CITY OF BLAINE
SHORELINE MASTER PROGRAM

December 2014

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1.0 INTRODUCTION

1.1 SHORELINE MASTER PROGRAM

This document is the Blaine Shoreline Master Program. The goals and policies contained herein constitute the City's implementation of the Shoreline Management Act of the State of Washington.

1.2 AUTHORITY

A. The goals, policies, and regulations of the Blaine Shoreline Master Program are established under the authority of the Shoreline Management Act of 1971, now codified as Chapter 90.58 of the Revised Code of Washington (RCW), and the Shoreline Master Program Guidelines, Chapter 173-26 of the Washington Administrative Code (WAC).

B. Decisions on shoreline permits and/or approvals shall recognize all relevant constitutional and other legal limitations on the regulation of private property. Findings shall assure that conditions imposed relate to the governmental authority and responsibility to protect the public health, safety, and welfare, are consistent with the purposes of the Act, and are roughly proportional to the expected impact.

1.3 PURPOSE

The purpose of the Blaine Shoreline Master Program is:

A. To further the goals of the Shoreline Management Act as set forth in RCW 90.58.020; and

B. To implement a cooperative program of shoreline management between local and state government; and

C. To comply with the mandate established in the Shoreline Management Act that local governments develop and adopt local master programs to guide and regulate development on shorelines of the state; and

D. To promote the public health, safety, and general welfare of the community by providing long range and comprehensive policies and effective and reasonable regulations for development and use of shorelines within the City; and

E. To manage shorelines in a positive, effective, and equitable manner; and

F. To plan for and foster all reasonable and appropriate uses, particularly uses directly dependent upon the water; and

G. To preserve to the greatest extent feasible, consistent with the overall interest of the State, the City and the people generally, the public's opportunity to enjoy the physical and aesthetic qualities of the shorelines of the City by preserving views and increasing public access to the shorelines; and

H. To manage the shorelines of the City to minimize, insofar as practical, damage to the shoreline area, while actively encouraging the restoration and enhancement of degraded shoreline functions and processes; and

I. To ensure all proposed uses and development occurring within shoreline jurisdiction conform to chapter 90.58 RCW, the Shoreline Management Act and this Program whether or not a permit is required.

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1.4 RELATIONSHIP BETWEEN THIS SHORELINE MASTER PROGRAM AND CAO

Critical Areas as defined in Chapter 17.82 BMC that are located within the jurisdictional limits of this Shoreline Master Program (see Element 7.1) are managed and regulated by the provisions contained herein and are not subject to the critical area management provisions of Chapter 17.82 BMC, provided that where this program references a provision or provisions of Chapter 17.82 BMC or any other chapter of the Blaine Municipal Code the provision(s) so referenced shall apply as identified.

1.5 DEFINITIONS

A. As used in this Program, unless the context requires otherwise, the following definitions and concepts shall apply. Words or phrases used in this Chapter that are not specifically defined below shall be interpreted to give them the meaning they have in common usage and to give this program its most reasonable application consistent with Chapter 90.58 RCW and the provisions contained herein.

1. ACT – Means the Shoreline Management Act of 1971, Chapter 90.58 RCW as amended.
2. ADMINISTRATOR - Means the Community Development Director or designee. The Administrator is responsible for making available Shoreline Use Permit Applications, inspecting project sites, interpreting this Program, issuing Shoreline Exemptions, and making recommendations to the Planning Commission. The terms “Administrator” and “Shoreline Administrator” are interchangeable.
3. AGRICULTURAL ACTIVITIES - Means agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing crops; allowing land used for agricultural activities to lie fallow or dormant; conducting agricultural operations; maintaining, repairing, and replacing facilities; and maintaining lands under production or cultivation.
4. AGRICULTURAL EQUIPMENT – Includes “Agricultural equipment" and "agricultural facilities." Such elements include, but are not limited to:
   Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment, and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains; Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; Farm residences and associated equipment, lands, and facilities; and Roadside stands and on-farm markets for marketing fruit or vegetables.
5. AGRICULTURAL LANDS - Means those specific land areas on which agricultural activities are conducted as of the adoption date of a local shoreline master program pursuant to WAC 173-26 as evidenced by aerial photography or other documentation.
6. AGRICULTURAL PRODUCTS - Include, but are not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland-reared finfish, poultry and poultry products, and dairy products.
7. AQUACULTURE - Means the culturing or farming of food fish, shellfish or aquatic plants and animals for human consumption dependent upon the use of the water area. Aquaculture does not include the harvest of free-swimming fish or the harvest of shellfish not artificially planted or maintained, including the harvest of wild geoducks associated with the state managed wildstock geoduck fishery.

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8. ARCHAEOLOGIST - Means a person who has designed and executed an Archaeological course of study and has been awarded an advanced degree in archaeology, anthropology, or history or other germane discipline with a specialization in archaeology, and who has at least two (2) years of experience, including at least one (1) year of supervised field experience.
9. ASSOCIATED WETLAND - Means wetlands that are in proximity to tidal waters, lakes, rivers or streams that are subject to the Shoreline Management Act and either influence or are influenced by any such water body. Factors used to determine proximity and influence include but are not limited to: location contiguous to a shoreline water body, formation by tidally influenced geo-hydraulic processes, presence of a surface connection including through a culvert or tide gate, location in part or whole within the 100 year floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.
10. AVERAGE GRADE - Means the average of the natural existing topography of the portion of the lot, parcel, or a tract of real property which will be directly under the proposed building or structure: PROVIDED, that in the case of structures to be built over the water, average grade shall be the elevation of the ordinary high water mark. Calculation of the average grade shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure.
11. BUFFER - Means an upland land area adjacent to a shoreline, river, stream, wetland or critical area that protects the water feature or area from human disturbance by providing separation between the area and the adjacent land uses. A buffer shall be measured horizontally from the wetland edge or ordinary high water mark where appropriate.
12. CHANNEL MIGRATION ZONE (CMZ) - Means the area along a river within which the channel can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered in relation to the characteristics of the river and surrounding features.
13. CITY - Means the City of Blaine.
14. CLEARING - Means the destruction or removal of vegetation ground cover, shrubs and trees including, but not limited to, root material removal and/or topsoil removal.
15. CONDITIONAL USE - Means a use, development, or substantial development which is classified as a conditional use or which is not classified within this Master Program.
16. CRITICAL AREA – Means area as defined under chapter 36.70A RCW including the following areas and ecosystems:
    (a) Wetlands;
    (b) Areas with a critical recharging effect on aquifers used for potable waters;
    (c) Fish and wildlife habitat conservation areas;
    (d) Frequently flooded areas; and
    (e) Geologically hazardous areas.
17. DEPARTMENT - Means the Washington State Department of Ecology.
18. DEVELOPED SHORELINES - Means those shoreline areas that are characterized by existing development or structures located within shoreline jurisdiction.
19. DEVELOPMENT - Means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use, at any state of water level, of the surface of the waters overlying lands subject to Chapter 90.58 RCW.
20. DEVELOPMENT REGULATIONS - Means the controls placed on development or land use by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies

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approved or adopted under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

21. DIKE - Means an embankment, usually placed within or near the edge of a flood plain, to protect adjacent lowlands from flooding.
22. DISPOSAL FACILITIES - Means the location and facilities where any final treatment, utilization, processing, or depository of solid waste occurs.
23. DRIFT CELL- Means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift. Synonymous with “drift sector” or “littoral cell.”
24. DUNE - Means a hill or ridge of sand forming along the shoreline by wind.
25. ECOLOGICAL FUNCTIONS - Means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.
26. ECOSYSTEM-WIDE PROCESSES - Means the suite of naturally occurring physical and geologic processes of erosion, transport and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.
27. EMERGENCY ACTIVITIES - Means those activities that require immediate action within a time too short to allow full compliance with this program due to an unanticipated and imminent threat to public health, safety or the environment. Emergency construction does not include development of new permanent protective structures where none previously existed.
28. ENVIRONMENT, SHORELINE - Means a geographic area identified and governed by these regulations as shown on the Official Shoreline Map.
29. ESTUARY - Means that area in the marine environment where freshwater and saltwater mix.
30. EXEMPT DEVELOPMENT - Means a use or development activity that is not a substantial development and that is specifically listed as exempt from the substantial development permit requirement in WAC 173-27-040, but which must otherwise comply with the applicable provisions of the Act and the Program.
31. EXISTING AND ONGOING AGRICULTURE - Means agricultural activities, including crop rotation, in existence and ongoing as of the effective date of this Ordinance.
32. EXTREME LOW TIDE - Means the lowest line on the land reached by a receding tide.
33. FAIR MARKET VALUE - Means the open market bid price for conducting the work, using the equipment and facilities, and purchase of goods, services and materials necessary to accomplish a development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.
34. FILL (INCLUDING LANDFILL) - Means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.
35. FEASIBLE - Means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

    (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in

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similar circumstances that such approaches are currently available and likely to achieve the intended results;

(b) The action provides a reasonable likelihood of achieving its intended purpose; and

(c) The action does not physically preclude achieving the project's primary intended legal use, and

(d) In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

36. FEEDER BLUFF - Means any bluff (or cliff) experiencing periodic erosion from waves, sliding or slumping, and/or whose eroded sand or gravel material is naturally transported (littoral drift) via a driftway to an accretion shoreform.
37. FLOOD PLAIN - Is synonymous with the one-hundred year flood plain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinances regulation maps or a reasonable method which meets the objectives of the act.
38. FLOODWAY, SHORELINE - Means those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, but not necessarily annually, said floodways being identified under normal circumstances by changes in soil or vegetation; PROVIDED that, floodways shall not include areas protected from flooding by flood control devices maintained or licensed by a government agency.
39. FREQUENTLY FLOODED AREAS – Means areas of special flood hazard as designated and regulated pursuant to Chapter 17.86 BMC.
40. GEOTECHNICAL REPORT/ANALYSIS - Means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.
41. GRADING - Means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.
42. GUIDELINES - Means those standards adopted by the department to implement the policy of chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and the department in developing and amending master programs.
43. HEIGHT - Means the distance as measured from the average grade level to the highest point of a structure excluding appurtenance such as chimneys and antennas, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the Program specifically requires that such appurtenances be included: Provided further, that temporary

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construction equipment is excluded in this calculation.

44. HEARINGS BOARD - Means the State Shoreline Hearings Board established by RCW 90.58.
45. IN-STREAM STRUCTURE-Means a structure placed by humans within a stream or river waterward of the ordinary high water mark that either causes or has the potential to cause an impoundment or diversion, obstruction, or modification of water flow.
46. INFILL DEVELOPMENT – Means construction of the primary structure on an otherwise undeveloped lot when more than 50-percent of the lots within 300 feet of the boundaries of the subject lot are developed.
47. LITTORAL DRIFT - Means the movement of gravel and sand along a seashore due to the waves advancing obliquely up the beach.
48. MARINE- Means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith.
49. MAY - Means the action is acceptable, provided it conforms to the provisions of this Program.
50. MITIGATION PLAN - Means a detailed plan indicating actions necessary to mitigate adverse impacts to critical areas.
51. MIXED USE DEVELOPMENT - Means a combination of uses within the same building or site as a part of an integrated development project with functional interrelationships and coherent physical design.
52. MUST - Means a mandate; the action is required.
53. NATIVE VEGETATION - Means plant species that are indigenous to Whatcom County and the local area.
54. NATURAL OR EXISTING TOPOGRAPHY - Means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling.
55. NEARSHORE - Means the zone that extends waterward from the marine shoreline to a water depth of approximately 20 meters (66 feet). Nearshore habitat is rich biologically, providing important habitat for a diversity of plant and animal species.
56. NONWATER-ORIENTED USES - Means those uses that are not water-dependent, water-related, or water-enjoyment.
57. NON-CONFORMING USE, DEVELOPMENT OR STRUCTURE - Means a shoreline use, development or structure which was lawfully constructed or established prior to the effective date of the act or this program or amendments thereto, but which does not conform to present regulations or standards of the program or policies of the act.
58. NO NET LOSS – Means maintaining the current level of ecological functions and values, and not depleting those functions and/or values. No net loss may be applied on an action-by-action basis or overall on a programmatic basis, as pertains to the specific instance.
59. ORDINARY HIGH WATER MARK (OHWM) - Means that mark on all lakes, streams, and tidal water that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with approved development; provided that, in any area where the OHWM cannot be found, the OHWM adjoining saltwater shall be the line of mean higher high tide and the OHWM adjoining fresh water shall be the line of mean high water.
60. PARTY OF RECORD - Means all persons, agencies or organizations who have

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submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail.

61. PERMIT - Means any substantial development permit, conditional use permit, variance permit, or revision authorized under chapter 90.58 R.C.W.
62. PERSON - Means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local government unit however designated, or Indian Nation or tribe.
63. PRIMARY ASSOCIATION - Means the use of a habitat area by a listed or priority species for breading/spawning, rearing young, resting, roosting, feeding, foraging, and/or migrating on a frequent and/or regular basis during the appropriate season(s) as well as habitats that are used less frequently/regularly but which provide for essential life cycle functions such as breeding/nesting/spawning.
64. PRIORITY HABITAT - Means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:
    a) Comparatively high fish or wildlife density;
    b) Comparatively high species diversity;
    c) Fish spawning habitat;
    d) Important wildlife habitat;
    e) Important fish or wildlife seasonal range;
    f) Important fish or wildlife movement corridor;
    g) Rearing and foraging habitat;
    h) Refugia habitat;
    i) Limited availability;
    j) High vulnerability to habitat alteration; or
    k) Unique or dependent species.

    A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife. A priority habitat may also be described by a successional stage. Alternatively, it may also consist of a specific habitat element of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife species.

65. PRIORITY SPECIES - Means species requiring protective measure and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the listed criteria per WAC 173-26-020(29)(a-d),or as below:
    a) State-listed or state proposed species;
    b) Vulnerable aggregations;
    c) Species of recreation, commercial, and/or tribal importance;
    d) Species listed under the federal Endangered Species Act (ESA) as either proposed, threatened, or endangered.

66. PUBLIC INTEREST - Means the interest shared by the citizens of the state or community at large in the affairs of government or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development.
67. QUALIFIED PROFESSIONAL OR CONSULTANT - Means a person with experience and training with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a

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B.S. or B.A. or equivalent degree in biology, soil science, engineering, environmental studies, fisheries, geology, geomorphology or related field and must have accumulated adequate related work experience for the task.

68. RECREATIONAL DEVELOPMENT – Means the built facilities that support recreation activities, and are inclusive of both public and commercial recreation facilities.
69. REGULATED ACTIVITY - Means:
    a) The removal, excavation, grading or dredging of soil, sand, gravel, minerals, organic matter or material of any kind;
    b) The dumping, discharging or filling with any material;
    c) The draining, flooding or disturbing of the water level or water table;
    d) The driving of pilings;
    e) The placing of obstructions;
    f) The construction, reconstruction or expansion of any structure;
    g) The destruction or alteration of vegetation through clearing, harvesting, shading, intentional burning or planting of vegetation that would alter the character of a wetland, river or stream; provided, that these activities are not part of a forest practice governed under Chapter 76.09 RCW and its rules; or
    h) Any activity that results in a change of water temperature, a change of physical or chemical characteristics of wetland water sources, including quantity, or the introduction of pollutants.
70. RESIDENTIAL DEVELOPMENT – Means the creation of new dwelling units and the creation of new lots for the purpose of supporting new dwelling units. This includes single family and multiple family dwelling units and lots for the construction of either.
71. RESTORE, RESTORATION, OR ECOLOGICAL RESTORATION - Means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including but not limited to re-connecting fragmented habitat, re-vegetation, removing invasive species and enhancing habitat, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.
72. RIP RAP - Means dense, hard, angular rock free from cracks or other defects conductive to weathering used for revetments, bulkheads or other flood control works.
73. RIPARIAN CORRIDOR OR AREA - Means the area adjacent to a water body (stream, lake or marine water) that contains vegetation that influences the aquatic ecosystem, nearshore area and/or and fish and wildlife habitat by providing shade, fine or large woody material, nutrients, organic debris, sediment filtration, and terrestrial insects (prey production).
74. SHALL- Means a mandate; the action must be done.
75. SHORELANDS - Means those lands extending landward for 200 feet in all directions, measured on a horizontal plane, from the ordinary high water mark of Drayton Harbor, Semiahmoo Bay, and Dakota Creek; and those wetlands associated with any of these water bodies; and floodways and contiguous floodplain areas landward two hundred feet from such floodways.
76. SHORELINE AREAS and SHORELINE JURISDICTION - Means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.
77. SHORELINE MASTER PROGRAM OR MASTER PROGRAM - Means the Shoreline Master Program of the City of Blaine.
78. SHORELINE MODIFICATIONS - Means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, fill, bulkhead, or other shoreline

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structure. They can include other actions, such as clearing, grading, or application of chemicals.

79. SHORELINE STABILIZATION – Means actions taken to address erosion impacts to property, housing, businesses, or structures caused by natural processes. Shoreline stabilization includes both nonstructural and structural shoreline stabilization. Non-structural shoreline stabilization includes setbacks, relocation of structures to avoid the need for structural stabilization, groundwater management, planning and regulatory measures to avoid the need for structural stabilization. Structural shoreline stabilization includes erosion protection features, such as engineered shoreline modification (woody debris, beach feeding, and bioengineered planting), the placement of rip-rap, concrete, or similar materials to armor the shoreline and structures such as jetties, groins and bulkheads. Expansion or enlargement of existing structural stabilization features is included in this definition.
80. SHORELINES - Means all of the water areas of the state as defined in RCW 90.58.030, and their associated shorelands, together with the lands underlying them except:
    a) Shorelines of statewide significance;
    b) Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second (20 c.f.s.) or less and the wetlands associated with such upstream segments; and
    c) Shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes.
81. SHORELINES OF THE STATE, SHORELINE AREAS, or SHORELINE JURISDICTION - Means all of the water areas within the City of Blaine identified as shorelines of the state together with Shoreline of Statewide Significance, including Drayton Harbor, Semiahmoo Bay, and Dakota Creek and their associated shorelands.
82. SHORELINES OF STATEWIDE SIGNIFICANCE - Means those marine water areas, water columns and submerged bedlands waterward of extreme low tide.
83. SHOULD – Means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this Program, against taking the action.
84. SIGNIFICANT VEGETATION REMOVAL - Means the removal or alteration of vegetation by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by vegetation. The removal of invasive or noxious weeds and tree pruning on a small scale that does not significantly affect ecological function do not constitute significant vegetation removal.
85. SOLID WASTE - Means all putrescible and non-putrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities.
86. SPIT - Means an accretion shoreform composed of sand, silt and gravel which is low lying and which extends outward from land and is attached at one end.
87. STATEMENT OF EXEMPTION - Means a written statement by the Administrator that a particular development proposal is exempt from the substantial development permit requirement and is generally consistent with this Program and the policy of the Act.
88. STREAMWAY - Means a river or stream's central runoff corridor including all wet and dry channels, together with adjacent point-bars, channel-bars, and islands which are wetted or surrounded by stream flow at bank full stage. The streamway is measured from outside bank edge to outside bank edge.
89. STRUCTURE - Means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner,

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whether installed on, above or below the surface of the ground or water, except for vessels.

90. SUBSTANTIAL DEVELOPMENT - Means any development of which the total cost or fair market value exceeds $6,416.00 or other threshold amount established by the Washington State Office of Financial Management, or any development which materially interferes with normal public use of the water or shorelines of the state; EXCEPT that the classes of development listed under Section 3.4.A of this Program shall not be considered substantial developments.
91. SUBSTANTIALLY DEGRADE - Means to cause significant negative ecological impact.
92. SWAMP - Means a tract of low-lying land saturated with moisture and usually overgrown with vegetation.
93. THREATENED OR ENDANGERED SPECIES - Means those native species that are listed as threatened or endangered species under the federal Endangered Species Act, or that are listed in rule by the Washington State Department of Fish and Wildlife as threatened or endangered.
94. TIDAL WATER – Means those waters including marine and estuarine waters bounded by the ordinary high water mark. Where a stream enters the tidal water, the tidal water is bounded by the extension of the elevation of the marine ordinary high water mark within the stream.
95. TIDELAND OR TIDAL AREA - Means the land on the shore of marine water bodies between the OHWM and the line of extreme low tide which is submerged daily by tides.
96. TRANSMIT - Means to send from one person or place to another by mail or hand delivery. The date of transmittal for mailed items is the date that the document is certified for mailing or, for hand-delivered items, is the date of receipt at the destination.
97. UPLAND - Means dry lands landward of the OHWM.
98. VARIANCE - Means an adjustment in the application of this Program's regulations to a particular site to grant relief from the specific bulk, dimensional, or performance standards set forth in this Program, and not a way to vary the use of the shoreline.
99. VEGETATION CONSERVATION AREA - Means areas adjacent to the shoreline where native vegetation is to be protected or restored to support the habitat of priority species and threatened and endangered species. Except where otherwise designated on the Official Shoreline Map or as established by permit, the vegetation conservation area shall include those areas within the Natural Shoreline Environment.
100. VESSEL - Means a ship, boat, barge, or other floating craft which is designed with adequate self-propulsion and steering and is used primarily for transportation and which meets all applicable regulations, including being registered as a vessel by an appropriate governmental agency and does not interfere with the normal public use of the water.
101. VIEW - Means a confined view of near or distant objects or environments such as may occur by looking through a window, tunnel, or framed by vegetation and/or structures.
102. WATER DEPENDENT USE - Means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.
103. WATER-ENJOYMENT USE - Means a recreational use or other use that facilitates public access to, or enjoyment of, the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general character of the use and that through the location design and operation assure the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the

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uses must be open to the general public and the water-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

104. WATER-ORIENTED USE - Refers to any combination of water-dependent, water-related, and/or water-enjoyment uses and serves as an all-encompassing definition, together with single-family residences, for priority uses established under the Act.
105. WATER QUALITY - Means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics.
106. WATER-RELATED USE - Means a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent on such a location because of its functional relationship to a waterfront location or water-dependent use.
107. WETLANDS - Means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

1.6 TENSE AND NUMBER

When consistent with the context, words used in the present tense shall include the future; the singular shall include the plural and the plural the singular.

1.7 INTERPRETATION

As used in this Program, the words “shall” and “must” are mandatory and the words “should” and “may” are permissive. Refer to Definitions.

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2.0 OVERALL GOAL

The citizens of the City of Blaine, recognizing that the shorelines of the City are a unique and finite resource, set forth the following overall goal as a general guide for the orderly use of their shoreline areas:

GOAL 2.1: Recognizing that the natural resources and amenities of Drayton Harbor, Semiahmoo Bay, Dakota Creek and the associated estuaries make the Blaine area a desirable place to live, the City of Blaine should regulate activities within its jurisdiction to maintain the natural quality of these shoreline areas, and encourage other agencies with jurisdiction over activities which could adversely affect these valuable assets to do the same.

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3.0 APPLICABILITY

3.1 Geographic Jurisdiction.

The provisions of this Program shall apply to all shoreline areas within the corporate limits of the City of Blaine. The location and extent of known shoreline jurisdiction are shown on the Official Shoreline Map. Shoreline jurisdiction includes the water areas of Drayton Harbor, Semiahmoo Bay and Dakota Creek, together with the lands underlying them, plus those lands within 200 feet of the ordinary high water mark of the above water bodies, plus those wetlands associated with any of the above water bodies.

3.2 Application to Persons.

This program shall apply to every person as defined in SMP Section 1.5.

3.3 Application to Development, Use and Modification.

A. This program shall apply to any development as defined in SMP Section 1.5 and to any use or modification of areas within shoreline jurisdiction. All development, use or modification of shorelines of the state shall be carried out so as to be consistent with this program and the policy of the act as required by RCW 90.58.140(1), whether or not a shoreline permit is required for such activity.

