Chapter 16.08
CITY OF POULSBO SHORELINE MASTER PROGRAM

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Note: SMP Locally Adopted under Ordinance 2012-10 and Approved by Ecology (as-submitted) on February 13, 2013.
Article I. General Master Program Provisions

16.08.010 Authority.

This chapter is adopted as part of the shoreline master program for the city. It is adopted under the authority of Chapter 90.58 RCW and Chapter 173-26 WAC. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.020 Scope of shoreline master program.

The requirements of this chapter apply to uses, activities and development within the city of Poulsbo’s shoreline jurisdiction, including shorelands and aquatic areas, as defined in Section 16.08.050. All uses, activities and development within the shoreline jurisdiction, including those exempt from the requirements to obtain a shoreline permit, shall comply with Chapter 90.58 RCW, the Shoreline Management Act, Chapter 173-27 WAC or its successor, and the policies and regulations of the Poulsbo shoreline master program. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.030 Purpose.

The Poulsbo shoreline master program has the following purposes:

A. To ensure no net loss of shoreline ecological functions;

B. To protect the waters of the state and the fish and wildlife that depend on those waters from adverse impacts;

C. To protect the public’s right to access and use the surface waters of the state, and to access and use the shorelines where public lands and rights-of-way exist;

D. To encourage water-oriented and residential uses of the shoreline that are in the best interest of the public;

E. To provide a coordinated plan for the shorelines in accordance with local, state and federal requirements to prevent adverse impacts from unplanned development of the state’s shorelines;

F. To carry out the Shoreline Management Act, Chapter 90.58 RCW, and implementing regulations adopted by the state;

G. To help fulfill the city’s responsibilities under the public trust doctrine;
H. To protect the rights of property owners within the shoreline jurisdiction. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

**16.08.040 Definitions.**

The definitions in this section shall be used when administering the regulations in this chapter. The definition of any word or phrase not listed in this section which is in question when administering the regulations in this chapter shall be defined from one of the following sources in order of preference, with A. being the most preferable, and so on:

A. Chapter 90.58 RCW;

B. Chapter 173-26 WAC;

C. Legal definitions from case law or a law dictionary;

D. The common dictionary.

1. “Accessory use” or “accessory structure” means a use or structure that is subordinate to the principal use of the subject site or the principal building on the site, serving a purpose customarily associated with and incidental to the primary use or structure.

2. “Activity” or “activities” means any action within the shoreline jurisdiction that makes use of or impacts shoreline resources or functions.

3. “Aquaculture” means the cultivation of fish, shellfish and/or other aquatic animals or plants, including the incidental preparation of these products for human use. This definition does not include approved native habitat restoration or native species restoration activities on the tidelands or bedlands of Liberty Bay.

4. “Agriculture” means activities involved in the production of crops and livestock. The definition includes, but is not limited to, operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities or crops, and normal operation, maintenance or repair of existing serviceable structures, facilities, or improved areas. Forest practices are not included in this definition.

5. “Aquatic” means those areas waterward of the ordinary high water mark.
6. “Boat repair and service, major” means nonroutine boatyard type activities for maintenance and repair, such as hull repair, refinishing and surface preparation, cleaning or scraping of ablative or soft-sloughing bottom paints, refinishing projects that exceed twenty-five percent (annually) of the deck and superstructure, and/or which have the potential to impact the shoreline environment, water and/or air quality.

7. “Boat repair and service, minor” means routine in-slip or dockside maintenance and repair, such as cleaning, internal engine work, replacement of running gear, rigging, or small refinishing projects that are limited to less than twenty-five percent (annually) of the deck and superstructures (not the hull, sides or bottom), and which do not impact the shoreline environment, water and/or air quality.

8. “Boating facility” means an establishment for public or private use with aquatic and/or upland development, that provides moorage, boat haulout, boat launches, docks, and/or boat repair and maintenance and related services to the general boating community, such as but not limited to marinas. For the purposes of this chapter, the definition does not include docks or other development associated with residential uses such as single-family or multifamily development.

9. “Buoy” means a floating object anchored to provide a mooring location away from shore, to provide navigational direction or other maritime information, to serve as a marker or separator between differing uses or ownership, or to transmit signals.

10. “Clearing” means the destruction or removal of vegetative cover and/or trees, including but not limited to root material removal and/or topsoil removal.

11. “Commercial use” means retail and service commercial establishments, and office uses.

12. "Critical saltwater habitat” means spawning and holding areas for forage fish, such as herring, smelt and sand lance; shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association, as designated in the city comprehensive plan’s fish and wildlife habitat conservation areas map or subsequently adopted document; or as otherwise defined in WAC 173-26-221(2)(ii) or its successor.

13. “Critical areas” include the following areas and ecosystems: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) geologically hazardous areas; and (e) frequently flooded areas.
14. “Destroy” or “destruction” means significant damage to more than fifty percent of a structure, or damage that renders a structure uninhabitable or unusable for its intended purpose, from a sudden, unforeseen event such as a fire or windstorm.

15. “Developable” means a property that is currently undeveloped or with little development, but which may reasonably be expected to develop or to have additional development in future, given its size, location, site restrictions and zoning.

16. “Development” means an action consisting of one or more of the following: (a) the construction or exterior alteration of structures; (b) dredging; (c) drilling; (d) dumping; (e) filling; (f) removal of any sand, gravel or minerals; (g) bulkheading; (h) driving of piling; (i) placing of obstructions; (j) any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to Chapter 90.58 RCW at any state of water level; or (k) creation of new lots.

17. “Dock” means a structure that floats on the surface of the water, without piling supports, but which is attached to land or an over-water structure. Typically used for boat moorage, swimming, public access, and other activities that require access to deep water.

18. “Dredging” means the removal of earth, sediment, sand and/or gravel from the bottom of a water body below the OHWM.

19. “Dune” or “dunes” means mounds or hills of sand along a shoreline that have been formed by wind action. (There are no dunes within the city’s shoreline jurisdiction.)

20. “Ecological functions” are 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.

21. “Fill” is the addition of earth, sediment, sand, gravel, earth-retaining structure or other material to an area waterward of the ordinary high water mark, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

22. “Float” means a structure designed to float on the water which provides opportunities for recreation or moorage similar to a dock or pier, but which is not built on pilings or attached to land or another structure except by an anchor or similar nonstructural connection.
23. “Floating home” means a floating structure designed substantially as a permanently located residence by means of permanent utilities, anchoring design, and lack of adequate self-propulsion to operate as a vessel; or any similar floating structure not originally designed as a permanently located residence but which is being used for such a purpose.

24. “Floodplain” is synonymous with the one-hundred-year floodplain and means the land 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 Federal Emergency Management Agency flood maps or other reasonable method that meets the objectives of the Shoreline Management Act.

25. “Floodway” means the channel of a river and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the surface elevation more than a specified height. The limit of this area shall be based upon Federal Emergency Management Agency flood maps or other reasonable method that meets the objectives of the Shoreline Management Act.

26. “Forest land” means all land that is capable of supporting a merchantable stand of timber and is not being actively used, maintained, developed or converted in a manner that is incompatible with timber production.

27. “Forest practices” means any activity conducted on or directly pertaining to forest land, and the growing, processing or harvesting of timber. This definition does not include activities such as tree marking and surveying.

28. “Geological report” means a geotechnical report with the exception of engineering recommendations, and shall be prepared either by a licensed geotechnical engineer or by a geologist.

29. “Geotechnical report” 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.

30. “Grading” is the movement or redistribution of the soil, sand, rock, gravel, sediment or other material on a site that alters the natural contour of the land.

31. “Hard armoring” or “hard shoreline stabilization” means structural shoreline stabilization and reinforcement measures that are solid with hard surfaces, such as concrete, pilings, rock revetments, gabions, concrete groins, retaining walls, bulkheads and similar nonnatural approaches to shoreline stabilization.

32. “Hazard tree” or “hazardous tree” means any tree that has been determined to be a present hazard to persons or property by the city arborist or another certified arborist, according to the tree hazard evaluation standards established by the International Society of Arboriculture.

33. “Industrial use” means a land use that involves the production, processing, manufacturing, or fabrication of goods or materials. This definition does not include commercial retail, storage, installation or use of goods or materials manufactured elsewhere, such as boat repair or marine equipment storage.

34. “In-stream structure” means a structure located partially or completely waterward of the ordinary high water mark of a stream other than the estuary of Dogfish Creek.

35. “In-water structure” means a structure located partially or completely waterward of the ordinary high water mark of Liberty Bay or the estuary of Dogfish Creek, of which structure all or a portion is partially or completely submerged during the diurnal tidal rhythm.

36. “Liveaboard” or “liveaboard vessel” means a vessel used as an over-water or in-water residence in Liberty Bay for a period exceeding two months in any one calendar year.

37. “Lot coverage” means that percentage of the total lot area covered by structures, including all projections except eaves, driveways and concrete patios. Lot coverage does not include subsurface structures.

38. “Marina” means a public or private boating facility providing boat moorage facilities to the general boating community, such as boat slips and docks. A marina may also include boating-
related services such as fuel or boat repair, and other uses consistent with the provisions of this chapter.

39. “Mean high water” means the average elevation of all high waters recorded at a particular point or station, based on data obtained from the most recent tidal epoch recorded by the NOAA Liberty Bay tidal station, or that of an official successor agency.

40. “Mining” means the removal of naturally occurring materials from the earth for economic uses pursuant to Chapter 78.44 RCW and Chapter 332-18 WAC.

41. “Mitigation sequencing” means that where mitigation is required, mitigation measures per WAC 173-26-201(2)(e), or as subsequently amended, shall be applied in the following sequence of steps listed in order of priority, with (a) being the top priority: (a) avoiding the impact altogether by not taking a certain action or parts of an action; (b) 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; (c) rectifying the impact by repairing, rehabilitating, or restoring the affected environment; (d) reducing or eliminating the impacts over time by preservation and maintenance operations; (e) compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and (f) monitoring the impact and the compensation projects and taking appropriate corrective measures.

42. “Mixed use” means the development of a tract of land, building or structure with a variety of complementary and integrated uses, such as, but not limited to: residential, commercial (office, retail), marina, public uses and/or recreation.

43. “Moorage” or “moorage facility” means a marina, open water moorage and anchorage area, pier, dock, mooring buoy, slip, or any other similar fixed moorage site.

44. “Nonconforming structure” means an in-water, over-water or upland structure which was lawfully constructed or placed prior to the effective date of the applicable shoreline master program, or amendments thereto, but which does not conform to present shoreline development regulations or standards of the program. An example of a nonconforming structure is a structure that does not meet shoreline development standards such as yard setbacks, parking requirements, lot coverage, density or height. A nonconforming structure may also contain a nonconforming use or uses.
45. “Nonconforming use” means an in-water, over-water or upland use which was lawfully established prior to the effective date of the applicable shoreline master program, or amendments thereto, but which does not conform to present shoreline use regulations or standards of the program. Examples of a nonconforming use are: (a) a use located anywhere in the shoreline jurisdiction that is not permitted or conditionally permitted in the relevant shoreline environment; (b) a use located in a shoreline buffer that is permitted or conditionally permitted in the relevant shoreline environment, but that does not comply with the water-related, water-dependent or public access/recreation standard for uses within a buffer; or (c) a use in the aquatic environment that is not water-related, water-dependent, or public access/recreation. A nonconforming use may also be located within a nonconforming structure.

46. “No net loss” means no net loss of shoreline ecological functions as defined in WAC 173-26-186(8) or its successor.

47. “Ordinary high water mark” or “OHWM” is the mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

48. “Over-water structure” means a structure located partially or completely waterward of the ordinary high water mark of which no portion (excluding accessory support such as piers, pilings or floats) is submerged during the diurnal tidal rhythm.

49. “Pier” means a structure supported by pilings that projects over, and is raised above, the water but is attached to land or to a structure, and that is typically used for boat moorage, swimming, fishing, public access, float plane moorage, or similar activities requiring access to deep water.

50. “Public” means a structure, facility, use or service that is available to be used or occupied by the public.
51. “Preferred uses” are those uses, in the following order of preference, which (a) recognize and protect the statewide 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; consistent with the provisions of RCW 90.58.020, or as subsequently amended.

52. “Primary structure” or “principal structure” means the structure associated with the principal use of the property. In some circumstances, such as multibuilding commercial or multifamily residential development, there may be more than one primary structure on a property. This definition shall not include nonhabitable, accessory structures such as storage sheds, greenhouses, swimming pools, and parking lots.

53. “Priority uses” include (a) protection and restoration of ecological functions to control pollution and prevent damage to the natural environment and public health; (b) water-dependent and associated water-related uses; (c) water-related and water-enjoyment uses; (d) single-family residential uses; (e) non-water-oriented uses in locations where the above described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act, consistent with the provisions of WAC 173-26-201(2)(d), or as subsequently amended.

54. “Priority species” means species requiring protective measures and/or management to ensure their persistence at genetically viable population levels. Priority species include state-listed or state-proposed endangered, threatened or sensitive species and candidate species.

55. “Public access” means 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 shoreline from adjacent locations.

56. “Recreational development” or “recreational facilities” means private and public facilities designed and used to provide recreational opportunities to the public and/or to private communities, including facilities in public parks.
57. “Rebuild” for the purposes of this chapter means the reconstruction of a structure that has been damaged by more than fifty percent, or destroyed, by a sudden, unforeseen event such as a fire or windstorm.

58. “Redevelop” or “redevelopment” for the purposes of this chapter means the deliberate replacement of more than fifty percent of an existing structure, or demolition of the structure, with development of a new and/or remodeled structure or structures in its place.

59. “Repair” for the purposes of this chapter includes routine or minor maintenance, and repair of minor damage to up to fifty percent, to an existing structure.

60. “Residential development” or “residential land use” means one or more buildings or portions thereof which are used to provide a place of abode for human beings, including single-family detached homes, two- and three-family attached homes (duplex and triplex), multifamily residences, assisted living, row houses, townhomes, and similar housing, together with accessory uses and structures normally common to residential uses and permitted by city code. This definition does not include hotels, motels, bed and breakfast facilities, transient housing, boarding houses or camping facilities.

61. “Restore” or “restoration” for the purposes of this chapter means major repairs to a structure beyond the scope of normal maintenance, or repairs to more than fifty percent of a structure where damage does not meet the level of “destruction.”

62. “Shorelands” means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark. Also referenced as “uplands” for the purposes of this chapter.

63. “Shoreline administrator,” for the purposes of this chapter, shall mean the city planning director or his/her assignee.

64. “Shoreline buffer” means an area immediately adjacent to the shoreline as measured from the OHWM, which is required to remain undeveloped and in its natural state to protect the shoreline environment and essential habitat elements for fish and/or wildlife, unless otherwise indicated in this chapter. Shoreline buffers and setbacks extend both above and below ground.

65. “Shoreline buffer setback” means an area immediately adjacent to a shoreline buffer within which no buildings or other structures may be constructed, unless otherwise indicated in this
chapter. The buffer setback protects the shoreline buffer during development activities, use, and routine maintenance occurring adjacent to the buffer.

66. "Shoreline master program" or “SMP” means the city’s combined comprehensive plan policies, development regulations, and permit process system that addresses development and uses, which is based on state laws and rules but is tailored to the specific geographic, economic and environmental needs of the community. The local SMP is essentially a shoreline-specific combined comprehensive plan, zoning ordinance, and development permit system.

67. "Shoreline stabilization" means actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action, including both structural and nonstructural methods.

68. “Shorelines” means all of the water areas of the state and their associated shorelands, together with the lands underlying them, except (a) shorelines of statewide significance.

69. "Shorelines of statewide significance" are those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt water north to the Canadian line and lying seaward from the line of extreme low tide.

70. “Sign” means any device, structure, fixture or placard using, containing or displaying graphics, symbols or written copy for the purpose of advertising or identifying any establishment, product, occupant, service or related information, including signs placed in windows or painted upon building facades.

71. “Significant tree” for the purposes of this chapter shall mean a tree that is at least ten inches in diameter measured at four feet from the ground.

72. “Soft shoreline armoring” or “soft shoreline stabilization” means nonstructural or nonrigid stabilization measures such as vegetation and beach enhancement, upland drainage control, and gravel placement.

73. “Structure” means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.
74. “Transportation facilities” means public or private roads and streets that are used by cars
and similar motorized vehicles. This definition does not include private driveways.

75. “Unpermitted structure” means a structure that was not lawfully constructed or placed
according to the shoreline master program or other city regulations in effect at the time of its
construction or placement.

76. “Unpermitted use” means a use that was not lawfully established according to the shoreline
master program or other city regulations in effect at the time of its establishment.

77. Upland Area or Uplands. See “Shorelands.”

78. “Utilities, accessory” means on-site utilities that serve a primary use on the site, such as a
water, sewer or gas line to a residence or business, and shall be considered part of the primary
use.

79. “Utilities, primary” means facilities which produce, store, collect, treat, carry, discharge, or
transmit water, storm drainage, natural gas, sewage, electricity, phone or cable
communications, or similar services.

80. “Vessel” means ships, boats, barges, or any other floating craft which are designed and
used for navigation and do not interfere with the normal public use of the water.

81. “Viewshed” for the purposes of this chapter means a view of the Liberty Bay shoreline and
surrounding shorelands, as seen by the human eye along a continuous vantage from
designated public rights-of-way and public parks in the shoreline jurisdiction.

82. “View corridor” for the purposes of this chapter means a city-approved, designated open
area on one or more properties that extends from a public right-of-way or public park within a
designated viewshed to the shoreline, to provide public views of the shoreline. Private views of
the shoreline from or across either public or private property are not protected.

83. “Water-dependent use” means 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 operation.

84. “Water-enjoyment use” means a recreational use or other use that facilitates public access
to the shoreline as a primary characteristic of the use; or a use that provides recreational use or
aesthetic enjoyment of the shoreline for a large number of people with the water or shoreline for leisure and enjoyment as a general character of the use and which, through location, design and operation, assure the public's ability to interact with the water or shoreline. In order to qualify as a water-enjoyment use, the use must be open to the public and most if not all of the water or shoreline oriented space in the facility must be devoted to the specific aspects of the use that foster shoreline or water interaction.

85. “Water-oriented use” means a use that is water-dependent, water-related or water-enjoyment, or a combination of such uses.

86. “Water-related use” means a use that is not intrinsically dependent on a shoreline location but whose economic viability is dependent upon a shoreline location because of a functional requirement for a shoreline location, such as the arrival or shipment of materials by water, or because the use provides a necessary service supportive of a water-dependent commercial activity.

87. “Wetlands” or “wetland areas” means areas that are inundated or saturated by surface 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 nonwetland 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 nonwetland areas to mitigate the conversion of wetlands. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)
16.08.050 Shoreline jurisdiction.

The following areas of Liberty Bay and Dogfish Creek are within the city’s shoreline jurisdiction. The exact location of these areas will be determined at the time of permit application.

A. Liberty Bay. That portion of Liberty Bay adjacent to any upland area within the city limits and extending to the midpoint of Liberty Bay.

B. Dogfish Creek. That portion of Dogfish Creek from the mouth of Liberty Bay to the extent of saltwater influence (end of estuary).

C. Uplands. Those shorelands extending two hundred feet landward from the ordinary high water mark of the jurisdictional areas identified in subsections A and B of this section.

D. As allowed by RCW 90.58.030(2)(f)(ii) and WAC 173-26-221(2)(a), the city has chosen to not expand its shoreline jurisdiction to include critical area buffers that are located outside of the shoreline jurisdiction. These areas will continue to be regulated by Chapter 16.20, Critical Areas. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.060 Shoreline master program regulations.

The following regulations shall constitute the Poulsbo shoreline master program regulations:

A. This chapter, Shoreline Master Program (July 11, 2012).

B. Chapter 16.09, Shoreline Administration and Procedures (July 11, 2012).

C. The following sections of Chapter 16.20, Critical Areas (Ordinance 2007-24), shall be implemented in shoreline critical areas and their buffers according to the requirements of this chapter, and are included in Appendix A. Provisions of Chapter 16.20 that are not included in Appendix A, including definitions and regulations, and that are not consistent with the Shoreline Management Act, Chapter 90.58 RCW, and the Shoreline Master Program Guidelines, Chapter 173-26 WAC, shall not apply in the shoreline jurisdiction.

1. Article II, Wetlands.

2. Sections 16.20.310(A), (D) and (E).

3. Sections 16.20.315(A), (D) and (E).
4. Sections 16.20.320(A), (C), (D), (G), (H), and (I).

5. Article IV, Geologically Hazardous Areas.

6. Article VI, Frequently Flooded Areas.

7. Article VII, Special Reports.

D. The following sections of Title 18, Zoning:

1. Chapter 18.08, Definitions.

2. Sections 18.16.040(A) through (F) and (H), RL district lot requirements.

3. Section 18.20.040, RM and RH lot and density requirements; except for lot coverage.

4. Section 18.20.050, RM and RH lot and density requirements.

5. Section 18.24.040, commercial district lot requirements; except for building coverage.

6. Sections 18.32.030(A), (B), (E) and (F), park zone development standards.

Other city regulations that also apply within the shoreline jurisdiction include, but are not limited to: floodplain management, Chapter 15.24, grading and clearance, Chapter 15.35, environmental policy guidelines (SEPA regulations), Chapter 16.04, subdivision ordinance (Title 17), zoning ordinance (Title 18).

Citations in this chapter of city regulations shall be interpreted as referring to the most current version of such rules and codes, regardless of the adoption date of this chapter. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.070 Relationship to other policies and regulations.

A. The shoreline regulations contained in this chapter shall apply to all areas within the city’s shoreline jurisdiction, in addition to zoning, land use, critical areas, and development regulations, and other regulations established by the city.

B. In the event of any conflict between the regulations in this chapter and any other city, state or federal ordinance, statute, rule or regulation, the most stringent regulation shall control, unless that regulation is preempted or unless this chapter indicates otherwise.
C. Nothing in this chapter or action taken thereunder shall adversely affect Suquamish tribal treaty rights to which the United States government is a party.

D. Citations in this chapter of state rules and codes shall be interpreted as referring to the most current version of such rules and codes or their successors, regardless of the adoption date of this chapter.

(Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.080 Shoreline maps and boundaries.

A. Shoreline Maps. The set of maps entitled City of Poulsbo Shoreline Master Program Inventory and Characterization Exhibits, including the official shoreline master program map series, as adopted by ordinance, are the graphic representations of general environmental characteristics and general development along the city's shorelines that are regulated by this chapter. This set of maps is hereby adopted as part of this chapter. The referenced maps are to be used for general planning purposes only and may not be substituted for survey data.

B. Shoreline Jurisdiction. The shoreline jurisdiction as depicted on the city's adopted shoreline maps, as referenced in subsection A of this section, is intended to depict the approximate location and extent of known shorelands. In determining the exact location of the city's shoreline jurisdiction, the criteria contained in RCW 90.58.030(2) shall be used. The extent of shoreline jurisdiction on any individual lot, parcel or tract shall be determined by a field investigation and survey, and is the sole responsibility of the applicant. The location of the ordinary high water mark shall be included in shoreline permit application submittals to determine the location of shoreline jurisdiction.

C. Interpretation of Shoreline Environment Designations. The following criteria shall be used to interpret the boundaries of shoreline environment designations:

1. Property Lines. Where a shoreline environment designation boundary is indicated as approximately following a property line, the property line is the shoreline environment designation boundary.

2. Streets. Where a shoreline environment designation boundary is indicated as following a public or private street, the edge of the private street or public right-of-way nearest to the shoreline is the shoreline environment designation boundary. Where a right-of-way or private street is vacated, the area comprising the vacated right-of-way or private street will acquire the classification of the property to which it reverts.
3. Undesignated Properties. Any shoreline areas not mapped and/or designated at the time of adoption of this SMP shall be assigned an urban conservancy designation until redesignated through a shoreline master program amendment.

4. Where a shoreline environment designation boundary on an upland property is based on the shoreline buffer, the designation boundary shall be measured landward from the OHWM.

5. For the aquatic environment of Liberty Bay, the boundary of the aquatic environment designation coincides with the furthest extent of the city’s jurisdiction as provided in RCW 35.21.160. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.090 Interpretations.

A. General. The planning director may issue interpretations of any provisions of this chapter as necessary to administer the shoreline master program policies and regulations. The planning director shall base his/her interpretations on:

1. The defined or common meaning of the words of the provision; and

2. The general purpose of the provision as expressed in the provision; and

3. The logical or likely meaning of the provision viewed in relation to the Washington State Shoreline Management Act, including the purpose and intent as expressed in Chapter 90.58 RCW and the applicable guidelines as contained in Chapter 173-26 WAC, and the natural environment shoreline policies of the Poulsbo comprehensive plan.

Any formal written interpretations of shoreline policies or regulations shall be submitted to the Department of Ecology for review.

B. Effect. An interpretation of this chapter will be enforced as if it is part of this code. Formal interpretations by the planning director shall be kept on file by the planning department and shall be available for public review, and shall periodically be incorporated into this chapter during required updates of the SMP. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.100 Liberal construction.

As provided for in RCW 90.58.900, the Shoreline Management Act is exempted from the rule of strict construction; the Act and this chapter shall therefore be liberally construed to give full effect to the
purposes, goals, objectives, and policies for which the Act and this chapter were enacted. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.110 Severability.

The Act and this chapter comprise the basic state and city law regulating use of shorelines within the city. In the event provisions of this chapter conflict with other applicable city policies or regulations, the more restrictive shall prevail. Should any section or provision of this chapter be declared invalid, such decision shall not affect the validity of this chapter as a whole. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)
Article II. Regulations Applying to All Shoreline Development, Uses and Activities

16.08.120 General.

The following standards in this section apply to all development, uses and activities within the shoreline zone that are commenced, constructed, altered or expanded after the effective date of this shoreline master program.

A development, activity or use that meets the exemption criteria of WAC 173-27-040(2), RCW 98.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355 or 90.58.515, and is a permitted development, activity or use in the relevant shoreline environment, shall be exempt from the requirement to obtain a shoreline substantial development permit, following issuance of an exemption letter from the planning director pursuant to Section 16.09.060. An exempted development or use shall comply with all other requirements of this master program, the zoning code, and other relevant provisions of the city code, as well as federal and state law.

A. All development, activities and uses within the shoreline jurisdiction shall require a shoreline substantial development permit, shoreline conditional use permit, and/or a shoreline variance, unless exempted according to the requirements of Sections 16.09.040, 16.09.050 and 16.09.060.

B. All shoreline uses and development shall be located and designed in a manner that ensures no net loss of shoreline ecological functions and minimizes adverse impacts to natural shoreline resources and wildlife habitat, including fish and aquatic habitat.

C. All shoreline development and uses impacting ecological functions shall be mitigated according to the mitigation sequence established in WAC 173-26-201(2)(e), except as otherwise specified in this chapter. This mitigation sequence requires that potential impacts shall first be avoided if possible; if avoidance is not possible, the anticipated impact shall be minimized; and any impacts that remain after reviewing for avoidance and minimization shall be mitigated.

D. Shoreline development and uses shall be approved according to the following priority: water-dependent, water-related, water-enjoyment, non-water-oriented.

