SHORELINE MANAGEMENT[1]

Sections:

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*Sections of the Shoreline Master Plan are not required to be codified into this document. The full Shoreline Master Plan is on file with the Planning and Development Services Department and is available through the Department's website.

[1] Prior legislation for Chapter 13.10: Ords. 21821, 22228, 22246, 22400, 22496, 22562, 22599, 22884, 23027, 23106, 23262, 23310, 23583, 23834, 23909, 25062, 25128, 25141, 25212, 26329, 27657, 25632, 25718, 25738, 25797, 25854, 25904, 26174, 26175, 26929, 26410, 26622, 26934, 27158, 27296, 27432, 27657, 28109

CHAPTER 5 – SHORELINE ENVIRONMENT DESIGNATIONS

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

5. High Intensity

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.

5.5.2 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. Water-enjoyment and water-related uses may be permitted on/in existing over-water buildings.

c. Non-water oriented uses should only be permitted on/in existing over-water structures 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 and industrial uses.

2. New Over-Water Structures

a. 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.

b. New overwater structures for non-water-dependent uses, including residential, restaurants, hotels and office buildings, should be strictly prohibited.

c. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

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. 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.

5.5.5 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

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.

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 uses 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.

6.1.2 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 Director 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 Director 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 be 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 Director 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. The following standards apply to non-water-oriented uses permitted, in accordance with 8(a) and (b) above, in the shoreline:

a. When a 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 Director.

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 Director.

10. 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 unless specifically excepted.

11. Non-water-oriented uses shall not occupy more than 25% of the portion of the ground floor of a mixed-use structure that fronts on the shoreline, except where specifically authorized in this Program.

12. Only parking on the landward side of the ground floor of a shoreline structure is permitted. Where a 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.

13. Except where otherwise authorized in this Program, residential uses within a shoreline mixed-use structure are not permitted to occupy the ground floor.

14. Non-water-dependent loading and service areas shall not be located between the shoreline and the development.

15. 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.

6.2.2 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 Director 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 Director 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 Director 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. New development, including newly created parcels, shall be designed and located so as to prevent the need for future shoreline stabilization.

12. Accessory uses that do not require a shoreline location shall be sited away from the shoreline and upland of the primary use.

13. Unless integral to a permitted water-oriented use, accessory uses shall observe the marine shoreline and critical area regulations in TSMP Section 6.4.

14. Development shall be located, designed, and managed so that impacts on public use of the shoreline are minimized.

15. 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 Archaeological, Cultural and Historic Resources.

The following policies and regulations apply to archaeological and historic resources that are either recorded with the State Department of Archaeology and Historic Preservation (DAHP) and/or the City or have been inadvertently uncovered during a site investigation or construction. Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records). 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. Archaeological 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.

6.3.2 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 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 Director. 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 Director 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 Director 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 Director 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.

Intent

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. 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.

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.

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.

C. Modification of a shoreline or critical area buffer is subject to the site review requirements in TSMP Section 2.4.2 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.

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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 Director 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. Approval of the in-lieu fee option is subject to the development and adoption of a formal City in-lieu fee program and mitigation site or the City's formal participation in an approved in-lieu fee program, and consistent with the criteria in b and c below.

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. Off-site mitigation, including expenditures associated with an adopted in-lieu fee program, shall 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 Director 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 Director 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:

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 including construction techniques, equipment, timing, sequence, 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;

j. Monitoring methods and schedule for a minimum of five years;

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;

o. An evaluation of potential adverse impacts on adjacent property owners resulting from the proposed mitigation and measures to address such impacts;

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 Director 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 Director 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. Modifications to and activities in marine waters or a marine shoreline buffer are subject to the review process in TSMP 2.4.2 as well as the mitigation requirements of 6.4.2(C) through (D).

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 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 Director determines that the minimum width is insufficient to prevent loss of shoreline functions.

b. The Director 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. Standard 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-6/7, S-7	115
S-8, S-10	50
S-11	115
S-12	200
S-15	50

C. Marine Shoreline Buffer Reductions

1. All uses and development within a reduced buffer remain subject to mitigation sequencing and any unmitigated impacts resulting from a buffer reduction are required to be compensated for consistent with TSMP 6.4.2(A) through (E) to achieve no net loss of ecological functions.

