City of Oak Harbor
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Shoreline Master Program
PARTIAL DISCUSSION DRAFT
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Chapter 1: **INTRODUCTION**

A. Purpose of the Shoreline Management Act

Washington's **Shoreline Management Act** (Act) was adopted by the public in a 1972 referendum "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." The primary purpose of the Act is to provide for the management and protection of the state's shoreline resources by planning for reasonable and appropriate uses. In order to protect the public interest in preserving these shorelines, the Act establishes a coordinated planning program between the state and local jurisdictions to address the types and effects of development occurring along the state's shorelines. The Act has three broad policies:

5. Encourage water-dependent uses: "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines..."
6. Protect shoreline natural resources, including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life..."
7. Promote public access: "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."

This Act recognizes that "shorelines are among the most valuable and fragile" of the state's resources. The Act, and the City of Oak Harbor, recognize and protect private property rights along the shoreline, while aiming to preserve the quality of this unique resource for all state residents.

B. Purpose of the Shoreline Master Program

The purpose of this Master Program is:

1. To carry out the responsibilities imposed on the City of Oak Harbor by the Washington State Shoreline Management Act (RCW 90.58).
2. To promote the public health, safety, and general welfare, by providing a guide and regulation for the future development of the shoreline resources of the City of Oak Harbor in a manner that reflects local conditions.
3. To further, by adoption, the policies of RCW 90.58, and the policies of this Master Program.
4. To comply with the Shoreline Master Program Guidelines (WAC Chapter 173-26), including standards to ensure that development under the Shoreline Master Program will not result in a net loss of ecological functions.

C. Shoreline Jurisdiction

1. SMA Jurisdiction Definition

As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the state plus their associated "shorelands." At a minimum, the waterbodies designated as shorelines of the state are marine waters, streams whose mean annual flow is 20 cubic feet per second (cfs) or greater, and lakes whose area is greater than 20 acres. Shoreline jurisdiction includes these waters, together with the lands underlying them and all lands extending landward 200 feet in all directions, as measured on a horizontal plane from the ordinary high water mark, as well as all associated wetlands.

The extent of the shoreline jurisdiction shall be determined for specific cases based on the actual location of the ordinary high water mark (OHWM), floodway, and the presence and delineated boundary of associated wetlands as may be determined on a site by site basis based on adopted definitions and technical criteria.

2. Applicable Area in Oak Harbor

The marine shoreline within the City of Oak Harbor is approximately 13 miles long, and the City's shoreline jurisdiction includes all shorelands within 200 feet of the ordinary high water mark of Oak Harbor and Crescent Harbor within the City limits, as well as all associated wetlands that are hydraulically connected to these two waterbodies, including, but not necessarily limited to, Freund Marsh, Crescent Marsh and the Maylor Point wetland complex. There are no streams, rivers, or lakes within the City's shoreline jurisdiction that qualify for regulation under the Shoreline Management Act.

3. Official Map of Shoreline Jurisdiction

The shoreline jurisdiction map for the City of Oak Harbor is included as Figure 1. Each shoreline environment designation is described in Chapter 2, including the extent of designated areas. While the Shoreline Environment Designation map is a tool to present the extent of the shoreline jurisdiction and the location of specific environments to the public, the definition of the City's shoreline jurisdiction, as described in Section 1.C.1 and 1.C.2 above, and in RCW 90.58 shall control in the event of a conflict.

D. Applicability

1. General Applicability

The Shoreline Master Program (SMP) shall apply to all land and waters under the jurisdiction of the City of Oak Harbor as identified in Section 1.C.2 above. If the provisions of the SMP conflict with other applicable local ordinances, policies and regulations, the requirement that most supports the provisions of the Shoreline Management Act as stated in RCW 90.58.020 shall apply, as determined by the Administrator.

2. Applicability to Federal Agencies

Direct federal agency actions and projects occurring in areas covered by the Oak Harbor SMP shall comply with WAC 173-060. Direct federal agency activities affecting the uses or resources subject to the act must be consistent to the maximum extent practicable with the enforceable provisions of the act, regulations adopted pursuant to the SMA and the Oak Harbor SMP. The SMP, including the permit system, shall apply to all nonfederal developments and uses undertaken on federal lands.

3. Applicability to All Persons and Development

This SMP shall apply to all uses, activities and development by persons or parties on lands subject to SMP as identified in Section 1.C.2. Please see Section 1.E below for more information on when a permit is required. Regardless of whether a use, activity or development is exempt, all proposals must comply with the policies and regulations contained in the SMP.

E. Shoreline Master Program Basics

1. How is the SMP Used?

The Oak Harbor Shoreline Master Program is a planning document that outlines goals and policies for the shoreline of the city and establishes regulations for development occurring in that area.

In order to preserve and enhance the shoreline of Oak Harbor, all development proposals relating to the shoreline area should be evaluated in terms of the City's Shoreline Master Program, and the City Shoreline Administrator should be consulted. Some developments may be exempt from obtaining a Shoreline Substantial Development Permit (SSDP) as detailed in Section 6.F.2 and RCW 90.58.030(3)(e), while others will require an SSDP, and/or may require a conditional use permit application or variance application.

2. When is a Permit Required?

Chapter Six provides a definition for a Shoreline Substantial Development (SSD) for which a Shoreline Substantial Development Permit (SSDP) is required. Section 6.F provides more information on the SSDP process. A development or activity is exempt if it meets the criteria listed in WAC 173-27-040 and the exemption criteria listed in Section 6.F.2; approval of a Shoreline Exemption from the City's Shoreline Administrator is still necessary before construction of an exempt can begin. Some development may require a Shoreline Conditional Use Permit, if listed as such in the Use Tables contained in Section 4.B of this SMP; or a Shoreline Variance. Conditional Use Permits and Variances are discussed in more detail in Sections 6.H and 6.G, respectively. Review under the State Environmental Policy Act (SEPA), as well as other federal, state and local laws may also be required. Please note that routine maintenance of upland structures and landscapes does not require a permit or City approval, provided it complies with the requirements of the SMP.

3. Shoreline Permits and the Review Process

The City's Shoreline Administrator can help determine if a project is classified as a shoreline substantial development and identify which regulations in the SMP may apply to the proposed project. The Administrator can also provide information on the permit application process and how

the SMP process relates to other local development permits required by the Oak Harbor Municipal Code, the State Environmental Policy Act (SEPA) review process and federal and state permits.

4. Relationship to Other Plans and Regulations

The permitting process for a shoreline development or use does not exempt an applicant from complying with any other federal, state or local statutes or regulations which may also be applicable to such development or use. These may include, but are not limited to, Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife (WDFW), Section 401 Permit by the Army Corps of Engineers (ACOE) and Section 404 Permit by the Washington Department of Ecology (DOE). Proposals must also comply with the regulations developed by the City to implement its plans, such as the zoning code (Title 19 of the Oak Harbor Municipal Code), as well as regulations relating to building construction and safety (Title 17). In Oak Harbor, other plans and policy documents that must be considered include the Oak Harbor Comprehensive Plan and the adopted Surface Water Design Manual.

At the time of a permit application or of an initial inquiry, the City's Shoreline Administrator should inform the applicant of those regulations and statutes which may be applicable to the best of the administrator's knowledge; PROVIDED, that the final responsibility for complying with all statutes and regulations shall rest with the applicant.

5. Need for Consistency

The Shoreline Management Act requires that policies for lands adjacent to the shorelines be consistent with the Shoreline Management Act, implementing rules, and the local shoreline master program. Conversely, local comprehensive plans provide the underlying framework within which master program provisions should fit. The Growth Management Act requires that shoreline master program policies be incorporated as an element of the comprehensive plan, and that all elements be internally consistent. In addition, under the Growth Management Act, all development regulations must be consistent with the comprehensive plan.

The Shoreline Guidelines identify three criteria for use in evaluating the consistency between master program environment designation provisions and the corresponding comprehensive plan elements and development regulations. In order for shoreline designation provisions, local comprehensive plan land use designations, and development regulations to be internally consistent, all three of the conditions below should be met:

a. Provisions Not Precluding One Another

Comprehensive plan provisions and shoreline environment designation provisions should not preclude one another. To meet this criterion, the provisions of both the comprehensive plan and the master program must be able to be met. Further, when considered together and applied to any one piece of property, the master program use policies and regulations and the local zoning or other use regulations should not conflict in a manner that all viable uses of the property are precluded.

b. Use Compatibility

Land use policies and regulations should protect preferred shoreline uses from being impacted by incompatible uses. The intent is to prevent existing or potential future water oriented uses, especially water dependent uses, from being restricted on shoreline areas because of impacts to nearby non-water-oriented uses. To be consistent, master programs, comprehensive plans, and development regulations should prevent new uses that are not compatible with preferred uses from locating where they may restrict preferred uses or development.

c. Sufficient Infrastructure Required

Infrastructure and services provided in the comprehensive plan should be sufficient to support allowed shoreline uses. Shoreline uses should not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them. Infrastructure plans must also be mutually consistent with shoreline designations. Where they do exist, utility services routed through shoreline areas shall not be a sole justification for more intense development.

F. Organization of the this Shoreline Master Program

This Master Program is divided into seven Chapters:

Chapter 1: ***Introduction*** provides general background information on the state Shoreline Management Act; the development of the Shoreline Master Program in Oak Harbor; and a general discussion of when and how a shoreline master program is used.

Chapter 2: ***Shoreline Environments***, defines and maps the shoreline jurisdiction in the City of Oak Harbor and defines and maps the environment designations of all the shorelines of the state in the City's jurisdiction. Policies and regulations specific to the seven designated shoreline environments (Maritime, Residential, Residential Bluff Conservancy, Conservancy, Urban Mixed Use, Urban Public Facility, and Aquatic) are detailed in this chapter.

Chapter 3: ***General Provisions***, sets forth the general policies and regulations that apply to uses, developments, and activities in *all* shoreline areas of Oak Harbor.

Chapter 4: ***Shoreline Use Policies and Regulations***, sets forth policies and regulations governing specific categories of uses and activities typically found in shoreline areas. The policies and regulations cover the following uses and activities: Agriculture; Aquaculture; Boating Facilities (including marinas); Commercial Development (water-dependent, water-related, water-enjoyment, and non-water related); Forest Practices; Manufacturing/Industrial Development; Mining/Mineral Extraction; Government Facilities; Parking (primary and accessory); Recreational Development; Residential Development; Scientific, Historical, Cultural, or Educational Uses; Transportation; Utilities (primary and accessory); and Restoration Activities. Specific setback regulations, reduction incentives and dimensional and density standards for each of the Shoreline Environments are also detailed in this chapter.

Chapter 5: ***Shoreline Modification Provisions*** provides policies and regulations for those activities that modify the physical configuration or qualities of the land-water interface.

Chapter 6: ***Administration***, provides the system by which the Oak Harbor Shoreline Master Program will be administered, and provides specific information on the application process and criteria used in evaluating requests for shoreline substantial development permits, conditional use permits, and variances.