E. In addition to the requirements of this chapter, critical areas within the shoreline jurisdiction shall be protected according to the requirements of the critical areas ordinance, Chapter 16.20. If there are any conflicts between the critical areas ordinance and this chapter, the more stringent requirement shall apply.
F. Where specific regulations for a proposed development, activity or use are not provided, the
development, activity or use shall utilize best management practices to minimize any adverse impacts
to water quality and natural shoreline resources.

G. Disruption of natural shoreline resources, including clearing and grading, tree removal, and erosion
protection, shall be the minimum necessary to accommodate the approved use or activity.

H. In evaluating permit applications for proposed development, activities or uses along the shoreline,
the city shall consider the long-term and regional effects of the proposal on natural shoreline resources
and the ability of future generations to enjoy and use the shoreline. Any negative long-term and
regional effects shall be mitigated in accord with the mitigation sequencing requirements of Section
16.08.140. Failure to comply with the mitigation sequencing requirements may result in permit denial.

I. New development shall be located and designed to avoid the need for future shoreline stabilization
to the extent feasible.

J. New development must have adequate access, utilities and public services.

K. When development, activities or uses are proposed on a property or properties that are partially
located in the city’s shoreline jurisdiction, the relevant shoreline permit or exemption application and
any other required applications shall address the entire property or properties and the complete
development proposal, both inside and outside of the shoreline jurisdiction. The applicant shall
address protection of shoreline resources from nonshoreline activities and development, impacts of
proposed nonshoreline land uses on protected critical areas and buffers, including the area within the
shoreline buffer and setback area, and indicate any potential incompatibilities between proposed
nonshoreline and shoreline uses.

L. Proposals for new and expanded shoreline development and uses shall be evaluated for cumulative
impacts to shoreline values and functions, per WAC 173-26-201(3)(d)(iii). (Ord. 2012-10 § 2 (Exh. A)
(part), 2012)

16.08.130 Federal and state approvals.

A. All work at or waterward of the OHWM may require permits or approvals from one or more of the
following state and federal agencies: U.S. Army Corps of Engineers, Washington Department of Fish
and Wildlife, Washington Department of Natural Resources, or Washington Department of Ecology. It
is an applicant’s responsibility to determine which federal or state permits may apply to a development proposal, and to obtain them.

B. Nothing in this chapter shall relieve an applicant from applying for and obtaining any necessary permits or approvals described in subsection A of this section. If an applicant does not provide documentation verifying that all such permits and approvals have been received prior to issuance of a permit or exemption under this chapter, the city may condition such permit or exemption upon the applicant obtaining all other required permits or approvals, and may require that such permits or approvals must be obtained before a city building permit will be issued.

C. If there are any conflicts between local, state and federal requirements or conditions, the more stringent requirement or condition shall apply and shall be documented in the city’s approved shoreline permit, unless otherwise indicated in this chapter. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.140 Mitigation and sequencing requirements.

A. Development and activities are required to mitigate impacts to shoreline habitat and other environmental impacts, to meet the standard of “no net loss” of shoreline ecological functions as directed in WAC 173-26-186(8) or its successor. To ensure that proposed actions are consistent with the no net loss provision by avoiding, minimizing and mitigating for adverse impacts, an applicant for a development or activity where impacts are anticipated (including but not limited to all over-water uses or shoreline modifications) shall complete a mitigation analysis utilizing mitigation sequencing as defined in Section 16.08.040 during design, construction and operation, in a manner consistent with WAC-173-26-201(2)(e) or as subsequently amended.

B. If a mitigation analysis reveals that unavoidable impacts will result from the proposed development or activity, a habitat mitigation plan shall be prepared according to the requirements of WAC 173-26-201(2)(e) and 197-11-660 to ensure no net loss of shoreline habitat values and functions or impacts to priority species. If critical areas will be impacted, the requirements of the city’s critical areas ordinance, as indicated in Section 16.08.060, shall also be addressed in the mitigation plan.

C. Failure to demonstrate that the mitigation sequencing standards have been met may result in permit denial, or the city may restrict or reduce development or land uses, or impose additional conditions. Additionally, the city may request that the applicant submit studies by qualified professionals, or that submitted studies, mitigation analysis and/or habitat mitigation plan be peer-reviewed by qualified
professionals, at the applicant’s expense in order to determine compliance with these standards. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.150 In-water construction and development activities.

The following standards shall apply to in-water work, including, but not limited to, installation of new structures, repair of existing structures, restoration projects, and aquatic vegetation removal.

A. In-water structures and activities shall be sited and designed to avoid the need for future shoreline stabilization and nonmaintenance dredging, with special emphasis on protection of critical saltwater habitat and species, and submerged aquatic vegetation.

B. Removal of existing structures shall be accomplished so that materials from the structure do not enter or remain in the water.

C. Waste material and unauthorized fill, such as construction debris, concrete, bricks, asphalt, metal, tires and any other similar material upland or below the OHWM shall be removed.

D. No toxic or deleterious materials, including but not limited to petroleum products, hydraulic fluid, cement, tires, or chemicals, are allowed to enter or leach into the water during in-water construction. Sedimentation and turbidity during construction shall comply with state and federal water quality requirements and any associated permit conditions. Appropriate spill clean-up materials must be on site at all times, and any hazardous material or oil spills must be contained and cleaned immediately, and reported immediately to the Department of Ecology and to the city, as specified in Section 16.08.160(C)(6).

E. In-water work shall be conducted in a manner that minimizes turbidity and causes little or no siltation to adjacent areas. A sediment control curtain and/or other appropriate best management practice (BMP) shall be used in those instances where siltation can reasonably be expected. Work shall be conducted using BMPs for the protection of water quality, including the use of debris booms, silt curtains or other control measures, singly or in combination, which shall be maintained and operated to provide compliance with required state and federal water quality standards.

F. Any trenches, depressions or holes created below the OHWM shall be backfilled.
G. Fresh concrete or concrete by-products shall not be allowed to enter the water at any time during in-water installation. All forms used for concrete shall be completely sealed to prevent the possibility of fresh concrete from entering the water.

H. Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to perform the in-water work. All disturbed areas shall have appropriate erosion control measures installed, and shall be restored according to an approved mitigation plan.

I. If at any time as a result of in-water work, water quality problems develop, immediate notification shall be made to the Department of Ecology and to the city.

J. Materials used for over-water decking, in-water construction, or other structural components that may come into contact with water shall comply with regulations of responsible agencies (e.g., Department of Fish and Wildlife or Department of Ecology) to avoid leaching of toxic chemicals. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.160 Water quality.

A. The location, design and management of shoreline development and activities shall not degrade the quality or quantity of surface and groundwater on or adjacent to the site. All federal and state water quality and effluent standards shall be met.

B. Submittal Requirements. All proposals for development activity or construction, including clearing, grading and fill, shall submit for approval a stormwater site plan, unless exempted by the public works official. The stormwater site plan shall include:

1. Provisions for temporary erosion control measures; and

2. Provisions for stormwater detention, water quality treatment and stormwater conveyance facilities, in accordance with the city’s adopted stormwater management manual in effect at the time of permit application.

C. Standards.

1. New or expanded shoreline development shall comply with the standards established in the city’s adopted stormwater management manual in effect at the time of permit application.
2. New or expanded shoreline development and activities shall apply best management practices (BMPs) consistent with the city's adopted stormwater management manual, to minimize any increase in surface water runoff and to control, treat and release surface water runoff so that receiving properties, wetlands or streams, and Liberty Bay are not adversely affected. All types of BMPs shall be regularly maintained for continual functioning as intended.

3. Low impact development techniques shall be considered and implemented to the greatest extent practicable, consistent with the city's adopted stormwater management manual.

4. If a new stormwater outfall or discharge pipe to Liberty Bay is demonstrated to be necessary, it shall be designed so that the outfall and energy dissipation pad is installed above the OHWM, unless otherwise demonstrated to be infeasible.

5. In addition to providing stormwater quality treatment facilities as required in this section, for new or expanded shoreline development and activities the developer and/or property owner shall provide source control BMPs designed to treat or prevent stormwater pollution arising from specific activities expected to occur on the site.

6. No release of oils, hydraulic fluids, fuels, paints, solvents or other hazardous materials or chemicals shall be permitted into Liberty Bay. If water quality problems occur on a site, including equipment leaks or spills, work operations shall cease immediately and the Department of Ecology shall be immediately notified. The responsible party shall initiate a full and rapid response to contain and clean up a leak or spill. The public works department and other agencies with jurisdiction shall be contacted immediately to coordinate spill containment and cleanup activities. It shall be the responsibility of the property owner to fund and implement the containment and cleanup activities. The person or company responsible for a spill of oil or hazardous substances into state waters may be required by the state or city to fund a natural resource damage assessment, pay a penalty for violation of state or city laws or rules, and/or reimburse the state’s or city’s expenses to respond and investigate the incident.

7. See Sections 16.08.150(D), (G) and (J) regarding restricted materials that may not come into contact with the water of Liberty Bay and Dogfish Creek estuary.

8. The application of pesticides, herbicides or fertilizers shall comply with the following standards:
a. The application of pesticides, herbicides or fertilizers within the shoreline setback shall utilize Best Management Practices for Landscaping and Lawn/Vegetation Management Section of the 2005 Stormwater Management Manual for Western Washington, or its successor as adopted by the city, to prevent contamination of surface and ground water and/or soils, and adverse effects on shoreline ecological functions and values.

b. Pesticides, herbicides and fertilizers shall be applied to upland areas in a manner that minimizes their transmittal to adjacent water bodies. The direct discharge of these chemicals into adjacent water bodies is prohibited. Spray application of pesticides shall not occur within one hundred feet of open waters, including wetlands, streams and any channel that leads to open water except when approved by the city.

c. The use of pesticides, herbicides or fertilizers within the shoreline jurisdiction, including applications of herbicides to control noxious or invasive aquatic vegetation, shall comply with the regulations of responsible state and federal agencies, including any permitting requirements.

D. On-Site Sewage Systems.

1. All new development within the shoreline jurisdiction shall connect to the city sewer system.

2. If an existing shoreline residence is located within two hundred feet of a city sewer line that can accept new residential connections, the residential structure may not be expanded unless it is connected to the city sewer system.

3. If the Kitsap County health district certifies that an on-site sewage system is failing or is inadequate for the property it serves, development on the entire property shall be connected to city sewer if a city sewer line is within two hundred feet of any building on the property that is connected to the on-site sewage system. Replacement or repair of a failing or inadequate system shall only be allowed if city sewer is not available within two hundred feet, and the health district confirms that a new on-site system will function correctly based on such factors as the property's size, soils, and topography. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)
Article III. Shoreline Development, Uses and Activities

16.08.170 Shoreline environment designations.

Environment designations are applied to all of the city’s shoreline areas based upon habitat characterization, land use, and location of shoreline buffers. Within the city’s jurisdiction, these include: shoreline residential-1 (SR-1), shoreline residential-2 (SR-2), high intensity (HI), urban conservancy (UC), natural (N) and aquatic (A), as shown on the city’s adopted shoreline maps. The shoreline environment designations do not change or replace the underlying zoning of the affected properties, although they provide more specific requirements and limitations for shoreline uses and modifications in a manner similar to a zoning overlay. Management policies for each environment are in the city’s adopted shoreline master program policies and the comprehensive plan. The environment designations are as follows:

A. Shoreline Residential (SR). The shoreline residential environment is intended to accommodate residential development consistent with the city’s shoreline management standards; protect ecological functions and natural habitat, and restoration when feasible; and provide public access and recreational uses, where appropriate. The shoreline residential environment is divided into two subdesignations: shoreline residential-1 (SR-1) and shoreline residential-2 (SR-2).

The SR-1 environment primarily includes those areas of the shorelands waterward of the established shoreline buffer, and/or on the water side of “buffer interruptions” such as major roads.

The SR-2 environment primarily includes those areas of the shorelands outside of the established shoreline buffer, and/or on the upland side of “buffer interruptions,” such as major roads. Within these areas, new residential development is permitted according to the applicable shoreline and zoning development standards, with an emphasis on transition from the preservation-oriented focus of SR-1 to adjacent residential development located outside of the shoreline jurisdiction.

SR-1 includes the following areas:

1. In the Fjord Drive planning segment, the areas of the shoreline residential environment located on the west (waterward) side of Fjord Drive.

2. In the Front Street planning segment, areas of the shoreline residential environment that are located either west (waterward) of the shoreline buffer line or on the west (waterward) side of Front Street.
3. In the western planning segment, the areas of the shoreline residential environment located east (waterward) of the one-hundred-foot shoreline buffer line.

SR-2 includes the following areas:

1. In the Fjord Drive planning segment, the areas of the shoreline residential environment located on the east side of Fjord Drive.

2. In the Front Street planning segment, areas of the shoreline residential environment that are located either east of the shoreline buffer line or on the east side of Front Street.

3. In the estuary planning segment, the areas of the shoreline residential environment located on the east side of Bond Road.

4. In the western planning segment, the areas of the shoreline residential environment located west of the one-hundred-foot shoreline buffer line.

B. High Intensity (HI). The high intensity (HI) shoreline environment provides for those areas of existing moderate commercial and mixed commercial/residential development. This environment allows for optimum use of shoreline areas that are presently developed with commercial uses, while seeking opportunities to protect habitat and ecological functions from further degradation. The identified HI areas include the downtown waterfront and an area near the head of Liberty Bay.

C. Urban Conservancy (UC). The urban conservancy (UC) shoreline environment preserves existing natural landforms and native shoreline vegetation as much as possible, while promoting public shoreline access, views and recreation along with continuance of existing developed uses. The UC designation applies to several shoreline properties located at the west side of the intersection of Lindvig Way and Bond Rd, adjacent to the Dogfish Creek estuary.

D. Natural (N). The natural (N) shoreline environment is established to protect and restore shoreline areas that are relatively free from human influence, undeveloped, and/or include intact or minimally degraded shoreline functions that are sensitive to proposed impacts from development. N areas within the city include the majority of Fish Park, and areas of Muriel Iverson Waterfront Park, Net Shed Park, American Legion Park and Nelson Park, that are within zero to one hundred feet of the ordinary high water mark of Liberty Bay and/or the estuarine portion of Dogfish Creek.
E. Aquatic (A). The aquatic (A) shoreline environment includes the water and lands waterward of the ordinary high water mark within the city’s jurisdiction, including public and private tidelands, state submerged lands, and areas designated as critical saltwater habitat, and the estuarine portion of Dogfish Creek. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.180 Shoreline use table.

A. The shoreline use table below indicates appropriate shoreline uses in each of the city’s environmental designations, subject to restrictions indicated in Sections 16.08.190 through 16.08.320, and is applicable to the following:

1. New development, uses or activities. This does not include normal maintenance or repair.

2. Redevelopment according to Section 16.08.040(58) of a conforming structure of the same size and within the same footprint as the existing structure. If redevelopment of a nonconforming structure is proposed, the nonconformance regulations in Article VI of this chapter shall apply.

3. Expansion of an existing development, use or activity above that existing as of the effective date of this master program.

4. A change of use between categories of uses as indicated in A. through J. in the shoreline use table.

B. The following requirements apply to all proposed uses, activities and developments:

1. Uses, activities or development not listed in this section or Section 16.08.190 shall be considered “unclassified” and shall be reviewed and processed as conditional uses.

2. If there is any conflict between the shoreline use table and the written provisions of this chapter, or between this chapter and other city regulations, the more stringent requirement or regulation shall apply unless otherwise indicated in this chapter.

3. Permitted or conditionally permitted uses or development are allowed only where the underlying zoning also allows such uses or development. For more specific requirements or restrictions pertaining to each use, refer to Title 18 (Zoning).

C. Shoreline modifications are addressed in Article V, Shoreline Modifications.
Shoreline Use Table

The table is coded according to the following legend:

P = Permitted, when meeting requirements for that use and shoreline environment; may be subject to shoreline substantial development permit, minor shoreline development permit or shoreline exemption requirements. See Chapter 16.09 for substantial development permit and minor development permit requirements.

C or MC = Conditional use or minor conditional use, when approved by the city and the Department of Ecology. See Chapter 16.09 for conditional use and minor conditional use permit requirements.

V = Development may be allowed with a shoreline variance in order to permit reasonable use of the property, through a shoreline buffer and/or setback reduction or other reduction in dimensional standards, per WAC 173-27-170, in addition to any other required shoreline permit or exemption.

X = Prohibited; the use is not eligible for a variance or conditional use permit.

N/A = Not applicable in the specific environment, due to the intrinsic nature of the use. For example, a boat slip can only be located in an aquatic environment.

Refer to Section 16.08.190 for uses prohibited in all shoreline environments.

Refer to Chapter 16.09 for permit application and processing requirements.

For any use not addressed in this table or in Section 16.08.190: refer to subsection (B)(1) of this section.

<table>
<thead>
<tr>
<th>Environment Designations</th>
<th>SR-1</th>
<th>SR-2</th>
<th>HI</th>
<th>UC</th>
<th>N</th>
<th>A</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Shoreline Uses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. Aquaculture</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>C</td>
<td>N/A</td>
</tr>
<tr>
<td>B. Commercial (not including marinas, ports and boating facilities)</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial use; meets the requirements of Section 16.08.260</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>C</td>
<td>X</td>
<td>C</td>
</tr>
<tr>
<td>Commercial use; does not meet the requirements of Section 16.08.260</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Accessory commercial—water-related, water-enjoyment or non-water-related</td>
<td>MC</td>
<td>MC</td>
<td>P</td>
<td>C</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Environment Designations</td>
<td>SR-1</td>
<td>SR-2</td>
<td>HI</td>
<td>UC</td>
<td>N</td>
<td>A</td>
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<td></td>
</tr>
<tr>
<td>C. Habitat restoration activities³</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>D. Marinas (public and private), and other boating facilities⁴</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-water boat slips, boat moorage</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Major boat repair and service</td>
<td>X</td>
<td>X</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Minor boat repair, inspection and service</td>
<td>C</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>P</td>
</tr>
<tr>
<td>Liveaboard vessels</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>C</td>
<td></td>
</tr>
<tr>
<td>E. Mixed use (combination of commercial, residential and/or other types of uses)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mixed use; meets the requirements of Section 16.08.250</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>C</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Mixed use; does not meet the requirements of Section 16.08.250</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>F. Park and recreational facilities, including but not limited to docks and boat launches</td>
<td>C</td>
<td>C</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>C</td>
</tr>
<tr>
<td>G. Parking lots and parking structures, more than four vehicles</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Parking lot, associated with an approved multifamily residential development</td>
<td>P</td>
<td>P</td>
<td>N/A</td>
<td>P</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Parking lot, associated with an approved water-dependent or water-related use</td>
<td>C</td>
<td>C</td>
<td>MC</td>
<td>C</td>
<td>X</td>
<td>N/A</td>
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<tr>
<td>Parking garage, as part of an overall structure containing water-oriented development, or a combination of water-oriented and non-water-oriented development</td>
<td>X</td>
<td>X</td>
<td>C</td>
<td>X</td>
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<td>N/A</td>
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<tr>
<td>H. Public services, transportation and utilities</td>
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<td>New or expanded public or private roads</td>
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<td>Public or private primary utilities</td>
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<tr>
<td>Public or private transmission lines</td>
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<td>Environment Designations</td>
<td>SR-1</td>
<td>SR-2</td>
<td>HI</td>
<td>UC</td>
<td>N</td>
<td>A</td>
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<tr>
<td>I. Residential</td>
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<tr>
<td>Single-family residential</td>
<td>V</td>
<td>P</td>
<td>X</td>
<td>X</td>
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<td>X</td>
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<tr>
<td>Duplex and triplex residential</td>
<td>V</td>
<td>P</td>
<td>X</td>
<td>X</td>
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<td>X</td>
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<tr>
<td>Multifamily residential, four or more units</td>
<td>V,</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Detached structures (ADU, garage, shed, etc.) that are accessory to existing or approved residential development</td>
<td>V</td>
<td>MC</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>J. Scientific, historical, cultural, and educational research activities</td>
<td>MC</td>
<td>MC</td>
<td>MC</td>
<td>MC</td>
<td>MC</td>
<td>MC</td>
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</table>

1 Applications for aquaculture will be considered on a case-by-case basis, as reviewed against Policy NE-8.23 in the city’s comprehensive plan.

2 Permitted or conditionally permitted only adjacent to upland environments designated HI.

3 If habitat restoration is associated with a shoreline permit for a development plan or mitigation for development/use impacts, the proposed habitat restoration shall be reviewed as part of the shoreline permit for the development/use. Also refer to Section 16.09.120.

4 Also see Article V of this chapter, Shoreline Modifications, for specific requirements for structures within marinas and boating facilities, such as docks and boat launches, and for shoreline modification activities such as dredging.

5 Permitted or conditionally permitted only (1) adjacent to upland environments designated HI, or (2) associated with an existing permitted or conditionally permitted development in the aquatic and adjacent upland environments, or (3) associated with a development plan to be approved through a shoreline permit and/or land use permit for the aquatic and adjacent upland environments.

6 Development associated with the parking garage shall meet the requirements of WAC 173-26-241(3)(d)(i) and (ii) and Section 16.08.300.

(Ord. 2012-10 § 2 (Exh. A) (part), 2012)
16.08.190 Shoreline uses prohibited in all environments.

The following uses are prohibited in all shoreline environments:

A. Agriculture.

B. Airplane runway (other than authorized runway in Liberty Bay), storage or service facilities.

C. Helicopter landing, storage or service facilities.

D. Floating homes.

E. Forest practices.

F. Industrial uses.

G. Mining.

H. Radio, electric, telephone and satellite communication towers and relay towers.

I. Recycling centers, landfills, and utility production and processing. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.200 Shoreline development and use standards—All environments and uses.

The following standards in this section apply to all development, uses and activities within the shoreline zone that are commenced, constructed, altered or expanded after the effective date of this shoreline master program:

A. Shoreline Buffers and Setbacks.

1. For the shorelines of Liberty Bay, the shoreline buffer extends one hundred feet from the OHWM. For the Dogfish Creek estuary, the buffer shall be one hundred fifty feet (Type 3 stream buffer), as measured from the OHWM or top of bank of that portion of Dogfish Creek within the shoreline jurisdiction, whichever is greater. In general, activities and structures that are not for a water-dependent, water-related, public recreation or public access use are not permitted within a shoreline buffer.

2. The buffer setback for Liberty Bay and the Dogfish Creek Estuary extends twenty-five feet from the outer edge of the buffer. In general, development activities may be permitted in a
shoreline buffer setback, but structures that are not for a water-dependent or public access use may not be located within it.

3. Buffer and buffer setback areas shall be measured landward on the horizontal plane.

4. Uses and development that may be allowed within the A environment or shoreline setback and buffer area include water-dependent or water-related development and uses, public access and recreation facilities, and reasonable use of a highly constricted shoreline property, subject to other restrictions in this chapter and the city code.

B. When calculating lot size, lot coverage, yard setbacks or density, any land area located waterward of the OHWM, such as tidelands, shall not be included.

C. Where strict compliance with the shoreline buffer or buffer setback would result in a regulatory taking of the property based on its zoning and environment designation, a shoreline variance application to reduce the size of the buffer or buffer setback may be submitted pursuant to the requirements of Section 16.09.170. However, land located entirely waterward of the OHWM, such as tidelands, has no vested development rights, and shall not qualify for relief from those provisions of the shoreline master program regulations preventing development on such areas of land, including but not limited to, those provisions regarding shoreline variances.

D. Public viewsheds and designated public view corridors, as identified according to Section 16.08.360, shall be protected and preserved in all shoreline environment designations.

E. Parking.

1. New development shall provide the required amount of off-street parking and loading as required by the city zoning standards, or as otherwise indicated in this chapter.

2. When an existing structure is expanded, additional residential units are added, and/or its use is changed per Section 16.08.180(A), additional off-street parking and loading shall be provided for the increased gross floor area and/or additional units as required by the city zoning standards, or as otherwise indicated in this chapter.

F. Mooring or anchoring (with or without a buoy) on state lands outside of designated harbor areas shall comply with the requirements of WAC 173-26-241(3)(c)(viii) or its successor, and other relevant state law pertaining to time limitations for temporary moorage.
G. New shoreline development or redevelopment by public entities, including local governments, port districts, state agencies, and public utility districts, shall include public access unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

H. New construction of structures waterward of the OHWM shall be limited to locations outside of critical saltwater habitat per WAC 173-26-221(2)(iii)(C) and structures that are permanently limited to water-dependent uses, and it shall be demonstrated that it is essential for the water-dependent use to have the structure located in the critical saltwater habitat area, either in or over the water, in order for the water-dependent use to function correctly. Also see Article V of this chapter, Shoreline Modifications.

I. No new development or redevelopment shall be permitted within the stream channel or floodway of Dogfish Creek unless it meets the following exceptions: public access for recreational purposes per Section 16.08.290(D); public utilities, public roads and associated development per Section 16.08.310; or habitat restoration and enhancement activities per Section 16.08.470. Existing structures within the stream channel or floodway that do not meet these exception criteria may be maintained but not expanded, and removed or destroyed structures may not be replaced. Such structures are not eligible for a shoreline variance for expansion or replacement, or for any other exceptions under the nonconforming structures regulations of this chapter. Also see Article VI of this chapter, Nonconformances. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.210 Land division and boundary line adjustments.

The creation of new lots or altered lots through subdivision or boundary line adjustment shall comply with the following requirements, in addition to the requirements of Title 17:

A. New lots are prohibited in the following circumstances when the lot would not be able to accommodate development or provide a sufficient buildable area consistent with the zoning and environment designation of the lot:

1. Where a new lot would not have sufficient buildable area outside geologically hazardous areas;

2. Where a new lot would be entirely located within the A, N, UC or SR-1 environment, or would not have sufficient buildable area located outside of these environments;
3. Where a new lot would require a critical areas permit or variance to obtain a sufficient buildable area;

4. Where a new lot would be located entirely within the one-hundred-year floodplain adjacent to the shoreline or streams within the shoreline jurisdiction, or would not have a sufficient buildable area located outside of the one-hundred-year floodplain.

B. In the SR-2 and HI environments, new lots shall contain sufficient buildable area located outside of the shoreline buffer and buffer setback to accommodate development consistent with the environment designation and zoning.

C. The alteration of existing lots through a boundary line adjustment shall not create new nonconformities or increase existing nonconformities.

D. New shoreline subdivisions resulting in more than four parcels shall comply with the requirements of WAC 173-26-221(4)(d)(iii).

E. Public View Corridors.

1. For new subdivisions with a designated public view corridor, the view corridor shall be established on the overall property as part of the subdivision review process, and shall be indicated in a plat condition to be recorded with the subdivision.

2. All lots within a public view corridor that has been designated as part of a development approval pursuant to Section 16.08.360 shall have notice on title that the lot may be subject to development restrictions for view corridor protection. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.220 Lot coverage by buildings and structures.

The following maximum lot coverage limitations apply to new development, redevelopment and expansion of existing development after the effective date of this master program, for permitted and conditionally permitted land uses within the specified environments, unless alternative lot coverage standards are established for a water-dependent or water-related use through a shoreline conditional use permit or shoreline variance. These limitations do not apply to redevelopment of a structure of the same size and within the same footprint as the existing structure, with the exception of over-water structures, the redevelopment of which shall be limited to water-dependent uses. Development within
the zero-to-one-hundred-twenty-five-foot area may be subject to shoreline buffer and setback and reasonable use limitations.

