off access to the shoreline, pedestrian overpasses shall be built to provide access.
 4. Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading and alteration of topography and natural features. Roadway and driveway alignment shall follow the natural contours of the site and minimize width to the maximum extent feasible. Elevated walkways should be utilized to cross wetlands.
 5. Any new railroad construction shall be a conditional use except extensions of existing railroad spurs on private property and on dock rail associated with terminal development.
 - ~~6. New roadways including arterials shall be designed and constructed to implement a range of available Low Impact Development techniques.~~
 6. When it is required for new roadways including arterials to be ~~located within a critical area and/or its required buffer~~ within shoreline jurisdiction, the absolute minimum necessary amount of improved right-of-way shall be developed for vehicular modes of travel.
 7. When they are necessary, crossings shall co-locate using existing crossings where feasible. New crossings shall be by the most direct route possible.
 8. New roadways including arterials shall be designed and constructed to enhance physical and visual access to the shoreline.
 9. Roads and railroads along public shoreline areas shall provide for safe pedestrian and bicycle circulation through the shoreline area. Pedestrian circulation shall be provided to the shoreline unless the access meets the criteria in 6.5.2(A)(7).
- B. "S-6" Ruston Way Shoreline District
1. Roadways shall be limited to one moving lane in each direction. Further construction shall be limited to the repair, maintenance, and improvement of existing thoroughfares and shall not include any new facilities dedicated solely to SOV-oriented automobile travel. None of the existing 100-foot Ruston Way right-of-way shall be vacated.
 2. New HOV and transit-oriented infrastructure including rail lines for streetcars and light rail shall be permitted provided their development is consistent with all other provisions of this Program.
- C. "S-7" Schuster Parkway and "S-15" Point Ruston/Slag Peninsula
1. Further construction shall be limited to the repair, maintenance, and improvement of existing thoroughfares and shall not include any new facilities dedicated solely to SOV-oriented automobile travel. None of the existing Ruston Way right-of-way shall be vacated.

2. New HOV and transit-oriented infrastructure including rail lines for streetcars and light rail shall be permitted provided their development is consistent with all other provisions of this Program.

D. "S-8" Thea Foss Shoreline District

1. Transportation improvements or expansions shall remain within the existing rights-of-way with the exception of the SR-509 ramps.
2. The streetscape encircling the Waterway shall provide adequate facilities for pedestrian circulation and bicycle transportation.
3. East D Street shall be designed and reconstructed as a transition between the mixed-use shoreline zoning and the industrial zoning east of East D Street and to achieve functional separation of industrial and nonindustrial traffic where feasible.
4. Expansion of railroad right-of-way shall not be permitted.
5. Dock Street shall be limited to one moving lane in each direction. Further construction shall be limited to the repair, maintenance, and improvement of existing thoroughfares and shall not include any new facilities, but may include center turn lanes and other turning lanes. New transit infrastructure including rail lines for streetcars and light rail shall be permitted provided their development is consistent with all other provisions of this Program.
6. Street improvements shall be consistent with the unifying design elements in the Thea Foss Waterway Design Guidelines and Standards.

7.11 Solid Waste Disposal

Solid waste refers to all solid and semi-solid wastes, except wastes identified in WAC 173-304-015, including, but not limited to, junk vehicles, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities, but excluding agricultural wastes and crop residues returned to the soil at agronomic rates. This includes all liquid, solid and semi-solid materials which are not the primary products of public, private, industrial, commercial, mining and agricultural operations. Solid waste includes but is not limited to sludge from wastewater treatment plants and septage from septic tanks, wood waste, dangerous waste, and problem wastes. Unrecovered residues from recycling operations shall be considered solid waste

7.11.1 Policies

1. Shoreline areas should not be disposal sites for solid waste; however, disposal of hazardous substances and other materials should be permitted if in conjunction with an environmental cleanup in accordance with state and federal regulations.
2. All developments, public and private, should provide for an adequate means for disposal of solid waste and should comply with existing City regulations concerning the handling of solid waste.
3. All shoreline areas should be kept litter-free. Private shoreline owners should be encouraged to maintain litter-free beaches.

4. Recycling of solid waste now existing or generated within shoreline areas should be encouraged.
5. Where solid waste disposal sites are presently located in shoreline areas, the site should be rehabilitated to control leaching of contaminants.
6. The use of biodegradable products should be encouraged to minimize pollution from boat cleaning and from grey water.

7.11.2 Regulations

1. Permanent treatment and/or storage facilities for solid waste shall be prohibited in the shorelines. All garbage shall be deposited in trash or recycling receptacles. The handling of all solid waste in the shoreline shall conform to the provisions of TMC 12.09.
2. Disposal of hazardous substances or other materials generated, treated, or disposed of in conjunction with an environmental cleanup is permitted if in accordance with State and Federal regulations.
3. No person shall throw, discharge, or deposit from any vessel or the shore, pier, wharf, dock, float, or otherwise, any refuse matter of any kind whatsoever into or upon the waters or land area of Tacoma or Puget Sound, in accordance with local refuse disposal requirements.
4. No person shall dump or discharge oil, spirits, inflammable liquid, or contaminated bilge water into or upon the waters or land areas of Tacoma or Puget Sound.

7.12 Utilities

~~The regulations of this section apply to services and facilities that produce, convey, store, or process power, gas, sewage, communications, oil, waste, and the like. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence, are "accessory utilities" and shall be considered a part of the primary use.~~

Utilities are services and facilities that produce, transmit, carry, store, process, or dispose of electric power, water, sewage, communications, oil, gas, stormwater, and the like. The provisions in this section apply to primary use and activities such as sewage treatment plants, sewer lift pumps, stormwater outfalls and fuel storage facilities. On-site utility features serving a primary use, such as water, sewer or gas line to a residence, are "accessory utilities" and shall be reviewed as appurtenances to the primary use (in this example, the residential use).

Utilities are further described as major and minor to allow for a simplified permit process for minor utility improvements. As used in this Master Program, major utilities include substations, pump stations, treatment plants, sanitary sewer outfalls, regional stormwater outfalls, electrical transmission lines greater than 55,000 volts, water, sewer or storm drainage mains greater than eight (8) inches in diameter, major recycling facilities, gas and petroleum transmission lines, macro wireless facilities, and submarine telecommunications cables. Minor utilities include local public water, minor storm sewer outfalls, electric, minor recycling facilities, natural gas distribution, public sewer collection, cable and telephone service, micro and mini wireless facilities, and appurtenances.

7.12.1 Policies

1. Design, location and maintenance of utilities is required to assure no net loss of ecological functions.
2. Utilities are required to be located in existing rights-of-ways whenever possible.
3. Utilities for the delivery of services and products such as but not limited to public sewer, water and storm mains and services, pipelines, power and transmission facilities are required to be located outside of shoreline jurisdiction unless no other practicable alternative~~feasible option~~ exists. -
4. Prohibit utilities in wetlands and other critical areas unless no other practicable alternative exists.
5. Ensure that whenever utilities must be placed in a shoreline area, the location is chosen to:
 - a. Meet the needs of future populations in areas planned to accommodate this growth. Utilize existing transportation and utility sites, rights-of-ways and corridors, whenever possible.
 - b. Joint use of rights-of-way and corridors should be encouraged. Preserve scenic views and aesthetic qualities of the shoreline area.
 - c. Be located such that shoreline armoring and defense works will not be required for the life of the project.
 - d. Non-water-oriented parts of wastewater treatment, water reclamation, desalinization, and power plant facilities shall be located outside shoreline jurisdiction unless it can be demonstrated that no other feasible option is available.
6. Utilities within shorelines should be under-grounded where practicable.
7. Upon completion of utility installation/maintenance projects on shorelines, banks should be restored to pre-project configuration, replanted and provided maintenance care until the newly planted vegetation is established. Plantings should be native species and/or be similar to vegetation in the surrounding area.
8. When reasonably feasible, the co-location of new public and private utility distribution facilities should be promoted in shared trenches and overhead rights-of-way. The timing of construction should be coordinated to minimize construction related disruptions to the public and reduce the cost to the public utility delivery.
9. Placement of utilities in shoreline areas should be planned and designed to avoid degradation of the shorelines and shoreline views during and after installation.

7.12.2 Regulations

A. General Regulations

1. Utility development shall, through coordination with local government agencies, provide for compatible, multiple uses of sites and rights-of-way.

2. Utilities shall be designed and installed to meet future needs when possible.
3. Wireless communication facilities shall comply with City of Tacoma Municipal Code 13.06.545.

B. Uses

1. The following new major utility facilities may be permitted in shoreline jurisdiction if it can be shown that no practicable alternative exists outside of shoreline jurisdiction.
 - a. Electrical energy generating plants, substations, and transmission lines;
 - b. Sanitary sewer outfalls;
 - c. Sewage system mains, interceptors, pump stations, and treatment plants; Storm drainage mains and regional outfalls;
 - d. Submarine telecommunications cables; and
 - e. and ~~W~~Water lines and water system treatment plants.
2. Upgrades to existing major utilities are permitted.
3. Minor utilities are allowed as a permitted use, provided that within the Natural Designation, it has been determined that no other feasible alternative exists.

C. Location

1. New distribution lines or extension of existing distribution lines shall only be permitted underground, unless otherwise specified, or where the applicant can demonstrate that, due to economic, technical, environmental, or safety considerations, placing utilities underground is infeasible.
2. Above ground utilities are permitted in the S-3, S-9, S-10, and S-11 shoreline districts or where undergrounding is impracticable given the nature of the facility, such as the installation of a raingarden or bioswale.
3. Utility production and processing facilities and transmission facilities shall be located outside of shoreline jurisdiction unless no other feasible option exists.
4. Utilities shall be located within roadway and driveway corridors and right-of-ways wherever feasible. Joint use of rights-of-way and corridors is encouraged.
5. Sewage treatment, water reclamation, desalinization, and power plants shall be located to minimize interference with adjacent uses of the water and shorelands.

D. Environmental Protection

1. The design, location, and maintenance of utilities shall be undertaken in such a manner as to assure no net loss of ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses.

2. Utilities shall be installed in such a manner that all banks are restored to a stable condition, replanted, and provided maintenance care until the newly planted vegetation is established. Plantings shall be native species or be similar to vegetation in the surrounding area.
3. Construction of new storm drains or other outfalls into water bodies and improvements to existing facilities shall be accomplished to meet all applicable standards of water quality.
4. Outfalls shall be located and constructed in accordance with regulations of the Washington Department of Ecology, the U.S. Environmental Protection Agency and any other agency having regulatory jurisdiction.
5. To protect the aesthetic qualities of the shoreline, new utility lines including electricity, communications, and fuel lines shall be located underground, unless otherwise specified, or where the applicant can demonstrate that, due to economic, technical, environmental, or safety considerations, placing utilities underground is infeasible.
6. When they are necessary, stream crossings for utilities shall co-locate using existing crossings where feasible. New crossings shall be by the most direct route possible.
7. Underground utility crossings shall use the least impacting installation methods to the extent feasible.
8. Underground utility installation in high groundwater area shall avoid alteration of groundwater patterns to the extent feasible.
9. Utility developments shall be located and designed so as to avoid, to the extent practicable, the need for any structural or artificial shoreline modification works for the life of the project.
10. Major utilities should be avoided in floodplains to the greatest extent practicable; if necessary, flood protection structures shall not increase flood hazards in other areas along the waterbody.
11. Installation of utilities shall assure the prevention of siltation or beach erosion.
12. Undergrounding of utilities across a water body shall comply with all applicable local, state, and federal agency regulations and requirements; a shoreline permit is required.

E. Public Access

1. When feasible, utility development shall include public access to the shorelines, trail systems, and other forms of recreation, provided such uses will not unduly interfere with utility operations, or endanger the public health, safety and welfare.
2. When feasible, utilities within the shoreline area shall be placed underground and utility corridors shall be used for shoreline access.

F. "S-11" Marine View Drive Shoreline District

1. Open channels shall be used where feasible for discharge from existing springs to the salt water.

CHAPTER 8 SHORELINE MODIFICATION POLICIES AND REGULATIONS

Shoreline modification activities are structures or actions that permanently change the physical configuration or quality of the shoreline, particularly at the point where land and water meet. Shoreline modifications include, but are not limited to, structures such as dikes, breakwaters, weirs, dredge basins, fill, bulkheads and piers and actions such as clearing, grading, and removing vegetation. Generally, shoreline modifications are undertaken for the following reasons:

- To prepare for a shoreline use;
- To support an upland use; or
- To provide shoreline stabilization or defense from erosion.

A single shoreline use may require several different shoreline modification activities. For example, a new boat storage yard may require clearing and grading of the upland yard and construction of a jetty and docks in the water. Proposals for shoreline modifications are to be reviewed for compliance with the applicable “Use” policies and regulations in Chapter 7 and the applicable “modification” policies and regulations of this Chapter. Shoreline modifications listed as “prohibited” are not eligible for consideration as a Shoreline Variance. Deviations from the minimum development standards may be approved under a Shoreline Variance unless specifically stated otherwise.

8.1 General Shoreline Modification Policies

1. Shoreline modification activities should protect or restore ecological processes and functions and minimize alterations of the natural shoreline, currents, and movement of sand and water circulation to avoid adverse effects on nearby shorelines.
2. Shoreline modification activities should not degrade water quality; and best management practices should be employed to prevent recontamination of shoreline areas.
3. Shoreline modifications should be constructed in such a way as to minimize damage to fish and shellfish resources and habitats; minimize damage to wildlife propagation and movement; and to conform to Washington Department of Fish and Wildlife design criteria.
4. New development siting and design should be conducted in such a manner that the need for continued shoreline modification activities such as dredging or channelization, to maintain the use is unnecessary.
5. Proposals for shoreline modification activities and associated uses should demonstrate that the construction and subsequent operation will not be detrimental to the public interest and uses of the shoreline and water body, including navigation and recreation.
6. Shoreline modification activities should demonstrate that impacts have been avoided, minimized and mitigated.
7. Shoreline modifications and associated uses should consider multiple use opportunities to enhance public access, use and enjoyment of the shoreline and water body where appropriate.

8.2 Shoreline Stabilization, ~~Bulkheads~~, Breakwaters, Jetties, Groins, Weirs, Flood Control Works and In-Stream Structures

Shore stabilization works include actions taken to stabilize the shoreline, addressing erosion impacts to property and improvements caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods.

Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, and/or planning and regulatory measures to avoid the need for structural stabilization. Structural methods can be “hard” or “soft. Hard structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads. These are static structures traditionally constructed of rock, concrete, wood, metal, or other materials that deflect, rather than absorb, wave energy. Soft structural measures rely on softer materials, such as vegetation, drift logs, and gravel. They are intended to absorb wave energy, mimicking the function of a natural beach.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. Structural shoreline stabilization methods also often result in vegetation removal and damage to near-shore habitat and shoreline corridors. The following methods of shoreline stabilization are organized from “soft” to “hard”. The use of “soft” methods is the preferred “best practices” choice (if non-structural methods cannot be used or are insufficient) when considering shoreline stabilization measures.

“Soft”

Vegetation enhancement;

Upland drainage control;

Bioengineering/biotechnical measures;

Beach enhancement;

Anchor trees; and

Gravel enhancement.

“Hard”

Rock revetments;

Gabions;

Groins;

Retaining walls and bluff walls;

Bulkheads; and

Seawalls.

What constitutes normal repair and maintenance? As applied to shoreline stabilization, “normal repair” and “normal maintenance” include the patching, sealing, or refinishing of existing structures and the replenishment of sand or other material that has been washed away if part of a previous authorized activity. Normal maintenance and normal repair are limited to those actions that are typically done on a periodic basis. Construction that causes significant ecological impact is not considered normal maintenance and repair.

What constitutes replacement? As applied to shoreline stabilization measures, “replacement” means the construction of a new structure to perform a shoreline stabilization function when an existing structure can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures are considered new structures under this Master Program.

In addition, repairs that exceed a certain threshold are also effectively “replacement,” providing a meaningful opportunity for the project applicant to consider and implement softer solutions to an existing hard structural stabilization. The following are thresholds for considering a repair to be effectively replacement: 1) when any repair is being conducted along more than 50 percent of the shoreline stabilization on the subject property, or 2) when repair is being conducted along more than 25 feet of shoreline stabilization when that repair work includes removal and replacement of the stabilization measure’s foundation material. Exemptions if the relevant exemption criteria are met; however, the replacement provisions of these regulations will apply.

8.2.1 Policies

1. Non-structural or soft-shore bank stabilization techniques are preferred over structural shoreline stabilization, such as bulkheads, seawalls, and breakwaters.
2. Structural stabilization devices are discouraged in designated urban conservancy environments and should not be permitted in natural environments.
3. Structural stabilization devices should be designed to blend in with the surroundings and not to detract from the aesthetic qualities of the shoreline.
4. The construction of structural stabilization devices should be permitted only where there is a demonstrated need to protect upland areas or facilities, not for the purpose of creating land by filling.
5. Structural stabilization devices may be permitted for water-dependent uses in committed port, terminal and industrial waterways or where such construction can be integrated with the existing shoreline in such a way that they will substantially preclude any resultant damage to marine resources or adverse effects on adjacent properties.
6. Where flood protection measures such as dikes are planned, they should be placed landward of the stream-way, including associated wetlands directly interrelated and interdependent with the stream proper.

8.2.2 Regulations

A. Regulations – Stabilization

1. Shoreline stabilization shall be designed, located, and mitigated to achieve no net loss of ecological functions.
2. Shoreline stabilization shall be permitted only where appropriate to the specific type of shoreline and environmental conditions for which it is proposed.
3. All shoreline stabilization measures shall be constructed to minimize damage to fish and shellfish habitat, and shall conform to the requirements of the Washington Department of Fish and Wildlife Hydraulics Code.
4. New development, including newly created parcels, shall be designed and located so as to prevent the need for future shoreline stabilization.
5. New development that would require shoreline stabilization which is likely to cause significant impacts to adjacent or down-current properties and shoreline areas is prohibited.
6. Shoreline stabilization structures shall not be permitted for the direct or indirect purpose of creating land by filling behind the structure.
7. Beach materials shall not be used for fill behind bulkheads, other than clean dredge materials from a permitted dredge and fill operation and materials excavated during construction of the bulkheads.

8. New structural shoreline armoring may be permitted and existing structural shoreline armoring may be expanded when one or more of the following apply:
 - a. When necessary to support a project whose primary purpose is enhancing or restoring ecological functions;
 - b. As part of an effort to remediate hazardous substances pursuant to RCW 70.105;
 - c. When necessary to protect public transportation infrastructure or essential public facilities and other options are infeasible;
 - d. When necessary to protect a water-oriented use or an existing, lawfully established, primary structure, including a residence that is in imminent danger of loss or substantial damage from erosion caused by tidal action, currents, or waves;
9. Proposals for new, expanded, or replacement structural shoreline armoring permitted under this Program shall clearly demonstrate all of the following:
 - a. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage;
 - b. Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient;
 - c. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal action, currents, and waves;
 - d. The erosion control structure will not result in a net loss of shoreline ecological functions.
10. When evaluating the need for new, expanded, or replacement structural shoreline armoring, the Land Use Administrator shall require the applicant to examine and implement alternatives to structural shoreline armoring in the following order of preference:
 - a. No action (allow the shoreline to retreat naturally);
 - b. Increased building setbacks and/or relocated structures;
 - c. Use of flexible/natural materials and methods, vegetation, beach nourishment, protective berms or bioengineered shoreline stabilization.
11. The City shall require applicants for new, expanded, or replacement structural shoreline armoring to provide credible evidence of erosion as the basis for documenting that the primary structure is in imminent danger from shoreline erosion caused by tidal action, currents, or waves. The evidence shall:
 - a. Demonstrate that the erosion is not due to landslides, sloughing or other forms of shoreline erosion unrelated to water action at the toe of the slope; and

- b. Include an assessment of on-site drainage and vegetation characteristics and their effects on slope stability.
12. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there is an overriding safety or environmental concern. In such cases, the replacement structure shall abut the existing stabilization structure.
13. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.
14. Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. All geotechnical reports shall also identify any potential impacts to downstream structures.
15. Shoreline stabilization structures shall be limited to the minimum size necessary.
16. Public access, consistent with TSMP 6.5.2, is required, where feasible, as part of any shoreline stabilization construction or replacement project on public land or using public funds.
17. In permitting shoreline stabilization structures on public lands, factors to be considered shall include: possible damage to marine life, reduction of beach surface area, reduction in hours of beach accessibility on tidal waters, reduction of navigable water surface, and limitation of points of access to the beach.
18. Impacts to sediment conveyance systems shall be avoided or minimized.
19. Bulkheads shall be constructed of concrete, wood, rock, riprap, or other suitable materials. The design and construction of such bulkheads shall, to the maximum extent feasible, preserve the natural characteristics of the shoreline, including beaches, and shall take into account habitat protection and aesthetics, including consideration of Washington Department of Fish and Wildlife criteria.

B. Regulations - Breakwaters, Jetties, Groins, and Weirs

1. Floating breakwaters shall be used in place of fixed types, where they can withstand extensive wave action, in order to maintain sediment movement, fish habitat, and water circulation. Fixed breakwaters shall be permitted only where design can maintain desired movement of sediment and circulation of water.
2. Breakwaters, jetties, groins, and weirs waterward of the OHWM are permitted only for water-dependent uses, public access, shoreline stabilization, or other specific public purpose; protection of critical areas and appropriate mitigation is required.

3. A shoreline conditional use permit is required for all breakwaters, jetties, groins and weirs.
4. The construction of breakwaters, jetties, groins and weirs shall be permitted only in cases where overall public benefit can be demonstrated.
5. Breakwaters and jetties shall incorporate public access to the maximum extent feasible.
6. Construction of breakwaters, jetties and groins shall not create significant interference with the public use of the water surface.
7. The effect on sediment movement shall be a primary consideration in the evaluation of proposed jetties or groins. Provision shall be made to minimize potential adverse effects on natural systems caused by jetties or groins, and costs of mitigating damages which do occur shall be borne by the project applicant.
8. Consideration shall be given to the effect which jetties and groins will have on wildlife propagation and movement, particularly with reference to the out migration of juvenile salmonids from the Puyallup River and Hylebos Creek systems, and to a design of these structures which will not detract from the aesthetic quality of the shoreline.
9. Public access for sightseeing and public fishing shall be considered in jetty and groin design wherever such access would not interfere with the public safety.

C. Regulations - Flood Control Works and In-stream Structures

1. New in-stream structures shall protect and preserve ecosystem-wide processes, ecological functions, and cultural resources, including fish and fish passage, wildlife and water resources, shoreline critical areas, hydrological processes, and natural scenic vistas.
2. The following regulations shall be applied to proposed flood control and in-stream structures:
 - a. Materials used for bank stabilization shall consist of concrete, rock, or other materials of the earth and shall be of sufficient size to prevent their being washed away by high water, wave, or current action. Automobile bodies or other waste materials shall not be used;
 - b. No bank stabilization shall create hydrodynamic changes which may necessitate additional bank stabilization downstream;
 - c. Dikes, levees, berms, and similar flood control structures shall be shaped and planted with native vegetation suitable for wildlife habitat;
 - d. Materials capable of supporting growth used in construction of shoreline protection structures shall be revegetated with plants native to the area.
 - e. Flood control works and in-stream structures shall also be subject to the stabilization standards in TSMP 8.2.2(A) above.

8.3 Fill and Excavation, Dredging and Dredge Material Disposal

Fill is the creation of dry upland area by the placement or deposition of sand, soil, gravel or contaminated sediments into a water body. Dredging is the removal of material from a stream, river, lake, bay or other water body. The purposes for dredging might include navigation, remediation of contaminated materials, or material mining. Materials generated from navigational and remedial dredging may be suitable for beneficial reuse (e.g., construction of habitat features or construction of uplands) or may require disposal at appropriate disposal facilities.

8.3.1 Policies

1. Shoreline landfills should not be authorized unless a specific use for the site is evaluated and permitted. Speculative landfills should not be permitted.
2. Where there is a demonstrated need for shoreline landfills, they should only be considered for water-dependent uses in committed port, terminal and industrial waterways or where such construction can be integrated with the existing shoreline to substantially preclude any resultant damage to marine resources or adverse effects on adjacent properties. Landfills should not be permitted in identified channel migration zones.
3. The location, design, and construction of all fill should protect ecological processes and functions, including channel migration. In evaluating fill projects such factors as total water surface reduction, navigation restriction, impediment to water flow and circulation, reduction of water quality and destruction of habitat, and the effects on state-owned resources should be considered.
4. The perimeter of the fill should be provided with a vegetative buffer or other means to prevent erosion.
5. Uses of dredge material that can benefit shoreline resources are to be addressed through implementation of regional interagency dredge material management plans and watershed planning.
6. Dredging of bottom materials for the primary purpose of obtaining fill, material should be prohibited.

8.3.2 Regulations

A. Regulations - Fill and Excavation

1. Fill placed waterward of the OHWM is prohibited except for the following instances. All instances shall require a conditional use permit, except for fill related to restoration of ecological functions:
 - a. Water-dependent use;
 - b. Public access;
 - c. Clean-up and disposal of contaminated sediments as part of an interagency environmental clean-up plan;

- d. Disposal of dredged material in accordance with a DNR Dredged Material Management Program;
 - e. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline (if alternatives to fill are shown not to be feasible).
2. Fill waterward of the OHWM shall be permitted for ecological restoration and enhancement projects, provided the project is consistent with all other provisions of this program.
 3. Fill and excavation must avoid impacts to buffers except for those instances in section (1) above and restoration actions, when consistent with all other provisions of this Program.
 4. Fill is prohibited within the Puyallup River, except for environmental remediation and habitat improvement projects.
 5. Fill and excavation shall be considered only where such construction can be integrated with the existing shoreline.
 6. Fill and excavation shall not be authorized unless a specific use for the site has been evaluated and permitted; speculative fill and excavation shall be prohibited in all Shoreline Districts.
 7. Applications for fill or excavation shall address methods which will be used to minimize damage of the following types:
 - a. Biota:
 - i. Reduction of habitat;
 - ii. Reduction of feeding areas for shellfish, fishlife, and wildlife;
 - iii. Reduction of shellfish, fishlife, and wildlife reproduction areas;
 - iv. Reduction of fish migration areas.
 - b. Physical:
 - i. Alteration of local current;
 - ii. Wave damage;
 - iii. Total water surface reduction;
 - iv. Navigation restriction;
 - v. Impediment to water flow and circulation;
 - vi. Reduction of water quality;
 - vii. Loss of public access;

- viii. Elimination of accretional beaches;
 - ix. Erosion;
 - x. Aesthetics.
8. All perimeters of fills shall use vegetation, retaining walls, or other means for erosion control.
 9. Only materials that comply with State Water Quality Standards may be used in permitted landfill projects.
 10. Dust control measures, including plants and vegetation where feasible, shall be taken in all fill and excavation projects.
 - ~~11. Beach materials shall not be used for fill behind bulkheads, other than clean dredge materials from a permitted dredge and fill operation and materials excavated during construction of the bulkheads.~~

B. Regulations - Dredging and Dredge Material Disposal

1. Dredging and dredge material disposal shall avoid or minimize significant ecological impacts; impacts that cannot be avoided shall be compensated for to achieve no net loss of ecological functions.
2. Dredging to establish, expand, relocate, or reconfigure navigation channels are permitted only where needed to accommodate existing navigational uses and then only when significant ecological impacts are minimized or compensated for.
3. New non-water-dependent development that would result in the need for new dredging shall be prohibited.
4. Dredge disposal within river channel migration zones is prohibited.
5. Maintenance dredging of established navigation channels and basins is restricted to maintaining previously dredged and/or existing channels and basins at their authorized location, depth, and width.
6. Deposit of dredge materials shall only be permitted in an approved disposal site, for habitat improvement, to correct material distribution problems which are adversely affecting fish and shellfish resources, where land deposition would be more detrimental to shoreline resources than water deposition, as a cap for contaminated sediments, or a fill used in conjunction with an approved environmental remediation project. Where deposit of dredge material is allowed upland, it shall avoid buffers and wildlife habitat and and be subject to the regulations of fill in TSMP 8.3.2(A).
7. Dredging of bottom materials for the primary purpose of obtaining fill materials shall not be permitted, except for projects associated with MTCA or CERCLA habitat restoration, or any other significant restoration effort approved by a Shoreline Conditional Use Permit. In such cases, placement of fill must be waterward of the OHWM.

8. Returned water from any dredge material disposed of on land shall meet all applicable water quality standards in accordance with applicable water quality regulations.
9. Sides of dredged channels for port and industrial use shall be designed and constructed to prevent erosion and permit drainage.
10. On-site containment facilities shall only be permitted in the “S-10” Port Industrial Area Shoreline District, where such on-site containment facilities shall be conditional uses.

8.4 Clearing and Grading

Clearing and grading are activities associated with developing property for a particular use including commercial, industrial, residential, or public use. Specifically, “clearing” involves the destruction or removal of vegetation, including but not limited to, root material removal and/or topsoil removal. “Grading” involves the physical alteration of the earth’s surface and/or surface drainage pattern by either recontouring, excavating or filling.

Although clearing may not always be considered “development” that triggers a substantial development permit, clearing and vegetation removal as activities that impact shoreline resources are regulated in order to achieve the design goals and objectives of the Shoreline Management Act.

8.4.1 Policies

1. Clearing and grading should only be allowed in the shoreline in conjunction with a permitted use or development, unless otherwise allowed in this Program.
2. Disturbance to and removal of native soils should be minimized within shorelines.
3. Uses and site design should incorporate protection or reestablishment of the maximum amount of native vegetation on a particular site.
4. Vegetation that is removed as part of a permitted use should be reestablished within a required buffer.

8.4.2 Regulations

1. Clearing and grading activities shall only be permitted as an element of development for an authorized activity, a restoration action, or as otherwise permitted in this Program.
2. All clearing and grading activities shall achieve no net loss of ecological functions.
3. All clearing and grading activities shall meet the following standards:
 - a. All clearing and grading activities shall be limited to the minimum necessary for the intended development;
 - b. All clearing and grading activities shall be conducted in compliance with the shall protect shoreline critical areas and their buffers consistent with TSMP 6.4;
 - c. Exposed soils shall be immediately developed or re-vegetated to prevent erosion;

- d. Exposed soils must be replanted such that complete coverage of exposed soils is attained within one growing season, or otherwise stabilized using mulch or other BMPs;
- e. In all cases where clearing is followed by re-vegetation, native plants shall be required, unless an alternative is specifically authorized;
- f. Re-vegetation shall avoid the need for chemical and fertilizer applications;
- g. Removal of noxious weeds and/or invasive species shall be incorporated in vegetation management plans, as necessary, to facilitate establishment of a stable community of native plants; and
- h. The moisture holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltration capacity on all areas of the project area not covered by impervious surfaces.

