CHAPTER 7    ADMINISTRATION AND ENFORCEMENT

7.1 General Provisions

1. Except as specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to RCW 90.58, the Act and this Program.

2. Uses and developments that are not considered substantial developments pursuant to RCW 90.58.030(3)(e), WAC 173-27-040, and Section 2.3.2 of this Program shall not require a Shoreline Substantial Development Permit (SDP) but shall conform to the policies and regulations of this Program and the Act and shall obtain a Statement of Exemption (SOE) (Sections 2.3.3 and 7.2.7).

3. Classification of a use or development as permitted does not necessarily mean the use/development is allowed. It means the use/development may be allowed subject to review and approval by the City and/or Ecology. The City may attach conditions of approval to any permitted use via a permit or statement of exemption as necessary to assure consistency of a project with the Act and this Program.

4. To be authorized under this Program, all uses and developments shall be planned and carried out in a manner that is consistent with the City codes and this Program regardless of whether a shoreline substantial development permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.

5. Applicants requesting review for permits or statement of exemption under this Program have the burden to prove that the proposed development or activity is consistent with the criteria that must be met before a permit or statement of exemption is granted.

6. Applicants shall submit all information and documentation determined by the Shoreline Administrator as necessary to process an application.

7. The City shall not issue any permit for development within the shoreline jurisdiction until approval has been granted pursuant to this Program.

8. A development or use that does not comply with the bulk, dimensional, and/or performance standards of this Program shall require a shoreline variance even if the development or use does not require a substantial development permit.

9. A development or use that is listed as a conditional use pursuant to this Program, or is an unlisted use, must obtain a Shoreline Conditional Use Permit (SCUP) even if the development or use does not require a substantial development permit.
10. Issuance of a Shoreline Substantial Development Permit, Shoreline Variance (SV) or Shoreline Conditional Use Permit does not constitute approval pursuant to any other federal, state or City laws or regulations.

11. All shoreline permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Shoreline Administrator, documenting compliance with bulk and dimensional policies and regulations of this Program. The Shoreline Administrator may attach conditions to the approval as necessary to assure consistency with the RCW 90.58 and this Program. Such conditions may include a requirement to post a performance bond assuring compliance with permit requirements, terms and conditions.

12. Proposed actions that would alter designated critical areas or their buffers, as established by this Program (Chapters 5.3 and 5A) shall be reviewed for compliance with this Program. If required, the applicable critical area report and/or mitigation plan and/or habitat management plan shall be submitted as part of the development application or request for statement of exemption. The critical area review shall be conducted and processed in conjunction with the highest threshold of review that is applicable to the primary development proposed:

   a. Statement of Exemption;
   b. Land Use Permit or Building Permit;
   c. Excavation, Grading, Clearing and Erosion Control Permit;
   d. SEPA Threshold Determination;
   e. Shoreline Substantial Development Permit;
   f. Shoreline Conditional Use Permit; or
   g. Shoreline Variance; or
   h. Revisions to Shoreline Permits.

13. Habitats of Local Importance may be proposed by the property owner or the City (Chapter 5A, VMC 20.740.100) and shall be designated according to a Type IV legislative procedure (VMC 20.210.070).
7.2 Administrative Authority and Responsibility

7.2.1 Shoreline Administrator

1. The responsible official or his/her designation is the Shoreline Administrator for the City.

2. The Shoreline Administrator shall have the authority to act upon the following matters:

   a. Interpretation, enforcement, and administration of this Program shall be in accordance with the provisions of WAC 173-26-140. The City establishes the following procedures for processing Administrative Interpretations:

      i. Application. Any person may request in writing the Shoreline Administrator's interpretation of a code provision this Program when it pertains to a specific property or project by means of a Type I application pursuant to Section 20.210.040 VMC. The Shoreline Administrator may independently initiate an interpretation of any conflicting or unclear provisions of this Program.

      ii. Consulting with the Ecology. Prior to issuing an interpretation, the Shoreline Administrator shall formally consult with the Ecology to insure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and the applicable guidelines.

      iii. Codification. To ensure that Shoreline Administrator interpretations are applied consistently over time, the Shoreline Administrator shall codify these interpretations. The codified interpretations shall be retained on file in the Community Development Department.

   a. Administrative Interpretations

   b. Requests for Statements of Exemption

   b. c. Applications for Shoreline Management Substantial Development Permits;

   e. d. Modifications or revisions to any of the above approvals Statements of Exemption or Shoreline Substantial Development Permits;

   d. e. Requests for statements of exemption Other duties and responsibilities as assigned in this Program.
3. The Shoreline Administrator shall document all project review actions in shoreline areas in order to periodically evaluate the cumulative effects of authorized development on shoreline conditions per WAC 173-26-191.

7.2.2 City Hearing Examiner

1. The City Hearing Examiner shall be responsible for making final determinations on appeals of:
   a. Statements of Exemption;
   b. Revisions to Statements of Exemption and Shoreline Substantial Development Permits;
   c. Applications for Shoreline Conditional Use Permits,
   d. Applications for Shoreline Variances; and
   e. Applications for Shoreline Substantial Development Permits in conjunction with a required Shoreline Conditional Use Permit or Shoreline Variance.

2. The City Hearing Examiner shall be responsible for recommending to Ecology on:
   a. Applications for Shoreline Conditional Use Permits;
   b. Applications for Shoreline Variances; and
   c. Applications for Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, and Shoreline Variances (Section 7.XX8).

7.2.3 City Planning Commission

The City Planning Commission shall be responsible for hearing and making recommendations for action to the City Council on the following types of matters:

1. Amendments to the Shoreline Master Program. Any of the provisions of this Program may be amended as provided for in WAC 173-26-100.

2. Review and adjustments. Periodic review of this Program shall be conducted as required by state law and regulations RCW 90.58.080(4). Adjustments shall be made as necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations. This review process shall be consistent with WAC 173-26-090 and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.
7.2.4 City Council

1. The City Council shall consider appeals of the Hearing Examiner decision on proposals that include Shoreline Conditional Use permits, Permits and Shoreline Variances, requests and SSDPs processed in conjunction with SCUPs and/or SVs.