A. SR-1 environment: From zero to one hundred twenty-five feet from the OHWM, maximum lot coverage shall be thirty-five percent. In all other areas, maximum lot coverage shall be fifty percent.

B. SR-2 environment: Maximum lot coverage shall be fifty percent.

C. HI environment: From zero to one hundred twenty-five feet from the OHWM, maximum lot coverage shall be fifty percent. From one hundred twenty-five to two hundred feet from the OHWM, maximum lot coverage shall be eighty percent if the property is within the downtown core and fifty percent in all other areas.

D. UC environment: From zero to one hundred twenty-five feet from the OHWM, lot coverage shall not be increased beyond that existing at the time of adoption of this shoreline master program. In all other areas, maximum lot coverage shall be fifty percent.

E. N environment: From zero to one hundred twenty-five feet from the OHWM, maximum lot coverage shall be fifteen percent or as otherwise determined through a shoreline variance. In all other areas, maximum lot coverage shall be twenty-five percent, unless the development proposal is for a water-dependent use approved through a shoreline conditional use permit, in which case the maximum lot coverage shall be thirty-five percent.

F. A environment: Not applicable; allowable development in the A environment shall be determined through a shoreline conditional use permit. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.230 Height regulations.

The following height regulations apply to new development and expansion of existing development after the effective date of this master program. These limitations do not apply to the redevelopment of a structure as existing on the date of adoption of this master program within the HI environment or a primary structure within the SR-1, SR-2, UC, or N environments, which may be rebuilt to the pre-redevelopment height. Within the A environment, expansion and redevelopment of existing over-water structures is limited to water-dependent uses.

A. General. Building and structure height shall be calculated according to the definition in Chapter 18.08, and shall comply with the standards in subsections B through H of this section, with the
exception of chimneys, church spires, belfries, cupolas, domes, flagpoles, elevator and stair access, vents, ducts, HVAC or other roof-mounted equipment and required screening, and similar design features and mechanical equipment.

B. Development in all environments is also subject to the height regulations in the zoning code. Where there is a conflict between this chapter and the zoning code regarding height regulations, the more stringent requirement shall apply.

C. SR-1 environment: Maximum height of a primary structure shall be thirty-five feet unless a lower height is required in a shoreline variance. Maximum height on an accessory detached structure shall be twenty feet.

D. SR-2 environment: Maximum height of a primary structure shall be thirty-five feet.

E. HI environment: Within one hundred twenty-five feet of the OHWM, maximum height shall be twenty-five feet. In other areas, maximum height shall be thirty-five feet.

F. UC environment: Within one hundred twenty-five feet of the OHWM, maximum height of a primary structure shall be twenty-five feet unless a lower height is required in a shoreline variance. In other areas, maximum height of a primary structure shall be thirty-five feet. Maximum height of an accessory detached structure shall be twenty feet.

G. N environment: Maximum height shall be fifteen feet.

H. A environment: Maximum height of a floating structure shall be fifteen feet. For a nonfloating over-water or in-water structure, maximum height shall be twenty feet above the mean high water elevation.

(Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.240 Residential land uses.

A. Single-family residences are the preferred shoreline residential use in the SR-1 and SR-2 environments per RCW 90.58.020, when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. However, a multifamily development with up to four units per building (development in a duplex, triplex, quadruplex or townhouse style) may be permitted within the SR-2 environment if consistent with the underlying zoning requirements and if no variances or conditional use permits would be required to accommodate the proposed development.
B. In the HI environment, new multifamily residential units may be permitted only as part of a mixed use development that complies with the requirements of Section 16.08.250.

C. Residential Density.

1. In the SR-1 environment, no residential densities are established, as development of new or additional residential units in this environment is not permitted except through a shoreline variance.

2. In the SR-2 environment, residential density shall be a minimum of four dwelling units per acre and a maximum of five dwelling units per acre.

3. In the N environment, residential use is not allowed, and therefore no minimum or maximum density is established.

4. In the HI environment, the maximum density of residential development as part of a mixed use development per Section 16.08.250 is fourteen dwelling units per acre, or the limit of the residential percentage cap in the mixed use development standards in Title 18, whichever is more restrictive. No minimum density is established.

5. In the UC environment, development of new or additional residential units is not permitted except as part of a mixed use development in areas with commercial zoning. New or additional residential units shall not be constructed in city parks. No minimum or maximum density is established.

6. In the A environment, residential use is prohibited except for liveaboard vessels meeting the requirements of Section 16.08.270(E). No minimum or maximum density is established.

D. New residential buildings and structures waterward of the OHWM, including accessory structures, are prohibited.

E. No new or expanded development associated with a residential use or a non-water-dependent component of a commercial or mixed use development shall be permitted waterward of the OHWM, including but not limited to docks, piers, floats, boat houses, boat lifts, boat launch ramps and haulouts.

F. Any new multifamily development of more than four total units on a property that is located directly on the shoreline shall be required to provide shoreline access which shall be available for public use,
unless it can be demonstrated that access is infeasible due to topography (e.g., high or unstable bluffs) or other reasons of public safety, or where provision of access would result in impacts to a critical saltwater habitat area. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.250 Mixed land uses.

A new mixed use development, or an expansion to an existing development that will contain mixed uses, may consist of any combination of residential, commercial, marina or recreational uses as allowed in the underlying zoning category and standards, with the following requirements:

A. All new or expanded development within the aquatic environment or within the shoreline buffer and setback in any other environment must be permanently occupied and maintained by one or more water-dependent and/or water-related uses that are permitted or conditionally permitted in the aquatic environment, unless otherwise specified in subsections B through E of this section.

B. Within the high intensity environment of the downtown planning segment, if the subject property has direct access to Liberty Bay, all new development within the shoreline buffer shall be permanently occupied and maintained as water-dependent and/or water-related uses. Outside of the shoreline buffer, an area or areas equivalent to at least twenty-five percent of the new or additional building square footage shall be permanently occupied and maintained as water-dependent and/or water-related uses. The area(s) may be located within a building and/or outdoors. Refer to Section 16.08.480 for specific requirements and exceptions for the redevelopment and expansion of nonconforming structures, or structures with nonconforming uses.

C. Within the high intensity environment of the Front Street planning segment, if the subject property has direct access to Liberty Bay, all new development within the shoreline buffer shall be permanently occupied and maintained as water-oriented uses. Outside of the shoreline buffer, an area or areas equivalent to at least twenty-five percent of the new or additional building square footage shall be permanently occupied and maintained as water-oriented uses. The area(s) may be located within a building and/or outdoors. Refer to Section 16.08.480 for specific requirements and exceptions for the redevelopment and expansion of nonconforming structures, or structures with nonconforming uses.

D. If the subject property in any environment is separated from Liberty Bay by another property or a public right-of-way, an area or areas equivalent to at least twenty-five percent of the new or additional square footage shall be permanently occupied and maintained as water-enjoyment and/or water-related uses. The area(s) may be located within a building and/or outdoors.
E. If the subject property has direct access to Liberty Bay, a new mixed use development, or an
addition to an existing development that will increase the gross building floor area by more than
twenty-five percent over that existing after the effective date of this master program, shall provide
public access to the shoreline unless such access is demonstrated to be incompatible due to reasons
of safety, security or environmental impact. If public access cannot be provided for one or more of
these reasons, the applicant shall provide one or more alternative forms of shoreline-related public
benefit as approved by the planning director, such as additional ecological restoration or visual access.

F. If a proposed mixed use development is required to provide a dedicated view corridor per Sections
16.08.210(E) and/or 16.08.360(C), or a public access path per subsection E of this section, the area
within the view corridor or public access path may apply toward the required percentage of site or
building occupancy indicated in subsections B through D of this section. (Ord. 2012-10 § 2 (Exh. A)
(part), 2012)

16.08.260 Commercial land uses.

This section does not apply to public and private marinas, port or boating facilities, including boat
maintenance and service facilities, which are addressed in Section 16.08.270.

New or expanded commercial development shall meet the following requirements:

A. All new or expanded development within the aquatic environment or the shoreline buffer and
setback in any other environment must be permanently occupied and maintained by one or more
water-dependent uses and/or water-related uses that are permitted or conditionally permitted in the
relevant environment, unless otherwise specified in subsections B through F of this section.

B. Within the high intensity environment of the downtown planning segment, if the subject property has
direct access to Liberty Bay, all new development within the shoreline buffer shall be permanently
occupied and maintained as water-dependent and/or water-related uses. Outside of the shoreline
buffer, an area or areas equivalent to at least twenty-five percent of the new or additional building
square footage shall be permanently occupied and maintained as water-related and/or water-
dependent uses. The area(s) may be located within a building and/or outdoors. Refer to Section
16.08.480 for specific requirements and exceptions for the redevelopment and expansion of
nonconforming structures, or structures with nonconforming uses.

C. Within the high intensity environment of the Front Street planning segment, if the subject property
has direct access to Liberty Bay, all new development within the shoreline buffer shall be permanently
occupied and maintained as water-oriented uses. Outside of the shoreline buffer, an area or areas equivalent to at least twenty-five percent of the new or additional building square footage shall be permanently occupied and maintained as water-oriented uses. The area(s) may be located within a building and/or outdoors. Refer to Section 16.08.480 for specific requirements and exceptions for the redevelopment and expansion of nonconforming structures, or structures with nonconforming uses.

D. If the subject property in any environment is separated from Liberty Bay by another property or a public right-of-way, an area or areas equivalent to at least twenty-five percent of the new or additional building square footage shall be permanently occupied and maintained as water-enjoyment and/or water-related uses. The areas may be located within a building and/or outdoors.

E. If the subject property has direct access to Liberty Bay, a new commercial development, or an addition to an existing development that will increase the gross building floor area by more than twenty-five percent over that existing after the effective date of this master program, shall provide public access to the shoreline unless such access is demonstrated to be incompatible due to reasons of safety, security or environmental impact. If public access cannot be provided for one or more of these reasons, the applicant shall provide one or more alternative forms of shoreline-related public benefit as approved by the planning director, such as additional ecological restoration or visual access.

F. If a proposed commercial development is required to provide a dedicated view corridor per Sections 16.08.210(E) and/or 16.08.360(C), or a public access path per subsection E of this section, the area within the view corridor or public access path may be permitted to apply toward the required percentage of site or building occupancy indicated in subsections B through D of this section. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.270 Marinas and other boating facilities, and boat maintenance and service uses.

A. The design and location of new, altered or expanded marinas and other boating service, maintenance and use facilities, and the appropriate locations for including public boat launches and public day use docks, shall comply with the following requirements:

1. The development or use shall not interfere with the public use and enjoyment of the water or create a hazard to navigation.

2. The development or use shall meet the requirements of Section 16.08.140 for mitigation sequencing.
3. The development or use shall be located only at sites with sufficient existing water depth to accommodate the proposed development, adequate navigational and vehicular access, and adequate parking.

4. The design of the development or use shall meet all state and federal regulations for habitat and fish protection.

5. New uses and structures shall avoid locations within critical saltwater habitat areas to the maximum extent feasible and shall comply with Section 16.08.200(H) and WAC 173-26-221(iii)(C) for protection of critical saltwater habitat. However, they may be located within the upland shoreline buffer and buffer setback areas; provided, that no net loss to critical saltwater habitat will occur as a result of the development. Development in a critical saltwater habitat area shall require a shoreline conditional use permit per WAC 173-26-241(2)(b)(ii)(C) and Section 16.08.490.

6. Water-enjoyment and non-water-oriented uses and structures, such as vehicle and trailer parking, equipment and material storage not associated with water-dependent uses, office and administrative buildings, and accessory commercial development, shall not be located in the aquatic environment and shall be located outside of the shoreline buffer and buffer setback areas to the maximum extent feasible.

7. Parking within the shoreline buffer and setback may be allowed according to the requirements of Section 16.08.300(B)(4).

8. In addition to the above requirements, proposed port development, expansions and other alterations shall be based upon and shall be consistent with a comprehensive plan for port improvements that has been officially adopted consistent with RCW 53.20.010 and 53.20.020 and any other applicable federal, state or local requirements, including consistency with the adopted Poulsbo comprehensive plan.

9. In addition to any other requirements of this chapter, all development and uses shall be consistent with the requirements of WAC 220-110-330, Marinas in Saltwater Areas, and with WAC 332-30-139, Marinas and Moorages.

10. All development and uses shall comply with the requirements of Article V of this chapter, Shoreline Modifications, except as otherwise expressly stated in this chapter.
B. Boat Slips and Moorages.

1. The maximum allowable number of boat slips or moorages, and the appropriate locations for such slips or moorages, in any one marina facility shall be determined based on the following factors:

   a. The suitability of the environmental conditions, such as but not limited to: the presence or proximity of submerged aquatic vegetation, shoreline associated wetlands, critical saltwater habitat, water depth, water circulation, sediment inputs and accumulation, and wave action, aesthetics and public views, and the ability of the applicant to mitigate for environmental impacts.

   b. The applicant shall provide an analysis to demonstrate the proposed development’s compatibility with surrounding land and aquatic conditions and uses, environment designations, and zoning, including impacts to existing public viewsheds and view corridors, parking, and adjacent properties and neighborhoods. The analysis shall address the ability of the land upland of the OHWM to accommodate the necessary support facilities, such as but not limited to access, vehicle traffic, vehicle and boat trailer parking, restrooms, and waste disposal.

   c. A demand analysis submitted by the applicant. If the applicant is a port district, the demand analysis shall be consistent with the comprehensive port improvement plan referenced in subsection (A)(8) of this section, to demonstrate anticipated need for the requested number of slips or moorages to serve the residents of the city and the port district for recreational and commercial purposes during the stated planning period.

2. Slips and moorages in a public marina shall not be converted from public recreational use to other uses, unless the applicant demonstrates that there is no anticipated need for the existing number of recreational slips or moorage to serve the public during the foreseeable future.

C. Any proposal to expand an existing harbor area, or to extend docks, piers, slips or other moorage facilities into an area previously not developed for such a purpose, shall indicate why anticipated needs indicated in subsection (B)(1)(c) of this section cannot be accommodated in existing harbor areas and/or existing docks, piers, slips or moorage areas.
D. All new, expanded or redeveloped marinas and other boating facilities shall provide public pedestrian access to the shoreline.

E. Liveaboard Vessels.

1. Liveaboard vessels are prohibited outside of marina facilities.

2. Each liveaboard vessel shall moor at a dedicated slip. Liveaboard vessels may not be anchored or moored in open water other than for temporary purposes.

3. New liveaboard vessel slips shall not be allowed on state lands leased after the effective date of the adoption of this shoreline master program.

4. The addition of new liveaboard vessel slips within any area owned by a marina, yacht club or port authority or leased from a private owner shall be subject to a shoreline conditional use permit. In addition to any other conditions required in the permit, the applicant shall demonstrate how the new liveaboard will comply with the requirements of WAC 332-30-171(4) and (5) related to waste disposal, and that a minimum of at least one permanent reserved parking space shall be provided for each new liveaboard vessel.

5. Liveaboard vessels shall comprise no more than ten percent of the total nonguest or nontransient capacity of any marina, based on the number of slips and other mooring facilities.

F. New or enlarged covered or enclosed slips, floating storage buildings for motorized vehicles or vessels, or other covered or enclosed moorage added after the effective date of this shoreline master program, including floating boat and airplane houses and hangars, are prohibited. Maintenance, repair and replacement of existing covered or enclosed structures is acceptable; however, a cover or enclosure structure that is removed for more than six months shall be considered a discontinued use and shall not be replaced.

G. Boat Service and Repair. Businesses or facilities providing boat or boat motor service and repair (including facilities within marinas) shall be regulated as follows:

1. Storage of parts and equipment shall be entirely within an enclosed structure.
2. If the proposed maintenance, service or repair activities meet the definition of major boat repair and service, boats shall be removed from the water and debris shall be captured and disposed in a proper manner consistent with state and federal requirements.

3. Major boat repair and service activities shall be conducted on dry land and shall be located either totally within a building or totally sight-screened from adjoining properties and rights-of-way.

4. Repair and service activities shall meet all applicable city regulations for noise and lighting controls, and may have conditions placed upon the facility including but not limited to size, hours of operation, location on the site, screening measures, and number of daily launches to ensure compatibility with neighboring land uses and zones.

5. All dry land motor testing shall be conducted within an enclosed structure.

6. An appropriate storage, transfer, containment and disposal facility for liquid materials, such as oil, harmful solvents, antifreeze and paints shall be provided and maintained.

7. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum or hazardous products shall be provided.

8. Floating or mobile repair structures are prohibited.

H. Boat Launches, Piers and Docks.

1. All new, redeveloped or expanded boat launch, pier and dock facilities outside of a marina shall meet the following requirements:

   a. The facility shall comply with the requirements of Section 16.08.150;

   b. The facility shall not be located within a critical saltwater habitat area;

   c. A shoreline permit application is required, which shall include a demand analysis to evaluate the number of anticipated daily launches, parking needs, and impacts to adjacent properties and neighborhoods;

   d. The facility shall provide one or more vehicle and trailer loading areas, at least ten feet by forty feet, commensurate with projected demand;
e. Day use facilities shall provide signage indicating (i) the operational hours of the facility, (ii) any daily parking time limit, if applicable, and (iii) overnight parking, camping, moorage or vessel storage on the site is not permitted; and

f. Prior to operation, the facility shall provide the city with evidence that all required state and federal permits have been obtained.

2. In addition to the requirements in subsection (H)(1) of this section, extended use facilities shall meet the following requirements:

a. The facility shall provide parking for vehicles and trailers commensurate with projected demand. Parking for vehicles shall comply with zoning code dimensional standards. Parking for vehicles and trailers shall be at least ten feet by forty feet.

b. Signage shall be provided indicating (i) the operational hours of the facility and (ii) the applicable restrictions on parking, moorage and vessel storage time limits, camping, and any other uses as indicated in the shoreline permit conditions.

I. Accessory Commercial Uses.

1. Drive-in or drive-through uses are prohibited.

2. Commercial activities shall not be conducted upon any vessel or over-water structure located within a marina or other boating facility, including locations at slips, docks, buoys or independent anchoring, unless (a) the activity is water-dependent, (b) the commercial activity will not result in significant new impacts, including but not limited to parking, traffic and noise, and (c) the city has issued a shoreline permit or shoreline permit exemption to the facility owner or operator for such activities. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.280 Buoys.

A. Mooring Buoys for Private Recreational Use.

1. A single buoy for moorage of one boat for private recreational use may be allowed in Liberty Bay, outside of designated harbor areas, for each applicant who meets the following requirements:
a. The applicant is the owner of an upland residence who also owns the abutting tidelands or submerged lands where the buoy is proposed to be located, or the owner of an upland residence whose property abuts state-owned shorelands, tidelands or related beds of navigable waters, and has received approval from the state to use such area for the buoy.

b. The buoy shall not be located in critical saltwater habitat.

2. Private recreational mooring buoys require permit and registration approval from the Washington Department of Natural Resources, and may require permits and review from other federal and state agencies such as the U.S. Army Corps of Engineers. The applicant shall provide documentation of these approvals upon issuance to the city planning director.

3. The location, design, use, operation and maintenance of private recreational mooring buoys and boats moored to them shall comply with the provisions of RCW 79.105.430 or its successor.

4. A private recreational mooring buoy that complies with subsections (A)(1) through (3) of this section is not required to obtain a shoreline substantial development permit.

B. Buoys for Purposes Other Than Private Recreational Use.

1. New buoys for commercial, navigational, monitoring, or scientific uses, or purposes other than private recreational moorage for one residential owner, are required to obtain a shoreline substantial development permit.

2. New buoys require permit and registration approval from the Washington Department of Natural Resources, and may require permits and review from other federal and state agencies such as the U.S. Army Corps of Engineers. The applicant shall provide documentation of these approvals upon issuance to the city planning director.

3. A buoy may be located in critical saltwater habitat only when it has been demonstrated to be necessary for public safety for navigational purposes and there is no other feasible alternative location, or if the buoy will be used for scientific purposes directly related to study or restoration of the critical saltwater habitat.

4. If a new buoy is part of an overall development plan, aquatic use plan, master plan or other action requiring a shoreline substantial development permit and/or land use permit, the buoy
and all other relevant items shall be addressed in a combined review process. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.290 Park and recreational uses.

A. Park and recreational facilities located on the shoreline shall provide public access to the shoreline unless such access is demonstrated to be incompatible due to reasons of safety, security or environmental impact.

B. New recreation facilities or expansions to existing recreation facilities that include non-water-oriented, high intensity activities, such as basketball and tennis courts, baseball and soccer fields, skate parks, and dog parks, shall be located outside of the shoreline jurisdiction to the extent feasible. Children’s playgrounds and tot lots shall not be considered high intensity activities. Existing recreational facilities within the shoreline jurisdiction may continue to be maintained and utilized.

C. New parking lots or expansions to existing parking lots shall be located outside of the shoreline buffer unless allowed by the provisions of Section 16.08.300(B).

D. New or expanded recreational facilities such as pedestrian and bicycle trails, shoreline access points, boardwalks, boat launches and day use docks may be permitted within the shoreline buffer and/or aquatic environment; provided, that all requirements of this chapter for the specific development type are met, as well as the following criteria:

1. The recreational facilities shall be located and constructed to ensure no net loss of shoreline ecological functions and to minimize adverse impacts to natural shoreline resources and wildlife habitat.

2. Recreational facilities shall not require hard shoreline stabilization methods to maintain safety and functionality over the expected lifetime of the development, and shall meet the requirements of WAC 173-26-231(3)(a)(iii).

3. Recreational facilities that are over water or within fifteen feet of the OHWM shall not have lighting other than safety lighting, which shall be elevated at three feet high or less and shall be directed downward and away from the water and neighboring properties.

4. A boardwalk may be permitted over water when an upland location for a trail connection or continuation is shown not to be feasible. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)
16.08.300 Parking lots and parking garages.

The following regulations shall apply to new or expanded parking lot facilities and parking structures constructed after the effective date of this shoreline master program:

A. Parking lots and parking structures shall comply with the requirements in Sections 16.08.120(B) and 16.08.140 and the land use table in Section 16.08.180.

B. New parking lots or structures shall be located outside of the shoreline buffer, with the following exceptions:

1. ADA-accessible parking spaces and ramps.

2. Parking for shoreline access points, or day use boat launches, piers and docks, or other short-term public uses, either stand-alone or as part of an overall recreational development, up to a maximum of four parking spaces.

3. Short-term parking for pickup and delivery to water-dependent or water-related uses, loading zones, and public transportation stops and pullouts.

4. Parking for a water-dependent development or use where insufficient upland area is available outside of the shoreline buffer to accommodate required parking. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.310 Public services, transportation facilities and utilities.

A. Development under this section shall comply with Sections 16.08.120(B) and 16.08.140 concerning avoidance and minimization of impacts for location, design and use of the subject facilities.

B. New or expanded transportation facilities and primary utilities shall use existing corridors and rights-of-way whenever feasible; provided, that expansions and modifications shall not adversely impact shoreline resources and shall be otherwise consistent with this chapter. If expansion of the existing corridor will result in significant adverse impacts, then a less disruptive alternative shall be utilized.

C. New or expanded transportation and primary utility corridors must be placed and designed to minimize negative impacts upon shoreline areas, protect designated public views and public access, and avoid and minimize impacts to existing conforming land uses and structures and the natural shoreline environment.
D. New or expanded transportation and primary or accessory utility facilities must be designed and maintained to prevent erosion and to permit the natural movement of surface water, and shall not require the construction of hard armoring or other shoreline stabilization measures to maintain the facility in a safe and operable condition over the estimated life of the facility.

E. New or expanded transportation and primary or accessory utility facilities that cross streams shall be designed to allow fish passage where it has been determined by the appropriate state or federal agency that fish inhabit the stream or may inhabit the stream in future, and shall minimize impact to the stream and its buffer to the maximum extent feasible.

F. Shoreline right-of-way may be used for public access or recreational purposes.

G. Shoreline right-of-way shall not be vacated, except in compliance with RCW 35.79.035 or its successor.

H. New or expanded primary or accessory utilities shall not be located within the Dogfish Creek floodway or waterward of the OHWM of Liberty Bay unless no other feasible alternative exists. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.320 Archaeological areas and historic sites.

A. Developers and property owners shall immediately stop work and notify the local government, the Washington State Department of Archaeology and Historic Preservation, and the Suquamish Tribe if archaeological resources are uncovered during excavation, and shall comply with relevant state and federal law regarding protection of archaeological sites and resources and required permits for activities affecting them, including Chapter 27.53 RCW (Archaeological Sites and Resources), or as subsequently amended.

B. If in the future any sites are listed on the Washington Heritage Register or the National Register of Historic Places, any proposed development or redevelopment of such sites shall be coordinated with the State Historic Preservation Office and shall be consistent with federal and state laws regarding historic preservation.

C. Prior to permit issuance, applications for site work or other development in sites documented to contain archaeological resources shall require site inspection or evaluation by a professional archaeologist in coordination with the Suquamish Tribe, consistent with WAC 173-26-221(1)(c)(i). (Ord. 2012-10 § 2 (Exh. A) (part), 2012)
Article IV. Design Requirements

16.08.330 Site and building design standards.

On sites where shoreline views are available, commercial, multifamily residential, mixed use and recreational development that is newly constructed, redeveloped, or has its gross building floor area expanded by more than fifty percent after the effective date of this master plan is required to have the relevant new construction or expansion comply with the following design requirements, to enhance the ability of residents, visitors and the public to enjoy the physical and aesthetic benefits of the shoreline. Any other design standards that are relevant to the location, zone or use, such as those in the zoning code, shall also apply.

A. Buildings shall be designed with windows oriented toward the shoreline.

B. Buildings shall be designed to incorporate outdoor areas such as decks, patios or viewing platforms oriented toward the shoreline.

C. Buildings shall be designed with entrances along the waterfront facade, and with connections between the buildings and any private or public walkways along or to the shoreline.

D. Service areas, refuse and recycling containers, storage and equipment shall be located away from the shoreline, to the extent feasible, and shall be screened from public view from the water, adjacent properties, and public right-of-way.

E. Buildings shall not incorporate materials that are reflective or mirrored.

F. Within the HI environment, development in the downtown core commercial overlay zone shall also comply with the downtown core design requirements in Title 18.

G. For new construction, where feasible the location of required public view corridors shall be designed concurrently with building orientation, to maximize both public views and views from the proposed development. If there is a conflict between building orientation and the location of required or existing public view corridors, the public view corridor shall take precedence. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.340 Signage.
The following regulations apply in addition to any other city requirements, including sign regulations in
the zoning code for prohibited, exempt and temporary signs. If there is a conflict between other sign
regulations and the regulations of this section, the more stringent regulation shall apply.

A. Signs shall be located on the same property or within the same development as the business or
   organization being advertised. Off-site advertising signs, including commercial billboards, are
   prohibited.

