ATTACHMENT C: SUGGESTED CHANGES

CITY OF ANACORTES’ SHORELINE MASTER PROGRAM
COMPREHENSIVE REWRITE
Resolution No. 1796

Prepared by Robert J. Fritzen on August 23, 2010

Added text is underlined, removed text is struck. Ecology’s explanatory statements are in italics. All changes are suggested to add clarity or remove ambiguity. As provided in RCW 90.58.090(2)(e)(ii) the city may choose to submit an alternative to all or part of the changes suggested by Ecology.

3.2 B. Shoreline Variance Process
Process
… The decision maker shall be as provided in Chapter 18.16 the Shoreline Master Program of the Anacortes Municipal Code. The City has requested that references to specific Chapter be removed since they will be reformatting the AMC in the near future.

3.2 C.1. … Variance Permits for development that will be located landward of the ordinary high water mark, including those areas designated by the Department of Ecology as marshes, bogs, or swamps (wetlands) pursuant to WAC 173-22, may be authorized provided the applicant can demonstrate all of the following:

“Wetlands” has replaced previous use of the phrase “marshes, bogs, or swamps” in WAC 173-22.

3.2 C.2. … Variance Permits for development that will be located either waterward of the ordinary high water mark (OHWM) or within marshes, bogs, or swamps wetlands as designated in WAC 173-22, …

“Wetlands” has replaced previous use of the phrase “marshes, bogs, or swamps” in WAC 173-22.

Policy 4.7.3 Achieve no net loss of shoreline ecological functions. This shall be accomplished by the use of Mitigation Sequencing, as defined in this master program, and as provided by WAC 173-26-201(2)(e).

Suggestion added for clarity.

Policy 5.6.2 In aquatic areas adjacent to Urban or Urban Maritime designated shorelines, permit water-enjoyment uses in existing over-water structures along the Anacortes waterfront built prior to March 1, 2010 or in new structures in the limited instances where they are auxiliary to and necessary in support of water-dependent uses. (For purposes of over-water structures the mere presence of pilings would not meet the definition of an “existing” structure.)

Suggestion added for clarity.
Policy 5.6.6 … Non-water-dependent commercial uses should not be allowed over water except in existing or replacement structures or in new structures in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.

*Suggestion added for clarity.*

DR-5.9.6 c. … Mitigation plan elements, including monitoring and maintenance, shall be included in the plan consistent with mitigation plan requirements outlined in the City of Anacortes shoreline-specific critical areas regulations (see Appendix A and Chapter 6).

*Suggested change for clarity and to make sure all relevant regulations are addressed.*

DR-5.9.6 Exceptions from the Shoreline Residential setback may be granted...

ii. conditions (existing uses, or developments, or topographic barriers) exist within the site’s shoreline setback, which substantially prevent or impair delivery of most riparian functions.

*Change agreed to by City due to difficulty in defining “topographic barrier”.*

5.12 B.2. e. When considering allowance of structures to exceed the height limitations, the Planning Commission, City Council, or Hearing Examiner must consider:

*Suggested for consistency elsewhere in the SMP.*

Policy 6.3.6 Shoreline-specific critical area provisions promote human uses and values, such as public access and aesthetic values, provided they do not significantly adversely impact ecological functions.

*Suggested change for clarity and at the City’s request.*

DR-6.3.5 In addition to the requirements for critical areas reports contained in the shoreline-specific critical areas regulations found in Appendix A, the mitigation plan shall address the following:

*Suggested change for clarity at the City’s request.*

DR-6.6.1 Development and uses proposed within shorelines of the state shall meet the requirements of the City’s shoreline-specific Critical Areas Regulations as contained in Appendix A, in addition to the requirements found elsewhere in this Master Program.

*Suggested change for clarity at the City’s request.*

Policy 6.6.3 Provide a level of protection to shoreline-specific critical areas that is equal to or greater than the level of protection provided by the adopted Anacortes critical areas regulations. Recognizing this, the City has incorporated appropriate portions of its critical areas regulations into this Master Program as Appendix A.

*Suggested change for clarity and at the City’s request.*

6.7 A. This section provides policies and regulations that apply to fish and wildlife
habitat conservation areas, including critical saltwater and freshwater habitats as defined by WAC 173-26-221(2)(c)(iii) and (iv). These policies and regulations apply in addition to the shoreline-specific critical areas protection standards for fish and wildlife habitat conservation areas found in Appendix A, Section A-5.

Section A-5 of the shoreline-specific Critical Areas Regulations contained in Appendix A provides protections for critical salt-water habitats that are described in the “Northern Skagit County Bays and Shoreline Habitat Conservation and Restoration Blueprint 2005 Update”.