Chapter 7: ***Definitions***, defines terms found in this document.

G. Title

This document shall be known and may be cited as the City of Oak Harbor Shoreline Master Program. This document may refer to itself as "The Master Program."

Chapter 2: **ENVIRONMENT DESIGNATION PROVISIONS**

A. Introduction

1. Shoreline Environment Designations

The basic intent of a shoreline environment designation is to preserve and enhance shoreline ecological functions and to encourage development that will enhance the present or desired future character of the shoreline as described in the Comprehensive Plan, other adopted plans and this SMP. To accomplish this, shoreline segments are given an environment designation based on existing development patterns, biological capabilities and limitations, and the aspirations of the local citizenry.

This Master Program establishes seven shoreline environments for the City of Oak Harbor. These shoreline environments shall include the shorelines of the City of Oak Harbor, including shorelands, surface waters, and bedlands. These environments are derived from and build on policy direction contained in the Oak Harbor Shoreline Analysis Report, the Oak Harbor Comprehensive Plan, the Shoreline Management Act and the Shoreline Master Program Guidelines. The seven Oak Harbor shoreline environment designations are:

- Maritime,
- Urban Mixed Use,
- Residential,
- Residential - Bluff Conservancy,
- Urban Public Facility,
- Conservancy, and
- Aquatic.

These shoreline environments are shown in the Shoreline Management Environment Designations Map, included as Figure 1, and described in detail in the text below. Any undesignated shorelines are automatically assigned an Urban Conservancy environment designation. The map is a general depiction of the extent of the City's shoreline jurisdiction and the relative locations of shoreline environment designations. In the event of a conflict between the designation map and the text of this Master Program, the environment descriptions provided in this chapter shall control.

B. Management Policies

1. Maritime Environment

a. Purpose

The purpose of the Maritime environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

b. Designation Criteria

Areas designated Maritime are those areas within the Oak Harbor shoreline jurisdiction that currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses. Existing uses in the high-intensity environment include marinas, boat launch ramps, parking lots, boat repair, boat storage yards and a wide range of Navy uses.

c. Designated Areas

Areas designated Maritime include the following areas as shown in Figure 1:

- Oak Harbor Marina and adjoining Naval Air Station Whidbey Island (NASWI) property extending approximately 400 feet south
- Crescent Harbor Marina – Those areas adjacent to Crescent Harbor between the radar station and the northern extent of the former seaplane base tarmac.

d. Management Policies

1. First priority for development should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Non-water oriented uses should not be allowed except as part of mixed-use developments. Non-water oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is not direct access to the shoreline.
2. Provisions allowing for a mix of water-dependent and non-water dependent uses in the vicinity of the Oak Harbor Marina should be established to foster economic development and support the vision of the Oak Harbor Marina Redevelopment Program. Standards should be applied to assure no additional degradation of shoreline conditions and no net loss of ecological functions.
3. Full utilization of the high-intensity waterfront areas should be achieved before further expansion of intensive development is allowed. Reasonable long-range projections of future growth in the vicinity of the Oak Harbor Marina and the Whidbey Island Naval Exchange should guide any future expansions of the Maritime environment. However, priority should be given to encouraging the relocation of nonwater-oriented uses when analyzing full utilization of Maritime areas and before considering expansion of such areas.
4. Policies and regulations should assure no net loss of shoreline ecological functions as a result of new development. New development should include environmental cleanup in accordance with any relevant state and federal law and enhancement of shoreline ecological functions wherever practicable.
5. Appropriate low impact development (LID) techniques, such as bioretention, use of green roofs and pervious pavements, and other techniques, shall be required to the maximum extent feasible.
6. Where safety and feasibility allow, waterfront development in the Maritime environment should provide visual and physical public access to the shoreline.

7. Aesthetic objectives should be implemented by means such as height limits, setbacks, natural vegetative buffers, screening requirements, sign regulations and other development standards.

2. Urban Mixed Use Environment

a. Purpose

The purpose of the Urban Mixed Use environment designation is to provide for a variety of water-oriented commercial, residential, and private recreational uses in areas where the shoreline has already been developed at urban intensities while protecting existing ecological functions.

b. Designation Criteria

The Urban Mixed Use environment designation is applied to shoreline properties adjacent to Oak Harbor zoned for a wide range of multi-family residential, commercial, or recreation uses. These areas are generally not suited for water dependent and water related uses requiring moorage structures, passenger or cargo terminals, launching ramps for motorized vessels and similar over-water and in-water structures.

c. Designated Areas

The Urban Mixed Use environment designation applies to all properties east of Windjammer Park and west of the Oak Harbor Marina, with the exception of Flintstone Park. Please see Figure 1.

d. Management Policies

1. First priority should be given to water-dependent uses that are consistent with the designation criteria. Second priority should be given to water-oriented uses, including residential development and passive recreation. Non-water oriented uses, including commercial uses, should be allowed if proposed as part of mixed-use developments with a residential component and would not conflict with or limit opportunities for water-oriented uses or are proposed for sites without direct access to the shoreline, such as properties on the north side of SE Bayshore Drive and SE Pioneer Way.
2. Low impact development (LID) techniques, such as minimizing effective impervious surfaces, infiltration of run-off, use of green roofs and pervious pavers, and other techniques, should be required to the maximum extent feasible.
3. Moorage structures are discouraged in this environment because conditions are generally not suitable, but where allowed, joint-use piers or public piers should be required.
4. Multi-family and multi-lot residential developments should provide joint use facilities for the recreational needs of their residents. Where such development is located near the Waterfront Trail, pedestrian connections should be provided to the trail to the greatest extent feasible.
5. When required, public access shall be provided pursuant to Chapter 3, Section 6. Public access priorities for this area include the Waterfront Trail, visual access and connections to the Waterfront Trail.

3. Residential Environment

a. Purpose

The Residential environment designation is designed to provide for residential uses where the necessary facilities for development can be provided. An additional purpose is to provide appropriate recreational uses.

b. Designation criteria

The Residential environment designation is assigned to shoreline areas that are predominantly single-family residential development or are planned and platted for residential development and are free from significant environmental constraints and hazards.

c. Designated Areas

Residential areas include those parcels adjacent to Oak Harbor that are currently zoned residential and lie east of Freund Marsh, and west of Windjammer Park, specifically the Dillard's Addition subdivision as shown in Figure 1.

d. Management Policies

1. Residential activities and recreational uses are preferred over other land and resource consumptive development or uses.
2. Development should be located, sited, designed and maintained to protect and enhance the shoreline environment and to be compatible with adjacent public and private uses of the shoreline, including Windjammer Park and Freund Marsh open space.
3. Ecological functions and remaining natural features should be protected and conserved. Mitigation shall be provided for all development to ensure no net loss.
4. Multi-lot residential and recreational developments should provide joint use facilities for community recreational needs.
5. Development should not negatively impact visual or physical public access to the shoreline, including access to tidelands and waters of the state below the ordinary high water mark (beach walk access). Please see Chapter 3, Section 6 for public access requirements.
6. Low impact development (LID) techniques, such as minimizing effective impervious surfaces, bioretention, infiltration of run-off, pervious pavements, and other techniques, should be required where feasible.
7. The City should require connection to the sanitary sewer system when existing properties using on-site sewage systems (OSS), commonly referred to as septic systems, are developed, redeveloped or substantially modified and a sanitary sewer system is available.
8. Private property owners should be encouraged to preserve and enhance native shoreline vegetation and use environmentally friendly landscaping practices, through incentives, information and other assistance.

4. Residential - Bluff Conservancy Environment

a. Purpose

The primary purpose of the Residential - Bluff Conservancy Environment is to accommodate existing and future residential development on more suitable portions of lots that contain geologically hazardous slopes, while preserving the ecological functions of natural bluff areas and shorelines. Voluntary restoration and enhancement of modified and degraded shoreline areas is a secondary purpose of the designation.

b. Designation Criteria

The Residential - Bluff Conservancy environment designation is applied to shoreline properties that are currently zoned for single-family residential development and are located in areas characterized by the presence of geologically hazardous shoreline bluffs.

c. Designated Areas

The Residential - Bluff Conservancy environment designation applies to those parcels currently zoned for residential development and located south of Freund Marsh, commonly known as the Scenic Heights neighborhood as shown in Figure 1.

d. Management Policies

1. Residential uses located and designed in a manner that does not accelerate bluff erosion and slope failure are the preferred uses for upland portions of the Residential - Bluff Conservancy environment. Within slope buffer, bluff and beach areas, passive recreation, open space and voluntary shoreline enhancement and restoration activities are preferred uses.
2. Upland development should be located, sited, designed and maintained to protect and enhance the shoreline environment; specifically, development should be sited to avoid the potential for slope erosion and failure over the useable life of the structure, and designed to prevent bluff erosion, including adequate provisions for stormwater.
3. Upland development should be located, sited, and designed to avoid clearing of vegetation or other alterations of steep slopes and buffer areas. Pruning of vegetation in accordance with accepted arboricultural practices to maintain and enhance views should be allowed. Trees should not be topped. Enhancement of shoreline bluff areas with native vegetation to prevent shoreline erosion should be encouraged.
4. Shoreline access structures, such as trails, walkways, and stairs, should be located, designed, and maintained to minimize alteration of shoreline bluffs and clearing of vegetation. Where feasible, shoreline access from multiple properties should be coordinated and consolidated to reduce the number of access structures.
5. Hard structural shoreline armoring in the Residential - Bluff Conservancy environment should be discouraged in favor of soft stabilization techniques, such as bioengineering, beach nourishment, and vegetative stabilization. Property owners should be encouraged to coordinate shoreline stabilization solutions across multiple properties.

6. Private property owners should be encouraged to preserve and enhance native shoreline vegetation and use environmentally friendly landscaping practices, through incentives, information and other assistance.
7. The City should require connection to the sanitary sewer system when existing properties using on-site sewage systems (OSS), commonly referred to as septic systems, are developed, redeveloped or substantially modified and a sanitary sewer system is available.
8. Development should not negatively impact visual or physical public access to the shoreline, including access to tidelands and waters of the state below the ordinary high water mark (e.g. beach walk access). Please see Chapter 3, Section 6 for public access requirements.

5. Urban Public Facility Environment

a. Purpose

The purpose of the Urban Public Facility environment designation is to provide for water-oriented public recreational facilities and public access to the shoreline for residents and visitors, in areas that are not encumbered by wetlands or other severe site limitations. A secondary purpose is to provide necessary water-oriented public facilities, such as wastewater treatment plants and stormwater outfalls. Restoration of degraded shoreline areas is also a secondary purpose of this environment designation.

b. Designation Criteria

The Urban Public Facility environment designation is applied to shoreline areas zoned for parks and public facilities and currently occupied by a publicly-owned park or facility, utility infrastructure and buildings and appurtenances related to community uses and visitor services.

c. Designated Areas

The Urban Public Facility environment designation applies to Windjammer Park and Flintstone Park, as shown in Figure 1.

d. Management Policies

1. Water-dependent, water-related, and water-enjoyment uses that are fully accessible to the general public should be given first priority. Limited non-water oriented accessory commercial uses may be appropriate if they support a water-oriented public access or recreational use.
2. Public recreation and public access uses should be preferred uses in the Urban Public Facility environment, provided that such development does not result in a net loss of shoreline ecological function.
3. Incorporation of shoreline enhancement and restoration efforts as part of recreational and public access development should be encouraged.
4. Development should, to the greatest extent feasible, preserve native shoreline vegetation. Where vegetation is cleared for development, replacement plantings should consist of native species.