2. The City Council shall be responsible for making final determinations on amendments to the Shoreline Master Program at the local level. The local plan shall be adopted by ordinance. The Council shall enter findings and conclusions setting forth the factors it considered in reaching its decision. The Program adopted by the City Council shall be submitted to Ecology for review and adoption. Ecology must approve all master programs before they become effective.

7.2.5 State Department of Ecology and Attorney General

1. The duties and responsibilities of Ecology shall include, but are not limited to the following:

   1-a. Reviewing and approving Program amendments prepared by the City pursuant to WAC 173-26-120 (State Process for Approving/Amending Shoreline Master Programs).

   2-b. Amendments or revisions to the Program, as provided by law, do not become effective until approved by the Washington State Department of Ecology. Reviewing and petitioning for review of the City’s Statement of Exemption and Shoreline Substantial Development Permit decisions.

   3-c. Final approval and authority to condition or deny Shoreline Conditional Use Permits and Shoreline Variance Permits filed by the City.

2. Ecology and the Attorney General have the authority to review and petition for review City’s permit decisions. Petitions for review must be commenced within twenty-one (21) days from the date the final decision was filed.

7.2.6 Master Program Amendments

1. This Program shall be periodically reviewed no later than eight (8) years following its approval by Ecology and adjustments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations. This review process shall be consistent with WAC 173-26 requirements and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public. The Program shall be consistent with the City’s comprehensive plan and development regulations adopted under RCW 36.70A and other local requirements.
2. Any of the provisions of this Program may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173-26 WAC. Amendments or revision to this Program, as provided by law, do not become effective until approved by Ecology.

3. Proposals for shoreline re-designation (i.e., amendments to the shoreline maps and descriptions) must demonstrate consistency with the criteria set forth in WAC 173-22-040.

### 7.4 Permitting Procedures

#### 7.4.1 Administrative Interpretations

1. Interpretation, enforcement, and administration of this Program shall be in conformance with the provisions of WAC 173-26-140. The City establishes the following procedures for processing Administrative Interpretations:

   a. Application. Any person may request in writing the Shoreline Administrator's interpretation of a code provision of this Program when it pertains to a specific property or project by means of a Type I application pursuant to Section 20.210.040 VMC.

   b. The Shoreline Administrator may independently initiate an interpretation of any conflicting or unclear provisions of this Program.

   c. Consultation with the Ecology. Prior to issuing an interpretation, the Shoreline Administrator shall formally consult with the Ecology to insure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and the applicable guidelines.

   d. Catalog. To ensure that the Shoreline Administrator’s interpretations are applied consistently over time, the Shoreline Administrator shall catalog these interpretations. The Shoreline Administrator shall retain and maintain the catalog of interpretations shall be retained on file in the Community Development Department.

### 7.2.77.4.2 Statement of Exemption

1. Any person requesting an exemption from the substantial development permit review procedures shall submit a completed application for Shoreline Exemption to the Shoreline Administrator.

2. Proposals for Statements of Exemption shall comply with the provisions of Section 2.3.3.
3. Applications for Statements of Exemption are to be processed using the Type I review procedures as set forth in VMC 20.210.040.

3. The Shoreline Administrator’s decision on a statement of exemption may be appealed to the Hearings Examiner. The Shoreline Administrator shall forward documentation of decisions on Statements of Exemption as required by Section 7.2.XX9 and WAC 173-27-130 or its successor.

7.2.87.4.3 Shoreline Substantial Development Permits

i)1. Applications for Shoreline Minor Substantial Development Permits are to be processed using the Type II review procedures as set forth in VMC 20.210.050, WITH THE EXCEPTION THAT THE PUBLIC COMMENT PERIOD SHALL BE AT LEAST 30 DAYS (WAC 173-27-110(2)(c)).

ii)2. Applications shall be reviewed, and shall only be approved if the application conforms with the criteria for approval found in WAC 173-27-150 and this Program, including the provisions of Section 2.2.

iii)3. In addition, upon completion of the local appeal period, the Shoreline Administrator shall forward the application and decision to Ecology in compliance with the provisions of 7.3.4.7.4.9, Ecology and WAC 173-27-130 or its successor.

7.2.87.4.4 Shoreline Conditional Use Permits

1. Shoreline Conditional Use Permits are required for any proposed use or development which is listed as a conditional use in this program and for any use not specifically addressed in this program. A Shoreline Conditional Use Permit cannot be used to allow any use or structure specifically prohibited by this program.

2. Shoreline Conditional Use Permit Review Procedures

   a. Applications for Shoreline Minor Substantial Development Conditional Use Permits are to be processed using the Type III review procedures as set forth in VMC 20.210.060 and VMC 20.210.120.

   b. Applications shall be reviewed, and shall only be approved if the application conforms with the criteria for approval found in WAC 173-27-160 and this Program, including the provisions of Section 2.7.

   c. Upon completion of the local appeal period, the Shoreline Administrator shall forward the application and decision to Ecology in compliance with the provisions of 7.3.4.7.4.9, Ecology and WAC 173-27-130 or its successor.
7.2.107.4.5 Shoreline Variance Permits

1. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

2. Shoreline Variance Permit Review Procedures
   a. Applications for Shoreline Minor Substantial Development Variance Permits are to be processed using the Type III review procedures as set forth in VMC 20.210.060 and VMC 20.210.120.
   b. Applications shall be reviewed, and shall only be approved if the application conforms with the criteria for approval found in WAC 173-27-170 and this Program, including the provisions of Section 2.6.
   c. In addition, upon completion of the local appeal period, the Shoreline Administrator shall forward the application and decision to Ecology in compliance with the provisions of 7.3.17.4.9, Ecology and WAC 173-27-130 or its successor.

7.2.447.4.6 Revisions to Shoreline Permits

1. A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the master program and/or the policies and provisions of chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision. All revisions shall be processed in accordance with WAC 173-27-100.