Suggested change for clarity and at the City’s request.

DR-6.7.6 …the City shall require the establishment of buffer areas for activities adjacent to fish and wildlife habitat conservation areas on a case by case basis when needed to protect such habitat conservation areas, pursuant to Section A-5.3(G)(1) of the shoreline-specific Critical Areas Regulations contained in Appendix A.

Suggested change for clarity and at the City’s request.

6.9 C. Applicability: Regulations for Geologically Hazardous Areas are set forth in the shoreline-specific Critical Areas Regulations contained in Section A-3 of Appendix A of this Master Program.

Suggested change for clarity and at the City’s request.

DR-6.9.1 Applicants proposing development adjacent to a marine bluff shall submit a geotechnical engineering report, prepared in accordance with the requirements of this Master Program and the shoreline-specific Critical Areas Regulations contained in Appendix A, when development is proposed within:

Suggested change for clarity and at the City’s request.

DR-6.9.3 a. As may be allowed in the shoreline-specific Critical Areas Regulations under Subsection A-3.5 of Appendix A of this Master Program.

Suggested change for clarity and at the City’s request.

6.10 C. Applicability: In addition to the regulations set forth in the shoreline specific Critical Areas Regulations contained in Section A-4 of Appendix A of this Master Program, …

Suggested change for clarity and at the City’s request.

DR-6.10.1 All development, development proposals and alterations that are located within or adjacent to shoreline jurisdictional wetlands or their buffers, or that are likely to significantly impact shoreline jurisdictional wetlands shall prepare a wetland analysis pursuant to Subsection A-4.7 in Appendix A, shoreline-specific Critical Areas Regulations, of this Master Program.

Suggested change for clarity and at the City’s request.

DR-6.10.3 In either case, the proponent shall provide mitigation to achieve no net loss of
wetland function or value, according to an approved mitigation plan prepared consistent with this Master Program, including Section A-4 of Appendix A, shoreline-specific Critical Areas Regulations.

*Suggested change for clarity and at the City’s request.*

DR-8.11.12 Developments containing marshes, swamps, lagoons, or similar wetlands shall use those areas only in association with parks, open space, or passive recreational facilities. Such use shall be consistent with the shoreline-specific Critical Areas Regulations found in Appendix A.

*Ecology regulations use the term “wetland” to capture all types. Second change at request of City for clarity.*


*Change suggested to correct ordinance name.*

DR-9.5.1 b. Fill waterward of the ordinary high water mark or within a marsh, bog or swamp wetland to accommodate a dock, pier, or float.

*“Wetlands” has replaced previous use of the phrase “marshes, bogs, or swamps” in WAC 173-22.*

DR-9.5.1. e. Piers, docks, floats and other overwater structures associated with multi-family uses serving less than five watercraft.

*The change is suggested by the City in response to a comment from Futurewise that the shoreline master program would allow for piers, docks, or floats as an accessory use.*

DR-9.9.2 Buoys may only be installed after the Administrator issues a Letter of Exemption or shoreline permit PROVIDED that the buoys meet all applicable requirements for a shoreline exemption or permit.

*The change is suggested by the City in response to a comment from Futurewise that a buoy or group of buoys meets the criteria for exemption from a substantial development permit.*

9.10 A. Shoreline habitat and natural systems enhancement and restoration projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines.

*Mitigation for project impacts is not necessarily included in this section.*

*General language is suggested by the City in response to the Port of Anacortes’ concerns.*

Chapter 12 Definitions

**Armoring:** See pages 55, 121, 122, 149, and 187.

*Removal suggested since it does not offer a definition.*

**Residence** … An appurtenance is necessarily connected to the use and enjoyment of a residence
and is located landward of the perimeter of a wetland, marsh, bog, or swamp, and associated buffers, and landward of the ordinary high water mark. …  
Marshes, Bogs, and Swamps are no longer defined in the WAC and have been replaced with the term “wetland”.

Public Use  Public use means to be made available daily to the general public on a first-come, first-served basis, and may not be leased to private parties on any more than a day use basis. (WAC 332-30-106(56))

Suggested for clarity.

A-5.1. B.  All areas within the city having one or more of these characteristics are hereby designated critical areas and are subject to the provisions of these regulations, Chapter 18.16 AMC, and this Shoreline Master Program.  
The change is suggested by the City in response to a comment from the Port of Anacortes over possible confusion of regulatory applicability.

A-5.1  Designation of fish and wildlife habitat conservation areas.

C.  Mapping. …

10. NOAA Northwest Region Critical Habitat Mapper or equivalent source:  
http://map.streamnet.org/website/CriticalHabitat/viewer.htm

The website presents information consistent with the City’s definition of habitat conservation areas.