5. Low impact development (LID) techniques, such as minimizing effective impervious surfaces, bioretention, infiltration of run-off, pervious pavements, and other techniques, should be required where feasible.
6. New and expanded public utility facilities, such as wastewater treatment plants and stormwater outfalls, should be allowed, provided that, in addition to ensuring no net loss of ecological function, such projects implement measures to enhance the condition and ecological function of the shoreline environment and public access is maintained and enhanced, even if some areas of the utility facility may not be accessible to the public due to safety or other concerns.

6. Conservancy Environment

a. Purpose

The purpose of the Conservancy environment designation is to protect and restore the ecological functions of open space and other sensitive lands, provide primarily passive water-oriented recreation and public access in a manner that protects ecological function, and allow a variety of other uses that preserve or enhance ecological function and recreational opportunities. On-going current Navy uses on lands contained within NASWI, including, but not limited to, training and residential uses, are consistent with the purpose of this environment.

b. Designation Criteria

Areas designated Conservancy are those areas generally unsuitable for intensive water-dependent uses such as moorage, but which may be appropriate for recreation uses such as swimming, fishing, non-motorized boating, and trails, and where one or more of the following characteristics apply:

1. They are suitable for water-related or water-enjoyment uses, but not for water-dependent uses involving structural modification of the shoreline,
2. They are open space or other sensitive areas that should not be more intensively developed,
3. They have potential for ecological restoration,
4. They retain important ecological functions, even though partially developed, or
5. They have the potential for limited development that is compatible with ecological restoration.

c. Designated Areas

Conservancy areas include those generally depicted in Figure 1:

- City-owned and trustee-owned parcels in designated wetland areas associated with Freund Marsh;
- Those areas within the City limits, within shoreline jurisdiction that are located on Naval Air Station Whidbey (NASWI), including:
    - Maylor Point adjacent to Oak Harbor and located generally south of the Oak Harbor Marina and south of High-Intensity environment on NASWI; and

- Shorelines lying north and east of the High-Intensity environment (e.g. areas north and east of the Whidbey Island Naval Exchange), including Crescent Harbor, Crescent Marsh, and Polnell Point.

- Please note that wetland boundaries that in part define the extent of this environment are approximate. The actual delineated boundary of a wetland shall determine the extent of shoreline jurisdiction and thus the extent of this environment where an associated wetland is located farther than 200 feet from the Ordinary High Water Mark.

d. Management Policies

1. Uses that preserve the natural character of the area or promote preservation of open space or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be encouraged if the use is otherwise compatible with the purpose of the environment and the setting.
2. Water-related recreation uses, such as swim beaches, fishing areas, and waterfront trails, shall be the highest priority, provided they can be located, designed, constructed, operated, and mitigated in a manner that ensures no net loss of ecological function. Moorage facilities, such as piers, docks, buoys, and floats, should be discouraged.
3. Public access and public recreation objectives should be implemented whenever feasible and whenever significant ecological impacts can be mitigated.
4. Water oriented recreation uses, such as viewing trails, benches and shelters, should be emphasized and non-water oriented uses should be minimized and allowed only as an accessory use; for example picnic areas, shoreline trails and small playground areas would be acceptable, but tennis courts and developed sports fields would not.
5. Standards should be established for shoreline stabilization, vegetation conservation, water quality, and shoreline modifications to ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
6. Approved low impact development techniques should be emphasized for any development occurring within the Conservancy environment.
7. New and expanded public utility facilities, such as wastewater treatment plants and stormwater outfalls, should be allowed, provided that, in addition to ensuring no net loss of ecological function, such projects implement measures to enhance the condition and ecological function of the shoreline environment and public access is maintained and enhanced, even if some areas of the utility facility may not be accessible to the public due to safety or other concerns.
8. The City, with appropriate partners and when adequate funding is available, should commission a study of the Maylor Point wetland complex that examines the existing fill in this area, the impact of shoreline processes on this fill and on the sediments in Oak Harbor, and potential restoration alternatives.

7. Aquatic Environment

a. Purpose

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

b. Designation Criteria

The Aquatic environment designation is assigned to areas waterward of the ordinary high water mark.

c. Designated Areas

The Aquatic Environment is assigned to all areas within the shoreline jurisdiction waterward of the ordinary high water mark, including Oak Harbor, waters adjacent to Maylor Point, Crescent Harbor, and waters adjacent to Polnell Point, as generally shown in Figure 1.

d. Management Policies

1. Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.
2. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
3. To reduce the impacts of shoreline development and increase effective use of water resources, shared use and public use of over-water facilities should be encouraged.
4. All developments and uses on waters or their beds should be located and designed to minimize interference with surface navigation, to mitigate impacts to public views and physical public access, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
5. Uses that adversely impact the ecological functions of critical saltwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201(2)(e) as necessary to assure no net loss of ecological functions.
6. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrological conditions.

Chapter 3: **GENERAL PROVISIONS**

A. Introduction

The following policies and regulations apply to all uses, developments, and activities in the shoreline area of the City of Oak Harbor. The intent of these provisions is to be inclusive, making them applicable to all environments, as well as particular shoreline uses and activities. Topics include the following:

- Universally Applicable Policies and Regulations
- Economic Development
- Archaeological and Historic Resources
- Critical Areas
- Environmental Impacts and Mitigation
- Public Access
- Shorelines of Statewide Significance
- Vegetation Conservation
- Critical Saltwater Habitat
- Water Quality, Stormwater, and Non-Point Pollution

The regulations of this chapter are in addition to other adopted ordinances and rules. Where conflicts exist between regulations, the requirement that most supports the provisions of the Shoreline Management Act as stated in RCW 90.58.020 shall apply, as determined by the Administrator. These interlocking development regulations are intended to make shoreline development responsive to specific design needs and opportunities along the City's shorelines, protect the public's interest in the shorelines' recreational and aesthetic values and assure, at a minimum, no net loss of ecological functions necessary to sustain shoreline natural resources.

These provisions address the elements of a SMP as required by RCW 90.58.100(2) and implement the governing principles of the Shoreline Master Program Guidelines as established in WAC 173-26-186.

B. Policies and Regulations

1. Universally Applicable Policies and Regulations

a. Applicability

1. The following provisions describe how this SMP is to be applied and the requirements for all shoreline uses and modifications in all shoreline environment designations.

b. Policies

1. The City should keep records of all project review actions within shoreline jurisdiction, including shoreline permits and letters of exemption.
2. The City should involve affected federal, state, and tribal governments in the review process of shoreline applications.
3. The City should periodically review shoreline conditions to determine whether or not other actions are necessary to ensure no net loss of ecological functions, protect and enhance visual quality, and enhance residential and recreational uses on the City's shoreline. Specific issues to address in such evaluations include, but are not limited to:
    a. Water quality,
    b. Conservation of aquatic vegetation (control of noxious weeds and enhancement of vegetation that supports more desirable ecological and recreational conditions),
    c. Changing visual character as result of new residential development, including additions, and individual vegetation conservation practices (both along shoreline and in upland areas),
    d. Shoreline stabilization and modifications.

c. Regulations

1. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the Shoreline Management Act, Chapter 90.58 RCW, and to the policies and regulations of this SMP.
2. The "policies" listed in this SMP are intended to provide broad guidance and direction for the "regulations" applied by the City. The policies, taken together, constitute the Shoreline Element of the Oak Harbor Comprehensive Plan.
3. If provisions within this SMP conflict, or where there is a conflict with other City policies and regulations, the provisions most directly implementing the objectives of the Shoreline Management Act, as determined by the Administrator, shall apply unless specifically stated otherwise.
4. Shoreline uses, modifications, and conditions listed as "prohibited" shall not be eligible for consideration as a Shoreline Variance or Shoreline Conditional Use Permit. See Chapter 4 for Shoreline Use regulations and Chapter 6 for Exemptions, Variances, Conditional Uses, and Nonconforming Use Provisions.

2. Economic Development

a. Applicability

Because of its location on Whidbey Island, the economy of Oak Harbor has always been closely tied to the water. Economic development along Oak Harbor's shorelines can provide a balanced and diversified economy for the city's long-term well-being while enhancing the shoreline's physical and

social qualities. The following policies and regulations apply to all development proposed within the shoreline jurisdiction.

b. Policies

1. Commercial development within the shoreline jurisdiction and over water should occur only where such development already exists and should be constructed in a manner that minimizes adverse effects on the upland and aquatic environments, consistent with the provisions of this Master Program.
2. Limit new shoreline commercial uses to those that are considered water-dependent, water-related, or water-enjoyment. Non-water-oriented commercial uses that are not accessory to a water-oriented use should be discouraged.
3. Proposed economic development along the shoreline should be consistent with the City's Comprehensive Plan and other adopted land use and community plans, including the Waterfront Redvelopment, Branding, and Marketing Program.
4. Development of recreational uses along the shoreline that can provide an economic asset for the City and enhance public enjoyment of shorelines should be encouraged.

3. Archaeological and Historic Resources

a. Applicability

The following provisions apply to archaeological and historic resources that are either recorded at the state historic preservation office and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter 25-48 WAC as well as the provisions of this chapter.

b. Policies

1. Protect sites in collaboration with appropriate tribal, state, federal and local governments. Encourage public agencies and private parties to cooperate in the identification, protection and management of cultural resources.

2. Where appropriate, make access to such sites available to parties of interest, provided that access to such sites must be designed and managed in a manner that gives maximum protection to the resource.

3. Provide opportunities for education related to archaeological, historical and cultural features where appropriate and incorporated into public and private programs and development.

4. The County should work with tribal, state, federal and local governments as appropriate sites in observance of applicable state and federal laws protecting such information from general public disclosure. As appropriate, such sites should be protected, preserved and/or restored for study, education and/or public enjoyment to the maximum possible extent.

5. Site development plans should incorporate provisions for historic, cultural and archaeological site preservation, restoration and education with open space or recreation areas whenever compatible and possible.

6. Cooperation among involved private and public parties is encouraged to achieve the Archaeological, Historical and Cultural element goals and objectives of this Program.

7. Owners of property containing identified historic, cultural or archaeological sites are encouraged to make development plans known well in advance of application, so that appropriate Tribes such as the Swinomish, Snoqualmie, Suquamish, Stillaguamish, Tulalip, and Samish, as well as the Washington State Department of Archaeology and Historic Preservation, and others may have ample time to assess the site and make arrangements to preserve historical, cultural and archaeological values as applicable.

8. Private and public owners of historic sites should be encouraged to provide public access and educational opportunities in a manner consistent with long term protection of both historic values and shoreline ecological functions.