When an applicant seeks to revise a permit, the applicant shall complete an application for Shoreline Permit Revision. The applicant shall provide detailed plans and text describing the proposed changes.

   a. If the Shoreline Administrator determines that the proposed changes are within the scope and intent of the original permit, and are consistent with the applicable master program and the act, local government may approve a revision.

   b. "Within the scope and intent of the original permit" means all of the following:
i. No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;

ii. Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit;

iii. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under a variance granted as the original permit or a part thereof;

iv. Additional or revised landscaping is consistent with any conditions attached to the original permit and with the applicable master program;

v. The use authorized pursuant to the original permit is not changed; and

vi. No adverse environmental impact will be caused by the project revision.

c. Revisions to permits may be authorized after original permit authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of chapter 90.58 RCW, this regulation and the local master program. If the proposed change constitutes substantial development then a new permit is required. Provided, this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.

d. If the sum of the revision and any previously approved revisions under former WAC 173-14-064 or this section violate the provisions in subsection (b) of this section, local government shall require that the applicant apply for a new permit.

e. The revision approval, including the revised site plans and text consistent with the provisions of WAC 173-27-180 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section shall be filed with the Department of Ecology. In addition, the Shoreline Administrator shall notify parties of record of the action.

f. If the revision to the original permit involves a conditional use or variance, the Shoreline Administrator shall submit the revision to the Department of Ecology for the department's approval, approval with conditions, or denial, and shall...
indicate that the revision is being submitted under the requirements of WAC 173-27.

Upon receipt of the department's final decision, the Shoreline Administrator shall within 14 days notify parties of record of the department's final decision.

**g.** The revised permit is effective immediately upon final decision by Shoreline Administrator, when appropriate under subsection (f) of this section, upon final action by the department.

**h.** Appeals shall be in accordance with RCW 90.58. Appeals shall be based only upon contentions of noncompliance with the provisions of subsection (b) of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

### 7.4.7 Hearings

1. Applications which require an open-record hearing shall be considered by the Hearing Examiner. When an open-record hearing is required, all other land use permit applications for a specific site or project shall be considered concurrently, including any accompanying environmental appeal, under VMC 20.210. Therefore, in this situation, applications for which the Shoreline Administrator has authority shall be transferred to the jurisdiction of the Hearing Examiner to allow consideration of all land use actions concurrently.

2. Any decision or ruling of the Hearing Examiner on a shoreline substantial development permit not processed in conjunction with an SCUP or SV may be appealed to the State Shorelines Hearing Board.

3. The Planning Commission may hold an open-record hearing on amendments to the SMP including map amendments, and forward a recommendation to the City Council. The City Council shall conduct an open-record hearing on same and forward a final recommendation to Ecology. Ecology’s decision on an SMP amendment may be appealed to the Growth Management Hearings Board (GMHB) (See Section 7.8.4.5).

### 7.4.8 Appeals
7.4.8.1 Standing to Appeal

1. Shoreline Revisions (Type I decision). Only the applicant and property owner have standing to appeal a Shoreline Administrator’s decision on a Shoreline Revision.

2. Shoreline Substantial Development Permits (Type II decision). The following parties have standing to appeal a Shoreline Administrator’s decision on a Shoreline Substantial Development Permit to the Hearing Examiner:
   a. The applicant or owner of the subject property;
   b. Any party eligible for written notice of a pending Type II administrative decision;
   c. Any other party who demonstrates that they participated in the decision process through the submission of written testimony.

3. Shoreline Conditional Use Permits, Shoreline Variances, and Shoreline Substantial Development Permits processed in conjunction with Shoreline Conditional Use Permits and/or Shoreline Variances (Type III decision). The following parties have standing to appeal the Hearing Examiner’s recommendation to Ecology regarding Shoreline Conditional Use Permits and Shoreline Variances and/or the Hearing Examiner’s decision on a Shoreline Substantial Development Permit processed in conjunction with a Shoreline Conditional Use Permit or Shoreline Variance to the City Council:
   a. The applicant or owner of the subject property;
   b. Any party who testified verbally or in writing at the public hearing;
   c. Any other party who demonstrates that they participated in the decision process through the submission of written testimony;
   d. Any party who provides a written request for a copy of the notice of decision; and
   e. City staff.

7.4.8.2 Filing Appeals

1. Statement of Exemption
a. **Scope.** Any decision or ruling of the Shoreline Administrator on a Statement of Exemption may be reconsidered upon a request for reconsideration within seven (7) days of the date of issuance of the decision. Applicants may appeal the initial notice of decision or subsequent reconsideration to the City Hearing Examiner.

b. **Time Limit for Appealing.** Appeals from decisions or rulings of the Shoreline Administrator shall be made within fourteen (14) calendar days of the date of the written order or within seven (7) calendar days of the date of issuance of the decision on a request for reconsideration.

c. **Form of Appeal.** An appeal of the Shoreline Administrator’s decision on a Statement of Exemption shall take the form of a written statement of the alleged reason(s) the decision was in error, or specifying the grounds for appeal. Failure to set forth specific errors or grounds for appeal shall result in summary dismissal of the appeal. The following information, accompanied by an appeal fee as specified in VMC Chapter 20.210.130 shall be submitted:

i. An indication of facts that establish the appellant’s right to appeal.

ii. An identification of explicit exceptions and objections to the decision being appealed, or an identification of specific errors in fact or conclusion.

iii. The requested relief from the decision being appealed.

iv. Any other information reasonably necessary to make a decision on the appeal.