8.5 Ecological Restoration and Enhancement

Shoreline ecological restoration and enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines. Mitigation for project impacts is not necessarily included in this section.

8.5.1 Policies

1. Ecological restoration and enhancement actions are encouraged in all shoreline districts, and are considered to be consistent with all kinds of uses, including residential, commercial, and industrial, provided that both are designed sensitively.
2. Ecological restoration and enhancement actions should be approached on a watershed basis, and should seek to promote an ecosystem or landscape approach to provide functioning and sustainable habitats.
3. Ecological restoration and enhancement actions should be based on sound scientific principles.
- ~~3.4.~~ Ecological restoration and enhancement actions should be focused on sites with low possibilities of contamination.
- ~~4.5.~~ Ecological restoration and enhancement actions should be integrated with other regulatory efforts, including environmental remediation, source control, and site development actions, as well as long-range planning activities.
- ~~5.6.~~ Where ecological restoration and enhancement are proposed as mitigation measures, a nexus should be established between the impacted and proposed habitat, considering habitat type, size, functions, and values, and connection to the larger ecosystem.
- ~~6.7.~~ The environmental quality of Commencement Bay, its associated waterways, and the Puyallup River watershed, including all nearshore and adjacent upland areas, should be improved through comprehensive cleanup strategies, including priorities for identification of contaminated sites; source control of contaminated sites; coordination with the

Environmental Protection Agency, the Washington Department of Ecology, and other agencies to ensure the most comprehensive, timely and cost-effective cleanup actions.

~~7.8.~~ The City should seek to protect ecological restoration and enhancement projects in perpetuity.

~~8.9.~~ The goals and objectives of the Restoration Plan in Appendix ~~AB~~ should be considered for all restoration and conservation projects as well as the Programmatic Restoration Opportunities within the functional analysis of the subject reach in the 2007 Shoreline Characterization and Inventory.

~~9.10.~~ Restoration and enhancement may take place as a stand-alone project or as a required element of a larger development proposal. In either case the following should be achieved as is feasible:

- a. Non-native vegetative species should be eliminated and soil amendments should be made including mulching to help establish new native vegetation;
- b. Installation of native vegetation should be an appropriate mix of deciduous, conifer, under-story and groundcover species that are capable of achieving substantial water body shading, provide food sources for a variety of species, enhance and connect to habitat corridors and slow movement of groundwater and sheet-flow towards the water body;
- c. Introduction of LWD to the water body is encouraged, but should not adversely impact fish passage or hydrologic function; and
- d. Design and implementation of restoration projects that alter the location of the OHWM should not negatively impact abutting or proximate (third party) property owners, compromise the integrity or threaten the loss of existing structures, transportation routes, public access areas or cause significant additional erosion.

8.5.2 Regulations

1. Ecological restoration and enhancement shall be approached on a watershed basis and shall seek to promote an ecosystem or landscape approach, including integrating projects into their surrounding environments and promoting greenbelts for movement and use by species.
2. To the greatest extent feasible, ecological restoration and enhancement projects shall be protected in perpetuity. If future development proposes to impact existing ecological restoration and enhancement sites, it must be demonstrated that there are no practicable alternatives to avoid adverse impacts, and further, that adequate mitigation is provided to address unavoidable losses.
3. Ecological restoration and enhancement actions shall demonstrate that they are based on sound scientific principles and are compatible with the functions of nearby restoration and enhancement sites.
- ~~3.4.~~ Environmental remediation activities shall utilize cleanup options which will not pose a threat to human health or the environment. Said cleanup options shall be compatible with adjacent and existing land uses.

~~4.5.~~ Restoration projects that are within critical areas, shorelines or their required buffers are allowed subject to the applicable requirements within this Program.

~~5.6.~~ Restoration projects that achieve the objectives within the Shoreline Restoration Plan, Appendix ~~B~~-A shall have priority over other restoration projects.

~~6.7.~~ Restoration projects shall be designed such that there are no adverse impacts on ecological resources or functions within the same watershed or sub-drainage.

~~7.8.~~ Restoration projects shall include a maintenance and monitoring plan, as well as a contingency plan in the event that said project does not achieve its intended objective. The maintenance and monitoring plan shall be consistent with the requirements in 6.4.2, but does not require a bond.

8.6 Moorage Facilities

~~Moorage facilities refer to piers, wharves, docks, floats, mooring buoys and other structures (either fixed or floating), to which vessels may be secured. Moorage facilities refer to piers, wharves, docks, floats, mooring buoys and other structures (either fixed or floating), to which vessels may be secured.~~

8.6.1 Policies

1. Moorage facilities should be designed to minimize interference with public use of the water and shoreline. Whenever possible, the design should enhance public access.
2. Multiple use and expansion of existing facilities is preferred over development of new facilities. New developments should demonstrate public benefit.
3. Mooring facilities should be design and located to protect significant public views and to minimize view impacts from adjacent properties.
4. Moorage facilities should be constructed so as to not obstruct or impair the navigational use of surface waters.
5. The cooperative use of moorage facilities is encouraged. Priority should be given to community facilities in all waterfront development where appropriate.
6. Environmental impact, navigational impact, waste disposal, oil and gas spillage, parking availability, and the impact on adjacent lands should be considered in evaluating requests for projects involving the construction of moorage facilities.
7. Moorage facilities should conform to the Washington Department of Fish and Wildlife development criteria.
8. Pier and dock construction should be limited to the minimum size necessary to meet the needs of the proposed water-dependent use.
9. Encourage the consideration of mooring buoys in place of piers, docks and floats.

10. Allow mooring buoys for transient boaters as a means to encourage economic development and recreation. Designated mooring buoys provide boaters with an alternative to anchoring in critical eelgrass beds.
11. Prohibit mooring buoys where sufficient dock facilities exist.
12. Ensure that mooring buoy fields are located, designed and operated so as to be compatible with adjacent uses and protect the aesthetic qualities of the shoreline environment.
13. Ensure that mooring buoys are located, designed, constructed, and operated in a manner that will minimize damage to sensitive ecological areas such as eelgrass beds, except where the impacts of the mooring buoys will replace existing and ongoing practices that cause greater ecological degradation.
14. The use of pilings made of materials other than treated wood or creosote should be required.
15. Non-commercial structures should be encouraged to be built perpendicular rather than parallel to the shoreline.
16. Open pile structures are encouraged where:
 - a. Shore trolling is important;
 - b. There is significant longshore drift;
 - c. Scenic values are not impaired;
 - d. Damage to marine resources can be minimized; and
 - e. Alterations to the existing shoreline are minimized.
17. Floating docks are encouraged where:
 - a. Longshore drift is not significant;
 - b. They will not interfere with fishing or recreational boating; and
 - c. Non-biodegradable materials are used in structures.

8.6.2 Regulations

A. General Regulations

1. There shall be no net loss of ecological functions as a result of development of moorage facilities and associated recreational opportunities.
2. Moorage facilities shall be located, designed, constructed, and operated so as to minimize impacts to shoreline resources and unnecessary interference with the right of adjacent property owners, public navigation of public waters, as well as adjacent shoreline or water uses.
3. Extended moorage on waters of the State without a lease or permission is prohibited.

B. Mooring Buoys and Mooring Buoy Fields

1. Mooring buoys and mooring buoy fields shall be located, designed, constructed, and operated so as to minimize impacts to shoreline resources and unnecessary interference with the right of adjacent property owners, as well as adjacent shoreline or water uses.
2. Mooring buoy fields shall provide for adequate upland support facilities (e.g., restrooms, dumpsters, etc.).
3. The buoy system shall be adequate to withstand the maximum expected physical stress that the environment and moored craft will place on the buoy.
4. New mooring buoys shall not significantly interfere with navigation.
5. New mooring buoys shall demonstrate compliance with mitigation sequencing techniques. When impacts cannot be avoided, impacts must be mitigated to assure no net loss of function necessary to sustain shoreline resources.

C. Piers, Wharves, Docks and Floats

1. New piers, wharves, docks, and floats may be permitted only for water-dependent uses or public access and shall be restricted to the minimum size necessary to serve a proposed water-dependent use.
2. Design and construction of all piers, wharves, docks, and floats is required to avoid, minimize, and mitigate for impacts to ecological processes and functions and to be constructed of approved materials.
3. Pilings for newly constructed piers, wharves, docks, and floats shall be of materials other than treated wood or creosote. The afore cited prohibition does not apply to fender systems, mooring bollards, dolphins, batter walls or wing walls; nor wood treatments deemed acceptable in the future by State and Federal agencies with expertise. For replacement ~~of more than 50 percent~~ of the pilings in an existing pier, wharf, dock, or float, materials other than treated wood shall be used unless extreme adverse economic or engineering impacts can be demonstrated. The exceptions listed above also apply to this limitation.
4. In-water fixed platform structures supported by piles that do not abut the shoreline shall be prohibited.
5. Noncommercial piers, wharves, docks, and floats shall be constructed perpendicular to the shoreline where practicable.
6. Pier, wharf, dock, and float facilities shall be equipped with adequate lifesaving equipment such as life rings, hooks, and ropes.
7. When plastics or other non-degradable materials are used in the construction of piers, wharves, docks, and floats, the materials shall be safely contained.
8. Piers, wharves, docks, and floats shall be constructed so as to avoid or minimize impairment of views from existing uses or structures on neighboring properties.

9. Piers, wharves, docks, and floats shall be constructed so as not to interfere with or impair the navigational use of surface water.
10. When piers, wharves, docks, and floats are removed, the site shall be restored.
11. Piers, wharves, docks, and floats shall be designed and constructed to minimize interference with public use of the water and shoreline. The design of piers, wharves, docks, and floats should enhance public access and shall include access, unless access is incompatible with a water-dependent or single-family use.

D. Covered Moorage

1. Legally permitted covered moorage and boathouses that were in lawful existence ~~at the time of passage of this Program as of December 1, 2011, or subsequent amendment to this Program,~~ may continue as permitted/conforming structures subject to the requirements of this Master Program and the following restrictions:
 - a. Existing covered moorage and boathouses shall not increase overwater coverage;
 - b. All work and materials shall be performed using Best Management Practices (BMPs);
 - c. Existing structures may be repaired and maintained provided the amount of cover does not increase and light transmission is improved to meet state and federal standards;
 - d. Walls and fences for covered moorage shall be prohibited above deck or float level, except that handrails which are open in nature and not higher than 42 inches above the deck or float may be permitted;
 - e. Existing covered moorage and boathouses may be relocated and reconfigured within an approved marina if the relocation and reconfiguration does not result in an increase in overwater coverage and the new location results in an improvement to shoreline ecological functions.
2. New covered moorage for boat storage and new overwater boat houses shall be prohibited.
3. Covered over-water structures may be permitted only where vessel construction or repair work is to be the primary activity and covered work areas are demonstrated to be the minimum necessary over water.

E. Moorage Facilities Associated with Residential Uses

1. Docks associated with single family residences are defined as water-dependent uses provided they are designed and intended as a facility for access to watercraft.
2. If permitted under this Program, no more than one (1) dock/pier and one (1) float and one (1) boat/ski lift may be permitted on a single lot owned for residential use or private recreational use.

3. The length of docks and piers accessory to residential use/development shall be no greater than that required for safety and practicality for the residential use. The maximum length for residential docks or piers shall be limited to sixty (60) feet as measured horizontally from the ordinary high water mark. The maximum width for residential docks or piers shall be limited to six (6) feet. The Land Use Administrator may approve a different dock or pier length when needed to:
 - a. Avoid critical saltwater habitats; or
 - b. Reach adequate depths to accommodate watercraft; or
 - c. Accommodate shared use.
4. Docks serving four or fewer single family residences shall be permitted only when a specific need is demonstrated.
5. New residential developments of more than two dwellings shall provide joint-use or community docks, rather than individual docks.

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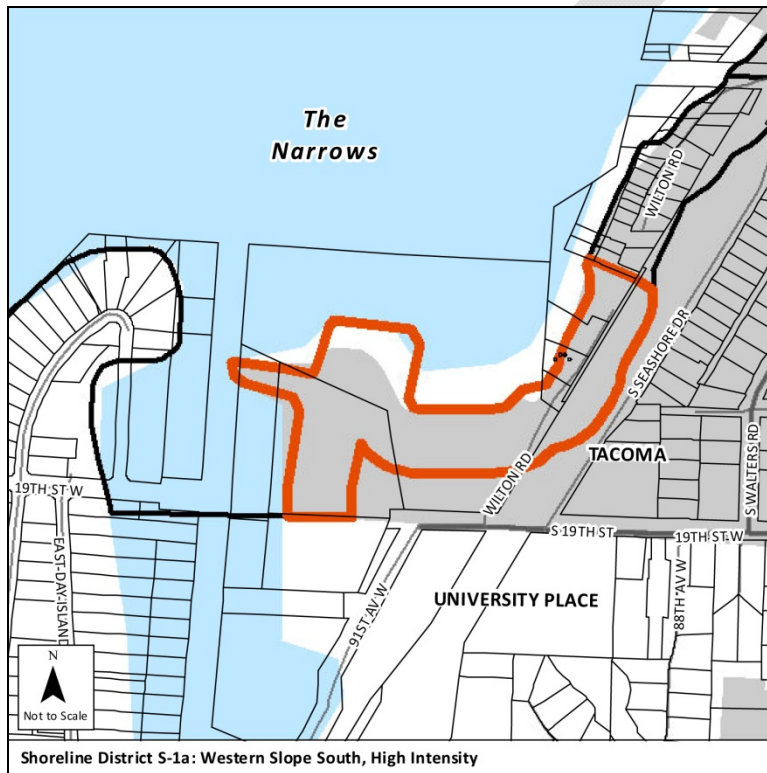
CHAPTER 9 DISTRICT-SPECIFIC REGULATIONS

The following TSMP provisions apply to each shoreline district specifically. Shoreline Environment Designations, as described in Chapter 5 of this program, are provided for each district.

9.1 S-1A Western Slope South S (HI)

- A. Intent. The intent of the “S-1a” Shoreline District is to retain the existing water-dependent uses and to encourage supplemental mixed-use development that results in additional public access and shoreline enhancement while minimizing impacts to the adjacent neighborhoods.
- B. District Boundary Description. The S-1a Shoreline District extends from the City limit at south 19th street to the transition between the multifamily and single family residential at the end of the 1600 block of Wilton Road, and including that area upland within 200’ of the OHWM.
- C. Map of District. Refer to Figure 9-1 below for a map of the “S-1a” Western Slope South district boundaries:

Figure 9-19-1. Western Slope South (HI)



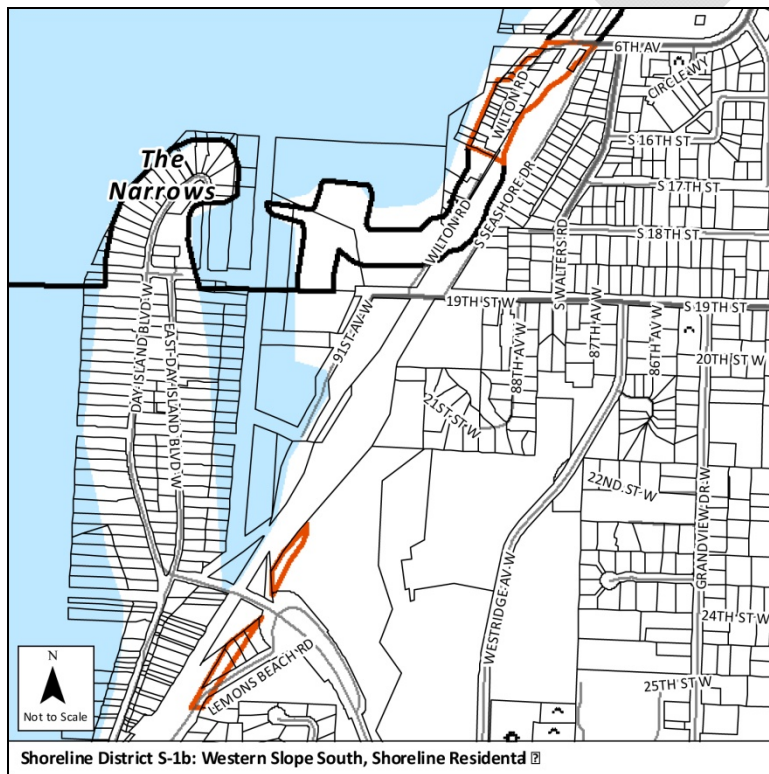
- D. District-Specific Use Regulations. Table 9-2 lists permitted uses, prohibited uses and uses permitted through issuance of a shoreline conditional use permit. In order to achieve consistency with adjacent lands, uses and developments on parcels located within a shoreline zoning district, but only partially in shoreline jurisdiction, are governed solely by this Program and the use and development standards for the S-1a shoreline District.

- E. District-Specific Development Standards. All developments in “S-1a” Western Slope South Shoreline District shall comply with the standards included in Table 9-2 and the general regulations included in this Chapter.

9.2S-1b Western Slope South N (SR)

- A. Intent. The intent of the “S-1b” shoreline district is to maintain the existing residential uses while allowing new water-oriented uses only when they are compatible with the existing character of the district.
- B. District Boundary Description. The S-1b Shoreline District includes two separate and distinct areas. The first is located at 26th and Lemons Beach Road and includes that area within City of Tacoma jurisdiction that is upland within 200’ of the OHWM, but separated from the shoreline by University Place jurisdiction. The second area is contiguous to the S-1a Shoreline District, from the 1600 block of Wilton Road, where the single family residential uses begin, north to the centerline of 6th Avenue (extended), and including that area upland and within 200’ of the OHWM.
- C. Map of District. Refer to Figure 9-2 below for a map of the “S-1b” Western Slope South Shoreline District boundaries:

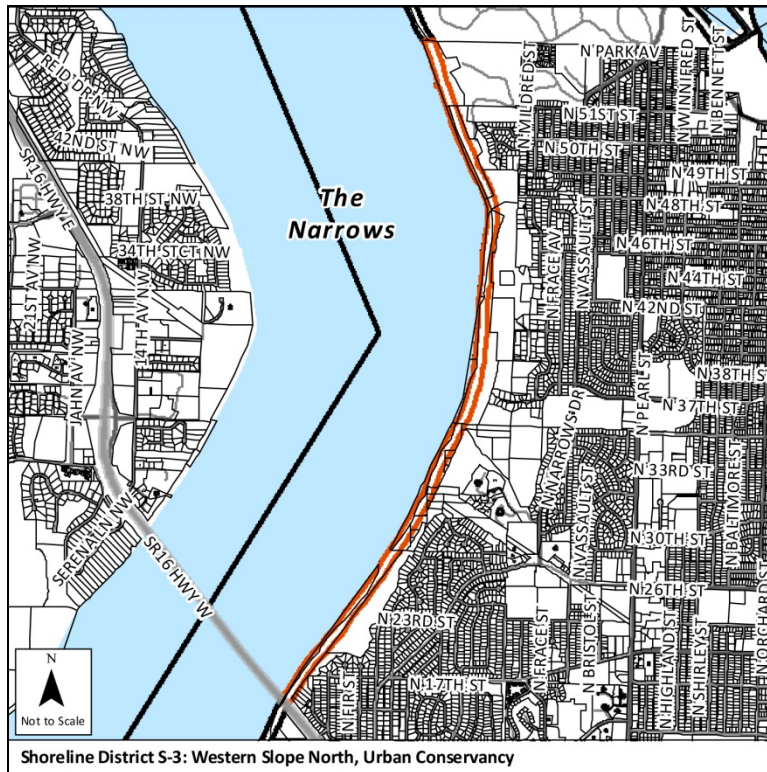
Figure 9-29-29-2. Western Slope South (SR)



- D. District-Specific Use Regulations. Table 9-2 lists permitted uses, prohibited uses and uses permitted through issuance of a shoreline conditional use permit.
- E. Development Standards. All permitted uses in the “S-1b” Western Slope South district shall comply with the standards included in Table 9-2 and the general regulations in this Chapter.

- B. District Boundary Description. The S-3 Shoreline District extends north from the centerline of the Highway 16 right-of-way to the centerline of the North Park Avenue (extended) right-of-way, including that area upland within 200’ of the OHW and associated wetlands.
- C. Map of District. Refer to Figure 9-4 below for a map of the S-3 Western Slope South district boundaries:

Figure 9-49-4. Western Slope North



- D. District-Specific Use Regulations. Table 9-2 lists permitted uses, prohibited uses and uses permitted through issuance of a shoreline conditional use permit. Permitted uses and activities are also subject to the district-specific regulations listed below:
- E. Development Standards. All permitted uses in the “S-3” shoreline district shall comply with the standards included in Table 9-2, except as provided in the general regulations in this Chapter.

9.5 S-4 Point Defiance Natural (N)

- A. The intent of the “S 4” Shoreline District is to protect the existing natural environment of the area, provide for perpetual utilization for park purposes, and encourage the creation and improvement of view areas and trail systems.
- B. District Boundary Description. The S-4 Shoreline District extends from North Park Avenue (extended), at the northern edge of the Salmon Beach Community, and around Point Defiance to the start of the concrete promenade at Owen Beach, and including only those areas upland within 200’ of the OHW.
- C. Map of District. Refer to Figure 9-5 below for a map of the S-4 Point Defiance district boundaries:

Figure 9-59-59-5. Point Defiance Natural (N)

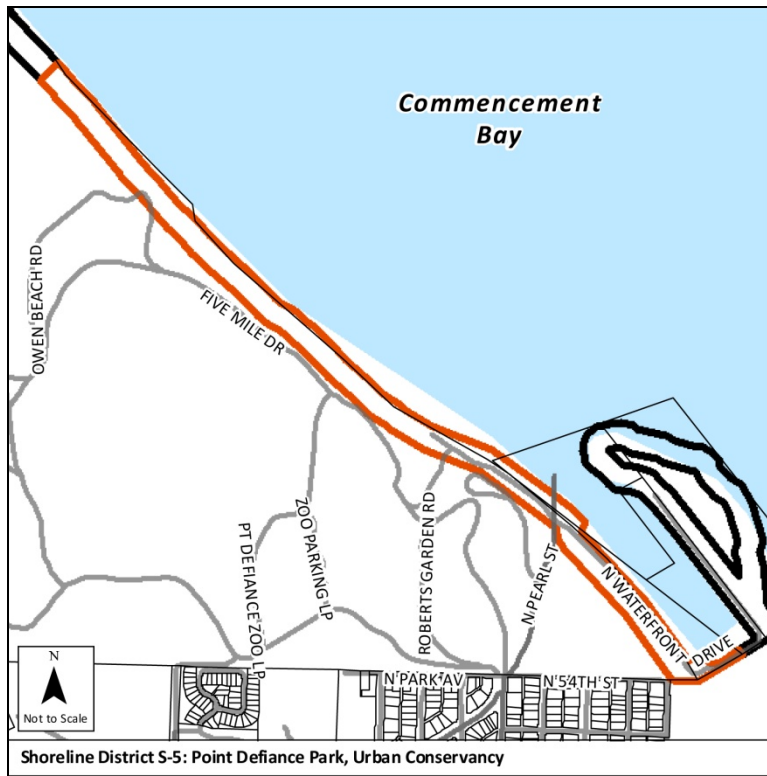


- D. District-Specific Use Regulations. Table 9-2 lists permitted uses, prohibited uses and uses permitted through issuance of a shoreline conditional use permit.
- E. Development Standards. All permitted uses in the S-4 shoreline district shall comply with the standards included in Table 9-2, except as provided in the general regulations in this Chapter.

9.6 S-5 Point Defiance Conservancy (UC)

- A. The intent of the “S-5” Shoreline District is to provide for perpetual utilization for park and recreational uses and encourage the creation and enhancement of view areas and trail systems, while allowing development of marinas, boat launch facilities, and low intensity water-oriented commercial uses.
- B. District Boundary Description. The S-5 Point Defiance Shoreline District extends from the start of the promenade at Owen Beach to the southern edge of the boat basin at Point Defiance, following N Waterfront Drive and ending at the gate to the Tacoma Yacht Club, and including only that area upland within 200’ of the OHWM.
- C. Map of District. Refer to Figure 9-6 below for a map of the S-5 Point Defiance – Conservation district boundaries.

Figure 9-69-69-6. Point Defiance Conservancy (UC)



- D. District-Specific Use Regulations. Table 9-2 lists permitted uses, prohibited uses and uses permitted through issuance of a shoreline conditional use permit.
- E. District-Specific Development Standards. All permitted developments and uses in the “S-5” Point Defiance - Conservation Shoreline District shall comply with the regulations included in the general regulations and development standards included in Table 9-2.

9.7 S-6 Ruston Way (UC)

- A. The intent of the S-6 Shoreline District is to encourage low intensity water-oriented commercial, recreational, and open space development that provides public access and enjoyment opportunities, is designed and developed to be compatible with intact shoreline processes and functions and results in a net-gain of shoreline function over time and to preserve the character and quality of life in the adjoining residential areas, schools and park properties.
- B. District Boundary Description. The S-6 Shoreline District boundary extends from the centerline of N 49th Street to the south-easternmost extent of the Sperry Ocean Dock site (Parcel #8950002312) , including only those areas upland within 200’ of the OHWM and to the westernmost extent of the Ruston Way right-of-way, for the purposes of consistent zoning, where it exceeds 200’ from the OHWM.
- C. Map of District. Refer to Figure 9-7 below for a map of the S-6 Ruston Way district boundaries:

Figure 9-79-7-7. Ruston Way



- D. District-Specific Use Regulations. Table 9-2 lists permitted uses, prohibited uses and uses permitted through issuance of a shoreline conditional use permit.
- E. Development Standards. All permitted developments and uses in the “S-6” Ruston Way Shoreline District shall comply with the regulations included in the general regulations and development standards included in Table 9-2.

9.8 S-7 Schuster Parkway (HI)

- A. The intent of the “S-7” Schuster Parkway Shoreline District is to allow development of deep water terminal and light industrial facilities and to preserve the character and quality of life in adjoining residential areas, school and park properties.
- B. District Boundary Description. The S-7 Shoreline District extends from the south-easternmost extent of the Sperry Ocean Dock site (parcel #8950002312) to the northernmost extent of Thea’s Park, and including those areas upland within 200’ of the OHWM.
- C. Map of District. Refer to Figure 9-8 below for a map of the “S-7” Schuster Parkway Shoreline District boundaries:

Figure 9-89-8. Schuster Parkway

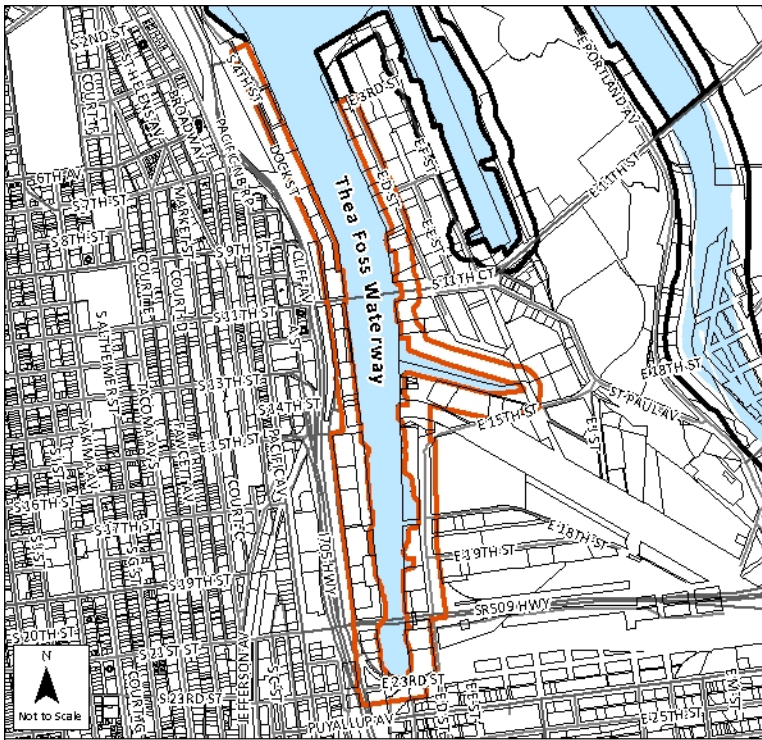


- D. District-Specific Use Regulations. Table 9-2 lists permitted uses, prohibited uses and uses permitted through issuance of a shoreline conditional use permit.
- E. Development Standards. All permitted developments and uses in the “S-7” Schuster Parkway Shoreline District shall comply with the standards included in Table 9-2 and the general regulations included in this Chapter.