9. Historic, cultural and archaeological site development should be planned and carried out so as to prevent impacts to the resource. Impacts to neighboring properties and other shore uses should be limited to temporary or reasonable levels.

10. If development is proposed adjacent to an identified historic, cultural or archaeological site, then the proposed development should be designed and operated so as to be compatible with continued protection of the historic, cultural or archaeological site.

11. The cultural resource provisions of this Program are consistent with RCW 27.44, RCW 27.53 and WAC 25-48-060. In accordance with state law, all applicants are subject to these requirements.

c. Regulations

1. Known Archaeological, Historic and Cultural Resources

    a. Upon receipt of application for a shoreline permit or request for a statement of exemption for development on properties within 500 feet of a site known to contain an historic, cultural or archaeological resource(s), the County shall require a cultural resource site assessment; provided that, the provisions of this section may be waived if the Administrator determines that the proposed development activities do not include any ground disturbing activities and will not impact a known historic, cultural or archaeological site. The site assessment shall be conducted by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of significant historic or archaeological resources. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible party. The applicant shall submit a minimum of five (5) copies of the site assessment to the Administrator for distribution to the applicable parties for review.

    b. If the cultural resource site assessment identifies the presence of significant historic or archaeological resources, a Cultural Resource Management Plan (CRMP) shall be prepared by a professional archaeologist or historic preservation professional, as applicable. The fee

for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible party. In the preparation of such plans, the professional archaeologist or historic preservation professional shall solicit comments from the Washington State Department of Archaeology and Historic Preservation, and the Swinomish, Snoqualmie, Suquamish, Stillaguamish, Tulalip, and Samish Tribes. Comments received shall be incorporated into the conclusions and recommended conditions of the CRMP to the maximum extent practicable. The applicant shall submit a minimum of five (5) copies of the CRMP to the Administrator for distribution to the applicable parties for review.

i. A CRMP shall contain the following minimum elements:

a) The purpose of the project; and

b) A site plan for proposed on-site development; and

c) Depth and location of all ground disturbing activities including, but not limited to, utilities, driveways, clearing and grading; and

d) An examination of project on-site design alternatives; and

e) An explanation of why the proposed activity requires a location on, or access across and/or through, a significant historic or archaeological resource; and

f) A description of the historic/archaeological resources affected by the proposal; and

g) An assessment of the historic/archaeological resource and an analysis of the potential adverse impacts as a result of the activity; and

h) An analysis of how these impacts have been avoided; or

i) Where avoidance is not possible, how these impacts have been mitigated/minimized; and

j) A recommendation of appropriate mitigation measures, which may include but are not limited to the following:

1. Recording the site with the State Department of Archaeology and Historic Preservation, or listing the site in the National Register of Historic Places, Washington Heritage Register, as applicable, or any locally developed historic registry formally adopted by the Whatcom County Council;

2. Preservation in place;

3. Re-internment in the case of grave sites;

4. Covering an archaeological site with a nonstructural surface to discourage pilferage (e.g., maintained grass or pavement);

5. Excavation and recovery of archaeological resources;

6. Inventorying prior to covering of archaeological resources with structures or development; and

7. Monitoring of construction excavation.

k) An outline of actions to be taken by the property owner, developer, archaeologist, or historic preservation professional, as applicable, in the event that an inadvertent discovery of historic, cultural or archaeological sites or artifacts occurs during site development, which includes the following:

1. A statement that work on that portion of the development site shall be stopped immediately and the find reported as soon as possible to the Administrator and other appropriate governments and agencies.

2. Contact information for applicable parties, agencies and governments including the County Administrator, the Washington State Department of Archaeology and Historic Preservation, the Swinomish, Snoqualmie, Suquamish, Stillaguamish, Tulalip, and Samish Tribes, professional archaeologist or historic preservation professional; and in the event of inadvertent discovery of human remains, additional contact information for the Whatcom County Sheriff's Office, Whatcom County Medical Examiner, and/or Lummi Repatriation Office.

3. Proposed measures to stabilize, contain or otherwise protect the area of inadvertent discovery until a site investigation and/or site assessment is conducted.

l) Where provision of public access for the purpose of public education related to a private or publicly owned building or structure of historic significance is desired by the property owner, a public access management plan shall be developed in consultation with the Washington State Department of Archaeology and Historic Preservation and/or other agencies, as appropriate, and the Swinomish, Snoqualmie, Suquamish, Stillaguamish, Tulalip, and Samish Tribes to address the following:

1. The type and/or level of public access that is consistent with the long term protection of both historic resource values and shoreline ecological functions and processes; and

2. Site and resource specific conditions and/or improvements including the following, as applicable:

- hours of operation,
- interpretive and/or directional signage,
- lighting,
- pedestrian access, and/or
- traffic and parking.

m) Where provision of public access for purposes of public education related to an archaeological or cultural resource site is desired by the property owner, the Washington State Department of Archaeology and Historic Preservation, and/or

other agencies, as appropriate, and the Swinomish, Snoqualmie, Suquamish, Stillaguamish, Tulalip, and Samish Tibes shall be in agreement prior to providing public access to the site. An access and resource management plan shall be developed in consultation with the Washington State Department of Archaeology and Historic Preservation, and the Swinomish, Snoqualmie, Suquamish, Stillaguamish, Tulalip, and Samish Tribes.

ii. The recommendations and conclusions of the CRMP shall be used to assist the Administrator in making final administrative decisions concerning the presence and extent of historic/archaeological resources and appropriate mitigating measures. The Administrator shall consult with the Washington State Department of Archaeology and Historic Preservation, and the Swinomish, Snoqualmie, Suquamish, Stillaguamish, Tulalip, and Samish Tribes prior to approval of the CRMP.

iii. The Administrator may reject or request revision of the conclusions reached in a CRMP when the Administrator can demonstrate that the assessment is inaccurate or does not fully address the historic/archaeological resource management concerns involved.

c. Upon receipt of a complete development permit application in an area of known historic/archaeological resources, the County shall notify and request a recommendation from appropriate agencies such as the Washington State Department of Archaeology and Historic Preservation, and the Swinomish, Snoqualmie, Suquamish, Stillaguamish, Tulalip, and Samish Tribes. Recommendations of such agencies and other affected persons shall be duly considered and adhered to whenever possible and reasonable. Notification shall include the following information:

i. The date of application, the date of notice of completion for the application, and the date of the notice of application;

ii. A site map including the street address, tax parcel number, township, range, and section of the proposed project area;

iii. A description of the proposed project action and a list of the project permits included in the application, and, if applicable, a list of any studies requested by the County;

iv. The identification of other permits not included in the application to the extent known by the County;

v. The identification of existing environmental documents that evaluate the proposed project and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;

vi. Any other information determined appropriate by the County;

vii. A statement indicating those development regulations that will be used for project mitigation or a determination of consistency if they have been identified at the time of notice;

viii. A statement of the limits of the comment period and the right of each agency to comment on the application within a fifteen (15) day time period, request a copy of the decision once made, and to appeal a decision when allowed by law.

d. In granting shoreline permits or statements of exemption for such development, the County may attach conditions to provide sufficient time and/or conditions for consultation with the Washington State Department of Archaeology and Historic Preservation, and the Swinomish, Snoqualmie, Suquamish, Stillaguamish, Tulalip, and Samish Tribes, and to assure that historic/archaeological resources are properly protected, or for appropriate agencies to contact property owners regarding purchase or other long term arrangements. Provision for the protection and preservation of historic/archaeological sites shall be incorporated to the maximum extent practicable. Permit or other requirements administered by the Washington State Department of Archaeology and Historic Preservation pursuant to RCW 27.44 and RCW 27.53 may apply in addition.

2. Inadvertent Discovery

a. Whenever historic, cultural or archaeological sites or artifacts are discovered in the process of development on shorelines, work on that portion of the development site shall be stopped immediately, the site secured and the find reported as soon as possible to the Administrator. Upon notification of such find, the property owner shall notify the Washington State Department of Archaeology and Historic Preservation, and the Swinomish, Snoqualmie, Suquamish, Stillaguamish, Tulalip, and Samish Tribes, and the Administrator shall conduct a site investigation to determine the significance of the discovery. Based upon the findings of the site investigation and consultation with the Washington State Department of Archaeology and Historic Preservation, and the Swinomish, Snoqualmie, Suquamish, Stillaguamish, Tulalip, and Samish Tribes, the Administrator may require that an immediate site assessment be conducted or may allow stopped work to resume.

b. If a site assessment is required, the area of inadvertent discovery shall be stabilized, contained or otherwise protected until the site assessment and/or CRMP is completed. The site assessment shall be prepared pursuant to SMP 23.90.07.B.1.a to determine the significance of the discovery and the extent of damage to the resource and shall be distributed to the Washington State Department of Archaeology and Historic Preservation, and the Swinomish, Snoqualmie, Suquamish, Stillaguamish, Tulalip, and Samish Tribes for a fifteen (15) day review period or, in the case of inadvertent discovery of human remains, a thirty (30) day review period to determine the significance of the discovery. If the site has been determined not to be significant by the above listed agencies or governments, or if the above listed agencies or governments have failed to respond within the applicable review period following receipt of the site assessment, such stopped work may resume.

c. Upon receipt of a positive determination of a site's significance, the Administrator may invoke the provisions of SMP 23.90.07.B.1.b through .d above for a Cultural Resource Management Plan, if such action is reasonable and necessary to implement related SMP objectives.

3. The requirements of SMP 23.90.07.B.1 do not apply where an applicant/project proponent has obtained an approved Archeological Excavation and Removal permit from the Washington State Department of Archaeology and Historic Preservation pursuant to WAC 25-48-060, provided that the applicant must adhere to the requirements of said approved permit.

4. Critical Areas

a. Applicability

1. Critical areas located within the City of Oak Harbor's shoreline jurisdiction are regulated by the Critical Areas Regulations, Ordinance No. 1440 § 2-6, 2005 and codified under Chapter 20 of the Oak Harbor Municipal Code, which are herein incorporated into this SMP, except as specifically modified or exempted in this Section.

2. Where the Critical Areas Regulations conflict with other parts of the SMP, the requirement that most supports the provisions of the SMA as stated in RCW 90.58.020 shall apply, as determined by the City.

3. Provisions of the Critical Areas Regulations that are not consistent with the Shoreline Management Act, Chapter 90.58 RCW, and supporting Washington Administrative Code chapters shall not apply in shoreline jurisdiction, as follows:

    a. The provisions of the Critical Areas Regulations shall not modify the extent of the shoreline jurisdiction as described in Chapter 1.C of this SMP.

    b. Provisions in OHMC 20.12.040 relating to exemptions from the Critical Areas Regulations shall not relieve the applicant from obtaining a Shoreline Substantial Development Permit or other permit approval required under this SMP, or from meeting the specific requirements identified in other sections of this SMP, including requirements for no net loss.

    c. Provisions relating to "reasonable use," specifically those contained in OHMC 20.12.060, shall not apply within the shoreline jurisdiction.

    d. Provisions relating to variance procedures under the Critical Areas Regulations, specifically OHMC 20.12.120, shall not apply within the shoreline jurisdiction. Shoreline Variance procedures and criteria have been established in this SMP, Chapter 6.G, and in WAC 173-27-170.4.

b. Policies

1. In addressing issues related to critical areas, use scientific and technical information, as described in WAC 173-26-201(2)(a).