2. **Shoreline Substantial Development Permits**

a. **Scope.** A decision of the Shoreline Administrator relating to a Shoreline Substantial Development Permit may be appealed to the Hearing Examiner to be processed as an open record hearing in conformance with the provisions of 7.5.3.3(b)-(d) 7.4.8.3(3)(b-d).

b. **Time limit for Appealing.** The appeal must be received no later than 14 calendar days after written notice of the decision is mailed. Receipt of a complete appeal submittal shall stay the original decision until the city reaches a final decision on the appeal.

c. **Form of Appeal.** An appeal of the Shoreline Administrator’s decision on a Substantial Development Permit shall take the form of a written statement containing the following information:
i. The case number designated by the city and the name of the applicant;

ii. The name and signature of each petitioner or their authorized representative and a statement showing that each petitioner has standing to file the appeal under this chapter. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative for all contact with the Shoreline Administrator. All contact with the Shoreline Administrator regarding the appeal, including notice, shall be with the contact representative; and

iii. The specific aspect(s) of the decision or determination being appealed, and the specific reasons why each aspect is in error as a matter of fact or law.

3. Shoreline Variances, Shoreline Conditional Use Permits and Substantial Development Permits Processed in Conjunction with Such Permits

a. Scope. The recommendation of the Hearing Examiner to Ecology on a Shoreline Conditional Use or Shoreline Variance, or a final decision on a Shoreline Substantial Development processed in conjunction with a Shoreline Conditional Use or Shoreline Variance may be appealed to the City Council to be processed as a closed record public hearing in conformance with the provisions of 7.5.3(4)(b)-(d)7.4.8.3(4)(b-d).

b. Time limit for Appealing. The appeal must be received no later than 14 calendar days after written notice of the decision is mailed. Receipt of a complete appeal submittal shall stay the original decision until the city reaches a final decision on the appeal.

c. Form of Appeal. An appeal of the Shoreline Administrator Hearing Examiner’s decision on an SCUP, SV, or SSDP processed in conjunction with an SCUP or SV substantial development permit shall take the form of a written statement containing the following information:

i. The case number designated by the city and the name of the applicant;

ii. The name and signature of each petitioner or their authorized representative and a statement showing that each petitioner has standing to file the appeal under this chapter. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative for all contact with the Shoreline Administrator. All contact with the Shoreline Administrator regarding the appeal, including notice, shall be with the contact representative; and
iii. The specific aspect(s) of the decision or determination being appealed, and the specific reasons why each aspect is in error as a matter of fact or law.

7.4.8.3 Appeal Review Process

1. General. All complete appeals submitted shall be scheduled for review at a public hearing such that a final decision can be rendered within 60 calendar days for closed-record appeals, and within 90 calendar days for open-record appeals. Further extensions are permitted upon mutual agreement of the appellant, the applicant, and the Shoreline Administrator. If a final decision is not reached within this time, the Shoreline Administrator shall so notify the appellant and shall provide a reason for the delay and an estimated date of final decision issuance.

2. Statement of Exemption

a. Venue. Appeals of the Shoreline Administrator’s decision on a Statement of Exemption are conducted before the Hearing Examiner in an open record proceeding.

b. Notice. At least 10 calendar days prior to the hearing date, notice shall be sent by mail to the appellant.

c. Decision Timeline. The Hearing Examiner shall issue a decision within 14 calendar days of the close of the record.

d. Further Local Review. The decision of the Hearing Examiner is final and may not be appealed.

3. Shoreline Substantial Development Permit

a. Venue. Appeals of the Shoreline Administrator’s decision on a Shoreline Substantial Development Permit are conducted before the Hearing Examiner in an open record proceeding.

b. Notice. At least 10 calendar days prior to the hearing date, notice shall be sent by mail to:

i. The applicant and all owners of the site that is the subject of the application;

ii. All parties of record;

iii. Any neighborhood or community organization recognized by the City Council and whose boundaries include the site;

iv. Any person who has submitted a written request to be notified; and
v. The appellant and all parties to the appeal.

c. Decision Timeline. The Hearing Examiner shall issue a decision within 14 calendar days of the close of the record.

d. Further Local Review. No additional local review is provided. However, within 21 days of the issuance of the Hearing Examiner’s decision, further appeal may be filed with Superior Court and/or the State Shorelines Hearings Board.

4. Shoreline Variances, Shoreline Conditional Use Permits, and Substantial Development Permits Processed in Conjunction with Such Permits

a. Venue. Appeals of the Hearing Examiner’s decision on Shoreline Substantial Development Permits, Shoreline Variances, Shoreline Conditional Use Permits and Substantial Development Permits Processed in Conjunction with such permits are conducted before the City Council in a closed record proceeding.

b. Notice. At least 10 calendar days prior to the hearing date, notice shall be sent by mail to:

i. The applicant and/or appellant and all owners of the site that is the subject of the application;

ii. All parties of record;

iii. Any neighborhood or community organization recognized by the City Council and whose boundaries include the site;

iv. Any person who provided oral or written testimony entered into the record at the public hearing.

v. Anyone who requested in writing a notification of the decision on a particular matter; and

vi. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the city that includes provision for such notice or which is otherwise entitled to such notice.

c. Decision Timeline. The City Council shall issue a decision within 14 calendar days of the close of the record.

d. Further Local Review. No additional local review is provided in the case of Shoreline Conditional Use Permits and Shoreline Variances. The city is making a recommendation to Ecology. Ecology’s final decision may be appealed by filing an appeal with Superior Court and/or the State Shorelines Hearings Board.
The City Council decision on any Substantial Development Permit processed in conjunction with a Shoreline Conditional Use Permit or Shoreline Variance may be appealed separately to the State Shoreline Hearings Board.

**7.4.8.4 State Shoreline Hearings Board**

1. Appeals of any final permit decision may be made to the Shorelines Hearing Board as governed by the procedures established in RCW 90.58.180 (Appeals from Granting, Denying, or Rescinding Permits) and WAC 461-08 (Practice and Procedure, Review of the Granting, Denying or Rescinding of Substantial Development Permits, Hearings).

2. Such appeals must be filed within twenty-one (21) days from the date the permit decision was filed.

3. The provisions of this section shall apply to any final order, requirement, permit, decision, or determination on land use proposals made by the Shoreline Administrator, Hearing Examiner or City Council on appeal. These may include, but are not limited to, Shoreline Substantial Development Permits, Statements of Exemption, Shoreline Conditional Use Permits, Shoreline Variances, and Shoreline Revisions.