2. In all shoreline designations, water-dependent and public access uses and development may reduce the standard buffer such that direct water access is provided.

3. 'Natural' Designated Shorelines: Buffer reductions shall not be permitted for non-water-dependent and public access uses and development except through a shoreline variance.

4. 'Urban-Conservancy' and 'Shoreline Residential' Designated Shorelines: The buffer shall not be reduced to any less than ¾ of the standard buffer width for water-related and water-enjoyment uses and development, including mixed-use development. Further reductions shall only be allowed through a shoreline variance.

5. '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.

6. Reductions of the standard buffer for any stand-alone non-water-oriented use or development shall not be allowed except through a shoreline variance.

7. 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.

8. 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.

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 Director 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.

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6.5 Public Access.

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."

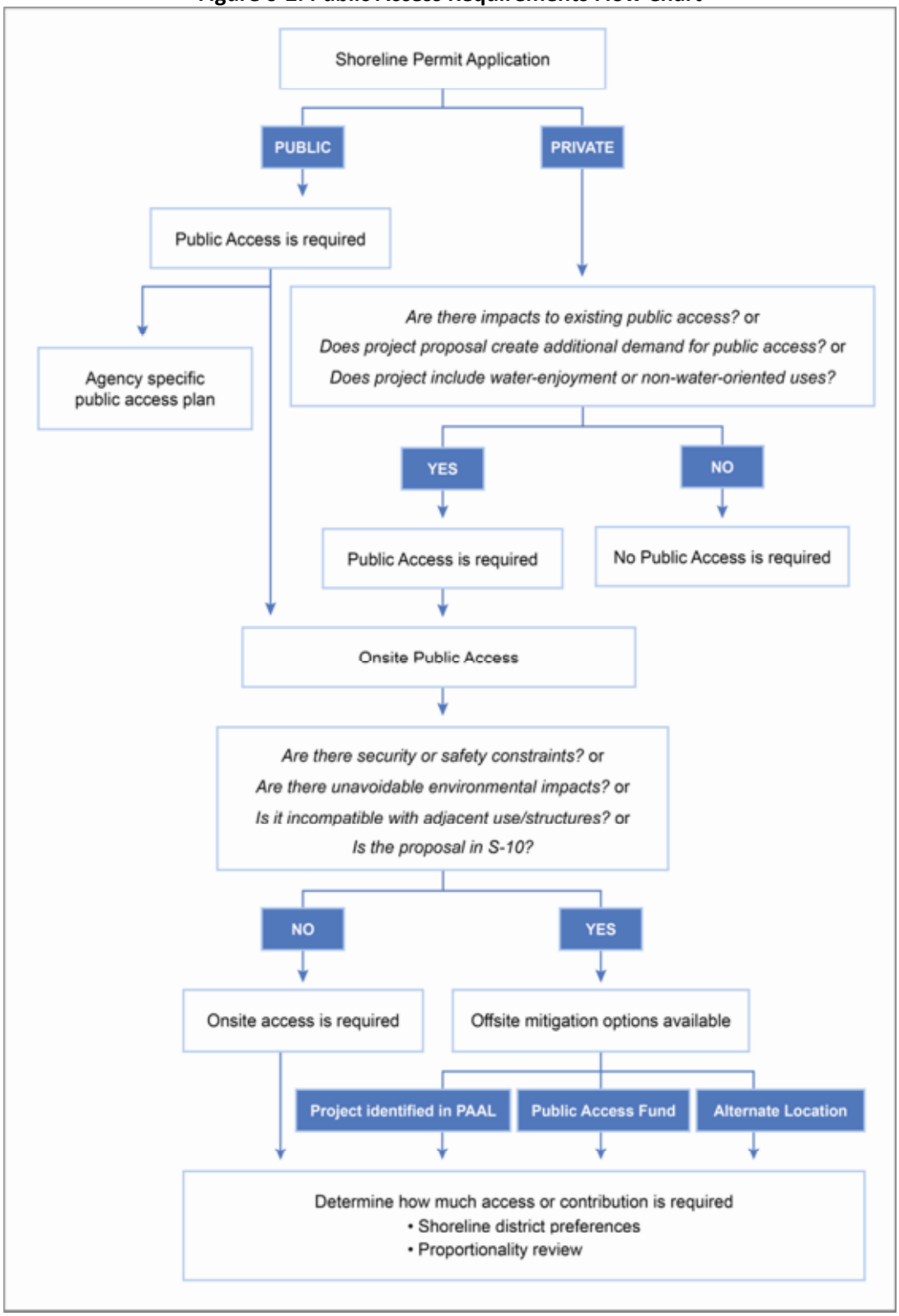
Public access and use of the shoreline is supported, in part, by the Public Trust Doctrine. The essence of the doctrine is that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar 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.