2. Critical areas within the City's shoreline jurisdiction should be managed and protected to ensure no net loss of ecological functions. When feasible, restore degraded ecological functions and ecosystem-wide processes.

3. Promote human uses and values that are compatible with other objectives of the Shoreline Management Act, such as public access, water-dependent uses, and aesthetic values, provided they do not significantly adversely impact ecological functions.

5. Environmental Impacts and Mitigation

a. Applicability

The Shoreline Management Act is concerned with the environmental impacts that both a use and activity may have on the fragile shorelines of the state. Degradation of the shoreline and its waters resulting from contaminants such as petroleum products, chemicals, metals, nutrients, solid or human waste, or soil sediments from erosion are also are addressed.

b. Policies

1. Protect shoreline processes and ecological functions through regulatory and non-regulatory means that may include regulation of development within the shoreline jurisdiction, incentives to encourage ecologically sound design, specific enhancements, conservation easements, and acquisition of key properties. .
2. Preserve the scenic aesthetic quality of shoreline areas and vistas to the greatest extent feasible.
3. Adverse impacts on the natural environment should be minimized during all phases of development (e.g. design, construction, operation, and management).
4. Shoreline developments that propose to enhance environmentally sensitive areas, other natural characteristics, resources of the shoreline, and provide public access and recreational opportunities to the shoreline are consistent with the fundamental goals of this Master Program, and should be encouraged.

c. Regulations

1. All shoreline uses and developments shall be located, designed, constructed and mitigated to result in no net loss of ecological functions necessary to sustain shoreline natural processes.
    a. All shoreline uses and activities shall be located and designed to prevent or minimize the need for shoreline protection structures and stabilization (bulkheading, riprap, etc.), fills, groins, jetties, or substantial site regrades.
    b. Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority:
        i. Avoiding the impact altogether by not taking a certain action or parts of an action;
        ii. 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;
        iii. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

iv. Reducing or eliminating the impact over time by preservation and maintenance operations;

v. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

vi. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

2. Solid waste, liquid waste, and untreated effluent shall not be allowed to enter any bodies of water or to be discharged onto the land.

3. The direct release of oil and hazardous materials or chemicals onto the land or into water is prohibited.

4. All shoreline uses and activities shall utilize best management practices (BMPs) to minimize any increase in surface runoff and to control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected during both construction and operation. BMPs are identified in the City's adopted stormwater manual.

5. All shoreline developments shall be located, constructed and operated so as not to be a hazard to public health and safety.

6. Land clearing, grading, filling and alteration of natural drainage features and land forms shall be limited to the minimum necessary for development. When required by the Shoreline Administrator, surface drainage systems or substantial earth modifications shall be designed by a civil engineer registered to practice in the State of Washington. The Director may also require additional studies prepared by a qualified soils specialist. These designs shall seek to prevent maintenance problems, avoid adverse impacts to adjacent properties or shoreline features, and result in no net loss of shoreline ecological functions.

7. Identified significant short term, long term, or cumulative adverse environmental impacts lacking appropriate mitigation that is likely to achieve no net loss of ecological functions necessary to sustain shoreline processes shall be sufficient reason for permit denial.

6. Public Access

a. Applicability

Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Extensive shoreline access is provided in the City of Oak Harbor on publicly owned lands and public trails. Existing public access to shorelines within the shoreline jurisdiction includes Windjammer Park, Freund Marsh, Flintstone Park, Oak Harbor Marina and the Waterfront Trail. Public access to Navy property on Maylor Point and in Crescent Harbor can be allowed subject to the discretion of NAS Whidbey leadership. Access to the Seaplane can be suspended or revoked at any time.

b. Policies

1. Provide and enhance shoreline access to Oak Harbor and Crescent Harbor through continued use and improvement of existing sites, installation and maintenance of identifiable signage for public access points, and purchase or retention of access easements.
2. Physical or visual public access to shorelines should be incorporated in all new developments when the shoreline administrator makes a finding that development would either generate a demand for one or more forms of access or would impair existing legal physical or visual public access opportunities or rights.
3. Public access priorities in Oak Harbor include enhancements and extensions of the Waterfront Trail from Scenic Heights to Maylor Point, improvements to existing parks, continued access and access improvements to open space areas on Navy lands, and enhanced public access associated with future public (e.g. Marina) or private development in the Maritime shoreline environment.
4. Developments, uses, and activities in the shoreline jurisdiction should be designed to avoid blocking or disrupting public visual and physical access to the water and the shoreline. New development should minimize conflicts with existing or planned public access projects and provide appropriate mitigation if impacts cannot be avoided.
5. Shoreline views from public property should be protected. Existing views and view corridors should be inventoried, including views of Oak Harbor, Crescent Harbor, Mt. Rainier, Mt. Baker, the Olympic Mountain range and Saratoga Passage.
6. Impacts to public access from new development should be mitigated through provision of on-site physical and visual public access, unless such access would create safety or security hazards, would negatively impact shoreline ecological function, or the shoreline administrator determines that alternative off-site access or improvements would better serve the public interest.
7. The level of public access should be commensurate with the degree of uniqueness or fragility of the shoreline.
8. Ensure the development of upland areas such as parking facilities and play areas, as well as the development of in-water and nearshore structures, such as docks and swimming areas, are located and designed in ways that result in no net loss of ecological function.
9. Access should be provided for a range of users including pedestrians, bicyclists, boaters and people with disabilities to the greatest extent feasible.
10. Public access provisions should be required for all new public shoreline development and uses, unless such access is shown to be incompatible due to reasons of safety, security or impact to the shoreline.
11. Public access required on private lands should be commensurate with the scale of the proposed development and should be proportional to the impact on public access created by the new development.

12. Public access required on private property should be consistent with all relevant constitutional and legal limitations on public use of private property, including nexus and proportionality principles.
13. Integrate shoreline public access with existing and planned regional trails or routes, such as the Waterfront Trail, to provide improved non-motorized access and community connections.
14. Ensure existing and proposed public access and recreational uses (including upland auxillary facilities) do not adversely affect the ecological integrity and character of the shoreline, threaten fragile shoreline ecosystem, or impair or detract from the public's visual or physical access to the water.
15. Physical access for swimming and non-motorized boating, passive recreation (such as interpretive trails) and habitat enhancement should be important objectives for the management of shoreline public access sites.

c. Regulations

1. Except as provided in Regulations 2 through 4 below, public access shall be required to the extent allowed by law for all shoreline substantial developments and conditional uses when any of the following conditions are present:
    a. The project is publicly funded or occurs on public lands, provided that such access would not result in a net loss of ecological function;
    b. The proposed development would create or increase demand for public access to the shoreline;
    c. The project adversely impacts existing public access by creating a physical or visual obstruction or discourages use of existing access;
    d. The development interferes with public use of waters of the state; or
    e. The proposed use in not water-dependent and is not a preferred use under the SMA. Preferred uses include single family residences, ports, shoreline recreational uses, water dependent industrial and commercial developments and other developments that provide public access opportunities.
2. Public access shall not be required for single-family residential development of four (4) or fewer lots.
3. Additional public access shall not be required where public access is already provided by an existing public facility on or adjacent to the site, such as the Waterfront Trail, and the Shoreline Administrator makes a finding that the proposed development would not negatively impact existing visual or physical public access or create a demand for shoreline public access that could not be accommodated by the existing public access system and existing public recreational facilities in the immediate vicinity.
4. Public access shall not be required on-site where one or more of the following conditions apply:

a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;

b. Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions;

c. The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development or other constitutional or legal limitations preclude public access.

d. Unacceptable environmental harm will result from the public access which cannot be mitigated; or

e. Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated.

5. To meet any of the conditions under Regulation 4 above, the applicant must first demonstrate and the Shoreline Administrator must determine that all reasonable alternatives have been exhausted, including but not limited to:

    i. Regulating access by such means as limiting hours of use to daylight hours.

    ii. Designing separation of uses and activities, with such means as fences, terracing, hedges, and landscaping.

    iii. Providing access that is physically separated from the proposal, such as a nearby street end, an offsite viewpoint, or a trail system.

    iv. Sharing the cost of providing and maintaining public access between public and private entities.

6. Projects that meet the criteria of Regulation 4 above shall either contribute toward off-site public access facilities or improvements or, if approved by the shoreline administrator and agreed to by the applicant, contribute to proportional fee to the local public access fund (payment in lieu).

7. All multifamily and mixed use development along the shoreline shall accommodate the Waterfront Trail and dedicate a minimum of 12 feet landward of the OHWM to public access and recreational use, subject to the requirements and limitations in Regulation 1 above.

8. If the City determines that public access is required pursuant to Regulation 1 above, the City shall impose permit conditions requiring the provision of public access that is roughly proportional to the impacts caused by the proposed use or development. The City shall demonstrate in its permit decision document that any such public access has a nexus with the impacts of the proposed development and is consistent with the rough proportionality standard.

9. Development, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual or physical access to the water and the shorelines. In providing visual access to the shoreline, natural vegetation shall not be excessively removed either by clearing or by topping.

10. All uses and development within the shoreline or over water shall be designed and located to minimize obstruction or degradation of shoreline or water views from existing upland development and from public roads and walkways.
    a. Development which will obstruct or significantly reduce the aesthetic quality of these views shall not be permitted.
    b. The City may require modifications to standard setbacks, side yards, landscaping and building heights when the Shoreline Administrator determines that such modifications are necessary to maintain public views of the shoreline.
    c. All structures shall be limited to 35 feet in height to protect shoreline views.
11. Public access sites shall be connected directly to the nearest public street or non-motorized trail through a parcel boundary, tract, or easement, wherever feasible.
12. Public access sites shall be made barrier free for the physically disabled where feasible and conform to all provisions of the Americans with Disabilities Act.
13. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.
14. Public access easements and permit conditions shall be recorded on the deed where applicable or on the face of a plat, if applicable, or short plat as a condition running in perpetuity with the land. Recording with the Island County Auditor's Office shall occur at the time of permit approval (RCW 58.17.110; relating to subdivision approval).
15. The standard state approved logo and other approved signs that indicate the public's right of access and hour of access shall be constructed, installed, and maintained by the applicant in conspicuous locations at public access sites.
16. Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access site.
17. Physical public access shall be designed to prevent significant impacts to sensitive natural systems, and shall be constructed and maintained in a manner that does not result in a net loss of shoreline ecological function.
18. The City shall require the use of environmentally friendly materials and technology in such things as building materials, paved surfaces, porous pavement, etc., to the extent feasible when developing public access to the shoreline.
19. Minimum width of public access easement shall be at least 12 feet, unless the administrator determines that undue hardship to the proponent would result. In such cases easement width may be reduced to the minimum necessary to relieve the hardship.
20. Where public access is to be provided by a trail , the following requirements shall apply:
    a. The trail shall be no greater than 10 feet in total improved width, which may include 1 foot gravel shoulders. Not including landscaping; no more than 8 feet of improved surface is preferable in most cases.

b. Pervious pavement or boardwalk should be used for public access within the shoreline management area unless the Shoreline Administrator determines that such use is not in the public interest because of safety, durability, aesthetic or functionality concerns.

c. Where feasible, the trail shall be placed at least 35 feet from the Ordinary High Water Mark, except where the trail design incorporates overlooks or other access features that do not result in a loss of ecological function, as approved by the Shoreline Administrator.

d. Landscaping should be native and salt tolerant or site appropriate.

e. Other specific conditions described in a trail or parks plan.