**7.4.8.5 State Growth Management Hearings Board**

1. Ecology’s decision on an SMP amendment including a map amendment may be appealed to the Growth Management Hearings Board (GMHB) in accordance with RCW 90.58.190.

**7.4.9 Notification to Ecology and the Attorney General**

2. The Shoreline Administrator shall notify Ecology and the Attorney General of any Statement of Exemption, Substantial Development, Conditional Use or Variance Permit decisions made by the Shoreline Administrator (or Hearing Examiner when required), whether it is an approval or denial. The notification shall occur after all local administratrive appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a Substantial Development Permit and either Conditional Use or Variance Permit are required for a development, the submittal of the permits shall be made concurrently. The Shoreline Administrator shall file the following with Ecology and the Attorney General:

a. A copy of the complete application per WAC 173-27-180;

b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable
Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s):

c. The final decision or recommendation of the City;
d. The permit data sheet per WAC 173-27-990;
e. Affidavit of public notice; and

f. Where applicable, the documents required by the State Environmental Policy Act (RCW 43.21C).

4. When the project has been modified in the course of the local review process, plans or text shall be provided to Ecology that clearly indicates the final approved plan.

5. Ecology shall review the documentation provided by the Shoreline Administrator for completeness. If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and notify the City and the applicant in writing. Ecology will not act on Conditional Use or Variance Permit submittals until the material requested in writing is received.

7.4.10 Ecology Review

1. Ecology may petition for review of the City’s decision on a Statement of Exemption or a Shoreline Substantial Development Permit. Such petition must be commenced within twenty one (21) days from the date the final decision was filed.

2. Ecology shall make a final decision approving, approving with conditions, or disapproving a Shoreline Conditional Use Permit or Shoreline Variance Permit and convey its decision to the City and the applicant within thirty (30) days of the date of filing by the City. The Shoreline Administrator will notify those interested persons having requested notification of such decision.

3. Ecology shall base its determination to approve, approve with conditions or deny a Conditional Use Permit or Variance Permit on consistency with the policy and provisions of the SMA, the criteria listed in this Program and the provisions of WAC 173-27-160 for conditional use permits, WAC 173-27-170 for variances and WAC 173-27-210 relating to minimum standards for conditional use and variance permits.

4. Appeals of Ecology decisions on Shoreline Conditional Use Permits and Shoreline Variance Permits shall be made to the Shorelines Hearing Board as specified in Section 7.5.47.4.8.4.
7.4.11 Commencement of Development Activity and Permit Validity

Ecology Review

1. Ecology shall be notified of any Substantial Development, Conditional Use or Variance Permit decisions made by the Shoreline Administrator (or Hearing- Examiner when required), whether it is an approval or denial. The notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a Substantial Development Permit and either Conditional Use or Variance Permit are required for a development, the submittal of the permits shall be made concurrently. The Shoreline Administrator shall file the following with Ecology and the Attorney General:

1. A copy of the complete application per WAC 173-27-180;

2. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);

3. The final decision or recommendation of the City;

4. The permit data sheet per WAC 173-27-990;

5. Affidavit of public notice; and

6. Where applicable, the documents required by the State Environmental Policy Act (RCW 43.21C).

1. When the project has been modified in the course of the local review process, plans or text shall be provided to Ecology that clearly indicates the final approved plan.

2. If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and notify the City and the applicant in writing. Ecology will not act on Conditional Use or Variance Permit submittals until the material requested in writing is received.
3. Ecology shall convey to the City and applicant its final decision approving, approving with conditions, or disapproving the permit within thirty (30) days of the date of submittal by the City. The Shoreline Administrator will notify those interested persons having requested notification of such decision.

4. Ecology shall base its determination to approve, approve with conditions or deny a Conditional Use Permit or Variance Permit on consistency with the policy and provisions of the SMA, the criteria listed in this Program and the provisions of WAC 173-27-160 for conditional-use permits, WAC 173-27-140 for variances and WAC 173-27-210 relating to minimum standards for conditional-use and variance permits.

5. Appeals of Ecology decisions on conditional use and variances requests shall be made to the Shorelines Hearing Board as specified in Section 7.5.4.

7.4 Public Notice Requirements

1. A notice of application, comment periods, decisions, public hearings, and appeal hearings on applications and decisions associated with shoreline substantial development permits, shoreline conditional uses and shoreline variances shall be as provided in VMC 20.210.120.

2. In addition, copies of the original application and other pertinent materials used in the final shoreline permit decision shall be sent to the State in accordance with state regulations, and, pursuant to RCW 90.58 or 43.21C. The permit and any other written evidence of the final order of the City relative to a permit application, shall be transmitted by the Shoreline Administrator to the Attorney General of the State of Washington and to Ecology in accordance with WAC 173-27-130 and RCW 90.58.140(6).

7.5 Appeals and Hearings

7.5.1 Filing Appeals

1. Any decision or ruling of the Shoreline Administrator on a statement of exemption may be reconsidered upon a request for reconsideration within seven (7) days of the date of issuance of the decision. Applicants may appeal the initial notice of decision or subsequent reconsideration to the City Hearings Examiner.
2. The Hearing Examiner shall hold a public hearing, conduct adjudicative proceedings, maintain a record thereof, and enter findings of facts, conclusions of law, and a final decision or other order as appropriate.

3. Time Limit for Appealing. Appeals from decisions or rulings of the Shoreline Administrator shall be made within fourteen (14) calendar days of the date of the written order or within seven (7) calendar days of the date of issuance of the decision on a request for reconsideration, not counting the day of issuance of the decision. If the last day for filing an appeal falls on a weekend day or a holiday, the last day for filing shall be the next working day.