B. No substantial development as defined in SMP Section 1.5 shall be undertaken by any person on shorelines without first obtaining a shoreline permit from the City of Blaine; PROVIDED that, such a permit shall not be required for the activities identified under SMP Section 3.4.

3.4 Exempt Activities.

A. Those activities identified under Subsections (1) through (16) are specifically exempted from the substantial development permit requirement pursuant to RCW 90.58.030(3)(9e) and WAC 173-27-040.

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed six thousand, four hundred sixteen dollars, or other threshold amount established by the Washington State Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;

2. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement

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does not cause substantial adverse effects to shoreline resources or environment;

3. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Department of Fish and Wildlife;

4. Emergency construction necessary to protect property from damage by the elements. An “emergency” is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, shall be obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

5. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: PROVIDED, that a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

6. Construction or modification of navigational aids such as channel markers and anchor buoys;

7. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence for their own use or for the use of his family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to 90.58 RCW. “Single-family residence”

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means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An “appurtenance” is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances mean a garage; storage building or shed; deck; driveway; utilities; fences; and grading which does not exceed two hundred fifty cubic yards (except to construct a conventional drainfield), and does not include accessory dwelling units. Construction authorized under this exemption shall be located landward of the ordinary high water mark;

8. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if in salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars. For purposes of this section salt water shall include the tidally influenced marine and estuarine water areas of the City of Blaine;

9. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands;

10. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

11. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;

12. Any project with a certification from the governor pursuant to RCW 80.50;

13. The process of removing or controlling an aquatic noxious weed, as defined in section 17.26.020 RCW, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the department jointly with other state agencies under chapter 43.21C RCW;

14. Watershed restoration projects as defined in WAC173-27-040(2)(o);

15. A public or private project that is designed to improve fish or wildlife habitat or fish passage as described by WAC 173-27-040(2)(p);

16. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under chapter 90.58 RCW, if:

    a. The activity does not interfere with the normal public use of the surface waters;
    b. The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
    c. The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
    d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to ensure

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that the site is restored to preexisting conditions; and

e. The activity is not subject to the permit requirements of section 90.58.550 RCW.

B. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.

C. An exemption from the substantial development permit requirements shall not be construed as an exemption from any other requirement of this program or the Act including, if applicable, the requirement for a shoreline variance or conditional use permit. To be authorized as an exempt activity, the proposed use, development or modification must be consistent with the policies and regulatory provisions of this Program and the Act.

D. The burden of proving that a development or activity is exempt is on the applicant or proponent of the proposed action.

E. If any part of a proposed development is not eligible for exemption, then a substantial development permit shall be required for the entire project.

3.5 Statement of Exemption.

A. The Administrator is hereby authorized to issue statements of exemption, upon request, for developments and activities which qualify under one of the exemptions in SMP Section 3.4 or which are otherwise found to be exempt from the permit requirements of this program. The statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the Administrator's analysis of the consistency of the project with this Program and the Act. As appropriate, such statements of exemption shall contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and Act. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial. The Administrator's actions on the issuance of a statement of exemption or a denial are subject to appeal pursuant to BMC 17.81.

B. No statement of exemption from the substantial development permit process is required for developments normally exempt by SMP Section 3.4 unless specifically required elsewhere in this program, PROVIDED however that a statement of exemption shall be obtained from the Administrator prior to beginning development on shorelines under the jurisdiction of this program if uncertainty exists about the exemption status of the development.

3.6 Relationship to Other Local Regulations.

A. Procedures for processing permits required and authorized by this Program are contained in the Blaine Municipal Code, Chapter 17.81.

B. Obtaining a shoreline permit or statement of exemption for a development or use does not excuse the applicant from complying with any other local statutes or regulations applicable to such development or use.

C. Where both are applicable, a building permit shall not be issued until a shoreline permit is granted; provided that, any such permit issued by the Building Official shall be subject to the same terms and conditions which apply to the shoreline permit.

D. Where other local permits or approvals are required, such as for zoning conditional uses, variances or subdivisions, the Administrator of those permits or approvals shall attach

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conditions to such permits or approvals as are required to ensure that the developments are consistent with this Program.

3.6 Relationship to Other State and Federal Laws.

Obtaining a shoreline permit or statement of exemption for a development or use shall not excuse the applicant from complying with any other state, regional, or federal statutes or regulations applicable to such development or use.

3.8 Liberal Construction.

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

3.9 Nonconforming Development.

The following provisions shall apply to lawfully established uses, buildings and/or structures that do not meet the specific standards of this Program.

A. Nonconforming developments may be rebuilt and non-conforming uses may be continued. If the nonconforming use of a conforming or nonconforming building or structure is discontinued for eighteen consecutive months or for eighteen months during any two-year period, the nonconforming use right shall expire and any subsequent use shall be conforming, provided that a subsequent conforming use of a nonconforming building or structure shall only be allowed as a conditional use. In the event of catastrophic damage to a nonconforming structure or use, the owner shall have two years from the date damage occurred to submit the applications necessary to rebuild said nonconforming structure or continue said nonconforming use. The redevelopment of the structure shall occur within two years of permit issuance. Catastrophic damage is damage that exceeds seventy-five percent of the replacement cost of the original development.

B. A nonconforming use housed in a nonconforming building or structure shall not be changed to another nonconforming use, unless the new nonconforming use has less impact to the shoreline environment as determined by the Administrator, and such use is approved in writing by the Administrator. The change of a nonconforming use housed in a conforming building or structure to a different nonconforming use may be allowed as a conditional use, provided that the conforming status of the building or structure is not affected by the change of use.

C. Non-conforming structures may be maintained, repaired, renovated, or remodeled to the extent that non-conformance with the standards and regulations of this Program is not increased; provided that nonconforming development, which is moved any distance, must be brought into conformance with the requirements of this Program. Provisions of SMP Section 3.4 shall apply to nonconforming structures and uses. No shoreline related permits are required for exterior or interior improvements that are within a nonconforming structure's building envelope.

D. The expansion of a nonconforming use may be permitted as a conditional use provided that the expansion does not result in new structures that are nonconforming or result in an increase in the nonconformity of existing structures.

E. The expansion of a nonconforming building or structure that contains a conforming use may be permitted as a conditional use.

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F. A nonconforming single family residence damaged by any means, other than by a purposeful act of demolition by the owner or his agent, may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, so long as restoration is completed within one year of the date of final resolution of all legal actions ensuing from the damage.

G. Reconstruction of a nonconforming structure or re-establishment of a nonconforming use shall not be burdened with restorative actions to enhance overall shoreline quality. Restorative actions shall be limited to those required to ensure no net loss of functions and values related to the structure or use.

3.10 Property Rights and Public Access.

A. This Program shall not be construed as altering existing law on access to or trespass on private property.

B. This Program shall not be construed as granting the general public any right to enter private property without permission of the owner.

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4.0 GENERAL ELEMENTS

The following general elements are included pursuant to RCW 90.58.100 and are addressed throughout the Blaine Shoreline Master Program.

4.1 ECONOMIC DEVELOPMENT

An element related to the location and design of industries, industrial projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state.

GOAL 4.1: Encourage utilization of all economic resources to improve the standard of living for residents of the City of Blaine while assuring that these economic resources are utilized in a manner that result in the least possible damage to the shoreline resources and surrounding environment.

Policy 4.1A: Encourage economic development that has minimal adverse effects upon shoreline ecological functions and processes.

Policy 4.1 B: New water-dependent, water-related, and water-enjoyment economic development should be encouraged.

Policy 4.1C: Promote tourism related activities that encourage public access to the shoreline and public interaction with the aquatic environment.

Policy 4.1 D: Economic development policies established in the Blaine Comprehensive Plan should be implemented in shoreline areas consistent with this Program.

Policy 4.1 E: Support and maintain maritime industries and visitor services as significant components of the area economy.

4.2 PUBLIC ACCESS

An element related to providing public access to publicly owned shoreline areas and privately owned shoreline areas where the public has been granted a right of use or access.

GOAL 4.2: Assure acquisition and maintenance of an adequate supply of visual and physical access to the shorelines for the residents of the City of Blaine and visitors to the community. Wherever possible, encourage utilization of public property for public access purposes.

Policy 4.2A: Public access should be located, designed, managed and maintained in a manner that protects shoreline processes and assures no net loss of ecological functions.

Policy 4.2B: The protection and provision of physical and visual access to publicly owned shorelands should be encouraged and protected.

Policy 4.2C: Unopened rights-of-way and other properties in public ownership should be utilized for shoreline visual and physical access where feasible, and when this can be done in a manner that protects shoreline processes. Such rights-of-way should not be vacated.

Policy 4.2D: Provide incentives for public access opportunities in private developments.

Policy 4.2E: Encourage the development of restaurants, hotels, markets and public gathering places that enhance public use and attract the public to appropriate shoreline areas.

Policy 4.2F: Encourage and incentivize the redevelopment and repurposing of piers, docks and wharves in a manner that facilitates public access where feasible and where mixing uses do not create an undue risk to people or facilities.

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4.3 RECREATION

An element related to preserving and increasing public recreational opportunities, including, but not limited to, creating and maintaining parks and other public recreational areas.

GOAL 4.3: Develop and maintain an adequate supply of shoreline recreational opportunities for the residents of the City of Blaine and for visitors to the community.

Policy 4.3A: Recreational development should be encouraged and should be located, designed, managed and maintained to assure that the residents and visitors are provided an opportunity to engage in shoreline oriented recreation at sites and facilities created and managed to ensure no net loss of shoreline ecological functions or ecosystem-wide processes.

Policy 4.3B: Shoreline recreation development projects should be coupled with shoreline restoration and habitat enhancement as feasible.

Policy 4.3C: Provide a balance of active recreational and passive open space areas.

4.4 CIRCULATION

An element related to the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element.

GOAL 4.4: Develop a safe, convenient, and diversified circulation system, consistent with the shoreline use goals, to assure efficient movement of people during their daily activities without significant adverse impact to or disruption of the natural functions of the shoreline environment.

Policy 4.4A: Implement transportation goals and policies as outlined in the Blaine Comprehensive Plan consistent with this Program.

Policy 4.4B: Motorized land transportation routes within the shorelands should be developed as far as reasonably possible from the water's edge, except where needed to provide access to water-oriented uses.

Policy 4.4C: Encourage the preservation of navigation channels and waterways providing commercial and recreational transportation corridors and areas.

4.5 SHORELINE USE

An element related to the proposed general location, distribution and extent of uses on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land and water resources.

GOAL 4.5: Establish and implement policies and regulations for shoreline use consistent with the Shoreline Management Act of 1971 and the Blaine Comprehensive Plan. These policies and regulations should promote a mixture of reasonable and appropriate shoreline uses that enhance the City's character, foster its historic and cultural identity, and protect shoreline resources.

Policy 4.5A: Identify and reserve shoreline and water areas with unique attributes for specific long-term uses, including commercial, industrial, residential, recreational, and open space uses.

Policy 4.5B: Ensure that activities and facilities are located on the shorelines in such a manner as to maintain or improve the ecological functions of the shoreline environment and assure no net loss of ecological functions.

Policy 4.5C: Ensure that proposed shoreline uses are distributed, located and developed in a manner that will maintain or improve the health, safety and welfare of the public.

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Policy 4.5D: Ensure that planning, zoning, and other regulatory and non-regulatory programs governing lands adjacent to shorelines are consistent with the provisions of this Program.

Policy 4.5E: Preference should be given to water-dependent uses that are consistent with preservation of shoreline ecological functions and processes. Secondary preference should be given to water-related and water-enjoyment uses. Non water-oriented uses should be allowed only when substantial public benefit is provided with respect to the goals of the Act for public access and ecological restoration.

Policy 4.5F: Encourage the marine industrial and mixed use re-development of the Wharf District SMU, and the tourist-commercial and residential development of the Semiahmoo Spit SMU. These unique and important sites should be developed consistent with the Program to enhance the public and private use of Blaine's economically important shoreline areas.

4.6 CONSERVATION

An element related to the preservation of natural resources and shoreline ecological functions and processes, including, but not limited to, wetlands, riparian, nearshore, and aquatic habitats, other priority fish and wildlife habitats and species, floodplains, feeder bluffs and other geological features, scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection.

GOAL 4.6: Assure the protection of unique, fragile and scenic elements and non-renewable natural resources within the shorelines of the City of Blaine, and protect shoreline ecological functions and the processes that sustain them to the maximum extent practicable.

Policy 4.6A: Critical areas should be protected in accordance with policies and regulations established in Chapter 17.82 and 17.83 BMC adopted by Ordinance No. 09-2729 in 2009 with the exceptions noted in the Program.

Policy 4.6B: Encourage the protection and preservation of shoreline areas that are ecologically intact and minimally developed or degraded.

Policy 4.6C: Regulations and mitigation standards should be developed and implemented consistent with this program that ensure that new shoreline developments protect shoreline ecological functions and processes.

Policy 4.6D: Existing street rights-of-way and public easements that provide visual and physical access to the shoreline should be maintained in public ownership for public benefit.

Policy 4.6E: Develop a monitoring program to track ecological impacts, both positive and negative, to ensure the goal of no net loss of functions and values is being met over time.

Policy 4.6F: Manage renewable natural resources on a sustained yield basis.

4.7 HISTORICAL/CULTURAL RESOURCES

An element related to the protection and restoration of buildings, sites and areas having archaeological, historic, cultural, scientific or educational values within the shorelines of the City of Blaine.

GOAL 4.7: Preserve, protect and restore areas having archaeological, historic, cultural, educational or scientific values or significance through coordination and consultation with the appropriate local, state, tribal and federal authorities.

Policy 4.7A: Developments within shoreline areas should be encouraged and, where appropriate, required to avoid or minimize impacts to sites having archaeological, historic, cultural, educational or scientific value or significance.

Policy 4.7B: Encourage opportunities for education related to archaeological, historical and

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cultural features where appropriate and incorporate such opportunities into public and private programs and development.

Policy 4.7C: Encourage the re-development of historic structures in a manner that preserves their context while allowing new uses that enhance the goals of this Program.

4.8 FLOOD DAMAGE MINIMIZATION

An element that gives consideration to statewide interests in the prevention and minimization of flood damage.

GOAL 4.8: Establish and implement applicable floodplain management strategies to minimize private property damage, improve ecological function and prevent species and habitat loss in wetlands and streams.

4.9 RESTORATION AND ENHANCEMENT

An element related to the restoration and enhancement of shoreline ecological functions consistent with City restoration planning goals and objectives.

GOAL 4.9: Support the restoration and enhancement of shoreline ecological functions within the City of Blaine through vegetation conservation and timely restoration and enhancement of impaired shoreline areas to achieve a net gain in shoreline ecological functions over time.

Policy 4.9A: The goals and objectives of the City of Blaine Shoreline Restoration Plan should be supported and pursued to achieve a net gain in shoreline ecological functions.

Policy 4.9B: Areas of existing native vegetation should be protected and allowed to mature to enhance shoreline functions and ecological processes.

Policy 4.9C: Cooperative restoration programs between local, state, and federal agencies, tribes, non-profit organizations, and landowners should be encouraged to address shorelines with impaired ecological functions and/or processes.

Policy 4.9D: Restoration actions should be prioritized to restore native vegetation in riparian and estuarine areas, improve water quality, and restore native vegetation and natural hydrologic functions of degraded areas.

Policy 4.9E: Restoration and enhancement efforts should be targeted towards improving habitat of sensitive, priority and/or locally important fish and wildlife species.

Policy 4.9F: Shoreline ecological functions and processes and features should be restored and enhanced through voluntary and incentive-based public and private programs.

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5.0 SHORELINES OF STATEWIDE SIGNFICANCE

Shorelines of statewide significance are among the most valuable and fragile natural resources and there is great concern relating to their utilization, protection, and restoration.

5.1 ADOPTION OF POLICY

Shorelines of statewide significance, as defined in the Shoreline Management Act, are resources of major importance from which all people of the state derive benefit. The Washington State Legislature has identified marine waters below the line of extreme low tide as being shorelines of statewide significance within the City of Blaine. Most notably, this designation applies to the dredged areas of Blaine Harbor and Semiahmoo Marina. Such a designation requires the City to provide optimum implementation of the policies of the Shoreline Management Act within this area, as well as prioritization of uses in order to satisfy the statewide interest.

The following management and administrative policies are adopted for all shorelines of statewide significance as defined in RCW 90.58.020(2)(e) and as identified in this Program. The City of Blaine is required to give preference to uses that are generally consistent with the statewide public interest in such shorelines. These are uses that:

A. Recognize and protect the state-wide interest over local interest;

B. Preserve the natural character of the shoreline;

C. Result in long term over short-term benefit;

D. Protect the resources and ecology of the shoreline;

E. Increase public access to publicly owned areas of the shoreline;

F. Increase recreational opportunities for the public in the shoreline; and

G. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

5.2 DESIGNATION OF SHORELINES OF STATEWIDE SIGNIFICANCE

Shorelines of statewide significance, as defined in the Shoreline Management Act, are resources of major importance from which all people of the state derive benefit. The Washington State Legislature has identified those marine water areas, water columns and bedlands waterward of extreme low tide as being shorelines of statewide significance within the Blaine shoreline jurisdictional area.

5.3 POLICIES FOR SHORELINES OF STATEWIDE SIGNIFICANCE

GOAL 5.3: Within shorelines of statewide significance, provide optimum implementation of the policies established in RCW 90.58 and give preference to uses that protect the statewide interest over local interest.

Policy 5.3A: When developing policies and regulations affecting shorelines of statewide significance, coordinate and consult with state agencies, neighboring jurisdictions and local tribes to ensure optimum implementation of the policies of the Shoreline Management Act.

Policy 5.3B: Within shorelines of statewide significance, preference shall be given in the following order to uses that provide the following, as established in RCW 90.58.020:

(1) Recognize and protect the statewide interest over local interest;

(2) Preserve the natural character of the shoreline;

(3) Result in long term over short term benefit;

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(4) Protect the resources and ecology of the shoreline;
(5) Increase public access to publicly owned areas of the shorelines;
(6) Increase recreational opportunities for the public in the shoreline; and
(7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

Policy 5.3C: Shorelines of statewide significance should be preserved for future generations by severely limiting actions that convert resources into irreversible uses and are detrimental, including contributions to restore resources.

Policy 5.3D: Potential short-term economic gains or convenience should be measured against potential long term and/or costly impairment of natural features.

Policy 5.3E: Resources and ecological systems associated with shorelines of statewide significance should be protected.

Policy 5.3F: Activities that use shoreline resources on a sustained yield or non-consuming basis and that are compatible with other appropriate uses should be given priority over uses not meeting these criteria.

Policy 5.3G: The range of options for shoreline use should be preserved to the maximum possible extent for succeeding generations. Development that consumes valuable, scarce, or irreplaceable natural resources should not be permitted if alternative sites are available.

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6.0 ECOLOGICAL PROTECTION

Shorelines of the state are valuable and fragile natural resources and there is great concern relating to their utilization, protection, and restoration. Unless specifically authorized through this Chapter, all developments and activities proposed or undertaken within the shoreline jurisdiction of the City of Blaine shall result in no net loss of ecological functions. In addition to the requirements set forth in this Chapter, the Administrator shall determine the extent to which supplemental information prepared by a qualified consultant is necessary to ensure that specific development proposals and activities will not result in a net loss of ecological functions.

6.1 NO NET LOSS

As established by WAC 173-26-186(8), this SMP is designed to assure, at a minimum, no net loss of ecological functions and to plan for restoration of ecological functions where they have been impaired. This section gives detail to the protection of shorelines as natural resources and applies the principle of “no net loss” to ecological function or ecosystem-wide processes to preserve and protect shorelines.

The concept of “net” recognizes that any development has potential or actual, short term or long term impacts and that through application of appropriate development standards and employment of mitigation measures in accordance with the mitigation sequence, those impacts will be addressed in a manner necessary to assure that the end result will not diminish the shoreline resources and the values as they currently exist.

GOAL 6.1: Assure that development and use within shoreline jurisdiction result in no net loss of ecological functions and ecosystem-wide processes.

Policy 6.1A: Shoreline uses and development should occur in a manner that assures no net loss of ecological functions and values. Uses shall be designed and conducted to minimize any resultant damage to the ecology and the environment (RCW 90.58.020).

Policy 6.1B: Development standards for density, frontage, setbacks, lot coverage, shoreline stabilization, vegetation conservation, buffers, critical areas, and water quality should protect existing shoreline ecological functions and processes.

Policy 6.1C: Protect and manage critical areas associated with shorelines in accordance with the regulations contained herein and adopted by reference.

Policy 6.1 D: Protect and manage scenic vistas, aesthetics, and vital habitat areas for fish and wildlife.

Policy6.1E: Track and monitor shoreline changes, both positive and negative, that result from development and other shoreline activities such as vegetation management or habitat restoration/creation. The Administrator shall develop a monitoring and tracking program.

GOAL 6.2: Mitigate impacts to shoreline ecological functions and values to result in no area wide net loss of shoreline ecological functions and processes.

Policy 6.2A: All shoreline development and uses shall occur in a manner that results in no net loss of shoreline ecological functions to the greatest extent feasible, through the location and design of all allowed development and uses. In cases where impacts to shoreline ecological functions from allowed development and uses are unavoidable, those impacts shall be mitigated according to the provisions of this section.

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Policy 6.2B: To the extent Washington's State Environmental Policy Act of 1971 (SEPA), RCW chapter 43.21C, is applicable, the analysis of environmental impacts from proposed shoreline uses or developments shall be conducted consistent with the rules implementing SEPA (BMC Chapter 17.80 and WAC 197-11).

Policy 6.2C: Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority.

(1) Avoiding the impact altogether by not taking a certain action or parts of an action;
(2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
(3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
(4) Reducing or eliminating the impact over time by preservation maintenance;
(5) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
(6) Monitoring the impact and the compensation projects and taking the appropriate corrective measures.

Policy 6.2D: When requiring compensatory measures or appropriate corrective measures pursuant to the priority of mitigation sequencing above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions.

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6.2 CUMULATIVE EFFECTS

As established by WAC 173-26-191(2)(a)(iii)(D) the Administrator shall monitor and periodically evaluate the cumulative effects of actions and permits authorized by this Program. The Administrator has discretion in developing a monitoring program and determining the level of evaluation within the limits of the WAC.

The primary actions by the Administrator shall include such actions as maintaining a log of all authorized actions and permits, and annually reviewing the effect of those actions in a cumulative manner to evaluate the impact of actions in light of each other and the entirety of the shoreline functions and values. The Administrator may, from time to time, report to the Planning Commission on the status of the City's progress in achieving a no net loss outcome of shoreline regulation.

7.0 SHORELINE JURISDICTION AND ENVIRONMENT DESIGNATIONS

7.1 SHORELINE JURISDICTION

Consistent with the definitions established in the Shoreline Management Act and implementing regulations, those areas that are within the jurisdiction of the Blaine Shoreline Master Program include those areas within the corporate limits of the City of Blaine as it currently exists, or as subsequently modified through annexation, including:

A. All marine waters, including tidal areas, plus those adjacent land areas within 200 feet of the ordinary high water mark.

B. All river and stream segments having a mean annual flow of at least 20 cubic feet per second plus those adjacent land areas within 200 feet of the ordinary high water mark.

C. Those wetland areas associated with any of the above aquatic areas.

7.2 SHORELINE JURISDICTION MAP

The general locations of those land and water areas subject to the jurisdiction of the Blaine Shoreline Master Program are shown on the Shoreline Environment Designation Map. The Official Shoreline Map shall be the "Shoreline Environment Designation Map" which shall indicate the Shoreline Environment designation assigned to those parcels within shoreline jurisdiction, and inclusion in a Special Management Unit, as applicable.