B. Freestanding signs may be allowed within the shoreline buffer and setback for water-dependent and
   water-related development and uses that are also located in the buffer and/or setback area, including
   on-site directory and public information signs, and for public access and park interpretative and
   directional signage, subject to the following requirements:

   1. Signs are limited to five feet in height from the ground level and twenty square feet in area.

   2. Signs shall not obscure or block designated public view corridors.

C. New, expanded or replacement signs shall not be internally illuminated. Lighting shall be directed
   downward upon the sign face, not toward the water or neighboring properties, and shall also meet the
   standards of the city zoning code.

D. New, expanded or replacement signs shall not be oriented to face Liberty Bay and/or be located in
   the aquatic environment, except as follows:

   1. For retail establishments providing fuel and oil sales for boats, where the facility is accessible
      from the water, one sign not exceeding twenty square feet per sign face.

   2. Boat traffic and directional signs associated with port and marina facilities, navigation
      channels and hazard warnings, and any other signage required by the U.S. Coast Guard or
      Federal Aviation Administration for navigational or float plane operation purposes.

   3. Directional and interpretative signs for public access and public recreation amenities that can
      be accessed from the water. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.350 Lighting.

Exterior lighting shall be controlled using limits on height, maximum lighting levels, light shields,
lighting direction and other mechanisms in order to prevent light pollution, disturbance of aquatic or
shoreline wildlife, or other adverse effects that could infringe on public enjoyment of the shoreline, affect neighboring properties, or have environmental impacts.

A. Review Requirements. All development proposing exterior lighting within the shoreline jurisdiction, except as otherwise indicated in subsection E of this section, shall submit a lighting plan for approval by the planning director. The plan shall contain the following information:

1. A brief written narrative that indicates the objectives of the lighting;

2. The location, fixture type, mounting height and wattage of all outdoor lighting and building security lighting, including exterior lighting mounted on docks, piers, or other in-water or over-water structures;

3. If building elevations are proposed for illumination, drawings shall be provided for all relevant building elevations showing the fixtures, the portions of the elevations to be illuminated, and the illuminate levels of the elevations;

4. Photometric data, such as that furnished by the manufacturers, showing the angle of light emissions and extrapolated foot-candle readings at the property boundaries, and at the shoreline if relevant.

B. Direction and Shielding.

1. All exterior building-mounted and ground-mounted light fixtures shall be directed downward and use “fully shielded cut off” fixtures as defined by the Illuminating Engineering Society of North America (IESNA), or other appropriate measure to conceal the light source from adjoining uses, to direct the light towards the ground and away from the shoreline, and to prevent lighting from shining on the waters of Liberty Bay.

2. New and replacement exterior lighting mounted on piers, docks or other structures serving water-dependent uses at the shoreline or in the water shall be directed away from adjacent properties and the water, and be designed and located to prevent lighting from shining on the waters of Liberty Bay.

3. For properties located within the natural environment, the amount and intensity of new and replacement exterior lighting shall be limited to those areas and hours where it is needed for safety, security and operational purposes.
C. Lighting Levels.

1. For properties located adjacent to an A, N or UC environment, new and replacement exterior lighting fixtures shall produce a maximum initial luminance value of one-tenth foot-candle (as measured at three feet above grade) at the site property line or environment boundary.

2. For properties in the SR or HI environments located adjacent to residential uses, new and replacement exterior lighting fixtures shall produce a maximum initial luminance value of six-tenths foot-candle (as measured at three feet above grade) at the site boundary, and drop to one-tenth foot-candle on the abutting property as measured within fifteen feet of the property line.

3. All other new and replacement light fixtures shall not exceed a maximum initial luminance value of one foot-candle at the property boundary or at the water surface of Liberty Bay.

D. Other.

1. Wash or general illumination of a commercial or office building facade to enhance architectural features or to draw attention to the building or its uses is not permitted.

2. Spotlights, search lights, strobe lights and flashing lights are prohibited in all environments.

E. Exemptions. The following development activities are exempt from the submittal and lighting standards established in subsection A of this section:

1. Emergency lighting required for public safety.

2. Lighting for public rights-of-way.

3. Outdoor lighting for temporary or periodic events (e.g., community events at a public park, seasonal holiday lighting, etc.).


5. Development of the following if located outside of the shoreline buffer and setback area: a single-family residence; an accessory dwelling unit associated with a single-family residence; a development of up to four multifamily units; and appurtenant structures.
6. Lighting associated with the U.S. Coast Guard’s Navigation Safety Requirements, such as navigation aid beacons. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.360 Public viewsheds and public view corridors.

The city does not establish, protect or maintain views from private property. However, public views of the shorelines and water on both public and private property shall be designated and maintained to enhance the public’s ability to see and enjoy the shorelines and waters of Liberty Bay.

A. Within the two-hundred-foot shoreline jurisdiction, the city has established public viewsheds from the following public streets and public properties to the Liberty Bay shoreline:

1. Front Street, extending from Bond Road south to Hostmark Avenue;

2. Fjord Drive, extending from Hostmark Avenue south to the city limit;

3. Lindvig Way;

4. East of Viking Avenue, from Lindvig Way south to the city limit;

5. Public parks.

B. Intent. The intent of the viewshed designation is to promote an aesthetically attractive view of Liberty Bay and the shoreline environment from public parks and major public streets near the shoreline, with limited visual obstruction from buildings and other structures.

C. Applicability.

1. The requirements in subsections (C)(2) and (3) of this section shall apply to any property of one acre or greater in size, excluding tidelands, where views of the shoreline are available. For the purposes of this section, “property” shall mean the total area included in a development proposal, which may involve one or more lots or parcels. This section shall not apply to redevelopment of a structure of the same size and within the same footprint as the existing structure.

2. Within designated viewsheds, when a new development is proposed that requires preliminary plat, site plan, planned residential development, planned urban development or binding site plan review (such as a new commercial development, a residential development of four or more
units, or a mixed use development), one or more view corridors shall be established where the
corridor can meet the standard of subsection (D)(2) of this section.

3. Within designated viewsheds, when an existing structure is expanded or the site is
redeveloped to contain more than fifty percent over the gross building square footage existing
upon the effective date of this shoreline master plan, one or more view corridors shall be
established where the corridor can meet the standard of subsection (D)(2) of this section.

D. Standards.

1. Within a new or expanded development that requires establishment of view corridors per
subsections (C)(2) and (3) of this section, buildings and structures shall be clustered to provide
and maintain a maximum-width contiguous public view corridor from the relevant street or park.

2. A view corridor shall be a minimum of twenty feet wide or thirty percent of the total average
property width, whichever is greater, unless the planning director determines that this
requirement would result in a regulatory taking of the property based on its zoning and shoreline
environment, and accepts an alternative width.

3. Although new landscaping on properties within public viewsheds is encouraged to be
designed, located and maintained for maximum retention of shoreline views, the city shall not
regulate private landscaping or other private native or nonnative vegetation within a viewshed
for the purposes of view preservation, except for approved view corridors.

E. View Corridor Location. When a view corridor is required, it shall be designed to meet the following
location standards and must be approved by the city planning director:

1. If the subject property does not directly abut the shoreline, the view corridor shall be designed
to coincide with any existing view corridors on properties that lie between the subject property
and the shoreline.

2. The view corridor location shall be adjacent to a side property line in order to obtain the
widest view corridor in combination with adjacent properties, unless an alternative location can
be shown to provide a larger and more aesthetically rewarding view, and shall consider the
following criteria in order of priority:

   a. Potential impacts to critical areas.
b. Locations of existing view corridors.

c. Existing development or potential development on adjacent properties, given the
topography, access and likely location of future improvements.

d. The availability of actual views of the water and the potential of the property for
providing those views from the relevant street or park.

e. Location of sight-obscuring structures, parking areas or vegetation that are likely to
remain in place in the foreseeable future.

3. The view corridor shall be in one continuous piece throughout the subject property.

4. For land divisions, the view corridor shall be established as part of the land division, either as
a tract or a permanent easement across common open space which shall be maintained for
public viewing benefit, recorded on the face of the plat, and located to create the largest and
most aesthetically pleasing view.

5. Where feasible and desirable, view corridors may be co-located with proposed or existing
public shoreline access.

F. Permitted Structures and Uses Within a View Corridor. The following new structures, uses and
landscaping and native vegetation plantings shall be permitted within a view corridor.

1. Areas provided for public access and recreational facilities, such as pedestrian and bicycle
pathways, playgrounds, viewing platforms and picnic areas.

2. Structures, including below-grade structures, where the slope of the subject property allows
unobstructed views of the shoreline over the structures from the street or park.

3. Landscape plantings, including required landscaping in setbacks and buffers, provided it is of
a size that will not obscure the view from the street or park to the shoreline at the time of
planting or upon reaching maturity. In the event of a conflict between required new landscaping
for site screening/buffering and view preservation, view preservation shall take precedence.

4. Native vegetation plantings to maintain or restore shoreline habitat areas; provided, that such
plantings shall be of a size that will not obscure the view from the street or park to the shoreline
at the time of planting or upon reaching maturity.
5. Open fencing that is designed not to obscure the view from the street or park to the shoreline.

6. Electric distribution lines (excluding major electric transmission lines), cable and telephone lines and similar wire facilities are permitted, but for new or expanded development and redevelopment these should be located underground whenever feasible.

7. Surface parking that is permitted under Section 16.08.300(B), and which does not obscure the view from the street or park to the shoreline.

G. Dedication.

1. For land divisions and site plans, the view corridor shall be established as part of the land division or site plan approval, either as a tract or as a permanent easement across common open space for public viewing benefit, and shall be recorded on the face of the plat or site plan.

2. The applicant shall execute a covenant or similar legal agreement, in a form acceptable to the city attorney, to maintain and protect the public view corridor. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.370 Public access design standards.

A. New and expanded public access to the shoreline that is intended to meet the requirements of this chapter shall comply with the following standards:

1. Walkways shall be designed and sited to minimize the amount of native vegetation removal, impact to existing trees, soil disturbance, and disruption of existing habitat corridor structures and functions, according to the requirements in Sections 16.08.120(B) and 16.08.140.

2. Where feasible, walkways that are adjacent to other public shoreline access areas such as street ends, walkways, parks and other connections shall maximize the public nature and connectivity of the access.

3. Walkways shall minimize intrusions of privacy for occupants and residents of the site, by avoiding locations directly adjacent to residential windows and outdoor private open spaces and recreational amenities.

4. Public access shall be indicated by signs installed at each entrance to the public pedestrian walkway, and on the abutting rights-of-way that lead into the development site. Signs shall be
located for maximum visibility. Design, materials and mounting requirements shall meet city specifications.

5. All public pedestrian walkways and access points shall be in a minimum six-foot-wide easement or tract, or similar legal agreement in a form acceptable to the city attorney, and recorded on the plat or site plan. Easements extending through individual lots shall have required notice on title. Land survey information for these purposes shall be provided by the applicant in a format approved by the shoreline administrator.

B. Operation and Maintenance Requirements. The following operation and maintenance requirements apply to all new and expanded public pedestrian walkways and shoreline access points required under this section:

1. Hours of Operation. Unless otherwise established by the shoreline administrator, all required pedestrian walkways and shoreline access points shall be open to the public between dawn and dusk.

2. The applicant is permitted to secure the subject property outside of the hours of operation by a security gate, subject to the following provisions:

3. The gate shall remain unlocked and in an open position during hours of permitted public access.

C. Signage shall be included noting the hours of permitted public access.

D. The city planning director is authorized to approve temporary closures for maintenance and repair, or if hazardous conditions are present that would affect public safety.

E. No certificate of occupancy or final inspection approval shall be issued until all required public access improvements are completed.

F. The applicant, and its successor or assigns, shall be responsible for the completion and maintenance of all waterfront public walkways and access points and signage on the subject property, and shall keep these in a safe, accessible and functioning condition. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)
Article V. Shoreline Modifications

16.08.380 Shoreline modifications—General requirements.

The standards in this section apply to all shoreline modifications in the city’s shoreline jurisdiction.

A. All shoreline modifications shall be reviewed in accordance with the avoid, minimize, mitigate sequence in Sections 16.08.120(B) and 16.08.140.

B. Shoreline modifications shall not individually or cumulatively result in a net loss of ecological functions or habitat. Preference shall be given to those types of shoreline modifications that have a lesser impact on ecological functions and require less mitigation of identified impacts resulting from shoreline modifications.

C. During construction or repair work on a shoreline stabilization measure, areas of temporary disturbance within the shoreline buffer or buffer setback shall be restored as quickly as possible to their predisturbance condition or better.

D. Shoreline banks and bluffs (steep slopes) within the shoreline buffer and setback shall not be modified to enlarge buildable area, or to provide or enhance physical support for new development or redevelopment, unless there is no other feasible method to prevent a regulatory taking of the property based on its zoning and environment designation of the property, in which case a shoreline variance shall be required. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.390 Shoreline modifications prohibited in all environments.

The following shoreline modifications are prohibited in all shoreline environments, unless otherwise specified elsewhere in this chapter:

A. Boat haulouts and boat lifts; outside of a marina or other boating facility.

B. Boat houses and float plane houses.

C. Boat launches; outside of a marina, park or other approved boating facility.

D. Covered or enclosed moorage.

E. Dikes and levees.

F. Docks and piers; outside of a marina, park or other approved boating facility.
G. Dredge spoil disposal; for activities other than habitat restoration or enhancement.

H. Fill; for activities other than habitat restoration or enhancement.

I. Floats.

J. In-stream structures; for activities other than public access, public utilities or habitat restoration and enhancement.

K. Removal of gravel for flood control.

L. Weirs. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.400 Shoreline modifications table.

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<td>The table is coded according to the following legend:</td>
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<td>P = Permitted, when meeting requirements for the specific modification and shoreline environment; may be subject to shoreline substantial development permit or shoreline exemption requirements.</td>
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<td>C or MC = Conditional use or minor conditional use, when approved by the city and the Department of Ecology. See Chapter 16.09 for conditional use and minor conditional use permit requirements.</td>
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<td>X = Prohibited; the use is not eligible for a conditional use permit or variance.</td>
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<td>N/A = Not applicable in the specific environment, due to the intrinsic nature of the modification. For example, a buoy can only be located in an aquatic environment.</td>
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See Section 16.08.390 for modifications prohibited in all shoreline environments.

See Chapter 16.09 for permit application and processing requirements.

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<td>P</td>
<td>MC</td>
<td>C</td>
<td>P&lt;sup&gt;1&lt;/sup&gt;</td>
</tr>
<tr>
<td>Shoreline stabilization measures&lt;sup&gt;3&lt;/sup&gt;—hard</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>MC</td>
<td>C</td>
<td>P&lt;sup&gt;1&lt;/sup&gt;</td>
</tr>
<tr>
<td>Structural flood hazard reduction measures</td>
<td>MC</td>
<td>N/A</td>
<td>MC</td>
<td>MC</td>
<td>X</td>
<td>N/A</td>
</tr>
</tbody>
</table>

<sup>1</sup> If a modification project includes work above the ordinary high water mark as well as in the aquatic environment, and if the proposed modification is conditional in the affected upland environment(s), the entire modification project shall be reviewed as a conditional use.

<sup>2</sup> Refer to Section 16.08.440 for standards on maintenance dredging vs. new dredging activity.

<sup>3</sup> Refer to Section 16.08.420 for requirements on soft vs. hard stabilization measures, and necessary supporting documentation.

(Ord. 2012-10 § 2 (Exh. A) (part), 2012)

**16.08.410 Piers, docks and boat launches.**

New or expanded piers, docks, or boat launches are prohibited outside of boating facilities such as marinas, public boat launches and day use recreational facilities, public and private parks, and boat repair and maintenance operations. Existing piers, docks and boat launches outside of boating facilities and boat repair and maintenance operations may be maintained, repaired and redeveloped in compliance with state regulations and city and state permitting requirements. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)
### 16.08.420 Shoreline stabilization measures.

A. The following table is a summary of the key requirements found in this section:

<table>
<thead>
<tr>
<th>Shoreline Stabilization Measures</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structural vs. nonstructural methods</td>
<td>Nonstructural methods are preferred, but if there is demonstrated need for structural stabilization measures to protect a principal use or structure then soft structural stabilization must be considered prior to hard structural stabilization.</td>
</tr>
<tr>
<td>New or enlarged hard or soft shoreline structural measures (including additions and increases in size such as height, width, length or depth)</td>
<td>A geotechnical report is required to demonstrate need, and shall include design recommendations for minimizing structural measures and impacts to natural sediment transport. For hard structural proposals, the geotechnical report shall also include an evaluation of the feasibility of soft vs. hard shoreline structural measures. It must be demonstrated that the erosion is being caused by waves, tides or currents, and not by loss of upland vegetation or drainage issues. Mitigation for habitat impacts shall be required.</td>
</tr>
<tr>
<td>Major repair or replacement of hard or soft shoreline structural measures</td>
<td>A major repair is a collapsed or eroded structure or a demonstrated loss of structural integrity, or repair of toe rock or footings, and the repair is over more than fifty percent of the structure’s continuous linear length; or A major repair is repair to more than seventy-five percent of the linear length of the structure that involves replacement of top or middle course rocks or similar repair. A geotechnical report is required to demonstrate need, and shall include design recommendations for minimizing structural measures and impacts to natural sediment transport. For hard structural proposals, the geotechnical report shall also include an evaluation of the feasibility of soft vs. hard shoreline structural measures.</td>
</tr>
<tr>
<td>Minor repair of hard or soft shoreline</td>
<td>Does not meet threshold for new, enlarged, major repair or</td>
</tr>
</tbody>
</table>
Shoreline Stabilization Measures | Requirements
---|---
stabilization measures | replacement measures.
No geotechnical report or needs assessment required.

B. All new stabilization measures, and major repairs, replacement, and enlargements to existing structural stabilization shall comply with the requirements of Sections 16.08.120(B) and 16.08.140.

C. New or Enlarged Structural Shoreline Stabilization.

1. For the purposes of this section, enlargement of an existing structural stabilization method shall include additions to increases in size (such as height, width, length or depth).

2. New or enlarged structural shoreline stabilization measures shall only be allowed landward of the ordinary high water mark of Liberty Bay.

3. The city shall only approve a new or enlarged hard or soft structural stabilization measure to protect a principal structure or shoreline use in the following circumstances:

   a. For new or enlarged hard structural stabilization, conclusive evidence, documented by a geotechnical analysis, that the primary structure or shoreline use is in danger from shoreline action caused by waves, tidal action or currents. The analysis must show that there is a significant possibility that the structure will be damaged within three years or the shoreline use will be impaired as a result of shoreline erosion in the absence of hard structural stabilization measures, or where waiting until the need is immediate would result in the loss of opportunity to use measures that would avoid impacting ecological functions.

   b. For new soft structural stabilization measures, provide narrative demonstrating need for structural stabilization to protect the principal structure or shoreline use.

   c. For hard and soft stabilization proposals, it must be demonstrated that erosion is not due to loss of upland vegetation, natural bluff sloughing, or on-site drainage.

D. Replacement or Major Repair of Hard Structural Shoreline Stabilization.

1. For the purposes of this section, major repair or replacement of a hard shoreline stabilization measure shall include the following activities:
a. A repair needed to a portion of an existing stabilization structure that has collapsed, eroded away or otherwise demonstrated a loss of structural integrity, or in which the repair work involves modification of the toe rock or footings, and the repair is fifty percent or greater than the linear length of the shoreline stabilization measure; or

b. A repair to more than seventy-five percent of the linear length of the existing hard structural shoreline stabilization measure in which the repair work involves replacement of top or middle course rocks or other similar repair activities.

2. A major repair or a replacement of an existing hard structural stabilization measure with another hard structural stabilization measure shall only be approved to protect a principal structure, or shoreline use if not associated with a principal structure, if conclusive evidence is provided, documented by a geotechnical analysis, that the primary structure or use would be in danger from shoreline erosion caused by waves, tidal action or currents without the existing hard structural stabilization, and the repair or replacement proposal is consistent with the requirements of Section 16.08.380(B).

E. Minor Repairs of Hard Shoreline Stabilization. Minor repairs of hard shoreline stabilization include those maintenance and repair activities not otherwise addressed in the subsection above. The city shall allow minor repair activities to existing hard structural shoreline stabilization measures.

F. Repair or Replacement of Soft Shoreline Stabilization and Submittal Requirements.

1. The city shall allow repair or replacement of soft shoreline stabilization.

2. The applicant shall provide design recommendations for minimizing impacts and ensuring that the replacement or repaired soft stabilization measure is designed, located, sized and constructed to ensure no net loss of ecological functions; and

G. A new, repaired or replaced soft or hard shoreline stabilization measure shall not result in significant adverse impacts to adjacent or down-current properties from changes in sedimentation or tidal impacts.

H. The city may require peer review by a civil engineer for proposed designs for new hard shoreline stabilization. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)
16.08.430 Breakwaters, jetties and groins.

Breakwaters, jetties and groins are not permitted in any shoreline environment unless associated with moorage in a marina or port facility, public access or public recreation facility, public shoreline stabilization, or another specific public purpose. In addition to compliance with the other requirements of this chapter, an approved breakwater, jetty or groin must meet the following criteria. A shoreline conditional use permit is required.

A. The structure is essential to the safe operation of a moorage or marina facility or the maintenance of other public water-dependent uses, such as a swimming beach.

B. The location, size, design and accessory components of the moorage or marina facility or public water-dependent use to be protected shall not result in undesirable or adverse impacts to the shoreline and aquatic environment, navigation, or nearby waterfront properties.

C. All breakwaters, jetties or groins must be designed and constructed under the supervision of a civil engineer or other qualified engineering professional. As part of the application, the engineer shall demonstrate based on accepted industry engineering standards or guidelines that the structure is the smallest feasible structure to meet the requirements of this chapter and accomplish its purpose, and that the design will result in the minimum feasible adverse impacts upon the environment, nearby waterfront properties, and navigation. Peer review of the proposed design may be required.

D. Breakwaters may only use floating or open-pile designs unless such a design is demonstrated to not be practicable. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.440 Dredging and dredge material disposal.

A. A shoreline conditional use permit is required for new dredging proposals, i.e., dredging of areas that have not previously been dredged under state and/or federal dredging approvals. A shoreline substantial development permit is required for maintenance dredging of areas that have previously received state and/or federal dredging permits, such as navigational channels and marina basins.

Maintenance dredging qualifies as normal maintenance when:

1. There is a designated and authorized facility, such as a federal navigational channel or berth, authorized by a previously issued shoreline conditional use permit or shoreline substantial development permit;
2. The dredging is limited to restoring previously existing contours within the channel or berth as approved in the previous permit, and does not expand the channel or berth; and

3. The person or entity proposing the maintenance dredging demonstrates that the work is exempt to the satisfaction of the shoreline administrator. A shoreline exemption application is required.

B. New or expanded development shall be sited and designed to avoid or, if that is not feasible, to minimize the need for new and maintenance dredging.

C. Dredging waterward of the OHWM may be allowed only for the following purposes:

1. To establish, expand, relocate, maintain or reconfigure navigation channels and basins where necessary for assuring safe and efficient accommodation of navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided.

2. To establish, expand, relocate, maintain or reconfigure private or public marina facilities, water-dependent uses, or other public access uses.

3. Maintenance dredging of established navigation channels and basins shall be restricted to maintaining previously dredged and/or existing authorized location, depth and width consistent with subsection A of this section; otherwise, the project shall be reviewed as a new or expanded dredging application.

4. To restore ecological functions, provided the applicant can demonstrate a clear connection between the proposed dredging and the expected environmental benefits to water quality or degraded tidelands or submerged lands, native vegetation, and/or critical saltwater habitat.

5. To obtain fill or construction material when necessary for the restoration of ecological functions. Dredging waterward of the OHWM for the primary purpose of obtaining fill or construction materials is not permitted in other circumstances. When allowed, the site where the fill is to be placed must be located waterward of the OHWM. The fill must be located with a significant in-water habitat enhancement or restoration project.

D. Dredging that is allowed under subsection B of this section shall meet the requirements of Sections 16.08.120 and 16.08.140.
E. Dredge materials may be deposited waterward of the OHWM of Liberty Bay only when the material is considered suitable under, and the activity is conducted in accordance with, the dredged material management program of the state department of natural resources, and in accordance with applicable state and federal permit authorizations, and is associated with a permitted in-water habitat enhancement or restoration project. Dredge materials may not be deposited in the floodway or waters of Dogfish Creek.

F. All permitted dredging must be the minimum area and volume necessary to accommodate the existing or proposed use, and must be implemented using practices that do not exceed state water quality standards.

G. Dredging projects shall be designed and carried out to prevent direct and indirect impacts on adjacent properties. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

16.08.450 Fill.

A. A shoreline conditional use permit is required for fill.

B. Fills landward and waterward shall be permitted only if the fill:

1. Is necessary to support: water-dependent use; public access; cleanup and disposal of contaminated sediments as part of an interagency environmental cleanup plan; expansion or alteration of transportation facilities of statewide significance currently located on the shoreline, and then only upon a demonstration that alternatives to fill are not feasible; mitigation action; environmental restoration; or a beach nourishment or enhancement program;

2. Will not result in significant damage to water quality, fish or other species, or net loss of aquatic habitat or shoreline habitat including critical saltwater habitat; and

3. Will not adversely alter natural drainage, currents, sedimentation, or circulation patterns.

C. Fill shall not be permitted in regulated wetlands or streams.

D. Refuse disposal sites, solid waste disposal sites and sanitary fills are prohibited in the shoreline zone.

E. In addition to the above requirements, a proposal to fill shall also comply with the requirements of Chapter 15.35, Grading and Clearance. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)
16.08.460 Tree and vegetation maintenance and removal.

To maintain the ecological functions that trees provide for the shoreline environment, any proposal to remove trees or other vegetation in the shoreline buffer area or in an aquatic area shall be subject to the following requirements:

A. Significant native trees shall be retained in the shoreline buffer unless removal is required due to documented hazardous conditions, approved as part of a shoreline variance for reasonable use of property, or for approved shoreline access where no other feasible solution is available. In such circumstances, removal of significant native trees shall be subject to the requirements of subsection B of this section.

B. Removal, pruning, thinning, limbing or cutting of native trees or native vegetation within the shoreline buffer or in an aquatic area, with the exception of normal and routine tree and vegetation maintenance within rights-of-way, utility corridors, public access points and pathways, park and recreational facilities, existing landscaped areas, and public safety purposes, shall be subject to the following standards:

1. Existing native shoreline vegetation in an aquatic area or within a shoreline buffer shall be preserved and permanently protected, with limited exceptions to remove and/or maintain native vegetation to establish and maintain the following: water-dependent and water-related uses; public recreation and public access uses; city-approved public view corridors; and utilities and roads; or in the case of a documented hazardous condition or shoreline variance.

2. Proposed removal of native shoreline vegetation as described in subsection (B)(1) of this section shall comply with Sections 16.08.120(B) and 16.08.140. When approved projects will result in an unavoidable loss of native shoreline or aquatic vegetation within an aquatic area or a buffer area, mitigation shall be required to ensure no net loss of shoreline habitat value and functions. Additional conditions or restrictions may apply if removal is proposed on steep slopes or unstable soils.