9.9 S-8 Thea Foss Waterway (DW)

- A. The intent of the “S-8” Thea Foss Waterway Shoreline District is to improve the environmental quality of the Thea Foss Waterway; provide continuous public access to the Waterway; encourage the reuse and redevelopment of the area for mixed-use pedestrian-oriented development, cultural facilities, marinas and related facilities, water-oriented commercial uses, maritime activities, water oriented public parks and public facilities, residential development, and waterborne transportation; and to allow new water-oriented industrial uses where appropriate.
- B. District Boundary Description. The S-8 Shoreline District boundary extends from Thea’s Park on the northwest side of the waterway, wrapping around the waterway to the northeast corner, ending at the property boundary between NuStar and Capital Lumber, and including the areas upland within 200’ of the OHWM or to the Dock Street and East D Street rights-of-way.
- C. Map of District. Refer to Figure 9-9 below for a map of the “S-8” Thea Foss Waterway Shoreline District boundaries:

Figure 9-99-9. Thea Foss Waterway



Shoreline District S-8: Thea Foss Waterway, Downtown Waterfront

D. District-Specific Use Regulations. Table 9-2 lists permitted uses, prohibited uses and uses permitted through issuance of a shoreline conditional use permit. Permitted uses and activities are also subject to the district-specific regulations listed below:

1. Any building adjacent to Dock Street or the esplanade shall include water-oriented uses which are directly accessible from the adjacent public spaces. These water-oriented uses include uses which are open to the general public on a casual (“walk-in”) basis during regular business hours, including, but not limited to, retail stores and eating and drinking establishments. A minimum of 75 percent of the esplanade frontage and 20 percent of the Dock Street frontage shall be occupied by water-oriented uses, with the following exceptions:
 - a. To respond to short-term market conditions, non-water-oriented uses shall be permitted to occupy the water-oriented frontages so long as the structure meets the requirements in 6.1.2(9) and at least 25 percent of the shoreline frontage is occupied by a water-oriented use. Such uses may be permitted on an interim basis for a period up to 10 years, with a 5 year extension contingent upon approval by the Administrator. A new mixed-use structure adjacent to Dock Street or the esplanade may be permitted under this provision so long as the development standards in Table 9-2 and TSMP Section 9.9 are met.
 - b. To respond to short-term market conditions, mixed-use developments shall be permitted via a conditional use permit, to be occupied in their entirety by non-water-oriented uses so long as the requirements in 6.1.2(9) are met. Such uses may be permitted on an interim basis for a period up to 10 years, with a 5 year extension contingent upon approval by the Administrator. A new mixed-use structure

adjacent to Dock Street or the esplanade may be permitted under this provision so long as the development standards in 9.9 are met.

- E. District-Specific Development Standards. In addition to the development standards included in Table 9-2 and the general regulations included in this Chapter, development in the “S-8” Thea Foss Waterway Shoreline District shall comply with all requirements included in the following three subsections. The development standards section is divided into three separate subsections. The first subsection is applicable to the west side of the Waterway; the second subsection is applicable to the east side of the Waterway; and the third subsection is applicable to both sides of the Waterway.

9.9.2 West Side of the Waterway

The following regulations apply to the west side of the Waterway. Any new building, structure or portion thereof erected on the west side shall be subject to the following standards.

1. Area Regulations

- a. Due to the significant public ownership on the west side of the Waterway, the areas bounded by Dock Street, designated public access/view corridors between Dock Street and the Waterway, and shoreline edge areas designated for public use and access, are termed “development sites.”
- b. The Foss Waterway Development Authority (FWDA) shall administer development of publicly- owned properties and shall conduct design review of projects on public property on the west side of the Waterway. Developers of private property are encouraged, but not required, to participate in the design review process conducted by the FWDA. If the FWDA design review process is not utilized for development on private property, City staff shall conduct the design review as part of the shoreline permit process and shall solicit comments from the FWDA. The required design review shall utilize the design guidelines and other requirements found in Appendix CD, Thea Foss Waterfront Design Guidelines and Standards and shall include consideration of view impacts, as further described below. The findings and/or comments of the FWDA’s design review shall be referenced in shoreline permit decisions and given substantial weight in determining whether a proposed project is consistent with this Program and its design requirements.
- c. Blank walls (walls that do not contain doors, windows, or ventilation structures) between two feet and eight feet above the adjacent sidewalk shall be no longer than 20 feet in length.
- d. Frontage Requirements. For all structures adjacent to Dock Street or the esplanade, seventy-five percent (75%) of the esplanade frontage and twenty percent (20%) of the Dock Street frontage shall be designed and constructed to accommodate water-oriented uses. New mixed-use structures that cannot meet the use requirements in 9.9(D) above, and are permitted subject to 9.9(D) above, shall design and construct those frontages not occupied by water-oriented uses at the time of permitting, for future conversion to water-oriented uses. The required frontages shall meet the following standards:

- i. The distance from the finished floor to the finished ceiling above shall be at least 12 feet. The area must have a minimum average depth of 25 feet measured from the sidewalk or esplanade level façade.
 - ii. The sidewalk or esplanade level facades must include a pedestrian entrance or entrances to accommodate a single or multiple tenants or be structurally designed so entrances can be added when converted to the required uses in 9.9(D) above.
 - iii. At least 25 percent of the sidewalk level façade of the portion of the building designed and constructed to accommodate future conversion to preferred uses shall provide transparency through the use of windows and doors for the area located between 2 feet above grade and 12 feet above grade.
2. Public Access/View Corridors.
 - a. Fourteen public access/view corridors are located adjacent to the development sites and are defined below. By specifically designating these areas for public use and access, setbacks are not required on the front (Dock Street), side and rear edges of the development sites (except as specifically required below); provided, that the required public access areas, amenities and area-wide design features are provided.
 - b. Fourteen 80-foot wide public access/view corridors between Dock Street and the inner harbor line and generally aligned with the extension of the urban street grid are hereby established. ~~Three~~ Two primary public access/view corridors are established at the alignment with South ~~13th~~, 15th, and 17th Streets. ~~Eleven~~ Twelve secondary public access/view corridors are established immediately south of the Dock Building, north and south of the Puget Sound Freight Building, north of the Municipal Dock Building, and at the alignment of South 9th, 11th, 12th, 13th, 14th, 16th, 18th, and 20th Streets.
 - c. Public access/view corridors shall be developed concurrent with improvements on adjacent development sites. These corridors shall be designed and constructed in coordination with the FWDA. All developments abutting a public access/view corridor(s) shall be required to develop one-half of all public access/view corridors abutting their development site(s).
 - d. Buildings are not permitted in any designated waterfront esplanade, boardwalk, or public access/view corridor, except that weather protection features, public art, or areas provided primarily for public access, such as viewing towers and pedestrian bridges, may be located in or over these areas. Pedestrian bridges over secondary public access/view corridors between development sites are permitted provided they are a maximum of 10 feet in width and 12 feet in height, and with a minimum clearance of 25 feet from the ground to the underside of the structure.
 - e. Primary public access/view corridors may not be reduced in width and are generally fixed in location, but may be moved up to 25 feet in either direction to accommodate site development. Secondary public access/view corridors may be moved to accommodate site development, although the total corridor width must not be reduced. To move public access/view corridors, the applicant must demonstrate the following:

- i. The movement is necessary to facilitate site design and would not compromise future development on remaining development sites;
 - ii. The new public access/view corridors created provide the same or greater public use value;
 - iii. Building design reflects the original public access/view corridor by reducing building height in this area or by providing additional public access and viewing opportunities.
- f. If the distance between any two public access/view corridors is greater than 500 lineal feet, an additional public access between Dock Street and the esplanade must be provided. This public access must be a minimum of 20 feet in width, signed for public access, open to the public, and may be either outdoors or within a structure.
- g. Development over public access/view corridors established at the alignment of South 16th and 18th Streets may occur; provided, the structure meets the following conditions:
- i. The height to the underside of the structure is a minimum of 25 feet;
 - ii. The height does not exceed 50 feet;
 - iii. The structure is set back a minimum of 20 feet from the Dock Street facade of adjacent development sites;
 - iv. The total depth does not exceed 80 feet.
- h. Pedestrian bridges, "lids," or other features that connect the Waterway to the surrounding environment shall not be subject to the height limitations of RCW 90.58.320 or the height limitations of this Chapter. When located within public access/view corridors, care should be taken to preserve access and views from Dock Street and to provide safe, usable space under the bridge.
- i. Municipal Dock Site. Buildings on the Municipal Dock site shall be setback at least 10 feet from the edge of the public access/view corridor between the Municipal Dock site and Development Site 10. This additional setback area shall be designed and developed to facilitate additional public access and function as an extension of the abutting public access/view corridor. This setback requirement is not subject to variance.

Table 9-1. Building Envelope Standards Table

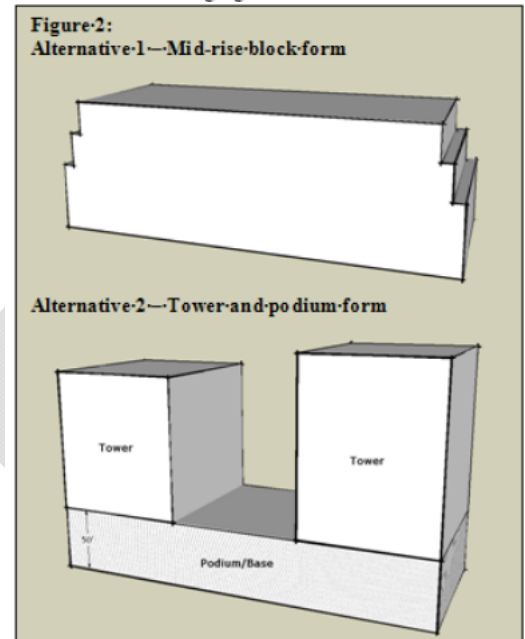
| | North end of Waterway to center of secondary view/access corridor between Development Site 11 and the Puget Sound Freight Building | Center of the secondary view/access corridor between Development Site 11 and the Puget Sound Freight Building to center of the secondary view/access corridor between Development Site 10 and Municipal Dock site | | Center of the secondary view/access corridor between Development Site 10 and Municipal Dock site to center of 11th Street | Center of 11th Street to center of 15th Street, extended | Center of 15th Street, extended, to center of 18th Street, extended | Center of 18th Street, extended, to south end of Waterway |
|--|--|---|--|---|---|---|---|
| Alternatives | None | Alternative 1 | Alt. 2 ¹ | None | None | None | None |
| Minimum Height¹ | 50 | 50 | none | 50 | 50 | 40 | 40 |
| Maximum Height | 100 | 100 | 180 | 90 | 130 | 100 | 65 |
| Modulation Required – from edge of view/ access corridors² | 8 feet in at a height of 50 feet and between 50-100 feet | 8 feet in at a height of 50 feet and between 50-100 feet | Alternative 2 See Section 13.10.110G.1.g. below, for additional standards for Alternative 2 | 8 feet in at a height of 50 feet and between 50-100 feet | 8 feet in at two locations, one between a height of 25 and 50 feet and one between 50 and 75 feet | 8 feet in at two locations, one between a height of 25 and 50 feet and one between 50 and 75 feet | 8 feet in at two locations between a height of 25 and 50 feet |
| Modulation Required – from edge of esplanade³ | 8 feet in at two locations, one between a height of 25 and 50 feet and one between 50 and 75 feet | 8 feet in at two locations, one between a height of 25 and 50 feet and one between 50 and 75 feet | | 8 feet in at two locations, one between a height of 25 and 50 feet and one between 50 and 75 feet | 8 feet in at two locations, one between a height of 25 and 50 feet and one between 50 and 75 feet | 8 feet in at two locations, one between a height of 25 and 50 feet and one between 50 and 75 feet | 8 feet in at two locations, one between a height of 25 and 50 feet and one between 50 and 75 feet |
| Footnotes: | | | | | | | |
| 1. All new buildings must meet the minimum height limit for 50 percent of the structure footprint. This requirement does not apply to buildings which existed as of January 1, 1996, structures in parks, the view/access corridors, the esplanade, or temporary uses or maintenance structures. | | | | | | | |
| 2. Where a specific height is indicated, the actual modulation may occur at the floor elevation closest to the identified height. | | | | | | | |
| 3. Required building modulation at 25 feet in height adjacent to esplanade is not required if actual building height at this location is less than 40 feet. | | | | | | | |



3. Site Coverage Restrictions. The following site coverage restrictions are imposed to reduce building profile and bulk as buildings increase in height. These restrictions do not apply to developments along the westside of the Waterway that utilize the Alternative 2 development option in TSMP 9.9.2(6).
 - a. From grade to 50 feet in height: 100 percent coverage of development site permitted (subsurface parking may extend under adjacent public access/view corridors if conforming to Section 13.10.110.G.3.b(h) and/or beyond development sites north of 11th Street where the esplanade is several feet higher in elevation than Dock Street.)
 - b. From 50 feet to 100 feet: 70 percent coverage of the at-grade area is available for development, inclusive of required modulations.
 - c. Above 100 feet: 50 percent coverage of the at-grade area is available for development, inclusive of required modulations.
4. Any new building must extend to the site edge for a minimum of 60 percent of the site perimeter. This provision does not apply to developments along the west side of the Waterway that utilize the Alternative 2 development option in in TSMP 9.9.2(6).
5. Reduction of the required modulations and/or increased height limits on the western side of Waterway to accommodate structural elements may be authorized in conjunction with the issuance of a Shoreline Substantial Development Permit or Shoreline Conditional Use Permit when all of the following are satisfied. This provision does not apply to developments along the west side of the Waterway that utilize the Alternative 2 development option in Section in TSMP 9.9.2(6).
 - a. That portion of the structure exceeding the underlying height limit or contained within the required modulation:
 - i. Is designed primarily as an architectural or artistic feature and does not include signage or exterior mechanical equipment;
 - ii. Does not provide habitable floor space;
 - iii. Does not exceed the underlying height limit by more than 25 feet;
 - iv. Has a cumulative width of 15 percent or less of the development site's Dock Street frontage;
 - v. Does not extend waterward of ordinary high water; and
 - vi. Is designed to minimize view impacts from neighboring properties through the use of location, materials, and orientation.
 - b. The reduction of the required modulations and/or the increased height will not adversely affect the intended character of the shoreline district and will secure for neighboring properties substantially the same protection that a literal application of the regulation would have provided.

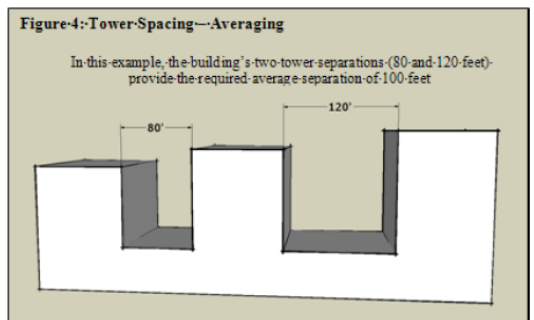
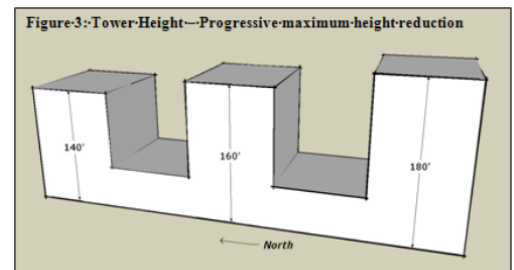
- c. The reduction of the required modulations and/or the increased height will not be contrary to the intent of the Shoreline Management Act.

6. Alternative 2 Development Option. As noted in the building envelope standards table in Subsection G.1.c, above, within the area between the center of the public access/view corridor between Development Site 11 and the Puget Sound Freight Building and the center of the secondary public access/view corridor between Development Site 10 and Municipal Dock site, there are two basic development alternatives. Alternative 1 represents a midrise block form of building design. The basic development standards associated with Alternative 1 are mostly provided in the table and subsections above. Alternative 2 represents a tower and podium form of building design, which utilizes a combination of a low-rise block form with one or more tower elements that project up from the base (see Figure 2). Most of the development standards associated with Alternative 2 do not fit within the format of the above table and subsections and, therefore, are provided below. For projects utilizing Alternative 2, the following additional development standards shall apply:

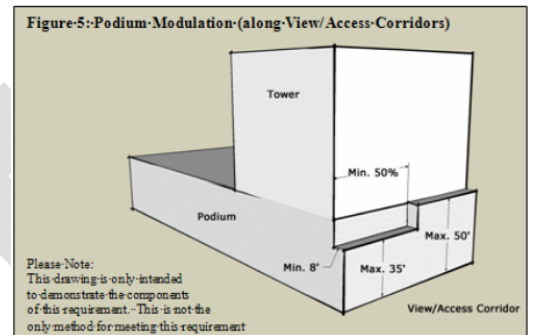


- a. Podium Height. The height of the podium shall be no greater than 50 feet. Mechanical equipment and parapet walls, as well as railings, planters, seating, shelters, and other similar amenities associated with the use of the podium roof as recreational space, shall be permitted up to a maximum height of 60 feet.

- b. Tower Height. The maximum height for any tower shall be 180 feet. Any portion of a building extending above the maximum height of the podium shall be considered a part of a tower. For projects with multiple towers on a single development site, only one of the towers shall be permitted to the maximum height limit. The maximum allowable height for each additional tower on that development site shall be progressively reduced by at least 20 feet. For example, a project with three towers could have one tower up to 180 feet tall, one tower up to 160 feet tall and one tower up to 140 feet tall (see Figure 3). Additionally, the tallest tower on each development site shall be the southernmost tower and additional towers shall step down in elevation as they progress to the north; provided, an alternative tower arrangement can be permitted if it is found to provide improved public access and reduced view impacts. This height limit is not subject to variance.



- c. Tower Spacing. For buildings that incorporate multiple towers, the minimum spacing between towers shall be an average of 100 feet, with no less than 80 feet between any portions of any two towers (see Figure 4). For single projects with multiple buildings and multiple towers, the average spacing between towers may be calculated based on all of the towers contained in that project.
- d. Tower Width. The maximum width of any tower shall be 125 feet. For purposes of this requirement, the width shall be measured in a north-south direction, parallel to Dock Street.
- e. Tower Floorplate. The maximum floorplate area per floor for the portion of any tower above 50 feet in height shall be 15,000 square feet. The maximum floorplate area per floor for the portion of any tower above 100 feet in height shall be 12,000 square feet
- f. Podium Setback. The podium portion of any building shall be setback at least 10 feet from the edge of any public access/view corridor. This additional setback area shall be designed and developed to facilitate additional public access and function as an extension of the abutting public access/view corridor. This setback requirement is not subject to variance.
- g. Tower Setback. Along the public access/view corridors, the tower portion(s) of any building shall be setback at least 8 feet from the primary exterior face of the podium wall along the public access/view corridors.
- h. Podium Modulation. For the portion of the exterior wall along the public access/view corridors that is above 35 feet in height, at least 50 percent of the length of the podium wall shall be setback a minimum of 8 feet (see Figure 5).
- i. Podium Roof. At least 50 percent of the podium roof shall be improved as recreational space for use by the tenants and/or public. At least 30 percent of this improved recreational space on the podium roof shall be landscaped. The use of native vegetation is encouraged.



9.9.3 East Side of the Waterway.

The following regulations apply to the east side of the Waterway:

- 1. Building Height. Any building, structure, or portion thereof hereafter erected shall not exceed a height of 100 feet on the east side of the Waterway, except for the area north of East 15th Street, where an additional four feet of additional height is permitted for every one foot a structure is set back on all sides.

9.9.4 Additional Development Standards.

These additional development standards apply to the entire “S-8” Shoreline District.

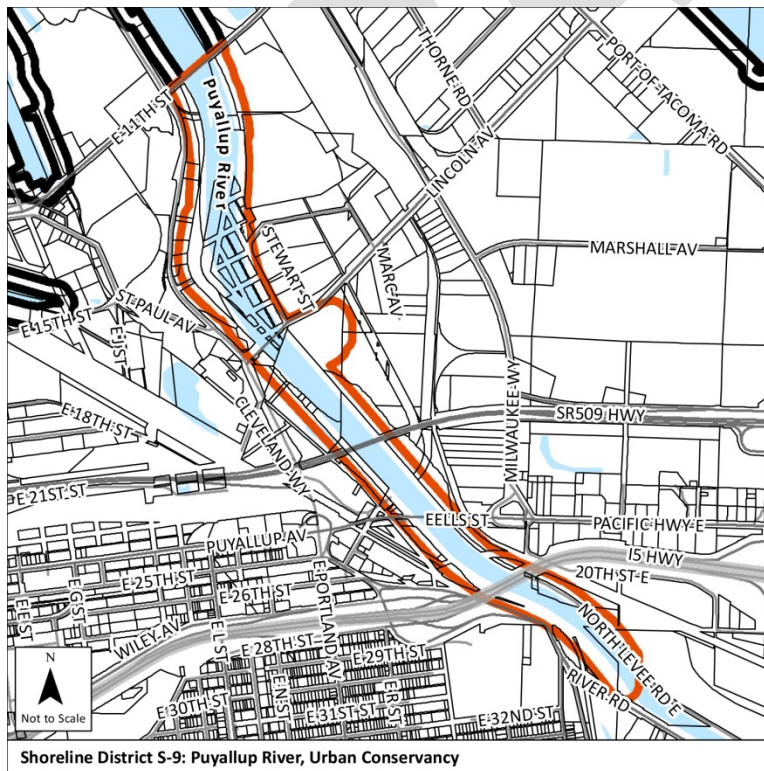
- 1. The following structures are permitted above the height limit: television antennas, chimneys, and similar building appurtenances, except where such appurtenances obstruct

the view of the shoreline of a substantial number of residences on areas adjoining the shoreline, and then only provided they meet structural requirements of the City of Tacoma and provide no usable floor space above the height limitations. This provision does not apply to the tower height limit for developments along the west side of the Waterway that utilize the Alternative 2 development option (Section 13.10.110.G.1.g(2)) or to the portion of the west side of the Waterway from the center of the secondary public access/view corridor between Development Site 10 and the Municipal Dock site to the center of 11th Street.

9.10 S-9 Puyallup River (UC)

- A. The intent of the “S-9” Puyallup River Shoreline District is to encourage recreational development of the riverfront, ecological restoration activities that restore historic floodplain processes and functions, while allowing industrial development of adjacent upland areas, and to encourage continued preservation of Clear Creek, its associated wetlands, and related ecosystems. Permitted industrial uses will develop and operate in a manner that is compatible with shoreline ecological functions.
- B. District Boundary Description. The S-9 Shoreline District boundary extends from the centerline of the East 11th Street Bridge to the southern City limits, including the open water portion of the River, those areas upland within 200’ of the OHWM on both west and east banks, as well as the Gog-le-hi-te wetland and that portion of Clear Creek that is tidally influenced, and any associated wetlands.
- C. Map of District. Refer to Figure 9-10 below for a map of the “S-9” Puyallup River Shoreline District Shoreline District boundaries:

Figure 9-10 Puyallup River

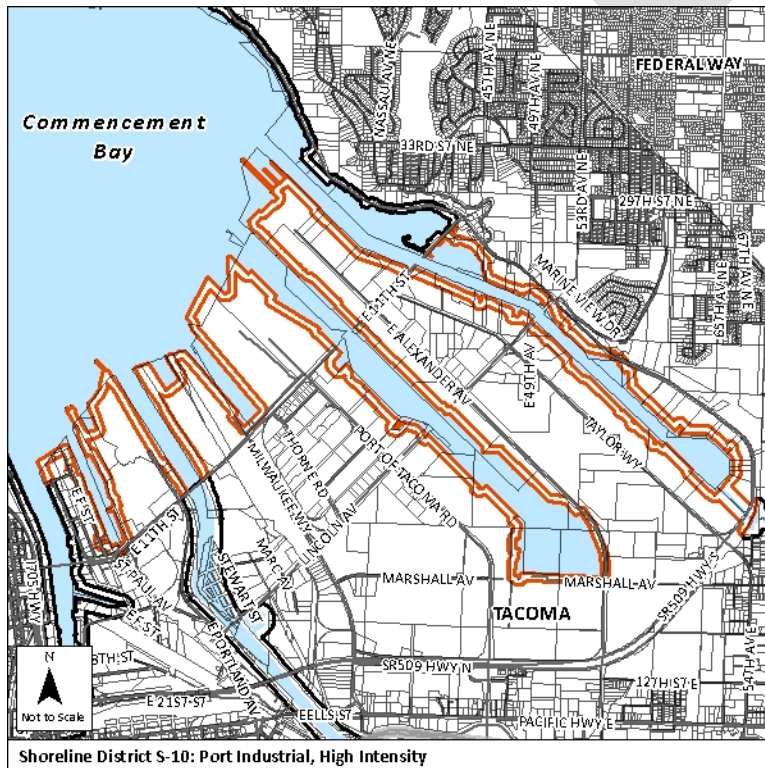


- D. District-Specific Use and Modification Regulations. Table 9-2 lists permitted uses, prohibited uses and uses permitted through issuance of a shoreline conditional use permit.
- E. District-Specific Development Standards. Development in the “S-9” Puyallup River Shoreline District shall comply with the standards included in Table 9-2 and the general regulations included in this Chapter.

9.11 S-10 Port Industrial Area (HI)

- A. The intent of the “S-10” Port Industrial Area Shoreline District is to allow the continued development of the Port Industrial Area, with an increase in the intensity of development and a greater emphasis on terminal facilities within the City.
- B. District Boundary Description. The S-10 Shoreline District extends from the northeast line of Thea Foss Waterway, to the Hylebos Waterway, including only those areas upland 200’ of the OHWM and except that portion of the Puyallup River southeast of East 11th Street and including that portion of Hylebos Waterway and Hylebos Creek waterlandward of SR 509.
- C. Map of District. Refer to Figure 9-11 below for a map of the “S-10” Port Industrial Area Shoreline District Shoreline District boundaries:

Figure 9-119-119-11. Port Industrial Area

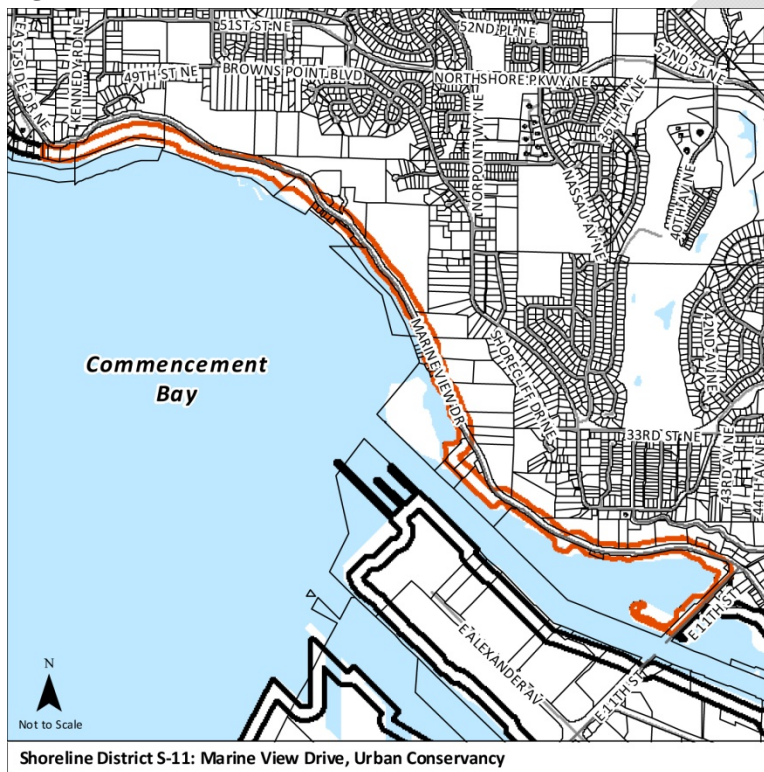


- D. District-Specific Use and Modification Regulations. Table 9-2 lists permitted uses, prohibited uses and uses permitted through issuance of a shoreline conditional use permit.
- E. District-Specific Development Standards. Developments in the “S-10” Port Industrial Area Shoreline District shall comply with the development standards included in Table 9-2 and the general regulations included in this Chapter.

9.12 S-11 Marine View Drive (UC)

- A. The intent of the “S-11” Marine View Drive Shoreline District is to encourage the development of water-related parks, open space, and recreation facilities, to allow development of marinas and related facilities, water-oriented commercial uses, and residential uses that are compatible with the existing shoreline processes and functions and that result in a net gain of shoreline functions over time.
- B. District Boundary Description. The S-11 Shoreline District boundaries include that area upland within 200’ of the OHWM and from centerline of the 11th Street Bridge north to the City Limit at Eastside Dr. NE (extended).
- C. Map of District. Refer to Figure 9-12 below for a map of the “S-11” Marine View Drive Shoreline District Shoreline District boundaries:

Figure 9-129-129-12. Marine View Drive



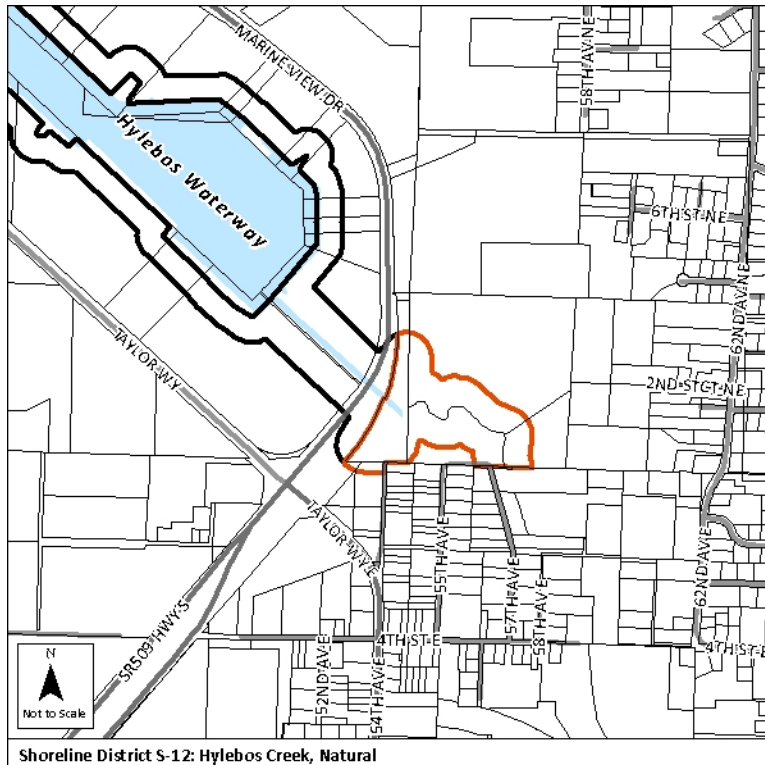
- D. District-Specific Use Regulations. Table 9-2 lists permitted uses, prohibited uses and uses permitted through issuance of a shoreline conditional use permit.
- E. District-Specific Development Standards. Developments in the “S-11” Marine View Drive Shoreline District shall comply with the development standards included in Table 9-2 and the general regulations included in this Chapter.

9.13 S-12 Hylebos Creek (N)

- A. The intent of the “S-12” Hylebos Creek Shoreline District is to protect and restore the historic functions of Hylebos Creek and achieve a net gain of shoreline function over time.