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. Specific area-wide access standards that were developed in conjunction with past sub-area plans have been carried forward under the District Specific Standards, Section 6.5.2(D). 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.

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 6-2) depicts how the public access evaluation will occur within the permit process.

Figure 6-2. Public Access Requirements Flow Chart



6.5.2 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 6.5.2(C)(2).

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 Director is in place.

B. When Public Access is Required

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 in the following circumstances:

a. The use or development is a public project.

b. The project is a water-enjoyment or non-water-oriented use or development.

c. The project is a private water-dependent or water-related use or development and one of the following conditions exists:

i. The project increases or creates 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.

2. The City bears the burden of demonstrating that a proposed use or development meets any of the preceding conditions.

3. If public access is required pursuant to TSMP Section 6.5.2(B)(1)(c), 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 TSMP Section 6.5.2(B)(1)(c) is roughly proportional to the impacts caused by the proposed use or development.

4. When public access is required pursuant to TSMP Section 6.5.2(B)(1)(c), the Director shall make specific findings that the use or development satisfies any of the conditions in TSMP Section 6.5.2(B)(1)(c) and that the permit conditions requiring public access are roughly proportional to the impacts caused by the proposed use or development.

5. Public access to the shoreline shall not be required of the following:

a. Activities qualifying for a shoreline exemption, per TSMP Section 2.3; or

b. New single family residential development of four (4) or fewer units.

C. Access Preferences and Alternatives

1. When required, onsite, physical access is preferred consistent with the standards of this Chapter and consistent with the planned public access system identified in the Public Access Alternatives Plan.

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12. In the "S-10" Port Industrial Area Shoreline District, when new 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 6.5.2(C)(1) and (6).

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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 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.

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7.6 Port/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.
- “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 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.

For the purposes of determining to which uses and activities this classification applies, the use of moorage facilities, such as a wharf or pier, for the layberthing, or lay-by berthing of cargo, container, military, or other oceangoing vessels shall be permitted only where port and industrial uses are allowed. This use category shall likewise apply to facilities that handle the loading and unloading of cargo and materials associated with port and/or industrial uses. Facilities for the loading and unloading of passengers associated with passenger vessels, such as ferries, cruise ships, and water taxis shall be classified as a transportation facility or commercial activity as applicable.

Port 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.

7.6.2 Regulations

A. General Regulations

1. Water-dependent port 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 and industrial uses shall assure no net loss of ecological functions.

3. New non-water-oriented port 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 or industrial use, the applicant shall be required to demonstrate:

a. That the proposed action shall give special consideration to the viability 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 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 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.

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.

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.

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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.

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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. Where piers, wharves, docks, and floats are proposed for purposes other than moorage, for example a fishing pier, the structure shall be subject to the policies and standards of this section, where applicable.

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 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 as of December 1, 2011, 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 Director 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.

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.