7. Shorelines of Statewide Significance

a. Applicability

The Shoreline Management Act of 1971 designated certain shoreline areas as shorelines of statewide significance. Those areas lying waterward of the line of extreme low tide in Oak Harbor Bay and Crescent Harbor are recognized as a shoreline of statewide significance. Such shorelines are considered major resources from which all people of the state derive benefits, thus preference is given to uses which favor long-range goals and support the overall public interest.

b. Policies

In implementing the objectives for shorelines of statewide significance (RCW 90.58.020), the City will base decisions in preparing and administering this SMP on the following policies in order of priority, 1 being the highest and 6 being the lowest.

1. Recognize and protect the state-wide interest over local interest.

   a. Make all information associated with this SMP and proposed amendments publicly available, and solicit comments and opinions from groups and individuals representing state-wide interests when developing and amending the SMP.

   b. Solicit comments and opinions from individuals with expertise in scientific fields relevant to shoreline management when developing or amending the Shoreline Master Program.

2. Preserve the natural character of the shoreline.

   a. Designate and administer shoreline environments and use regulations to protect and restore the shoreline ecology and character.

   b. Protect and restore diversity of vegetation and habitat resources, as well as wetland and riparian areas, associated with the shoreline.

   c. Concentrate future high-intensity development into areas where such uses already exist, rather than allow high-intensity development to spread to less intensely developed areas.

3. Support actions that result in long-term benefits over short-term benefits.

   a. Restrict or prohibit development that would irreversibly damage shoreline resources.

4. Protect the resources and ecology of the shoreline.
    a. Minimize development activity that will interfere with the natural functioning of the shoreline ecosystem, including stability, drainage, and water quality.
    b. All shoreline development should be located, designed, constructed and managed to avoid disturbance of and minimize adverse impacts to wildlife resources, including spawning, nesting, rearing and habitat areas and migratory routes.
    c. Preserve environmentally sensitive wetlands for use as open space or buffers and encourage restoration of presently degraded wetland areas.
    d. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities or general enhancement of shoreline areas.
5. Increase public access to publicly owned areas of the shorelines.
    a. Implement a comprehensive wayfinding signage program that directs the public to publicly owned shoreline areas.
    b. Work with the U.S. Navy to preserve and enhance public access on federal property along Maylor Point and Crescent Bay.
6. Increase recreational opportunities for the public in the shoreline.
    a. Plan for and encourage development of facilities for recreational use of the shoreline.

8. Vegetation Conservation

a. Applicability

1. The following provisions apply to any activity, development, or use that result in the removal of or impact to shoreline vegetation, whether or not that activity requires a shoreline permit. Such activities include clearing, grading, grubbing, and trimming of vegetation. These provisions also apply to vegetation protection and enhancement activities.
2. Important functions of shoreline vegetation include, but are not limited to:
    a. Regulating microclimate in riparian and nearshore areas.
    b. Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macroinvertebrates.
    c. Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence/severity of landslides.
    d. Reducing fine sediment input into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff.
    e. Improving water quality through filtration and vegetative uptake of nutrients and pollutants.
    f. Providing a source of large woody debris to moderate flows, create hydraulic roughness, form pools, and increase structural diversity for salmonids and other species.

g. Providing habitat elements for riparian-associated species, including downed wood, snags, migratory corridors, food, and cover.

3. See Chapter 7 for definitions of "significant vegetation removal," "ecological functions," "clearing," "grading," and "restore."

b. Policies

1. Conserve native vegetation. Where new developments and/or uses or redevelopments are proposed, native shoreline vegetation should be conserved to maintain shoreline ecological functions and/or processes. Vegetation conservation and restoration should be used to mitigate the direct, indirect and/or cumulative impacts of shoreline development, wherever feasible.

2. Noxious and invasive weeds. Encourage management and control of noxious and invasive weeds. Control of such species should be done in a manner that retains onsite native vegetation, provides for erosion control, and protects water quality. Use of non-toxic or natural controls is preferred.

3. Restrict clearing and grading within the shoreline environment to minimum necessary to accommodate development. In particular, trees and other vegetation on slopes and bluffs should be preserved; maintenance of shoreline views should be accomplished through pruning, rather than removal.

4. Provide incentives for the retention and planting of native vegetation, and discourage extensive lawns due to their limited value for bank stability, limited water retention capacity, and associated chemical and fertilizer applications. Incentives could include additional flexibility with building setbacks, a simplified permit approval with recommended planting plans and/or city participation in a pilot-project that promotes shoreline enhancement.

c. Regulations

1. Conserve vegetation. Shoreline developments shall address conservation and maintenance of vegetation through compliance with this Section, the tree retention standards in OHMC 19.46.045 (Ordinance No. 1555 § 20, 2009), and any other regulations specific to vegetation management that may be contained in other chapters of this SMP. Removal, topping, and damage to oak trees is also regulated under OHMC 20.16 – Oak Tree Protection.

2. Minimize clearing, grading and fill. Vegetation clearing, grading and fill within shoreline jurisdiction shall be limited to the minimum necessary to accommodate approved shoreline development.

3. Vegetation Management Zone (VMZ) established. The first thirty (30) feet of shoreline setback area landward of the OHWM shall be established as a VMZ, except in the Conservancy environment where the VMZ shall include the entire required setback area and in the Residential Bluff Conservancy environment where the VMZ shall include the entire shoreline setback and all steep or unstable slopes and required slope setbacks. Vegetation preservation shall be the highest priority within the VMZ, and the purpose of this zone shall be to protect and enhance shoreline ecological function and slope stability associated with native vegetation.

a. Where replacement planting is required as mitigation for removal or disturbance of upland vegetation to meet no net loss, replacement plants shall be located within the VMZ to the greatest extent feasible.

b. Existing lawns and other non-native landscaping and improvements are allowed in the VMZ and may be maintained without a permit, provided existing native vegetation is to be preserved and new non-native vegetation is not permitted, except as provided in this section.

c. Existing lawns and other non-native landscaping in the remaining portion of the shoreline setback (i.e. outside the VMZ) are allowed, provided healthy native vegetation shall be preserved where feasible.

d. Patios and decks that are less than 18 inches high shall be allowed in the setback, but not within the VMZ.

e. Establishment of the VMZ shall not be construed as a requirement to obstruct visual access to the shoreline through planting of sight-obscuring trees. Normal pruning and maintenance of trees within the vegetation management zone to preserve views shall be allowed, except that topping of trees shall not be allowed. Mitigation plantings in the VMZ may accommodate the preservation of shoreline views.

4. Mitigation required. Where impacts to shoreline vegetation are permitted and after mitigation sequencing has been applied as outlined in Section 3.B.4, Environmental Impacts, new developments or site alterations shall be required to develop and implement a mitigation plan. When required, mitigation plans shall be prepared by a qualified professional and shall include a written report identifying specific objectives of the compensation proposed, measurable specific criteria for evaluating success, a detailed description of the mitigation proposed, a monitoring program, a listing of corrective measures to be taken in the event that performance standards are not being met, and financial guarantees to ensure full implementation of the mitigation plan (OHMC 20.12.100) Mitigation plans shall describe actions that will ensure no net loss of ecological functions to the maximum extent practicable at the site scale. Mitigation measures shall be maintained over the life of the use and/or development. Specific regulations for compensation of tree removal are provided in regulations 4 and 5 below.

5. Tree Pruning and Hazard Tree Removal. Selective pruning of trees for safety or view protection is allowed in shoreline jurisdiction if consistent with the provisions of OHMC 19.46 – Landscaping and Screening. Non-hazard trees located in steep slope and bluff areas shall be retained, and pruning shall not include topping or stripping; no more than 40% of the crown shall be removed. Where trees pose a significant safety hazard as indicated in a written report by a certified arborist or other qualified professional, they may be removed from shoreline jurisdiction if the hazard cannot be alleviated by a technique that maintains some habitat function.

6. Non-Hazard Tree Removal in Shoreline Jurisdiction. For any trees removed in shoreline jurisdiction after implementation of standard mitigation sequencing, the following tree replacement strategies shall be implemented:

   a. Significant trees removed shall be replaced at a 2:1 ratio.

b. Replacement trees shall be a minimum of 2.5 inches in diameter at breast height for deciduous trees and a minimum of 6 feet tall from grade for conifers.

c. All retained and replacement trees shall be maintained in a healthy condition. Trees found to be diseased, dying or dead within 1 year of planting shall be replaced. Trees planted as part of revegetation shall be replaced at a 1:1 ratio. Retained trees shall be replaced at a 2:1 ratio.

d. All trees removed from the shoreline setback must be replaced in the shoreline setback, and only by native species.

e. The City may modify replacement requirements based on a mitigation plan prepared by a qualified professional that demonstrates no net loss of ecological function.

f. Land surface modifications within shoreline setbacks shall include a shoreline restoration plan for review and approval by the City. The restoration plan shall be designed to stabilize soil surfaces, filter run-off and ensure no net loss. All new plantings installed in shoreline setbacks must be native species, except as otherwise provided in this Section.

7. Unauthorized vegetation removal. Vegetation removal conducted without the appropriate review and approvals requires the submittal and approval of a restoration plan prepared by a qualified professional, and must be consistent with the provisions of Section 3.B.4, Environmental Impacts and any relevant requirements of OHMC 19.46.045 (Ordinance No. 1555 § 20, 2009. The mitigation plan must utilize only native vegetation, and should be designed to compensate for temporal loss of function and address the specific functions adversely impacted by the unauthorized vegetation removal.

8. Non-native vegetation. With the exception of hand removal or spot-spraying of invasive or noxious weeds, the determination of whether non-native vegetation removal may be allowed in shoreline jurisdiction must be evaluated in conformance with Section 3.B.4, Environmental Impacts and any relevant requirements of OHMC 19.46.045 (Ordinance No. 1555 § 20, 2009. Such removal of noxious weeds and/or invasive species shall be incorporated in mitigation plans, as necessary, to prevent erosion and facilitate establishment of a stable community of native plants. Non-native vegetation removal outside of shoreline setbacks does not require mitigation, except as otherwise noted in this Section.