4. Form of Appeal. An appeal of the Shoreline Administrator shall take the form of a written statement of the alleged reason(s) the decision was in error, or specifying the grounds for appeal. Failure to set forth specific errors or grounds for appeal shall result in summary dismissal of the appeal. The following information, accompanied by an appeal fee as specified in VMC Chapter 20.210.130, shall be submitted:

a. An indication of facts that establish the appellant’s right to appeal.

b. An identification of explicit exceptions and objections to the decision being appealed, or an identification of specific errors in fact or conclusion.

c. The requested relief from the decision being appealed.

d. Any other information reasonably necessary to make a decision on the appeal.

7.5.2 Appeals

Appeals shall be processed in accordance with the provisions of 20.210.130.

7.5.3 Hearings

1. Applications which require an open-record hearing shall be considered by the Hearing Examiner. When an open-record hearing is required, all other land use permit applications for a specific site or project shall be considered concurrently. Therefore, in this situation, applications for which the Shoreline Administrator has authority shall be transferred to the jurisdiction of the Hearing Examiner to allow consideration of all land use actions concurrently.
2. The Hearing Examiner shall consider concurrently all related land-use permit applications for a specific site, and any accompanying environmental appeal under VMC Chapter 20.210. Applications for which the Shoreline Administrator has authority shall be transferred to the jurisdiction of the Hearing Examiner to allow concurrent consideration of all land use actions, as prescribed in VMC Chapter 20.240.

Any decision or ruling of the Hearing Examiner on a shoreline substantial development permit may be appealed to the State Shorelines Hearing Board.

7.5.4—State Shorelines Hearing Board

1. Appeals of any final permit decision may be made to the Shorelines Hearing Board as governed by the procedures established in RCW 90.58.180 (Appeals from Granting, Denying, or Rescinding Permits) and WAC 461-08 (Practice and Procedure, Review of the Granting, Denying or Rescinding of Substantial Development Permits, Hearings).

2. Such appeals must be filed within twenty-one (21) days from the date the permit decision was filed.

The provisions of this section shall apply to any final order, requirement, permit, decision, or determination on land-use proposals made by the Shoreline Administrator, Hearing Examiner or City Council on appeal. These may include, but are not limited to, shoreline substantial development permits, Statements of Exemption, shoreline conditional use permits and shoreline variances and shoreline revisions.

7.6—7.4.11 Commencement of Development Activity and Permit Validity

a. No construction pursuant to a substantial development permit, shoreline variance or shoreline conditional use authorized by this program shall begin or be authorized and no building, grading or other construction permits shall be issued by the City until twenty-one (21) days from the date the permit decision was filed or until all review proceedings are terminated.

2. Constructions may be commenced no sooner than thirty (30) days after the date the appeal of the Shorelines Hearings Board's decision is filed if a permit is granted by the local government, and

a. The granting of the permit is appealed to the Shorelines Hearings Board within twenty-one (21) days of the date of filing;
b. The hearings board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit; and

c. An appeal for judicial review of the hearings board decision is filed pursuant to chapter 34.05 RCW.

3.1. Construction activities shall be commenced, or where no construction activities are involved, the use or activity shall be commenced within two (2) years of the effective date of a substantial development permit. The Shoreline Administrator may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of proposed extension is given to parties of record on the substantial development permit and to Ecology.

4.1. Authorization to conduct construction activities shall terminate five (5) years after the effective date of a substantial development permit. However, upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of the master program and WAC 173-27-090 the city may adopt different time limits as a part of action on a substantial development permit. The Shoreline Administrator may authorize a single extension if it has been filed before the expiration date and notice of the proposed extension is given to parties of record and Ecology.

7.5 Enforcement

7.7.5.1 General Enforcement

1. It shall be unlawful to violate the provisions of this program.

2. These shoreline regulations shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

3. The Shoreline Management Act calls for a cooperative enforcement program between local and state government. It provides for both civil and criminal penalties, orders to cease and desist, orders to take corrective action and permit rescission. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action, the benefits that accrue to the violator and the cost of obtaining compliance may also be considered.
4. Enforcement action by the City of Vancouver or Ecology may be taken whenever a person has violated any provision of the act or this program. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of bad faith of the persons subject to the enforcement action.

5. The Shoreline Administrator, and/or authorized representative, shall have the authority to enforce the shoreline regulations of the City of Vancouver.

6. The Shoreline Administrator or duly authorized representative of the Shoreline Administrator may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant to perform the duties imposed by this Program.

7. No provision of, or term used in, this code is intended to impose upon the City of Vancouver, or any of its officers or employee, any duty which would subject them to damages in a civil action.

8. The City of Vancouver and/or Ecology shall have the authority to serve upon a person a cease and desist order if an activity being undertaken on shorelines of the state is in violation of this program or chapter 90.58 RCW.

   a. Content of order. The order shall set forth and contain:

      i. A description of the specific nature, extent, and time of violation and the damage or potential damage; and

      ii. A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty under WAC 173-27-280 may be issued with the order.

   b. The cease and desist order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed.

   c. Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.

7.75.2 Requirement for Restoration Plan

1. In the event the City initiates enforcement action under this Program or files a complaint in court, the City may require a restoration plan consistent with the requirements of this Program. Such a plan shall be prepared by a qualified professional
using the best available science and shall describe how the actions proposed meet the minimum requirements described in Chapter 5A, VMC 20.740.090(C). The Shoreline Administrator shall, at the violator’s expense, seek expert advice in determining whether the plan restores the affected area to its pre-existing condition or, where that is not possible, restores the functions of the affected area. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal.

2. Minimum Performance Standards for Restoration

3-a. For alterations to frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

   vi) The soil types and configuration prior to violation shall be restored, including water quality and habitat functions;

   vii) The critical area and buffers shall be replanted with native vegetation (a list of native species is available from the Shoreline Administrator). If the critical area or buffer is on a site that meets the criteria of Chapter 5A, VMC 20.740.030(B)-(1)(f)(1), the vegetation for replanting must be not only native but also fire-resistant. A list of native, fire-resistant species is available from the Shoreline Administrator; and

   viii) Information demonstrating compliance with the requirements in Chapter 5A, VMC 20.740.050(F) Mitigation Plan Requirements shall be submitted to the Shoreline Administrator.