***

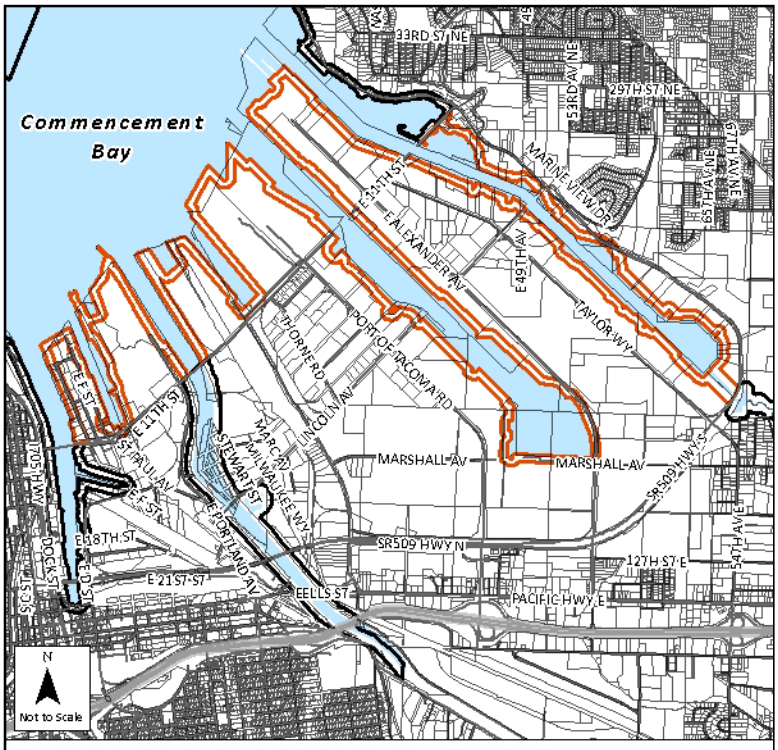
9.12 S-10 Port Industrial Area (HI).

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 E 11th Street right-of-way on the 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 waterward of SR 509.

C. Map of District. Refer to Figure 9-12 below for a map of the S-10 Port Industrial Area Shoreline District Shoreline District boundaries:

Figure 9-12. Port Industrial Area



Shoreline District S-10: Port Industrial, High Intensity

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.

***

9.15 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 waterward from the ordinary high water mark to 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. S-13 also includes the portion of the Puyallup River waterward of the OHWM and downstream of 11th Street.

C. Map of District. Refer to Figure 9-15 below for a map of the S-13 Marine Waters of the State Shoreline District boundaries:

Figure 9-15. Marine 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 also permitted in the upland Shoreline District. In determining whether an in-water use or development is associated with an upland shoreline district, those uses or development occurring between ordinary high water mark and the Outer Harbor Line shall be considered 'associated' with the upland zoning. Uses or development occurring entirely beyond the outer harbor line shall be permitted in accordance with the provisions of the S-13 Shoreline District. The in-water use or development will be considered 'associated' with whichever upland Shoreline District is closest or that district with which the use or development has a direct physical connection. Where two or more shoreline districts are equidistant from a proposed use or development that does not have a physical upland connection, the more restrictive zone shall apply.

b. New overwater residential structures are prohibited. This prohibition does not apply to live-aboards, which must comply with the regulations in 7.4.2(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 overwater on existing overwater structures.

h. 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, that the improvements are designed consistent with Washington Department of Fish and Wildlife standards to limit impacts on the aquatic environment and fisheries habitat, do not adversely affect the public use of the shoreline area or surface waters, and are consistent with the standards in Chapter 2.5.

i. 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.

*****Table 9-2. Shoreline Use and Development Standards**

GENERAL SHORELINE USE, MODIFICATION & DEVELOPMENT STANDARDS TABLE`		
District	**S-10**	**S-13**
District Name	**Port Indust-rial Area**	**Marine Waters of the State**[21]
Shoreline Designation	**HI**	**A**
Shoreline Uses		
Commercial Development		
Water-dependent	P	P
Water-related	N	N/P[3]
Water-enjoyment	N	N/P[3]
Non Water-oriented[4]	CU[4]	N/P
Port/ Industrial Development		
Water-dependent	P	P
Water-related	P	N
Non water-oriented[11]	CU	N

District	**S-10**	**S-13**
District Name	**Port Indust-rial Area**	**Marine Waters of the State**[21]
Shoreline Designation	**HI**	**A**
Cargo Terminal	P	P
Log Rafting and Storage	P	P
Lay Berthing	P	P
Utilities[20]		
Major	P	CU
Minor	P	CU
Accessory	P	CU
Wireless Commun-ication Facility	P	N
Shoreline Modification[21]		
Shoreline Stabilization		