The map does not necessarily identify or depict the precise, lateral extent of shoreline jurisdiction nor does it identify all associated wetlands. The lateral extent of the shoreline jurisdiction shall be determined on a case-by-case basis based on the location of the ordinary high water mark (OHWM) and presence of associated wetlands.

The Official Shoreline Map shall be kept on file at the office of the City Clerk. Duplicate maps may be made for administrative purposes.

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7.3 SHORELINE ENVIRONMENT DESIGNATIONS ESTABLISHED

RCW 90.58 and WAC 173-26-211 require that the City of Blaine adopt a system of designations to be used for classifying areas falling within shoreline jurisdiction. This classification system is to be based on the existing use pattern, the biological and physical character of the shoreline, and the goals of the community as expressed through the comprehensive plan.

In order to classify, segregate and regulate the uses of land, water, buildings and structures, there is hereby established a set of designations for areas within shoreline jurisdiction called Shoreline Environment Designations. The purpose of these designations is to provide a systematic, rational and equitable basis upon which to guide and regulate development within specific shoreline reaches having some degree of geographic unity, but which differ from adjacent shoreline reaches and other areas in terms of natural features and development or potential development patterns. Shoreline Environment designations in the City of Blaine shall include the Aquatic (AQ), Natural (NL), High Intensity (HI), Shoreline Residential (SR), and Urban Conservancy (UC) designations as described in WAC 173-26-211. Special Management Units (SMU) are established for Blaine Harbor and surrounding land and waters designated by the Wharf District Master Plan, and for Semiahmoo Spit and Marina and surrounding waters designated by the Resort Semiahmoo Master Plan.

GOAL 7.3: Establish a set of shoreline environment designations that provides a systematic,

rational and equitable basis to guide and regulate development within specific shoreline reaches having some degree of geographic unity, but that differ from adjacent reaches in terms of natural features or existing or potential development patterns.

Policy 7.3A: The shoreline environment designations of the City of Blaine shall include the following designations: Aquatic, Natural, High Intensity, Urban Conservancy, Shoreline Residential and Special Management Unit as described in WAC 173-26-191(1)(d). Special Management Units (SMU) are established for Blaine Harbor and surrounding land and waters designated by the Wharf District Master Plan, and for Semiahmoo Spit and Marina and surrounding waters designated by the Resort Semiahmoo Master Plan.

Policy 7.3B: Those areas within the City of Blaine and designated urban growth area that are within shoreline jurisdiction shall be shown on the Official Shoreline Map. This map shall also identify the locations of areas included in each shoreline environment designation.

(1) Upon annexation into the City of Blaine, annexed areas shall, for the purposes of shoreline management, be designated based on the shoreline environment designations for such areas included on the Official Shoreline Map at the time of adoption of the Blaine Shoreline Management Master Program.

(2) Areas not identified as being included in any specific environment designation, either through oversight or intention, shall be deemed to be included in the Urban Conservancy environment.

Policy 7.3C: The purpose, designation criteria, management policies, and development regulations applicable to each environment designation shall be established and implemented.

Policy 7.3D: Areas designated on the Official Shoreline Map as having dual designations, usually Natural and another designation, shall be construed to have the Natural designation for a certain distance landward of the OHWM and the other designation for the remainder of the 200 feet landward of the OHWM where this Program applies. The dual designations shall be defined as follows:

(1) From the City limits in Reach 17 north along Semiahmoo Bay to the City-owned property just south of the former wastewater treatment plant, the dividing line between the designations shall be the break in the grade at the top of the bluff or steep slope.

(2) For Reach 13, the dividing line between the designations shall be the waterward edge of the Old Drayton Harbor Road trail. Where the road has been completely abandoned, the geoline as depicted on the face of the plat for Drayton Hillside and Drayton Hillside Phase 2 shall serve as the dividing line.

(3) For all of Reach 6 and 7, the dividing line between the designations shall be the break in grade at the top of the bluff or steep slope.

Policy 7.3E: In making interpretations regarding the jurisdictional boundaries of this Program or the boundaries between specific Environment Designations, the Administrator shall utilize the standards set forth in this Section. In those instances where disputes arise regarding these boundaries, the Administrator shall consult with the Department of Ecology's shoreline local program representative.

(1) If disagreement develops as to the exact location of a shoreline management jurisdiction boundary line, the official jurisdiction maps as approved by the Department of Ecology together with the definitions contained in Section 7 of this Program shall be interpreted by the Administrator to make a determination.

(2) If disagreement develops as to the exact location of a Shoreline Environment

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boundary line, the following rules apply:

a. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed;

b. Boundaries indicated as approximately following roads or railways shall be respectively construed to follow their centerlines, unless stated otherwise;

c. Boundaries indicated as approximately parallel to or extensions of features indicated in subsection (1) and (2) above shall be so construed;

d. Boundaries indicated as approximately occurring at definite changes in topography, shoreforms, geology, soils, or vegetative cover shall be so construed.

(3) Whenever existing physical features are inconsistent with boundaries on the Official Shoreline Map, the Administrator shall interpret the boundaries. The Administrator's decision may be appealed to the Hearing Examiner pursuant to BMC Section 17.81.

7.4 AQUATIC ENVIRONMENT

7.4.1 Purpose

The purpose of the "aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.

7.4.2 Designation Criteria

Shoreline areas shall be included in the aquatic environment if they include lands waterward of the ordinary high water mark. Areas included in the aquatic designation shall include the underlying lands and water column.

7.4.3 Policies

The following management policies shall apply to areas within the aquatic environment:

Policy 7.4.3A: New over-water structures shall only be allowed for water-dependent uses or public access or ecological restoration.

Policy 7.4.3B: The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

Policy 7.4.3C: 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.

Policy 7.4.3D: All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

Policy 7.4.3E: Uses that adversely impact the ecological functions of critical saltwater or freshwater habitat should not be allowed except where necessary to support or further other shoreline goals and policies when impacts can be mitigated to the maximum extent possible.

Policy 7.4.3F: Shoreline uses and modifications shall be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

7.4.4 Permitted Uses

Permitted uses in the Aquatic Environment include the following:

A. Water-dependent recreational development;

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B. Shoreline restoration;

C. New overwater structures to support water dependent use(s), public access, or ecological restoration;

D. Re-purposing of existing overwater structures to support uses in 7.4.4.C or water-oriented use(s).

7.4.5 Conditional Uses

The following conditional uses may be permitted within the Aquatic Environment by the City upon application and in accordance with BMC Section 17.81:

A. Aquaculture;

B. Boat ramps;

C. Dredging;

D. Piers and docks;

E. Shoreline stabilization;

F. Transportation- bridges, ferry docks, float plane docks;

G. Utilities;

H. Marinas;

I. Jetties and Groins;

J. Landfill for water-dependent use, public access, cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan, disposal of dredged material in accordance with DNR Dredged Material Management Program, expansion or alteration of transportation facilities of statewide significance currently located on the shoreline (if alternatives to fill are shown not feasible), mitigation action, environmental restoration, beach nourishment or enhancement project.

7.4.6 Prohibited Uses

The following uses are prohibited within the Aquatic Environment:

A. Mining;

B. Residential development;

C. Non-water dependent industrial/port development;

D. Transportation-roads and parking;

E. Free-standing signs;

F. Solid Waste facilities;

G. Landfill or Excavation, except as permitted in 7.4.5.

7.4.7 Aquatic Environment - Development Regulations

A. Unless otherwise specified, the construction standards of the underlying zoning

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district shall also apply.

B. Maximum building height. The maximum building height allowed within the Aquatic Environment is twenty-five (25) feet as measured from the mean higher high tide. The maximum building height for lands adjacent to an aquatic environment designation shall be determined by the respective height stipulations in that designation.

C. Shoreline setback. None.

D. All structures that could interfere with navigation shall be marked in accordance with the Coast Guard Private Aids to Navigation.

E. All feasible methods shall be employed to minimize over-water noise generation and pollution; cost factors are to be included in the definition of feasible.

F. Structures shall be designed with sensitivity to ecological processes and/or function.

7.5 NATURAL ENVIRONMENT

7.5.1 Purpose

The purpose of the "natural" environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed to maintain ecological functions and ecosystem-wide processes.

7.5.2 Designation Criteria

Shoreline areas shall be included in the natural environment based on meeting any of the following criteria:

A. The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;

B. The shoreline contains forested areas that generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies;

C. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest;

D. The shoreline contains largely undisturbed areas of wetlands, estuaries, unstable bluffs, coastal dunes, and spits;

E. The shoreline is unable to support new development or uses without significant impacts to ecological functions or risk to human safety;

F. The shoreline is especially sensitive to human disturbance and important for the conservation and recovery of threatened and endangered species.

7.5.3 Policies

The following management policies shall apply to areas within the natural environment:

Policy 7.5.3A: Any use that would substantially degrade the ecological functions or natural character of the shoreline area shall be prohibited.

Policy 7.5.3B: Access may be permitted for scientific, historical, cultural, educational, and low-intensity water-oriented recreational purposes, provided that no significant ecological

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impact on the area will result.

Policy 7.5.3C: Development or significant vegetation removal shall not be allowed that would reduce the capability of vegetation to perform normal ecological functions or result in net loss of vegetated area.

Policy 7.5.3D: Subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions shall not be allowed.

Policy 7.5.3E: Intact wildlife habitat corridor areas should be promoted and protected to allow for continuous habitat areas. Structures should be sited in a manner that minimizes the fragmentation of otherwise intact habitat areas. Reconnection of fragmented habitat areas shall be considered an element of habitat restoration and is encouraged.

7.5.4 Permitted Uses

The following uses are permitted within the Natural Environment:

A. Interpretive signage, including trail marking, hazard warnings, or for scientific or educational purposes;

B. Recreational facilities limited to pedestrian-accessible facilities such as natural parks, viewpoints, public beach stairs and primitive, unpaved or paved trails.

C. Shoreline restoration;

D. Roads and utilities where no feasible alternative location exists outside the Natural Environment;

E. Soft shoreline stabilization primarily composed of anchored beach logs, vegetation management/enhancement, and beach feeding.

7.5.5 Conditional Uses

The following conditional uses may be permitted within the Natural Environment by the City upon application and in accordance with BMC Section 17.81:

A. Boat ramps to facilitate hand launching of small craft if materials and design are compatible with the site;

B. Scientific, historical, cultural and education uses and structures housing such uses;

C. Low-intensity recreational uses such as picnic areas;

D. Recreational facilities for public access not listed in SMP Section 7.5.4, including but not limited to parking lots;

E. Shore Stabilization, not included in Sec. 7.5.4.E, or restricted by Sec. 7.5.6.

7.5.6 Prohibited Uses

The following uses are prohibited within the Natural Environment:

A. Aquaculture;

B. Mining;

C. Residential;

D. Marinas;

E. Commercial/industrial/port development;

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F. Transportation-when a feasible alternative exists outside the Natural Environment designation, including parking not listed in Sec. 7.5.5;

G. Advertising signs;

H. Solid Waste facilities;

I. Boat ramps except hand launch;

J. Breakwaters;

K. Bulkheads;

L. Dredging;

M. Jetties/Groins;

N. Landfill/Excavation;

O. Piers/Docks;

Q. Beach stairs for private use;

R. Non-water-oriented recreation;

S. Development or subdivision of land that would require significant vegetation removal that would reduce the capacity of vegetation to provide normal ecological functions;

T. Uses that would substantially degrade ecological functions or natural character of shoreline even after mitigation.

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7.5.7 Natural Environment - Development Regulations

A. Uses in the natural environment shall achieve no net loss of ecological functions, and must demonstrate that mitigation sequencing has been used in project design and construction.

B. Unless otherwise specified, the construction standards of the underlying zoning district shall also apply.

C. Maximum building height: No new buildings are permitted in the Natural Environment designation areas. Existing buildings are limited to their current height.

D. Shoreline setback: None. Existing buildings are limited to their current footprint.

7.6 HIGH INTENSITY ENVIRONMENT

7.6.1 Purpose

The purpose of the “high intensity” environment is to provide for high intensity water-oriented commercial, transportation and industrial uses, and water-oriented mixed use developments such as those consisting of urban density residential, commercial and industrial uses, while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

7.6.2 Designation Criteria

Shoreline areas shall be included in the high intensity environment if they are within incorporated municipalities, urban growth areas, and limited industrial or commercial areas of more intense rural development, as described by RCW 36.70A.070 if they currently support or

are suitable and planned for high intensity water-dependent uses related to commerce, industry, transportation, navigation or high intensity water-oriented mixed use development.

7.6.3 Policies

The following management policies shall apply to areas within the high intensity environment:

Policy 7.6.3A: First priority shall be given to water-dependent uses. Second priority should be given to water-related and then water-enjoyment uses. Non-water-oriented uses should not be allowed except as part of mixed-use developments or existing developed areas supporting water-dependent uses. Non-water-oriented uses may also be allowed in limited situations 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, or where the needs of existing and future water-dependent uses are met.

Policy 7.6.3B: Where feasible, visual and physical public access should be required.

Policy 7.6.3C: Aesthetic objectives should be actively implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

Policy 7.6.3D: Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed.

Policy 7.6.3E: New development in the High Intensity Environment should be consistent with the provisions of this program pertaining to the preservation of shoreline ecological functions and processes, and should not cause net loss of ecological functions

Policy 7.6.3F: New development shall be required to include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.

Policy 7.6.3G: Intact wildlife habitat corridor areas should be promoted and protected to allow for continuous habitat areas. Structures should be sited in a manner that minimizes the fragmentation of otherwise intact habitat areas. Reconnection of fragmented habitat areas shall be considered an element of habitat restoration and is encouraged.

7.6.4 High Intensity Environment – Permitted Uses

Permitted uses in the High Intensity Environment include the following:

A. Commercial development;

B. Landfill and excavation in association with permitted development activity;

C. Mixed-use residential development;

D. Multi-family residential development;

E. Outdoor advertising and signs;

F. Recreational development;

G. Industrial Development;

H. Roads and parking;

I. Shoreline restoration;

J. Shoreline stabilization except as restricted in Sec. 7.6.5.

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7.6.5 High Intensity Environment – Conditional Uses

The following conditional uses may be permitted within the High Intensity Environment by the City upon application and in accordance with BMC Section 17.81:

A. Aquaculture;

B. Bulkheads;

C. Jetties and Groins;

D. Piers, docks and boat ramps;

E. Shoreline protection.

7.6.6 High Intensity Environment – Prohibited Uses

The following uses are prohibited within the High Intensity Environment:

A. Solid waste facilities;

B. Mining;

C. Beach stairs for private use;

7.6.4 High Intensity Environment – Development Regulations

A. Unless otherwise specified, the construction standards of the underlying zoning district shall apply.

B. Maximum building height: The maximum building height in the High Intensity environment is 35 feet within 100 feet of the OHWM. Development that is at least 101 feet from the OHWM shall have height limits as defined by the underlying zoning district or Special Management Plan, whichever is lesser.

C. Shoreline setback: There shall be no setback for water-dependent uses. For water-related uses the minimum setback shall be 30 feet. For water enjoyment uses the minimum setback from the ordinary high water mark shall be 100 feet, which may be reduced to 50 feet with shoreline conditional use approval. For further setback regulations refer to "Residential Development" and "Commercial Development" in Section 8 of this Program.

D. Site and construction standards for Special Management Units (Wharf and Semiahmoo Spit) are regulated through their respective master plans and the applicable provisions SMP Section 7.9.

E. Site development shall include environmental cleanup and restoration of shorelands consistent with state and federal standards whenever contamination is identified.

F. Visual access to the shoreline shall be provided for those properties along Peace Portal Drive through the construction of the Blaine boardwalk. Where the Blaine boardwalk is not proposed view corridors shall be provided, typically on reserved street rights-of-way. Developments in Special Management Units shall comply with the provisions for visual and physical access included therein.

7.7 URBAN CONSERVANCY ENVIRONMENT

7.7.1 Purpose

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The purpose of the “urban conservancy” environment is to protect and restore ecological functions of open space, floodplain, and other sensitive lands where they exist in urban and developed settings, while allowing for a variety of compatible uses.

7.7.2 Designation Criteria

Shoreline areas shall be included in the urban conservancy environment based on meeting any of the following criteria:

A. The area is suitable for a mix of water-related or water-enjoyment uses with other uses that allow a substantial number of people to enjoy the shoreline;

B. The area is comprised of open space, critical areas, floodplains, or other areas that should not be more intensively developed;

C. The area retains important ecological functions, even though partially developed;

D. The area has potential for ecological restoration;

E. The area has the potential for development that is compatible with ecological restoration.

7.7.3 Policies

The following management policies shall apply to areas within the urban conservancy environment:

Policy 7.7.3A: Uses that preserve the natural character of the area or promote preservation of open space, critical areas, floodplain, or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if found compatible.

Policy 7.7.3B: Standards shall be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications. These standards shall ensure that new development does not result in a net loss of shoreline ecological function or further degrade other shoreline values.

Policy 7.7.3C: Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

Policy 7.7.3D: Water-oriented uses should be given priority over non-water-oriented uses.

Policy 7.7.3E: Intact wildlife habitat corridor areas should be promoted and protected to allow for continuous habitat areas. Structures should be sited in a manner that minimizes the fragmentation of otherwise intact habitat areas. Reconnection of fragmented habitat areas shall be considered an element of habitat restoration and is encouraged.

7.7.4 Urban Conservancy Environment – Permitted Uses

Permitted uses in the Urban Conservancy Environment include the following:

A. Landfill and excavation associated with an approved development;

B. Low intensity non-commercial recreational uses that do not lead to degradation of shoreline ecological functions, provided that any structure will not constitute more than 10 percent building coverage or 4,000 square feet and the total impervious surface will not exceed 20% or 10,000 square feet, whichever is greater;

C. Single-family and duplex residential development;

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D. Roads and parking;

E. Utilities;

F. Shoreline restoration;

G. Shoreline stabilization, except as regulated by Sec. 7.7.5 and 7.7.6;

H. Boat ramps to facilitate hand launching of small craft if materials and design are compatible with the site;

I. Beach stairs;

J. Multifamily residential development.

7.7.5 Urban Conservancy Environment – Conditional Uses

The following conditional uses may be permitted within the Urban Conservancy Environment by the City upon application and in accordance with BMC Section 17.81:

A. Bulkheads;

B. Commercial development limited to those uses permitted in the underlying zoning district.

7.7.6 Urban Conservancy Environment – Prohibited Uses

The following uses are prohibited within the Urban Conservancy Environment:

A. Aquaculture;

B. Mining;

D. Marinas;

E. Industrial and Port development;

G. Advertising signs;

H. Solid Waste facilities;

I. Boat ramps except hand launch;

J. Breakwaters;

L. Dredging;

M. Jetties/Groins;

N. Piers and Docks;

O. Landfill/Excavation expect as indicated in Sec. 7.7.4.

7.7.7 Urban Conservancy Environment – Development Regulations

A. Unless otherwise specified, the size and construction standards of the underlying zoning district shall apply.

B. Maximum building height: The maximum building height in the Urban Conservancy environment is 35 feet.

C. Shoreline setback: The minimum shoreline setback shall be as follows:

1. The minimum setback shall be 150 feet from the ordinary high water mark;
2. The Administrator may reduce the setback by up to 50-percent where necessary to accommodate permitted or conditionally permitted use;

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3. The burden shall be on the applicant to demonstrate that adequate area does not exist to accommodate the anticipated use;
4. Any reduction shall be based on enhancement of the setback area through actions including some or all of the following: removal of invasive species, removal of structures such as armored slopes and bulkheads, planting of native vegetation, and/or installing habitat features. Such action including future maintenance and monitoring shall be prescribed in a plan developed by a qualified ecologist or other professional as appropriate;
5. Enhancement areas in reduced shoreline setback areas and appropriate use restrictions shall be memorialized with a notice on title that will be tied to the parcel.

7.8 SHORELINE RESIDENTIAL ENVIRONMENT

7.8.1 Purpose

The purpose of the "shoreline residential" environment is to accommodate residential development and appurtenant structures that are consistent with the goals of RCW 90.58 and this Program. An additional purpose is to provide appropriate public access and recreational uses.

7.8.2 Designation Criteria

Shoreline areas shall be included in the shoreline residential environment if they lie within urban growth areas, as defined in RCW 36.70A.1 10, incorporated municipalities, "rural areas of more intense development," or "master planned resorts," as described in RCW 36.70A.360, if they are predominantly single-family or multifamily residential development or are planned and platted for such development.

7.8.3 Policies

The following management policies shall apply to areas within the shoreline residential environment:

Policy 7.8.3A: Development should be permitted only in those shoreline areas where adequate setbacks or buffers are possible to ensure no net loss of shoreline ecological functions, where there are adequate access, water, sewage disposal, and utilities systems and public services available, and where the environment can support the proposed use in a manner which protects or restores the ecological functions.

Policy 7.8.3B: Densities or minimum frontage width standards in the "shoreline residential" environment shall be established to protect the shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

Policy 7.8.3C: Development standards for setbacks or buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be established to ensure no net loss of ecological functions.

Policy 7.8.3D: Multifamily and multi-lot residential and recreational developments should provide community or public access and joint use for community recreational facilities.

Policy 7.8.3E: Access, utilities, and public services should be available and adequate to serve existing needs and planned future development.

Policy 7.8.3F: Public or private outdoor recreation facilities should be encouraged if compatible with the character of the area. Preferred uses include water-dependent and water-enjoyment recreation facilities that provide opportunities for substantial numbers of

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people to access and enjoy the shoreline.

Policy 7.8.3G: Intact wildlife habitat corridor areas should be promoted and protected to allow for continuous habitat areas. Structures should be sited in a manner that minimizes the fragmentation of otherwise intact habitat areas. Reconnection of fragmented habitat areas shall be considered an element of habitat restoration and is encouraged.

7.8.4 Shoreline Residential Environment – Permitted Uses

Permitted uses in the Shoreline Residential Environment include the following:

A. Landfill and excavation in association with an approved development;

B. Recreational facilities with less than five acres of land disturbance;

C. Residential development;

D. Transportation – Roads and parking;

E. Utilities;

F. Shoreline stabilization, except as regulated in Sec. 7.8.5 and 7.8.6;

G. Shoreline restoration;

H. Boat ramps to facilitate hand launching of small craft if materials and design are compatible with the site;

I. Beach stairs.

7.8.5 Shoreline Residential Environment – Conditional Uses

The following conditional uses may be permitted within the Shoreline Residential Environment by the City upon application and in accordance with BMC Section 17.81:

A. Bulkheads;

B. Recreational facilities with greater than 5 acres of land disturbance;

C. Piers/Docks;

D. Municipal facilities not otherwise defined herein.

7.8.6 Shoreline Residential Environment – Prohibited Uses

The following uses are prohibited within the Shoreline Residential Environment:

A. Aquaculture;

B. Mining;

D. Marinas;

E. Commercial/industrial/port development;

G. Advertising signs;

H. Solid Waste facilities;

I. Boat ramps except hand launch;

J. Breakwaters;

L. Dredging;

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M. Jetties/Groins;

N. Landfill/Excavation, except as permitted in Sec. 7.8.4.

7.8.7 Shoreline Residential Environment – Development Regulations

A. Unless otherwise specified, the subdivision and construction standards of the underlying zoning district shall apply.

B. Maximum building height: The maximum building height in the Shoreline Residential environment is 35 feet.

C. Shoreline setback: The minimum shoreline setback shall be as follows:

1. The minimum setback shall be 100 feet from the ordinary high water mark;
2. The Administrator may reduce the setback by up to 50-percent where necessary to accommodate permitted or conditionally permitted use;
3. The burden shall be on the applicant to demonstrate that adequate area does not exist to accommodate the anticipated use;
4. Any reduction shall be based on enhancement of the setback area through actions including some or all of the following: removal of invasive species, removal of structures such as armored slopes and bulkheads, planting of native vegetation, and/or installing habitat features. Such action including future maintenance and monitoring shall be prescribed in a plan developed by a qualified ecologist;
5. Enhancement areas in reduced shoreline setback areas and appropriate use restrictions shall be memorialized with a notice on title that will be tied to the parcel.