3. Proposals to remove, prune, thin, limb or cut trees or native vegetation within the shoreline buffer or in an aquatic area shall be subject to the standards of the city’s clearing and grading ordinance and critical areas ordinance, and may be subject to the findings of the city arborist regarding preservation of the health and appearance of the tree(s) and surrounding native
vegetation. Danger tree abatement may be achieved by felling or topping the tree. Habitat needs may require leaving the fallen tree in the riparian corridor or maintaining a high stump.

4. Nondestructive pruning or thinning of lateral branches to preserve or enhance views, or trimming, shaping, thinning or pruning of a tree necessary to its health and growth shall be consistent with the following standards:

   a. In no circumstance shall removal of more than one-fifth of the original crown or canopy be permitted.

   b. Pruning shall not include topping, stripping of branches or creation of an imbalanced canopy.

C. In addition to the requirements of subsections A and B of this section, a tree removal request shall be submitted in writing to the city prior to any native tree removal, and shall include information on the location, number, type and size of tree(s) being removed, and information on any replacement tree(s) or other vegetation to be planted.

D. Removal of nonnative or invasive vegetation within the shoreline buffer is permitted; provided, that the removal shall not cause damage to the buffer’s native vegetated habitat values and functions. Additional restrictions or conditions may apply if removal is proposed on steep slopes or unstable soils.

E. The city planning director may condition an approval for tree or native vegetation removal approval to require replacement trees, restoration of native vegetation, stabilization of soil and steep slopes, or other requirements as appropriate to protect shoreline habitat. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)

**16.08.470 Habitat restoration and enhancement activities.**

Habitat restoration activities include those shoreline habitat and natural systems enhancement projects that are proposed and conducted specifically for the purpose of establishing, restoring or enhancing habitat that supports or contributes to the welfare of priority species in the shoreline. Requirements for project impact mitigation are also addressed in Section [16.08.140](#).

A. Restoration of ecological functions and processes shall be carried out in accordance with a city-approved habitat restoration or enhancement plan and the requirements of this chapter. Activities within critical areas or their buffers shall also meet the requirements of the city’s critical areas ordinance.
B. All habitat restoration and enhancement activities shall protect the integrity of adjacent natural resources, including aquatic habitats and water quality, and shall be compatible with adjacent shoreline uses.

C. Long-term maintenance and monitoring shall be included in any habitat restoration or enhancement proposal.

D. Covered Activities. The following actions are allowed under this section:

1. Establishment or enhancement of native vegetation;

2. Removal of nonnative or invasive plants upland of the OHWM;

3. Conversion of existing hard structural shoreline stabilization to permitted soft shoreline stabilization, including associated clearing, dredging and filling necessary to implement the conversion; provided, that the primary purpose of such actions is clearly restoration of natural character and the ecological functions of the shoreline and that the actions are consistent with the requirements of this chapter. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)
Article VI. Nonconformances

16.08.480 Nonconforming shoreline uses and structures.

A. Structures and uses that were legally established prior to the effective date of this shoreline master program (Ordinance 2012-10), but that do not conform to the use and development regulations in Sections 16.08.180 through 16.08.320, shall be subject to the applicable requirements in subsections B through E of this section, unless the criteria of subsection F of this section can be met.

“Nonconforming” does not apply to uses or structures approved with a shoreline conditional use permit or a shoreline variance after the adoption of this shoreline master program, which shall be considered conforming for the purposes of this chapter.

B. If a structure or use is nonconforming according to this chapter, that structure or use shall be subject only to the nonconforming provisions of this chapter, and not the nonconforming provisions of any other part of the city code.

C. For the purposes of this section, “damage” shall refer to those impacts from sudden and unforeseeable events out of the property owner’s control, such as fires or windstorms, and shall not include the gradual deterioration of a structure due to lack of maintenance or repair.

D. Nonconforming Shoreline Uses.

1. A structure that houses a nonconforming use may not be expanded, redeveloped, or relocated unless the nonconforming use is eliminated.

2. The planning director may allow a nonconforming use within a structure or site to be replaced with another nonconforming use, upon determining that:

   a. The replacement use is less intensive and will result in reduced impacts to shoreline habitat and resources;

   b. The replacement use is consistent with the zoning code.

3. A nonconforming use shall be considered abandoned if it is discontinued for more than twelve months, and may not be resumed, unless the discontinuance was due to damage or destruction of the structure, in which case the nonconforming use may only be resumed in accordance with subsection E of this section.
4. An over-water or in-water structure which is being used for a nonconforming use may not be expanded or redeveloped unless the use is brought into conformance with the requirements of this chapter.

E. Nonconforming Shoreline Structures.

1. Routine maintenance and repair of legally established nonconforming structures is permissible. Repair in excess of fifty percent of a structure shall be considered restoration or rebuilding per Section 16.08.040.

2. A nonconforming structure that is relocated within the shoreline jurisdiction shall be brought into conformance with shoreline master program and zoning regulations in effect on the date of the proposed relocation.

3. Damage or Destruction of Nonconforming Structures. A nonconforming structure that is damaged or destroyed may be restored or rebuilt subject to the following requirements:

   a. The applicant shall apply for permits needed to restore or rebuild the structure within twelve months of the date when the damage occurred. The city council may extend this twelve-month period if extenuating circumstances (e.g., insurance litigation) have prevented the applicant from applying for permits;

   b. The restoration or rebuilding of the structure shall be complete within two years of permit issuance;

   c. If a structure located in a landslide hazard area is destroyed, it may be rebuilt only if the rebuilt structure is located outside of the landslide hazard area;

   d. The planning director may allow a destroyed nonconforming structure to be rebuilt at another nonconforming location on the same site, upon determining that the new location of the nonconforming structure is less nonconforming and will result in reduced impacts to shoreline habitat and resources than if the structure were to be rebuilt in the original location;

   e. The structure shall be restored or rebuilt in compliance with current building code requirements and other applicable city and state regulations;
f. All other requirements of this chapter and Chapter 16.09 shall be met; and

g. No net loss of shoreline habitat values or functions on the site or adjacent waters shall occur.

4. A nonconforming structure, or a structure (conforming or nonconforming) that contains a nonconforming use or uses, may be expanded or redeveloped with a shoreline variance subject to the following requirements:

a. No portion of the structure that is located over-water or in-water may be expanded or redeveloped;

b. Structures or other development shall not extend further waterward;

c. No other nonconformities shall be created or be increased;

d. A variance is not needed for any other purpose;

e. No additional or enlarged building footprint or new development area shall be located within fifty feet of the OHWM;

f. A redevelopment or expansion shall not be located within a landslide hazard area, flood hazard area or other critical area, or the buffer and setback required for such areas according to Chapter 16.20;

g. All other requirements of this chapter and Chapter 16.09 shall be met; and

h. No net loss of shoreline habitat values or functions on the site or adjacent waters shall occur.

5. A nonconforming structure that is removed other than for reasons of damage shall not be replaced unless it is brought into conformance with the requirements of this chapter.

F. If a property owner wishes to establish the status of a primary residential structure as conforming to the shoreline master program according to RCW 90.58.620, the criteria in subsections (F)(1) and (2) of this section must be met. Nothing in this subsection exempts any residential structure from the requirement that all future development, redevelopment, expansion or alteration of the structure shall
be in compliance with the provisions of this master program. Additionally, this subsection does not address other nonconformances that may exist according to the zoning code or other city regulations.

1. The owner shall provide evidence that demonstrates to the satisfaction of the planning director that the structure was legally permitted and built according to all city requirements in effect at the time of building permit approval; and

2. The structure shall not be located in a landslide hazard area. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)
Article VII. Conditional Uses and Variances

16.08.490 Conditional uses and variances.

A request for a shoreline conditional use permit or a shoreline variance shall be subject to the criteria of Chapter 173-27 WAC, and to the regulations in the city’s zoning ordinance, subdivision ordinance and critical areas ordinance. Where a conflict exists between regulations, the more restrictive shall apply. An application for a shoreline conditional use permit or a shoreline variance shall be processed according to the requirements of Chapter 16.09. In addition, the following criteria shall apply in all shoreline areas:

A. All development and uses indicated as conditionally permitted land uses in the relevant shoreline environment according to Section 16.08.190 shall require a shoreline conditional use permit.

B. A new or expanded use or development which is otherwise permitted, but which would significantly impair or alter the public’s access to or use of the waters of Liberty Bay, shall require a shoreline conditional use permit.

C. A new or expanded use or development which by its intrinsic nature may have a significant ecological impact on shoreline ecological functions or shoreline resources at a particular location, whether or not the impacts can be mitigated, shall require a shoreline conditional use permit.

D. A new or expanded use or development that is proposed in critical saltwater habitat shall require a shoreline conditional use permit.

E. Development of an undeveloped legal shoreline lot that is nonconforming (i.e., a lot which because of its size, configuration, presence of critical areas or other reason cannot meet the requirements of the zoning code, critical areas ordinance or shoreline master program requirements for development setbacks and buffers) shall require a shoreline variance. All development regulations and requirements that can be met without a shoreline variance shall be met. Development allowed through a shoreline variance shall be the minimum allowed to prevent a regulatory taking of the lot based on its zoning and shoreline environment.

F. Nonconforming lots within the shoreline zone are not eligible for a shoreline variance to allow further subdivision.
G. Any habitat impacts resulting from development permitted under a shoreline conditional use permit or a shoreline variance shall be mitigated to ensure no net loss of shoreline habitat or ecological function. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)
Article VIII. Enforcement

16.08.500 Enforcement.

A. Authorization. The city planning director is authorized to enforce this chapter, and to designate city employees as authorized representatives of the city to investigate suspected violations of this chapter, and to issue orders to correct violations and notices of infractions. In the event of a violation of this chapter, the planning director shall be authorized to require complete or partial restoration of shoreline habitat including compensatory mitigation to rectify any net loss to its function and values.

B. Right of Entry. When it is necessary to make an inspection to enforce the provisions of this chapter, or when the city planning director or his/her designee has reasonable cause to believe that a condition exists on property which is contrary to, or in violation of this chapter, the planning director or his/her designee may enter the property for the purposes of inspection.

C. Stop Work Orders. Whenever any work or activity is being done contrary to the provisions of this chapter or conditions of an approved permit, the city planning director or his/her designee may order the work stopped by notice in writing, served on any persons engaged in doing or causing such work to be done, or by posting the property, and any such persons shall forthwith stop such work or activity until authorized by the city planning director or his/her designee to proceed.

D. Revocation of Permits or Variances. Any permit or variance granted in accordance with the terms of this title may be revoked if any of the conditions or terms of such permit or variance are violated, or if any law or ordinance is violated in connection therewith. Any such revocation shall be processed as a Type III application under the provisions of Title 19.

E. Penalties. The violation of any provision of this chapter shall constitute a civil and criminal infraction. Each violation shall constitute a separate infraction for each and every day or portion thereof during which the violation is committed, continued or permitted. Every person convicted by the municipal court of a violation of the criminal provisions, or the provisions of this chapter, shall be punished by a fine of not more than five thousand dollars or imprisonment in the county jail for a period not to exceed one year, or both such fine and imprisonment.

F. Other Enforcement Actions. Violations under this chapter may be subject to additional enforcement action according to other city enforcement regulations, including but not limited to those in the critical areas ordinance and zoning code. (Ord. 2012-10 § 2 (Exh. A) (part), 2012)
City of Poulsbo Critical Areas Ordinance – SMP Regulations

The following sections of PMC 16.20, Critical Areas Ordinance (Ordinance 2007-24) shall be implemented in shoreline critical areas and their buffers according to the requirements of PMC 16.08:

Article II. Wetlands

16.20.205 Purpose.

This article applies to all regulated uses within, or adjacent to, areas designated as wetlands, as categorized in Section 16.20.215. Under the conditions of this article, the city may deny development proposals that would irreparably impact regulated wetlands. The intent of this article is to:

A. Achieve no net loss of wetland acreage, functions and values. Mitigation measures, as conditions of permits, must have a reasonable expectation of success;

B. Plan wetland uses and activities in a manner that allows property holders to benefit from wetland property ownership wherever allowable under the conditions of this article and chapter; and

C. Preserve natural flood control, stormwater storage and drainage or stream flow patterns. (Ord. 2007-24 § 2 (part), 2007)

16.20.210 Wetland categories.

Wetlands are those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturation soil conditions. Wetlands generally include swamps, estuaries, marshes, bogs, and similar areas. For regulatory purposes, wetland delineations shall be determined by using the Washington State Wetland Identification and Delineation Manual, March 1997, or as amended hereafter. The city of Poulsbo uses the Department of Ecology’s Washington State Wetland Rating System for Western Washington, 2004, or as amended hereafter, to categorize wetlands for the purposes of establishing wetland buffer widths, wetland uses and replacement ratios for wetlands. This system consists of four wetland categories generally designated as in Section 16.20.115. (Ord. 2007-24 § 2 (part), 2007)


A. Regulated Wetlands.

1. Category I Wetlands. Category I wetlands are those that: (a) represent unique or rare wetland types; or (b) are more sensitive to disturbance than most wetlands; or (c) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (d) provide a high level of function. Category I wetlands include estuarine wetlands larger than one acre, bogs, mature and old-growth wetlands over one acre, wetlands in coastal lagoons and wetlands that perform many functions very well as demonstrated by a score of over seventy points using the DOE rating system.

2. Category II Wetlands. Category II wetlands are difficult, though not impossible, to replace, and provide a high level of function. Category II wetlands include estuarine wetlands smaller than one acre or disturbed and larger than one acre and wetlands that...
perform functions well as demonstrated by a score of fifty-one to sixty-nine points using the DOE rating system.

3. Category III Wetlands. Category III wetlands are wetlands with a moderate level of function as demonstrated by a score of thirty to fifty points using the DOE rating system.

4. Category IV Wetlands. Category IV wetlands have the lowest level of function as demonstrated by a score of less than thirty points on the DOE rating system and are often heavily disturbed.

5. Wetlands intentionally created from non-wetland areas to mitigate conversion of other wetlands.

B. Non-regulated Wetlands.

1. Created Wetlands. Wetlands created intentionally from a non-wetland site that were not required to be constructed as mitigation for adverse wetland impacts. These may include, but are not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment ponds, farm ponds not contiguous, as defined in this chapter, and landscape amenities.

2. Recent Road Construction-Related Wetlands. Wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. The applicant shall bear the burden of proving that the wetland meets these criteria. (Ord. 2007-24 § 2 (part), 2007)

16.20.220 Application requirements.

A. Application Procedures for New Development. Any new development containing a regulated wetland or its buffer, or proposed within the largest potential wetland buffer width, shall provide the special reports listed below, as required by the department, prior to any development authorization by the department:

1. Wetland delineation report (Section 16.20.725);

2. Wetland mitigation report (Section 16.20.725); and

3. Erosion and sedimentation control measures as required by Poulsbo Municipal Code construction and development standards contained in Chapter 12.02.

The director may require additional reports or information to further identify potential impacts to any part of the environment. (Ord. 2007-24 § 2 (part), 2007)

16.20.225 Determination of wetland boundaries.

A. The applicant shall be responsible for hiring a certified wetlands specialist to determine the wetland boundary through a field survey. This specialist shall stake or flag the wetland boundary. For all new development, and as required by the director, this line shall be surveyed by a professional land surveyor licensed in the state of Washington or recorded using a differential global positioning system. In the event that a global positioning system is used, wetland boundary information shall be provided to the city in an electronic data format acceptable to the city. The regulated wetland boundary and regulated buffer shall be identified on all grading, landscaping, site, utility or other development plans submitted in support of the project.

B. Where the applicant has provided a delineation of a wetland boundary, the director may verify the wetland boundary at the cost of the applicant, and may require that adjustments to the boundary be made by a wetlands specialist. (Ord. 2007-24 § 2 (part), 2007)
16.20.230 Development standards.

For the purpose of this chapter, a regulated wetland and its buffer is a critical area.

A. Buffers. Buffers shall remain as undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional values.

Any buffer enhancement and/or limited view clearing activity must be reviewed and approved by the director. No refuse shall be placed in the buffer.

B. Buffer Widths. All regulated wetlands shall be surrounded by a buffer as follows:

<table>
<thead>
<tr>
<th>Wetland Category and Characteristics</th>
<th>Buffer Width Standards</th>
<th>Other Development Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category I</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Natural heritage wetlands</td>
<td>250 feet</td>
<td></td>
</tr>
<tr>
<td>Bog</td>
<td>250 feet</td>
<td></td>
</tr>
<tr>
<td>Estuarine</td>
<td>200 feet</td>
<td></td>
</tr>
<tr>
<td>Coastal lagoon</td>
<td>200 feet</td>
<td></td>
</tr>
<tr>
<td>Habitat score from 29 to 36 points</td>
<td>300 feet</td>
<td></td>
</tr>
<tr>
<td>Habitat score from 20 to 28 points</td>
<td>150 feet</td>
<td></td>
</tr>
<tr>
<td>Category I wetlands not meeting any of the criteria above with a habitat score less than 20 points</td>
<td>100 feet</td>
<td>See subsections E, F, G and H of this section relating to buffer reduction, averaging, decreased buffer provisions and increased buffer provisions.</td>
</tr>
<tr>
<td>Category II</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Estuarine</td>
<td>150 feet</td>
<td></td>
</tr>
<tr>
<td>Habitat score from 29 to 36 points</td>
<td>300 feet</td>
<td></td>
</tr>
<tr>
<td>Habitat score from 20 to 28 points</td>
<td>150 feet</td>
<td></td>
</tr>
<tr>
<td>Category II wetlands not meeting any of the criteria above with a habitat score less than 20 points</td>
<td>100 feet</td>
<td></td>
</tr>
<tr>
<td>Category III</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Habitat score from 20 to 28 points</td>
<td>150 feet</td>
<td></td>
</tr>
</tbody>
</table>
### Category III wetlands not meeting any of the criteria above with a habitat score less than 20 points

- **80 feet**

### Category IV

- **50 feet**

### Small Isolated Wetlands

- Wetlands less than or equal to 1,000 square feet; provided, that the wetland is not associated with a riparian corridor or is not part of a wetland mosaic, or does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife.

- No required buffer, except as needed to protect wetland functions. Wetland may be impacted; provided, that mitigation is provided to assure no net loss of critical area function. Wetland delineation and mitigation reports required. Mitigation may be provided on- or off-site, provided mitigation must occur within the same watershed.

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**D. Buffer Measurement.** All buffers shall be measured on a horizontal plane from the regulated wetland edge as marked in the field by the wetlands specialist.

**E. Special Conditions for Reduction in Buffer Width.** Buffers for Category IV wetlands and Category I, II, or III wetlands that score less than twenty points for habitat may be reduced by twenty-five percent if all of the determined mitigation measures or alternate mitigation measures, as applicable and as approved by the director, are applied to address the types of disturbances listed in Table 16.20.230B.

### Table 16.20.230B —Examples of Measures to Minimize Impacts to Wetlands from Different Types of Activities

<table>
<thead>
<tr>
<th>Examples of Disturbances</th>
<th>Activities and Uses that Cause Disturbances</th>
<th>Examples of Measures to Minimize Impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lights</td>
<td>Parking lots, warehouses, commercial, manufacturing, residential areas</td>
<td>Direct lights away from wetland.</td>
</tr>
<tr>
<td>Noise</td>
<td>Manufacturing, commercial, residential areas</td>
<td>Locate activity that generates noise away from wetland.</td>
</tr>
<tr>
<td>Toxic runoff*</td>
<td>Parking lots, roads, manufacturing, commercial, residential areas, landscaping</td>
<td>Route all new untreated runoff away from wetland while ensuring wetland is not dewatered. Establish covenants limiting use of pesticides within 150 feet of wetland. Apply integrated pest management.</td>
</tr>
<tr>
<td>Stormwater</td>
<td>Parking lots, roads,</td>
<td>Retrofit stormwater detention and</td>
</tr>
<tr>
<td>Runoff</td>
<td>Manufacturing, residential areas, commercial, landscaping</td>
<td>Treatment for roads and existing adjacent development. Prevent channelized flow from lawns that directly enter the buffer.</td>
</tr>
<tr>
<td>--------</td>
<td>----------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Change in water regime</td>
<td>Impermeable surfaces, lawns, clearing and grading</td>
<td>Infiltrate or treat, detain and disperse into buffer new runoff from impervious surfaces and new lawns.</td>
</tr>
<tr>
<td>Pets and human disturbance</td>
<td>Residential areas</td>
<td>Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place wetland and its buffer in a separate tract.</td>
</tr>
<tr>
<td>Dust</td>
<td>Clearing and grading</td>
<td>Use best management practices to control dust.</td>
</tr>
</tbody>
</table>

*These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present.

F. Buffer Width Averaging. Buffer widths for Category I, II and III wetlands may be modified by the director for a development proposal by averaging buffer widths. The director may allow wetland buffer averaging where all of the following can be demonstrated through a wetland report:

1. That the wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;
2. All of the mitigation measures included in Table 16.20.230B are applied. Alternate mitigation measures, as approved by the director, may be applied to address the types of disturbances described in Table 16.20.230B;
3. That the total area contained within the buffer after averaging is not less than that contained within the buffer prior to averaging;
4. The buffer width has not been reduced by more than twenty-five percent of the required buffer width at any point; and
5. Width averaging will not reduce the functions and values of the wetland.

G. Decreasing Buffer Widths. The director may decrease the buffer widths for Category I, II and III wetlands where all of the following can be demonstrated through a wetland report:

1. Wetland buffer width averaging as set forth in this chapter is unfeasible. Decreasing wetland buffer widths cannot be used in conjunction with wetland buffer averaging;
2. All of the mitigation measures included in Table 16.20.230B are applied. Alternate mitigation measures, as approved by the director, may be applied to address the types of disturbances described in Table 16.20.230B;
3. The project application includes, as applicable, a wetland report or habitat management plan using native vegetation and other mitigations as appropriate for the
Appendix A – City of Poulsbo Critical Areas Regulations referenced by SMP

proposed project which substantiates that an enhanced buffer will improve the functional attributes of the buffer to provide additional protection for functions and values. The following actions shall be considered in combination with a buffer reduction:

- a. Infiltration of stormwater where soils permit;
- b. Retention of existing native or equivalent vegetation or revegetation on other portions of the site in order to offset habitat loss from buffer reduction; and
- c. Fencing and signage of the buffer edge.

4. Under no circumstances shall required buffer widths be reduced by more than twenty-five percent.

H. Increasing Buffer Widths. The director may increase buffer zone widths for a development project on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values. This determination shall be made only when the director demonstrates any one of the following through appropriate documentation:

1. The wetland site has known locations of endangered or threatened species for which a habitat management plan indicates a larger buffer is necessary to protect habitat values for such species;
2. The adjacent land is susceptible to severe erosion and erosion control measures alone will not effectively prevent adverse wetland impacts; and
3. The adjacent land on the development proposal site has minimal vegetative cover or slopes greater than thirty percent.

I. Building or Impervious Surface Setback Lines. A building or impervious surface setback line of fifteen feet is required from the edge of any wetland buffer. Minor structural or impervious surface intrusions into the areas of the setback such as fire escapes, open/uncovered porches, landing places, outside walkways, outside stairways and patios may be permitted if the department determines that such intrusions will not adversely impact the wetland. The setback shall be identified on a site plan.

J. Signs and Fencing of Wetlands. This subsection applies to those wetlands and their buffers that are within three hundred feet of regulated development activities:

1. Wetland buffers shall be temporarily fenced or otherwise suitably marked, as required by the director, between the area where the construction activity occurs and the buffer. Fences shall be made of a durable protective barrier and shall be highly visible. Silt fences and plastic construction fences may be used to prevent encroachment on wetlands or their buffers by construction. Temporary fencing shall be removed after the site work has been completed and the site is fully stabilized per city approval.
2. The director may require that permanent signs and/or fencing be placed on the common boundary between a wetland buffer and the adjacent land. Such signs will identify the wetland buffer. The director may approve an alternative method of wetland and buffer identification if it provides adequate protection to the wetland and buffer. (Ord. 2007-24 § 2 (part), 2007)

16.20.235 Additional development standards.

In addition to meeting the development standards in Section 16.20.230, the regulated uses identified below shall also comply with the standards of this section and other applicable state, federal and local ordinances.
A. Docks. Construction of a dock, pier, moorage, float or launch facility may be permitted subject to criteria in the city of Poulsbo shoreline master program, and where no existing buffer or wetland vegetation would be significantly altered.

B. Forest Practice, Class IV General, and Conversion Option Harvest Plans (COHPs). All timber harvesting and associated development activity, such as construction of roads, shall comply with the provisions of this chapter, including the maintenance of buffers around regulated wetlands.

C. Agricultural Restrictions. In all development proposals which would permit introduction of agricultural uses, damage to Category I, II and III regulated wetlands shall be avoided. These restrictions shall not apply to those regulated wetlands defined as grazed wet meadows, regardless of their classification, only where grazing has occurred within the last five years. Wetlands shall be protected by installation of fencing located not closer than the outer buffer edge.

D. Road/Street Repair and Construction. Public road or street repair, maintenance, expansion or construction may be allowed in wetlands or wetland buffers subject to the following development standards:

1. No other reasonable or practicable alternative exists and the road or street crossing serves multiple properties wherever possible;

2. Publicly owned or maintained road or street crossings provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.;

3. The road or street repair and construction are the minimum necessary to provide safe roads and streets; and

4. Mitigation shall be performed in accordance with specific project mitigation plan requirements.

E. Surface Water Management. Surface water discharges from stormwater facilities or structures may be allowed in wetland buffers when they are in accordance with the city’s stormwater management ordinance. The discharge shall not significantly increase or decrease the rate of flow and/or hydro-period, nor decrease the water quality of the wetland. Pre-treatment of surface water discharge through biofiltration or other best management practices (BMPs) shall be required.

F. Low Impact Development (LID). LID activities may be allowed within the buffer of Category III or IV wetlands only; provided, that:

1. No other location is feasible; and

2. The location of such facilities will not degrade the functions or values of the wetland.

G. Trails and Trail-Related Facilities. Construction of public trails and trail-related facilities, such as benches and viewing platforms, may be allowed in wetlands or wetland buffers pursuant to the following guidelines:

1. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas.

2. Trails and related facilities shall be planned to minimize removal of trees, soil disturbance and existing hydrological characteristics, shrubs, snags and important wildlife habitat.
3. Viewing platforms and benches, and access to them, shall be designed and located to minimize disturbances of wildlife habitat and/or critical characteristics of the affected wetland.

4. Trails and related facilities shall generally be located outside required buffers. Where trails are permitted within buffers, they should be located on the outer portion of the buffer and as far as possible from the wetland edge, except where wetland crossings or viewing areas have been approved.

5. Trails shall generally be limited to pedestrian use unless other more intensive uses, such as bike or horse trails, have been specifically allowed and mitigation has been provided. Trail width shall not exceed five feet unless there is a demonstrated need, subject to review and approval by the director. Trails shall be constructed with pervious materials unless otherwise approved by the director.

H. Utilities in Wetlands or Wetland Buffers.

1. The utility development authorized in Section 16.20.120 shall be allowed, subject to best management practices in wetlands and wetland buffers.

2. Construction of new utilities outside the road right-of-way or existing utility corridors or easements may be permitted in wetlands or wetland buffers, only when no reasonable alternative location is available and the utility corridor or easement meets the requirements for installation, replacement or vegetation and maintenance outlined below, and as required in the filing and approval of applicable permits and special reports (Article VII of this chapter) required by this chapter.