9. Aquatic vegetation control, including both mechanical and chemical, shall only occur when native plant communities and associated habitats are threatened or where an existing water-dependent use is restricted. Aquatic vegetation control shall occur in compliance with all other applicable laws and standards, including Washington Department of Fish and Wildlife and/or Washington Department of Ecology requirements.

9. Critical Saltwater Habitat

a. Applicability

Kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association are classified as

critical saltwater habitat under WAC 173-26-221(2)(iii) – Shoreline Master Program Guidelines. The Washington Department of Fish and Wildlife has identified kelp beds, eelgrass beds, and sand lance and surf smelt spawning habitat within the City of Oak Harbor's shoreline jurisdiction.

b. Policies

1. Critical salt water habits should be protected in recognition of their importance to the marine ecosystem of the City of Oak Harbor and the State of Washington. SEPA Analysis of project alternatives should be conducted for any project proposed within mapped Critical Saltwater Habitat.
2. Water-dependent uses, including recreational facilities, marinas, and essential public facilities may be permitted in Critical Saltwater Habitat if on-site or off-site mitigation is provided that results in no net loss of ecological function.
3. The composition of beach and bottom substrate should be protected from alteration by development. Projects proposed within the shoreline jurisdiction in areas where Critical Saltwater Habitat exists should avoid altering beach and bottom substrate except for restoration projects or installation of pilings associated with uses approved under this SMP.

c. Regulations

1. Water-dependent development and uses, including marinas, docks, piers, mooring areas, and shoreline modifications, shall not intrude into or be built over Critical Saltwater Habitat unless it can be demonstrated that the project meets all of the following criteria.:
    a. An overriding public need for the structure can be clearly demonstrated, and an alternative location that would avoid the critical habitat is not feasible or would result in unreasonable and disproportionate cost.
    b. The project is consistent with the statewide interest in preservation of sensitive resources and species recovery.
    c. It can be demonstrated that the project will result in a net improvement in shoreline ecological function.
2. Sand, gravel, and other fill materials shall not be placed or removed from Critical Saltwater Habitat, except when part of an approved habitat restoration or beach nourishment project.
3. New outfall structures, including stormwater and sewer outfall pipes, shall not be located in Critical Saltwater Habitat where the discharge from such structures may adversely affect saltwater habitat or species, unless the applicant demonstrates all of the following:
    a. No feasible alternative location for the outfall exists;
    b. The outfall can be placed below the surface of the beach or below the bed of the water body;
    c. The outfall will discharge waterward of the intertidal zone (ie, below the extreme low tide line); and

d. Any vegetated area disturbed will be revegetated with native species.

10. Water Quality, Stormwater, and Non-Point Pollution

a. Applicability

The following section applies to all development and uses in shoreline jurisdiction that affect water quality and storm water quantity. Maintaining high water quality standards and restoring degraded systems has been mandated in RCW 90.58. "Water quality" means the physical characteristics of water within shoreline jurisdiction, including water quantity and hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. The City maintains a stormwater management program in compliance with their Phase II National Pollutant Discharge Elimination System (NPDES) permit. The Phase II Permit contains a series of requirements for the City intended to improve water quality through efforts in the following areas:

- Public Education and Outreach
- Public Involvement and Participation
- Elimination of Illicit Discharge
- Control of Runoff from New Development, Redevelopment, and Construction Sites
- Pollution Prevention and Operations Maintenance for Municipal Operations

The Phase II permit also requires the City to regulatory assess the effectiveness of its implementation measures and report its findings to the Department of Ecology.

b. Policies

1. All shoreline uses and activities should be located, designed, constructed and maintained to mitigate adverse impacts to water quality, water quantity, or hydrology.
2. The City should require reasonable setbacks, buffers, and storm water storage basins and encourage low-impact development techniques and materials to achieve the objective of minimizing impervious surfaces and lessening negative impacts on water quality.
3. Stormwater impacts should be addressed through the application of the most recent edition of the Adopted Surface Water Design Manual and all applicable City stormwater regulations.
4. The City should provide general information to the public about the impacts of land and human activities on water quality, and encourage homeowners and property managers to use non-chemical weed and pest control solutions and natural fertilizers.

c. Regulations

1. All shoreline development, both during and after construction, shall minimize impacts related to surface runoff through control, treatment and release of surface water runoff such that there is no net loss of receiving water quality in the shoreline environment. Control measures include but

are not limited to dikes, runoff intercepting ditches, catch basins, settling wet ponds, sedimentation ponds, oil/water separators, filtration systems, grassy swales, planted buffers, and fugitive dust controls.

2. Shoreline development and uses shall adhere to all required setbacks, buffers and standards for stormwater storage basins.
3. All shoreline development shall comply with the applicable requirements of the City's adopted Surface Water Design Manual and all applicable City stormwater regulations.
4. All shoreline development shall implement applicable Low Impact Development techniques to the maximum extent feasible, pursuant to the standards contained in the adopted Surface Water Design Manual and the *Low Impact Development Technical Guidance Manual for Puget Sound* or its successor.

Chapter 4: **SHORELINE USE PROVISIONS**

A. Applicability

The provisions in this section apply to specific uses and types of development that typically occur in shoreline areas. Provisions in other sections of this SMP also apply to the uses and types of development identified in this chapter. The policies and regulations cover the following uses and activities: Agriculture, Boating Facilities, Commercial Development, Forest Practices, Manufacturing and Industrial Development, Mining and Mineral Extraction, Parking, Recreational Facilities, Residential Development, Scientific, Historical, Cultural, or Educational Uses, Signage, Transportation, and Utilities. The policies and regulations, which provide basic criteria for evaluating shoreline permit applications, are used to implement the broader goals, policies and intent of the Shoreline Management Act and this Program.

B. Shoreline Use Table

TABLE 1 – Shoreline Use Table

KEY **P** = Permitted Use **C** = May be permitted as a conditional use **X** = Prohibited, not eligible for a variance or CUP **N/A** = Not applicable **Shoreline uses are allowed only if permitted by the underlying zoning. A use that occurs on both uplands and overwater must meet the requirements of both the upland and aquatic environment designation. Refer to specific use policies and regulations in Section D below.** **SHORELINE USES**	**Maritime**	**Urban Mixed Use**	**Residential**	**Residential Bluff Conservancy**	**Urban Public Facility**	**Conservancy**	**Aquatic**
Agriculture							
Primary (e.g. farm or livestock operation)	X	X	X	X	X	X	X
Accessory (e.g. garden or pea patch in park)	P	P	P	P	P	P	X
Aquaculture	X	X	X	X	X	X	C
Boating Facilities							
Marinas (public or private)	P	X	X	X	C	X	P
Private joint-use piers	P	C	X	X	X	X	P
Public piers	P	C	X	X	C	X	P
Boat launch	P	X	X	X	C	C	P
Commercial[1]							
Water-dependent	P	P	X	X	C	X	C

[1] Home occupations are allowed as an accessory use to residential development pursuant to the requirements of Oak Harbor Municipal Code, Chapter 19.36. Accessory commercial uses such as concession standards are allowed in the Maritime and Urban Public Facility Zone as a permitted use, but are limited to water-oriented commercial uses in the Aquatic environment, e.g. boat rental, fueling, boat sales, etc.

KEY **P** = Permitted Use **C** = May be permitted as a conditional use **X** = Prohibited, not eligible for a variance or CUP **N/A** = Not applicable **Shoreline uses are allowed only if permitted by the underlying zoning. A use that occurs on both uplands and overwater must meet the requirements of both the upland and aquatic environment designation. Refer to specific use policies and regulations in Section D below.** **SHORELINE USES**	**Maritime**	**Urban Mixed Use**	**Residential**	**Residential Bluff Conservancy**	**Urban Public Facility**	**Conservancy**	**Aquatic**
Water-related, water-enjoyment	P	P	X	X	C	X	X
Non-water oriented	C	C	X	X	C	X	X
Forest Practices	X	X	X	X	X	X	N/A
Industry/Manufacturing	P	X	X	X	X	X	C
Mining/Mineral Extraction	X	X	X	X	X	X	X
Parking							
Parking (As a Primary Use)	X	X	X	X	X	X	X
Parking (As an Accessory Use)	P	P	P	P	P	C	X
Recreational Facilities							
Water-oriented[2]	P	P	P	C	P	P	P
RV Park	X	X	X	X	P	X	X
Non-water oriented (As a Primary Use)	X	X	X	X	X	X	X
Non-water oriented (As an Accessory Use)	C	P	P	P	P	X	X
Residential Development							
Single family	X	P	P	P	X	X	X
Multi-family	X	P	X	X	X	X	X
Scientific, Historical, Cultural, or Educational Uses	P	P	P	P	P	P	P
Transportation Facilities							
New roads related to permitted shoreline activities	P	P	P	C	P	C	X
Expansion of existing circulation systems and driveways	P	P	P	C	P	C	X[3]
Trails	P	P	P	P	P	P	C[4]
Utilities (Primary)							
Solid Waste Disposal or Transfer Sites (excluding storage of recyclable materials)	X	X	X	X	X	X	X

[2] For purposes of this use table, water-oriented recreational uses shall not include Boating Facilities (including Marinas) or RV Parks, which are regulated separately.

[3] New or expanded bridges intended for vehicular use are allowed pursuant to a shoreline conditional use in the Aquatic environment.

[4] Pedestrian bridges shall be permitted outright subject to the standards in the SMP. Overwater walkways that run generally parallel to the OHWM shall require a CUP.

KEY **P** = Permitted Use **C** = May be permitted as a conditional use **X** = Prohibited, not eligible for a variance or CUP **N/A** = Not applicable **Shoreline uses are allowed only if permitted by the underlying zoning. A use that occurs on both uplands and overwater must meet the requirements of both the upland and aquatic environment designation. Refer to specific use policies and regulations in Section D below.** **SHORELINE USES**	**Maritime**	**Urban Mixed Use**	**Residential**	**Residential Bluff Conservancy**	**Urban Public Facility**	**Conservancy**	**Aquatic**
Waste Water Treatment Plant	C	X	X	X	C	C	X[5]
Other	C	C	C	C	C	C	C
Utilities (Accessory)							
Local Public Water, Electric, Natural Gas Distribution, Public Sewer collection, Cable and Telephone Service, and Appurtenances	P	P	P	P	P	C	C
Other Uses and Activities							
Restoration activities	P	P	P	P	P	P	P

[5] Water dependent appurtenances such as outfall pipes are allowed subject to a conditional use permit.