D. Infill construction may have a setback less than described in SMP Section 7.8.7.C, but shall have a setback of no less than defined by extending a straight line across the subject property from the most waterward point of the primary structure on the two adjacent lots (Line A in Illustration 7.8.7.D). In instances where only one adjacent lot exists or only one adjacent lot is developed, the required setback shall be a straight line across the subject lot where the line is established by using the most waterward point of the primary structure on the developed adjacent lot and the standard minimum setback (100 feet) on the adjacent undeveloped lot (Line B in Illustration 7.8.7.D). The endpoint of the straight line shall be at the edge of the buildable portion of the undeveloped lot (i.e. where the side yard and shoreline setback meet), and shall be at the most waterward point of the primary structure on the developed lot.

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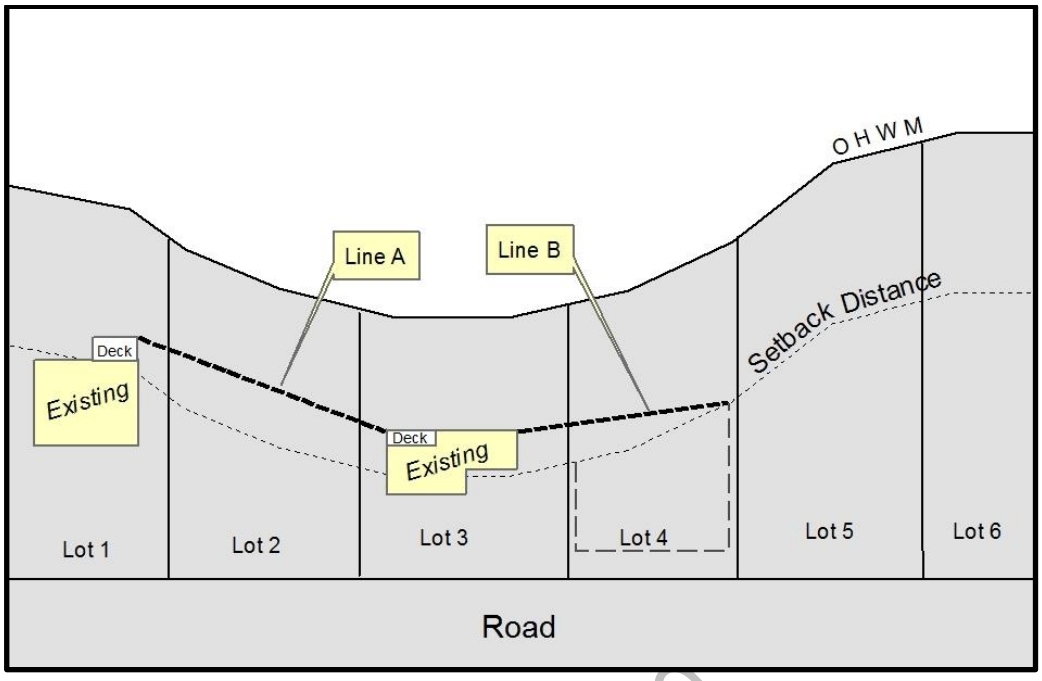

Illustration 7.8.7.D

E. Site and construction standards for Special Management Units (Wharf and Semiahmoo Spit) are regulated through their respective master plans and the applicable provisions of sections SMP Section 7.9, and not through the provisions of this section.

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7.9 SPECIAL MANAGEMENT UNIT

7.9.1 Purpose

The Special Management Unit (SMU) shoreline environment designation has been established for the purpose of recognizing the unique master planned character of two of the City's most accessible shoreline areas, Semiahmoo Spit and the Wharf District.

Both of these areas have been master planned around the marine shoreline environment of each site with the express goal that the plans achieve consistency with the goals and policies of the State Shoreline Management Act as implemented through the City's Shoreline Master Program. The master plans for each area received substantial public review prior to approval. The master plan for the Wharf District was adopted in 2007 and the Master Plan for Semiahmoo Spit was adopted in 1985 with the adoption of the Resort Semiahmoo Master Plan. For each of these two areas, the shoreline resource was a unifying theme. The relationship between shoreline uses and shoreline resources in each area is expressed differently.

By establishing the Special Management Unit Environment designation, the City is recognizing the time and effort that both the landowners and City have spent on developing and approving master plans for these two areas that respond to their unique shoreline character and create a unified approach to development in the shoreline consistent with the goals and policies of the State Shoreline Management Act. Both master plans are incorporated into this program by reference, as appended; 2007 Blaine Wharf District Master Plan and the 1985 Resort Semiahmoo Master Plan as amended up to the date of adoption of this Program.

7.9.1.A Wharf District

The Wharf District includes a working waterfront with an industrial area, port facilities, a marina providing moorage for commercial fishing vessels, warehouse and storage space for the fishing industry, and space for recreational vessels. The Wharf District plan includes provisions for substantial public access to the shoreline and also for commercial uses and multifamily housing consistent with the character of the area. The plan recognizes the need to regulate development on the shoreline consistent with the wide range of water dependent, water related and water enjoyment commercial, industrial, residential and recreational uses. The Wharf District also includes some of the city's largest shoreline areas managed for shoreline recreation, those are Marine Park, the Blaine Fishing Pier, and the proposed Plover Park.

The purpose of the "Special Management Unit -Wharf District" environment is to provide for a mix of high-intensity water-oriented commercial, industrial and recreational uses that support water related activities and associated mixed-use residential development that are compatible with shoreline public access and tourism activities while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

Direction and guidance for development in this district is provided by the Wharf District Master Plan (a component of the Blaine Comprehensive Plan), approved by both the City of Blaine and the Port of Bellingham. The regulatory provisions of this program, BMC 17.23 CB-Wharf Zoning District, and related provisions of BMC Title 17, are intended to supplement the Wharf District Master Plan.

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7.9.1 Semiahmoo Spit District

The purpose of the "Special Management Unit--Semiahmoo Spit" environment is to provide for a mix of high-intensity, water-oriented commercial, residential and recreational uses. Direction and guidance for development in this district is provided by the Resort Semiahmoo Master Plan (a component of the Blaine Comprehensive Plan). The regulatory provisions of the SMU-S environment are intended to ensure conformance with the Semiahmoo Master Plan and the shoreline residential, high-intensity, and aquatic environments under the Shoreline Management Act.

Semiahmoo Spit was planned as a resort recreation development with uses such as hotels, restaurants, tourist facilities, marinas, docks and piers, resort housing and substantial public access to the shoreline. No industrial development is proposed and commercial development is oriented toward the resort tourist market. Shoreline uses, building heights, and setbacks were all planned to minimize impacts to the shoreline and to provide substantial opportunity for the resort guests, residents, and the public to access the shoreline and beach areas of the Spit.

7.9.2 Designation Criteria

There are only two waterfront master planned areas that this designation applies to: Central Business-Wharf zoning district as included in the Blaine Wharf District Master Plan and the Marine Planned Recreation zoning district on the tip of Semiahmoo Spit as included in the Resort Semiahmoo Master Plan. In both instances, the adjacent harbors (Blaine Harbor and Semiahmoo Marina) are included in the Special Management Unit.

7.9.3 Policies

Policy 7.9.3A: The areas covered by the Special Management Unit shoreline designation have master development plans in place that are deemed compliant with the State Shoreline Management Act and with the goals, policies and objectives of this shoreline master program.

Shoreline development within areas subject to the Special Management Unit designation should be consistent with the goals, policies and plans of those underlying master plan.

Policy 7.9.3B: Provide a variety of recreational opportunities for residents and visitors.

Policy 7.9.3C: Provide public access to the shorelines and tidelands.

Policy 7.9.3D: Expand the economic base of the City of Blaine through the provision of water-oriented, tourist related facilities.

Policy 7.9.3E: Expand the economic base of the City of Blaine through the development of water-oriented industrial and commercial uses.

Policy 7.9.3F: Manage the shoreline to further optimize circulation, public access, development, and environmental restoration.

Policy 7.9.3G: Building heights, setbacks, public access requirements, and other development standards should be consistent with the standards of the underlying master plan. Where the underlying master plan does not specifically address a shoreline development issue otherwise addressed by this program, the goals, polices and regulations of the High Intensity Environment should be applied when not in conflict with the goals, policies and development standards of the underlying master plan.

Policy 7.9.3H: Intact wildlife habitat corridor areas should be promoted and protected to allow for continuous habitat areas. Structures should be sited in a manner that minimizes the fragmentation of otherwise intact habitat areas. Reconnection of fragmented habitat areas shall be considered an element of habitat restoration and is encouraged.

Policy 7.10.I: Low impact development techniques for the development of public and private infrastructure and for stormwater management should be encouraged.

7.9.4 Special Management Unit--Wharf District –Special Permit Requirements.

A shoreline substantial development permit is required for all shoreline development in the Wharf District not otherwise exempt as provided in SMP Section 3.4 of this program. No building permit applications for development in the Wharf Management Unit Shoreline without prior approval of a Shoreline Substantial Development Permit or Statement of Exemption as applicable, except that no shoreline-related permits are required for interior or exterior alterations or renovations of existing structures, provide that the alterations or renovations are within an existing structure's building envelope and the alteration or renovation conforms to the Wharf District Master Plan.

7.9.5 Wharf District – Special Approval Criteria.

A. The Shoreline Substantial Development Permit criteria of BMC 17.81.040 shall apply to the approval of substantial development permits in the Wharf District provided that if the proposed development is found to be in compliance with the provisions of the Wharf District Master Plan and implementing regulations included in Chapter 17.23 CB Wharf District Zoning, and Chapter 17.119 Wharf District Design Standards and is consistent with the provisions this Program pertaining to the preservation of shoreline ecological functions and processes, the proposed development shall be deemed to be in compliance with this Program.

B. If it is found in the course of reviewing a proposed development in the Wharf District, the Wharf District Plan and supporting documents contain no guidelines for addressing a shoreline development issue otherwise addressed by this program the goals, policies and regulations of the High Intensity Environment

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shall be applied to that portion of the proposal.

C. A final permit decision by the City must include findings of compliance with the following documents:

1. The Wharf District Master Plan.
2. The City of Blaine Shoreline Master Program.
3. Chapter 17.23 CB-Wharf Zoning District.
4. Chapter 17.119 Wharf District Design Standards.

D. When a permit application is submitted for development on Port owned property, the City shall solicit and consider any conditions or related requirements established by the Port before making a final decision.

7.9.6 Special Management Unit--Wharf District Environment - Permitted Uses.

Development of the Wharf District that supports a mix of high-intensity water-oriented commercial, industrial, residential and recreational uses when consistent with the Wharf District Master Plan and approved through a Shoreline Substantial Development Permit.

7.9.7 Special Management Unit--Wharf District Environment – Regulations and Standards.

The regulations and standards contained in the Wharf District Master Plan, Chapter 17.23 CB-Wharf Zoning District and Chapter 17.119 Wharf District Design Standards shall apply to all development in the Wharf District.

7.9.8 Special Management Unit--Semiahmoo Spit District –Special Permit Requirements

A shoreline substantial development permit is required for all shoreline development in the Semiahmoo Spit Management Unit not otherwise exempt as provided in this section or SMP Section 3.4. No building permit applications for development in the Semiahmoo Spit Management Unit will be accepted without prior approval of a Shoreline Substantial Development Permit or Statement of Exemption as applicable, except that no shoreline-related permits are required for interior or exterior alterations or renovations of existing structures, provide that the alterations or renovations are within an existing structure's building envelope and the alteration or renovation conforms to the Resort Semiahmoo Master Plan.

7.9.9 Special Management Unit--Semiahmoo Spit District – Special Approval Criteria

A. The Shoreline Substantial Development Permit criteria of BMC 17.81 shall apply to the approval of substantial development permits in the Semiahmoo Spit Management Unit provided that if the proposed development is found to be in compliance with the provisions of the Semiahmoo Resort Master Plan for the Spit, and with Chapter 17.20 Marine Planned Recreation Zone, and is consistent with the provisions of this program pertaining to the preservation of shoreline ecological functions and processes, the proposed development shall be deemed to be in compliance with this program.

B. If it is found in the course of reviewing a proposed development in the Semiahmoo Spit Management Unit, the Semiahmoo Resort Master Plan and supporting documents contain no guidelines for addressing a shoreline development issue otherwise addressed by this program the goals, policies and regulations of the High Intensity or Shoreline Residential Environment shall be applied as applicable

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based on the location within the underlying designation area to the extent that they are not in conflict with the goals, policies, and development standards of the Resort Semiahmoo Master Plan.

C. A final permit decision by the City must include findings of compliance with the following documents:

1. The Resort Semiahmoo Master Plan.

2. The City of Blaine Shoreline Master Program.

3. Chapter 17.20 Marine Planned Recreation Zoning District.

7.9.10 Special Management Unit--Semiahmoo Spit District Environment - Permitted Uses.

A. All uses permitted in the Resort Semiahmoo Master Plan are permitted uses under this Program because they are deemed water enjoyment uses on the Spit or are integrated parts of the planned mixed-use development.

B. The following uses are permitted in overwater structures that were legally constructed prior to the effective date of this Program: private events such as receptions and conferences, water-dependent commercial uses, water-enjoyment uses such as restaurants, bars and spas, provided they are determined in compliance with the goals and policies of the Resort Semiahmoo Master Plan.

7.9.11 Special Management Unit--Semiahmoo Spit District Environment – Regulations and Standards.

The regulations and standards contained in Chapter 17.20 Marine Planned Recreation Zoning District and Resort Semiahmoo Master Plan shall apply to all development in the Semiahmoo Special Management Unit.

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8.0 GENERAL MASTER PROGRAM PROVISIONS

8.0.1 APPLICABILITY OF TITLE 17, BMC.

A. Unless otherwise directed in this Program, when not directly related to the management of shorelines within the City of Blaine, this Program shall defer to Title 17 BMC (Land Use and Development) to establish general requirements for development, including permitted uses, maximum development density, height limitations, and other related requirements.

8.1 ARCHAEOLOGICAL AREAS AND HISTORIC SITES.

Native American and pioneer villages, military forts, old settlers' homes, and trails were often located on shorelines because of the proximity of food resources and because water provided a practical means of transportation. These sites are nonrenewable resources and many are in danger of being lost through present day changes in land use and urbanization. Because of their rarity and the educational and cultural links they provide to our past, these locations should be preserved whenever possible.

Policy 8.1A: Sites should be permanently preserved to show respect for their cultural or historic significance and, where appropriate, to provide opportunities for scientific study and public observation.

Policy 8.1B: In areas documented to contain archeological or cultural resources, developers should be required to have the site inspected by a professional archaeologist in consultation with affected Indian tribes prior to permit issuance.

Policy 8.1C: Developers should be required to stop work immediately and notify City officials, affected Indian tribes and the state Department of Archaeology and Historic Preservation if sites containing archaeological or cultural resources are uncovered during excavation.

Policy 8.1D: Developers should be required to obtain all legal permits regarding archaeological areas and historic sites.

Policy 8.1 E: In accordance with state law, all activities and development within shoreline jurisdiction shall comply with the applicable requirements of RCW 27.44, RCW 27.53 and WAC 25-48-060.

8.1.1 Archeological Areas and Historic Sites – Development Regulations

A. The National Historic Preservation Act of 1966 and Chapter 43.51 RCW provide for the protection, rehabilitation, restoration and reconstruction of areas and structures in American and Washington State history. The regulations in these acts shall be followed.

B. Following application and prior to issuance of a permit or statement of exemption for a site located within 500 feet of an area known to contain archaeological, cultural or historic resources, the City shall require the proponent to provide a cultural or historic resource site assessment and evaluation by a professional archaeologist or historic preservation professional. Said assessment shall be prepared in consultation with affected tribes and the Washington State Department of Archaeology and Historic Preservation. The cost of any such assessment shall be paid by the proponent. All such evaluations shall be completed to the satisfaction of the Administrator, and the proposed use or development properly conditioned, prior to issuance of a permit and prior to beginning ground-disturbing activities. This requirement may be waived by the Administrator upon a finding that the proposed use or activity does not include

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any ground-disturbing activities and will not impact a known historic, cultural or archaeological site.

C. If the cultural resource site assessment identifies the potential presence of significant archaeological, cultural or historic resources, a Cultural Resource Management Plan (CRMP) shall be prepared by a professional archaeologist or historic preservation professional, as applicable. The cost of preparing any such CRMP shall be paid by the proponent. The CRMP shall be prepared in consultation with affected tribes and the State Department of Archaeology and Historic Preservation. The recommendations and conclusions of the CRMP shall be used to assist the Administrator in making final administrative decisions concerning the presence and extent of historic/archaeological resources and appropriate mitigating measures. The Administrator may request revision of a CRMP when the Administrator can demonstrate that the assessment is inaccurate or does not fully address the historic/archaeological resource management concerns involved.

D. All shoreline permits involving excavation shall contain provisions which require developers to stop work immediately and secure the affected area and notify the City, affected tribes and the State Department of Archaeology and Historic Preservation if any archaeological, cultural or historic resources or human remains are uncovered during excavation or construction. Upon notification of any such inadvertent discovery, the Administrator shall conduct a site visit and shall consult with the above agencies and appropriate law enforcement authorities to determine the potential significance of the site, whether or not a site assessment and/or Cultural Resource Management Plan is required and whether any additional conditions are necessary to ensure the protection of said resources. Work in the affected area shall not resume until the proponent receives written authorization from the Administrator.

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8.2 CRITICAL AREAS

Critical areas, as defined in RCW 36.70A.030(5) include the following:

(1) Wetlands;
(2) Areas with a critical recharging effect on aquifers used for potable waters;
(3) Fish and wildlife habitat conservation areas;
(4) Frequently flooded areas; and
(5) *Geologically hazardous areas.*

Impacts to critical areas can result in significant adverse effects to public health and safety, the land and its vegetation and wildlife, and the waters of the state and their aquatic life.

Critical Areas include wetlands, fish and wildlife habitat conservation areas, frequently flooded areas, aquifer recharge areas and geologically hazardous areas. Where not specifically addressed within this Program, either directly or through reference, regulation of critical areas within shoreline jurisdiction shall be pursuant to applicable provisions contained in BMC Chapter 17.82 adopted by Ordinance No. 09-2729 in 2009.

Policy 8.2A: The public interest should be promoted and enhanced by reducing risks to life and property, by protecting and restoring ecological functions and ecosystem-wide processes and ensuring no net loss of these functions.

Policy 8.2B: In managing and regulating critical areas, scientific and technical information should be utilized as described in WAC 173-26-201(2)(a).

Policy 8.2C: Critical areas should be managed consistent with the minimum guidelines contained in WAC 365-190. Identification of wetlands and delineation of their boundaries pursuant to this Program shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the City of Blaine meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Program

Policy 8.2D: The protection of existing ecological functions and ecosystem-wide processes should be encouraged and, wherever possible, restoration of degraded areas should be supported.

Policy 8.2E: The protection and restoration of critical areas within shoreline jurisdiction should be encouraged through implementation of the full spectrum of planning and regulatory measures.

Policy 8.2F: Development standards for density, frontage, setbacks, lot coverage, shoreline stabilization, vegetation conservation, buffers, critical areas, and water quality should be utilized to protect existing shoreline ecological functions and processes.

Policy 8.2G: Critical area regulations shall adhere to standards established in the following sections of this Program, unless it is demonstrated through scientific and technical information as provided in RCW 90.58.100(1) and as described in WAC 173-26-201(2)(a) that an alternative provides better resource protection.

8.2.1 Wetlands

Wetlands provide many important ecological functions including flood attenuation, reduction of impacts to water quality, ground water recharge, maintenance of base in-stream flows, and provision of habitat for fish and wildlife. Impacts to wetlands can also contribute to adverse impacts on other important resources.

Policy 8.2.1A: Wetlands in shoreline jurisdiction should be managed to achieve a policy of no net loss of wetland functions and values.

Policy 8.2.1B: Wetlands should be categorized to reflect differences in wetland quality and function, rarity, irreplaceability, sensitivity to disturbance, and higher quality, more unique, and/or higher functioning wetlands should receive greater protection.

Policy 8.2.1C: Wetland regulations should address all activities and uses to assure no net loss of ecological functions in these critical areas.

Policy 7.2.1D: Buffers around wetlands should be provided that are adequate to ensure that wetland functions are protected and maintained over the long-term.

Policy 8.2.1E: Potential impacts to wetland buffers should be considered when evaluating development proposals.

Policy 8.2.1 F: Wetlands should be managed consistent with the mitigation priority sequence defined in WAC173-26-201, and compensatory mitigation should be allowed only after mitigation sequencing has been applied.

Policy 8.2.1G: Incentives should be provided to encourage re-connection of wetland habitats to other wetland habitat, open spaces and associated uplands in an effort to create larger habitat blocks.

8.2.1 Wetlands – Development Regulations

A. The regulation of wetlands within shoreline jurisdiction shall be pursuant to Chapter 17.82 BMC, adopted by Ordinance No. 09-2729 in 2009, which is

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incorporated by reference as a part of the Blaine Shoreline Master Program with the exception of sections 17.82.140 Reasonable Use Exception and 17.82.120 Exception for Minor Additions & Remodels both of which shall not apply in the shorelands.

8.2.2 Fish and Wildlife Habitat Conservation Areas

Fish and wildlife habitat conservation areas include critical saltwater and freshwater habitats. Critical saltwater habitats include kelp beds, eelgrass beds, herring spawning and holding areas and other habitats as classified by WAC 173-26-221, and subsistence, commercial and recreational shellfish beds, as well as smelt spawning areas, sand lance spawning areas, and juvenile salmonid migration corridors. Critical saltwater habitats require a high level of protection due to the important functions that they provide.

Rivers and streams represent critical freshwater habitat. Many ecological functions associated with rivers and streams are impacted both by activities within the stream corridor and those occurring on adjacent uplands throughout the watershed. Blaine has no rivers and streams that meet shoreline jurisdiction flow thresholds, but Cain Creek and other unnamed streams pass through shorelands.

Policy 8.2.2A: Critical saltwater habitats, including nearshore habitats, should be protected and, where appropriate, restored to ensure no net loss of ecological functions.

Policy 8.2.2B: Damage to shoreline areas adjacent to critical saltwater habitats that retain their ecological functions should be avoided or mitigated.

Policy 8.2.2C: Degraded riparian and estuarine ecosystems should be restored wherever feasible, especially salt marsh habitats.

Policy 8.2.2D: Incentives should be provided to encourage re-connection of critical saltwater habitats to large habitat blocks, open spaces and associated wetlands.

Policy 8.2.2E: The City should participate in comprehensive saltwater habitat management planning with appropriate resource agencies and tribes to identify methods for monitoring habitat conditions and adapting management practices to new information.

Policy 8.2.2F: Vegetation conservation areas or buffers should be established along marine shorelines to provide adequate separation between saltwater habitats and incompatible uses.

Policy 8.2.2G: Water-dependent uses may be permitted in critical saltwater habitats provided that on-site and/or off-site mitigation is provided that will result in no net loss of ecological functions resulting from the proposed use.

Policy 8.2.2H: Sediment inflow and transport regimes should be protected and restored.

Policy 8.2.2I: River and stream corridors within or passing through shorelands should be protected and regulated consistent with the City's critical areas regulations.

Policy 8.2.2J: Incentives should be provided to encourage re-connection of freshwater habitats to associated wetlands and riparian uplands in an effort to create larger habitat blocks.