3. Sanitary Sewer or On-Site Sewage Utility. Construction of sanitary sewer lines or on-site sewage systems may be permitted in regulated wetland buffers only when: (a) the applicant demonstrates it is necessary to meet state and/or local health code minimum design standards (not requiring a variance for either horizontal setback or vertical separation), and/or (b) there are no other practicable or reasonable alternatives available and construction meets the requirements of this section. Joint use of the sanitary sewer utility easement by other utilities may be allowed.

4. New utility corridors or easements shall not be allowed when the regulated wetland or buffer has known locations of federal- or state-listed endangered, threatened or sensitive species, heron rookeries or nesting sites of raptors which are listed as state candidate or state monitor, except in those circumstances where an approved habitat management plan indicates that the utility corridor or easement will not significantly impact the wetland or wetland buffer.

5. New utility corridor or easement construction and maintenance shall protect the regulated wetland and buffer environment by utilizing the following methods:
   a. New utility corridors or easements shall be aligned when possible to avoid cutting trees greater than twelve inches in diameter at breast height (four and one-half feet), measured on the uphill side.
   b. New utility corridors or easements shall be revegetated with appropriate native vegetation at pre-construction densities or greater, immediately upon completion of construction, or as soon thereafter as possible, if due to seasonal growing constraints. The utility shall ensure that such vegetation survives.
   c. Any additional utility corridor or easement access for maintenance shall be provided as much as possible at specific points, rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than
fifteen feet; and shall be contiguous to the location of the utility corridor on the side away from the wetland. Mitigation will be required for any additional access through restoration of vegetation in disturbed areas.

d. The director may require other additional mitigation measures.

6. Utility corridor maintenance shall include the following measures to protect the regulated wetland and buffer environment:

a. Where feasible, painting of utility equipment such as power towers shall not be sprayed or sandblasted, nor should lead-based paints be used.

b. No pesticides, herbicides or fertilizers may be used in wetland areas or their buffers except those approved by the EPA and the Department of Ecology. Where approved, herbicides must be applied by a licensed applicator in accordance with the safe application practices on the label. (Ord. 2007-24 § 2 (part), 2007)

16.20.240 Wetland mitigation requirements.

A. Mitigation. All regulated development activities proposed to impact wetlands or buffers shall be mitigated according to this title subject to the following order:

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. Using one of the following mitigation types, listed in order of preference:

   a. Rectifying the impact by reestablishing, rehabilitating, or restoring the affected environment;

   b. Compensating for the impact by replacing or providing substitute resources or environments; or

   c. Compensating for the impact by improving the environmental processes that support wetland systems and functions;

4. Monitoring the impact and compensation and taking appropriate corrective measures; or

5. Combining any of the above measures to mitigate for individual actions.

B. Mitigation for Regulated Activities in Wetland Buffers. A specific mitigation plan is required and the requirements are provided in Section 16.20.725. Approval of the mitigation plan shall be signified by a notarized memorandum of agreement signed by the applicant and department director or designee, and recorded with the Kitsap County auditor. The agreement shall refer to all requirements for the mitigation project.

C. Mitigation for Regulated Activities in Wetlands. Compensatory mitigation shall be required for regulated activities that result in the loss of wetland acreage. A specific mitigation plan is required and the requirements are provided in Section 16.20.725.

1. A compensatory mitigation plan shall be completed. The applicant shall submit a detailed mitigation plan for compensatory mitigation to the department.

2. The detailed mitigation plan shall be prepared, signed, and dated by the wetlands specialist to indicate that the plan is in accordance with specifications as determined by the wetlands specialist. A signed original mitigation plan shall be submitted to the department.
3. Approval of the detailed mitigation plan shall be signified by a notarized memorandum of agreement signed by the applicant and department director or designee, and recorded with the Kitsap County auditor. The agreement shall refer to all requirements for the mitigation project.

4. The mitigation project shall be completed according to a schedule agreed upon between the department and the applicant as included in the wetland mitigation plan.

5. Wetland mitigation shall occur according to the approved wetland mitigation plan and shall be consistent with provisions of this chapter and title.

6. A wetlands specialist shall be on site during construction and plant installation phases of all mitigation projects.

7. On completion of construction for the wetland mitigation project, the wetlands specialist shall submit an as-built report to the department for review and approval.

D. Wetland Replacement Ratios.

1. The ratios presented here are based on the type of compensatory mitigation proposed (restoration, establishment, or enhancement). These types of compensatory mitigation are defined as follows:

   a. Restoration. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. For the purpose of tracking net gains in wetland acres, restoration is divided into:

      i. Reestablishment. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Activities could include removing fill material, plugging ditches, or breaking drain tiles. Reestablishment results in a gain in wetland acres.

      ii. Rehabilitation. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded wetland. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres.

   b. Establishment (Creation). The manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species. Establishment results in a gain in wetland acres.

   c. Enhancement. The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, floodwater retention or wildlife habitat. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres.
2. The following ratios appearing below in Table 16.20.240, Wetland Mitigation Replacement Ratios, as well as consideration of the factors listed in this section, shall be used to determine the appropriate amounts of restored, established, or enhanced wetland that will be required to replace impacted wetlands. The first number specifies the amount of wetland area requiring restoration, establishment, or enhancement and the second number specifies the amount of wetland area altered.

Table 16.20.240 — Wetland Mitigation Replacement Ratios

<table>
<thead>
<tr>
<th>Wetland Category</th>
<th>Reestablishment or Creation</th>
<th>Rehabilitation</th>
<th>1:1 Reestablishment or Creation (R/C) and Enhancement (E)</th>
<th>Enhancement Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Category IV</td>
<td>1.5:1</td>
<td>3:1</td>
<td>1:1 R/C and 2:1 E</td>
<td>6:1</td>
</tr>
<tr>
<td>All Category III</td>
<td>2:1</td>
<td>4:1</td>
<td>1:1 R/C and 2:1 E</td>
<td>8:1</td>
</tr>
<tr>
<td>Category II estuarine</td>
<td>Case-by-case</td>
<td>4:1</td>
<td>Case-by-case</td>
<td>Case-by-case</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rehabilitation of an estuarine wetland</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All other Category II</td>
<td>3:1</td>
<td>8:1</td>
<td>1:1 R/C and 4:1 E</td>
<td>12:1</td>
</tr>
<tr>
<td>Category I forested</td>
<td>6:1</td>
<td>12:1</td>
<td>1:1 R/C and 10:1 E</td>
<td>24:1</td>
</tr>
<tr>
<td>Category I other</td>
<td>4:1</td>
<td>8:1</td>
<td>1:1 R/C and 6:1 E</td>
<td>16:1</td>
</tr>
<tr>
<td>Category I natural heritage site</td>
<td>Prohibited</td>
<td>6:1</td>
<td>Not considered possible</td>
<td>Case-by-case</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rehabilitation of a natural heritage site</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Category I bog</td>
<td>Prohibited</td>
<td>6:1</td>
<td>Not considered possible</td>
<td>Case-by-case</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rehabilitation of a bog</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Category I estuarine</td>
<td>Prohibited</td>
<td>6:1</td>
<td>Case-by-case</td>
<td>Case-by-case</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rehabilitation of an estuarine wetland</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. The director may increase or decrease the ratios based on one or more of the following:
a. Replacement ratios may be increased under the following circumstances:
   i. Uncertainty exists as to the probable success of the proposed restoration or creation;
   ii. A significant period of time will elapse between impact and establishment of wetland functions at the mitigation site;
   iii. Proposed compensation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or
   iv. The impact was an unauthorized impact.

b. Replacement ratios may be decreased under the following circumstances:
   i. Documentation by the applicant provides more certainty that the proposed compensation actions will be successful. For example, demonstrated prior success with similar compensation actions as those proposed, and/or extensive hydrologic data to support the proposed water regime;
   ii. Documentation by the applicant demonstrates that the proposed compensation actions will provide functions and values that are significantly greater than the wetland being impacted; or
   iii. The proposed mitigation actions are conducted in advance of the impact and are shown to be successful.

E. Off-Site Compensatory Mitigation.
   1. Consideration for determining whether off-site mitigation is preferable includes, but is not limited to:
      a. On-site conditions do not favor successful establishment of the required vegetation type, or lack the proper soil conditions, or hydrology;
      b. On-site compensation would result in an aquatic habitat that is isolated from other natural habitats or severely impaired by the effects of the adjacent development;
      c. Off-site location is crucial to one or more species that are threatened, endangered, or otherwise of concern, and the on-site location is not;
      d. Off-site location is crucial to larger ecosystem functions, such as providing corridors between habitats, and the on-site location is not; and
      e. Off-site compensation has a greater likelihood of success or will provide greater functional benefits.

   2. When determining whether off-site mitigation is preferable, the value of the site-specific wetland functions at the project site, such as flood control, nutrient retention, sediment filtering, and rare or unique habitats or species, should be fully considered.

   3. When conditions do not favor on-site compensation, off-site compensatory mitigation should be located as close to the impact site as possible, at least within the same watershed, while still replacing lost functions.

F. Monitoring Requirements. The city of Poulsbo shall require monitoring reports on an annual basis for a minimum of five years and up to ten years, or until the director determines that the mitigation project has achieved success. The wetland mitigation plan shall provide specific criteria for monitoring the mitigation project. Criteria shall be project-specific and use best available science to aid the director in evaluating whether or not the project has achieved success. (Ord. 2007-24 § 2 (part), 2007)
16.20.310 Fish and wildlife habitat conservation area—Designations.
The following designations shall be used in classifying fish and wildlife habitat conservation areas:

A. South Fork of Dogfish Creek Stream/Riparian Corridor Conservation Areas. The following reaches of stream channel and riparian area of the South Fork of Dogfish Creek:
   1. Headwater. Between the northernmost extent of the drainage north of NE Lincoln Road and Wilderness Park;
   2. Canyon. Between the east end of Wilderness Park and SR 305;
   3. Urban/Commercial. Between SR 305 (culvert south of NE Lincoln Road) and culvert north of NE Liberty Road;
   4. Lower Forested. Between SR 305 (culvert north of NE Liberty Road) and the confluence with Dogfish Creek main stem, north of Bond Road; and
   5. Tidewater/Estuarine. Dogfish Creek between the junction of South Fork and Liberty Bay, including commercial and recreational shellfish areas, marine riparian areas, tidewater/estuarine habitats (herring, sand lance, and smelt spawning areas, kelp, and eelgrass), and juvenile salmonid rearing and feeding areas.

C. Saltwater Shorelines—Lakes Twenty Acres and Greater in Surface Area. Those saltwater shorelines and lakes defined as shorelines of the state in the Shoreline Management Act of 1971 and the city of Poulsbo shoreline master program, as now or hereafter amended. Shorelines include: Type 1 waters as set forth in WAC 222-16-031 (DNR Water Typing System), as now or hereafter amended; commercial and recreational shellfish areas; riparian areas (freshwater and marine), shoreline feeder bluffs, kelp and eelgrass beds; and herring, sand lance, and smelt spawning areas, and juvenile salmonid migratory corridors.

E. Wildlife Habitat Conservation Areas.
   1. Class 1 Wildlife Habitat Conservation Areas.
      a. Habitats recognized by federal or state agencies for federal- and/or state-listed endangered, threatened and sensitive species which presence is documented in maps or databases available to city of Poulsbo;
      b. Areas targeted for preservation by the federal, state and/or local government which provide fish and wildlife habitat benefits, such as important waterfowl areas identified by the U.S. Fish and Wildlife Service; and
      c. Areas that contain habitats and species of local importance.
   2. Class 2 Wildlife Habitat Conservation Areas.
      a. Habitats for state-listed candidate and monitored species which presence is documented in maps or databases available to the city of Poulsbo; and
      b. Habitats which include attributes such as comparatively high wildlife density; high wildlife species richness; significant wildlife breeding habitat, seasonal ranges or movement corridors of limited availability and/or high vulnerability. These habitats may include caves, cliffs, islands, meadows, old-growth/mature forest, snag-rich areas, talus slopes, and urban natural open space.

F. Areas of Rare Plant Species and High Quality Ecosystems. Areas of rare plant species and high quality ecosystems as identified by the Washington State Department of Natural Resources through the Natural Heritage Program. (Ord. 2007-24 § 2 (part), 2007)
16.20.315 Development standards.

The following development standards shall apply to fish and wildlife habitat conservation areas:

A. Buffers, Resource Management Areas (RMA) and Setbacks.

1. Buffers or resource management areas, and setbacks shall be maintained along all identified habitat conservation areas. Distances shall be measured from the ordinary high water mark (OHWM) or from the top of the bank where the OHWM cannot be identified. Two systems of riparian buffers or RMA dimensions are specified below, standard riparian buffers and stream-reach-specific RMA, based on characteristics and ecological functions of specific stream reaches.
   a. Standard riparian buffers shall be utilized for all streams for which there are no reach-specific riparian RMA.
   b. The use of the stream-reach-specific RMA is subject to reach specific protection measures. The letters listed after the RMA width correspond to the required protections listed at the end of Table 16.20.315.

2. Buffers and RMA shall be retained in at least the quality of their existing condition, or they may be enhanced by planting indigenous vegetation as approved by the director. Refuse shall not be placed in the buffer or RMA.

3. Alteration of buffers or RMA may be allowed for water-dependent and water-related activities subject to subsection (B)(3) of this section, and for development authorized by Article I of this chapter.

4. The buffers or RMA shall include streamside wetlands and/or functional floodplains which provide overflow storage for stormwaters, provide groundwater recharge or discharge functions, or provide seasonal shelter and food for fish. In braided channels, the OHWM or top of bank shall be defined so as to include the entire stream feature.

5. Where such features occur on the site, refer to Article II of this chapter, Wetlands, and Article IV of this chapter, Geologically Hazardous Areas, for additional development standards. In cases of differing standards, the more restrictive buffer or setback shall apply.

6. If applicable, the required buffers or RMA may meet specific yard setback requirements of Title 18 of this code.

7. Minor structural or impervious surface intrusions into the areas of the setback may be permitted if the director determines that such intrusions will not adversely impact the stream or riparian corridor. The director may require submittal of a special report that provides evidence that a proposed intrusion will not adversely impact the stream or riparian corridor.

8. New Development or Redevelopment. Standard buffers and resource management areas and setbacks for fish and wildlife habitat conservation areas shall be required as per the following table and text:
### Table 16.20.315
— Fish and Wildlife Habitat Conservation Area Development Standards

#### Standard Buffers and Setback Requirements

<table>
<thead>
<tr>
<th>Freshwater Streams</th>
<th>Buffer Width (feet, each side of stream)</th>
<th>Setback from RMA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream Water Type</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>200</td>
<td>25</td>
</tr>
<tr>
<td>3</td>
<td>150</td>
<td>25</td>
</tr>
<tr>
<td>4</td>
<td>100</td>
<td>25</td>
</tr>
<tr>
<td>5</td>
<td>75</td>
<td>25</td>
</tr>
</tbody>
</table>

#### Saltwater Shorelines and Lakes

<table>
<thead>
<tr>
<th>Shoreline Environment</th>
<th>Buffer Width (feet above ordinary high water mark)</th>
<th>Setback from RMA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban, semi-rural, conservancy, and lakes</td>
<td>100</td>
<td>25</td>
</tr>
</tbody>
</table>

#### Stream-Reach-Specific Resource Management Area and Setback Requirements

Additional protections are required for development subject to the following RMA requirements. Letters listed after the RMA width in parentheses indicate which protections are applicable to the particular stream reach. Protections are listed below.

<table>
<thead>
<tr>
<th>Stream Reach</th>
<th>Resource Management Area (feet, each side of stream)</th>
<th>Setback from RMA</th>
</tr>
</thead>
<tbody>
<tr>
<td>South Fork of Dogfish Creek</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RMA determined by stream reach as follows:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tidewater/estuary</td>
<td>100 (a, b)</td>
<td>25</td>
</tr>
<tr>
<td>Lower forested</td>
<td>75, or top of adjacent slope, whichever is greater (a, b, c, d)</td>
<td>25</td>
</tr>
<tr>
<td>Urban/commercial</td>
<td>50 for new development and redevelopment; extent of existing constraints for existing development (b, e)</td>
<td>25</td>
</tr>
<tr>
<td>Canyon</td>
<td>Park boundary or top of slope, whichever is closest to stream, otherwise 100 or top of steep slope, whichever is greater (a, b, f, g)</td>
<td>25</td>
</tr>
<tr>
<td>Headwater</td>
<td>50 (b, h, i)</td>
<td>25</td>
</tr>
</tbody>
</table>

#### Additional Protections Required for Properties within 300 Feet of the South Fork of Dogfish Creek
Appendix A – City of Poulsbo Critical Areas Regulations referenced by SMP

(a) Maintain a 50-foot no-cut area on both sides of stream, measured from outer edge of riparian area. Edge of riparian area shall be determined in the field by a qualified biologist where there is existing forest.
(b) Maximum stormwater treatment required for new construction; retrofit existing impervious areas with minimum stormwater treatment when expansions or alterations trigger a major site plan amendment.
(c) Maintain vegetation on hill slopes adjacent to stream.
(d) Retain curb along SR 305 to direct stormwater runoff, and provide stormwater treatment facilities prior to runoff entering creek.
(e) Pruning of riparian vegetation is prohibited. Removal of invasive species and replanting of existing buffer areas with native riparian vegetation may be required at the time of major site plan amendments or redevelopment.
(f) No tree cutting (except for removal of danger trees in accordance with Section 16.20.120(H)) on canyon side slopes and bottoms in Wilderness Park.
(g) No tree cutting (except for removal of danger trees in accordance with Section 16.20.120(H)) or land clearing along both sides of stream between Wilderness Park and SR 305.
(h) Retain forested wetland at downstream side of Lincoln Road.
(i) Require on-site infiltration of stormwater, where soils are appropriate, for new construction; establish downspout disconnection program for existing development.

<table>
<thead>
<tr>
<th>Wildlife Habitat Conservation Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class 1</td>
</tr>
<tr>
<td>Class 2</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Areas of Rare Plant Species and High Quality Ecosystems</th>
</tr>
</thead>
<tbody>
<tr>
<td>RMA widths and setbacks will be determined through a mandatory habitat plan.</td>
</tr>
</tbody>
</table>

D. Wildlife Habitat Conservation Areas.

1. Class 1 Wildlife Habitat Conservation Areas. All development permits on sites with known locations of Class 1 wildlife habitat conservation areas, or sites within two hundred feet to known locations of Class 1 wildlife habitat conservation areas, shall submit a habitat management plan as specified in Article VII of this chapter, Special Reports, for approval. In the case of bald eagles, an approved bald eagle management plan by the Washington State Department of Fish and Wildlife, meeting the requirements and guidelines of the bald eagle protection rules (WAC 232-12-292), as now or hereafter amended, shall satisfy the requirements for a habitat management plan. The habitat management plan shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation.

2. Class 2 Wildlife Habitat Conservation Areas. All major new development within Class 2 wildlife habitat conservation areas may require the submittal of a habitat management plan. The plan shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of natural vegetation. The requirement for a habitat management plan shall be determined during the development project review.
E. Signs and Fencing of RMAs. As a project condition of approval, the director or review authority may require the fish and wildlife habitat conservation area RMA be permanently fenced, signed or an acceptable alternative, to further protect the conservation area. Timing, location and type of installation shall be identified in the condition of approval.

16.20.320 Additional development standards.

A. Stream Crossings. Any private or public road expansion or construction which is allowed and must cross streams classified within this chapter shall comply with the following minimum development standards:

1. Bridges or bottomless culverts shall be required for all streams which support salmonids, unless a habitat management plan is submitted which demonstrates that other alternatives would not result in significant impacts to the fish and wildlife habitat conservation area and as determined appropriate through the hydraulics permit approval process administered by the Washington State Department of Fish and Wildlife;

2. Crossings shall not occur in salmonid spawning areas unless no other feasible crossing site exists. For new development proposals, if existing crossings are determined to adversely impact salmon spawning or passage areas, new or upgraded crossings shall be located as determined necessary through coordination with the Department of Fish and Wildlife;

3. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative placement exists;

4. Crossings shall not diminish flood-carrying capacity;

5. Crossings shall serve multiple properties whenever possible;

6. Where there is no reasonable alternative to providing a conventional culvert, the culvert shall be the minimum length necessary to accommodate the permitted activity.

C. Pesticides, Fertilizers and Herbicides. No pesticides, herbicides or fertilizers may be used in fish and wildlife habitat conservation areas or their RMAs, except those approved by the EPA and approved under a DOE water quality modification permit for use in fish and wildlife habitat conservation area environments. Where approved, herbicides must be applied by a licensed applicator in accordance with the safe application practices on the label.

D. Land Divisions and Land Use Permits. All proposed divisions of land and land use applications which include fish and wildlife habitat conservation areas shall comply with the following:

1. The land division approvals shall be conditioned so that all required buffers are dedicated as open space tracts, an easement or covenant encumbering the buffer. Such dedication, easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan.

G. Trails and Trail-Related Facilities. Construction of public and private trails and trail-related facilities, such as benches, interpretative centers, and viewing platforms, may be allowed in fish and wildlife habitat conservation areas or their RMAs pursuant to the following standards:

1. Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other such previously disturbed areas;

2. Trails and related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat;
3. Viewing platforms, interpretive centers, benches and access to them shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected conservation area;

4. Trails and related facilities shall generally be located outside required buffers. Where trails are permitted within buffers, they should be located on the outer portion of the buffer and as far as possible from the stream edge, except where stream crossings or viewing areas have been approved;

5. Trails shall generally be limited to pedestrian use unless other more intensive uses, such as bike or horse trails, have been specifically allowed and mitigation has been provided. Trail width shall not exceed five feet unless there is a demonstrated need, subject to review and approval by the planning director. Trails shall be constructed with pervious materials unless otherwise approved by the planning director.

H. Utilities. Placement of utilities within designated fish and wildlife habitat conservation areas and buffers may be allowed pursuant to the following standards:

1. The utility development authorized in Section 16.20.120 shall be allowed, subject to best management practices in fish and wildlife habitat conservation areas and buffers.

2. Construction of new utilities outside the road right-of-way or existing utility corridors or easements may be permitted in fish and wildlife habitat conservation areas or their buffers, only when no reasonable alternative location is available and the utility corridor or easement meets the requirements for installation, replacement or vegetation and maintenance outlined below, and as required in the filing and approval of applicable permits and special reports (Article VII of this chapter) required by this chapter.

3. Sewer or On-Site Sewage Utility. Construction of sewer lines or on-site sewage systems may be permitted in fish and wildlife habitat conservation areas or their buffers when the applicant demonstrates it is necessary to meet state and/or local health code requirements, there are no other practicable alternatives available, and the construction meets the requirements of this section. Joint use of the sewer utility corridor by other utilities may be allowed.

4. New utility corridors or easements shall not be allowed in fish and wildlife habitat conservation areas with known locations of federal- or state-listed endangered, threatened or sensitive species, heron rookeries or nesting sites of raptors which are listed as state candidate or state monitor, except in those circumstances where an approved habitat management plan indicates that the utility corridor or easement will not significantly impact the fish and wildlife habitat conservation areas or buffers.

5. New utility corridor or easement construction and maintenance shall protect the environment of fish and wildlife habitat conservation areas and their buffers.

   a. New utility corridors or easements shall be aligned when possible to avoid cutting trees greater than twelve inches in diameter at breast height (four and one-half feet), measured on the uphill side.

   b. New utility corridors or easements shall be revegetated with appropriate native vegetation at pre-construction densities or greater, immediately upon completion of construction, or as soon thereafter as possible, if due to seasonal growing constraints. The utility shall ensure that such vegetation survives.

   c. Any additional utility corridor or easement access for maintenance shall be provided as much as possible at specific points, rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than
fifteen feet; and shall be contiguous to the location of the utility corridor on the side away from the wetland. Mitigation will be required for any additional access through restoration of vegetation in disturbed areas.

d. The director may require other additional mitigation measures.

6. Utility corridor maintenance shall include the following measures to protect the regulated fish and wildlife habitat conservation area and buffer environment:

   a. Where feasible, painting of utility equipment such as power towers shall not be sprayed or sandblasted, nor should lead-based paints be used.

   b. No pesticides, herbicides or fertilizers may be used in fish and wildlife habitat conservation areas or their buffers except those approved by the EPA and the Department of Ecology. Where approved, herbicides must be applied by a licensed applicator in accordance with the safe application practices on the label.

I. Bank Stabilization. A stream channel and bank, bluff and shoreline may be stabilized when naturally occurring earth movement threatens existing structures (defined as requiring a building permit pursuant to the International Building Code), public improvements, unique natural resources, public health, safety or welfare, or is the only feasible access to property; and in case of streams, when such stabilization results in maintenance of fish and wildlife habitat, flood control and improvement of water quality. Bluff, bank and shoreline stabilization shall also be subject to the standards of the city shoreline master program, and any floodplain ordinance adopted by the city.

When bank stabilization is determined to be necessary, bioengineering or other non-structural methods should be the first option for protection. The director may require that bank stabilization be designed by a professional engineer licensed in the state of Washington with demonstrated expertise in hydraulic actions of shorelines. Bank stabilization projects may also require hydraulic project approval from the Washington Department of Fish and Wildlife. (Ord. 2007-24 § 2 (part), 2007)

**Article IV. Geologically Hazardous Areas**

**16.20.405 Purpose.**

This article applies to all regulated uses included in this chapter within three hundred feet of areas designated as geologically hazardous areas, as categorized in Section 16.20.410. The intent of this article is to:

A. Provide standards to protect human life and property from potential risks;

B. Control erosion, siltation, and water quality; and

C. Provide controls to minimize shoreline erosion caused by human activity. (Ord. 2007-24 § 2 (part), 2007)

**16.20.410 Geologically hazardous area categories.**

A. Classification. The following categories shall be used in classifying geologically hazardous areas:

   1. Geologically Hazardous Areas.

      a. Areas with slopes greater than thirty percent and mapped by the Coastal Zone Atlas or Quaternary Geology and Stratigraphy of Kitsap County as unstable (U), unstable old land slides (UOS) or unstable recent slides (URS).
Appendix A – City of Poulsbo Critical Areas Regulations referenced by SMP

b. Areas with slopes greater than thirty percent in grade and deemed by a qualified geologist or geotechnical engineer to meet the criteria of U, UOS, or URS.

2. Areas of Geologic Concern.

a. Areas designated U, UOS, or URS in the Coastal Zone Atlas or Quaternary Geology and Stratigraphy of Kitsap County, with slopes less than thirty percent; or areas found by a qualified geologist to meet the criteria for U, URS, or UOS with slopes less than thirty percent; or

b. Slopes identified as intermediate (I) in the Coastal Zone Atlas or Quaternary Geology and Stratigraphy of Kitsap County, or areas found by a qualified geologist to meet the criteria of I; or

c. Slopes fifteen percent or greater, not classified as I, U, UOS, or URS, with soils classified by the Natural Resources Conservation Service as “highly erodable” or “potentially highly erodable”; or

d. Slopes of fifteen percent or greater with springs or groundwater seepage not identified in subsections (A)(2)(a) through (c) of this section; or

e. Seismic areas subject to liquefaction from earthquakes (seismic hazard areas) such as hydric soils as identified by the Natural Resources Conservation Service, and areas that have been filled to make a site more suitable. Seismic areas may include former wetlands which have been covered with fill; or

f. Areas mapped as “severe” in all development limitations based on mapped soil units of the USDA Soil Conservation Service. These designations are listed in Table 10 of Soil Survey of Kitsap County Area, Washington.