- B. District Boundary Description. The S-12 Shoreline District boundary includes both the in-water portion of the stream and the areas upland within 200’ of the OHWM from SR 509 landward to the City limit.
- C. Map of District. Refer to Figure 9-13 below for a map of the “S-12” Hylebos Creek Shoreline District boundaries:

Figure 9-139-139-13. Hylebos Creek



- D. District-Specific Use Regulations. Table 9-2 lists permitted uses, prohibited uses and uses permitted through issuance of a shoreline conditional use permit.
- E. District-Specific Development Standards. Developments in the “S-12” Hylebos Creek Shoreline District shall comply with the development standards included in Table 9-2 and the general regulations included in this Program.

9.14 S-13 Marine Waters of the State (A)

- A. The intent of the “S-13” Marine Waters of the State Shoreline District is to maintain these water bodies for the use by the public for navigation, commerce and recreation purposes and to manage in-water structures in a consistent manner throughout the City’s shorelines.
- B. District Boundary Description. The S-13 Shoreline District boundary includes all marine waters below the ordinary high water mark, waterward to the Outer Harbor Line of Commencement Bay and the Tacoma Narrows, or the Federal Pierhead Line in areas where the Outer Harbor Line is nonexistent, and the seaward City limit common to the City of Tacoma and Pierce County, except that area lying within the Town limits of the Town of Ruston.

C. Map of District. Refer to Figure 9-14 below for a map of the “S-13” Marine Waters of the State Shoreline District boundaries:

Figure 9-14-149-14. Waters of the State



D. District-Specific Use Regulations. Table 9-2 lists permitted uses, prohibited uses and uses permitted through issuance of a shoreline conditional use permit. Permitted uses and activities are also subject to the district-specific regulations listed below:

1. The following regulations shall apply to overwater uses and development within the “S-13” Shoreline District:
 - a. New uses and development in the S-13 Shoreline District that are associated with an upland shoreline district shall only be permitted where the use or development is consistent with the permitted uses in the upland Shoreline District. In determining which upland shoreline district the use or development is associated with, the regulations shall apply from the closest shoreline district or that district with which the use or development has a physical connection. Where two or more shoreline districts are equidistant from the proposed use or development, the more restrictive standards shall apply.
 - b. New overwater residential structures are prohibited. This prohibition does not apply to live-aboards, which must comply with the regulations in 7.3.2(K).
 - c. New over-water structures shall only be permitted for water-dependent uses, restoration projects, and public access.
 - d. New structures for non-water-dependent or non-public access uses are strictly prohibited.

- e. The size of new over-water structures shall be limited to the minimum necessary to support the structure's intended use.
 - f. Non-water-oriented uses shall only be permitted on existing over-water structures as part of a permitted mixed-use development that contains a water-dependent component.
 - g. Water-oriented commercial uses shall only be permitted over-water on existing overwater structures.
 - h. New overwater structures shall comply with the provisions in TSMP Section 7.36.
 - i. Improvement or modifications to residential or non-water-oriented commercial uses on existing overwater structures shall be permitted; provided, that the modifications do not result in an increase in overwater coverage or shading, area ~~and~~ that the improvements are designed consistent with Washington Department of Fish and Wildlife standards to limit impacts on the aquatic environment and fisheries habitat, ~~and~~ do not adversely affect the public use of the shoreline area or surface waters, and are consistent with the standards in Chapter 2.5 and 5.5.
 - j. All modification of existing uses on recognized overwater structures shall occur in a manner consistent with all provisions of this program as well as building, fire, health, and sanitation codes.
- E. District-Specific Development Standards. Developments in the “S-13” Marine Waters of the State Shoreline District shall comply with the regulations and standards included the Table 9-2 and the general regulations included in this Chapter.

9.15 S-14 Wapato Lake (UC)

- A. The intent of the “S-14” Wapato Lake Shoreline District is to encourage the development of water-related parks, open space, and recreation facilities that achieve no net loss of ecological function, and prioritize vegetation and shoreline enhancement activities that result in a net gain of shoreline function over time.
- B. District Boundary Description. The S-14 Shoreline District boundary includes all areas both in-water and upland within 200’ from the ordinary high water mark of the Lake and including all associated wetlands and buffers.
- C. Map of District. Refer to Figure 9-15 below for a map of the “S-14” Wapato Lake Shoreline District boundaries:

Figure 9-169-169-16. Point Ruston/Slag Peninsula



- D. District-Specific Use Regulations. Table 9-2 lists permitted uses, prohibited uses and uses permitted through issuance of a shoreline conditional use permit. Permitted uses and activities are also subject to the district-specific regulations listed below:
1. Commercial use and development located on parcels within the S-15 Shoreline District, but outside of shoreline jurisdiction shall be permitted outright provided the proposal is consistent with all other provisions of this Program.
- E. District-Specific Development Standards. Developments in the “S-15” Point Ruston / Slag Peninsula Shoreline District shall comply with the development standards included in Table 9-2 and the general regulations included in this Chapter.

Table 9-2. Shoreline Use and Development Standards

| GENERAL SHORELINE USE, MODIFICATION & DEVELOPMENT STANDARDS TABLE | | | | | | | | | | | | | | | | |
|---|---------------------|---------------------|-----------------------|---------------------|----------------|-----------------|-----------------|------------------|---------------------|-------------------|----------------------|------------------------|---------------|----------------------------|-------------|-------------------------------------|
| District | S-1a | S-1b | S-2 | S-3 | S-4 | S-5 | S-6 | S-7 | S-8 | S-9 | S-10 | S-11 | S-12 | S-13 | S-14 | S-15 |
| District Name | Western Slope South | Western Slope South | Western Slope Central | Western Slope North | Point Defiance | Point Defiance | Ruston Way | Schuster Parkway | Thea Foss Waterway | Puyallup River | Port Industrial Area | Marine View Drive | Hylebos Creek | Marine Waters of the State | Wapato Lake | Point Ruston / Slag Pen. |
| Shoreline Designation | HI | SR | UC | NUC | N | UC | UC | HI | DW | UC | HI | UC | N | A | UC | HI |
| Shoreline Uses | | | | | | | | | | | | | | | | |
| Agriculture | | | | | | | | | | | | | | | | |
| Agriculture | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| Aquaculture | | | | | | | | | | | | | | | | |
| Aquaculture, general | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| Artwork | | | | | | | | | | | | | | | | |
| Artwork | P | P | P | P | P | P | P | P | P | P | P | P | P | CU | P | P |
| Boating Facilities | | | | | | | | | | | | | | | | |
| Marinas | P | N | N | N | N | P | N | P | P | N | P | P | N | P/CU ¹ | N | P |
| Launch Ramps and Lifts | P | N | CU | N | N | P | N | N | P ² | N | P | P | N | P | N | P |
| Non-motorized Boat Launch | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Commercial Development | | | | | | | | | | | | | | | | |
| Water-dependent | P | N | P | N | N | P ⁵ | P | P | P | P | P | P | N | P | N | P |
| Water-related | P | N | P | N | N | P ⁵ | P | P | P | P | N | P | N | N/P ³ | N | P |
| Water-enjoyment | P | P | P | N | N | P ³⁵ | P | P | P | P | N | P | N | N/P ³ | N | P |
| Non Water-oriented ⁴ | CU ⁴ | N | N | N | N | CU ² | CU ⁴ | CU | CU ⁶⁵ | CU/P ⁴ | CU ⁴ | CU ⁴ | N | N/P | N | P/CU ²⁶ |
| Educational, Cultural and Scientific | | | | | | | | | | | | | | | | |
| Educational, Cultural and Scientific | P | CU | P | P | P | P | P | P | P | P | P | P | P | P/N ⁸² | P | P |
| Forest Practices | | | | | | | | | | | | | | | | |
| Forest Practices | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| Port, Terminal, and Industrial Development | | | | | | | | | | | | | | | | |
| Water-dependent | CU ⁹⁸ | N | N | N | N | N | N | P | P ¹⁰⁹ | P | P | N | N | P | N | N |
| Water-related | CU ⁹⁸ | N | N | N | N | N | N | P | P ¹⁰⁹ | P | P | N | N | N | N | N |
| Non water-oriented ¹¹⁹ | N | N | N | N | N | N | N | N | CU | CU | CU | N | N | N | N | N |
| Log Rafting and Storage | N | N | N | N | N | N | N | N | N | N | P | P ¹¹ | N | P | N | N |
| Mining | | | | | | | | | | | | | | | | |
| Mining | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| Parking | | | | | | | | | | | | | | | | |
| Associated with an Approved Use | P | P | P | P | P | P | P | P | P | P | P | P | P | N | P | P |
| As a Primary Use | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| Recreational Development | | | | | | | | | | | | | | | | |
| Water-oriented (including public and private facilities and off-street bicycle and pedestrian paths and trails) | P | P | P | P | P | P | P | P | P | P | P | P | P | CU | P | P |
| Non-Water oriented | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| Residential Development | | | | | | | | | | | | | | | | |
| Single-family ¹²² | N | P | P | P | N | N | N | N | N | N | N | P ¹³ | N | N | P | N ¹⁴² |
| Multifamily – stand alone | N/CU ¹⁵² | N | N | N | N | N | N | N | N/CU ¹⁶⁴ | N | N | N/CU ¹³¹⁵⁴² | N | N | N | P ¹²⁵ /CU ¹⁶⁸ |
| Multifamily as part of a mix-use development | P | N | N | N | N | N | N | N | P ¹⁶⁴ | N | N | P ¹³ | N | N | N | P ¹²⁵ |
| Home Occupation | P | P | P | P | N | N | N | N | P | N | N | P ¹³ | N | N | N | P |

GENERAL SHORELINE USE, MODIFICATION & DEVELOPMENT STANDARDS TABLE

| District | S-1a | S-1b | S-2 | S-3 | S-4 | S-5 | S-6 | S-7 | S-8 | S-9 | S-10 | S-11 | S-12 | S-13 | S-14 | S-15 |
|--|---------------------|---------------------|-----------------------|---------------------|----------------|----------------|------------|------------------|--------------------|----------------|----------------------|-------------------|---------------|----------------------------|-------------|-------------------------------|
| District Name | Western Slope South | Western Slope South | Western Slope Central | Western Slope North | Point Defiance | Point Defiance | Ruston Way | Schuster Parkway | Thea Foss Waterway | Puyallup River | Port Industrial Area | Marine View Drive | Hylebos Creek | Marine Waters of the State | Wapato Lake | Point Ruston / Slag Pen. |
| Shoreline Designation | HI | SR | UC | NUC | N | UC | UC | HI | DW | UC | HI | UC | N | A | UC | HI |
| Signs | | | | | | | | | | | | | | | | |
| Interpretive/Educational | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Other | P | P | P | N | N | P | P | P | P | P | P | P | N | CU | P | P |
| Solid Waste Disposal | | | | | | | | | | | | | | | | |
| Solid Waste Disposal | N | N | N | N | N | N | N | N | N | N | CU | N | N | N | N | N |
| Transportation | | | | | | | | | | | | | | | | |
| New SOV-oriented Facilities | N | N | N | N | N | N | N | N | CU | P | P | N | N | N | N | P |
| New HOV or Transit-oriented Facilities | P | N | P | N | N | P | P | P | P | P | P | N | N | N | P | P |
| New Railways | N | N | N | N | N | N | N | N | N | P | P | N | N | N | N | N |
| Expansion of Existing Facilities | P | CU | P | P | N | P | P | P | CU | P | P | P | CU | CU | P | P |
| Passenger only ferry- and water taxi-related Facilities | CU | N | CU | N | N | P | P | P | P | N | NP | P | N | P | N | CU |
| Fixed-wing landing areas | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N |
| Helicopter landing pads | N | N | N | N | N | N | N | N | N | N | CU | N | N | N | N | N/CU ¹⁹ |
| Seaplane Floats | CU | N | N | N | N | N | CU | N | P | N | PN | CU | N | P | N | N |
| Non-motorized facilities, new or expansion (on-street) | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Utilities ²⁰⁺⁷ | | | | | | | | | | | | | | | | |
| -Major/Primary | P | P | P | NP | N | P | P | P | P | P | P | P | N | CU | P | P |
| Minor | <u>P</u> | <u>P</u> | <u>P</u> | <u>N</u> | <u>N</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>N</u> | <u>CU</u> | <u>P</u> | <u>P</u> |
| Accessory, | P | P | P | P | <u>PCU</u> | P | P | P | P | P | P | P | <u>PCU</u> | CU | P | P |
| Wireless Communications Facility | N | N | N | N | N | N | N | N | N | N | P | N | N | N | N | N |
| Shoreline Modification | | | | | | | | | | | | | | | | |
| Shoreline Stabilization | | | | | | | | | | | | | | | | |
| For water-dependent uses ²¹⁺⁸ | P | P | P | P | N | P | P | P | P | P | P | P | P | P | P | P |
| For Non-water-dependent uses | CU | CU | CU | CU | N | CU | CU | CU | CU | CU | CU | CU | N | CU | CU | CU |
| Breakwaters, Jetties, Groins and Weirs | | | | | | | | | | | | | | | | |
| Associated with marinas and boating facilities | CU | N | N | N | N | CU | N | N | CU | N | CU | CU | N | CU | N | CU |
| For shoreline erosion control | CU | N | N | N | N | CU | N | N | CU | N | CU | CU | N | CU | N | N |
| For Navigational purposes | CU | N | CU | N | N | CU | N | N | CU | N | CU | CU | N | CU | N | N |
| As part of Ecological Restoration and Enhancement | P | N | P | P | N | P | P | P | P | P | P | P | P | P | N | P |
| Dredging and Dredge Material Disposal | | | | | | | | | | | | | | | | |
| Non-maintenance dredging | CU | N | N | N | N | N | CU | N | CU | CU | CU | CU | N | CU | N | CU |
| Maintenance dredging | P | N | N | N | N | P | P | P | P | P | P | P | N | P | P | P |
| As Part of Ecological Restoration / Enhancement | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Fill and Excavation | | | | | | | | | | | | | | | | |
| Fill and Excavation, Below OHWM | CU | CU | N | N | CU | CU | CU | CU | CU | N | CU | N | CU | N | N | CU |
| Below OHWM for Ecological Restoration and Enhancement | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Above OHWM | P | P | P | N | P | P | P | CU | P | CU | P | CU | CU | N/A | N | P |
| Flood Control Works and In-stream Structures | N | N | N | N | N | N | N | N | N | CU | CU | N | CU | CU | N | N |
| Ecological Restoration / Enhancement / Mitigation | | | | | | | | | | | | | | | | |
| Ecological Restoration / Enhancement / Mitigation | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Mooring Facilities | | | | | | | | | | | | | | | | |

GENERAL SHORELINE USE, MODIFICATION & DEVELOPMENT STANDARDS TABLE

| District | S-1a | S-1b | S-2 | S-3 | S-4 | S-5 | S-6 | S-7 | S-8 | S-9 | S-10 | S-11 | S-12 | S-13 | S-14 | S-15 | |
|--|--|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|--|--|--|-----------------------|---------------------------|---------------------------|----------------------------|--|---------------------------|--|
| District Name | Western Slope South | Western Slope South | Western Slope Central | Western Slope North | Point Defiance | Point Defiance | Ruston Way | Schuster Parkway | Thea Foss Waterway | Puyallup River | Port Industrial Area | Marine View Drive | Hylebos Creek | Marine Waters of the State | Wapato Lake | Point Ruston / Slag Pen. | |
| Shoreline Designation | HI | SR | UC | NUC | N | UC | UC | HI | DW | UC | HI | UC | N | A | UC | HI | |
| Piers, Wharves, Docks and Floats | | | | | | | | | | | | | | | | | |
| Associated with Residential Uses | N | P | P | P | N | N | N | N | N | N | N | N | N | P | N | N | |
| Associated Public Access Uses | P | P | P | P | N | P | P | P | P | N | P | P | N | P | P | PCU | |
| Associated with Water Dependent Uses | P | N | P | P | N | P | P | P | P | N | P | P | N | P | N | N | |
| Mooring Buoy | P | P | P | P | P | P | P | P | N | N | P | P | N | P | N | P | |
| Mooring Buoy Field | P | N | N | N | N | P | CU | P | N | N | P | P | N | CU | N | P | |
| Navigational Aids | P | P | P | P | P | P | P | P | P | N | P | P | N | P | N | P | |
| -Covered Moorages/Boat Houses ³ | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | N | |
| General Minimum Development Standards | | | | | | | | | | | | | | | | | |
| Marine Shoreline Critical Areas-Buffers, per TSMP Chapter 6 ^{22,24} | 50 ft. from OHWM | 50 ft. from OHWM | 115 ft. from OHWM | 200 ft. from OHWM | 200 ft. from OHWM | 115 ft. from OHWM | 115 ft. from OHWM | 115 ft. from OHWM | 50 ft. from OHWM | 150 ft. from OHWM | 50 ft. from OHWM | 115 ft. from OHWM | 150 ft. from OHWM | N/A | 200 ft. from OHWM ^{23,24} | 50 ft. from OHWM | |
| Height Limit ²⁴ | 35 ft within marine buffer; 75 ft upland and outside marine buffer with view study | 35 ft | 35 ft | 35 ft | 35 ft | 35 ft | 35 ft | 35 ft | 100 ft for deep water facilities ^{25,26} otherwise 35 ft ^{26,27} | Refer to S-8 Shoreline District Regulations | 35 ft | 100 ft ^{26,27} | 35 ft | 35 ft | 35 ft, unless associated with Port/Industrial or transportation facilities | 35 ft | 35 ft within 100 ft of OHWM; 50 ft from 100 – 200 ft; 80 ft outside 200 ft of OHWM |
| Side Yard/View Corridor ²⁴ | 30% of shoreline frontage | 30% of shoreline frontage | 30% of shoreline frontage | 30% of shoreline frontage | 30% of shoreline frontage | 30% of shoreline frontage | 30% of shoreline frontage | 30% of shoreline frontage ^{26,27} | 30% of shoreline frontage | 30% of shoreline frontage | 0 ft ^{26,27} | 30% of shoreline frontage | 30% of shoreline frontage | N/A | 30% of shoreline frontage | 30% of shoreline frontage | |
| Front Yard Setback | 20 ft | 20 ft | 20 ft | 20 ft | 20 ft | 20 ft | 20 ft | 20 ft ^{26,27} | 20 ft | 50 ft from centerline of Puyallup river Dike | 0 ft ^{26,27} | 20 ft | 20 ft | N/A | 20 ft | 20 ft | |
| Rear Yard Setback (from edge of applicable buffer) | 10 ft | 10 ft | 10 ft | 10 ft | 10 ft | 10 ft | 10 ft | 10 ft ^{26,27} | 10 ft | 10 ft | 0 ft ^{26,27} | 10 ft | 10 ft | N/A | 10 ft | 10 ft | |
| Lot Area | | | | | | | | | | | | | | | | | |
| Minimum Ave. Width | 50 ft | 50 ft | 50 ft | 50 ft | | 50 ft | 50 ft | | | 50 ft | | 50 ft | 50 ft | N/A | 50 ft | | |
| Minimum Lot Frontage | 25 ft | 25 ft | 25 ft | 25 ft | | 25 ft | 25 ft | | | 25 ft | | 25 ft | 25 ft | N/A | 25 ft | | |
| Minimum Lot Area for SF Dwelling | 5,000 sq ft | 5,000 sq ft | 5,000 sq ft | 5,000 sq ft | | 5,000 sq ft | 5,000 sq ft | | | 5,000 sq ft | | 5,000 sq ft | 5,000 sq ft | N/A | 5,000 sq ft | | |
| Minimum Lot Area for MF Dwelling | 6,000 sq ft | 6,000 sq ft | 6,000 sq ft | 6,000 sq ft | | 6,000 sq ft | 6,000 sq ft | | | 6,000 sq ft | | 6,000 sq ft | 6,000 sq ft | N/A | 6,000 sq ft | | |

Key:
 P Permitted
 N Prohibited
 CU Conditional Use

Notes:

- 1 Expansion of an existing marina shall be permitted consistent with the provisions of this Program, new marina development shall be a conditional use.
- 2 Boat ramps shall be permitted only in that area on the east side of the Foss Waterway north of the Centerline of 15th Street.
- 3 Water-enjoyment and -related commercial uses shall be permitted over-water only as a reuse of an existing structure or when located within a mixed-use structure.
- 4 Non-water-oriented commercial uses shall only be permitted in accordance with the regulations in TSMP section 7.4.2 and only as a conditional use.
- 5 New commercial development shall be limited to upland locations only. Existing water-oriented commercial uses at the Point Defiance Marina Complex may be continued and be modified provided modifications do not adversely affect ecological conditions and comply with all other provisions of this Program.
- ~~65~~ Non-water-oriented commercial uses shall be permitted outright as part of a mixed-use development with a water-oriented component; Non-water-oriented commercial uses in a mixed use development without a water-oriented component shall be permitted as a conditional use consistent with TSMP 9.9(D).
- ~~76~~ Non-water-oriented commercial uses shall be permitted outside 150' of OHWM only, except as specified in note 16. Commercial uses that are located outside shoreline jurisdiction and are consistent with the EIS for the Point Ruston development shall be subject to a substantial development permit, those uses that are not consistent with the EIS shall be processed as a conditional use permit in accordance with the procedures in TMC 13.06.
- ~~87~~ New educational, historic, and scientific uses are permitted over-water or in the S-13 Shoreline District (Waters of the State) only when water-dependent or as a reuse of an existing structure.
- ~~98~~ Water-dependent and -related port, terminal and industrial uses shall be permitted only in existing structures.
- ~~109~~ Port, terminal, and industrial development shall be permitted on the easterly side of the Thea Foss Waterway, north of the centerline of East 15th Street and in addition, in that area to the east of East D Street.
- ~~110~~ Non-water-oriented industrial uses shall only be permitted in accordance with the regulations in TSMP section 7.5.2.
- ~~124~~ New single-family residential development shall only be permitted in upland locations.
- ~~13~~ In the "S-11" Shoreline District, new single family and multi-family residential development is permitted only in that area north of 5410 Marine View Drive.
- ~~142~~ Detached single-family residential use and development is allowed in the S-15 shoreline district outside of shoreline jurisdiction.
- ~~153~~ New stand alone multi-family residential uses may be permitted as a conditional use in accordance with the regulations in TSMP section 7.7.2.
- ~~164~~ Residential development shall be permitted in upland locations on the west side of the waterway and on the east side only, south of the East 11th Street right of way, and shall be designed for multiple-family development only, excluding duplex and/or triplex development. Multifamily residential development shall only be permitted on the west side of the Foss Waterway, and on the east side of the Foss Waterway south of the centerline of E. 11th Street. Hotel/Motel uses are permitted on the west side of the Foss Waterway, and on the east side of the Foss Waterway only south of the centerline of 11th Street. Residential and Hotel/Motel uses are prohibited to the east of East D Street.
- ~~175~~ Multifamily residential uses shall be permitted in upland locations, outside 150' of OHWM.
- ~~186~~ Townhouses may be permitted in upland locations up to 100' from OHWM as a conditional use and may include an office use on the ground floor.
- ~~19~~ Helicopter landing pads are only allowed outside of shoreline jurisdiction as a conditional use and only as part of an approved structure.
- ~~2047~~ Above ground utilities are only allowed consistent with TSMP 7.12.2.7
- ~~2148~~ Structural shoreline stabilization shall be permitted only when necessity has been demonstrated as described in TSMP section 8.2.2.
- ~~2249~~ Buffer reductions allowed for water-dependent uses per TSMP 6.4.3(c).
- ~~2320~~ Except that the buffer shall not extend beyond the centerline of Alaska street.
- ~~244~~ District specific height limitations shall not apply to bridges in the shoreline. Bridges should be kept to the minimum height necessary and shall provide a view study to determine whether the structure will cause any significant impacts to public views of the shoreline.
- ~~252~~ The maximum height standard excludes equipment used for the movement of waterborne cargo between storage and vessel or vessel and storage.
- ~~263~~ Any building, structure, or portion thereof hereafter erected (excluding equipment for the movement of waterborne cargo between storage and vessel, vessel and storage) shall not exceed a height of 100 feet, Unless such building or structure is set back on all sides one foot for each four feet such building or structure exceeds 100 feet in height.
- ~~274~~ The side/yard corridor may be distributed between the two sides at the discretion of the proponent, provided a minimum 5 foot set back is maintained from either lot line.

CHAPTER 10 DEFINITIONS

1. Act

"Act" means the Washington State Shoreline Management Act of 1971, as amended, chapter 90.58 RCW.

2. Accessory Structure

An "accessory structure" is a subordinate building or use incidental to the use of the main building or use.

3. Agriculture

"Agriculture" means agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops conducting agricultural operations; and maintaining agricultural lands under production or cultivation;

4. Amendment

"Amendment" means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

5. Approval

"Approval" means an official action by a local government legislative body agreeing to submit a proposed shoreline master program or amendments to Ecology for review and official action pursuant to this chapter; or an official action by Ecology to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program.

6. Appurtenance

"Appurtenance, normal" means a structure or use that is necessarily connected to a primary development and is located landward of the ordinary high water mark. Normal appurtenances include, but are not limited to, utilities, septic tanks and drainfields, and grading which does not exceed two hundred fifty (250) cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark, as well as driveways, walkways, and fences upon which the primary use is dependent.

7. Aquaculture

"Aquaculture" means the farming or culture of food fish, shellfish, or other aquatic plants or animals in freshwater or saltwater, and may include development such as structures, as well as use of natural spawning and rearing areas. Aquaculture does not include the harvest of wildstock geoduck on state-owned lands. Wildstock geoduck harvest is a fishery. Aquaculture does not include recreational shellfish harvesting for personal use and consumption; harvesting for educational projects; or improvements of habitats.

8. Artisan/craftsperson

"Artisan/craftsperson" means commercial activities that may have industrial characteristics such as noise, vibrations, odors, use of mechanical equipment or material storage, but provide public involvement or public access to unique artistic, crafts, or heritage skills. Examples include glass blowing, wooden boat building or restoration, pottery, and artist studios and schools.

9. Associated Wetlands

"Associated Wetlands" means those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake, stream or river subject to the Shoreline Management Act.

10. Average Grade Level

"Average grade level" means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure: In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.

11. Bedlands

"Bedlands" means those submerged lands, including tidelands where appropriate, underlying navigable waters.

12. Bioengineering

"Bioengineering" means project designs or construction methods which use living plant material or a combination of living plant material and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation.

13. Boat

See definition under "Vessel."

14. Boat Lift

"Boat lift" means a mechanical device that can hoist vessels out of the water for storage and place vessels into the water. These devices are usually located along a pier.

15. Boating Facilities

"Boating facilities" includes marinas, including foreshore and backshore types, dry storage and wet-moorage types, covered moorage, boat launches, and marine travel lifts. For purposes of the Shoreline Master Program, boating facilities excludes docks serving four or fewer single-family residences.

16. Boat House

"Boat house" means covered moorage that includes walls and a roof to protect the vessel.

17. Breakwater

"Breakwater" means an offshore structure that is generally built parallel to shore that may or may not be connected to land, and may be floating or stationary. Their primary purpose is to protect harbors, moorages and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave caused erosion.

18. Building

A "building" is any structure having a roof supported by columns or walls for the housing, shelter, or enclosure of persons, animals, or chattels; when separated by dividing walls without openings, each portion of such building so separated shall be deemed a separate building.

19. Bulkhead

A "bulkhead" is a solid, open pile, or irregular wall of rock, rip-rap, concrete, steel, or timber or combination of these materials erected parallel to and near ordinary high water mark to provide a protective wall resistant to water and wave action.

A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing upland structure or use and appurtenant structures from loss or damage by erosion

20. Buoy

“Buoys” are floating devices anchored in a waterbody for navigational purposes or moorage. See also “moorage buoy.”

21. City

The City of Tacoma, Washington

22. Clearing

“Clearing” means the destruction or removal of logs, scrub shrubs, stumps, trees or any vegetative material by burning, chemical, mechanical or other means.

23. Commercial

Commercial means a business use or activity at a scale greater than a home occupation or cottage industry involving retail or wholesale marketing of goods and services. Examples of commercial uses include restaurants, offices, and retail shops.

24. Commercial Fishing

Commercial fishing is the activity of capturing fish and other seafood under a commercial license.

25. Conditional Use

"Conditional use" means a use, development, or substantial development which is classified as a conditional use or is not classified within the Master Program.

26. Covered Moorage

“Covered moorage” means boat moorage, with or without walls, that has a roof to protect the vessel.

27. Critical Saltwater Habitat

Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association.

28. Cumulative Impact

“Cumulative Impact” means the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

29. Department of Ecology

“Department of Ecology” means the Washington State Department of Ecology.

30. Development

"Development" is an activity consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which may interfere with the normal public use of the surface of the waters overlying lands subject to the Shorelines Management Act of 1971 at any state of water level.

31. Development Regulations

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

32. Dike

A "dike" is an artificial embankment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land.

33. Dock

"Dock" means a place or structure that connects with the shore and provides access to a boat vessel from the land.

34. Document of Record

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

35. Dredging

"Dredging" is the removal of earth, sand, sludge or other material from the bottom of a water body, by mechanical or hydraulic means.

36. Dredging spoils

"Dredging spoils" are the bottom materials obtained from dredging.

37. Drift Cell

"Drift cell," "drift sector" or "littoral cell" means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.

38. Driftway

"Driftway" means that portion of the marine shore process corridor, primarily the upper foreshore, through which sand and gravel are transported by littoral drift. The driftway is the essential component between the feeder bluff(s) and accretion shoreform(s) of an integral drift sector. Driftways are also characterized by intermittent, narrow berm beaches.

39. Ecological Functions

"Ecological functions" or "shoreline functions" means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

40. Ecology

"Ecology" refers to the Washington State Department of Ecology.

41. Ecosystem-wide Processes

"Ecosystem-wide processes" means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

42. Educational Facilities

“Educational facilities” means a building or place for teaching and learning; or for the acquisition, conservation, study, assembly and public display and/or exhibition, and educational interpretation of objects having historical, cultural, scientific, or artistic value such as a museum.

43. Emergency

An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

44. Environmental Remediation

“Environmental remediation” consists of those actions taken to identify, eliminate, or minimize any threat posed by hazardous substances to human health or the environment. Such actions include any investigative, site remediation, and monitoring activities undertaken with respect to any release or threatened release of a hazardous substance.