4-b. For alterations to frequently flooded and geologic hazard areas, the following minimum performance standards shall be met for the restoration of a critical area or buffer, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

   iv) The hazard shall be reduced to a level equal to, or less than, the pre-violation hazard;

   v) The risk of personal injury resulting from the alteration shall be eliminated or minimized;
Drainage patterns shall be restored to those existing before the alteration; and

The hazard area and buffers shall be replanted consistent with pre-violation conditions with native vegetation sufficient to minimize the hazard. If the critical area or buffer is on a site that meets the criteria of Chapter 5A, VMC 20.740.030(B)(1)-(f)(1), the vegetation for replanting must be not only native but also fire-resistant. A list of native, fire-resistant species is available from the Shoreline Administrator.

3. As a condition of the restoration plan, the applicant shall grant reasonable access to the property.

7.75.3 Investigation and Notice of Violation

3.1. An investigation shall be made of any structure or use which the City reasonably believes does not comply with the standards and requirements of this Program.

4.2. If, after an investigation, it is determined that the standards or requirements of this title have been violated, a notice of violation shall be served, by first class mail, upon the owner, tenant or other person responsible for the condition.

5.3. The compliance period shall not be less than two weeks, except where substantial life safety issues exist.

7.75.4 Penalties

1. Any person found to have willfully engaged in activities on the City’s shorelines in violation of the Shoreline Management Act of 1971 or in violation of this Program or who fails to conform to the terms of a substantial development permit, conditional use permit or variance issued under RCW 90.58.140, who undertakes a development or use on shorelines of the state without first obtaining a permit, or who fails to comply with a cease and desist order issued under these regulations may be subject to a civil penalty by the City of Vancouver. Ecology may impose a penalty jointly with the City, or alone only upon an additional finding that a person:

a. Has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule; or

b. Has been given previous notice of the same or similar type of violation of the same statute or rule; or
c. The violation has a probability of placing a person in danger of death or bodily harm; or:
d. Has a probability of causing more than minor environmental harm; or
e. Has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars.

2 In the alternative, a penalty may be issued to a person by the City alone, or jointly with Ecology for violations which do not meet the criteria of subsection (1)(a) through (e) of this section, after the following information has been provided in writing to a person through a technical assistance visit or a notice of correction:

a. A description of the condition that is not in compliance and a specific citation to the applicable law or rule;
b. A statement of what is required to achieve compliance;
c. The date by which the City requires compliance to be achieved;
d. Notice of the means to contact any technical assistance services provided by the City or other agencies; and
e. Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the City of Vancouver.

3. Amount of penalty. The penalty shall not exceed one thousand dollars for each violation. Each day of violation shall constitute a separate violation.

4. Aiding or abetting. Any person who, through an act of commission or omission procures, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

5. Notice of penalty. A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the City of Vancouver or Ecology, or from both jointly. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, or, in appropriate cases, require necessary corrective action within a specific time.

6. Right of appeal. Persons incurring a penalty imposed by Ecology or imposed jointly by the City of Vancouver and Ecology may appeal the same to the shorelines hearings board. Appeals to the shorelines hearings board are adjudicatory proceedings subject to the provisions of chapter 34.05 RCW. Persons
incurring a penalty imposed by local government may appeal the same to the local government legislative authority.

7. Timing of appeal. Appeals shall be filed within thirty days of the date of receipt of the penalty. The term "date of receipt" has the same meaning as provided in RCW 43.21B.001.

8. Penalties due.

a. Penalties imposed shall become due and payable thirty days after receipt of notice imposing the same unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable thirty days after receipt of the City of Vancouver's and/or Ecology's decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and payable upon completion of all review proceedings and upon the issuance of a final decision confirming the penalty in whole or in part.

b. If the amount of a penalty owed the City of Vancouver is not paid within thirty days after it becomes due and payable, the City will take actions necessary to recover such penalty, including any applicable actions listed in VMC Title 22. If the amount of a penalty owed Ecology is not paid within thirty days after it becomes due and payable, the attorney general, upon request of Ecology, shall bring an action in the name of the state of Washington to recover such penalty.

9. Penalty recovered. Penalties recovered by the City of Vancouver shall be paid to the City Critical Areas Restoration Fund and shall be used to protect and restore critical areas within the City of Vancouver. Penalties recovered by Ecology shall be paid to the state treasurer. Penalties recovered jointly by the City and Ecology shall be divided equally between the City and Ecology unless otherwise stipulated in the order.

7.75.5 Violations – Subsequent Development and Building Permits

No building permit or other development permit shall be issued for any parcel of land developed or divided in violation of this Program. All purchasers or transferees of property shall comply with provisions of the Act and this Program and each purchaser or transferee may recover damages from any person, firm, corporation, or agent selling, transferring, or leasing land in violation of the Act or this Program. Damages may include any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of the Act or this Program as well as costs of investigation, suit, and reasonable attorney's fees occasioned thereby. Such purchaser, transferee, or lessor, as an alternative to conforming their property to these requirements, may rescind the sale, transfer, or lease
and recover costs of investigation, litigation and reasonable attorney’s fees occasioned thereby from the violator.

### 7.6 Public and Private Redress

1. Any person subject to the regulatory program of this Program who violates any provision of this Program or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation.

2. The City Attorney may bring suit for damages under this section on behalf of the City. Nothing in this section precludes private persons from bringing suit for damages on their own behalf. If liability has been established for the cost of restoring an area affected by violation, the court shall make provisions to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the court, in its discretion, may award attorneys’ fees and costs of the suit to the prevailing party.

### 7.7 Fees for Permits Obtained after Development

1. Permits obtained following, rather than prior to, the commencement of a development or use shall be three (3) times the normal amount. This provision is in addition to the enforcement measures contained in this Program.