B. Site-Specific Determination—Geological and Geotechnical Report Provisions. A geotechnical or geological report shall be required for development proposals located within geologically hazardous areas and areas of geologic concern. The requirements for special reports are contained in Article VII of this chapter. (Ord. 2007-24 § 2 (part), 2007)

16.20.415 Development standards.

A. Approval. The director will review all submittals for clearing, grading and building on property containing geologically hazardous areas. The director will consider any proposed mitigation measures included in a geotechnical report, if submitted. In cases where a special report indicates a significant risk to public health, safety or welfare, the city shall deny or require revision of the application.

B. City Engineer Requirements. The city engineer, in conjunction with a clearing, grading or building permit application in geologically hazardous areas, may require, but not be limited to, construction plans, details and specifications for clearing, grading, erosion and sedimentation control and stormwater drainage, and detailed hydrological, geotechnical, soils and drainage reports and analyses.

C. Minimum Native Vegetative Buffer Required. A standard native vegetation buffer of twenty-five feet shall be established from the top, toe, and all edges of geologically hazardous areas and areas of geologic concern, unless otherwise specified through a geological report or site-specific determination.

D. Buffer and Building Setback Modifications. The minimum native vegetative buffer and/or building setback requirement may be decreased if a geotechnical report demonstrates that a lesser distance, and the design and engineering, will adequately protect the proposed development and stabilize the potential hazard.
Should the report indicate a greater buffer and/or building setback than required by this section, the greater buffer and/or building setback shall be required.

E. Time Limitations. For new or redevelopment, clearing and grading may be limited by the city engineer to the period between May 1st and October 1st, unless the applicant provides an erosion and sedimentation control plan prepared by a professional engineer licensed in the state of Washington that specifically identifies methods of erosion control for wet weather conditions.

F. Field Marking Requirements. For new or redevelopment, the proposed clearing for the project and all critical area buffers may be required to be marked in the field for inspection and approval by the city prior to beginning work. Field marking shall remain in place until construction is completed and final approval is granted by the city. The requirement for field marking will be identified as a condition of approval for the underlying development permit.

G. Vegetation. The director may require enhancement of buffer vegetation to increase protection of the hazard area. Minor pruning of buffer vegetation and tree limbs may be allowed for enhancement of views, provided such activity is approved by the director.

H. Roads and Utilities.

1. Only the clearing necessary to install temporary erosion control measures will be allowed prior to clearing for roads and utilities construction;

2. Clearing for roads and utilities shall be the minimum necessary and shall remain within marked construction limits;

3. Clearing for overhead power lines shall be the minimum necessary for construction and will provide the required minimum clearances of the serving utility; and

4. Where existing logging roads occur in geologically hazardous areas or areas of geologic concern, a geological or geotechnical report may be required prior to use as a temporary haul road or permanent access road under a conversion or COHP forest practices application.

I. Seismic Hazard Areas Standards. Applications for new or redevelopment within seismic hazard areas may be required to provide a geotechnical report, addressing any fill or grading that has occurred on the subject parcel. Any fill placed for such development shall have documented construction monitoring as required by the International Building Code. (Ord. 2007-24 § 2 (part), 2007)

Article VI. Frequently Flooded Areas

16.20.605 Purpose.

The purpose of this article is to protect the public health, safety and welfare from harm caused by flooding. It is also the intent to prevent damage and/or loss to both public and private property. Pursuant to this purpose, the city uses floodplain management regulations contained in Chapter 15.24, adopted by reference, which designates special flood hazard areas and establishes requirements for these areas. (Ord. 2007-24 § 2 (part), 2007)

Article VII. Special Reports

16.20.705 Purpose.
The following special reports may be required to provide environmental information and to present proposed strategies for maintaining, protecting and/or mitigating critical areas:

A. Wetland report/wetland mitigation plan;
B. Habitat management plan;
C. Geotechnical report/geological report;
D. Hydrogeological report. (Ord. 2007-24 § 2 (part), 2007)

16.20.710 When required.

Special reports shall be submitted by the applicant and approved by the director when required by this chapter for the protection of a critical area. Refer to specific critical protection standards for when special reports are required. The city shall retain a consulting specialist(s) who shall review all special studies for critical areas, and ensure their compliance with this chapter. (Ord. 2007-24 § 2 (part), 2007)

16.20.715 Responsibility for completion.

The applicant shall reimburse the city for the costs incurred in the preparation of special reports or tests and for the costs incurred by the city to engage technical consultants or staff for review and interpretation of data and findings submitted by or on behalf of the applicant. (Ord. 2007-24 § 2 (part), 2007)

16.20.720 Qualifications of professionals.

Any special report as described in this article prepared by a professional (as described in Article I of this chapter) shall include his or her resume, or other list of qualifications, to aid the director in assessing these qualifications. (Ord. 2007-24 § 2 (part), 2007)

16.20.721 Time limitations.

Special reports submitted in accordance with this article shall be valid for a period of three years from the date of issue unless a longer or shorter period is specified by the city at the time the original report is prepared. (Ord. 2007-24 § 2 (part), 2007)

16.20.725 Wetland reports.

A. Wetland Delineation Report. A wetland delineation report shall include, but not necessarily be limited to, the following:

1. Vicinity map.
2. When available, a copy of a National Wetland Inventory Map (U.S. Fish and Wildlife Service).
3. A site map setting forth all of the following:
   a. Surveyed wetland boundaries based upon a delineation by a wetlands specialist or wetland boundaries recorded using a differential global positioning system, based upon a delineation by a wetlands specialist. In the event that a global positioning system is used, wetland boundary information shall be provided to the city in an electronic data format acceptable to the city;
   b. Site boundary property lines and roads;
   c. Internal property lines, rights-of-way, easements, etc.;
   d. Existing physical conditions of the site, including buildings, fences and other structures, roads, parking lots, utilities, water bodies, etc.;
Appendix A – City of Poulsbo Critical Areas Regulations referenced by SMP

- Contours at the smallest readily available intervals;
- Hydrologic mapping showing patterns of surface water movement and known subsurface water movement into, through, and out of the site area;
- Location of all test holes and vegetation sample sites, number to correspond with flagging in the field and field data sheets; and
- An aerial photograph with overlays displaying the site boundaries and wetland delineation may be required.

4. A report which includes the following:
   - Location information (legal description, parcel number and address);
   - Delineation Report. The wetland boundaries on the site established by the delineation shall be staked and flagged in the field. If the wetland extends outside the site, the delineation report shall discuss all wetland areas within one hundred fifty feet of the site, but need only delineate those wetland boundaries within the site;
   - General site conditions including topography, acreage, and surface areas of all wetlands identified and water bodies within one-quarter mile of the subject wetland(s);
   - Hydrological analysis, including topography, of existing surface and known significant subsurface flows into and out of the subject wetland(s); and
   - Analysis of functional values of existing wetlands, including vegetation, fauna, and hydrologic conditions.

5. A summary of proposed activity and potential impacts to the wetland(s).

6. Recommended wetland category, including rationale for the recommendation.

7. Recommended buffer boundaries, including rationale for boundary locations.

8. Site plan of proposed activity, including location of all parcels, tracts, easements, roads, structures, and other modifications to the existing site. The location of all wetlands and buffers shall be identified on the site plan.

B. Wetland Mitigation Report. Whenever the director has determined that losses of regulated wetlands are necessary and unavoidable, or a review of a regulated wetland or its buffer is proposed, or a reasonable use exception is applied, a mitigation plan shall be prepared in the following order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of actions. This may be accomplished by selecting a reasonable alternative that does not involve wetlands or wetland impacts; applying reasonable mitigation measures, such as drainage and erosion control, alternative site planning, and/or using best available technology.

2. Minimizing impacts by limiting the degree of magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts. This may be accomplished by selecting a reasonable alternative that avoids most wetland impacts, applying reasonable mitigation measures, such as drainage and erosion control, alternative site planning, and/or using best available technology.

3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment. This may be done by reestablishing wetland and wetland buffer
characteristics on a site which have been lost by alterations or activities. Rectifying shall be accomplished in accordance with a mitigation plan, as prepared in accordance with the requirements below, and as approved by the director.

4. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments. This may be done by intentionally creating wetlands and wetland buffers at another location where none currently exist, improving existing wetlands and wetland buffers at another location, or otherwise providing a substitute wetland resource at another location as compensation for any unavoidable adverse wetland impacts. Compensating shall be accomplished in accordance with a mitigation plan, as prepared in accordance with the requirements outlined below, and as approved by the director.

5. The overall goal of any mitigation plan shall be no net loss of regulated wetland functions and acreage.

6. Those persons proposing wetland compensatory projects shall show that the compensation project is associated with an activity or development otherwise permitted and that the restored, created, or enhanced wetland will be as persistent as the wetland it replaces by accomplishing the following:
   a. Demonstrate sufficient scientific expertise, supervisory capability, and financial resources to carry out the project;
   b. Demonstrate the capability for monitoring the site and for making corrections during this period, if the project fails to meet projected goals; and
   c. Protect and manage or provide for the protection and management of the compensation area to avoid further development or degradation.

7. Wetland mitigation plans shall be implemented by the project applicant, and include the following components:
   a. Baseline Information. A written assessment and accompanying maps of the impacted wetland shall be produced by the applicant or applicant’s consultant and shall include, at a minimum: existing wetland acreage; vegetative, faunal and hydrologic characteristics; soil and substrate conditions; and topographic elevations.
   b. If the compensation site is off site from the impacted wetland site, baseline information about it, in addition to the above information about the impacted wetland, shall be provided by the applicant and shall include those items listed in subsection (B)(7)(a) of this section and: the relationship of the compensation site within the watershed and to existing water bodies; existing and proposed compensation site conditions; buffers; and ownership.
   c. Environmental Goals and Objectives. The report shall identify goals and objectives and include:
      i. The purposes of the compensation measures including a description of site-selection criteria, identification of compensation goals, identification of target evaluation species and resource functions, dates for beginning and completion of compensation measures, and a complete description of structure and functional relationships sought in the new wetland. The goals and objectives shall be related to the functions of the original wetland or, if out-of-kind, the type of wetland to be emulated; and
      ii. A review of the available literature and/or experience to date in restoring or creating the type of wetland proposed shall be provided. An analysis of the
likelihood of success of the compensation project at duplicating the original wetland shall be provided based on the experiences of comparable projects, if any. An analysis of the likelihood of persistence of the created or restored wetland shall be provided based on such factors as: surface and groundwater supply and flow patterns; dynamics of the wetland ecosystem; sediment or pollutant influx and/or erosion; periodic flooding and drought, etc.; presence of invasive flora and fauna; potential human or animal disturbance; and previous comparable projects, if any.

d. Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and objectives of the mitigation plan are being achieved at various stages in the project and for beginning remedial action or contingency measures. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria.

e. Detailed Construction Plans. Written specifications and descriptions of compensation techniques shall be provided including the proposed construction sequence, grading and excavation details, erosion, sediment and stormwater recharge control features needed for wetland construction and long-term survival; a planting plan specifying plant species, quantities, locations, size, spacing and density; the source of plant materials, propagules, or seeds; water and nutrient requirements for planting; where appropriate, measures to protect plants from predation; specification of substrate stockpiling techniques and plating instructions; descriptions of water control structures and water-level maintenance practices needed to achieve the necessary hydrocycle/hydroperiod characteristics; etc. These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques of anticipated final outcome. The plan shall provide for elevations which are appropriate for the desired habitat type(s) and which provide sufficient tidal prism and circulation data.

f. Monitoring Program. A program outlining the approach for monitoring construction of the compensation project and for assessing a completed project shall be provided. Monitoring must include sufficient information to adequately assess the progress of a project. Monitoring may include, but is not limited to: (i) establishing vegetation plots to track changes in plant species composition and density over time; (ii) using photo stations to evaluate vegetation community response; (iii) sampling surface and subsurface waters to determine pollutant loading and changes from the natural variability of background conditions (pH, nutrients, heavy metals); (iv) measuring base flow rates and stormwater runoff to model and evaluate water quantity predictions by a licensed engineer in the state of Washington, where required; (v) measuring sedimentation rates, if applicable; and (vi) sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity. A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the compensation project. A monitoring report shall be submitted annually, and at a minimum, document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period of less than three years.
g. Contingency Plan. Identification of potential courses of action, and any corrective measures to be taken, when monitoring or evaluating indicates project performance standards are not being met.

h. Performance Conditions. Any compensation project prepared pursuant to this section and approved by the department shall become part of the application for the permit.

i. Performance Bonds and Demonstration of Competence. A demonstration of financial resources, administrative, supervisory, and technical competence and specific expertise of sufficient standing to successfully execute the compensation project shall be provided. A compensation project manager shall be named, and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervising the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects. In addition, bonds insuring fulfillment of the compensation project, monitoring program, and any contingency measure shall be posted in the amount of one hundred fifty percent of the expected cost of compensation and shall be effective for a period of no less than three years and no greater than ten years after completion of the mitigation plan.

j. Waiver. The director may waive portions of this report if, in his or her opinion, there is adequate information available on the site to determine its impacts and appropriate measures.

k. List of Qualified Consultants. The department shall establish a list of qualified consultants to prepare mitigation plans. (Ord. 2007-24 § 2 (part), 2007)

16.20.730 Habitat management plan.

A. This report shall identify how the development impacts from the proposed project will be mitigated. The Washington Department of Fish and Wildlife Priority Habitat and Species Management Recommendations, dated May 1991, or bald eagle protection rules outlined in WAC 232-12-292, as now or hereafter amended, may serve as guidance for this report. The recommendations in Washington Department of Fish and Wildlife Priority Habitat and Species Management Recommendations, dated May 1991, shall not serve as mandatory standards or policy of this chapter until such time as the Department of Fish and Wildlife holds public hearings on the recommendations and the State Wildlife Commission endorses the recommendations following the public hearings. The recommendations in the Washington Department of Fish and Wildlife (WDFW) Aquatic Habitat Guidelines may serve as guidance for habitat management plans created to regulate the design, construction, and operation of projects that affect fish and wildlife conservation areas.

B. The habitat management plan shall contain a map prepared at an easily readable scale, showing:

1. The location of the proposed development site;
2. The relationship of the site to surrounding topography, water features, and cultural features;
3. Proposed building locations and arrangements; and
4. A legend which includes a complete legal description, acreage of the parcel, scale, north arrow, and date of map revision.

C. The habitat management plan shall also contain a report which describes:
1. The nature and intensity of the proposed development;

2. An analysis of the effect of the proposed development, activity or land use change upon the wildlife species and habitat identified for protection; and

3. A plan which identifies how the applicant proposes to mitigate any adverse impacts to wildlife habitats created by the proposed development.

D. Possible mitigation measures to be included in the report, or required by the department, could include, but are not limited to:

1. Establishment of buffer zones;

2. Preservation of critically important plants and trees;

3. Limitation of access to habitat areas;

4. Seasonal restriction of construction activities; and

5. Establishment of phased development requirements and/or a timetable for periodic review of the plan.

E. This plan shall be prepared by a person who has been educated in this field and has professional experience as a fish or wildlife biologist. (Ord. 2007-24 § 2 (part), 2007)

16.20.735 Geotechnical report and geological report.

A. A geotechnical report shall include a description of the site geology, conclusions and recommendations regarding the effect of geologic conditions of the proposed development, opinions and recommendations of the adequacy of the site to be developed, the effects of groundwater interception and infiltration, seepage, potential slip plans, and changes in soil-bearing strength, and the impacts of the proposed development and appropriate mitigating measures. A geotechnical report may contain information obtained with subsurface investigative measures such as test pit digging, soil boring, water well installation or Dutch Cone Penetrometer investigations. Reports containing engineering design recommendations, i.e., recommendations for foundations (loading, sizing, depth, or settlement estimates), pile or pier design, retaining structures, or recommendations for construction on slopes steeper than thirty percent, must be prepared by, or in conjunction with, a licensed geotechnical engineer as defined below.

Informational requirements:

1. A description of the geologic setting of the region, based upon readily available data, including:
   a. Site location and topography;
   b. Soils and geologic units underlying the site; and
   c. The location and characteristics of springs within one thousand feet of the site.

2. A discussion and evaluation of the potential impact of the proposal upon existing geological hazards.

3. Recommendations on appropriate protection mechanisms, if necessary, to minimize the risk of erosion or landslide.

A geological report shall include the above, with the exception of engineering design recommendations, and need not make use of subsurface investigative measures. As the report will not include engineering recommendations, a geological report may be
prepared by a geologist or engineering geologist as defined in subsection B of this section.

B. A geotechnical report shall be prepared by a geotechnical engineer (a civil engineer licensed by the state of Washington who is knowledgeable in regional geologic conditions and who has at least four years of professional experience in landslide and/or seismic hazard evaluation). Geological reports may be prepared by a geologist, engineering geologist or geotechnical engineer knowledgeable in regional geologic conditions and having at least four years of professional experience in site evaluation and development studies, and landslide and/or seismic hazard evaluation.

C. Report recommendations for siting structures in high risk areas shall be based on existing site conditions rather than measures that have not been successfully approved, designed or constructed (e.g., slope recontouring, slope retaining walls, vegetation improvements, bulkheads, etc.). Shoreline bulkheads and retaining walls may only be utilized as an engineering solution where it can be demonstrated that an existing residential structure cannot be safely maintained without such measures, and that the resulting retaining wall is the minimum necessary to provide a stable building area for the structure. (Ord. 2007-24 § 2 (part), 2007)

16.20.740 Hydrogeological report.

A hydrogeological report shall be required for certain proposed operations based on a consultation with the appropriate local and state agencies. The report shall address the impact the proposed land use will have on both the quality and quantity of the water transmitted to the aquifer. The report shall also address the types of pesticides and herbicides and fertilizers that can safely be used for the care of landscaping proposed by the applicant.

A. The report shall be submitted to the reviewing authority and address, at a minimum, the following criteria:

1. Surficial soil type and geologic setting;
2. Location and identification of wells within one thousand feet of the site;
3. Location and identification of surface water bodies and springs within one thousand feet of the site with recharge potential;
4. Description of underlying aquifers and aquitards, including water level, gradients and flow direction;
5. Available surface water and groundwater quality data;
6. Effects of the proposed development on water quality;
7. Sampling schedules required to assure water quality;
8. Discussion of the effects of the proposed development on the groundwater resource;
9. Recommendations on appropriate BMPs (best management practices) or mitigation to assure no significant degradation of groundwater quality; and
10. Other information as required by the Bremerton-Kitsap County health district.

B. The hydrogeological report shall be prepared by a professional geologist/hydrologist or by a soil scientist with a strong background in geology as demonstrated by course work from an accredited college or university and/or a minimum of five years of experience.
C. Applications for development or operations with underground storage of petroleum products will be processed using the appropriate procedure as specified in existing city of Poulsbo ordinances.

D. Analysis for a specific parcel(s), using the criteria outlined below, will be employed to determine if the soils present require a recharge area designation. Data collection will include, at a minimum: six soil logs to a depth of ten feet (or to a depth of four feet below the lowest proposed excavation point, whichever is greater) for each acre in the parcel(s) being evaluated. At least one well which is two hundred feet or greater in depth with an adequate drilling report must be available within one mile. The associated data shall be analyzed and included in the hydrogeological report to determine the presence of highly permeable soils with the recharge area designation.

E. For development proposals within aquifer recharge areas of concern, the hydrogeological report may be based on quarter-quarter section basis locations where the number of wells within a half-mile radius is thirty-six or more, and are designated aquifer recharge areas. To facilitate computer analysis, the evaluation may be done on a quarter-quarter basis using the quarter-quarter section in which a parcel of interest is located and all the surrounding quarter-quarter sections, in place of the half-mile circle. (Ord. 2007-24 § 2 (part), 2007)
City of Poulsbo Zoning Code Regulations

The following sections of PMC 18, Zoning Ordinance, shall be implemented within shoreline jurisdiction according to the requirements of PMC 16.08:

Chapter 18.08 DEFINITIONS

Sections: 18.08.010 Definitions.

18.08.010 Definitions.
Except where specifically defined in this chapter, all words used in this title shall carry their customary meaning, as defined and explained in any current edition of Webster’s Unabridged Dictionary. Where doubt exists concerning the dictionary definition, the term will be defined by the procedures established in Section 18.04.040.

"Abutting," for the purposes of this title and the establishment of special development standards, shall mean adjoining with a common boundary line; except that where two or more lots adjoin only at a corner or corners, they shall not be considered abutting unless the common property line between the two parcels measures eight feet or greater in a single direction.

"Access" or "access way" shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate, and usable ingress and egress to a property or use, as required by this title.

"Accessory dwelling" shall mean separate living quarters contained within or detached from the primary residence; provided, no mobile home or recreational vehicle shall be an accessory dwelling unit.

"Accessory use or structure" shall mean one which is subordinate to the principal use of a building on the lot, serving a purpose customarily incidental to the use of the principal building.

"Adjacent" shall mean near, close; for example, an industrial district across a street or highway from a commercial district shall be considered as "adjacent."

"Adjoin" shall mean the same as "abutting."

"Adult entertainment facilities" shall mean the following:

1. "Adult arcade" means a commercial establishment containing individual viewing areas or booths, where, for any form of consideration, including a membership fee, one or more still motion picture projectors, slide projectors, computers, or other similar image-producing machines are used to show films, motion pictures, video cassettes, slides, computer images, or other visual representations that are distinguished or characterized by a predominant emphasis on matters
depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.

2. “Adult cabaret” means any public or private club, nightclub, bar, restaurant, tavern, or other similar establishment, whether or not alcoholic beverages are served, that regularly features adult entertainment. For purposes of this section, an establishment regularly features adult entertainment when such entertainment is offered on a recurring basis during the ordinary course of business.

3. “Adult entertainment” means (a) any exhibition, performance or dance conducted in an adult entertainment facility where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas; or (b) any exhibition, performance or dance intended to sexually stimulate any member of the public and conducted in an adult entertainment facility where such exhibition, performance or dance is performed for, arranged with, or engaged in with fewer than all patrons in the adult entertainment facility at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance. For purposes of example and not limitation, such exhibitions, performances or dances are commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.

4. “Adult entertainment facility” means a commercial establishment defined herein as an adult arcade, adult cabaret, adult motel, adult motion picture theater, or adult retail store. For purposes of this chapter, a commercial establishment is one at which patrons, club members and/or guests provide consideration in any form for the privilege of membership, entry, eating, drinking, or viewing adult entertainment at the establishment, irrespective of the establishment’s status as a for-profit or nonprofit organization.

5. “Adult motel” (a) offers sleeping accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, computer images, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas, and that has a sign visible from the public right-of-way that advertises the availability of this type of sexually oriented materials; or (b) offers a sleeping room for rent for a rental fee period of time that is less than ten hours; or (c) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

6. “Adult motion picture theater” means an enclosed commercial establishment where, for any form of consideration, motion pictures, films, video cassettes, slides, computer images, or other similar visual media are regularly shown that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.
7. “Adult retail store” means a commercial establishment such as a bookstore, video store, or novelty shop which as its principal business purpose offers for sale or rent, for any form of consideration, any one or more of the following: (a) books, magazines, periodicals or other printed materials, or photographs, films, motion pictures, video cassettes, slides, computer images, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas; or (b) instruments, devices, or paraphernalia designed for use in connection with any specified sexual activities. For the purpose of this definition, the term “principal business purpose” shall mean the business purpose that constitutes fifty percent or more of the stock in trade of a particular business establishment. The stock in trade of a particular business establishment shall be determined by examining either: (i) the retail dollar value of all sexually oriented materials compared to the retail dollar value of all nonsexually oriented materials readily available for purchase, rental, view, or use by patrons of the establishment, excluding inventory located in any portion of the premises not regularly open to patrons; or (ii) the total volume shelf space and display area reserved for sexually oriented materials compared to the total volume of shelf space and display area reserved for nonsexually oriented materials.

8. “Sexually oriented materials” means any books, magazines, periodicals or other printed materials, or any photographs, films, motion pictures, video cassettes, slides, computer images, or other visual representations, that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas. The term “sexually oriented materials” includes any instruments, devices, or paraphernalia designed for use in connection with any specified sexual activities.

9. “Specified anatomical area” includes any of the following: (a) the human male genitals in a discernibly turgid state, even if completely and opaquely covered; or (b) less than completely and opaquely covered human genitals, pubic region, anus, buttocks, or female breast below the top of the areola.

10. “Specified sexual activities” includes any of the following: (a) the caressing, fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or (b) sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; or (c) masturbation, actual or simulated; or (d) excretory functions as part of, or in connection with, any of the sexual activities specified in this definition.

“Adult family home” means a home in which residential care is provided on a twenty-four-hour basis by an adult family home provider acceptable by the Washington State Department of Social and Health Services. Further, the maximum number of adults to be accommodated in such a home shall conform to the requirements of the Washington State DSHS. (See Chapter 388-76 WAC, Adult Family Homes Minimum Licensing Requirements.)
“Agricultural uses” shall mean the use of the land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and wineries, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any such accessory use shall be incidental to that of normal agriculture activities, and provided further, that the above uses shall not include slaughterhouses and meat packing or commercial feed lots.

“Alley” shall mean a public right-of-way not over thirty feet wide which generally affords a secondary means of access to abutting lots. Alleys are not intended for general use.

“Alteration, structural” shall mean any change or repair which would tend to prolong the life of the supporting members of a building or structure. Any change in the external dimensions of the building is a structural alteration.

“Animal hospital” shall mean a place where animals or pets are given medical or surgical treatment, and are cared for during the time of such treatment.

“Antenna” is a device for transmitting or receiving radio, television, or cellular telephone signals through federally regulated airwaves.

“Apartment” shall mean a dwelling unit in a multiple-family building.

“Apartment house” shall mean the same as “dwelling, multiple-family.”

“Automobile repair” shall mean upholstering of; replacement of parts for; motor service; rebuilding or reconditioning of engines, motor vehicles, or trailers; and partial painting or paint shop.

“Automobile service station” shall mean a building or lot having pumps and storage tanks where fuels or oils for motor vehicles are dispensed, sold, or offered for sale at retail only, and where repair service is secondary.

“Automobile wrecking or wrecking yard” shall mean a place where damaged, inoperable or obsolete machinery such as cars, trucks and trailers, or parts thereof, is stored, bought, sold, accumulated, exchanged, disassembled or handled.

“Bed and breakfast house” shall mean a transient lodging establishment used to provide overnight guest lodging for compensation in which not more than ten guest rooms are provided and which usually provides a morning meal as part of the room rate structure.

“Boarding house” shall mean a building where lodging and meals for four or more persons are provided for compensation.