45. Essential Public Facilities

“Essential public facilities” are broadly defined in RCW 36.70A.200 as being those types of facilities that are typically difficult to site. This definition includes but is not limited to, the following:

- a. Airports
- b. State education facilities
- c. State and regional transportation facilities
- d. State and local correctional facilities
- e. Solid waste handling facilities
- f. Inpatient facilities
- g. Mental health facilities
- h. Group Homes

46. Exempt

"Exempt" developments are those set forth in Section 5.7.4(Exemptions from Substantial Development Permit) of this Program which are not required to obtain a Shoreline Substantial Development Permit but which must otherwise comply with applicable provisions of the act and the local master program.

47. Extreme Low Tide

"Extreme low tide" means the lowest line on the land reached by a receding tide.

48. Fair Market Value

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

49. Feasible

"Feasible" means, for these purposes, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

- a. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
- b. The action provides a reasonable likelihood of achieving its intended purpose; and
- c. The action does not physically preclude achieving the project's primary intended legal use; ~~and~~;
- d. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant; ~~and~~;
- e. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

50. Feeder Bluff Exceptional

"Feeder Bluff Exceptional" means relatively rapidly eroding bluff segments identified by the presence of landslide scarps, bluff toe erosion, and a general absence of vegetative cover and/or portions of bluff face fully exposed. Other indicators included the presence of colluvium (slide debris), boulder or cobble lag deposits, and fallen trees across the beachface. Feeder bluff exceptional segments lack a backshore, old or rotten logs, and coniferous bluff vegetation.

51. Fill

"Landfill" means placing soil, sand, rock, dredge material, gravel, or other material (excluding solid waste) to provide new land, tideland, or bottom land area along the shoreline below the ordinary high water mark, or on upland areas in order to raise the elevation. Disposal of hazardous substances and other materials in conjunction with an environmental cleanup in accordance with State and Federal regulations is considered environmental remediation.

52. Fixed-wing landing areas

"Fixed-wing landing areas" means a cleared and paved area used for the takeoff and landing of fixed-wing aircraft.

53. Float

"Float" means a fixed platform structure anchored in and floating upon a water body that does not connect to the shore, and that provides landing for water dependent recreation or moorage for vessels or watercraft, and that does not include above water storage.

54. Floating Home

A "floating home" is a building constructed on a float, used in whole or in part as a dwelling, and not a vessel, and is typically characterized by permanent utilities, a semi-permanent anchorage/moorage design, and by the lack of adequate self propulsion to operate as a vessel.

55. Flood Hazard Reduction

"Flood hazard reduction" means measures taken to reduce flood damage or hazards. Flood hazard reduction measures may consist of nonstructural or indirect measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, bioengineering measures, and storm water management programs; and of structural measures, such as dikes, levees, and floodwalls intended to contain flow within the channel, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

56. Flood Plain

"Flood plain" is synonymous with the one hundred-year flood plain and refers to the land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act.

57. Floodway

"Floodway" means the area, as identified in a master program as a floodway, and that has been established as such in federal emergency management agency (FEMA) flood insurance rate maps (FIRM) or floodway maps.

58. Footprint

"Footprint – building" means that area defined by the exterior walls of a structure.

59. Forest Land

"Forest land" means all land that is capable of supporting a merchantable stand of timber and is not being actively used, developed, or converted in a manner that is incompatible with timber production.

60. Forest Practices

Forest practice means any activity conducted on or directly pertaining to forest land and relating to growing or harvesting of timber, or the processing of timber, including but not limited to: road and trail construction and maintenance; harvest, final and intermediate; pre-commercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control.

61. Geotechnical Report

"Geotechnical report" or "geotechnical analysis" 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.

62. Grading

"Grading" refers to excavating, filling, leveling, or artificially modifying surface contours.

63. Grey Water

"Grey water" means wastewater generated by water-using fixtures and appliances such as sinks, showers, and dishwaters, but excluding the toilet.

64. Groin

A "groin" is a barrier structure extending from the shore to the water. It is used to interrupt lateral sediment movement along the shore.

65. Guidelines

"Guidelines" means those standards adopted by Ecology to implement the policy of chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and Ecology in developing and amending master programs.

66. Habitat Improvement

“Habitat improvement” means any actions taken to intentionally improve the overall processes and functions of critical habitats, including wetland, stream, and aquatic habitats. Such actions may or may not be in conjunction with a specific development proposal, and include, but are not limited to, restoration, creation, enhancement, preservation, acquisition, maintenance, and monitoring

67. Harbor Area

“Harbor area” means the area of navigable tidal waters between the inner and outer harbor lines where established in front of and within one mile of the corporate limits of an incorporated city or town by the Board of Natural Resources acting as the State Harbor Lines Commission as established by Section 1 of Article XV of the Washington State Constitution. This area may be leased but never sold by the State, and must be reserved for the purpose of navigation and commerce.

68. Hazardous Substances

“Hazardous substances” means those wastes designated by WAC 173-340-200, and regulated as hazardous substances by Ecology.

69. Hearings Board

"Hearing[s] board" or “State Shorelines Hearings Board” means the shoreline[s] hearings board established by 90.58 RCW. This is the hearings board established by the Shorelines Management Act of 1971 to decide appeals of cases involving shoreline substantial development permits, conditional uses, or variances.

70. Height

"Height" is measured from average grade level to the highest point of a structure; provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included; provided further, that temporary construction equipment is excluded in this calculation.

71. Houseboat

“Houseboat” means a vessel used for living quarters but licensed and designed substantially as a mobile structure by means of detachable utilities for facilities, anchoring, and the presence of adequate self-propulsion to operate as a vessel.

72. Helicopter Landing Pad

“Helicopter Landing Pad” means a facility in which an area on a roof or on the ground is used for the takeoff and landing of helicopters or other steep- gradient aircraft,

73. Inner Harbor Line

“Inner harbor line” means the line established by the State in navigable tidal waters between the line of ordinary high tide and the outer harbor line and constituting the inner boundary of the harbor area. This line determines the seaward extent of private ownership in tidal or shoreland areas (often corresponds to the “bulkhead line”).

74. In-stream Structure

"In-stream structure" means a structure placed by humans within a stream or river waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

75. Jetty

A “jetty” is a structure that is generally perpendicular to shore extending through or past the intertidal zone. Jetties are built singly or in pairs at harbor entrances or river mouths mainly to prevent shoaling or accretion from littoral drift in entrance channels, which may or may not be dredged. Jetties also serve to protect channels from storm waves or cross currents, and stabilize inlets through barrier beaches. Most jetties are of riprap mound construction.

76. Land use Administrator

The “Administrator” is the City Land Use Administrator or his/her designee.

77. Live-aboard vessel

“Live-aboard vessel” means a vessel used primarily as a residence, and if used as a means of transportation or recreation, said transportation or recreation is a secondary or subsidiary use. Any vessel used for overnight accommodation for more than 15 nights in a one-month period shall be considered a residence.

78. Local Government

"Local government" means the City of Tacoma.

79. Lot Frontage

“Lot frontage” means that portion of a lot abutting upon the lot line running parallel to and farthest landward of the ordinary high water mark. Low Impact Development (LID)

80. Low Impact Development (LID)

“Low Impact Development” means a stormwater management strategy that emphasizes conservation and use of existing natural site features integrated with distributed, small scale stormwater controls to more closely mimic natural hydrologic patterns in residential, commercial, and industrial settings. “LID” can include the following:

- Permeable pavements;
- Vegetated roofs;
- Rainwater harvesting; and
- Bioretention areas (rain gardens).

For further information, please refer to http://www.psp.wa.gov/downloads/LID/LID_manual2005.pdf

81. Maintenance Dredging

“Maintenance dredging” refers to dredging for the purpose of maintaining a prescribed minimum depth previously authorized by a federal, state, and/or local permit as part of any specific waterway project.

82. Marina

“Marina” means a water-dependent facility that provides launching, storage, supplies, moorage and other accessory services for five or more pleasure and/or commercial water craft.

83. Marine

"Marine" means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith.

84. Maritime Facility

A facility which is open to the public in which the primary activities relate to the commercial fishing industry; boat building and repair; or other maritime activities or the history thereof.

85. Master Program

"Master program" shall mean the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

86. May

"May" means the action is acceptable, provided it conforms to the provisions of this Master Program.

87. Mean Higher High Water

"Mean Higher High Water" is the line on tidal beaches where the mean of the higher of each day's high tides has left a mark upon the beach distinctly separating the tidal area from adjoining uplands. For Tacoma, 11.80 feet above Mean Lower Low Water shall constitute the line of Mean Higher High Water, in those cases where the line of Ordinary High Water cannot be determined or established.

88. Mitigation

"Mitigation" means a negotiated action involving the avoidance, minimization, or compensation for possible adverse impacts.

89. Mixed-use Project

"Mixed-use projects" are developments that combine water-dependent/ water-related uses with water-enjoyment uses and/or non-water-oriented uses. Mixed-use developments can be a tool for increased water-dependent activities, civic revitalization, and public access to the shoreline. To encourage mixed-use projects that achieve a public benefit, special provisions can be included in a master program that offer a potential developer incentives or more latitude than normal master program requirements. In return, the developer's proposal must include elements that further the objectives of the Shoreline Management Act and benefit the public. Implicit in the concept of mixed-use provisions is that additional development incentives must be justified by increased and long-term public benefit resulting from the project and that the public benefit must relate to SMA objectives. Generally in mixed-use projects the water-oriented uses and non-revenue recreation uses are "subsidized" by the economic advantages of the other uses in the sense that the water-oriented uses could not be economically developed without support from viable non-water-oriented uses.

90. Mixed-Use Facility

A "mixed use facility" is a structure or development that combines non-water-oriented uses such as transient accommodations, residential units, or retail with one or more water-oriented uses in a manner that takes advantage of a shoreline location and which, as a general characteristic of the use, provides shoreline recreational and aesthetic enjoyment for a substantial number of people. In order to meet the definition of a mixed use facility, the facility must be designed to protect views to the shoreline, must be open to the general public and must be devoted to the specific aspects of the use that foster shoreline enjoyment.

91. Moorage

"Moorage" is a pier, dock, buoy or float, either fixed or floating, to which vessels may be secured.

"Covered moorage" refers to moorage which has a roof.

"Individual mooring facilities" refers to moorage for single vessels.

92. Moored Boat

A “moored boat” is a vessel that is secured to a pier, float, dock, buoy or other vessel.

93. Mooring Buoy

“Mooring buoy” means an anchored floating device in a water body used for the landing or storage of a vessel or water craft.

94. Mooring Buoy Field

“Mooring Buoy Field” means the existence or establishment of 12 or more mooring buoys in a contiguous area.

95. Multifamily Residential Development

“Multifamily Residential Development” means a building or portion thereof designed for or used as the residence of four or more families living independently of each other.

96. Must

"Must" means a mandate; the action is required.

97. Natural Topography

"Natural topography" or "existing topography" means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling.

98. Navigational Channels

“Navigational channels” are those logical routes on the waters of Tacoma beyond the outer harbor line, commonly used by ships for useful commerce.

99. Navigable Waters

“Navigable waters” means waters which are, in fact and without substantial alteration, capable of being used practically for the carriage of commerce. Navigable waters include waters meandered by government surveyors as navigable unless otherwise declared by a court. Navigable waters do not include waters inside an inner harbor line.

100. Nexus

“Nexus” is the rational relationship between a probable adverse impact from a proposed development on a legitimate governmental interest or purpose.

101. Non-conforming Use/Structure

“Non-conforming use/development” means a shoreline use or structure which was lawfully constructed or established prior to the effective date of the applicable Act or Master Program provision, and which no longer conforms to the applicable shoreline provisions.

102. Normal Maintenance

"Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.

103. Normal Protective Bulkhead

“Normal protective bulkhead” means a those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion (See WAC 173-27-040).

104. Normal Repair

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

105. Ordinary High Water Mark

"Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or 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.

106. Outer Harbor Line

"Outer harbor line" is the line located and established by the State Department of Natural Resources in navigable waters beyond which the State shall never sell or lease any rights whatever. This line determines the extent of water area that may be leased to private interests.

107. Over-water Structure

An "over-water structure" refers to a structure or other construction located waterward of the Ordinary High Water Mark (OHWM) or a structure or other construction erected on piling above the surface of the water, or upon a float.

108. Parking

"Principal use parking" is parking which is the principal use on the property and is not accessory to another use.

"Accessory Parking" is the use of land for the purpose of accommodating motor vehicles, motorized equipment, or accessory units, such as trailers, and directly serves an approved shoreline use.

109. Party of Record

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

110. Permit

"Permit" means any Substantial Development, Variance, Conditional Use Permit, or revision authorized under chapter 90.58 RCW.

111. Person

"Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.

112. Pier

“Pier” means a fixed platform structure supported by piles in a water body that abuts the shore to provide landing for water-dependent recreation or moorage for vessels or watercraft and does not include above water storage.

113. Port, Terminal, Industrial

“Port” means a center for water-borne commerce and traffic.

“Terminal” means a building or complex containing facilities needed by transportation operators and passengers at either end of a travel or shipping route by air, rail, road or sea.

“Industrial means” means the production, processing, manufacturing, or fabrication of goods or materials. Warehousing and storage of materials or production is considered part of the industrial process.

114. Practicable

“Practicable” means a requirement or provision for a use or development that is capable of being put into practice or of being done or accomplished.

115. Priority Habitat

"Priority habitat" means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

- a. Comparatively high fish or wildlife density;
- b. Comparatively high fish or wildlife species diversity;
- c. Important wildlife habitat;
- d. Important fish or wildlife seasonal range;
- e. Important fish or wildlife movement corridor;
- f. Rearing and foraging habitat;
- g. Important marine mammal haul-out;
- h. Refugia habitat;
- i. Limited availability;
- j. High vulnerability to habitat alteration;
- k. Unique or dependent species; or
- l. Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

116. Priority Species

"Priority species" means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

- a. Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.
- b. Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.
- c. Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.
- d. Criterion 4. Species listed under the federal Endangered Species Act as proposed, threatened, or endangered.

117. Provisions

"Provisions" means policies, regulations, standards, guideline criteria or environment designations.

118. Public Access Area

"Public access area" means an area, pathway, road, or structure open to use by the general public and affording contact with or views of public waters.

119. Public Access

"Public access" refers to a provision of physical or visual approach from upland or adjacent properties or public waters or from shorelines or public waters to upland or adjacent properties, available to the general public.

120. Public Interest

"Public interest" means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development.

121. Qualified professional

"Qualified professional" means a person who, at a minimum, has earned a degree from an accredited college/university in the relevant scientific or engineering discipline appropriate to the critical area subject and two years of related professional work experience; or eight years of professional work experience in the relevant critical area subject.

122. Recreation

"Recreation" means the refreshment of body and mind through forms of play, sports, relaxation, or contemplation. Water-oriented recreation includes activities such as boating, fishing, swimming, skin

diving, scuba diving, and enjoying the natural beauty of the shoreline or its wildlife through nature walks, photography, wildlife observation, and hiking.

123. Recreational Development

“Recreational development” includes commercial and public facilities designed and used to provide recreational opportunities to the public.

124. Residential Development

“Residential Development” includes the development of single-family residences, including appurtenant structures and uses. Residential development also includes multifamily development and the creation of new residential lots through land division.

125. Restore

"Restore," "restoration" or "ecological restoration" means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

126. Revetment

A sloped wall constructed of riprap or other material placed on stream banks or other shorelines to retard bank erosion and minimize lateral stream movement. A revetment typically slopes waterward and has rough or jagged facing. The slope differentiates it from a bulkhead, which is a vertical structure.

127. Rip-Rap

“Rip-rap” is a foundation or retaining wall of stones or rock placed along the water's edge or on an embankment to prevent erosion.

128. Rough Proportionality Test

“Rough Proportionality Test” is a case by case determination by the City that a particular condition of approval on a proposed project is reasonably related to both the character and the degree of a probable impact of the project on the public health, safety and welfare.

129. Setback

“Setback” means a space unoccupied by structures except where intrusions are specifically permitted by this Program.

130. Setback, Front

“Front Setback” means the space abutting a street right-of-way, access easement or private road either from which the lot is addressed or from which the lot gains primary access, and extending the full width of the lot; and at the intersection of two public rights-of-way, space abutting each right-of-way extending the full width of the lot.

131. Setback, Rear

“Rear Setback” means the space abutting a property line or landward edge of the marine buffer, as established by this Program, and opposite to the front setback or as nearly so as the lot shape permits, and extending the full width of the lot or buffer. If more than one rear setback or more than one front setback exists, the Land Use Director shall designate the rear setback.

132. Setback, Side

“Side Setback” means the space abutting a property line, access easement or private road and generally between the required front and rear setbacks. Any setback not defined as a front or rear setback is a side setback.

133. Sewage

“Sewage” means wastewater associated with human habitation, including that portion of the wastewater from toilets or any other receptacles containing human or animal excreta and urine, commonly known as “black water.”

134. Shall

"Shall" means a mandate; the action must be done.

135. Shared Moorage

“Shared Moorage” or “joint use” means moorage for pleasure craft and/or landing for water sports for use in common by shoreline residents of a certain subdivision or community within shoreline jurisdiction or for use by patrons of a public park or quasi-public recreation area, including rental of non-powered craft. If a shared moorage provides commercial services or is of a large scale (more than four slips), it shall be considered a marina. Shared moorage proposed to be leased to upland property owners shall also be considered a marina. If a proposal includes covered moorage, commercial sale of goods or services, or a means of launching other than a ramp, swinging boom, or davit style hoist, it shall be considered a marina.

136. Shorelands/Shoreland Areas

“Shoreland” or “shoreland areas” means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark of Puget Sound, Commencement Bay, Thea Foss Waterway, Middle Tacoma Waterway Municipal Code City Clerk’s Office 13-283 (Revised 08/2009), St. Paul Waterway, Puyallup Waterway and the Puyallup River (including Clear Creek),Milwaukee Waterway, Sitcum Waterway, Blair Waterway (including Wapato Creek), Hylebos Waterway (including Hylebos Creek), Wapato Lake, Titlow Lagoon, floodways and contiguous floodplain areas landward 200 feet from such floodways, and all wetlands and river deltas associated with the streams, lakes and tidal waters which are subject to the provisions of the Act.

137. Shoreline Environmental Designations

Shoreline Environmental Designation. There are six shoreline environments defined and designated to exist on the shorelines of the City of Tacoma. These shoreline environmental designations are summarily defined in subsection 3.3 of this Program

138. Shoreline Jurisdiction

"Shoreline jurisdiction" means all "shorelines of the state" and "shorelands."

139. Shoreline Master Program

"Shoreline master program (TSMP)" or "master program" means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

As provided in RCW 36.70A.480, the goals and policies of a shoreline master program approved under chapter 90.58 RCW shall be considered an element of the city's comprehensive plan. All other portions of the shoreline master program for a city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the city's development regulations.

140. Shoreline Modifications

"Shoreline modifications" means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

141. Shoreline Stabilization

"New shoreline stabilization" refers to the construction or addition of hard or soft shoreline stabilization measures, including but not limited to bulkheads, revetments, rip rapping, anchor trees and slope bioengineering along a property abutting the shoreline.

"Replacement shoreline stabilization" refers to the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose.

142. Shoreline Substantial Development Permit

A "Shoreline Substantial Development Permit" is the permit required by this Master Program for uses which are substantial developments in shoreline jurisdiction.

143. Shorelines

"Shorelines" means all of the water areas of the City, including reservoirs, and their associated shorelands, together with the lands underlying them, except: (a) shorelines of statewide significance; (b) shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less, and the wetlands associated with such upstream segments; and (c) shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes. Within the City of Tacoma, "shorelines" include: (1) Wapato Lake, (2) Titlow Lagoon, and (3) those areas of Puget Sound and those areas within the manmade waterways of Commencement Bay lying landward from the line of extreme low tide.

144. Shorelines of Statewide Significance

"Shorelines of Statewide Significance" means the following shorelines of the State:

- a. The area between the ordinary high water mark and the western boundary of the State from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets;
- b. Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows:
 - (1) Nisqually Delta – from DeWolf Bight to Tatsolo Point,
 - (2) Birch Bay – from Point Whitehorn to Birch Point,
 - (3) Hood Canal – from Tala Point to Foulweather Bluff,
 - (4) Skagit Bay and adjacent area – from Brown Point to Yokeko Point, and
 - (5) Padilla Bay – from March Point to William Point;
- c. Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent saltwaters north to the Canadian line and lying seaward from the line of extreme low tide;
- d. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of 1,000 acres or more, measured at the ordinary high water mark;
- e. Those natural rivers or segments thereof, as follows:
 - (1) Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at 1,000 cubic feet per second, or more, and

(2) Any east of the crest of the Cascade range downstream of a point where the annual flow is measured at 200 cubic feet per second, or more, or those portions of rivers east of the crest of the Cascade range downstream from the first 300 square miles of drainage area, whichever is longer;

f. Those shorelands associated with paragraphs a, b, d, and e above.

Within the City of Tacoma, the Puyallup River is the only river which has been designated as having shorelines of statewide significance. Because the Puyallup River within the City has been diked, the shorelines of statewide significance include the shoreline area on both sides of the river landward 200 feet from the ordinary high water mark. When dikes are located beyond 200 feet of the ordinary high water mark, the wetlands will be that area lying between the dike and the ordinary high water mark.

Other shorelines of statewide significance within the City of Tacoma are those areas of Puget Sound lying seaward from the line of extreme low tide. Within manmade waterways in Commencement Bay, shorelines of statewide significance include the area lying seaward from the line of extreme low tide. In some waterways, where extensive bulkheading has taken place, the line of extreme low tide may only mean a difference in water depth within the channel. In those situations, the shoreline of statewide significance is taken from the water line at extreme low tide seaward.

145. Shorelines of the City

“Shorelines of the City” means the total of all “shorelines” and “shorelines of statewide significance” within the City.

146. Shorelines of the State

"Shorelines of the state" are the total of all "shorelines" and "shorelines of statewide significance" within the state.

147. Should

"Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

148. Sign

“Sign” means any device, flag, light, figure, picture, letter, work, message, symbol, plaque, poster or building face that is visible from outside the lot on which it is located and that is designed to inform or attract the attention of the public through visual communication, excluding murals or architectural designs that do not advertise a business, product or service.

149. Sign, Directional

“Sign, directional” means attached or freestanding railroad, highway, road, or traffic signs or signals erected, constructed, or maintained for the purpose of providing safety and directional information within public and private properties or rights-of-way for the movement of pedestrian and vehicular traffic.

150. Sign, Freestanding

“Sign, freestanding” means a self-supporting sign placed off and away from the building or use to which it is related. Freestanding signs may be single faced or consist of two parallel and fully connected faces. The square footage of such signs shall be determined by the dimensions of the frame or edges of the sign, regardless of whether it is one- or twofaced.

151. Sign, Interpretive

“Sign, informational” means a sign designed to impart educational, instructive, or historic information, or to identify parks or other public recreational facilities.

152. Significant Vegetation Removal

"Significant vegetation removal" means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

153. Single Family Residence

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

An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program.

154. Solid Waste

Solid waste means all solid and semi-solid wastes, except wastes identified in WAC 173-304-015, including, but not limited to, junk vehicles, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities, but excluding agricultural wastes and crop residues returned to the soil at agronomic rates. This includes all liquid, solid and semi-solid materials which are not the primary products of public, private, industrial, commercial, mining and agricultural operations. Solid waste includes but is not limited to sludge from wastewater treatment plants and septage from septic tanks, wood waste, dangerous waste, and problem wastes. Unrecovered residues from recycling operations shall be considered solid waste.

155. Solid Waste Facility

"Solid waste facility" or "transfer facility" refers to any land or structure where solid waste is stored, collected, transported, or processed in any form, whether loose, baled or containerized, including but not limited to the following: transfer stations, landfills, or solid waste loading facilities. Solid waste handling and disposal facilities do not include the following: handling or disposal of solid waste as an incidental part of an otherwise permitted use; and solid waste recycling and reclamation activities not conducted on the same site as and accessory to the handling and disposal of garbage and refuse.

156. State Master Program

"State master program" means the cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by Ecology.

157. Stockpiling of Materials

"Stockpiling of materials" means the accumulation and storage of raw materials, equipment, apparatus and/or supplies by an individual, business, or organization. Stockpiling of materials as a primary use activity is subject to all applicable shoreline permits. Stockpiling of materials as a secondary use activity pursuant to a valid shoreline permit is considered a permitted use activity.

158. Stream

"Stream" means a naturally occurring body of periodic or continuously flowing water where the water is contained within a channel.

159. Streamway

Streamway" means the bed and banks of a stream.

160. Structure

"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.

161. Substantial Development

"Substantial development" shall mean any development of which the total cost or fair market value exceeds five thousand seven hundred and eighteen dollars (\$5,718), or as adjusted by the State Office of Financial Management, or any development which materially interferes with the normal public use of the water or shorelines of the state.

162. Substantially Degrade

"Substantially degrade" means to cause significant ecological impact.

163. Support

"Support" means that a non-water-oriented component of a mixed-use project is necessary to pay the costs of or provide a basis for the existence and ongoing subsistence of the water-oriented component.

164. Townhouse

"Townhouse" means a building on its own separate parcel of land containing one single-family dwelling unit that occupies space from the foundation to the roof and is attached to one or more other townhouse dwelling units by at least one common wall. In the S-15 Shoreline District, the townhouses will not include a separate parcel of land and will include only the area from the foundation to the roof.

165. Transient

"Transient" means passing through or by a place, staying 10 days or less.

~~165.~~ 166. Transmit

"Transmit" means to send from one person or place to another by mail or hand delivery. The date of transmittal for mailed items is the date that the document is certified for mailing or, for hand-delivered items, is the date of receipt at the destination.

~~166.~~ 167. Transportation Facility

A "transportation facility" includes roads and railways, related bridges and culverts, fills, embankments, causeways, parking lots, parking structures, and bus and truck terminals. Not included is off-street bicycle or recreational trails.

~~167.~~ 168. Underground Utilities

"Underground utilities" means services which produce and carry electric power, gas, sewage, communications, oil, water, and storm drains below the surface of the ground.

~~168.~~ 169. Uplands

"Uplands" means dry lands landward of OHWM.

~~169.~~ 170. Uses and Development Activities

"Uses and development activities" for the purposes of this chapter means the following uses and development activities as defined in the Final Guidelines of the Department of Ecology (WAC 173-16-

060), RCW 90.58.030, and the adopted Master Program for the City of Tacoma: Tacoma Municipal Code City Clerk’s Office 13-285 (Revised 08/2009)

~~170.171.~~ _____ Utilities

“Utilities” are services and facilities that produce, convey, store, or process power, gas, sewage, communications, oil, waste, and the like. Utilities have been categorized in this Master Program as primary, accessory, and personal wireless facilities:

1. Primary utilities are services and facilities that produce, transmit, carry, store, process or dispose of power, gas, water, sewage, communications (excepting wireless facilities, see below), oil and the like. For example: sewage treatment plants and outfalls, public high-tension utility lines, power generating or transfer stations, gas distribution lines and storage facilities.
2. Accessory utilities are small-scale distribution services directly serving a permitted shoreline use. For example, power, telephone, cable, communication antennas, water, sewer lines, including stormwater systems.
3. Personal wireless facilities meaning any unstaffed facility for the transmission and/or reception of personal wireless services. This can consist of an equipment shelter or cabinet, a support structure or existing structure used to achieve the necessary elevation, and the antenna or antenna array.

~~171.172.~~ _____ Variance

"Variance" is a means to grant relief from the specific bulk, dimensional or performance standards set forth in the applicable master program and not a means to vary a use of a shoreline.

~~172.173.~~ _____ Vegetation Conservation

“Vegetation conservation” includes activities to protect and restore vegetation along or near shorelines that minimize habitat loss and the impact of invasive plants, erosion and flooding and contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species. Vegetation management provisions apply even to those shorelines and uses that are exempt from a permit requirement.

~~173.174.~~ _____ Vessel

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

~~174.175.~~ _____ Water-dependent

"Water-dependent use" means a use or portion of 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 operations. Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, boat ramps and transient moorage, aquaculture, and float plane facilities.

~~175.176.~~ _____ Water-enjoyment

"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 for recreational use or

aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to, parks, piers, view towers, interpretive centers and other improvements facilitating public access to shorelines of the state. General water-enjoyment uses may include but are not limited to restaurants, museums, aquariums, scientific/ecological reserves, resorts and convention centers, and public markets, provided, that such uses conform to the above water-enjoyment specifications and the provisions of the Master Program.

~~176~~.177. _____ Water-oriented

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

~~177~~.178. _____ Non-water-oriented

"Non-water-oriented uses" describes those uses which have little or no relationship to the shoreline and are not considered priority uses under the SMA. Examples include professional offices, automobile sales or repair shops, mini-storage facilities, multi-family residential development, department stores and gas stations.

~~178~~.179. _____ Water Quality

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

~~179~~.180. _____ Water-Related Use

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

1. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
2. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient. Examples include, but should not be limited to, manufacturers of large materials for which transportation cost becomes a significant factor, professional services serving primarily water-dependent activities, warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker and log storage.

~~180~~.181. _____ Watershed Restoration

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

1. A project that involves less than ten miles of streamreach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
2. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
3. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.

~~181.~~182. _____ Watershed Restoration Plan

"Watershed restoration plan" means a plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

~~182.~~183. _____ Weir

"Weir" means a structure in a stream or river for measuring or regulating stream flow.