Policy 8.2.2K: Alteration of buffers is allowed for accommodation of approved water-oriented uses and associated developments, provided that such development is operated, located, designed and constructed to minimize and, where possible, avoid adverse impacts to buffers to the maximum extent feasible.

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8.2.2 Fish and Wildlife Habitat Conservation Areas – Development Regulations

A. Buffers shall be established adjacent to critical saltwater habitat and critical freshwater habitat that are equivalent to half the setback distance, or as required in BMC 17.82.410 adopted by Ordinance No. 09-2729 in 2009, whichever is greater. Where setback is reduced, the buffer shall maintain the nominal distance corresponding to the full setback distance and shall not be reduced proportional to the reduced setback.

   1. Buffers shall be maintained in their natural condition, or shall be enhanced by restoring them to a natural condition appropriate for the ecology of the site, except as permitted by SMP 8.2.2.B.

   2. Buffers do not include areas that are functionally and effectively disconnected from the shoreline environment, such as may occur where a railroad or roadway parallels the shore. This shall be evaluated on a case-by-case basis. The presence of the built feature does not automatically create a functional disconnection.

B. When construction of an overwater or near-shore development or establishment of a use requires reduction of a buffer; the proponent shall provide an inventory of site and adjacent upland and aquatic areas to assess the presence of critical saltwater habitats. The methods and extent of the inventory shall be consistent with accepted research methodology, and at a minimum BMC 17.82.400 and 430 as adopted by Ordinance 2729 in 2009. New studies shall be developed only where existing information is inadequate or does not exist.

   1. The Administrator shall use the study to determine appropriate measures to ensure no net loss of ecological function.
   2. The project shall be conditioned with measures to ensure no net loss of ecological functions.

C. Except as a habitat improvement or restoration measure, aquatic herbicide treatments, mechanical removal of vegetation, and aquatic pesticide treatments shall not be used on critical saltwater habitats.

D. Sand, gravel, or other materials shall be neither added nor removed from critical saltwater habitats, except when part of an approved restoration effort or beach nourishment program.

E. New outfalls (including storm water and sewer outfalls) and discharge pipes shall not be located in critical saltwater habitats or areas where outfall or discharge will adversely affect critical saltwater habitats or water quality unless the applicant can show that all of the following can be met:

   1. There is no alternative location for the outfall or pipe;

   2. The outfall or pipe is placed below the surface of the beach or bed of the water body;

   3. The disturbed area will be revegetated with site appropriate plants;

   4. The discharge point(s) on the outfall or discharge pipe is located so the discharges, including nutrients in the discharge and currents, do not adversely affect critical saltwater habitats and water quality.

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F. New docks, bulkheads, bridges, fill, floats, jetties, utility crossings and other human-made structures that intrude into or over critical saltwater habitats are prohibited except where:

1. Public need is clearly demonstrated;
2. Avoidance of impacts is not feasible or would result in unreasonable cost;
3. The project includes appropriate mitigation; and
4. The project is consistent with resource protection and species recovery.

G. The regulation of rivers and streams within shoreline jurisdiction shall be pursuant to Chapter 17.82 BMC, adopted by Ordinance No. 09-2729 in 2009, which is incorporated by reference as a part of the Blaine Shoreline Master Program with the exception of sections 17.82.140 Reasonable Use Exception and 17.82.120 Exception for Minor Additions & Remodels both of which shall not apply in the shorelands.

8.3 FLOOD HAZARD REDUCTION

Flood hazard reduction measures consist of both structural and non-structural measures. Structural measures may include construction of dikes, levees, revetments and floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program. Non-structural measures may include setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and storm water management programs.

Policy 8.3A: Where feasible, non-structural flood hazard reduction measures should be given preference over structural measures.

Policy 8.3B: When available and where consistent with the Shoreline Management Act, flood hazard reduction policies and regulations should be based on applicable watershed management plans, comprehensive flood hazard management plans or other comprehensive planning efforts.

Policy 8.3C: Flood hazard protection measures should not result in a net loss of ecological functions associated with the rivers and streams.

Policy 8.3D: River and stream corridors should be retained in or restored to more natural hydrological conditions, and it should be recognized that seasonal flooding is an essential natural process.

Policy 8.3E: New development should not be allowed that significantly or cumulatively increases flood hazard, nor results in a net loss of ecological function.

Policy 8.3F: New development that requires structural flood hazard reduction measures within the shoreline area, including the subdivision of land, should not be allowed, except where necessary to support water-dependent uses.

Policy 8.3G: Where allowed, structural flood hazard reduction measures should be set back as far as possible from the channel migration zone.

Policy 8.3H: New structural flood hazard reduction measures may be allowed within the channel migration zone if it is determined through a geotechnical analysis that no other alternative to reduce flood hazard to existing development is feasible.

Policy 8.3I: New use or development within shoreline jurisdiction, including subdivision of land, should not be established when it would be reasonably foreseeable that the use or

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development would require structural flood protection measures.

8.3.1 Flood Hazard Reduction – Development Regulations

Development within portions of the 100-year floodplain that are also within shoreline jurisdiction shall be as follows:

A. Development subject to this Program within the floodplain shall comply with the provisions of this Program as well as those contained in Chapter 17.86 BMC, Flood Hazard Regulations, adopted through Ordinance No. 12-2812 in 2012, which is incorporated as part of this Program by reference; PROVIDED that, in the event of conflict between the provisions contained in each, the more restrictive provision shall apply.

B. Development subject to this Program within the floodplain shall comply with a comprehensive flood hazard management plan developed pursuant to Chapter 86.12 RCW.

C. Development of hazardous waste treatment and storage facilities shall comply with the provisions of this master program, Chapter 17.86 BMC, which is incorporated as part of this Program by reference, and the requirements of the State Dangerous Waste Regulations, WAC 173-303; PROVIDED that, in the event of conflict between the provisions contained in each, the more restrictive provision shall apply.

D. New structural flood hazard reduction measures are allowed within shoreline jurisdiction for existing development only when it can be demonstrated by a scientific and engineering analysis that they are necessary and mitigation of impacts can be accomplished.

E. New structural flood hazard reduction measures are only allowed landward of wetlands and associated buffers, except where no alternative exists as documented by a geotechnical analysis.

8.4 PUBLIC ACCESS

Public access includes the ability of the general public to reach, touch and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

Policy 8.4A: The amount and diversity of public access to the state's shorelines, including physical and visual access, should be increased, consistent with the natural shoreline character, private property rights, public rights under the Public Trust Doctrine, public safety, and local public access planning.

Policy 8.4B: The public's opportunity to enjoy the physical and aesthetic qualities of the shorelines of the state, including views of the water, should be protected; this includes protection of views from public space and/or from substantial numbers of residences.

Policy 8.4C: The public interest with respect to the public's right to access waters of the state held in public trust should be promoted and enhanced while protecting private property rights and ensuring public safety.

Policy 8.4D: Development within the shoreline area should be regulated, where appropriate, to minimize interference with the public's ability to access the shoreline.

Policy 8.4E: The rights of navigation and the space necessary for water-dependent uses should be protected.

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Policy 8.4F: A local public access planning process should be undertaken utilizing input from affected property owners to identify specific public access needs and opportunities within the City shoreline area. This process should result in an integrated plan for development of shoreline public access, including prioritization of projects and locations, and establishment of public access requirements for shoreline permits.

Policy 8.4G: Consistent with local public access planning, all development within the shoreline area should be required to make a proportionate contribution, either material or financial, toward meeting public access goals, either through dedication of land, granting of easements, provision of public access facilities, or other appropriate means.

Policy 8.4H: Public access improvements that have the potential to result in a net loss of ecological functions should be designed to minimize adverse impacts, and such improvements that would likely cause significant ecological impacts that cannot be mitigated should not be allowed.

Policy 8.4I: Trail development along the shoreline, and for some essential links over aquatic lands, should be pursued by the City, when opportunities arise through retirement or redevelopment of road and rail rights-of-way, with the subdivision of new residential development, and the development of existing platted rights-of-way.

8.4.1 Public Access – Development Regulations

A. Public access requirements, as specified below, shall only apply to developments meeting any of the following criteria:

   1. Development on properties including or abutting the water's edge or ordinary high water mark; or
   2. Development on properties within 200 feet of the ordinary high water mark.

B. All subdivisions of more than 4 lots or units shall provide public access to the shoreline through inclusion of a walkway or trail unless found to be infeasible or incompatible with the specific development location and if alternative opportunities for public access are available or can be provided nearby.

C. The Planning Commission shall approve proposed public access improvements, where required, for each application. Public access requirements shall be based on both the proportionate amount of linear shoreline included in the property proposed for development and the public access potential of the site.

D. Proposed public access improvements shall be consistent with and shall further the goals of the City's public access planning process and Parks and Recreation Plan and Non-Motorized Transportation Plan. Public access improvements may be provided either on-site or off-site as approved by the Planning Commission.

E. Where public access is required, the City shall require granting of easements or dedication of land to ensure long-term access by the public. In such cases, the City shall provide property owners with appropriate indemnification as allowed by law.

F. Commercial developments shall be required to provide either physical or visual public access to the shoreline through inclusion of a publicly accessible boardwalk, walkway or trail.

G. Industrial developments shall be encouraged to provide physical or visual public access to the shoreline through inclusion of a publicly accessible walkway or trail; provided that, no such public access shall be required in situations where such access would pose a threat to public health or safety or to private property.

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H. The Planning Commission shall encourage all other uses to provide community or public access to the shoreline consistent with the City's public access planning process and Parks and Recreation Plan and Non-Motorized Transportation Plan.

I. Shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

J. Public rights-of-way shall be reserved in public ownership for shoreline access and enjoyment purposes, and shall be protected from encroachment by unpermitted private use.

8.5 VEGETATION CONSERVATION

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

Policy 8.5A: The ecological functions and ecosystem-wide processes performed by vegetation along shorelines should be protected and restored.

Policy 8.5B: Vegetation conservation efforts should be encouraged to protect human safety and property, increase the stability of shorelands, reduce the needs for structural stabilization measure, improve the visual and aesthetic qualities of the shoreline, and enhance shoreline uses.

Policy 8.5C: Vegetation conservation and restoration policies and regulations should be implemented as necessary to assure no net loss of ecological functions, to avoid adverse impacts on soil hydrology, and to reduce the hazard of slope failures or accelerated erosion.

Policy 8.5D: Riparian corridors and significant habitat should be protected and restored.

Policy 8.5E: Recognize the importance of shoreline vegetation, including: providing shade to maintain cooler water temperature, providing organic input, providing food, stabilizing banks and minimizing erosion, reducing fine sediment through stormwater retention and filtering, providing a source of large woody debris, regulating the microclimate, and providing critical riparian habitat.

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8.5.1 Vegetation Conservation – Development Regulations

A. The Administrator shall ensure that the vegetation conservation goals and policies of the Blaine Shoreline Master Program are implemented through the protective measures defined in Chapter 7, Shoreline Jurisdiction and Environment Designations. All developments and activities within shorelands shall conform to the applicable vegetation conservation requirements set forth in this Chapter.

B. The Administrator may require a vegetation management plan designed by a professional familiar with coastal bluff revegetation and restoration. Vegetation management plans shall be designed to minimize erosion, enhance scenic beauty and establish a native plant community. A monitoring and contingency plan may be required to ensure the goals of the vegetation management plan are achieved.

C. The Administrator shall maintain a list of pre-qualified professionals familiar with coastal bluff revegetation and restoration. Professionals may be added or removed from the list of pre-qualified professionals at the discretion of the Administrator following a review of their qualifications or performance.

D. Vegetation clearing shall be limited to the minimum necessary to accommodate approved shoreline development, as determined by the Administrator.

E. Tree removal in areas with a slope of 35-percent or greater or on steep slopes or feeder bluffs, as defined in Sec. 10.12 of this Program, is subject to the provisions of BMC 17.82.470 and 480 regarding Geologically Hazardous Areas as adopted by Ordinance No. 09-2729 in 2009.

F. Removal of noxious weeds and/or invasive species shall be allowed provided it is consistent with accepted standard practices such as those developed or supported by the Washington State Noxious Weed Control Board or other local agency. The Administrator may require a vegetation management plan if significant vegetation removal is proposed when weed control efforts are extensive in time or area affected.

G. Vegetation conservation requirements shall not apply to the removal of hazard trees.

1. The Administrator may determine a tree to be a hazard based upon investigation and evidence such as cavities in the trunk, rot, fungus on the base of the trunk, significant leaning, and/or cracks and splits in the trunk.

2. The Administrator shall consider potential targets that may be affected by tree failure and other factors such as slope stability and erosion impacts resulting from tree failure when determining the hazard potential for a tree.

3. The Administrator may authorize hazard tree removal based upon investigation or may require a certified Arborist's report on the tree's condition prior to a decision.

4. The Administrator may require that a snag, stump, or large woody debris be retained onsite in conjunction with action to reduce a hazard.

H. Limited clearing for view enhancement is allowed; provided that the following conditions are met.

1. Proposed clearing is limited to the minimum necessary to allow development of the view opportunity available at the subject site, not maximization of the view. Windowing and thinning tree crowns shall be pursued prior to tree removal when determined feasible by the Administrator.

2. Tree removal, thinning, windowing and pruning shall be limited to the amount necessary to allow a view corridor(s) or view window(s) provided that the overall vegetation removal does not exceed 35-percent of the view obscuring vegetation. Clearing of vegetation on properties other than the subject site shall require property owner approval and is subject to the limitations herein.

3. The proposed clearing will not reduce the functions (such as habitat connectivity and slope stability) provided by the vegetation proposed to be cleared or removed. The Administrator may limit clearing to less than 35-percent to preserve the integrity of the habitat. The Administrator may limit thinning, windowing or pruning to less than 35-percent to preserve the habitat function of an individual tree.

4. Limited clearing for view enhancement shall consider the retention of trees greater than 12-inches DBH when thinning, windowing, and pruning is adequate to create and preserve views.

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5. The Administrator may require an arborist report and/or vegetation management plan and installation of replacement shrubs and trees to ensure the goals and policies of the Program and being met.

8.6 VIEWS AND AESTHETICS

Scenic vistas, views of the water and aesthetic qualities of the shoreline area are important assets for the City of Blaine. The public's ability and opportunity to enjoy shoreline views and aesthetics should be protected. Private property owners' ability and opportunity to enjoy shoreline views should be protected.

Policy 8.6A: Areas with scenic vistas, views of the water and high aesthetic value should be identified and protected.

Policy 8.6B: Developments should be designed to minimize adverse impacts on views from public property and views enjoyed by a substantial number of residents.

Policy 8.6C: Policies related to the protection of views and aesthetics should be implemented through site planning, height limitations, setbacks, siting of buildings and accessories, screening, vegetation conservation, architectural controls, sign control regulations, appropriate development siting, screening and architectural standards, designation of view corridors and maintenance of natural vegetative buffers.

Policy 8.6D: Limited clearing of vegetation, particularly pruning and selective thinning of trees, should be permitted for the preservation and enhancement of views, consistent with the regulations in Sec. 8.5.1 of this Program.

8.6.1 Views and Aesthetics – Development Regulations

A. Opportunities for providing and maintaining views of the shoreline shall be provided consistent with the public access provisions set forth in Section 8.4 of this Program.

B. Developments that substantially interfere with the public's opportunity to enjoy views of the shoreline from publicly accessible recreation sites may be conditioned to reduce impacts.

C. The following guidelines shall be used by the Administrator in reviewing developments potentially affecting views and aesthetics.

   1. Where commercial, industrial, mixed use, multi family and/or multi lot developments are proposed, primary structures should provide for reasonable view corridors between buildings.

   2. Buildings should incorporate architectural and design features that reduce scale such as setbacks, pitched roofs, offsets, angled facets, and recesses.

   3. Building surfaces on or adjacent to the water should employ materials that minimize reflected light and that do not detract from the surrounding area.

   4. Building mechanical equipment should be incorporated into building architectural features to the maximum extent possible. Where mechanical equipment cannot be incorporated into architectural features, a visual screen shall be provided consistent with building exterior materials that obstructs views of such equipment.

D. The creation or maintenance of views and view corridors shall not result in a net loss of shoreline ecological function.

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8.7 WATER QUALITY, STORM WATER AND NON POINT POLLUTION

Water quality refers to the physical characteristics of water within shoreline jurisdiction, including water quantity and hydrological, chemical, aesthetic, recreation-related, and biological characteristics. The following policies refer to development and uses affecting water quality and quantity, including the creation of impervious surfaces and the development of storm water management facilities.

Policy 8.7A: New development should be prohibited from causing significant ecological impacts due to alterations in water quality, quantity or flow characteristics.

Policy 8.7B: Policies and regulations related to storm water runoff should maintain or contribute to assuring no net loss of ecological functions, including ground water recharge and hydrological base flow considerations.

Policy 8.7C: Storm water outfalls should not result in a net loss of ecological functions and ecosystem-wide processes.

Policy 8.7D: Storm water facilities and discharges to wetlands within shoreline jurisdiction should only be allowed where impacts to water quality, quantity and flow characteristics have been fully considered and mitigated.

Policy 8.7E: Stormwater facilities, including those for individual buildings and facilities shall be maintained in proper working order.

8.7.1 Water Quality and Stormwater – Development Regulations

A. All development within shoreline jurisdiction that includes the creation of new impervious surface or that has the potential to impact the water quality of adjacent shoreline areas, and/or the quantity or timing of stormwater shall demonstrate the following:
   1. The proposed development is consistent with the Blaine's stormwater management policies and programs;
   2. The proposed development is consistent with the current edition of the Department of Ecology Stormwater Management Manual for Western Washington; and
   3. The proposed development does not significantly alter the quality, quantity or timing of stormwater runoff.
B. Consistency with the above requirements shall be provided through submittal of appropriate engineering studies, plans and reports.
C. Shoreline development shall include measures to protect and maintain surface and ground water flow and quality in accordance with all applicable laws.
D. Best management practices (BMPs) shall be implemented for all development within shoreline jurisdiction for the control of erosion and sedimentation.
E. Failing stormwater water facilities that are not repaired in a timely manner to proper working condition upon notification from the City may result in issuance of a notice of violation.

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9.0 SHORELINE USE POLICIES

The following activities have been identified as those types of uses that can occur on shorelines of the City of Blaine. Policy statements have been developed for these various activities in order to ensure the proper use of the shoreline. While these activities have been determined to be permissible, they have the potential for significant impacts to shorelines of the City. Therefore, specific requirements have been developed to ensure minimal impact on the shoreline. The applicable requirements shall apply to the following land use activities regardless of the Shoreline Environment Designations of the proposed locations. In the event of a conflict between the provisions of this Section and any other provisions of this Program, the more restrictive provisions shall apply.

9.1 AQUACULTURE

Aquaculture is the culture of food fish, shellfish, or other aquatic plants and animals. The Master Program differentiates between types of structures associated with Aquaculture - (1) shore-based structures and parking; (2) structures located on or over tidelands, including buildings and such installations as dikes and weirs; and (3) watercraft such as barges and harvesting equipment.

Nothing in these policies may be construed as to impinge on tribal treaty rights exercised within usual and accustomed areas.

Policy 9.1A: Aquaculture is a water-dependent use and, when carried out consistent with control of pollution and avoidance of adverse impacts to the environment and preservation of habitat for resident native species, is a preferred use of the water area.

Policy 9.1B: Potential locations for aquaculture activities are relatively restricted because of specific requirements related to water quality, temperature, oxygen content, currents, adjacent land use, wind protection, commercial navigation and salinity. The technology associated with some forms of aquaculture is still experimental and in formative states. Therefore, some latitude should be given when implementing the regulations pertaining to aquaculture, provided that potential impacts on existing uses and shoreline ecological functions and processes are given due consideration.

Policy 9.1C: Preference should be given to those forms of aquaculture that involve lesser environmental and visual impacts and lesser impacts to native plant and animal species. In general, projects that require no structures, submerged structures or intertidal structures are preferred over those that involve substantial floating structures. Projects that involve little or no substrate modification are preferred over those that involve substantial modification. Projects that involve little or no supplemental food sources, pesticides, herbicides or antibiotic application are preferred over those that involve such practices.

Policy 9.1D: Community restoration projects associated with aquaculture should be reviewed and permitted in a timely manner.

Policy 9.1E: Aquaculture activities should be designed, located and operated in a manner that supports long term beneficial use of the shoreline and protects and maintains shoreline ecological functions and processes. Aquaculture should not be permitted where it would result in a net loss of shoreline ecological functions; adversely affect the quality or extent of habitat for native species including eelgrass, kelp, and other macroalgae; adversely impact other habitat conservation areas; or significantly conflict with navigation or other water-dependent uses.

Policy 9.1F: Aquaculture that involves significant risk of cumulative adverse effects on water

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quality, sediment quality, benthic and pelagic organisms, and/or wild fish populations through potential contribution of antibiotic resistant bacteria, or escapement of non-native species, or other adverse effects on ESA-listed species should not be permitted.

Policy 9.1G: The City should actively seek substantive comment on any shoreline permit application for aquaculture from all appropriate Federal, State and local agencies; the Lummi Nation, Nooksack Tribe, and other affected tribes; and the general public regarding potential adverse impacts. Comments of nearby residents or property owners directly affected by a proposal should be considered and evaluated, especially with respect to use compatibility and aesthetics.

Policy 9.1H: Experimental aquaculture means an aquaculture activity that uses methods or technologies that are unprecedented or unproven in the State of Washington. Experimental aquaculture projects in water bodies, if approved, should be limited in scale and should be approved for a limited period of time.

Policy 9.1I: Legally established aquaculture operations, including authorized experimental projects, should be protected from incompatible uses that may seek to locate nearby. Uses or developments that have a high probability of damaging or destroying an existing aquaculture operation should be denied.

Policy 9.1J: Aquaculture activities should be compatible with the surrounding shoreline area.

Policy 9.1K: Consideration should be given to visual and physical access to the shoreline when locating aquaculture activities.

Policy 9.1L: Aquaculture should not be permitted in areas where it would result in a net loss of ecological function, and should be designed and located so as not to spread disease to native aquatic life, establish new non-native species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.

9.1.1 Aquaculture – Use Regulations

A. Aquaculture that is dependent on the use of the water area and is practiced in a manner to control pollution and prevent damage to the environment is a preferred use of the water area.

B. Aquaculture development may be permitted as a conditional use in order to ensure that the merits of each application are reviewed carefully.

C. Public access to the surface of the water shall not be impaired, and existing opportunities for public access shall not be reduced.

D. Structures located on or over tidelands shall be temporary, and permanent installations such as concrete dikes are prohibited.

E. Structures associated with aquaculture activities shall blend as much as possible with the surrounding environment.

F. Structures and containers located waterward of the ordinary high water mark shall not exceed three (3) feet in height from the top of the raft or float, unless a greater height has been specifically authorized based on a finding that the visual impact will be minimal. Materials which are not necessary for the immediate and regular operation of the facility shall not be stored waterward of the ordinary high water mark.

G. No processing of any aquaculture product, except for the sorting or culling of the cultured organism and the washing or removal of surface materials or organisms after

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harvest, shall occur in or over the water unless specifically approved by permit. Shore-based structures and parking associated with aquaculture shall be regulated in the same manner as water-related industry.

H. Aquaculture shall only be permitted when the applicant provides information regarding design and location that supports the finding that such a development will not significantly degrade ecological function over the long-term, will not spread disease to native aquatic life, will not result in the establishment of new non-native species which cause significant ecological impacts, and will not significantly impact the aesthetic quality of the shoreline.

I. Aquaculture that involves little or no substrate modification shall be given preference over those that involve substantial modification. The applicant/proponent shall demonstrate that the degree of proposed substrate modification is the minimum necessary for feasible aquaculture operations at the site.

J. The installation of submerged structures, intertidal structures, and floating structures shall be allowed only when the applicant/proponent demonstrates that no alternative method of operation is feasible.