“Boat yard” shall mean a place where boats are constructed, dismantled, stored, serviced, or repaired, including maintenance work thereon.
“Breezeway” shall mean a structure for the principal purpose of connecting the main building or buildings on a property with other main buildings or accessory buildings.

“Buffer” or “buffering” shall mean space, either landscaped or in a natural state intended to separate potentially conflicting uses and to reduce visual, noise, odors and other impacts.

“Building” shall mean any structure used or intended for supporting or sheltering any use or occupancy.

“Building height” shall mean the vertical distance above finished grade at the exterior walls of the building to the highest point of the structure or segment, except as exempted in Section 18.84.030. A segment is when a break in the roofline, change in number of stories, or break in finished grade occurs. The overall building height shall be the average of all sides. The height of an individual side shall be calculated as depicted below:

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Average height of side:
A+h
2
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“Building line” shall mean the perimeter of that portion of a building or structure nearest a property line but excluding open space, terraces, cornices, windows, and other ornamental features projecting from the walls of the building or structure.

“Bulk plant” shall mean an establishment where flammable liquids are received by tank vessel, pipelines, tank car, or tank vehicle, and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipe line, tank car, tank vehicle, or container.

“Carport” shall mean a roof designed to cover, but not completely enclose automobile parking spaces.

“Church” shall mean a permanently located building primarily used for religious worship.
“City council” or “council” shall mean the Poulsbo city council.

“Club” shall mean a place where an association of persons organized for some common purpose meet but excluding groups organized primarily for business purposes.

“Co-location” shall mean the use of a single support structure by more than one wireless service provider where appropriate on a specific site.

“Commission” or “planning commission” shall mean the Poulsbo planning commission.

“Comprehensive plan” shall mean the comprehensive plan of the city of Poulsbo.

“Conditional use” shall mean an activity specified by this title as a principal or an accessory use, permitted when authorized by the city council and subject to certain conditions.

“Congregate care facility” shall mean any building in and on which ten or more people live in individual housing units, generally contained within the same building or series of buildings, which provide for independent living while providing common living areas and limited services such as health care, meals and housekeeping.

“Contiguous” shall mean the same as “abutting.”

“Contractor’s storage yard” shall mean a place where heavy equipment, vehicles, construction equipment or any other material commonly used in the erection of any structure, is stored or accumulated. Sites that involve current construction of projects with active permits involving the materials on-site shall not be considered a contractor’s storage yard.

“Convalescent home” shall mean any building or premises in and on which two or more sick, injured, or infirm persons are housed, for a period in excess of twenty-four consecutive hours, and furnished with meals and nursing care for hire.

“Court” shall mean an open, uncovered, and unoccupied space within an allotted property line, and free from automotive drives and parking, except for any necessary entrance or exit drive.

“Critical areas” include the following areas and ecosystems: (1) wetlands; (2) areas with a critical recharging effect on aquifers used for potable water; (3) fish and wildlife habitat conservation areas; (4) geologically hazardous areas; and (5) frequently flooded areas. These areas are regulated by Chapter 16.20, Critical Areas.

“Day care center, family” or “family day care center” shall mean a dwelling and premises in and on which not more than twelve unrelated children, not residing in the dwelling, are cared for during some portion of a twenty-four-hour period. “Family day care centers” shall be considered an accessory use in any residential zone.
“Day care center, children” shall mean a facility which provides nonmedical care to thirteen or more children under eighteen years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty-four-hour basis. “Day care center” means any child care facility other than a family day care home and includes infant centers, preschools, and extended day care facilities.

“Density, gross” shall mean a ratio comparing the number of dwelling units with land area, and is expressed as the number of residential dwelling units per acre of land in a residential development, including, but not limited to, one house on one lot. Density is expressed as “gross density,” which includes all land included within a project.

“Density, net” shall mean a ratio comparing the number of dwelling units with land area, which has been decreased by removing the area of the following: right-of-way; stormwater detention and treatment facilities; designated open spaces and critical areas. Net density is expressed as a number of residential dwelling units per acre of adjusted land in a residential development.

“Department” shall mean the Poulsbo planning department.

“Development” shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

“Director” shall mean the director of the Poulsbo planning department or a duly authorized designee.

“District” or “development district” shall mean the same as “zone” or “zoning district.”

“Drive-in restaurants” shall mean those restaurants with facilities allowing take-out foods and beverages without leaving a vehicle. They generally also have the characteristics of high turnover restaurants. This definition includes those facilities with drive-through windows where food and beverage may be obtained from a window.

“Dwelling” shall mean any building or portion thereof, designed or used as the residence or sleeping place of one or more persons.

“Dwelling, multiple-family” or “multifamily dwelling” shall mean a building or portion thereof designed or used as a residence by three or more families, and containing three or more dwelling units.

“Dwelling, single-family” or “single-family dwelling” shall mean a building designed or used for residence purposes by not more than one family, and containing one dwelling unit only.

1. “Attached” shall mean sharing common walls.

2. “Detached” shall mean physically separated.
“Dwelling, two-family or duplex” shall mean a building designed or used for residence purposes by not more than two families, and containing two dwelling units.

“Dwelling unit” is any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, for not more than one family; provided, a recreational vehicle or bus is not a dwelling unit.

“Employees” shall mean all persons, including proprietors, working on the premises during the largest shift at peak season.

“Endangered species” shall mean a species native to the state of Washington that is seriously threatened with extirpation throughout all or a significant portion of its range within the state. Endangered species are legally designated in WAC 232-12-014.

“Family” shall mean an individual, or two or more persons related by blood, marriage, or legal adoption, or other group of unrelated individuals not exceeding six in number customarily living together as a single housekeeping unit and using common cooking facilities. State licensed adult family homes and consensual living arrangements of disabled persons, in accordance with the Fair Housing Act, are exempt from this definition.

“Fence, sight-obscuring” shall mean a fence or evergreen planting, or combination of fence and planting arranged in such a way as to obstruct vision.

“Floodplain” shall mean the floodway and the special flood hazard area.

“Floodway” shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

“Forest practices” as defined in WAC 222-16-010(21), as amended, shall mean any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

1. Road and trail construction;
2. Harvesting, final and intermediate;
3. Precommercial thinning;
4. Reforestation;
5. Fertilization;
6. Prevention and suppression of diseases and insects;
7. Salvage of trees; and

8. Brush control.

“Forest practices” shall not include preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

“Frequently flooded areas” shall mean all lands, shore lands and waters which are identified as within the one-hundred-year floodplain (floodway) as designated by the Federal Management Agency in flood insurance rate and boundary maps.

“Frontage” shall mean that portion of a parcel of property which abuts a dedicated public street or highway, or private road or driveway approved by the city.

“Garage, private” shall mean an accessory building or part of a main building intended primarily for the storage of motor vehicles owned or used by occupants of the main building.

“Geologist” shall mean a person who has at least a Bachelor of Science degree in geologic sciences or a related field from an accredited college or university and/or has a minimum of five years’ experience under the direction of a professional geologist.

“Geotechnical engineer” shall mean a practicing geotechnical/civil engineer licensed as a professional civil engineer with the state of Washington, with professional training and experience in geotechnical engineering, including at least four years’ professional experience in landslide evaluation.

“Grade” shall mean the average point of elevation of the finished surface of the ground within five feet of a building or structure.

“Grading (construction)” means any excavating, filling or removing of the surface layer or any combination thereof.

“Gross floor area” shall mean the sum of horizontal areas of floors of a building when measured from the exterior faces of exterior walls or, if appropriate, from the centerline of dividing walls.

“Guest house” shall mean an accessory building designed, constructed, and used for the purpose of providing temporary living accommodations for guests, or for members of the same family as that occupying the main structure, and containing no kitchen facilities.

“Habitable floor” shall mean any floor usable for living purposes including working, sleeping, eating, cooking, or recreating uses, or any combination of these uses. A floor used only for storage purposes is not a “habitable floor.”
“Hazardous substance(s)” means any liquid, solid, gas or sludge, including any materials, substance, product, commodity or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste; and including waste oil and petroleum products (see RCW 70.105.010(15)).

“Hazardous substance processing or handling” means the use, storage, manufacture, or other land use activity involving hazardous substances, but does not include individually packaged household consumer products or quantities of hazardous substances of less than five gallons in volume per container. Hazardous substances shall not be disposed on-site unless in compliance with dangerous waste regulations, Chapter 173-303 WAC, and any pertinent local ordinances, such as sewer discharge standards.

“Heavy equipment” shall mean self-powered, self-propelled or towed mechanical devices, equipment and vehicles of the nature customarily used for commercial purposes such as tandem axle trucks, graders, backhoes, tractor trailers, cranes and lifts but excluding automobiles, recreational vehicles and boats and their trailers.

“Heavy equipment storage area” shall mean a place where two or more items of heavy equipment are stored.

“Height of building” shall mean the same as “building height.”

“High turnover restaurants” shall mean retail establishments providing food or beverages for sale, and which are distinguished by one or more of the following: (1) food containers and utensils are disposable; (2) restaurants are self-service; (3) take-out foods and beverages are advertised as the principal business; or (4) drive-in facilities are available.

“Home occupation” shall mean a use conducted entirely within a dwelling, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and as regulated by provisions applying to special uses, Chapter 18.48.

“Homeowners’ association” shall mean a nonprofit organization operating under recorded land agreements through which the following take place:

1. Each person owning or purchasing a lot in a planned unit or other described land area is automatically a member by such ownership or purchase;

2. Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization’s activities, including maintaining a common property, such as streets, walkways, recreational facilities, or grounds policing; and

3. Construction and maintenance responsibilities for any undivided property are identified and assigned.
“Hospital” shall mean any institution, place, building, or agency which maintains and operates organized facilities for twenty or more persons for the diagnosis, care, and treatment of human illness, including convalescence and also including care during and after pregnancy; or which maintains and operates organized facilities for any such purpose, and to which persons may be admitted for overnight stay or for a longer period.

“Junkyard” shall mean a place where waste or scrap materials are stored, bought, sold, accumulated, exchanged, baled, packaged, disassembled or handled including, but not limited to, scrap metals, paper, rags, tires, and bottles, and such worn out or discarded material.

“Kennel” shall mean either (1) any premises used to conduct a commercial business involving the breeding, buying, selling or letting dogs for hire, boarding or training dogs, or (2) any premises at which ten or more dogs which are five months or older are kept for any purpose, including animal shelters, but excluding veterinary clinics and animal hospitals where dogs are kept only for treatment by licensed veterinarians.

“Landscaping” shall mean the placement, preservation, and the replacement of not only trees, grass, shrubs, plants, flowers, and other vegetative materials but also the arrangement of fountains, patios, decks, street furniture, and ornamental concrete or stonework areas in accordance with an approved landscaping plan meeting adopted landscaping plan, design, and installation standards. Artificial plants, shrubs, bushes, flowers, turf, carpeting and materials in movable containers shall not be considered “landscaping” for purposes of this title.

“Livestock” shall mean horses, bovine, sheep, goats, swine, reindeer, donkeys, mules and any other hoofed animal.

“Lot” shall mean a single parcel of land, legally severed from a larger parcel, which is described and delineated in a long or short plat or which is described in a real estate conveyance.

“Lot area” shall mean the computed area contained within the lot lines; said area to be exclusive of public or private street or alley rights-of-way.

“Lot, corner” or “corner lot” shall mean a lot abutting upon two or more streets at their intersection, or upon two parts of the same street; such street or parts of the same street forming an interior angle of less than one hundred thirty degrees within the lot lines.

“Lot coverage” shall mean that percentage of the total lot area covered by structures, including all projections except eaves, driveways and concrete patios.

“Lot depth” shall mean the horizontal distance between the midpoint of the front lot line and opposite, usually, the rear lot line. In the case of a corner lot, the depth shall be the length of its longest front lot line.
“Lot, interior” or “interior lot” shall mean a lot or parcel of land other than a corner lot.

“Lot line” shall mean any line bounding a lot as herein defined. Lot lines for unusual lot configurations may be determined by the director.

“Lot line, front” or “front lot line” shall mean that boundary of a lot which is along a street or approved private road or easement, or, for a flag lot, approximately parallel to a street or approved private road or easement.

“Lot line, rear” or “rear lot line” shall mean that boundary of a lot which is most distant from the front lot line; or that boundary which adjoins the ordinary high water line on waterfront property.

“Lot line, side” or “side lot line” shall mean any boundary of a lot which is not a front or rear lot line.

“Lot of record” shall mean a lot as shown on the records of the county assessor or county auditor at the time of the passage of the ordinance codified in this title; provided, however, this shall not include lots that may appear on the records of the county assessor which were created contrary to the provisions of laws and regulations in effect at the time the lot was created. Any lots created after the adoption of the ordinance codified in this title shall comply with the standards contained herein.

“Lot, through” or “through lot” shall mean an interior lot having frontage on two streets and/or highways.

“Lot width” shall mean the horizontal distance between the side lot lines measured at the midpoint of the lot or forty-five feet from the front yard line.

“Maintain” shall mean to cause or allow to continue in existence. When the context indicates, the word shall mean to preserve and care for a structure, improve or condition an area to such an extent that it remains attractive, safe, presentable, and carries out the purpose for which it was installed, constructed, or required.

“Manufactured home” shall mean a dwelling unit which is fabricated in one or more sections at a location other than the home site by assembly line-type production techniques or by other construction methods unique to an off-site manufacturing process.

“Marina” shall mean a facility which for compensation provides moorage or wet or dry storage for watercraft and may offer marine-related sales and services.

“Mini-storage warehouse” shall mean storage facilities located within a totally enclosed structure used for the storage of nonflammable or nonexplosive materials. This storage shall not be in connection with a commercial or industrial use. This storage may be in connection with residential uses.

“Mobile home” shall mean a factory-assembled structure having more than three hundred twenty square feet of gross floor area, capable of being towed on public highways through the use of its own
axles and wheels; provided, a mobile home shall not lose its character as a mobile home by the
removal of its wheels and axles or its placement on a permanent foundation and; provided further,
recreational vehicles are not mobile homes.

“Mobile and manufactured home park” shall mean a tract of land developed and operated as a unit
with individual sites and facilities to accommodate two or more mobile or manufactured homes.

“Mobile home, single-wide” or “single-wide mobile home” shall mean a mobile home which is
designed to be transported on a single chassis.

“Mobile or manufactured home subdivision” shall mean a division or redivision of land into lots, tracts,
parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership for mobile or
manufactured homes.

“Native vegetation” shall mean vegetation indigenous to the Puget Sound coastal lowlands.

“Nonconforming lot” shall mean a lot which was lawfully created but which does not conform to the lot
requirements of the district in which it is located as established by this title or other ordinances or
amendments thereto.

“Nonconforming use or structure” shall mean a use of land or structure which was lawfully established
or built and which has been lawfully continued but which does not conform to the regulations
established by this title or amendments thereto.

“Nuisance” shall mean in addition to those definitions contained in Chapters 7.48 and 9.66 RCW, any
violation of this title which shall constitute a nuisance, per se.

“Nursery” shall mean an establishment where trees, shrubs and other plant materials are grown,
propagated and/or stored for purpose of sale.

“Nursing or rest home” shall mean any building where six or more persons are housed or lodged, and
furnished with meals and nursing care for hire (see Chapters 388-88 and 388-98 WAC).

“Open space” shall mean land used for outdoor recreation, critical area or resource land protection,
amenity, safety or buffer, including structures incidental to these open space uses, but excluding
yards required by this title and land occupied by dwellings or impervious surfaces not related to the
open space uses.

“Owner” shall mean the owner of record of real property or person purchasing a piece of property
under contract. For the purposes of this title, in terms of violations, “owner” shall also mean a
leaseholder, tenant, or other person in possession or control of the premises or property at the time of
violations of concomitant zoning agreements, or the provisions of this title. For the purpose of
processing an application for a land use approval or permit under this title, where such application or
permit must be filed by an owner, the term “owner” also includes a governmental entity contemplating acquisition of a parcel for a use which would require such permit or approval.

“Parent lot” shall mean a tax lot of record which is proposed to be subdivided; but which the remainder of the original lot, after subdivision, is still of a size that can be further subdivided in the future based on its zone’s minimum lot size.

“Park” shall mean public or private areas of land, with or without buildings, intended for outdoor active or passive recreational uses.

“Parking area, public” or “public parking area” shall mean an open area other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free of charge, or as in accommodation for clients or customers.

“Parking space” shall mean an area permanently surfaced and marked for the use of parking a motor vehicle (see Chapter 18.52, Off-Street Parking and Loading).

“Peripheral setback” shall mean the shortest horizontal distance between a building line and the exterior boundary of the parcel.

“Person” shall mean an individual owner (regardless of relationship or legal capacity), partnership, corporation, association, unincorporated organization, trust, or any other legal or commercial entity, including a joint venture or other such affiliated ownership.

“Pier” shall mean a fixed structure built over tidelands or shore lands used as a landing for marine or recreational purposes.

“Planning commission” shall mean the Poulsbo planning commission.

“Planning director” shall mean the director of the Poulsbo planning department or a duly authorized designee.

“Premises” shall mean a tract or parcel of land with or without habitable buildings.

“Principal uses permitted outright” shall mean those uses allowed as a matter of right within certain land use districts without public hearing, zoning permit, conditional use permit, or variance; provided, that such use is in accordance with the requirements of the particular district and general conditions stated elsewhere in this title, and other applicable provisions of the city code.

“Prohibited use” shall mean any use which is not specifically enumerated or interpreted as allowable in that district.

“Public facilities” shall mean facilities which are owned, operated, and maintained by a public agency.
“Recreation space” shall mean an area that shall be improved and maintained for its intended use. Exterior as well as interior areas can constitute recreation space. Examples of usable recreation space include swimming pools, community buildings, interior gyms, picnic areas, tennis courts, community gardens, improved playgrounds, paths and passive seating areas.

“Recreational vehicle” shall mean a vehicle such as a motor home, travel trailer, truck and/or camper combination, or camp trailer, boats and boat trailers or all-terrain vehicles which are designed for temporary human habitation for recreational or emergency purposes and which may be moved on public highways without any special permit for long, wide or heavy loads.

“Recreational vehicle park” shall mean a tract of land developed as a unit with individual sites to accommodate, on a transient basis, two or more recreational vehicles.

“Residential care facility” shall mean an establishment operated with twenty-four-hour supervision for the purpose of serving eleven or more persons of any age who, by reason of their circumstance or conditions, require care; for example, work release programs, alcoholic treatment programs, drug rehabilitation centers, mental health programs, etc. This definition does not include prisons or conventional correctional institutions involving twenty-four-hour locked incarceration with little or no freedom of movement. “Care” is defined as room and board and the provisions of a planned treatment program; “planned treatment” means a previously determined program of counseling, therapy or other rehabilitative social service.

“Residential care home” shall mean an establishment operated with twenty-four-hour supervision for the purpose of serving not more than ten persons of any age who, by reason of their circumstances or conditions, require care while living as a single housekeeping unit in a dwelling unit; for example, work release programs, alcoholic treatment programs, drug rehabilitation centers, mental health programs, etc. This definition does not include prisons or conventional correctional institutions involving twenty-four-hour locked incarceration with little or no freedom of movement. This definition and corresponding requirements under county code shall not apply to adult foster homes as defined in Chapter 70.128 RCW. “Care” is defined as room and board and the provision of a planned treatment program; “planned treatment” means a previously determined program of counseling, therapy or other rehabilitative social service.

“Rooming house” shall mean a building wherein furnished rooms without cooking facilities are rented for compensation to three or more nontransient persons, not included in the family unit of the owner or tenant of the premises.

“Senior housing” shall mean dwelling units specifically for occupancy by persons fifty-five years of age or older.

“Setback” shall mean the minimum allowable horizontal distance from a given point or line of reference, such as a street right-of-way, or approved private street or access easement, to the nearest vertical wall, such as the structure’s foundation.
“Sign” shall mean a collection of letters, numbers or symbols which calls attention to a business, product, activity, person or service.

“Sign permit” shall mean a permit which authorizes the placement or alteration of a sign on a particular parcel of property or building.

“Site plan” shall mean a plan prepared to scale, showing accurately and with complete dimensions, all proposed and existing buildings, landscaping, open space, structures and features on abutting properties, and parking proposed for a specific parcel of land.

“Street” shall mean all roads, streets, highways, freeways, easements, and public rights-of-way used for or designed for vehicular access or use including private roads serving or intended to serve five or more lots.

“Structural alteration” shall mean any change in the supporting components of a building or structure.

“Structure” shall mean that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

“Temporary structure” shall mean a structure which does not have or is not required by the Uniform Building Code to have a permanent attachment to the ground. Like permanent structures, temporary structures are subject to building permits.

“Temporary use” shall mean a use which may occur on a lot on a seasonal basis or for a prescribed period of time which usually would not exceed one year’s duration.

“Townhouse” shall mean a dwelling containing two or more dwelling units which share one or more common walls with other dwelling units, and with each dwelling unit individually occupying an individually owned parcel of land with no side yards between adjacent townhouses.

“Transit facilities” shall mean sites which provide for the transportation of groups of people, including park-and-ride lots and transit centers which serve as a connecting point between multiple modes of transportation. Transit facilities do not include storage yards or “bus barns.”

“Use” shall mean the nature of occupancy, type of activity or character and form of improvements to which land is devoted.

“Veterinary clinic” shall mean the same as “animal hospital.”

“Wireless communication facility” shall mean any unstaffed facility used for the transmission and/or reception of radio frequency (RF) signals through electromagnetic energy. This usually consists of an equipment shelter or cabinet, a support tower or structure used to achieve the necessary elevation, and the antenna array.
"Wrecking yard” shall mean the same as “junkyard.”

“Yard” shall mean any open area on the lot with a building or a structure, which open space is unoccupied and unobstructed from the ground upward, except as specified elsewhere in this title.

“Yard, front” or “front yard” shall mean an open area extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this title.

“Yard, rear” or “rear yard” shall mean an open area extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this title.

“Yard, side” or “side yard” shall mean an open area extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in this title.

“Zone” shall mean the same as “district,” a section or sections of the city within which the standards governing the use of land, buildings, and premises are uniform, which is provided for in Chapter 18.12.

* * *

18.16.040 Lot requirements.
The following minimum lot requirements shall be met:

A. Lot area: seven thousand five hundred square feet. There shall be a maximum density of five dwelling units per gross acre. There shall be a minimum density of four dwelling units per net acre. The maximum lot size shall be ten thousand eight hundred ninety square feet. A parent lot may remain larger than ten thousand eight hundred ninety square feet; however, it must be able to be further subdivided in seven thousand five hundred square foot increments.

B. Lot width: sixty feet at the midpoint of the lot or forty-five feet from the front yard line. Each lot shall have a minimum of twenty feet of frontage on a dedicated street or approved access way.

C. Lot depth: ninety feet.

D. Front yard: twenty feet from main building facade; twenty-five feet from garage facade if front loaded (i.e., garage door facing street) and protrudes streetward from main building facade.

E. Side yard: five feet with a combined total of fifteen feet (unless abutting units are attached).

F. Rear yard: ten feet.
**H. Public street corner side yard: ten feet**

* * *

### 18.20.040 Lot and density requirements.

**Table 18.20.040**

—RM and RH Residential Zone Lot Requirements

<table>
<thead>
<tr>
<th>Zoning Standard</th>
<th>Single-Family Detached (including any method of subdivision for single-family detached)</th>
<th>Multifamily Developments (e.g., duplex, triplex, apartment, townhomes, detached cottage,* attached or detached condo)</th>
<th>Nonresidential</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Area</td>
<td>4,000 square feet</td>
<td>None</td>
<td>6,000 square feet</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
<td>50'</td>
<td>20'</td>
<td>50'</td>
</tr>
<tr>
<td>FY Setback</td>
<td>15'</td>
<td>10'</td>
<td>20'</td>
</tr>
<tr>
<td>RY Setback</td>
<td>10’</td>
<td>10’ when abutting R zone</td>
<td>20’</td>
</tr>
<tr>
<td>SY Setback</td>
<td>5’</td>
<td>Detached: 10’</td>
<td>Minimum 5’ for a total of 15’</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Attached: None</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ends of attached units: 10’</td>
<td></td>
</tr>
<tr>
<td>SY Setback (on corner lots at intersection(s) of public streets/rights-of-way)</td>
<td>10’ (or greater if necessary for sight distance as determined by the city engineer)</td>
<td>10’ (or greater if necessary for sight distance as determined by the city engineer)</td>
<td></td>
</tr>
<tr>
<td>Increases in yard setbacks</td>
<td>For side, rear and peripheral yards, the setback shall be increased by 1/2’ for each foot by which the building height exceeds 25’. (In no case, however, shall the building height exceed the standard of 35’, unless allowed for in another section.)</td>
<td>For side, rear and peripheral yards, the setback shall be increased by 1/2’ for each foot by which the building height exceeds 25’. (In no case, however, shall the building height exceed the standard of 35’, unless allowed for in another section.)</td>
<td></td>
</tr>
</tbody>
</table>
*Note: Detached cottage developments proposed through a subdivision also may utilize the no-minimum-lot-area provision. To utilize the no-minimum-lot-area provision in these zoning districts, "cottage development" shall mean detached single-family units clustered around commonly owned courtyard/common landscaped areas.

All other single-family detached units proposed through a subdivision must meet the four-thousand-square-foot minimum lot size.

**18.20.050 Special yards and distances between buildings with more than two attached units.**

A. There shall be a minimum distance of ten feet between buildings or structures when a structure has two or more units and it exceeds twenty-five feet in height. There shall be an additional minimum distance of one-half foot for each foot buildings or structures exceed twenty-five feet of height on the same parcel or in the same development.

B. For the purpose of calculating special yards, the determination of special yard distance shall be calculated based on the average height of the facing sides of the buildings or structures.

**18.24.040 Lot requirements.**

For lot requirements, see Table 18.24.040 below.

**Table 18.24.040—Commercial Zone Lot Requirements**

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>C</th>
<th>DC</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Minimum front yard setback in feet</td>
<td>15</td>
<td>none</td>
</tr>
<tr>
<td>B. Minimum side yard setback abutting a lot in an R district</td>
<td>20</td>
<td>none</td>
</tr>
<tr>
<td>C. Minimum side yard setback not abutting a lot in an R district</td>
<td>5</td>
<td>none</td>
</tr>
<tr>
<td>Minimum street corner side yard setback not abutting a lot in an R district</td>
<td>10</td>
<td>none</td>
</tr>
<tr>
<td>D. Minimum rear yard</td>
<td>5</td>
<td>none</td>
</tr>
<tr>
<td>E. Minimum rear yard if adjacent to a lot in an R district</td>
<td>10 feet plus one foot for each foot building height exceeds 25 feet</td>
<td>none</td>
</tr>
</tbody>
</table>
18.32.030 Development standards.

A. Lot Area. There is no minimum lot size in the P zone.

B. Setbacks. The minimum front yard setback is twenty feet. Other yard setbacks are ten feet.

E. Landscaping. All required yard setbacks shall be landscaped. Any storage areas visible shall be screened. Perimeter, interior and parking area landscaping locations and species types shall be identified in the park master plan or site plan application landscape plan.

F. Parking. The planning director shall determine the number of parking spaces required based upon the type and extent of the park/recreation facility.