District	S-10	S-13
District Name	**Port Indust-rial Area**	**Marine Waters of the State**[21]
Shoreline Designation	**HI**	**A**
For water-dependent uses[22]	P	P
For Non-water-dependent uses	CU	CU
Ecological Restoration / Enhancement/ Mitigation		
Ecological Restoration / Enhancement/ Mitigation	P	P
Mooring Facilities[23]		
Piers, Wharves, Docks and Floats		
Associated with Water Dependent Uses	P	P
Mooring Buoy[24]	P	P
Mooring Buoy Field	P	CU

District	S-10	S-13
District Name	**Port Indust-rial Area**	**Marine Waters of the State**[21]
Shoreline Designation	**HI**	**A**
Navigational Aids	P	P
Covered Moorages/ Boat Houses	N	N
General Minimum Development Standards		
Marine Shoreline Buffers, per TSMP Chapter 6[25]	50 ft. from OHWM	N/A
Height Limit[27]	100 ft[29]	35 ft, unless associated with Port/ Industrial or transport-ation facilities
Side Yard/View Corridor[31]	0 ft[29]	N/A
Front Yard Setback	0 ft[29]	N/A
Rear Yard Setback (from edge of applicable buffer)	0 ft[29]	N/A

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 7.5.2 and only as a conditional use except where otherwise specified for the S-8 and S-15 Shoreline Districts.

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.

6 Non-water-oriented commercial uses shall be permitted 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 9.10(D). In all other circumstances, non-water-oriented uses shall be processed as a conditional use

7 Non-water-oriented commercial uses shall be permitted outside 150’ of OHWM only, except as specified in note 18. Commercial uses that are located outside shoreline jurisdiction and are consistent with the EIS for the Point Ruston development are allowed, 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.

8 New educational, historic, and scientific uses are permitted over-water or in the S-13 Shoreline District (Marine Waters of the State) only when water-dependent or as a reuse of an existing structure.

9 Water-dependent and -related port/industrial uses shall be permitted only in existing structures.

10 Port 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.

11 Non-water-oriented industrial uses shall only be permitted in accordance with the regulations in TSMP Section 7.6.2.

12 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.

14 Detached single-family residential use and development is allowed in the S-15 shoreline district outside of shoreline jurisdiction.

15 New stand alone multi-family residential uses may be permitted as a conditional use in accordance with the regulations in TSMP Section 7.8.2.

16 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. 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.

17 Multifamily residential uses shall be permitted in upland locations, outside 150' of OHWM.

18 No more than 24 total townhouse units may be permitted in upland locations up to 100' from OHWM as an outright permitted use so long as such townhouses are constructed on the southeasterly shoreline of the Point Ruston site. Townhouses may be permitted in upland locations up to 100' from OHWM as a conditional use in all other locations. Townhouses in the S-15 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.

20 Above ground utilities are only allowed consistent with TSMP 7.13.2.

21 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. Please see Section 9.15(D)(1)(a).

22 Structural shoreline stabilization shall be permitted only when necessity has been demonstrated as described in TSMP Section 8.2.2.

23 See application requirements in Section 2.4.4.

24 With the exception of the S-7, S-10 and S-11 Shoreline Districts, mooring buoys shall be designed, located and installed only for transient recreational boating, or in association with a single family residential development or a permitted marina. In the S-7, S-10 and S-11 Shoreline Districts mooring buoys may be designed, located and installed to accommodate port and industrial uses including the remote storage of oceangoing vessels and barges.

25 Buffer reductions allowed for water-dependent uses per TSMP 6.4.3(C).

26 Except that the buffer shall not extend beyond the centerline of Alaska street.

27 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.

28 The maximum height standard excludes equipment used for the movement of waterborne cargo between storage and vessel or vessel and storage.

29 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.

30 Maximum heights on Slag Peninsula are limited to 35 feet.

31 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.

32 New and/or expansion of an existing railroad siding is permitted when necessary to service a water-dependent port or industrial facility.