K. Aquaculture proposals that involve substantial substrate modification or sedimentation through dredging, trenching, digging, mechanical clam harvesting, or other similar mechanisms, shall not be permitted in areas where the proposal would adversely impact existing kelp beds or other, macroalgae, eelgrass beds or habitat conservation areas.

L. Aquaculture activities which would have a significant adverse impact on natural, dynamic shoreline processes or which would result in a net loss of shoreline ecological functions shall be prohibited.

M. Aquaculture practices shall be designed to minimize use of artificial substances and shall use chemical compounds that are least persistent and have the least impact on plants and animals.

N. If uncertainty exists regarding potential impacts of a proposed aquaculture activity, and for all experimental aquaculture activities, baseline and periodic operational monitoring by a City-approved consultant (unless otherwise provided for) may be required, at the applicant's/proponent's expense, and shall continue until adequate information is available to determine the success of the project and/or the magnitude of any probable adverse environmental impacts. Permits for such activities shall include specific performance measures and provisions for adjustment or termination of the project at any time if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.

O. Aquaculture wastes shall be disposed of in a manner that will ensure strict compliance with all applicable governmental waste disposal standards. No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation.

P. Predator control shall not involve the killing or harassment of birds or mammals.

Q. All floating and submerged aquaculture structures and facilities in navigable waters shall be marked in accordance with U.S. Coast Guard requirements, and shall not conflict with navigation and other water-dependent uses.

R. Aquaculture structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures and/or equipment shall be removed or repaired promptly by the owner. Where any structure might constitute a potential hazard to the public in the future, the City shall require the posting of a bond commensurate with

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the cost of removal or repair. The City may abate an abandoned or unsafe structure, following notice to the owner, if the owner fails to respond in thirty (30) days and may impose a lien on the related shoreline property or other assets in an amount equal to the cost of the abatement. Bonding requirements shall not duplicate requirements of other agencies.

S. Applications for aquaculture development or uses shall include in their applications all information necessary to conduct a thorough evaluation of the proposed aquaculture activity, including but not limited to: site plan or plans showing all existing and proposed features and facilities; description of existing ecological conditions such as priority habitats, water quality data and littoral drift patterns; an assessment of aquatic species, including forage fish, and spawning and other lifecycle use of, or adjacent to, the site; identification of species to be planted, cultivated or reared; description of any substrate modification or vegetation removal proposed; description of planting, harvesting and processing locations, methods and timing; information demonstrating that the site has natural potential for the type(s) of aquaculture proposed, due to necessary substrate or other conditions, as well as water quality suitable for the type(s) of aquaculture proposed; discussion of proposed use of any feed, pesticides, herbicides, antibiotics, vaccines, growth stimulants, antifouling agents, or other chemicals, and an assessment of potential impacts; and an assessment of potential impacts on shoreline ecological functions and processes addressing the baseline conditions identified, including but not limited to indirect and cumulative effects.

T. Aquaculture activities shall comply with all applicable noise, air, and water quality standards. All projects shall be designed, operated and maintained to minimize odor and noise.

U. Commercial geoduck aquaculture should only be allowed where sediments, topography, land and water access support geoduck aquaculture without significant clearing or grading.

V. The planting, growing, and harvesting of farm-raised geoduck clams requires a substantial development permit, not a conditional use permit as in 9.1.1.B of this section. If a substantial interference with the normal public use of surface waters is not anticipated neither permit is required.

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9.2 COMMERCIAL DEVELOPMENT

Commercial developments are those uses that are involved in wholesale and retail trade or business activities. Because most commercial developments depend on people to support their various activities, these developments lead to concentrations of people and traffic, which in turn have a great effect on the condition of the shoreline. Water dependent commercial developments require a shoreline location. Many require a location navigable at low tide. If unregulated, however, these activities can have an undesirable impact on the shoreline.

This Program distinguishes between water dependent commercial development, water- related commercial development, and water-enjoyment commercial development such as restaurants, conference centers, and related hotels, specialty retail shops, and recreation facilities which, while not necessarily related to the water, enable more people to enjoy the shorelines and can benefit from such a location.

1. Commercial development includes those uses that are involved in wholesale and retail trade or business activities, but does not include industrial or light manufacturing uses or marinas. Because most commercial developments depend on people to support their certain activities, these developments lead to

concentrations of people and traffic, which in turn can have a great effect on the condition of the shoreline.

2. Because of the vast number of activities that could conceivably be included in this section, the administrator shall determine at the time of application if the proposed activity falls into this use classification. As a general rule all retail and wholesale enterprises that operate for a profit would be included in this category.
3. Allowed commercial uses include:
   (1) Water-related uses.
   (2) Water-enjoyment uses.
   (3) Non water-oriented uses, where part of a mixed use project that includes a water-oriented use and where the use provides significant public benefit with respect to the objective of the Act.

Policy 9.2A: Commercial development should not result in a net loss of ecological functions or have significant adverse impacts to other shoreline uses, resources and values provided in RCW 90.58.020 such as navigation, recreation and public access.

Policy 9.2B: Preference should be given first to water dependent commercial uses over non-water dependent commercial uses; and second to water-related and then to water enjoyment commercial uses over non-water-oriented commercial uses.

Policy 9.2C: Shoreline locations on water navigable at low tide should be set aside for only those commercial activities which, because of the nature of their business, could not locate elsewhere (water-dependent), or water-related or other commercial development which provides public access or is approved as part of a planned zone.

Policy 9.2D: Although some activities, such as restaurants, do not require a shoreline location, they do increase public enjoyment of the shoreline and should be given consideration for location there.

Policy 9.2E: Commercial developments on shorelines should be encouraged to locate in areas where commercial developments already exist.

Policy 9.2F: Commercial developments requiring parking should locate these facilities on upland areas away from the immediate water's edge to minimize impacts to shoreline activities and resources. When feasible these parking areas should be located outside the area of shoreline jurisdiction or as approved through the plan regulating a Special Management Unit.

Policy 9.2G: Consideration should be given to the effect on public physical and visual access by new commercial development.

Policy 9.2H: Commercial developments should provide public access, unless such improvements are demonstrated to be infeasible or present hazards to life or property.

Policy 9.2I: New water-dependent commercial uses should provide public access, should be encouraged to provide on-site ecological restoration, where feasible. New non-water uses are prohibited unless they are part of a mixed-use project that includes water-oriented uses and provide significant benefit as determined by the objectives of the Shoreline Management Act.

Policy 9.2J: Commercial development for a shoreline location not on water navigable at low tide should be preferred in the following order:

a. Water-related and providing public access to the shoreline;

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b. Not water-related but enabling substantial numbers of people to enjoy the shoreline. Such uses should be designed to capitalize on the marine view.

Policy 9.2K: In areas of primarily retail or tourism activity, pedestrian traffic should be given priority over other forms of traffic in areas adjacent to the shore.

9.2.1 Commercial Development – Use Regulations

A. Proposed commercial developments shall incorporate permanent public access into their designs consistent with SMP Section 7.9, as may apply.

B. Except where personal safety is involved, commercial developments that are not water-oriented shall provide public shoreline access proportionate to the nature and degree of impact associated with the development or, alternatively, provide other comparable means of enhancing the water resource and the public's visual and aesthetic enjoyment of these resources with the approval of the City.

C. Commercial developments shall comply with the provisions of Section Six pertaining to shoreline ecological functions and processes.

D. Wherever feasible, commercial developments shall be required to incorporate environmental cleanup and restoration of the shoreline area within the development site in design plans.

E. Commercial development shall provide public access as mitigation for impacts to shoreline environments and values unless access is demonstrated to be infeasible or detrimental to public health and safety.

F. Commercial developments which do not require direct contiguous access to the water shall be set back from the ordinary high water mark by a distance of 50 feet, except if in an existing structure or as permitted in a Special Management Unit plan.

G. Commercial developments shall not block scenic views and shall be limited to 35 feet in height within 100 feet from ordinary high water and 45 feet in height between 100 feet and 200 feet from the ordinary high water mark or as otherwise authorized in a SMU. For the construction of new buildings or the renovation of existing buildings in a SMU, the Planning Commission may approve greater building heights within shorelands as defined by the Special Management Plan. Unique structures, other than buildings, such as water towers, clock towers, or other tall, linear design features which are accessory to or part of substantial development following the above-named plan(s) may be approved by the Planning Commission for heights up to 80 feet, provided the unique structure does not block scenic views.

H. On parcels large enough to accommodate the setbacks, associated parking shall be set back from the ordinary high water mark at least 100 feet, except as otherwise approved through the Wharf District Master Plan and Resort Semiahmoo Master Plan.

I. Commercial developments which have the potential of providing views and scenic vistas to the shoreline and harbor will have priority and shall allow public access within the development and/or to public or private boardwalks or walkways unless demonstrated to be infeasible or detrimental to public health and safety.

9.3 INDUSTRIAL AND PORT DEVELOPMENT

This category includes port facilities and those industrial uses engaged in primary production. Ports are centers for waterborne traffic and, as such, have become gravitational points for

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industrial/manufacturing firms. This Program differentiates between those industrial activities which actually need a shoreline location and those industrial activities which do not. Industrial and port development can have a very great impact on shoreline areas. Their locations and size should be carefully considered.

Policy 9.3A: Shoreline priority should first be given to those industries that require a waterfront location for their operations and second to those industries that are water-oriented over non-water oriented uses.

Policy 9.3B: Industrial development should not be located or designed in a manner that will result in a net loss of ecological function or that will interfere with other shoreline uses, resources or values.

Policy 9.3C: Where feasible, industrial development should incorporate environmental cleanup and restoration of the shoreline area.

Policy 9.3D: Vegetation removal should be limited to the minimum necessary to accommodate permitted primary structures.

Policy 9.3E: Industrial development should be compatible with the surrounding shoreline area.

Policy 9.3F: Cooperative use of parking and storage facilities by industry should be encouraged.

Policy 9.3G: Wherever possible, industrial development should not interfere with public visual and physical access to the shoreline.

Policy 9.3H: Industrial development should be encouraged to provide public access, except where such access would pose a threat to public health or safety or to the security of private property.

Policy 9.3I: Industrial development on publicly owned lands should be required to provide public access unless a clear risk to public health and safety can be demonstrated.

Policy 9.3J: Restoration of impaired shoreline ecological functions and processes should be encouraged as part of industrial and port development.

Policy 9.3K: The heights of buildings should be limited to that height necessary to perform the primary function.

Policy 9.3L: New non-water-oriented industrial uses are prohibited in marina/port areas unless they are part of a mixed-use project, or unless navigation is significantly limited in adjacent waters, and the use provides a significant public benefit with respect to Shoreline Management Act objectives.

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9.3.1 Industrial and Port Development – Use Regulations

A. Water-related industry is restricted to areas where water-related industries already exist.

B. Industrial and port development shall provide public access pursuant to Section 4.2 of this Program.

C. Except for water-dependent uses located in the High Intensity Environment or a Special Management Unit a setback of 100 feet from the ordinary high water mark shall be maintained for industrial development including parking and other accessory uses and structures.

D. Associated parking within a Special Management Unit is permitted with a substantial development permit; other parking within shoreline jurisdiction is allowed as a conditional

use and shall include provisions for pedestrian and non-motorized vehicular circulation along the shoreline.

E. In the Wharf District, shoreline locations along water navigable at low tide shall be limited to those industries or commercial uses requiring such frontage.

F. Other shoreline locations in the Wharf District (not listed in E, above) shall be limited to industries and commercial developments which are marine-related but not necessarily water-dependent or mixed-use developments that incorporate such uses. Such uses shall be required to allow public access to the shoreline, unless public safety would be endangered.

G. Industrial developments shall mitigate impacts to wetlands through wetland replacement, enhancement or, alternatively, provide other comparable means of enhancing the water resource and the public's visual and aesthetic enjoyment of these resources with the approval of the City.

H. Industrial developments shall be designed and constructed to avoid, minimize or mitigate adverse impacts to the shoreline environment and to result in no net loss of shoreline ecological functions.

I. Wherever feasible, industrial and port development shall be required to incorporate environmental cleanup and restoration of the shoreline area in design plans.

J. Wherever feasible, industrial development shall be required to minimize the total amount of impervious surfaces on-site by cooperative use of parking and storage facilities by other industries.

K. New non-water-oriented industrial uses are prohibited unless they are part of a mixed-use project, unless navigation is severely limited in the locations, and unless the use provides significant public benefit with respect to the objectives of the Shoreline Management Act.

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9.4 MARINAS

Marinas are facilities which provide storage, shelter, launching, supplies, and services for pleasure craft or small commercial boats. There are two basic types of marinas: open-type construction (floating breakwater and/or open-pile work) and solid-type construction (bulkhead and/or landfill.) Depending upon the type of construction, marinas can severely affect fish and shellfish habitats and water quality. Marinas can have positive or negative effects on local aesthetic values, depending upon overall design and extent of covered moorage. Marinas and other boating facilities serving four or fewer single family residences are not included under these policies.

Policy 9.4A: Marinas are water-dependent uses and should be given priority for shoreline location. Marinas should be restricted to the High Intensity Environment and the adjacent Aquatic areas within a Special Management Unit and constructed with appropriate provisions to ensure public health, safety and welfare.

Policy 9.4B: Construction or expansion of marinas should take into account the possible impact on fish, wildlife and shellfish resources. To the maximum extent practicable, all such impacts should be avoided or mitigated to ensure no net loss of shoreline ecological functions and processes.

Policy 9.4C: To minimize accidental spillage and to ensure the proper handling of those spills that do occur, procedures for fuel handling and storage should be developed and monitored for effectiveness and modified, if necessary, to meet the goals of this Program.

Policy 9.4D: Marina design and operation should take into account guidelines set forth by the State Department of Fish and Wildlife as well as guidelines developed by state and local health departments.

Policy 9.4E: Construction or expansion of marinas should provide opportunities for physical and visual public or community access to the shoreline, should not interfere with existing or planned public access or recreational facilities, and should accommodate multiple uses, such as water-dependent uses, wherever possible.

Policy 9.4F: Regional needs for marina facilities should be carefully considered in reviewing proposals for development or expansion of marinas, as well as in allocating shorelines for such development. Such facilities should be consistent with park and recreation plans and, where feasible, should be co-located with port or other compatible water-dependent uses.

Policy 9.4G: New or expanding marina facilities including accessory uses should only be authorized where suitable environmental conditions are present and should avoid critical saltwater habitat including kelp beds, eelgrass beds, spawning and holding areas for forage fish (such as herring, surf smelt and sandlance); subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants; and areas with which priority species have a primary association.

Policy 9.4H: Marinas should be located and designed to avoid adverse effects upon coastal, riverine, and nearshore processes such as erosion, littoral or riparian transport, and accretion, and, should where feasible, enhance degraded, scarce, and/or valuable shore features including accretion shoreforms.

Policy 9.4I: Extended moorage on waters of the state without a lease should only be permitted with permission of the appropriate landowner or state agency, including a lease as applicable. Impacts to navigation and access caused by such moorage should be mitigated.

Policy 9.4J: Live-aboard vessels should only be permitted within developed marinas where sanitary facilities exist to allow for proper disposal of waste.

Policy 9.4K: New or expanded marinas should be generally consistent with the Wharf District Master Plan or the Resort Semiahmoo Master Plan.

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9.4.1 Marina – Use Regulations

A. Marinas are restricted to sites located within the Wharf District Management Unit and the Semiahmoo Spit Management Unit including the incorporated Aquatic Environment.

B. Applicants for proposed marinas or marina expansions must show a county or region-wide demand for such facilities.

C. Covered moorage shall be restricted to 15 percent of the total number of slips.

D. Marinas should be designed and constructed to avoid, minimize or mitigate adverse impacts to the shoreline environment and be in compliance with Section Six of this Program.

E. Marinas should be prohibited in marshes, estuaries and other wetlands; kelp beds, eelgrass beds, and spawning and holding areas for forage fish; subsistence, commercial and recreational shellfish beds; and other critical saltwater habitats, unless it can be shown that no alternative location is feasible, the project and mitigation would result in a net enhancement of shoreline ecological functions, and the proposal is otherwise consistent with this Program.

F. New and expanded marinas shall include provisions for public access to the shoreline.

G. Marinas shall comply with applicable fire and building code requirements protecting health, safety and welfare.

H. Marinas shall be designed to address aesthetic considerations included in the Resort Semiahmoo Master Plan and the Wharf District Master Plan.

I. Live-aboard vessels are only permitted in marinas with adequate waste handling facilities.

J. Extended moorage on waters of the state is prohibited without a lease, and may be permitted only if impacts to navigation and access are mitigated.

9.5 MINING

Mining is the removal of sand, gravel, soil, minerals, and other earth materials from the earth for economic use. Mining alters the natural character, resources and ecology of shorelines and may adversely affect critical shoreline resources. The incidental sale of spoils generated by dredging pursuant to Section 10.4 does not constitute mining.

Policy 9.5A: Mining within the shoreline area should not be permitted except in conjunction with a comprehensive flood management solution and/or habitat creation and enhancement.

Policy 9.5B: Mining should only be permitted when it can be shown that it will result in no net loss of ecological functions or ecosystem-wide processes.

9.5.1 Mining – Use Regulations

A. Mining within shoreline jurisdiction is prohibited, except in conjunction with a comprehensive flood management solution and/or habitat creation or enhancement approved by state and federal agencies.

B. Mining in conjunction with the above shall be required to provide mitigation/restoration plans for any loss of wildlife and aquatic habitat.

9.6 OUTDOOR ADVERTISING AND SIGNS

Signs are publicly displayed surfaces whose purpose is to provide information, direction or advertising. Signs are intended to be very visible. They can have a great effect on the aesthetics of an area.

Policy 9.6A: In general, signs should be constructed to minimize interference with visual access to the shoreline. Where such locations are available, signs should be constructed against existing buildings to minimize visual obstructions of the shoreline and water bodies. Monument signs should be used as the alternative to other types of freestanding signs.

Policy 9.6B: Size, height, density and lighting of signs should be compatible with adjacent shoreline uses and with the maritime setting in the Wharf District Special Management Unit.

Policy 9.6C: Signs should be designed mainly to identify the premises and nature of enterprise without unduly distracting uninterested passers-by.

Policy 9.6D: No off-premise advertising signs or billboards should be permitted within the shoreline area.

Policy 9.6E: Interpretive signage should be allowed and, where appropriate, encouraged within the shoreline area.

Policy 9.6F: Directional signs, traffic signs, and informational signs should be permitted as

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appropriate to serve their purpose.

9.6.1 Outdoor Advertising and Signs – Use Regulations

A. Signs whose purpose is traffic control, public safety, interpretive or general regulatory information installed at the direction of the City shall be exempt from B, C, D, F, G and H below.

B. Off-premise signs and billboards are prohibited outside of a SMU.

C. A port directory sign is permitted near the harbor, and downtown directories are allowed in the street end parks along Peace Portal Drive.

D. Wall murals consistent with a maritime design are not considered to be advertising signs.

E. Size, height, density and lighting of signs shall be consistent with applicable City sign regulations.

F. In general, signs shall be constructed against buildings to minimize visual obstruction of the shoreline.

G. Communities and/or neighborhoods shall have no more than one sign at each street gateway that will be limited to the name of the community.

H. Signs are prohibited in the area between buildings and the ordinary high water mark to protect views of the water or publicly accessible beaches except for private notice signs as defined in the City sign regulations.

I. Moving or flashing signs and neon lighting for signs within the shoreline area are prohibited.

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9.7 RECREATIONAL DEVELOPMENT

Recreation is the refreshment of body and mind outdoors or indoors through forms of play, sports, amusement or relaxation. Water-related recreation accounts for a very high proportion of all recreational activity in the Pacific Northwest. The recreational experience may be an active one involving boating, swimming, fishing or hunting or the experience may be passive such as enjoying the natural beauty of a shoreline, nature study, or picnicking. Recreation is inclusive of both public and commercial recreation facilities. Priority shall be given to recreational developments that provide opportunities for public access to the shoreline area.

Policy 9.7A: Shoreline recreational development should provide an adequate supply of commercial and public facilities for active and passive recreational uses without causing significant ecological impacts.

Policy 9.7B: Where possible, shoreline recreational facilities should be linked to other recreational attractions by pedestrian and bicycle trails.

Policy 9.7C: Only those recreational activities that are compatible with the shoreline environment in which they are located should be encouraged, and these uses should be developed to ensure that no net loss of shoreline ecological functions or ecosystem-wide processes results.

Policy 9.7D: First priority should be given to water-dependent recreational uses and second priority should be given to water-enjoyment and water-related recreational uses over non-water oriented uses.

Policy 9.7E: Public access and park planning goals, policies and priority actions should be implemented to ensure that an adequate supply of publicly-owned space for shoreline walking, viewing, and general shoreline enjoyment is provided and maintained.

Policy 9.7F: Private investment in recreation facilities should be encouraged.

Policy 9.7G: Recreational development requiring extensive structures, utilities and roads and/or substantial modifications of topography or vegetation removal should not be located or expanded in areas where damage to persons, property, and/or shoreline functions and processes is likely to occur.

Policy 9.7H: Trail links between shoreline parks and public access points should be encouraged for walking, bicycle riding and other non-motorized vehicle access where appropriate.

Policy 9.7I: Where appropriate, recreation facilities should incorporate public education regarding shoreline ecological functions and processes, the role of human actions on the environment and the importance of public involvement in shoreline management.

Policy 9.7J: The City should work towards reconstructing and naturalizing the shoreline in public parks to enhance the public's visual experience and access to the water's edge.

9.7.1 Recreational Development – Use Regulations

A. Priority shall be given to recreational developments that provide public access to the shoreline area.

B. Water-dependent recreational uses will have first priority and second priority shall be given to water-related and water-enjoyment recreational uses.

C. Recreational developments shall be designed and constructed to avoid, minimize or mitigate adverse impacts to the shoreline environment and comply with the provisions of Section Six pertaining to shoreline ecological functions and ecosystem-wide processes.

D. Where feasible, shoreline recreational facilities shall be required to link to other recreational attractions via pedestrian and bicycle trails.

E. Recreation areas or facilities within shoreline jurisdiction shall provide physical or visual public access to the shoreline and shall provide public access to publicly owned tidelands.

F. The Whatcom County Park beaches and tidelands shall be maintained in their natural state for purposes of public use and enjoyment.

G. Associated parking is prohibited in the shoreline area, with the exception of scenic pull-outs, view points, and trailheads; provided that designated parking areas for public parks shall be allowed, but shall be set back from the ordinary high water mark to the greatest extent feasible.

H. Overnight camping facilities shall be prohibited in the shoreline area, except for boat-in camping as part of a state or regionally recognized marine trail. Camping along a recognized marine trail shall be for paddle craft only.

I. Recreation facilities shall not unduly burden or create conflict with adjacent shoreline uses.

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9.8 RESIDENTIAL DEVELOPMENT

Residential development includes single-family and multifamily development, camping clubs, mobile home parks, or the creation of new residential lots through subdivision or conversion from another use. All residential development, including residential development exempt from the shoreline permit requirements, should be consistent with the following policies.

Policy 9.8A: Residential developments proposed for the shoreline area should incorporate clustering of dwelling units to reduce physical and visual impacts on shorelines and to reduce utility and road costs. Where appropriate, such developments should include public or private open space and recreation facilities.

Policy 9.8B: Residential development should not result in a net loss of ecological functions.

Policy 9.8C: Residential development that is designed at a size and location that will cause significant ecological impacts should not be permitted.

Policy 9.8D: Subdivisions and conversions from non-residential uses should be required to create lots of sufficient size and configuration to allow residences to be constructed without causing significant ecological impacts.

Policy 9.8E: Subdivisions should be encouraged not to locate any structure within close proximity of the immediate water's edge, and instead use this area as open space.