~~183.~~184. _____ Wetlands

"Wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

Appendix A

Shoreline Restoration Plan

Summary of Changes

The Shoreline Restoration Plan has been revised for the following:

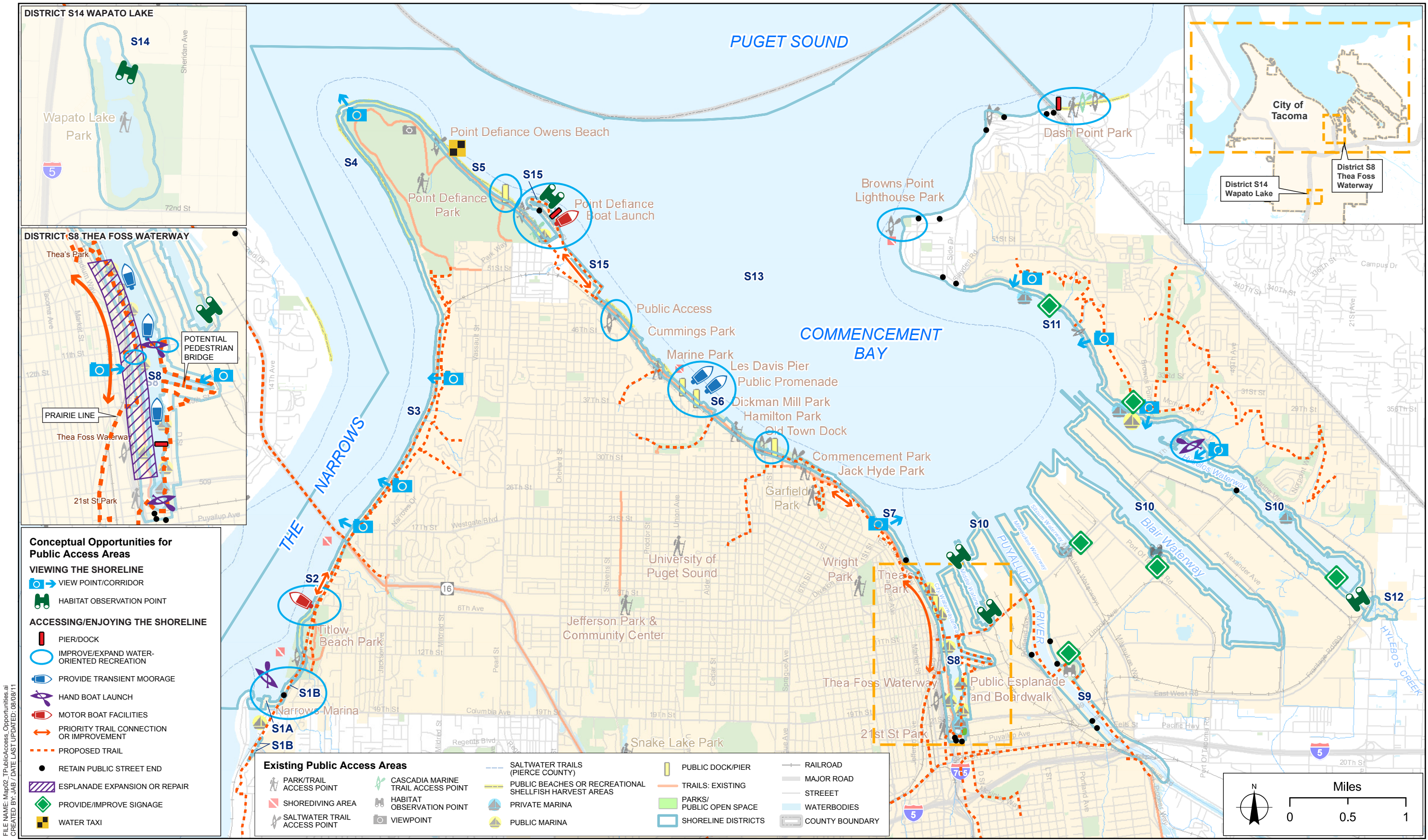
- Water quality objectives related to contaminated sediments were revised to include both removal and 'capping' of sediments as potential management practices. Metrics were revised to include the amount of contaminated sediments removed and capped.
- The goal related to reducing sediment loading in the Puyallup River has been deleted.
- The Shoreline Restoration concept map has been revised to remove the notation identifying the twin 96" stormwater pipes at the head of the Foss Waterway.
- The shoreline restoration maps will be revised to account for the district boundary changes proposed for the S-8 Thea Foss Waterway and the S-7 Schuster Parkway Shoreline Districts.

Public Access Alternatives Plan

Summary of Changes

The Public Access Alternatives Plan has been revised for the following:

- The public access maps have been revised consistent with the recommended district boundary changes for the S-8 Thea Foss Waterway and S-7 Schuster Parkway Shoreline Districts.
- References in the PAAL to specific policies and development regulations in the TSMP will be revised consistent with the recommended draft.
- The public access maps have been revised per comments submitted by the Port of Tacoma to reflect that a new hand launch public access site has been developed by the Port of Tacoma along Marine View Drive. This new addition will be identified in the public access maps and inventory tables.
- The public access maps have been revised to remove specific street ends identified in the S-10 Port Industrial Area Shoreline District that do not have a water or shoreline connection.
- The public access maps have been revised to reflect that the public esplanade requirements on the east side of the Foss Waterway apply only to the south of East 11th Street.



FILE NAME: Map02_PublicAccess_Opportunities.ai
 CREATED BY: JAB / DATE LAST UPDATED: 08/08/11

Map data are the property of the sources listed below. Inaccuracies may exist, and ESA Adolfsen implies no warranties or guarantees regarding any aspect of data depiction.
 SOURCE: Beckwith Consulting, 2001; City of Tacoma GIS, 2006; ESA Adolfsen, 2008; Geo Engineers, 2004; King County, 2005; Pierce County, 2005-2008; TFD, TED, 2008; Wayne Clifford, 2005; WDOH; WDNR, 2007.

| | |
|---|----------------------|
| Section 13.06.502.E Port Maritime and Industrial District Landscaping | M-1, M-2, PMI |
| Applicability | |
| <ul style="list-style-type: none"> • Unless specifically exempted, a landscaping plan shall be provided consistent with this table for all new development of parking areas over 20,000 square feet of gross lot area, for perimeter strips adjacent to arterial street frontages, for street trees, and for buffer plantings abutting R-District property. • Required landscaping and perimeter strips may be substituted with central landscaping, except where necessary to screen an outdoor storage or industrial use from an R-District property. Central landscaping is in equal proportion to that which would have been required and that which can be provided with variations in spacing and/or grouped to accommodate driveways, building entrances, etc. Required landscaping and perimeter strips are those not otherwise exempted by the provisions in this section. | |
| Exemptions | |
| <ul style="list-style-type: none"> • Building remodels are exempt from all landscaping requirements contained in this table. • Building additions and buildings added to sites with existing structures are exempt from the landscaping requirements contained in this table, except for street tree requirements and Buffer Planting Areas. Street trees and Buffer Planting Areas are only required along property lines adjacent to the building addition. If the required Buffer Planting Area cannot be provided because of legally existing development, the maximum possible Buffer Planting Area shall be provided and this area shall be covered with a mixture of trees, shrubs, and groundcover plants. • Required landscaping and perimeter strips may be exempted if demonstrated that such requirement would interfere with adjacent or intersecting railroads, including private spur railroads, existing storm water ditches, or national security requirements, or if demonstrated that there is a 20-foot vertical grade difference between the properties that offers comparable protection. • When there is a 20-foot vertical grade difference between M or PMI District property that is abutting R-District property, no buffer is required along the affected property line if such grade difference is demonstrated to provide comparable protection. • When there is a 20-foot vertical grade difference between M or PMI District property that is located across the street or alley from R-District property or adjacent to R-District property within a mixed-use district center, no buffer is required along the affected property line if such grade difference is demonstrated to provide comparable protection. | |

| Minimum Landscaping Area (unless exempted above) | |
|--|---|
| Overall site | <ul style="list-style-type: none"> • Five percent of parking areas over 20,000 square feet of gross lot area. Not more than 5 percent is required for such parking areas, but this requirement is separate from the required site perimeter strip or buffer plantings. • These landscaped areas shall be covered with a mixture of trees, shrubs, and groundcover plants. • In M-1 districts, all projects adjacent to a developed public street right-of-way are required to plant street trees consistent with the street tree planting requirements detailed below. |
| Site perimeter strip | <ul style="list-style-type: none"> • Perimeter strips may be broken for primary structures and vehicle and pedestrian access crossings. • A minimum 5-foot wide perimeter strip shall be provided along arterial street frontages. • The perimeter strip shall be covered with a mixture of trees, shrubs, and groundcover plants. |
| Buffer Planting Areas. In addition to the intent of the landscaping requirements noted above, buffer planting areas are intended to provide substantial vegetative screening between dissimilar zoning districts to soften visual and aesthetic impacts, (unless exempted above). | |
| M or PMI District property abutting R-District property | <ul style="list-style-type: none"> • A continuous planting area on the required property with a minimum width of 15 feet that contains: • A minimum of 6 trees per 100 lineal feet of abutting property line. • A minimum of 12 shrubs per 100 lineal feet of abutting property line. • Where the property required to provide a buffer is 150 feet or less in depth, measured perpendicularly from the residential parcel, the buffer can be reduced to the minimum 7-foot wide buffer listed below. |
| M or PMI District property across the street or alley from R-District property; or adjacent to R-District property within a mixed-use center | <ul style="list-style-type: none"> • A continuous planting area on the required property with a minimum width of 7 feet that contains: <ul style="list-style-type: none"> • A minimum of 4 trees per 100 lineal feet of abutting property line. • A minimum of 10 shrubs per 100 lineal feet of abutting property line. • Street trees are not required on frontage where a buffer is required, but may be used to satisfy buffer tree requirements. • Buffer planting areas may be broken only for vehicle lanes and/or walkways. • In cases where there is a demonstrated site constraint, the minimum buffer width may be reduced to a minimum 4 feet, with the integration of a continuous site-obscuring fence or vegetated wall. |
| Planting Requirements. These requirements are intended to provide trees of sufficient maturity at planting to provide more immediate mitigation to the site, to provide trees adequate space to avoid damage and continue growth, and to visually break up parking lots, (unless exempted above). | |
| Tree size and quantity | <ul style="list-style-type: none"> • Minimum 1 tree per 1,000 square feet of new parking lot area. • If more trees are needed to meet distribution or street tree requirements, that total is the minimum requirement. |
| Interior landscaping distribution | <ul style="list-style-type: none"> • Trees and planting areas shall be at aisle ends and evenly distributed throughout the new parking lot with no stall more than 50 feet from a tree trunk. • At least 1 tree shall be located within 10 feet of required walkway for each 40 feet of said walkway. |
| Street trees | <ul style="list-style-type: none"> • 3 trees per 100 feet of site street frontage, including buildings; compatible with other trees in the vicinity by variety, species, and planting pattern. • Trees and grates must comply with adopted business area improvement plans and/or the City's Tree Planting Program. |

(Ord. 27893 Ex. A; passed Jun. 15, 2010: Ord. 27818 Ex. A; passed Jul. 28, 2009: Ord. 27771 Ex. C; passed Dec. 9, 2008: Ord. 27296 § 21; passed Nov. 16, 2004: Ord. 27278 § 2; passed Oct. 26, 2004: Ord. 27079 § 33; passed Apr. 29, 2003: Ord. 26947 § 52; passed Apr. 23, 2002: Ord. 26933 § 1; passed Mar. 5, 2002)

| | |
|--|---|
| <u>Section 13.06.502.F Shoreline District Landscaping</u> | <u>All shoreline districts.</u> |
| <u>Applicability</u> | |
| A landscaping plan shall be provided consistent with this table for all new surface parking as outlined below. | |
| <u>Minimum Landscaping Area</u> | |
| <u>Overall site</u> | <ul style="list-style-type: none"> • <u>Surface parking shall be separated from any roadway or property line by a landscaped area at least six feet wide, excluding walks and paths, except that such landscaped areas shall not be required along a property line wherever parking areas divided by said property line shall allow access to the roadway. Such landscaped area shall be counted toward the requirements below.</u> • <u>Contain a minimum of 15 percent landscaping of the parking area (including the interior) if the lot area is less than 20,000 square feet.</u> • <u>Contain a minimum of 20 percent landscaping of the parking area (including the interior) if the lot area is 20,000 square feet or more.</u> • <u>If parking cannot be located on the street/landward side of the building, or within a structure, a minimum landscaped buffer of eight to 10 feet adjacent to the shoreline shall be provided and maintained.</u> • <u>In the S-8 Thea Foss Waterway Shoreline District, landscaping shall additionally be consistent with the Thea Foss Waterway Design Guidelines.</u> |
| <u>Planting Requirements.</u> These requirements are intended to provide trees of sufficient maturity at planting to provide more immediate mitigation to the site, to provide trees adequate space to avoid damage and continue growth, and to visually break up parking lots (unless exempted above). | |
| <u>Tree size and quantity</u> | <ul style="list-style-type: none"> • <u>Contain one medium-growing tree for every 1,500 square feet of parking area.</u> • <u>Be landscaped with canopy-type trees and predominantly evergreen shrubs and groundcover plants.</u> • <u>In the S-8 Thea Foss Waterway Shoreline District, landscaping shall additionally be consistent with the Thea Foss Waterway Design Guidelines.</u> |

13.06.503 Residential transition standards.

The following items are required to help ensure appropriate transitions between non-residential and/or higher intensity development and adjacent residential districts, in terms of building bulk and scale, location of activity areas for privacy and noise reduction, provision of greenspace, and visual separation:

[See table below.]

13.06.602 General restrictions.

A. This section contains general provisions for use, height, area, setbacks and yards. The following provisions apply to all zoning districts, except as hereinafter provided, and except where modified by the provisions of Chapter 13.06A relating to Downtown Districts, Chapter 13.10 relating to Shoreline Management, and other sections of the TMC:

1. No new subdivision, parcel or lot shall be created that prevents compliance with the standards of this or any other applicable Code, Title or standard of the City of Tacoma.

2. Use. Any building, structure, premises, or part thereof, shall be erected, raised, moved, reconstructed, extended, enlarged, or altered; or any land shall be used or occupied; only for the uses or purpose of accommodating the uses permitted in the district in which such building, structure, premises, or land is located, and then only after applying for and securing all permits and licenses required by law and city ordinances. While listed uses may not be varied, dimensional and/or design requirements contained in the additional regulations listed in the use tables may be varied; however, this does not allow uses to be varied.

3. Height. Any building, structure, or portion thereof, hereafter erected, shall not exceed the height limits established for the district wherein such building or structure is located except:

a. As provided in Section 13.06.640 relating to conditional uses.

b. As provided in Section 13.06.645 relating to height variances for residential structures located in the View-Sensitive Districts.

c. Schools, libraries, structures for religious assembly, colleges. In districts with a height limit of 35 feet, these facilities, when permitted as a use, are allowed at a maximum 45 feet in height.

d. Structures, above height limits. Chimneys, tanks, towers, steeples, flagpoles, smokestacks, silos, elevators, fire or parapet walls, and/or similar necessary building appurtenances may exceed the district height limit provided all structural or other requirements of the City of Tacoma are met and no usable floor space above the district height limit is added.

e. Shipping cranes or other freight moving equipment is exempt from height limits.

4. Area, setbacks and yards. Any building or structure hereafter built, enlarged, or moved on a lot shall conform to the area regulations of the district in which such building or structure is located.

a. No lot area, now existing or hereafter established, shall be so reduced or diminished such that the yards, setbacks, open spaces, or total lot area be made smaller than required by the chapter, except in conformity with the regulations of this chapter.

b. Primary access easements shall not be included in the calculation of lot area. As used herein, a primary access easement is the easement that provides the primary vehicular and pedestrian access to a property that does not have frontage on a public right-of-way or to a property that does have frontage on a public right-of-way when such right-of-way is not practicable for use as vehicular or pedestrian access to the property, for reasons such as significant topography.

c. No required yard, setback or other open space, now provided for any building or structure or hereafter provided in compliance with the regulations of this chapter, shall be considered as any part of a yard, setback or open space for any other building or structure, nor shall any yard, setback or open space of abutting property be considered as providing a yard, setback or open space for a building or structure on a lot it abuts, except as specifically allowed, such as for shared yards or common open space.

d. No permit for the construction, alteration, enlarging, or moving of any building or structure shall be granted where it shall appear from the records of the Building Official that the plat, as required by Chapter 13.04, contains any lot or tract of land, or a part of any lot or tract of land previously designated as the plat, or part of the plat, for any building or structure, for the construction, alteration, enlarging, or moving of which a permit has been granted, if the original plat will thereby be reduced to an area which will not comply with the lot area, setback and yard requirements of this chapter.

e. No required setback, yard or other open space shall include any land dedicated, reserved, or set aside for street purposes, or land contained in any primary access easement, except as provided in this chapter.

f. No required setback, yard or other open space shall include any land condemned for or upon which notice of condemnation has been given for public purposes.

g. Side yard setbacks for schools, religious assemblies, and institutions. Public schools, public libraries, religious assemblies, colleges, universities, fraternities, sororities, private clubs, lodges, hospitals, sanitariums, educational institutions, philanthropic institutions, and other institutions, hereafter built in an R-1, R-2, R-3, HMR-SRD, or R-4-L District, shall provide side yard setbacks of not less than 20 feet.

h. Side yard setbacks, institutions in Multiple-Family Dwelling Districts. Side yard setbacks for public schools, public libraries, religious assemblies, colleges, universities, fraternities, sororities, private clubs, lodges, hospitals, sanitariums, educational institutions, philanthropic institutions, and other institutions, hereafter built in an R-4 Multiple-Family Dwelling District, shall be not less than 25 feet in width and, in an R-5 Multiple-Family Dwelling District, not less than 30 feet in width.

i. Side yard setback regulations. For the purpose of side yard setback regulations, townhouse dwellings having common-party walls, shall be considered as one building occupying one lot.

j. Setbacks for group buildings.

(1) In the case of group buildings on one site, including institutions and dwellings, the setbacks on the perimeter of the site or lot shall not be less than required for one building on one lot in the district in which the property is located.

(2) The distance separating buildings, exclusive of accessory buildings, shall not be less than twice the standard side yard setback for the applicable zoning district.

(3) For a building exceeding six stories in height, separation from other buildings on the site shall be increased by one foot in width for each additional story or part thereof that such building exceeds six stories. Where two adjacent buildings on one site both exceed six stories in height, the building separations between them shall be increased by two feet in width for each additional story or part thereof that such buildings exceed six stories.

(4) No multiple-family dwelling court shall be less than 25 feet in width.

(5) In the case of row houses or dwellings rearing on one side yard and fronting upon another, in districts where multiple-family dwellings are permitted, the side yard setback on which dwellings rear shall be increased one foot for each dwelling unit abutting on such side yard, and the side yard setback on which dwellings front shall be not less than 20 feet in width.

k. Rear yard setback includes one-half of alley. In computing the depth of a required rear yard setback, where such setback abuts on an alley, one-half of the width of such alley right-of-way may be assumed to be a portion of such rear yard setback.

l. Through lots. Through lots having a frontage on two streets shall provide the required front yard setback on each street.

m. Projections into required setbacks and yards. Every part of a required setback or yard shall be open, from the ground to the sky, and unobstructed, except for the following:

(1) Accessory building in the required rear yard setback.

(2) Ordinary building projections such as cornices, eaves, belt courses, sills, or similar architectural features, may project into any required yard or setback not more than 24 inches.

(3) Chimneys may project into any required setback not more than 24 inches.

(4) Uncovered balconies or fire escapes may project over a required front or rear yard setback four feet or over a required yard two feet.

(5) Uncovered terraces, platforms, and decks which do not extend above the level of the first floor of the building may project or extend into a required front or rear yard setback not more than eight feet or into a court not more than six feet.

(6) An uncovered landing which does not extend above the level of the first floor of the building may project or extend into a required side yard setback not more than three feet.

(7) Mechanical equipment may encroach 8-feet into the required rear yard setback and may encroach 8-feet into the functional rear yard setback on double-frontage lots (see Section 13.06.100.F.5 regarding “functional rear/front yards”). Mechanical equipment may not be located within a required side yard setback or yard space. The location of mechanical equipment shall not be used in the calculation of average setbacks.

(8) Covered porches which are open on three sides and do not extend above the level of the first floor may project 8-feet into the required front yard setback.

(9) Bay windows, garden windows and fireboxes may extend up to 24-inches into required side yard setbacks, as long as the total of such features does not exceed 25% of the side wall area.

(10) Uncovered, ground level decks (deck surface no more than 30-inches in height from surrounding grade) may occupy up to 50 percent of a required yard and may also extend into required side yard setbacks to within 3-feet of the property line.

n. Lot area modifications for mobile home parks, multiple-family dwellings, retirement homes, apartment hotels, and residential hotels. In the case of a lot which abuts more than one street, computation of lot area may include one-half the area of the second and additional streets so abutting for the purpose of determining the number of mobile home lots or dwelling units, guest rooms, and guest suites that may be permitted on such lot; provided, said streets exceed 50 feet in width; and provided, said total street area so computed shall not exceed 33-1/3 percent of the actual net area of the lot contained within its lot lines.

o. Lot coverage modifications for mobile home parks and multiple-family dwellings, retirement homes, apartment hotels, and residential hotels. In the case of a lot which abuts more than one street, computation of lot area may include one-half the area of the second and additional streets so abutting for the purpose of determining lot coverage for main buildings; provided, such streets exceed 50 feet in width; and provided, such total street area so computed shall not exceed 25 percent of the actual net area of the lot contained within its lot lines.

B. Annexed land. All territory, which may hereafter be annexed to the City of Tacoma and for which no zoning classification has been previously established, shall automatically become an R-1 Single-Family Dwelling District until the Planning Commission shall make a thorough study of the new City area and report its recommendation to the City Council regarding the appropriate changes to the Comprehensive Plan and zoning regulations of the City, to incorporate the newly annexed area into said program and establish the final zoning classification(s) for the annexed area.

C. Split zoning. Whenever a zone boundary line passes through a single unified parcel of land as indicated by record of the Pierce County Auditor as of May 18, 1953, and such parcel is of an area equal to the minimum requirements of either zone, the entire parcel may be used in accordance with the provisions of the least restrictive of the two zones; provided, more than 50 percent of the parcel is located within the least restrictive of the two zones. (Ord. 27893 Ex. A; passed Jun. 15, 2010; Ord. 27818 Ex. A; passed Jul. 28, 2009; Ord. 27813 Ex. D; passed Jun. 30, 2009; Ord. 27771 Ex. C; passed Dec. 9, 2008; Ord. 27432 § 16; passed Nov. 15, 2005; Ord. 27296 § 27; passed Nov. 16, 2004; Ord. 27079 § 46; passed Apr. 29, 2003; Ord. 26966 § 21; passed Jul. 16, 2002; Ord. 26933 § 1; passed Mar. 5, 2002)

D. Shoreline Zoning. The following is applicable only to those portions of Shoreline Districts S-1a, S-6, S-8 and S-15 that are located outside of shoreline jurisdiction, as described in Chapter 9 of the Shoreline Master Program:

1. Permit processing, including discretionary land use permits such as conditional use permits and variances, shall be in accordance with this chapter and the applicable sections of TMC 13.05 – Land Use Permit Procedures.

2. In cases where a proposal is located entirely outside the jurisdiction of the Shoreline Management Act but wholly within the shoreline zoning district, any land use permits required for the use and

development shall be processed in accordance with this Chapter, however the applicable use and development standards of the Master Program shall apply.

3. Policies and development regulations that directly pertain to the goals and objectives of the Act, including water-orientation, no net loss standards, and public access requirements, shall not apply to uses and development occurring under this Chapter and outside the jurisdiction of the Act.

Cumulative Impacts Analysis

Summary of Changes

The Cumulative Impacts Analysis has been revised to accomplish the following:

- To carry forward the recommended shoreline district boundary changes.
- To account for the re-designation of the S-3 Western Slope North Shoreline District as 'natural.'
- To account for the revisions to the marine buffer reduction standards.
- To account for the allowance of log rafting and storage in the S-11 Marine View Drive Shoreline District.



City of Tacoma
Community and Economic Development Department

Agenda Item
GB-4

TO: Planning Commission
FROM: Donna Stenger, Manager, Long-Range Planning Division
SUBJECT: 2012 Annual Amendment Assessment Reports
DATE: August 10, 2011

For the 2012 Annual Amendment to the Comprehensive Plan and Land Use Regulatory Code, the Department did not receive any private applications by the deadline of June 30, 2011. All seven applications that are currently contemplated for inclusion have been initiated by public entities, as indicated below:

- #2011-1 Container Port Element (State mandated)
- #2011-2 Housing Element (City Council resolution)
- #2011-3 Transportation Element (Community and Economic Development and Public Works Departments)
- #2011-4 Sign Code Revisions (Planning Commission request)
- #2012-5 Platting and Subdivision Code Revisions (Community and Economic Development Department)
- #2012-6 Urban Forestry Code Revisions (Public Works Department)
- #2012-7 Minor Amendments and Refinements (Community and Economic Development Department)

The Tacoma Municipal Code sets forth the procedures by which the Planning Commission reviews proposed amendments. These procedures require staff to provide an evaluation of each application using the applicable criteria in the code. The purpose of the evaluation is to assist the Commission in making a determination to accept, deny or modify the proposed amendments.

Attached is a draft assessment report for each of the above applications, along with a brief summary of all of the proposed amendments. Staff will review the reports at your next meeting on August 17, 2011. The Commission will be asked to accept the respective proposed amendments for consideration during the 2012 annual amendment cycle. The reports will also be made available to the public and posted on the City's website.

Also attached is the tentative schedule for review, recommendation, and adoption of the proposed 2012 annual amendments. If you have any questions, please contact Donna Stenger at 591-5210 or dstenger@cityoftacoma.org.

DS

c. Peter Huffman, Assistant Director

Attachments (2)



2012 Annual Amendment to the Comprehensive Plan and Land Use Regulatory Code

DRAFT SCHEDULE
June 23, 2011

| Date | Event |
|----------------------------|--|
| June 30, 2011 | Deadline to submit applications for 2012 Annual Amendment |
| July 20 | Inform Planning Commission of private/other applications received, staff and Commission initiatives, and proposed schedule |
| August 2011 | Planning Commission reviews applications for completeness and determines if proposed amendments meet requirements and are appropriate; the Commission may suggest alternative proposals concerning the proposed amendments or modify the scope of the amendments; Commission acceptance of 2012 application assessment reports |
| August – September 2011 | Provide notice to City Council, Neighborhood Councils and affected taxpayers of accepted applications and conduct community meetings, as applicable |
| September 21 | Planning Commission field trip to site-specific amendments |
| Sept. 2011 – February 2012 | Commission review of individual amendments (potential benefits and impacts, alternatives, consistency with existing plans and laws, etc.) |
| February 1 | Planning Commission authorizes proposed amendments for public review and sets a public hearing date |
| February 8 | Distribution of public notice for Planning Commission public hearing |
| March 7, 2012 | Planning Commission public hearing on draft amendments |
| March 16 | Last day to submit written comments on draft amendments |
| March 21 | Planning Commission discussion of hearing testimony |
| April 4 | Planning Commission discussion of hearing testimony continued |
| April 18 | Planning Commission makes recommendations to City Council |
| May 1 | City Council sets hearing date |
| May 4 | Distribution of public notice for City Council public hearing |
| May 15 | City Council study session on proposed amendments |
| May 22, 2012 | City Council conducts public hearing on proposed amendments |
| June 5 | City Council study session to discuss public testimony & potential changes |
| June 19 | City Council – first reading of ordinance(s) to adopt amendments |
| June 26 | City Council – second reading and adoption of amendments |
| July 6 | Submit final amendments to State |
| August 1, 2012 | Effective date of amendments |



**2012 Annual Amendment
to the Comprehensive Plan and Land Use Regulatory Code**

SUMMARY OF APPLICATIONS
August 10, 2011

| APPLICATION | DESCRIPTION OF AMENDMENT |
|---|---|
| #2012-1: Container Port Element | Adding a Container Port Element to the Comprehensive Plan. This work is mandated by a 2009 addition to the Growth Management Act relating to land use and transportation planning for marine ports in Seattle and Tacoma. The element, which is to be developed in collaboration with the Port of Tacoma, is to: (1) define and protect the core area(s) of container port industrial uses; (2) identify and resolve key land use conflicts at the edges of the core area(s); and (3) ensure access to freight corridors that serve container port industrial uses and recommend necessary transportation improvements. |
| #2012-2: Housing Element Update | Updating the Housing Element to comply with and advance the policy principles as set forth in Resolution No. 38264 (adopted on May 17, 2011). This update also will ensure that the Housing Element remains consistent with the Countywide Planning Policies for Pierce County (CPPs), including its specific affordable housing policies, which were recently amended. |
| #2012-3: Transportation Element Update | Revisions to the Transportation Element, including an update to the Unfunded Transportation Projects List, the prioritization of pedestrian improvements called for in the Mobility Master Plan, which was adopted in 2010, and other minor changes to ensure consistency. |
| #2012-4: Sign Code Revisions | As requested by the Planning Commission, this project is intended to examine specific issues associated with on-site signage, with a particular focus on on-site electronic and/or digital signage. |
| #2012-5: Platting and Subdivision Code Revisions | General update of the Platting and Subdivision Code (Chapter 13.04). This effort will include consideration of the following key issues: <ul style="list-style-type: none">• Improved consistency with state requirements (plat vacations and alterations) and our current permit process• Potential increase in maximum short plat size, together with evaluating public notice and the associated bonding/improvement construction process• Evaluate and update access and connectivity provisions (vehicular and pedestrian/bike)• Reevaluate existing recreational space requirement/fee |
| #2012-6: Urban Forestry Code Revisions | This amendment will explore code changes designed to help implement the policies of the Urban Forestry Element (adopted 2010) and Open Space Habitat and recreation element (adopted 2009). This specific effort is focused on the landscaping requirements contained in the Zoning Code which is limited generally to on-site requirements associated with new development. The project will include a comprehensive evaluation of appropriate landscaping requirements for all types of uses in all districts. |
| #2012-7: Minor Amendments and Refinements | Various minor amendments to the Land Use Regulatory Code and Comprehensive Plan, generally to address inconsistencies, correct minor errors, provide additional clarity, and improve provisions that, through administration and application of the Code and Plan, are found to be unclear or not fully meeting their intent. |



2012 Annual Amendment Application No. 2012-1
Container Port Element

ASSESSMENT REPORT

| | |
|------------------------------------|--|
| Application #: | 2012-1 |
| Applicant: | Community and Economic Development Department |
| Contact: | Ian Munce, 573-2478, imunce@cityoftacoma.org |
| Type of Amendment: | Comprehensive Plan Change |
| Current Land Use Intensity: | High Intensity |
| Current Area Zoning: | PMI-Port Maritime Industrial, M-2 Heavy Industrial, M-1 Light Industrial, and shoreline zoning |
| Size of Area: | Approximately 5,000 acres |
| Location: | Tacoma industrial tideflats and associated freight corridors |
| Neighborhood Council area: | New Tacoma |
| Proposed Amendment: | Adding a new Container Port Element to the Comprehensive Plan |

General Description of the Proposed Amendment:

The proposed amendment is to add a Container Port Element to the Comprehensive Plan. This work is mandated by a 2009 addition to the State Growth Management Act (ESHB 1959) relating to land use and transportation planning for marine ports (Exhibit A). At this time, it is a mandate that only applies to the cities of Seattle and Tacoma. When adopting the new law the Legislature recognized the importance of container ports to not only the local but also the state and the national economies.