2. Delinquent permit penalties shall be paid in full prior to resuming the use or activity.

### 7.8 Revocation Rescission of Permits

1. This section applies to requests or decisions to rescede Shorelines Substantial Development Permits, Shoreline Conditional Use Permits, and Shoreline Variances.

2. The Hearing Examiner shall have the power to rescede or modify approved Shorelines Substantial Development Permits, Shoreline Conditional Use Permits, and Shoreline Variances in accordance with the Type III procedures of VMC 20.210.060 and VMC 20.210.120.

3. City staff or any other persons who are aggrieved by activities undertaken under a shoreline permit may request in writing that the Hearing Examiner rescede or modify the permit.
4. Upon receipt of a request for {\textit{revoation rescission}}, the Shoreline Administrator shall schedule a public hearing for the next Hearing Examiner meeting where the review can be accommodated and the required notice given.

   
   a. The Shoreline Administrator shall publish a notice of the {\textit{revoation rescission}} hearing at least fourteen days before the hearing date.

   b. The Shoreline Administrator shall mail notice of the hearing to the party to which the permit was issued, the owner of the property for which the permit was issued, the person or persons who requested the Hearing Examiner {\textit{revoke rescind}} the permit and any persons who requested notice of the hearing in writing at least ten days before the hearing date.

   c. The notice shall include the following information:
      
      i. The name of the permit holder and, if applicable, the project name.

      ii. The street address of the subject property and a description of the property in non-legal terms sufficient to identify the location.

      iii. A brief description of the issues.

      iv. The date, time and place of the public hearing.

      v. A statement of the right of any person to participate in the public hearing by providing written statements before or at the hearing and orally at the hearing.

6. The Hearing Examiner shall hold a public hearing before deciding whether to {\textit{revoke rescind}} or add conditions to the permit or variance. Any person can submit written statements or speak. At the hearing, the Hearing Examiner may request such additional information as is reasonably necessary to evaluate whether the permit or variance should be {\textit{revoated rescinded}}.

7. After the public hearing has concluded, the Hearing Examiner shall decide whether to {\textit{revoke rescind}}, modify, or add conditions to the permit.

   a. The decision may be made at the same public meeting as the public hearing or at another public meeting. The Hearing Examiner shall issue a decision within fourteen days of closure of the public record.

   b. The decision shall be based on the decision criteria in subsection-Section 7.8(13).

   c. If the Hearing Examiner decides to {\textit{revoke rescind}} the permit, the decision
The Hearing Examiner may require restoration or reclamation of the property and may set time limits for the completion of these activities.

d. The Hearing Examiner shall adopt findings of fact and conclusions which support the decision and any required conditions.

8. Unless appealed to City Council, the decision of the Hearing Examiner and the findings of fact and conclusions shall be reduced to writing and mailed by the Shoreline Administrator to the permit holder, the property owner, Ecology and the Washington State Attorney General within fourteen days of the date of the decision.


a. Unless appealed to the City Council, the decision of the Hearing Examiner is the final decision of the City.

b. If the Hearing Examiner revokes rescinds the permit, all activity authorized by the Shoreline Substantial Development Permit, Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance Permit shall immediately cease, unless the decision maker grants a period of time to complete the activity or reclaim the site or a court authorizes continued operation during an appeal.

10. Appeal of decision to City Council. The City Council shall hold a public hearing before deciding whether to uphold or overturn a Hearing Examiner's decision to revoke rescind or add conditions to the permit or variance. Any person can submit written statements or speak. At the hearing, members of the City Council may request such additional information as is reasonably necessary to evaluate whether the permit or variance should be revoked rescinded.

a. After the public hearing has concluded, the City Council shall decide whether to uphold or overturn the Hearings Examiner's decision to revoke rescind, modify, or add conditions to the permit. The City Council shall also have the authority to modify the decision of Hearings Examiner.

b. The decision may be made at the same public meeting as the public hearing or at another public meeting. The City Council Commission shall vote on the revocation within 32 days of the initial public hearing date shall issue its decision within 90 days of the filing of an appeal of a rescission.

c. The decision shall be based on the decision criteria in Section 7.8(13)subsection 4.
d. If the City Council upholds or modifies the Hearing Examiner decision to revoke rescind the permit, the decision-maker City Council may require restoration or reclamation of the property and may set time limits for the completion of these activities.

e. In its decision on the appeal of the Hearing Examiner decision, the City Council shall adopt findings of fact and conclusions which support the decision and any required conditions.

11. The decision of the City Council on the appeal of the Hearing Examiner decision shall include the findings of fact and conclusions shall be reduced to writing and mailed by the Shoreline Administrator to the permit holder, the property owner, Ecology and the Washington State Attorney General within twelve days of the date of the decision.

12. Effects of Decision.

a. The decision of the City Council on the appeal of a Hearing Examiner decision on the revocation rescission may be appealed to the Washington State Shorelines Hearings Board as provided in RCW 90.58.180 and Chapter 461-08 WAC.

b. If, on appeal, the City Council revokes rescinds the permit, all activity authorized by the Shoreline Substantial Development Permit, Major Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance Permit shall immediately cease, unless the decision-maker City Council grants a period of time to complete the activity or reclaim the site or a court authorizes continued operation during an appeal.


a. The Hearing Examiner or City Council, on appeal, may revoke rescind or modify a permit if the decision-maker finds upon finding that one or more of the following criteria are met.

i. The permit approval was obtained by fraud or through the provision of misleading application material.

ii. The permit is being exercised contrary to the terms or conditions of approval or in violation of law.

iii. The use or activity for which approval was granted is being exercised so as to be detrimental to the public health, safety, or welfare.
14. Ecology may initiate permit revocation. Under the provisions of RCW 90.58.140(8), if Ecology is of the opinion that noncompliance exists, Ecology shall provide written notice to the City and the permittee. If Ecology is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the City has taken no action to rescind the permit, Ecology may petition the Shoreline Hearings Board for a rescission of the permit upon written notice of the petition to the City and the permittee if the request by Ecology is made to the Hearings Board within fifteen days of the termination of the thirty-day notice to the local government City.