Policy 9.8F: Vegetation removal should be limited to the minimum necessary to accommodate residential structures.

Policy 9.8G: Subdivisions should be encouraged to provide community or public physical and/or visual access to shorelines.

Policy 9.8H: Mobile home parks should not be permitted within the shoreline area.

Policy 9.8I: Erosion and sedimentation control measures should be included as part of the development plans.

Policy 9.8J: Residential development should be planned and built to minimize the need for shoreline stabilization and flood hazard reduction measures.

Policy 9.8K: Single family residences are identified as a priority use in appropriately designated shorelands when developed in a manner that controls pollution and minimizes damage to the natural environment.

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9.8.1 Residential Development – Use Regulations

A. All residential structures, including accessory structures, located in the floodplain shall be constructed in conformance with this Program and Chapter 17.86, Flood Hazard Regulations. Roadways, utilities and other development associated with residential development shall comply with the standards of this Program pertaining to those types of development.

B. Approved erosion and sedimentation control measures shall be employed during and as needed after construction. The Administrator shall review and approve the proposed erosion control method prior to the commencement of construction.

C. Residential development shall mitigate impacts to wetlands through wetland replacement, enhancement or, alternatively, provide other comparable means of enhancing the water resource and the public's visual and aesthetic enjoyment of these resources with the approval of the City.

D. Residential subdivisions and conversions from non-residential uses shall be designed to avoid, minimize and mitigate adverse impacts to the shoreline environment and comply with the provisions of Section Six.

E. Residential subdivisions shall be designed to create lots of sufficient size and configuration to allow residences to be constructed without encroaching on required shoreline setbacks, designated vegetation conservation areas and areas with an environment designation of “Natural.”

F. New residential development in the shorelands shall be developed as planned unit developments and shall cluster dwelling units to reduce physical and visual impacts on shorelines.

G. New multi-unit residential development, including subdivision of land into four or more parcels, shall provide public access to publicly owned shorelines or public water bodies.

H. Setbacks for residential development shall be as determined by the shoreline environment designation. Where no setbacks are established for residential uses, the setback shall be 100 feet from the ordinary high water mark; provided that this setback may be reduced to 75 feet based on enhancement of the setback area through habitat enhancement based on a plan approved by the Administrator.

I. Wherever possible, the area within 200 feet of the ordinary high water mark should be used as open space as required to meet the subdivision regulation requirements.

J. Height limits shall be 25 feet within 100 feet from the ordinary high water and 35 feet from 100 to 200 feet from ordinary high water, except where additional height is approved within a Special Management Unit.

K. All new subdivisions shall provide for vegetation conservation to mitigate cumulative impacts of intensification of use within or adjacent to the shoreline that shall include replanting and control of invasive species within shoreline setbacks and open space to assure establishment and development, or preservation, of a native vegetation community. The Administrator may require a vegetation management plan and/or monitoring plan.

L. Development of new overwater homes and floating homes is prohibited. This is not applicable to live aboard craft designed and capable of motoring under their own power or sailing independent of another craft.

M. New residential development should be prohibited where it can be reasonably foreseen that shoreline stabilization would be needed during the life of the structure. New lots shall be configured to avoid the need for shoreline stabilization and/or structural flood control works.

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9.9 SOLID WASTE DISPOSAL

Solid waste disposal includes collection, transport and disposal of all discarded or spent materials other than liquids such as sewage or wastewater. The shoreline is a particularly sensitive area and consequently especially susceptible to the environmental impacts that often accompany the operation of solid waste disposal facilities. Solid waste disposal does not include the use of a trash receptacles and recycling containers either individually or in cooperation with others for the collection and containment of discarded materials prior to transport and disposal outside of the shorelands which is considered an incidental use appurtenant to other uses regulated herein.

Policy 9.9A: Solid waste disposal facilities should not be permitted in the shoreline area.

Policy 9.9B: Solid waste transfer stations should only be allowed by conditional use within shoreline areas when no other feasible location exists.

Policy 9.9C: Solid waste disposal does not include the use of a trash receptacles and recycling containers either individually or in cooperation with others for the collection and containment of discarded materials prior to transport and disposal outside of the shorelands which is considered an incidental use appurtenant to other uses regulated herein

9.9.1 Solid Waste Disposal – Use Regulations

A. Solid waste disposal sites (as defined in section 70.95.030 RCW) shall not be permitted on shorelands.

B. Facilities for the collection, transfer, or reload of recyclable materials and municipal solid waste are permitted as a conditional use.

9.10 TRANSPORTATION AND PARKING

Roads and streets are linear corridors for motorized and non-motorized vehicles and pedestrians, trails and paths are linear corridors for pedestrians and non-motorized vehicles, and a railroad is a linear corridor with tracks for train traffic. The construction of linear transportation facilities and parking associated with allowed uses can both support and limit access to shorelines. Potential impacts of such development can also impair the visual qualities of water-oriented vistas, expose soils to erosion, affect storm water runoff, and affect the feasibility of potential development along shorelines.

Policy 9.10A: Whenever feasible, major highways and railroads should be located outside shoreline jurisdictional areas.

Policy 9.10B: Safe, reasonable and adequate circulation systems to, and through or over, shorelines should be provided and maintained.

Policy 9.10C: The impact on the natural shoreline environment should be considered when planning, designing, locating and constructing transportation facilities and parking in the shoreline area. Impacts to shoreline ecological functions and processes should be mitigated to the maximum extent practicable.

Policy 9.10D: Parking facilities shall only be allowed as necessary to support an authorized use and should generally be located in upland areas away from the water's edge.

Policy 9.10E: Road and transportation planning should make provisions for public transportation, pedestrian, bicycle and other public access to shoreline areas, where appropriate.

Policy 9.10F: Provisions should be made in the design of transportation facilities for compatible multiple shared uses, pedestrian shore access, scenic pull-outs and viewpoints.

Policy 9.10G: Railroad construction should be limited to maintenance of existing facilities where new construction or expansion would negatively affect shoreline ecological functions and processes.

Policy 9.10H: Transportation facilities should be located and designed to avoid impacts to significant public recreation and public access areas, and natural, historic, archaeological or cultural sites.

9.10.1 Transportation and Parking – Use Regulations

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A. Wherever feasible, transportation and parking shall be located outside the shoreline area.

B. Development of new railroad facilities is prohibited, except where such development is part of a regional expansion plan. Any such development shall require approval of a conditional use permit.

C. Roads and parking within shoreline jurisdiction shall be designed, constructed and maintained to prevent sediments and pollutants from entering adjacent water bodies and wetlands.

D. New transportation facilities within shoreline jurisdiction shall be designed to follow natural topography to minimize cuts and/or fills.

E. Roads shall be located on stable sites whenever feasible to avoid placing structures near eroding banks and shifting channel elements.

F. All bridges and other water crossing structures shall be designed not to impede the normal annual high water. Bridge approaches and side slopes shall be planted with a native vegetation cover.

G. There shall be no side casting of excess road building material within shorelands.

H. New roads shall make provisions for pedestrian and bicycle access.

I. Major arterials shall be prohibited in shoreline areas except where necessary to cross a body of water.

J. Permitted roadways shall be low speed and designed to conform to existing topography, thus minimizing cut and fill.

K. Transportation facilities shall be constructed of materials which will not adversely affect water quality or aquatic plants and animals over the long term. Elements within or over water shall be constructed of materials approved by applicable state agencies for use in water for both submerged portions and other components to avoid discharge of pollutants from splash, rain or runoff. Wood or pilings treated with creosote, pentachlorophenol or other similarly toxic materials is prohibited. Preferred materials are concrete and steel.

L. Parking facilities are not a water-dependent use and shall only be permitted in the shoreline area to support an authorized use where it can be demonstrated that there is no feasible alternative location away from the shoreline. Parking facilities shall be set back from the waters' edge and screened from less intense adjacent land uses by vegetation, undeveloped space, or structures developed for the authorized primary use.

M. Parking areas shall be developed utilizing low impact development techniques whenever possible including but not limited to the use of infiltration and/or permeable surfacing materials.

N. RCW 36.87.130 prohibits the City from vacating any public road right-of-way which abuts a body of saltwater or freshwater except for port, recreational, educational or industrial purposes. Therefore, vacation, development or abandonment of undeveloped City road ends within shoreline jurisdiction is prohibited unless approved in accordance with this Program.

9.11 UTILITIES

Utilities are systems, services or facilities that produce, convey, store, or process various amenities provided by the City and other franchise providers. City utilities include sewer,

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potable water, storm water and electricity. Franchise utilities include oil, gas, communications, solid waste and others. The installation of such infrastructure necessarily disturbs the landscape, but can be planned to have minimal visual and physical effect on the environment.

Policy 9.11A: Utility facilities should be designed, located, and maintained to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned uses.

Policy 9.11B: Utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities that are non-water-oriented should not be allowed within shoreline areas, unless it can be demonstrated that no other feasible option is available.

Policy 9.11C: Utilities should be located in existing rights-of-way and utility corridors when available and utilize shared utility trenches whenever feasible.

Policy 9.11D: After a utility installation/maintenance project has been completed, the affected area should be replanted with native vegetation.

Policy 9.11E: The location of utilities should be chosen so as not to obstruct scenic views whenever possible.

Policy 9.11F: Where appropriate, utilities should be placed underground or incorporate complementary screening to minimize impacts to the aesthetic qualities of the area.

Policy 9.11G: Utilities should be located and designed to avoid impacts to public recreation and public access areas and to significant natural, historic, archaeological or cultural sites.

9.11.1 Utilities – Use Regulations

A. Construction of utilities is permitted provided that there is appropriate documentation that the facility cannot be feasibly located outside of shoreline jurisdiction due to uses served or the need to cross shorelands to make specific connections.

B. All utilities shall be located underground wherever feasible. New overhead utilities shall only be located on shorelines when no reasonable alternative is available.

C. Major utility facilities shall only be permitted as conditional uses.

D. Utility facilities shall be designed, located, constructed and maintained to ensure no net loss to ecosystem-wide processes and other ecological functions.

E. Upon the completion of installation or maintenance projects on shorelands, the area affected shall be restored to pre-project configuration, replanted with native or pre-existing species, and provided with maintenance care until the newly planted vegetation is established. The Administrator may require a vegetation management plan and/or a monitoring plan.

F. Wherever feasible, existing rights-of-way, utility easements and other utility corridors shall be used to locate new utility development on shorelands.

G. Non-water-oriented utility production and processing facilities should only be permitted within shoreline jurisdiction if it can be shown that no other feasible option is available and that it will result in no net loss of ecological functions.

H. Sewage treatment plants shall be located where they do not interfere with and are compatible with recreational, residential, or other public uses of the water and shorelines.

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9.12 EXTENDED MOORAGE

Extended moorage applies to anchoring, mooring or otherwise affixing a vessel to a location in the Aquatic designation outside of an established marina for a period of more than seven (7) consecutive days in the same location, or any number of multiple locations covered by this Shoreline Master Program for more than fourteen (14) consecutive days.

Policy 9.12A: Extended moorage should be limited to avoid the negative effects of moorage on the aquatic environment and on views and aesthetics.

9.12.1 Extended Moorage – Use Regulations

A. Extended moorage on waters of the state without a lease may only be permitted with permission of the appropriate landowner or state agency, including a lease as applicable.

B. Impacts to navigation and access caused by such moorage must be mitigated.

C. Extended moorage for live-aboard vessels is not permitted outside developed marinas.

D. Extended moorage restrictions do not apply to vessels approved through other permitting processes such as aquaculture or overwater structures.

9.13 OVERWATER STRUCTURES

Over-water structures are divided into new structures and re-purposing of existing structures. A new structure is construction where an over-water structure does not exist at the time of permit application. Re-purposing of an existing structure is construction where an over-water structure exists at the time of permit application. The existence of pilings alone does not qualify as the existence of a structure. Decking or an enclosed space is necessary to qualify as an existing structure.

9.13.1 Overwater Structures – Use Regulations

A. New Over-Water Structures Use Regulations:

1) New over-water structures are permitted only for water-dependent uses, public access, or ecological restoration.

2) The over-water footprint of new over-water structures shall be designed and located to reduce associated environmental impacts. Strategies may include limiting the size of the footprint to that necessary to support the intended use and/or extending the structure waterward to avoid shading of critical habitat.

3) New over-water structures shall be located to minimize interference with surface navigation, and to avoid interference with passage of fish and wildlife.

4) New over-water structures shall blend into the surroundings to the greatest extent feasible utilizing appropriate color(s), texture, non-reflective materials, and other design characteristics; cost factors are to be included in the definition of feasible.

5) Multiple use of new over-water facilities is encouraged.

6) New over-water structures and uses shall be designed, constructed and operated in a manner to prevent water quality degradation and avoid degradation of natural hydrographic conditions.

B. Re-Purposed Over-Water Structures Use Regulations:

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1) Re-purposing of existing over-water structures is permitted for water-dependent and water-related uses. Water-enjoyment uses are permitted provided public access is included in design and operation. At least one-quarter of the structure must be dedicated as public access for water-enjoyment repurposing.
2) Re-purposing of over-water structures shall be done in a way that reduces associated environmental impacts. Strategies may include limiting night lighting and/or providing open decking to avoid shading of critical habitat. Re-purposing over-water structures shall be done in a way to minimize interference with surface navigation, and to avoid interference with passage of fish and wildlife.
3) Re-purposing of over-water structures shall be designed to blend structures into the surroundings to the greatest extent feasible utilizing appropriate color(s), texture, non-reflective materials, and other design characteristics; cost factors are to be included in the definition of feasible.
4) Multiple uses of re-purposed over-water facilities are encouraged.
5) Residential development is not a permitted use of re-purposed over-water structures.

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10.0 SHORELINE MODIFICATION POLICIES

Shoreline modifications are related to construction of a physical element such as a dike, bulkhead, or fill. They can also include such activities as clearing and grading, or significant vegetation removal.

10.1 BEACH STAIRS

Beach stairs are structures typically built of wood, steel or concrete to descend steep slopes and provide access between the shoreline and uplands. Beach stairs are not trails, and vice versa. Trails may have up to four consecutive risers comprised of stone, masonry or wood and not be considered a stair provided the majority of the facility is designed at grade and constructed as a trail.

Policy 10.1A: Private beach stairs should be avoided where feasible, and may be specifically precluded by portions of this Program. Shared access and public use stairs are preferred.

Policy 10.1B: Beach stairs should be designed and constructed to minimize impacts to the upland environment.

10.1.1 Beach Stairs – Use Regulations

A. Beach stairs are allowed as indicated in the Shoreline Environment Designations, except on feeder bluffs, provided the project proponent demonstrates that existing shared, public or community facilities are not adequate or available for use and the possibility of a multiple-owner or multiple-user facility has been thoroughly investigated and is determined to not be feasible.

B. Beach stairs shall be designed and located such that no fill or other modification waterward of the ordinary high water mark is necessary to construct or use the structure. Stairways and landings shall be located upland of existing bulkheads and shall minimize removal or modification of existing shoreline vegetation.

C. Beach stairs shall be constructed close to the natural grade to the greatest extent feasible. Gangways and elevated structures should be avoided.

10.2 BOAT RAMPS

Boat ramps are permanent structures for launching motorized watercraft.

Policy 10.2A: Boat ramps are water-dependent uses and should be given priority for shoreline location.

Policy 10.2B: Boat ramps, marine railways and other launching facilities requiring permanent structures should be sited, designed and constructed to minimize adverse effects on the shoreline and shoreline resources.

Policy 10.2C: New boat ramps should only be allowed for water-dependent commercial uses such as boat repair and manufacturing or public use facilities.

Policy 10.2D: Land disturbance associated with boat ramp construction should be limited to the minimum necessary to accommodate the proposed use.

Policy 10.2E: New construction should be allowed only when it has been shown that a specific need exists to support the proposed use.

Policy 10.2F: Boat ramps should be designed and constructed to avoid or minimize impacts

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to critical habitat and should result in no net loss of ecological function, while contributing to public physical and visual access to and enjoyment of waters of the state.

Policy 10.2G: Regional needs for boat ramps should be carefully considered in reviewing new proposals as well as in allocating shorelines for such development.

10.2.1 Boat Ramps – Use Regulations

A. Boat ramps shall only be permitted in conjunction with water-dependent uses, such as marine industry, or for public access.

B. Applications for boat ramps shall address the specific need that supports the development, as well as the design features and construction measures to be incorporated into the proposal to protect critical habitat and result in no net loss of ecological function.

C. Boat ramps shall be limited in size based on the minimum necessary to accommodate the proposed use.

D. Boat ramps shall be permitted only in the Special Management Units and incorporated Aquatic Environments.

E. Boat ramps should be prohibited in marshes, estuaries and other wetlands; kelp beds, eelgrass beds, and spawning and holding areas for forage fish; subsistence, commercial and recreational shellfish beds; and other critical saltwater habitats, unless it can be shown that no alternative location is feasible, the project would result in a net enhancement of shoreline ecological functions, and the proposal is otherwise consistent with this Program.

F. New boat ramps shall be approved only if they provide public access to public waters, which are not adequately served by existing access facilities, or if use of existing facilities is documented to exceed the designed capacity.

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10.3 BREAKWATERS, JETTIES AND GROINS

Breakwaters are structures built offshore to protect harbor areas from wave action. They are costly to build and can be either rigid or floating. Rigid breakwaters, usually constructed of riprap or rock and landfill or steel, have both beneficial and detrimental effects on the shore. While they reduce wave action and thus protect the backshore, they can also disrupt fish migration and block movement of beach material along the shore. Floating breakwaters overcome these problems, but are practical only at sites which do not experience extreme wave action.

Jetties and groins are offshore structures intended to control or block movement of beach material. Jetties are built at river mouths or other embayments to keep ship channels clear. Groins are wall-like structures extending from the bank or backshore seaward across the inter-tidal foreshore. Their purpose is to divert or reduce the natural longshore movement of beach materials and cause a beach to build on the drift side of the groin.

Policy 10.3A: Use of floating breakwaters is preferred over solid structures.

Policy 10.3B: When locating breakwaters, the possible effect on navigation and the public use of the water surface should be considered and adverse impacts should be avoided or minimized.

Policy 10.3C: Solid breakwaters should be constructed only where design modifications can eliminate potentially detrimental effects on the movement of beach material, fish migration, and circulation of water.

Policy 10.3D: Before locating jetties or groins, the effect of these structures on the movement of water and drift materials, on fish and wildlife, and on the aesthetic quality of the shoreline should be considered.

Policy 10.3E: Jetties and groins should only be allowed where necessary to support public access, shoreline stabilization or other public purpose.

Policy 10.3F: Jetties and groins should be constructed in a manner that will minimize alterations of the natural shoreline.

Policy 10.3G: Wherever possible, jetties and groins should be designed, located, and constructed in a manner that results in no net loss of ecological functions and ecosystem-wide processes. Mitigation should be provided if necessary to ensure no net loss of shoreline functions and processes.

Policy 10.3H: The use of natural appearing rock and other natural materials should be encouraged in construction of jetties and groins.

10.3.1 Breakwaters, Jetties and Groins – Use Regulations

A. Breakwaters outside Special Management Unit environments and their immediately adjacent Aquatic Environments are prohibited.

B. Prior to granting a permit for a breakwater, the effect on adjacent properties, on water circulation, and on public use of the water surface shall be determined and shall be considered in the permit process.

C. Construction of solid breakwaters is only permitted where it can be shown that use of floating breakwaters is not feasible.

D. Construction of breakwaters shall only be authorized through approval of a conditional use permit.

E. These structures shall only be allowed where necessary to support public access, shoreline stabilization, and other public purposes, such as protection or restoration of ecological functions.

F. These structures shall only be permitted where the proposed design will minimize alteration of the natural shoreline.

G. Construction of jetties and groins shall only be authorized through approval of a conditional use permit.

H. Construction of jetties and groins shall not significantly decrease public access to or use of the shoreline.

I. Applications for the construction of jetties and groins shall address the potential effects on the movement of water and drift materials, on fish and wildlife, and on the aesthetic quality of the shoreline.

J. Jetties and groins shall be designed and constructed based on approved plans prepared by a licensed professional engineer.

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K. These structures shall be designed to protect ecosystem-wide processes, to protect critical areas, and to comply with the provisions of Section Six.

10.4 DREDGING

Dredging is the removal of unconsolidated material (gravel, sand, and silt) or other earthen materials from the bottom of a water body, for navigational purposes, underwater crossings, obtaining fill material, or construction projects. If not adequately regulated, dredging has the potential to cause significant environmental harm.

Policy 10.4A: Dredging and dredging disposal should only be done in a manner that avoids significant ecological impacts.

Policy 10.4B: Dredging other than for flood control, channel maintenance, marina maintenance and habitat creation/enhancement purposes should not be permitted.

Policy 10.4C: Dredging should be prohibited unless all appropriate feasibility studies have been completed and reviewed.

Policy 10.4D: In those instances where dredging is permitted, the shoreline area should not be used as a disposal site for dredge spoils, unless such use would create or enhance habitat value.

Policy 10.4E: All proposals for dredging operations should be coordinated and consistent with plans, policies, guidelines, and regulations of federal, state, and/or local agencies.

10.4.1 Dredging – Use Regulations

A. Dredging activities shall be prohibited unless approved by state and federal agencies and shall be undertaken in a manner that has been demonstrated to avoid or minimize significant ecological impact, and impacts that cannot be avoided are mitigated.

B. Dredging for the single purpose of obtaining landfill or construction materials is prohibited.

C. Dredging and/or disposal of dredge spoils within the shoreline area shall only be permitted as a conditional use.

D. No dredging shall be conducted without the responsible person having obtained a shoreline permit or statement of exemption as appropriate, and where required, a Hydraulics Project Approval permit from the State.

E. Deposition of dredge material in water areas shall be allowed only at State-approved disposal sites.

F. Maintenance dredging shall be allowed only within the boundaries of the originally approved dredge area (location, depth and width).

G. Applications for dredging activities shall include the following information:

   1) An analysis and physical description of the material to be dredged;
   2) Quantity of material to be removed;
   3) Time schedule for dredging;
   4) Methods of dredging and disposal of spoils;
   5) Stabilization and restoration of affected area as appropriate;

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6) Location, size, stability, and biological characteristics of the bedlands at and adjacent to the site; and

7) Chemical analysis of the spoil material if it is deemed necessary because of suspected pollution.

H. Applications for dredging activities shall include the following studies:

1) A hydrogeological study conducted by a qualified professional and approved by appropriate state agencies which demonstrates that removal of specific quantities at specific locations will not significantly alter the natural processes of gravel transportation for the beach system as a whole; and

2) A biological study conducted by a qualified professional and approved by appropriate state agencies which demonstrates that removal will not significantly degrade habitat values for priority species or damage other ecological functions.

I. Review of dredging and spoil disposal proposals shall assess:

1) The value of the dredge and disposal sites in their existing condition versus the proposed shoreline use to be created, relative to improved public access, economic, and environmental factors; and the potential for the proposal to locate at a site where dredging and disposal are not required.

J. Siting of new facilities shall be done in a way to avoid the need for new and maintenance dredging.

K. Dredging to establish, expand, relocate or reconfigure navigation channels is allowed only where needed to accommodate existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided.

L. The disposal of dredge material or use of dredge in a manner that benefits shoreline resources is encouraged.

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10.5 IN-STREAM STRUCTURES

In-stream structures are structures built or placed by humans waterward of the bank in a stream or river. They have the potential to impound or divert water or change the natural flow. By the nature of the City of Blaine shoreline, in-stream structures will be very limited and can occur only in tidally influenced stream estuaries.

Policy 10.5A: In-stream structures should be designed and constructed in such a manner as to protect and preserve ecosystem-wide processes, ecological functions, cultural resources, critical areas, hydrogeologic processes and natural scenic vistas.