The City is required to work cooperatively with the Port of Tacoma in developing the new policy element. According to State law, the Container Port Element is to: (1) define and protect the core area(s) of container port industrial uses; (2) identify and resolve key land use conflicts at the edges of the core area(s); and (3) ensure access to freight corridors that serve container port industrial uses and recommend necessary transportation improvements.

Key policy discussions primarily will relate to land use and transportation planning that addresses the needs of container port industrial uses and associated activities while ensuring a vibrant city waterfront and adjacent neighborhoods. Other additions would address regional policy direction adopted in Vision 2040; the port industrial area is designated as a regional manufacturing/industrial center.

Additional Information:

Both the City and the Port have dedicated significant staff resources for the development of the Container Port Element. Additionally, thanks to funding from the State Department of Commerce, AE Blumen Consulting has assisted with the necessary technical studies and analyses. Finally, work on this Container Port Element is being coordinated with other planning efforts, such as the update to the Shoreline Master

Program, the Tideflats Area Transportation Study, and the Port of Tacoma's Comprehensive Scheme of Harbor Improvements.

This proposed Comprehensive Plan Amendment was initially included in the 2011 Annual Amendment cycle but was postponed until the 2012 cycle in order to allow for further informal discussions between City and Port efficiencies.

Assessment Criteria:

In order to assist the Commission in determining which applications should be considered in which amendment cycle, staff provides an assessment of each application pursuant to the following criteria, which are contained in TMC 13.02.045.F.

1. Determining if the amendment request is legislative, and properly subject to Commission review, or quasi-judicial, and not properly subject to Commission review.

By statutory definition, adoption of this Container Port Element is a legislative action and is squarely within the scope of responsibility of the Planning Commission under TMC 13.02.040.

2. Determining if the request is site-specific (i.e., a land use intensity or a zoning change for a specific parcel(s) likely to be under one ownership).

Adoption of this Container Port Element is not a site specific quasi-judicial action. However, adoption must include designation of 'core areas' of container port operations in the Comprehensive Plan. 'Core areas' are not limited to Port of Tacoma owned lands but rather are geographic areas that may be subject to future area-wide zoning or regulatory changes.

3. Receipt by the application deadline, if applicable (a large volume of requests before the deadline may necessitate that some requests be reviewed in a subsequent amendment cycle).

The Planning Commission was advised of what amounts to a mandatory addition to their work program at their February 17, 2010 meeting.

4. Order of receipt.

N/A

5. Recent study of the same area or issue (this may be cause for the Commission to decline further review).

The Comprehensive Plan designates a Manufacturing/Industrial Center (M/IC) centered on the Tacoma tideflats. The port industrial area also is designated a regional M/IC in Vision 2040. In 2002, a new zoning classification was established – Port Maritime Industrial (PMI) Zone and the majority of the tideflats were reclassified to this new zoning district. The Planning Commission has just completed a review of policies and regulations for shoreline areas which will affect the areas lying 200 feet landward of the ordinary high water mark along the port waterways. Both the Comprehensive Plan policies and the PMI zoning address many of the issues that must be covered under the amendment to the GMA. However, the GMA requires additional analysis and public process to meet State legislative mandates.

The legislation mandates that the Container Port element be completed on the timeline established in

GMA for the required review of comprehensive plan and development regulations. Currently that deadline is June 2015.

6. Amount of analysis necessary (if a large-scale study is required, an application may have to be delayed until a future amendment cycle due to work loads, staffing levels, etc.).

The amount of analysis necessary is set forth in the statute (Exhibit A). Much of this analysis has been completed under a City contract with the State Department of Commerce. This contract provided for consultant services, services provided by AE Blumen, and was matched by City and Port in-kind staff resources.

7. Available incorporation into planned or active projects.

State law requires that a Container Port Element be adopted by the time the City completes its next mandated complete update to its Comprehensive Plan and development regulations, currently required to be completed by June 2015. It is a stand-alone project but one that can be integrated and coordinated with other proposed Plan amendments for 2012; however, since the State mandated deadline has been extended to 2015, the adoption of the proposed element could be scheduled for inclusion in future amendment cycle if conditions warrant such a change.

Recommendation:

The Planning Commission will review the assessment and make its decision as to: (1) whether or not the application is complete or what information is needed to make the application complete; (2) which amendment application(s) will be considered and in which amendment cycle; and (3) whether or not to prepare alternative proposed amendment(s) that either expand or contract the scope of the original proposed amendment (TMC 13.02.045.F).

Staff recommends that the Container Port Element as required by the Growth Management Act be included in the 2012 amendment cycle to ensure that the statutory mandates and timeframes are met.

Exhibit:

A. ESHB 1959 (approved May 15, 2009)

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1959

Chapter 514, Laws of 2009

61st Legislature
2009 Regular Session

MARINE CONTAINER PORTS--USES AND PLANNING

EFFECTIVE DATE: 07/26/09

Passed by the House April 24, 2009
Yeas 94 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 22, 2009
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved May 15, 2009, 2:34 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1959** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 18, 2009

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1959

AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By House Local Government & Housing (originally sponsored by Representatives Simpson, Rodne, Williams, and Armstrong; by request of Governor Gregoire)

READ FIRST TIME 02/20/09.

1 AN ACT Relating to land use and transportation planning for marine
2 container ports; reenacting and amending RCW 47.06.140; adding a new
3 section to chapter 36.70A RCW; and creating new sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington's
6 marine container ports operate within a complex system of marine
7 terminal operations, truck and train transportation corridors, and
8 industrial services that together support a critical amount of our
9 state and national economy, including key parts of our state's
10 manufacturing and agricultural sectors, and directly create thousands
11 of high-wage jobs throughout our region.

12 (2) The legislature further finds that the container port services
13 are increasingly challenged by the conversion of industrial properties
14 to nonindustrial uses, leading to competing and incompatible uses that
15 can hinder port operations, restrict efficient movement of freight, and
16 limit the opportunity for improvements to existing port-related
17 facilities.

18 (3) It is the intent of the legislature to ensure that local land
19 use decisions are made in consideration of the long-term and widespread

1 economic contribution of our international container ports and related
2 industrial lands and transportation systems, and to ensure that
3 container ports continue to function effectively alongside vibrant city
4 waterfronts.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW
6 to read as follows:

7 (1) Comprehensive plans of cities that have a marine container port
8 with annual operating revenues in excess of sixty million dollars
9 within their jurisdiction must include a container port element.

10 (2) Comprehensive plans of cities that include all or part of a
11 port district with annual operating revenues in excess of twenty
12 million dollars may include a marine industrial port element. Prior to
13 adopting a marine industrial port element under this subsection (2),
14 the commission of the applicable port district must adopt a resolution
15 in support of the proposed element.

16 (3) Port elements adopted under subsections (1) and (2) of this
17 section must be developed collaboratively between the city and the
18 applicable port, and must establish policies and programs that:

19 (a) Define and protect the core areas of port and port-related
20 industrial uses within the city;

21 (b) Provide reasonably efficient access to the core area through
22 freight corridors within the city limits; and

23 (c) Identify and resolve key land use conflicts along the edge of
24 the core area, and minimize and mitigate, to the extent practicable,
25 incompatible uses along the edge of the core area.

26 (4) Port elements adopted under subsections (1) and (2) of this
27 section must be:

28 (a) Completed and approved by the city according to the schedule
29 specified in RCW 36.70A.130; and

30 (b) Consistent with the economic development, transportation, and
31 land use elements of the city's comprehensive plan, and consistent with
32 the city's capital facilities plan.

33 (5) In adopting port elements under subsections (1) and (2) of this
34 section, cities and ports must: Ensure that there is consistency
35 between the port elements and the port comprehensive scheme required
36 under chapters 53.20 and 53.25 RCW; and retain sufficient planning
37 flexibility to secure emerging economic opportunities.

1 (6) In developing port elements under subsections (1) and (2) of
2 this section, a city may utilize one or more of the following
3 approaches:

4 (a) Creation of a port overlay district that protects container
5 port uses;

6 (b) Use of industrial land banks;

7 (c) Use of buffers and transition zones between incompatible uses;

8 (d) Use of joint transportation funding agreements;

9 (e) Use of policies to encourage the retention of valuable
10 warehouse and storage facilities;

11 (f) Use of limitations on the location or size, or both, of
12 nonindustrial uses in the core area and surrounding areas; and

13 (g) Use of other approaches by agreement between the city and the
14 port.

15 (7) The department of community, trade, and economic development
16 must provide matching grant funds to cities meeting the requirements of
17 subsection (1) of this section to support development of the required
18 container port element.

19 (8) Any planned improvements identified in port elements adopted
20 under subsections (1) and (2) of this section must be transmitted by
21 the city to the transportation commission for consideration of
22 inclusion in the statewide transportation plan required under RCW
23 47.01.071.

24 **Sec. 3.** RCW 47.06.140 and 2007 c 516 s 11 and 2007 c 512 s 2 are
25 each reenacted and amended to read as follows:

26 (1) The legislature declares the following transportation
27 facilities and services to be of statewide significance: Highways of
28 statewide significance as designated by the legislature under chapter
29 47.05 RCW, the interstate highway system, interregional state principal
30 arterials including ferry connections that serve statewide travel,
31 intercity passenger rail services, intercity high-speed ground
32 transportation, major passenger intermodal terminals excluding all
33 airport facilities and services, the freight railroad system, the
34 Columbia/Snake navigable river system, marine port facilities and
35 services that are related solely to marine activities affecting
36 international and interstate trade, key freight transportation
37 corridors serving these marine port facilities, and high capacity

1 transportation systems serving regions as defined in RCW 81.104.015.
2 The department, in cooperation with regional transportation planning
3 organizations, counties, cities, transit agencies, public ports,
4 private railroad operators, and private transportation providers, as
5 appropriate, shall plan for improvements to transportation facilities
6 and services of statewide significance in the statewide multimodal
7 transportation plan. Improvements to facilities and services of
8 statewide significance identified in the statewide multimodal
9 transportation plan, or to highways of statewide significance
10 designated by the legislature under chapter 47.05 RCW, are essential
11 state public facilities under RCW 36.70A.200.

12 (2) The department of transportation, in consultation with local
13 governments, shall set level of service standards for state highways
14 and state ferry routes of statewide significance. Although the
15 department shall consult with local governments when setting level of
16 service standards, the department retains authority to make final
17 decisions regarding level of service standards for state highways and
18 state ferry routes of statewide significance. In establishing level of
19 service standards for state highways and state ferry routes of
20 statewide significance, the department shall consider the necessary
21 balance between providing for the free interjurisdictional movement of
22 people and goods and the needs of local communities using these
23 facilities. When setting the level of service standards under this
24 section for state ferry routes, the department may allow for a standard
25 that is adjustable for seasonality.

26 NEW SECTION. **Sec. 4.** If specific funding for the purposes of this
27 act, referencing this act by bill or chapter number, is not provided by
28 June 30, 2009, in the omnibus appropriations act, this act is null and
29 void.

Passed by the House April 24, 2009.

Passed by the Senate April 22, 2009.

Approved by the Governor May 15, 2009.

Filed in Office of Secretary of State May 18, 2009.



2012 Annual Amendment Application No. 2012-2
Housing Element

ASSESSMENT REPORT

| | |
|------------------------------------|--|
| Application #: | 2012-2 |
| Applicant: | Community and Economic Development Department |
| Contact: | Ian Munce, 573-2478, imunce@cityoftacoma.org |
| Type of Amendment: | Comprehensive Plan Text Change |
| Current Land Use Intensity: | N/A |
| Current Area Zoning: | N/A |
| Size of Area: | Citywide |
| Location: | Citywide |
| Neighborhood Council area: | All |
| Proposed Amendment: | Amending the Housing Element of the Comprehensive Plan to comply with Resolution No. 38264 and with recently adopted 2011 Countywide Planning Policies on Affordable Housing |

General Description of the Proposed Amendment:

The Comprehensive Plan's Housing Element needs to be updated to comply with and advance the City Council's directive as set forth in Resolution No. 38264, adopted on May 17, 2011 (Exhibit A). This update must also comply with the State Growth Management Act requirements that this work be done in a manner that is consistent with the Countywide Planning Policies for Pierce County (CPPs) taken as a whole and consistent with each of the specific Affordable Housing CPPs. The current version of the Affordable Housing CPPs is attached as Exhibit B (with grey highlighting and strike-out showing the changes adopted and ratified in 2011).

Additional Information:

Resolution No. 38264 directs the Planning Commission to consider 8 policy principles that are the result of work initiated by the City Council's Neighborhood and Housing Committee and the Affordable Housing Policy Advisory Group, a Group initially appointed by City Council on April 27, 2010 and recently reappointed. The Countywide Planning Policies for Pierce County have been updated in response to a Pierce County Regional Council initiative to further affordable housing goals and objectives among all jurisdictions in Pierce County.

Assessment Criteria:

In order to assist the Commission in determining which applications should be considered in which amendment cycle, staff provides an assessment of each application pursuant to the following criteria, which are contained in TMC 13.02.045.F.

- 1. Determining if the amendment request is legislative, and properly subject to Commission review, or quasi-judicial, and not properly subject to Commission review.**

The amendment request is legislative and properly subject to Commission review. Per Resolution

No. 38264, the Planning Commission is requested by the City Council to incorporate the affordable housing policy principles into the City's Comprehensive Plan.

2. Determining if the request is site-specific (i.e., a land use intensity or a zoning change for a specific parcel(s) likely to be under one ownership).

Amending the Housing Element is not a site specific action.

3. Receipt by the application deadline, if applicable (a large volume of requests before the deadline may necessitate that some requests be reviewed in a subsequent amendment cycle).

City Council action was taken prior to June 30, 2011.

4. Order of receipt.

Not applicable.

5. Recent study of the same area or issue (this may be cause for the Commission to decline further review).

Not applicable.

6. Amount of analysis necessary (if a large-scale study is required, an application may have to be delayed until a future amendment cycle due to work loads, staffing levels, etc.).

The Housing Element was last amended in 2007. The proposed scope of review is to evaluate the Housing Element for policy direction to address affordable housing needs with the intent to establish policies that would support future activities, programs and code changes to increase the number of affordable units available in the city. A review of other elements of the Comprehensive Plan also is required to ensure consistency. The Affordable Housing Policy Advisory Group has provided new information on affordable housing needs that can inform this project.

7. Available incorporation into planned or active projects.

Not applicable. This is a standalone project.

Recommendation:

The Planning Commission will review the assessment and make its decision as to: (1) whether or not the application is complete or what information is needed to make the application complete; (2) which amendment application(s) will be considered and in which amendment cycle; and (3) whether or not to prepare alternative proposed amendment(s) that either expand or contract the scope of the original proposed amendment (TMC 13.02.045.F).

Staff recommend that the Planning Commission judge the application to be complete, accept the application for processing in the 2012 cycle, and do not take action at this time to either expand or contract the scope of the original proposed amendment (TMC 13.02.045.F).

Exhibits:

- A. Resolution No. 38264, adopted May 17, 2011, concerning Affordable Housing Policy Principles
- B. 2011 Amendments to the Countywide Planning Policies for Pierce County, concerning Affordable Housing



RESOLUTION NO. 38261

1 BY REQUEST OF DEPUTY MAYOR WALKER AND COUNCIL MEMBERS FEY,
2 LONERGAN, AND MANTHOU

3 A RESOLUTION relating to affordable housing; authorizing the adoption of the
4 Affordable Housing Policy Principles.

5 WHEREAS, throughout 2009, the Neighborhoods and Housing
6 Committee ("Committee") worked to create an affordable housing policy
7 recommendation for the City Council, and

8 WHEREAS, prior to recommending its final draft, the Committee
9 recommended that the City Council pursue additional public feedback, and

10 WHEREAS, on April 27, 2010, the City Council created and appointed
11 an Affordable Housing Policy Advisory Group ("Advisory Group") to perform the
12 following: (1) review the prior work of the Committee's affordable housing
13 policy development process and the work of the Pierce County Housing
14 Affordability Task Force; (2) review demographic data and identify data
15 development needs in order to inform planning efforts; (3) provide input and
16 consultation necessary to refine the Committee's affordable housing policy
17 recommendations; (4) recommend a series of supporting policy actions that are
18 consistent with or complementary to the City's Comprehensive Plan; and
19 (5) build a consensus of Advisory Group members, and

20 WHEREAS, on December 3, 2010, the Advisory Group provided a final
21 report to the Committee, and
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WHEREAS the Committee is in the process of reviewing the recommendations of the Advisory Group and recommends that the City Council adopt the eight policy principles recommended by the Advisory Group in recommendation 3.1 of the report, and

WHEREAS, in summary the policy principles include the following:

A. The City's welfare requires an adequate supply of well-built and well-managed affordable housing serving the full range of incomes appearing among its residents. An adequate supply of this housing is vital to the following important civic needs and values:

- The City's prosperity, economic development, and growth of employment opportunities;
- The appropriate management of the City's projected population growth and transportation needs;
- The City's fulfillment of its legal obligations under the Growth Management Act to make "adequate provisions for existing and projected (housing) needs of all economic segments of the community" and to comply with the related directives of the Pierce County Countywide Planning Policies;
- The survival of green spaces throughout the City and Pierce County;
- The success of the City's schools;
- The effectiveness of the City's emergency services;
- The City's ability to continue its accommodation of a population that is increasingly diverse by income, race, ethnicity, ability, disability, and age;
- The City's ability to accommodate a population that, in the aggregate, is getting older; and
- The City's values of social justice.



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B. Affordable housing developments by nonprofit developers, public and private, in the City, region, and nation have been among the most attractively designed, most environmentally innovative, and best managed in the market place.

C. Nonprofit developments of affordable housing will never likely be adequate to meet the City's needs. The City also needs a companion strategy to enlist the engine of private market rate developments to include a measure of affordable units. These strategies also provide the added benefit of economic and demographic integration.

D. Affordable housing developments have spurred the revitalization of neighborhoods, encouraging both public and private investment, helping the City attain its desired density, and furthering a neighborhood's economic development.

E. Affordable housing is an asset to be encouraged and not a detriment to be tolerated and controlled.

F. The City should promote the development of affordable housing in every City neighborhood.

G. In seeking the appropriate balance, the City should not have to compromise important neighborhood design standards in order to promote affordable housing. Instead, proper design should allow affordable housing to show the way for all developments servicing all incomes toward a greener,



1 more sustainable urban future that accommodates the appropriate density that
2 the City's planning documents anticipate to be necessary for the City's
3 projected population allocations.

4 H. In a complex community like Tacoma, interests and policies often
5 clash. Good governance is the effort to balance them appropriately. In doing
6 so, the City should give a very high priority to the promotion of affordable
7 housing development, and

8 WHEREAS the City Council wishes to include consideration of these
9 policy principles in future updates to the City's Comprehensive Plan,
10 Consolidated Plan, and Human Services Strategic Plan; Now, Therefore,

11 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

12 Section 1. That the City Council hereby adopts the policy principles set
13 out in recommendation 3.1 of the Affordable Housing Policy Advisory Group
14 Final Report, received on December 3, 2010.

15 Section 2. That the City Council requests the Planning Commission, the
16 Tacoma Community Redevelopment Authority, the Human Services
17 Commission, and other appropriate City bodies to incorporate the policy
18 principles into the City's Comprehensive Plan, Consolidated Plan, the Human
19 Services Strategic Plan, and other appropriate policy documents.

20 Section 3. That the City Manager is directed to make available staff from
21 the Tacoma Community and Economic Development Department, the Human
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Rights and Human Services Department, and other General Government
Departments, as may be necessary, to assist the appropriate boards and
commissions in the incorporation of these policy principles.

Adopted MAY 17 2011

Mark Tomblid
Mayor

Attest:

Doris Seum
City Clerk

Approved as to form:

[Signature]
City Attorney

2011 Amendments to the

Countywide Planning Policies (Affordable Housing)

for Pierce County, Washington

**COUNTYWIDE PLANNING POLICY ON THE "NEED
FOR AFFORDABLE HOUSING FOR ALL ECONOMIC SEGMENTS
OF THE POPULATION AND PARAMETERS FOR ITS DISTRIBUTION"**

▪ **Background - Requirement of Growth Management Act**

The Washington Growth Management Act identifies as a planning goal to guide the development and adoption of comprehensive plans and development regulations that counties and cities encourage the availability of affordable housing to all economic segments of the population, promote a variety of residential densities and housing types, and encourage preservation of the existing housing stock. [RCW 36.70A.020(4)] The term "affordable housing" is not defined, but the context in which it appears suggests that its meaning was intended to be broadly construed to refer to housing of varying costs, since the reference is to all economic segments of the community.

The Washington Growth Management Act requires the adoption of countywide planning policies for affordable housing in order to establish a consistent county-wide framework from which county and city comprehensive plans are developed and adopted. These policies are required to, at a minimum, “consider the need for affordable housing, such as housing for all economic segments of the population and parameters for its distribution” [RCW 36.70A.210(3)(e)].

The Washington Growth Management Act also identifies mandatory and optional plan elements. [RCW 36.70A.070 and .080]. A Housing Element is a mandatory plan element that must, at a minimum, include the following [RCW 36.70A.070(2)]:

- (a) an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth;
- (b) a statement of goals, policies and objectives, and mandatory provisions for the preservation, improvement and development of housing, including single-family residences;
- (c) identification of sufficient land for housing, including, but not limited to, government-assisted housing, housing for low income families, manufactured housing, multi-family

housing, group homes, and foster care facilities, and senior housing;

- (d) adequate provisions for existing and projected housing needs of all economic segments of the community.

Since the Comprehensive Plan of every city and county must be an internally consistent document [RCW 36.70A.070] and all plan elements must be consistent with the future land use map prepared as part of the required land use element [RCW 36.70A.070], these other plan elements will, to a great extent, dictate what will be in the housing element.

Thus, the land use element, relying upon estimates of future population, growth, average numbers of persons per household, and land use densities, will indicate how much (and where) land needs to be made available to accommodate the identified housing needs. The capital facilities, transportation and utilities elements will then indicate when and how public facilities will be provided to accommodate the projected housing, by type, density and location.

▪ **Countywide Planning Policy**

1. The County, and each municipality in the County, shall determine the extent of the need (~~i.e., the demand~~) for housing for all economic segments of the population ~~that are, both existing and projected for the community~~ its jurisdiction over the planning period.

~~1.1 the projection shall be made in dwelling units, by type, provided, that the projection may be a range and that the types of dwelling units may be in broad categories, such as single-family detached, single-family attached, duplex, triplex, fourplex, apartments and special housing types;~~

~~1.2 the projection shall be reflective of census or other reliable data indicating the economic segments of the population for whom housing needs to be provided, and shall incorporate the jurisdiction's fair share of the County's housing needs;~~

~~1.3 the projections shall be reflective of the Countywide fair share housing allocation as shall be established pursuant to federal or state law and supplemented by provisions established in intergovernmental agreements between County jurisdictions.~~

- ~~2. The County and each municipality in the County shall meet their projected demand for housing by one or more or all of the following:~~

~~2.1 preservation of the existing housing stock through repair and maintenance, rehabilitation and redevelopment;~~

~~2.2 identification of vacant, infill parcels appropriately zoned for residential development with assurances that neighborhood compatibility and fit will be maintained through appropriate and flexible zoning and related techniques, such as:~~

- 2.2.1 — sliding scale buffering and screening requirements based on adjacent use considerations;
- 2.2.2 — performance standards;
- 2.2.3 — height and bulk limitations;
- 2.2.4 — provision of open space;
- 2.2.5 — front, side and rear yard requirements;
- 2.2.6 — protection of natural resources and environmentally sensitive lands;
- 2.2.7 — architectural controls and design standards.

2.3 — identification of other vacant lands suitable for residential development and permitting sufficient land through zoning to meet one or more or all of the following types and densities, of housing:

- 2.3.1 — multi-family housing
- 2.3.2 — mixed use development
- 2.3.3 — cluster development
- 2.3.4 — planned unit development
- 2.3.5 — non-traditional housing

2.4 — In determining the suitability of the location and identification of sites for affordable housing, the jurisdictions shall consider the availability and proximity of transit facilities, governmental facilities and services and other commercial services necessary to complement the housing.

2. The County, and each municipality in the County, should explore and identify opportunities to reutilize and redevelop existing parcels where rehabilitation of the buildings is not cost-effective, provided the same is consistent with the countywide policy on historic, archaeological, and cultural preservation.

3. The County, and each municipality in the County shall assess their success in meeting the housing demands and shall monitor the achievement of the housing policies not less than once every five years.

3. The County, and each municipality in the County, shall encourage the availability of housing affordable to all economic segments of the population for each jurisdiction.

3.1 For the purpose of the Pierce County Countywide Planning Policies the following definitions shall apply:

3.1.1 “Affordable housing” shall mean the housing affordable to households earning up to 80 percent of the countywide median income.

3.1.2 “Low income households” shall mean households earning 80 percent or less of the countywide median income.

- 3.1.3 “Moderate income households” shall mean households earning 80 to 120 percent of the countywide median income.
 - 3.1.4 “Special Needs Housing” shall mean supportive housing opportunities for populations with specialized requirements, such as the physically and mentally disabled, the elderly, people with medical conditions, the homeless, victims of domestic violence, foster youth, refugees, and others.
 - 3.2 Affordable housing needs not typically met by the private housing market should be addressed through a more coordinated countywide approach/strategy.
 - 3.2.1 Each jurisdiction may adopt plans and policies for meeting its-affordable and moderate income housing needs in a manner that reflects its unique demographic characteristics, comprehensive plan vision and policies, development and infrastructure capacity, location and proximity to job centers, local workforce, and access to transportation.
 - 3.3 It shall be the goal of each jurisdiction in Pierce County that a minimum of 25% of the growth population allocation is satisfied through affordable housing.
- ~~4. The County, and each municipality in the County, shall maximize available local, state and federal funding opportunities and private resources in the development of affordable housing.~~
4. The County and each municipality in the County should establish a countywide program by an organization capable of long-term consistent coordination of regional housing planning, design, development, funding, and housing management. All jurisdictions should be represented in directing the work program and priorities of the organization.
- ~~5. The County, and each municipality in the County, shall explore and identify opportunities for non-profit developers to build affordable housing.~~
5. Jurisdictions should plan to meet their affordable and moderate-income housing needs goal by utilizing a range of strategies that will result in the preservation of existing, and production of new, affordable and moderate-income housing.
 - 5.1 Techniques to preserve existing affordable and moderate-income housing stock may include repair, maintenance, and/or rehabilitation and redevelopment in order to extend the useful life of existing affordable housing units.
 - 5.1.1 Jurisdictions should seek and secure state funds such as the Housing Trust Fund, and federal subsidy funds such as Community Development Block Grant, HOME Investment Partnership, and other sources to implement housing preservation programs.

- 5.2 Jurisdictions should promote the use of reasonable measures and innovative techniques (e.g. clustering, accessory dwelling units, cottage housing, small lots, planned urban developments, and mixed use) to stimulate new higher-density affordable and moderate-income housing stock on residentially-zoned vacant and underutilized parcels.
- 5.3. To promote affordable housing, jurisdictions should consider the availability and proximity of public transportation, governmental and commercial services necessary to support residents' needs.
- 5.4 Jurisdictions should consider providing incentives to developers and builders of affordable housing for moderate- and low-income households, such as but not limited to:
 - 5.4.1 A menu of alternative development regulations (e.g. higher density, reduced lot width/area and reduced parking stalls) in exchange for housing that is ensured to be affordable.
 - 5.4.2 A toolkit of financial incentives (e.g. permit and fee waivers or multi-family tax exemptions) and grant writing assistance, through the regional housing organization, that may be dependent on the amount of affordable housing proposed.
 - 5.4.3 A toolkit of technical assistance (e.g. mapping, expedited processing and permit approval) to affordable housing developers that may be dependent on the amount of affordable housing proposed.
- 5.5 Jurisdictions should consider inclusionary zoning measures as a condition of major rezones and development.
 - 5.5.1 New fully contained communities in unincorporated Pierce County shall contain a mix of dwelling units to provide for the affordable and moderate-income housing needs that will be created as a result of the development.
6. The County, and each municipality in the County, should cooperatively maximize available local, state, and federal funding opportunities and private resources in the development of affordable housing for households.
 - 6.1 All jurisdictions should jointly explore opportunities to develop a countywide funding mechanism and the potential for both voter approved measures (bond or levy), and nonvoter approved sources of revenue to support the development of affordable housing.
 - 6.2 All jurisdictions should pursue state legislative changes to give local jurisdictions the authority to provide tax relief to developers of affordable housing.

- 6.3 All jurisdictions should explore opportunities to dedicate revenues from sales of publicly owned properties, including tax title sales, to affordable housing projects.
- 6.4 All jurisdictions should explore the feasibility of additional resources to facilitate the development of affordable housing such as a new countywide organization (based on inter-local agreements), expansion of existing non-profit partnerships, increased coordination with local public housing authorities, a county-wide land trust, as well as future involvement of larger County employers, in the provision of housing assistance for their workers.
67. The County, and each municipality in the County, should explore and identify opportunities ~~to reutilize and redevelop existing parcels where rehabilitation of the buildings is not cost effective, provided the same is consistent with the Countywide policy on historic, archaeological and cultural preservation~~ to reduce land costs for non-profit and for-profit developers to build affordable housing.
- 7.1 Jurisdictions should explore options to dedicate or make available below market-rate surplus land for affordable housing projects.
- 7.2 All jurisdictions should explore and identify opportunities to assemble, reutilize, and redevelop existing parcels.
7. ~~New fully contained communities shall comply with the requirements set forth in the Growth Management Act and shall contain a mix in the range of dwelling units to provide their "fair share" of the Countywide housing need for all segments of the population that are projected for the County over the planning period.~~
8. The County, and each municipality in the County, shall periodically monitor and assess their success in meeting the housing needs to accommodate their 20-year population allocation.
- 8.1 Jurisdictions should utilize the available data and analyses provided by federal, state, and local sources to monitor their progress in meeting housing demand as part of the required Growth Management Act comprehensive plan update process.
- 8.2 Countywide housing allocations shall be periodically monitored and evaluated to determine if countywide needs are being adequately met; the evaluation should identify all regulatory and financial measures taken to address the allocation need.
- 8.3 Each jurisdiction should provide, if available, the quantity of affordable housing units created, preserved, or rehabilitated since the previous required update.
- 8.4 Jurisdictions should consider using a consistent reporting template for their

evaluations to facilitate the countywide monitoring and assessment.

8.5 In conjunction with the Growth Management Act Update schedule, a report should be forwarded to the Pierce County Regional Council addressing the progress in developing new affordable housing.



2012 Annual Amendment Application No. 2012-3
Transportation Element

ASSESSMENT REPORT

| | |
|------------------------------------|--|
| Application #: | 2012-3 |
| Applicant: | Community and Economic Development Department / Public Works Department |
| Contact: | Diane Wiatr, 591-5380, dwiatr@cityoftacoma.org / Jennifer Kammerzell, 591-5511, jkammerzell@cityoftacoma.org |
| Type of Amendment: | Comprehensive Plan Text Change and Map Updates |
| Current Land Use Intensity: | N/A |
| Current Area Zoning: | N/A |
| Size of Area: | Citywide |
| Location: | Citywide |
| Neighborhood Council area: | All |
| Proposed Amendment: | Amend the Transportation Element of the Comprehensive Plan to update the Mobility Master Plan section and to add new projects to the Unfunded Project List. |

General Description of the Proposed Amendment:

Proposed are amendments to the Transportation Element of the Comprehensive Plan, including the following two components:

1. Mobility Master Plan Section:

Update the Mobility Master Plan section to (a) keep information current and address consistency among text, maps and project lists; (b) reprioritize bicycle improvement projects as listed in Table 2 – Short Term Bicycle Project Priority List; and (c) prioritize pedestrian improvement projects as listed in Table 3 – Proposed Sidewalk Improvements and as listed in the subsection of Intersection Improvement Recommendations.

2. Unfunded Project List:

Update the “Long-Term Transportation Improvement Projects List – Unfunded” by adding new projects in the Neighborhood Actions Strategies category (See Exhibit A).

Additional Information:

The Mobility Master Plan section of the Transportation Element, approved by City Council on June 15, 2010, provides a vision, policies and an implementation strategy for how the City of Tacoma can improve conditions for bicycling and walking citywide over the next fifteen years. It moves the City towards social, economic and environmental sustainability and serves as a cornerstone for Tacoma’s climate

action goals. It is critical that the information contained in the Mobility Master Plan section is kept current and the recommended projects are adequately prioritized for implementation. The proposed amendments to this section are at the request of the Bicycle and Pedestrian Action Committee, which is a citizen-based group established to assist the City in implementing the Mobility Master Plan.

The Unfunded Project List of the Transportation Element reflects the desires of the community and exemplifies the City's intent to maintain the service level of the transportation system citywide and meet the concurrency requirements of the Growth Management Act. The proposed amendment to the Unfunded Project List for 2012 includes project ideas submitted by various Neighborhood Councils that have come about through their update process of each Neighborhood Council Action Strategy completed this spring. An initial screening of the project ideas suggests that these projects do not meet the selection criteria for inclusion into the Six-Year Comprehensive Transportation Program, but should be considered for inclusion in the Unfunded Project List to gain eligibility for future funding. When funding becomes available, unfunded projects may be selected and moved to the Six-Year Program for detailed budgeting and implementation.

Assessment Criteria:

In order to assist the Commission in determining which applications should be considered in which amendment cycle, staff provides an assessment of each application pursuant to the following criteria, which are contained in TMC 13.02.045.F.

1. Determining if the amendment request is legislative, and properly subject to Commission review, or quasi-judicial, and not properly subject to Commission review.

Amending the Transportation Element of the Comprehensive Plan is a legislative action and the primary responsibility of the Planning Commission.

2. Determining if the request is site-specific (i.e., a land use intensity or a zoning change for a specific parcel(s) likely to be under one ownership).

Pedestrian and bikeways projects in the Mobility Master Plan section and projects contained in the Unfunded Projects List involve various streets, public rights-of-way and intersection locations. However, they are not pertaining to site-specific land use intensity changes or rezones.

3. Receipt by the application deadline, if applicable (a large volume of requests before the deadline may necessitate that some requests be reviewed in a subsequent amendment cycle).

All of the proposed amendments were identified by June 30, 2011.

4. Order of receipt.

Not applicable.

5. Recent study of the same area or issue (this may be cause for the Commission to decline further review).

The proposed amendments have not been reviewed by the Planning Commission.

6. Amount of analysis necessary (if a large-scale study is required, an application may have to be delayed until a future amendment cycle due to work loads, staffing levels, etc.).

Updating and revising text and maps of the Mobility Master Plan section is expected to be modest. Prioritization of the Pedestrian List will require review by the Bicycle and Pedestrian Action Committee (BPAC) to develop criteria to determine ranking as well as public review. Updating the Short Term Bicycle Project Priority List will also require review by the BPAC as well as public review.

For the Unfunded Projects, the analysis is expected to be modest and will focus on evaluating the characteristics of the projects to determine if they are consistent with and implement the policy intents of the Comprehensive Plan.

7. Available incorporation into planned or active projects.

There are currently no other planned or active projects that the proposed amendment could be incorporated into.

Recommendation:

The Planning Commission will review the assessment and make its decision as to: (1) whether or not the application is complete or what information is needed to make the application complete; (2) which amendment application(s) will be considered and in which amendment cycle; and (3) whether or not to prepare alternative proposed amendment(s) that either expand or contract the scope of the original proposed amendment (TMC 13.02.045.F).

Staff recommends that the proposed amendments to the Transportation Element be included as part of the 2012 Annual Amendment to the Comprehensive Plan and Land Use Regulatory Code.

Exhibit:

- A. Proposed Unfunded Project List Update

Exhibit A. Project Requests for the Transportation Element Unfunded List

| Proposed Project | Requested by (Neighborhood Council)* | Proposed Change to the Transportation Element |
|---|---|---|
| 1. Browns Point Blvd – Complete sidewalks along at least one side of Browns Point Blvd from 33 rd Street NE to intersection with Norpoint Way near 21 st Ave NE with priorities between Crescent Heights to Norpoint Way, Norpoint Way to 51 st St NE, Howard’s Corner to McMurray Rd, and 51 st St NE to the north end of Norpoint Way NE. | Northeast | Add as new NAS* Project |
| 2. SR509 and Slayden Road Intersection – Install traffic control devices on all legs of the intersection to improve access and intersection movements. | Northeast | Add as new NAS Project |
| 3. Northshore Parkway from Nassau to Norpoint Way - Provide uphill (eastbound) passing lane, bike lanes, sidewalks on north side, landscaping between Nassau and Norpoint Way, and evaluate signal at 45 th Ave NE and/or 42 nd Ave NE | Northeast | Amend NAS Project, “Northshore Parkway from Nassau to Norpoint Way” |
| 4. McMurray Road from Marine View Drive to Browns Point Blvd – Install streetlights and sidewalk on at least one side | Northeast | Add as new NAS Project |
| 5. 45 th Street NE from Nassau Ave NE to Norpoint Way – Install pedestrian protected crosswalk | Northeast | Add as new NAS Project |
| 6. Jackson Ave from S 19 th St to SR 16 – Install traffic calming devices | West End | Add as new NAS Project |
| 7. N 23 rd St and Shirley St – Install a roundabout or traffic calming devices near the intersection for pedestrians crossing to Kandle Park | West End | Add as new NAS Project |
| 8. South Tacoma Gateways – Install streetscape improvements at all arterial entryways to the South Tacoma Neighborhood Council area | South Tacoma | Add as new NAS Project |
| 9. S 60 th from Oakes to Pine Street – Install sidewalk | South Tacoma | Add as new NAS Project |
| 10. Washington Street from S 54 th to S 58 th Street – Improve existing sidewalk and add separation between on-street parking | South Tacoma | Add as new NAS Project |
| 11. South Tacoma Sound Transit Station – Complete sidewalks along S 58 th and S 60 th to connect to South Tacoma Way | South Tacoma | Add as new NAS Project |
| 12. S 68 th St between S Mullen and S Gove St – Install sidewalks on the north side | South Tacoma | Add as new NAS Project |
| 13. S 60 th at Lawrence, Montgomery, and Alder St – Install ADA ramps at each intersection. | South Tacoma | Add as new NAS Project |

| Proposed Project | Requested by (Neighborhood Council)* | Proposed Change to the Transportation Element |
|--|---|---|
| 14. McKinley Hill to downtown Tacoma – Complete sidewalks | Eastside | Add as new NAS Project |
| 15. Residential areas located just north of the intersections of East 38 th and Howe and East 38 th and K Streets – Install streetlights and pedestrian improvements, such as crosswalks | Eastside | Add as new NAS Project |
| 16. E 54 th St from Pacific Ave to Bell St – Street improvements | Eastside | Add as new NAS Project |
| 17. Railroad Crossings at E 48 th and E 52 nd – Improve roadway over railroad tracks | Eastside | Add as new NAS Project |
| 18. N 21 st from Proctor to Pearl St – Complete sidewalk network | North End | Replace NAS, “N 21 st (Orchard to Huson, Bennett; Baltimore to Villard; Highland alley) |
| 19. Pedestrian overpass between Old Town Business District and Ruston Way – Grade separated pedestrian link over the rail lines | North End | Add as new NAS Project |
| 20. N 29 th Crossing between White and Carr St – Install pedestrian crossing/connection between Ursich Park and Old Town Park | North End | Add as new NAS Project |
| 21. North 9 th and North 11 th St – Rehabilitate cobblestone streets | North End | Add as new NAS Project |
| 22. N Steele and M St – Install historic style streetlights | North End | Add as new NAS Project |
| 23. Sprague Ave from SR 16 to S 19 th St – Install streetscape improvements at entryway | Central | Add as new NAS Project |
| 24. 6 th Avenue from Sprague to Alder St – Complete sidewalk network and provide crosswalks | Central | Add as new NAS Project |
| 25. Union Ave between SR 16 and S 23 rd St – Complete sidewalk network and provide crosswalk between shopping center and Senior Center | Central | Add as new NAS Project |
| 26. S 15 th , S 19 th , Prospect, and Trafton St – Provide street improvements to unimproved streets in this area. | Central | Add as new NAS Project |

Notes:

- NAS = Neighborhood Action Strategy
- The New Tacoma and South End Neighborhood Councils had no changes to the previous Transportation Action Strategies.



2012 Annual Amendment Application No. 2012-4
Sign Code Revisions

ASSESSMENT REPORT

| | |
|------------------------------------|---|
| Application #: | 2012-4 |
| Applicant: | Community & Economic Development Dept. |
| Contact: | Shirley Schultz, 591-5121, shirley.schultz@cityoftacoma.org |
| Type of Amendment: | Regulatory Code Text Change |
| Current Land Use Intensity: | City-Wide |
| Current Area Zoning: | City-Wide |
| Size of Area: | City-Wide |
| Location: | City-Wide |
| Neighborhood Council area: | All |
| Proposed Amendment: | Amendment to the sign code to address digital signs, consistency, and clarity of sign code, reformatting for ease of administration |

General Description of the Proposed Amendment:

Proposed are amendments to the sign code, TMC 13.06.520, 13.06.521, and 13.06.522. The primary purpose of the proposal is to address electrical on-premise changing message signs – including digital and LED signage. In addition, changes may be proposed to ensure consistency and clarity in the sign code, including, potentially, revisions to the signage allowance tables, changes to the definitions section, and clarifications of sign types. Sections may be added or modified to ensure consistency with other sections of the TMC (such as the Shoreline Master Program).

The need for updated regulations regarding electronic signage became clear during the Planning Commission’s study of digital billboards (off-premises signs); concern was raised both by Commission members and the public during the review of the billboard ordinance.

Additional Information:

The Planning Commission addressed digital billboards from December 2010 to May 2011 at the request of the City Council. The Commission developed a public review draft of proposed zoning code changes which would allow a limited number of digital billboards in exchange for the removal of a substantial number of standard billboards and billboard relocation permits. The public reaction to the code was predominately negative – aside from aesthetic reasons, the primary reason that citizens were opposed to digital billboards was due to safety concerns related to driver distraction.

The Planning Commission noted the same concerns: changing message signs had the potential to distract both drivers and pedestrians and create safety hazards, and they also presented aesthetic impacts that weren’t desirable in the city. They further found that these same concerns could be noted for on-premise signs, and in their Findings and Recommendations Report to the City Council recommended that on-premise changing message signs be addressed in the 2012 Annual Amendment.

Of note, several performance standards were discussed for digital billboards, that may be considered for on-premise electronic signs:

- Static image time (the length of time a message must be displayed)
- Transition time (the amount of time between messages)
- Animation (moving text or graphics)
- Brightness (maximum light, whether it is adjusted for day or night)
- “Off” time (hours of operation)
- Default settings (turning the sign off in case of malfunction)

Following is a summary of sign permits in the City of Tacoma from the last five years, noting which signs are electronic changing message signs.

| Summary of Sign Permits - January 2006 to July 2011 | |
|--|-----|
| Number of sign Permits: | 966 |
| Number of replacements, copy only: | 24 |
| Number of illuminated signs (includes digital/electronic): | 741 |
| Number of non-illuminated signs: | 198 |

Assessment Criteria:

In order to assist the Commission in determining which applications should be considered in which amendment cycle, staff provides an assessment of each application pursuant to the following criteria, which are contained in TMC 13.02.045.F.

1. Determining if the amendment request is legislative, and properly subject to Commission review, or quasi-judicial, and not properly subject to Commission review.

The duties and responsibilities of the Planning Commission include development, review, and revision of the *Comprehensive Plan*, including goals and policies therein, along with the development and review of development regulations. Chapter 13.06 Zoning of the *Tacoma Municipal Code* applies to all development within the City of Tacoma and is thus very broad in its scope. Sections 13.06.520-522 apply to signage within the city.

2. Determining if the request is site-specific (i.e., a land use intensity or a zoning change for a specific parcel(s) likely to be under one ownership).

The proposal is not site-specific. The proposed amendments would apply to all signage in the City.

3. Receipt by the application deadline, if applicable (a large volume of requests before the deadline may necessitate that some requests be reviewed in a subsequent amendment cycle).

The Planning Commission requested review in May 2011 as part of their recommendation to the City Council concerning billboard regulations.

4. Order of receipt.

N/A

5. Recent study of the same area or issue (this may be cause for the Commission to decline further review).

The Planning Commission studied the related issue of digital off-premise signs from December 2010 to May 2011. During that review, the Commission found that many of the same concerns regarding digital off-premises signs were also pertinent to on-premise electronic signs. The scope of the previous Commission review was limited to off-premise signs; therefore the Commission recommended addressing this subject during the 2011-2012 amendment cycle.

6. Amount of analysis necessary (if a large-scale study is required, an application may have to be delayed until a future amendment cycle due to work loads, staffing levels, etc.).

Depending on the ultimate scope of work, the amount of analysis is expected to be moderate, and staff time has been allocated to the project. If the scope is expanded beyond electronic on-premise signs, the code amendments may need to be removed from the annual amendment package and schedule and proceed on an independent extended timeline. Certain questions regarding performance standards for electronic signs remain unanswered (e.g., the ideal static image time given road speeds). Consultant input may be necessary if research of existing sources proves inadequate. Benchmarking will be conducted and it's likely that stakeholder review will need to occur.

7. Available incorporation into planned or active projects.

This request is largely independent of other requests before the Planning Commission. It may incorporate other code changes and projects – for instance, it may include information from the Shoreline Master Program Update and may incorporate future neighborhood planning activities.

Recommendation:

The Planning Commission will review the assessment and make its decision as to: (1) whether or not the application is complete or what information is needed to make the application complete; (2) which amendment application(s) will be considered and in which amendment cycle; and (3) whether or not to prepare alternative proposed amendment(s) that either expand or contract the scope of the original proposed amendment (TMC 13.02.045.F).

Staff recommends that the application be considered as part of the 2011 Annual Amendment.



2012 Annual Amendment Application No. 2012-5
Platting and Subdivision Code Revisions

ASSESSMENT REPORT

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|------------------------------------|--|
| Application #: | 2012-5 |
| Applicant: | Community & Economic Development Department |
| Contact: | John Harrington, 591-2069, jharring@cityoftacoma.org |
| Type of Amendment: | Regulatory Code Text Change |
| Current Land Use Intensity: | Various |
| Current Area Zoning: | Various |
| Size of Area: | City-wide |
| Location: | City-wide |
| Neighborhood Council area: | City-wide |
| Proposed Amendment: | General update of the Platting and Subdivision Code, Chapter 13.04 of the <i>Tacoma Municipal Code (TMC)</i> |

General Description of the Proposed Amendment:

The proposed amendment will revise the Land Use Regulatory Code, Chapter 13.04 – Platting and Subdivisions, and associated sections in Chapter 13.05 – Land Use Permit Procedures. The update will improve consistency with state regulations and the current permit review and development process while refining and simplifying code language, evaluating plat procedures and requirements for efficiency and effectiveness, and ensuring implementation of Comprehensive Plan policies.

Notable issues to be reviewed include:

- Increasing the maximum number of lots permitted in a short plat from four lots to nine lots in order to streamline the permitting process and reduce procedural requirements;
- Introduction of a public notice requirement for short subdivisions which would afford neighboring property owners the ability to provide input and the right to appeal a Land Use Administrator decision;
- Enhancement and clarification of the current plat bonding process and the potential requirement of improvements associated with subdivisions to be complete prior to finalization;
- Improved plat connectivity for pedestrians and vehicles and the evaluation of current plat requirements as they relate to the transportation network; and
- Adding sections specifying procedures for the vacation and alteration of subdivisions and short plats.
- Evaluation of existing Comprehensive Plan policies related to platting.

Assessment Criteria:

In order to assist the Commission in determining which applications should be considered in which amendment cycle, staff provides an assessment of each application pursuant to the following criteria, which are contained in TMC 13.02.045.F.

1. Determining if the amendment request is legislative, and properly subject to Commission review, or quasi-judicial, and not properly subject to Commission review.

The adoption of changes to the *TMC* Chapter 13.04 is a legislative action and is within the scope of responsibility of the Planning Commission under *TMC* 13.02.040.

2. Determining if the request is site-specific (i.e., a land use intensity or a zoning change for a specific parcel(s) likely to be under one ownership).

The adoption of this amendment will not be site-specific. *TMC* Chapter 13.04 – Platting and Subdivisions is applicable city-wide.

3. Receipt by the application deadline, if applicable (a large volume of requests before the deadline may necessitate that some requests be reviewed in a subsequent amendment cycle).

Not applicable. The Planning Commission was advised of this proposed amendment on June 15, 2011.

4. Order of receipt.

Not applicable.

5. Recent study of the same area or issue (this may be cause for the Commission to decline further review).

Over the past few years the Commission has reviewed minor amendments to Chapter 13.04 which reflected administrative and organizational changes and to maintain consistency with changes made to *TMC* Chapter 13.06 – Zoning. An in-depth review and update of the Platting and Subdivision chapter has not been undertaken since 1994.

6. Amount of analysis necessary (if a large-scale study is required, an application may have to be delayed until a future amendment cycle due to work loads, staffing levels, etc.).

Based on the current, limited scope, this project is anticipated to require a moderate amount of analysis and study. Planning staff in Building and Land Use Services have formed a working group to develop the scope of the proposed amendments, conduct analysis, and provide preliminary recommendations to the Commission. This group meets weekly to review progress and coordinate on public outreach and also meets regularly with the Land Use Administrator and senior management in BLUS.

7. Available incorporation into planned or active projects.

There are no other active projects in which to incorporate this update.

Recommendation:

The Planning Commission will review the assessment and make its decision as to: (1) whether or not the application is complete or what information is needed to make the application complete; (2) which amendment application(s) will be considered and in which amendment cycle; and (3) whether or not to prepare alternative proposed amendment(s) that either expand or contract the scope of the original proposed amendment (TMC 13.02.045.F).

Staff recommends that the general update of the Platting and Subdivision Code, Chapter 13.04 of the TMC and associated sections of Chapter 13.05, be included as part of the 2012 Annual Amendment. This project will help ensure consistency with state requirements, improve the administration and application of the code, and support continued and improved property development.



2012 Annual Amendment Application No. 2012-6
Urban Forestry Code Update

ASSESSMENT REPORT

| | |
|------------------------------------|--|
| Application #: | 2012-6 |
| Applicant: | Public Works Department, Science and Engineering |
| Contact: | Ramie Pierce, 591-2048, rpierce2@cityoftacoma.org |
| Type of Amendment: | Regulatory Code Text Change |
| Current Land Use Intensity: | N/A |
| Current Area Zoning: | N/A |
| Size of Area: | Citywide |
| Location: | Citywide |
| Neighborhood Council area: | All |
| Proposed Amendment: | Amendment to Title 13 Land Use Regulatory Code section pertaining to landscaping and vegetation |

General Description of the Proposed Amendment:

The proposed amendment to the Tacoma Municipal Code (TMC) Title 13 Land Use Regulatory Code is intended to implement the policy guidance of the Urban Forest Policy (UFP) and Open Space Habitat and Recreation (OSHR) elements of the Comprehensive Plan. The primary focus of this effort is on the landscaping code, while associated changes to other code sections may also be considered.

This code amendment is one of several actions being undertaken by the Environmental Services Division through the Urban Forestry Program to implement the policy direction of the two elements of the Comprehensive Plan. Other steps include amendments to other parts of the Municipal Code pertaining to the public right-of-way (through development of a proposed new Title 18 dedicated to Urban Forestry), development of technical guidance with the Urban Forestry Manual, providing incentives, education and outreach, and conducting a city-wide urban forest assessment.

Key policy issues to be considered include:

- 1) 30% city-wide canopy cover vision as established in the UFP,
- 2) Flexible regulations based upon land use (Policies UF-14, UF-PR-2),
- 3) Regulatory incentives and credits (Policy UF-EO-3), such as for green roof installation (Policy UF-S-8);
- 4) Landscape Maintenance Management Plans (Policies UF-PCM-9&10); and
- 5) Align landscape regulations to promote the integration of low impact development stormwater management techniques (Policy UF-PD-5).

In addition to amending the regulatory code to address the above policies, the proposed amendment would also seek to address the following:

- 1) Reformatting landscaping provisions contained in TMC Section 13.06.502 B-E to make it more user-friendly and easy to understand.
- 2) Review of other code sections which can affect or interact with landscaping and the proposed urban forestry code (such as parking and building design), for consistency with the policy intent.
- 3) Ensure consistency with the proposed Title 18 Urban Forestry and other aspects of the Urban Forestry Program.
- 4) Consider moving some of the more technical and specific standards from TMC regulations to the Urban Forest Manual.

Due to the above considerations, amendments may also be needed to two additional chapters of TMC, i.e., 13.04 Platting and Subdivisions, and 13.06A Downtown Tacoma.

Assessment Criteria:

In order to assist the Commission in determining which applications should be considered in which amendment cycle, staff provides an assessment of each application pursuant to the following criteria, which are contained in TMC 13.02.045.F.

1. Determining if the amendment request is legislative, and properly subject to Commission review, or quasi-judicial, and not properly subject to Commission review.

By statutory definition, amendment of development regulations is a legislative action and is squarely within the scope of responsibility of the Planning Commission under *TMC* 13.02.040.

2. Determining if the request is site-specific (i.e., a land use intensity or a zoning change for a specific parcel(s) likely to be under one ownership).

Amending the Regulatory Code is not a site-specific quasi-judicial action.

3. Receipt by the application deadline, if applicable (a large volume of requests before the deadline may necessitate that some requests be reviewed in a subsequent amendment cycle).

This application is staff generated and was submitted prior to the application deadline.

4. Order of receipt.

N/A

5. Recent study of the same area or issue (this may be cause for the Commission to decline further review).

In 2008 and 2009, the Planning Commission oversaw the development of the Open Space Habitat and Recreation Element and the Urban Forest Policy Element, respectively. Many of the issues to be addressed in the proposed code changes were discussed as part of developing the policy in these two elements.

6. Amount of analysis necessary (if a large-scale study is required, an application may have to be delayed until a future amendment cycle due to work loads, staffing levels, etc.).

This proposal will involve a significant amount of work and public outreach. However, the policy issues have previously been widely vetted and Council direction has already been given through the adoption of the two Comprehensive Plan elements. Therefore the workload for this project is anticipated to be within the typical range for amendment applications.

7. Available incorporation into planned or active projects.

This amendment is appropriate to move ahead independent of any other current policy initiative. In fact, the proposal already consolidates at least two previous policy initiatives into one package. Furthermore, this effort is timely and will be closely coordinated with the development of the proposed new Title 18 Urban Forestry.

Recommendation:

The Planning Commission will review the assessment and make its decision as to: (1) whether or not the application is complete or what information is needed to make the application complete; (2) which amendment application(s) will be considered and in which amendment cycle; and (3) whether or not to prepare alternative proposed amendment(s) that either expand or contract the scope of the original proposed amendment (TMC 13.02.045.F).

Based on the analysis above, staff recommends that this application be considered as part of the 2012 Annual Amendment cycle.



2012 Annual Amendment Application No. 2012-7
Minor Amendments and Refinements

ASSESSMENT REPORT

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|------------------------------------|---|
| Application #: | 2012-7 |
| Applicant: | City of Tacoma, Community & Economic Development Dept. |
| Contact: | Brian Boudet, 573-2389, bboudet@cityoftacoma.org |
| Type of Amendment: | Regulatory Code Text Changes Comprehensive Plan Map and Text Changes |
| Current Land Use Intensity: | Various |
| Current Area Zoning: | Various |
| Size of Area: | City-wide |
| Location: | City-wide |
| Neighborhood Council area: | City-wide |
| Proposed Amendment: | Various amendments to the Land Use Regulatory Code and Comprehensive Plan to address inconsistencies, correct minor errors, and provide additional clarity. |

General Description of the Proposed Amendment:

The proposed amendments involve general text corrections and minor amendments to the Land Use Regulatory Code as well as technical text and map corrections to the Comprehensive Plan. These minor amendments are intended to address inconsistencies, correct errors, and improve provisions that, through administration and application of the Zoning Code and Comprehensive Plan, are found to be unclear or not fully meeting their intent.

A preliminary summary of the proposed amendments is as follows:

Modifications to Chapter 13.06 – Zoning, including:

- Improve and clarify the nonconforming section, including how it addresses rebuilding nonconforming uses that are destroyed, changes to existing nonconforming uses, verification of nonconforming rights, and pre-existing conditional uses.
- Modify the regulations associated with certain types of community facilities and community services uses (e.g., fraternal clubs, boys & girls clubs, social service organizations, and community halls)
- Improve consistency between design requirements for mixed-use districts and non-mixed-use districts (e.g., roof modulation, window requirements, different building materials, etc.)
- Improve consistency between design requirements for duplexes, triplexes, and townhouses (e.g., covered entries, minimum yard space, and driveway width limitations)
- Improve the consistency of development standards for drive-throughs in mixed-use districts
- Clarify the provisions applicable to food banks and massage services

- Clarify the allowances for larger accessory buildings on large sites (e.g., agricultural uses and stables)
- Clarify how the code differentiates between attached and detached residential structures
- Incorporate additional references and citations and improve internal consistency in tables
- Continue the ongoing consolidation of definitions into one section of the code

Modifications to Chapter 13.05 – Land Use Permit Procedures, including:

- Clarify the review process and criteria for providing reasonable accommodations
- Clarify process and qualification criteria for Development Regulation Agreements

Modifications to the Comprehensive Plan, including:

- Removing the map and references to the Habitat Zones (these have subsequently been replaced by “Habitat Corridors”)

Additional Information:

These amendments are being brought forward as part of staff’s efforts to, on a more regular basis, improve the clarity and effectiveness of the Zoning Code and Comprehensive Plan by addressing inconsistencies, incorporating legislative revisions, correcting minor errors, and improving confusing or ineffective standards. The proposed amendments include issues that have been identified by staff as well as issues identified by the public and BLUS customers.

Assessment Criteria:

In order to assist the Commission in determining which applications should be considered in which amendment cycle, staff provides an assessment of each application pursuant to the following criteria, which are contained in TMC 13.02.045.F.

1. Determining if the amendment request is legislative, and properly subject to Commission review, or quasi-judicial, and not properly subject to Commission review.

These amendments involve changes to existing legislatively-adopted code and plan language and are appropriately subject to Commission review.

2. Determining if the request is site-specific (i.e., a land use intensity or a zoning change for a specific parcel(s) likely to be under one ownership).

The proposed amendments would generally apply City-wide.

3. Receipt by the application deadline, if applicable (a large volume of requests before the deadline may necessitate that some requests be reviewed in a subsequent amendment cycle).

The proposal was scheduled for consideration prior to the June 30 deadline.

4. Order of receipt.

Not applicable.

5. Recent study of the same area or issue (this may be cause for the Commission to decline further review).

The proposed amendments are needed to correct technical errors and address issues and inconsistencies identified through the administration of the code and plan to ensure their continued and improved effectiveness. These types of minor amendments are brought forward regularly as part of the annual amendment process.

6. Amount of analysis necessary (if a large-scale study is required, an application may have to be delayed until a future amendment cycle due to work loads, staffing levels, etc.).

While these amendments will likely involve modifications to many sections of the code and plan, the amount of analysis is expected to be minimal. Working groups consisting of staff from several departments affected by the proposed changes to the Code will help to develop the proposed revisions and the proposed amendments will be coordinated with development stakeholders.

7. Available incorporation into planned or active projects.

In general, technical amendments associated with sections of the code that are undergoing review as part of a larger project are addressed as part of that larger update project. This amendment will include changes to sections of the code and plan that are not currently undergoing and are not scheduled for a more comprehensive review and update.

Recommendation:

The Planning Commission will review the assessment and make its decision as to: (1) whether or not the application is complete or what information is needed to make the application complete; (2) which amendment application(s) will be considered and in which amendment cycle; and (3) whether or not to prepare alternative proposed amendment(s) that either expand or contract the scope of the original proposed amendment (TMC 13.02.045.F).

Staff recommends that the application be considered as part of the 2012 Annual Amendment.