10.5.1 In-Stream Structures – Use Regulations

A. In-stream structures may be permitted with a shoreline substantial development permit only after consideration of an analysis prepared by a qualified ecologist, geologist, or geotechnical engineer, or combination of professionals acceptable to the Administrator.

1) The study shall include a characterization of the shoreline and aquatic areas and the anticipated impacts to the structure, natural processes, and ecological function of the affected areas resultant from the project.

B. The Planning Commission shall require revision to the proposed structure and/or mitigation and other corrective actions to avoid a net loss of functions and values resulting from the construction authorized under the permit.

10.6 RESERVED

10.7 LANDFILL AND EXCAVATION

This category includes those activities that re-shape or change the character of the surface of the land. Activities covered by this section include land clearing, landscaping, excavation and grading or other earth moving projects. The term “landfill” and “fill” are interchangeable for the purposes of this section.

Policy 10.7A: Landfill and excavation should only be permitted to the minimum extent necessary to accommodate an approved shoreline use or development.

Policy 10.7B: Landfill and excavation activities should be located, designed, and constructed to protect shoreline resources and to assure no net loss of ecological functions and ecosystem-wide processes.

Policy 10.7C: Landfills waterward of the ordinary high water mark should be allowed only when necessary to support: water-dependent uses, public access, ecological restoration, and other uses as outlined by WAC 173-26-231(3)(c). Unavoidable impacts should be mitigated to the maximum extent practicable.

Policy 10.7D: Landfill should be permitted in limited instances to restore uplands where recent erosion has rapidly reduced upland area, to build beaches and protective berms for shore stabilization or recreation, to restore or enhance degraded shoreline ecological functions and processes, or to moderately elevate low uplands to make such uplands more suitable for purposes consistent with this Program.

Policy 10.7E: Landfill and excavation activities should have appropriate feasibility studies completed and reviewed prior to authorization. Factors such as total water surface reduction, impediment to water flow and circulation, reduction of water quality, and destruction of habitat should be considered before granting a permit.

Policy 10.7F: Landfill should not be allowed where shore stabilization works would be required to maintain the materials placed, except as an overall restoration project.

Policy 10.7G: Erosion control best management practices should be utilized during construction. The perimeters of landfills and excavations should be landscaped or otherwise stabilized to reduce soil erosion.

Policy 10.7H: Landfill material should be of a quality that will not result in adverse impacts to water quality.

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10.7.1 Landfill and Excavation – Use Regulations

A. Landfill shall be permitted for the following purposes only:

1) Shoreline development in the floodplain for the purpose of elevating structures (including roadways and railways) and buildings to comply with the City Flood Hazard Regulations, where other means of compliance with the ordinance is not economically feasible.

2) Development within a wetland consistent with the wetland management requirements of Section 7.2 of this Program.

3) Shore feature enhancement such as bank restoration, or insignificant raising of upland grades including landscaping.

4) Biological habitat development when consistent with state Department of Fish and Wildlife policies.

5) The construction of dikes, levees and other flood control works consistent with the National Flood Insurance Program ordinance and with the shoreline protection standards of this program.

B. Landfill and excavation shall be designed to minimize damage to the shoreline environment and shall be located, designed and constructed to assure no net loss to shoreline ecological functions, and not to impede natural channel migration or movement of drift materials.

C. Fill shall not be permitted which alters existing surface runoff patterns or storm peak flows and floods to the extent that other properties or valuable shore features or habitat will likely be adversely impacted.

D. Fill shall not be allowed where new shoreline stabilization structures would be required to maintain the materials placed.

E. The predicted economic benefits of proposed landfill and excavation shall be weighed against long-term cumulative impacts on shoreline processes and functions.

F. Fill materials shall have a specific gravity greater than 1.0 and shall be placed in such a manner so as not to adversely affect the water quality of adjacent water bodies.

G. In order to assure consistency with this program and with the Act, no landfill or excavation shall be permitted within the shoreline unless the responsible party has first obtained either a shoreline permit or a shoreline statement of exemption as appropriate.

H. All landfill and excavation activities shall incorporate appropriate erosion and sedimentation control best management practices.

I. When no bulkhead or other protective structure is required or proposed, the shoreline shall be maintained in or restored to its natural contours, slopes, and appearance.

J. No landfill or excavation activities that would interfere with the passage of stream waters or flood waters shall be permitted.

K. Fill and excavation activities shall only be done in conjunction with an approved new use or development or in conjunction with an existing use. No spoils shall be placed within the streamway, or within 200 feet of the ordinary high water mark. All spoils shall be removed from shorelands, except that earth, rocks, and the like shall be graded back to the original contour. Vegetative material such as logs and brush piles may be retained on site if they can be incorporated into an approved vegetation management plan.

L. Proposals that require that heavy equipment or machinery be used in the Aquatic or Natural Environments require authorization by the Administrator.

M. Landfill waterward of the ordinary high water mark, not incorporated in a shoreline restoration project, shall be a conditional use and shall only be permitted when in conformance with Policy 10.7B and the policies and regulations of Section 7.4 Aquatic Environment of this Program.

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10.8 PIERS AND DOCKS

A pier or dock is a structure built over or floating upon the water, used as a landing place for marine transport or for recreational purposes. While floating docks generally create less visual impact than those on pilings, they impede boat traffic and can alter movement of beach material

along the shore. A concentration of piers along the shore can substantially reduce the usable water surface and interfere with or prevent public use of the water surface.

Policy 10.8A: New piers and docks should be allowed only for water-dependent industrial or commercial uses, such as commercial marinas and fish processing, or as public access facilities.

Policy 10.8B: A dock associated with a single family residence is considered a water-dependent use, provided that it is designed and used as a facility to access watercraft and other moorage facilities are not available or feasible. Moorage for water-related and water-enjoyment uses or shared moorage for multifamily use should be allowed as part of a mixed-use development or where they provide public access.

Policy 10.8C: Pier and dock construction should be limited to the minimum necessary to accommodate the proposed use.

Policy 10.8D: New construction should be allowed only when it has been shown that a specific need exists to support the proposed use.

Policy 10.8E: Piers and docks should be designed and constructed to avoid or minimize impacts to critical habitat and sediment transport and should result in no net loss of ecological function, while contributing to public physical and visual access to and enjoyment of waters of the state.

Policy 10.8F: Piers and docks should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.

Policy 10.8G: Piers and docks should be spaced and oriented perpendicular to shore in a manner that minimizes hazards and obstructions to public navigation, fishing, swimming and pleasure boating.

10.8.1 Piers and Docks – Use Regulations

A. New piers and docks shall only be permitted in conjunction with water-dependent uses, such as marine industry, or for public access, such as a public wharf or marina.

B. Applications for piers and docks shall address the specific need that supports the development, as well as the design features and construction measures to be incorporated into the proposal to protect critical habitat and comply with Section Six of this Program.

C. Piers and docks shall be limited in size based on the minimum necessary to accommodate the proposed use.

D. Piers and docks are prohibited except in the High Intensity and adjacent Aquatic Environments, which includes areas within the SMU-S and SMU-W environments.

E. Piers and docks shall not project beyond the harbor line or significantly reduce use of the water surface.

F. Piers and docks shall be constructed of materials which will not adversely affect water quality or aquatic plants and animals over the long term. Use of wood or pilings treated with creosote, pentachlorophenol or other similarly toxic materials is prohibited.

G. New docks for residential development, either single-owner or shared use, are prohibited.

H. Design and construction of all piers and docks are required to avoid, minimize and mitigate for impacts to ecological processes and functions.

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10.9 SHORELINE PROTECTION

Shoreline protection refers to flood protection to avoid flood inundation. These measures may include dikes and stabilization of erosion, primarily along streamways but may include marine shorelines

Policy 10.9A: The design, location and construction of shoreline protection features should be undertaken only if it minimizes alteration of the natural shoreline.

Policy 10.9B: Shoreline protection should minimize any intrusion on tidelands.

Policy 10.9C: Wherever possible, construction of shoreline protection structures should provide for protection, preservation, and restoration of ecological functions and ecosystem-wide processes.

Policy 10.9D: Wherever possible, construction of shoreline protection facilities should provide opportunities for public access to the shoreline.

10.9.1 Shoreline Protection – Use Regulations

A. Shoreline protection measures shall be located, designed and constructed so as to protect the natural character of the shoreline and minimize alteration of the shoreline environment.

B. Where flood protection measures are planned, they shall be placed landward of the shoreline, including associated swamps and marshes and other wetlands directly interrelated and interdependent with the water body.

C. Flood protection measures which result in extensive modification or channelization of the streamway or shoreline are prohibited.

D. Shoreline protection measures shall be planned to maintain or restore as nearly as possible the natural condition of the shoreline.

E. Proposed shoreline protection projects which could alter wetlands or intertidal areas as a result of landfill or other shoreline activity shall be assessed relative to impacts upon the area's physical and biological characteristics. Impacts identified with a proposed action shall be avoided or mitigated consistent with applicable City requirements, and recommendations from state, federal and tribal agencies.

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10.10 SHORELINE STABILIZATION

Shoreline stabilization includes actions taken to address erosion impacts to property, housing, businesses, or structures caused by natural processes. These can include both structural and nonstructural methods of stabilization. Nonstructural includes methods such as, setbacks, relocation of structures, ground water management, and planning and regulatory measures.

Policy 10.10A: Stabilization should result in no net loss of shoreline ecological functions or ecosystem-wide processes.

Policy 10.10B: New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible.

Policy 10.10C: New stabilization measures should not be allowed except when necessity is demonstrated.

Policy 10.10D: New or expanded structural shore stabilization should only be allowed when

non-structural measures, vegetation planting, or on-site drainage improvements would be insufficient to achieve the identified objectives.

Policy 10.10E: Shore stabilization should not be permitted to unnecessarily interfere with public access to public shorelines, nor with other appropriate shoreline uses including, but not limited to, navigation, seafood harvest, or private recreation.

Policy 10.10F: Wherever feasible, opportunities for public access should be incorporated into the design and construction of shoreline stabilization projects.

Policy 10.10G: Failing, harmful, unnecessary, or ineffective structures should be removed and, where appropriate, replaced. Shoreline ecological functions and processes should be restored using non-structural methods or less harmful long-term stabilization measures.

Policy 10.10H: Stabilization should be constructed in a manner that will minimize alterations of the natural shoreline.

Policy 10.10I: Structural stabilization should only be used where other more natural appearing methods of shoreline stabilization are not feasible.

Policy 10.10J: The use of natural appearing rock and other materials should be encouraged in construction of structural stabilization.

Policy 10.10K: Where bulkheads are determined necessary, open type construction of bulkheads should be used as feasible.

Policy 10.10L: Bulkheads should only be used for the purpose of protecting upland areas and not for the purpose of creating new uplands.

Policy 10.10M: New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Subdivision of land must be regulated to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur using geotechnical analysis of the site and shoreline characteristics. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.

Policy 10.10.N: New publicly financed erosion control measures shall incorporate public access.

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10.10.1 Shoreline Stabilization – Use Regulations

A. Shoreline stabilization measures shall be located, designed and constructed so as to minimize alteration of the natural shoreline, and shall be the minimum size necessary.

B. Shoreline stabilization measures which result in the extensive modification of the shoreline environment shall not be permitted except as part of an approved shoreline restoration or enhancement project.

C. Shoreline stabilization structures and facilities shall be designed and constructed based on approved plans prepared by a licensed professional engineer. A geotechnical analysis must include the rate of erosion, and the urgency of the need based on expected damage within three years, and shall explore alternative actions.

D. Streamway features such as snags, uprooted trees, or stumps shall be left in place unless causing significant bank erosion or higher flood stages. Existing stream bank vegetation shall be preserved.

E. Wherever possible, construction of shoreline stabilization structures and facilities shall incorporate opportunities for public access and shall provide for protection and restoration of ecological functions and ecosystem-wide processes.

F. New or expanded structural shore stabilization for existing primary structures, including but not limited to roads, railroads, public facilities, is prohibited unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by stream processes, tidal action or waves and only when significant adverse impacts are mitigated and then only if no net loss of ecological functions will result.

G. New non-water dependent development, including the subdivision of land that requires new shore stabilization is prohibited. The need for shore stabilization shall be considered in the determination of whether to approve new water-dependent uses. Proposed designs for new or expanded shore stabilization shall be designed by a qualified professional in accordance with Department of Ecology guidelines.

H. The construction of bulkheads shall be permitted only where they provide protection to upland facilities, not for the purpose of creating land by filling behind the bulkhead. Construction of bulkheads shall only be authorized through approval of a conditional use permit.

   1) Bulkheads shall only be permitted in those instances where the applicant is able to demonstrate that other less artificial methods of erosion protection such as anchored logs and root wads, and the establishment of dense rooted vegetation are not feasible.

   2) Bulkheads shall be constructed of a natural appearing material whenever located in any shoreline designation outside a Special Management Unit.

   3) Bulkheads shall be constructed of materials not deleterious to water quality.

   4) Bulkheads shall be constructed no higher than necessary to protect adjoining property and shall be constructed no more than four feet above the ordinary high water mark unless additional height is demonstrated to be necessary due to wave height.

   5) Bulkheads shall be located landward of the ordinary high water mark, unless determined infeasible by a geotechnical analysis. Bulkheads located waterward of the ordinary high water mark shall be located the minimum distance waterward necessary to be structurally stable and protect the applicable upland facilities.

   6) Bulkheads shall be designed and constructed based on approved plans prepared by a licensed professional engineer.

   7) Prior to granting a permit for a bulkhead, the effect on adjacent properties and on public access to publicly owned shorelines shall be determined and shall be considered in the permit process.

I. Replacement of existing stabilization structures is based on demonstrated need. Waterward encroachment of replacement structures is only allowed for residences occupied prior to January 1, 1992, or for soft shoreline stabilization measures that provide restoration of ecological functions.

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J. The design and construction of shoreline stabilization must consider the impact to sediment transport. Impacts must be avoided or minimized.

K. New stabilization structures for existing primary residential structures are allowed only where no alternatives (including relocation or reconstruction of existing structures), are feasible, and less expensive than the proposed stabilization measure, and then only if no net loss of ecological functions will result.

10.11 SPITS AND BARS

Spits and bars are natural formations composed of sand and gravel, shaped by wind, water and littoral drift. Spits generally extend outward from a headland beach and extend out into the water. Unlike a spit, bars are generally connected to land at both ends.

Policy 10.11A: Bars and spits should not be mined or used as sources for gravel, minerals, or sand.

Policy 10.11B: Structures, such as groins, that alter or disrupt the natural drift of sediments should be discouraged, and should only be permitted when other means of protecting significant shoreline structures, such as buildings, transportation facilities, and utilities, have been determined ineffective.

Policy 10.11C: Public access on spits and bars should be encouraged with all development, and required with multi-family, commercial and mixed-use residential developments.

10.11.1 Spits and Bars – Use Regulations

A. The removal of gravel, minerals, sand, or drift material from a bar or spit is prohibited except for navigational purposes or to prevent additional accumulation of materials due to excavation for development or to restore a previously filled shoreline area to a more natural state.

B. Deposition of excavated materials is allowed to restore a previously altered shoreline area to a more natural state.

C. No development or use which will interrupt the free movement of the littoral drift or alter in any way the deposition of sand, gravel, and related shoreline material shall occur on a bar or spit, except at the end of drift sectors.

D. Dredging for navigational purposes shall not occur in the offshore area of a bar or spit nor within the littoral drift zone which feeds the bar or spit, except at the end of drift sectors. Maintenance dredging within existing marina basins is permitted. All other dredging is prohibited.

E. Multi-family dwellings shall be allowed only if public access is provided to the shoreline. Detached single-family dwelling units shall be prohibited on a spit.

F. Wherever possible, the vegetation in the approved setbacks of the shorelines of bars and spits shall be left in as near a natural state as can be attained. Where shorelines designated as Natural have been altered, efforts should be made to restore natural vegetation.

G. Except for limited private parking, parking facilities shall be placed on upland areas away from bars, dunes and spits.

H. Shoreline stabilization structures in the Natural Environments shall be limited to protective berms, beach feeding, or a comprehensively designed soft stabilization

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project and shall only be allowed as necessary to restore or protect an eroding accretion beach, to minimize erosion elsewhere, or to protect public facilities.

I. The following general criteria for public access on bars and spits are applicable:

1) Public access shall be consistent with the City of Blaine Non-Motorized Transportation Plan (February 9, 2009).

2) No new development shall block or interfere with the normal public use of, or public access to, publicly owned shorelines and water bodies. New uses requiring modification of existing buildings shall provide public access to the extent possible.

3) All developments shall be designed to protect and enhance views and visual access and public access to the water and shorelines.

4) There must be a physical definition of the public and private space. This definition can be achieved through space and/or by screening such as by landforms, landscape plantings, covered walkways, signage or fences.

5) Any required public access easement shall be of a size and design appropriate to the site, size, and general nature of the development. Such easements shall be recorded on a property deed or face of a plat as a condition running in perpetuity with the land

6) Signs which indicate public parking areas and the public's right of access shall be installed and maintained in conspicuous locations at required public access points. Public use may be limited to daylight hours and by other restrictions reasonably related to public safety.

7) Required public access sites shall be fully developed and available for public use at the time of occupancy of the development, or as required by an approved project phasing plan with acceptable security devices to assure timely construction.

8) Public access, where required, should be adequate to maintain an inviting, open, public feeling. Where improved paths are provided, they should be of a large enough scale to encourage use. Points of access to the path system and shoreline should be integrated with and an extension of public-oriented uses. Access points shall be marked and of a scale and character to be clearly public.

9) Facilities for public amenities such as covered walkways, decks, pergolas, viewing areas, benches, trash containers, picnic tables, restrooms, view parking, etc. may be approved to be placed in the required set-back/public access easement.

10) Temporary closure of a segment of a shoreline public access area/easement may be allowed for private events and functions provided:

    a. The request is provided to the Shoreline Administrator in writing at least 72 hours prior to the requested closure;

    b. The closure shall not exceed six consecutive hours;

    c. Adequate signage or other notification is made on-site;

    d. Alternative access is provided, as may be feasible, to allow continuous access through a shoreline area or to shoreline amenities; and

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e. Approval is granted in writing by the Shoreline Administrator prior to the event/closure. The Administrator is authorized to apply conditions to such a closure pursuant to the goals and policies of this Program, including, but not limited to, limiting the size of the closure area, limiting the frequency of repeated closures, and limiting a closure to less than six consecutive hours.

10.12 GEOLOGIC HAZARDOUS AREAS

Feeder bluffs are shoreline banks or cliffs subject to erosion by natural forces. They supply sand, gravel and other materials to the beach systems and support natural functions. Shoreline bluffs are steep slopes made up of loose material prone to erosion. Steep slopes are high angled slopes reaching at least 20 feet in height.

Policy 10.12A: Feeder bluffs should not be armored by the construction of bulkheads or similar construction.

Policy 10.12B: Construction at the top of feeder bluffs should be restricted to prevent the need for armoring at the toe of the slope, and the potential hazard to the new construction at the top of the slope.

Policy 10.12C: Steep slopes and bluffs should be left in their natural state.

Policy 10.12D: Development above or below a steep slope or bluff should only be sited and permitted after adequate analysis of slope stability.

10.12.1 Geologic Hazardous Areas – Use Regulations

A. Bulkheads, landfills, groins, jetties, and other developments which prevent or restrict the natural erosion of a feeder bluff shall be prohibited except as may be permitted or conditionally permitted elsewhere in this Program.

B. Developments of all types shall be prohibited from the shoreline area above and below feeder bluffs except where an adequate geotechnical analysis indicates no adverse effect.

C. All development shall comply with the applicable provisions set forth in Chapter 17.82 BMC adopted by Ordinance No. 09-2729 in 2009.

D. Shoreline bluffs and steep slopes shall be left in their natural state with the exception of vegetation modification provided under SMP Section 7.5.

E. All new development, including subdivision of land into new lots, which create foreseeable risk to people or improvements during the life of such development is prohibited.

10.13 RESERVED

10.14 TIDELANDS

Tidelands are the area between the ordinary high water mark and mean low water.

Policy 10.14A: Tidelands should not be filled or dredged except in areas designated for uses that require such activity, and where located within a Special Management Unit.

10.14.1 Tidelands – Use Regulations

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A. Tidelands shall not be filled, diked, dredged or otherwise disturbed except:

1) Within an area adjacent to the High Intensity Environment within a Special Management Unit where the proposed activity is consistent with all other provisions of this Program, or

2) Within a navigation channel where the dredging activity is necessary to preserve navigability and when the activity is consistent with all other provisions of this Program.

10.15 SHORELINE HABITAT AND NATURAL SYSTEMS ENHANCEMENT

Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, and/or enhancing habitat for priority species in shorelines. This is synonymous with shoreline restoration.

Policy 10.15A: Restoration and enhancement of shorelines should be designed using principles of landscape and conservation ecology and should restore or enhance chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.

Policy 10.15B**:** Restoration and enhancement actions should improve shoreline ecological functions and processes and should target meeting the needs of sensitive and/or locally important plant, fish and wildlife species.

Policy 10.15C**:** The City should seek funding from State, Federal, private and other sources to implement restoration, enhancement, and acquisition projects, particularly those that are identified in the Restoration Plan of this SMP or any local watershed or area plans.

Policy 10.15D**:** The City should develop processing guidelines that will streamline the review of restoration-only projects.

10.15.1 Shoreline Habitat and Natural Systems Enhancement – Use Regulations

A. Restoration and enhancement shall be carried out in accordance with an approved shoreline restoration plan.

B. All shoreline restoration and enhancement projects shall protect the integrity of adjacent natural resources, including aquatic habitats and water quality.

C. A maintenance and monitoring plan shall be included in restoration or enhancement proposals.

D. Shoreline restoration and enhancement may be allowed if the project proponent demonstrates that no significant change to sediment transport will result and that the enhancement will not adversely affect ecological processes, properties, or habitat.

E. Shoreline restoration and enhancement projects shall be designed using scientific and technical information, and implemented using best management practices.

F. Shoreline restoration and enhancement shall not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.

G. Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments provided the project's purpose or consequence is the enhancement of the shoreline.

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H. Proposed designs for new or expanded shoreline habitat and natural systems enhancement project shall be designed by a qualified professional in accordance with Department of Ecology guidelines.

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11.0 SHORELINE USE MATRIX

X=Prohibited P=Permitted C=Conditional		Shoreline Uses													Shoreline Modification									
		Aquaculture	Commercial	Extended Moorage	Industrial/Port	Marinas	Mining	Signs	Recreational Facilites	Residential Development	Solid Waste	Transportation/Parking	Utilities	Overwater Structures	Beach Stairs	Boat Ramp	Breawaters, Jetties, Groins	Dredging	In-Stream Structures	Landfill and Excavation	Piers and Docks	Shoreline Protection	Shoreline Stabilization	Habitat Systems Enhnacement
Shoreline Designations	SMU	X/P	P	X	P	P	X	P	P*	P	C	P	P	P*	P	P	P	P	-	C	P	C	P/C	P
	HI	C	P	-	P	C	X	P	P	P	X	P	P	-	X	C	P	-	-	P	C	C	P/C	P
	UC	X	P*	-	X	X	X	X	C	P	X	P	P	-	P	X	X	-	-	P/X	X	C	P/C/X	P
	SR	X	X	-	X	X	X	X	P/C	P	X	P	P	-	P	X	X	-	-	P/X	C	C	P/C/X	P
	NA	X	X	-	X	X	X	X	C/P	X	X	P/X	X/P	-	X/P	C/X	X	-	-	X	X	C	P/C/X	P
	AQ	C	X	P*	C	C	X	X	P*	X	X	C/X	C	P*	X	C	C	C	P	C*/X	C	C	C	P

*** See Limitation in Text.** - All uses have limitations and the text should be referenced for further information. The limits on these uses are of particular note.

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