C. Shoreline Development Standards

TABLE 2 – Summary of Shoreline Development Standards

DEVELOPMENT STANDARD	High Intensity	Shoreline Residential	Shoreline Residential Bluff Conservancy	Urban Mixed Use	Urban Public Facility	Urban Conservancy	Aquatic
Maximum Height[1]	35 feet	35 feet	35 feet	35 feet	35 feet	25 feet	N/A
Shoreline Setback[2]	50 feet[3]	50 feet[4]	50 feet[5]	50 feet[6]	75 feet	100 feet	N/A
Maximum Impervious Surface Coverage (Standard Applies to Entire Lot)	80%	40%	30%	60%	30%	30%	N/A
Minimum Lot Frontage and Width	100 feet	60 feet	60 feet	60 feet	N/A	N/A[7]	N/A
Minimum Lot Size	N/A	7,200 SF	7,200 SF	N/A	N/A	N/A[7]	N/A

1. Height limits apply to all permanent and temporary structures and non-water related accessory structures. Development shall also be subject to the height limits established by the underlying zoning; in the event of a conflict between the standards contained in this SMP and in the underlying zone, the more restrictive shall apply. The height limit shall not apply to television antennas, chimneys, flagpoles, public utilities, and similar appurtenances.

2. Water dependent structures and uses associated with a ecological restoration or interpretation, water-dependent uses and public access (i.e. ramps, piers, shoreline stabilization, bridges, viewing platforms, stairs, trails, loading facilities and similar structrues) are not required to meet the minimum setback. However, where such development can be approved within the minimum setback, the placement of structures and hard surfaces shall be limited to the minimum necessary for the successful operation of the use. In no case shall parking, buildings or storage be allowed within the minimum setback. Vegetation clearing, planting and revegetation shall be govenered by the provisions of Section 3.B.7 – Shoreline Vegetation Conservation. Specifically, landscaping within setback areas shall conform to the Vegetation Management Zone standards in Section 3.B.7.c.3.

3. In the High Intensity environment, water-dependent transportation, industrial, commercial and recreational appurtenant structures and uses may be allowed within the defined setback area. However, where such development can be approved within the minimum setback, the placement of structures and hard surfaces shall be limited to the minimum necessary for the successful operation of the use. In no case shall parking, primary buildings or general storage be allowed within the minimum setback.

4. New residential development in the Shoreline Residential environment shall adhere to this setback requirement unless existing development within 100 feet of both side property lines has a lesser average setback. In such cases, the minimum setback required shall be the average established by drawing a line

between the closest point of the existing structrures to the Ordinary High Water Mark on either side of the subject property. However, in no case shall the minimum setback be reduced to less than 35 feet. This is intended to allow the minimum 30 foot Vegetation Management Zone and a 5 foot area for maintaining the structure, entrances, etc.

5. All new or expanded development in the Shoreline Residential Bluff Conservancy environment proposed within 100 feet of a designated steep slope or bluff shall be required to submit a critical areas report as part of development permit application, pursuant to Ordinance 1440 § 5, 2005, including a geotechnical analysis by a qualified professional. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by the geotechnical analysis. Please see additional geotechnical report requirements in Chapter 5, Section C.1.c and additional critical area requirements in Chapter 3, Section B.4.. In no case shall primary structures be located closer than 25 feet from the top of steep slope areas and bluffs. If application of the 50-foot standard shoreline setback would allow the construction of a structure within 25 feet of a steep slope area or top of bluff or within the setback recommended by geotechnical analysis, the most prescriptive standard shall apply.

6. New residential development in the Urban Mixed Use environment shall adhere to this setback requirement unless existing development within 100 feet of both side property lines has a lesser average setback. In such cases, the minimum setback required shall be the average established by drawing a line between the closest point of the existing structrures to the Ordinary High Water Mark on either side of the subject property. However, in no case shall the minimum setback be reduced to less than 40 feet. At least 12 feet of the setback shall be dedicated to public access and recreational use (i.e. the Waterfront Trail).

7. No further subdivision is allowed in the Urban Conservancy environment.

D. Shoreline Use Policies and Regulations

1. General Use Policies and Regulations

a. Applicability

The provisions in this section apply to all uses and development types permitted within the shoreline jurisdiction.

b. Policies

1. When determining allowable uses and resolving use conflicts within the City's shoreline jurisdiction, apply the following preferences and priorities in the order listed below:
    a. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.
    b. Reserve shoreline areas for water-dependent and associated water related uses.
    c. Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.
    d. Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.

e. Limit non-water-oriented uses to those locations where the above described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act, including opportunities for ecological enhancements and public access improvements.

2. All development and redevelopment activities within the City's shoreline jurisdiction should be designed to ensure public safety, enhance public access, protect existing shoreline and water views and achieve no net loss of shoreline ecological functions.
3. Require feasible Low Impact Development (LID) practices and encourage "Green Building" practices, such as those promulgated under the Leadership in Energy and Environmental Design (LEED) and Green Built programs, for new development within the shoreline jurisdiction.
4. Proposed shoreline uses should not infringe upon the rights of others or upon the rights of private ownership.
5. Encourage shoreline uses which enhance their specific areas or employ innovative features for purposes consistent with this program.
6. Encourage restoration of shoreline areas that have been degraded or diminished in ecological value and function as a result of past activities or catastrophic events.
7. Forestry and mining uses and activities are prohibited from the shoreline jurisdiction.

2. Agriculture

a. Applicability

Agriculture includes, but is not limited to, the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, or seed; finfish in upland hatcheries, or livestock, that has long-term commercial significance.

b. Policies

1. Agriculture as a primary use should be prohibited in all shoreline environments.
2. Agriculture should be allowed as an accessory use in a manner that is compatible with the protection of shoreline ecological function.

c. Regulations

1. Agricultural development as a primary use shall be prohibited in all shoreline environments.
2. The raising of livestock and poultry shall occur outside of the established shoreline jurisdiction.
3. Any water discharge from agricultural activities into SMP water bodies shall be prohibited.
4. New agricultural activities shall not occur within the shoreline setback identified in Chapter 4, Section C, Table 2.

3. Boating Facilities and Marinas

a. Applicability

Boating facilities, including community piers, marinas, and public or community boat launches, are important features of the City of Oak Harbor's shorelines. All boating facilities shall be subject to the policies and regulations of this Section. Policies and regulations for private moorage facilities are contained in Section 5.C.4 – Piers, Docks, Floats, and Mooring Buoys.

Marinas are facilities that provide wet moorage and/or dry storage and services for pleasure craft and some types of commercial craft. Marinas are located over intertidal and subtidal areas and may extend landward from the OHWM or a marina may be an upland based facility with water access via travel lift, hoist or marine railway. They can be of open construction (floating breakwater, buoys, piers and floats) or solid (rigid breakwater or fill). Marinas are sometimes associated with other uses such as fueling and public launching facilities, boat rental, repair services, equipment sales and parking.

Activity generated by marinas varies with their size and range of services offered. Marinas generate boat and vehicular traffic and related noise. Construction and operation of marinas affect water quality and fish and shellfish habitats by introducing pollutants (fuel, oil, heavy metals, human wastes, erosion and siltation). Circulation and sand movement may be impeded and affect beaches or alter aquatic habitats. Marinas with several associated uses may require additional land area and larger parking areas. Activities including but not limited to dredging, landfill, bulkheads, utilities, roads and commercial development associated with marina development are subject to the policies and regulations for those categories.

b. Policies

1. Boating facilities should be located and designed to ensure no net loss of ecological functions or other significant adverse impacts, and should, where feasible, enhance degraded and/or scarce shoreline features.
2. Boating facilities should not unduly obstruct navigable waters and should consider adverse effects to recreational opportunities such as fishing, pleasure boating, swimming, beach walking, picnicking and shoreline viewing.
3. Boating facilities that minimize the amount of shoreline modification, in-water structure, and overwater cover are preferred.
4. Marinas should be designed to accommodate public access features, including facilities such as walkways, view points, restrooms, and fishing piers.
5. Accessory uses at boating facilities should be limited to water-oriented uses, uses that provide physical and/or visual shoreline access for substantial numbers of the general public, or uses directly supportive of recreational boating activities. Non-water-dependent accessory uses should be located outside of shoreline jurisdiction or outside of the shoreline setback whenever possible.

6. Boating facilities should be located, designed, constructed and operated so that other appropriate water-dependent uses are not adversely affected and to avoid adverse proximity impacts such as noise, light and glare; aesthetic impacts to adjacent land uses; and impacts to public visual access to the shoreline.
7. New boating facilities should be located only at sites where suitable environmental conditions, shoreline configuration, access, and neighboring uses are present.

c. Regulations

1. Location Standards.
    a. New boating facilities shall minimize dredging and make use of the natural site configuration to the greatest extent feasible to avoid impacts to shoreline ecological functions.
    b. Boating facilities shall be located and designed with the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft from floods or destructive storms.
    c. Boating facilities shall be located only where adequate utility services are available, or where they can be provided concurrent with the development.
    d. Boat launches shall be sited so that they do not significantly damage fish, shellfish, water quality, wildlife habitats, or existing hydraulic processes and shall not occur in areas with native emergent vegetation. Removal of native upland vegetation shall be minimized to the greatest extent feasible.
    e. Marinas should not be located in embayments with poor water circulation, which can be susceptible to localized water quality degradation.
    f. No new marina development shall be permitted to locate within one half mile of a sewage outfall, with the exception of public marinas located next to downtown, with moorage spaces devoted to day use by pleasure craft, and moorage for commercial vessels.
2. Facility Design.
    a. All boating facilities shall be designed to avoid and minimize impacts. All unavoidable impacts must be mitigated such that no net loss of shoreline ecological functions is achieved.
    b. The use of wood products treated with creosote, pentachlorophenol, or any other toxic substance in construction of overwater or in-water structures shall be prohibited.
    c. Boating facilities should be located and designed to minimize impacts to sensitive shoreline resources by considering the following:
        i. Expansion of existing marinas should be preferred over establishment of new marinas;
        ii. Marinas and public launch ramps should be preferred over development of individual docks and piers for private, non-commercial vessels; and
        iii. Use of boat launch ramps and dry storage should be preferred over sheltered, year-round wet storage of water craft.

d. The maximum number of moorages allowed at a marina shall be determined based on the following factors:

   i. Suitability of environmental conditions, including presence of submerged aquatic vegetation, proximity of associated upland wetlands, presence of critical saltwater habitat, water depth and circulation, sediment inputs and accumulation, and wave action.

   ii. Compatibility with adjacent upland land uses.

   iii. The ability to accommodate necessary support facilities, such as vehicle and trailer parking.

   iv. A demand analysis, submitted by the applicant, demonstrating anticipated need for the requested number of moorages and anticipated impacts to parking.

   v. An environmental analysis of the potential adverse effects on ecological function resulting from construction of new docks, piers and moorage slips. If covered moorages are proposed, the analysis shall evaluate potential effects of water shading on local aquatic habitat.

e. All boating facilities, including marinas, shall be designed to be consistent with federal and state agency regulations, including design criteria established by the Washington State Department of Fish and Wildlife, the U.S. Army Corps of Engineers, and the Washington State Department of Health. Marinas shall be equipped to contain and clean up oil, gasoline, and other hazardous substance spills.

f. Where landfill waterward of the OHWM is permitted, it shall only be for the necessary water-dependent portions of the facility and shall conform in particular to the policies and regulations of Section 5.C.3 – Fill. Landfill for the creation of new parking areas or accessory uses within the required setback area shall be prohibited.

g. Best management practices shall be applied to prevent pollution from boat construction, repair, and maintenance activities at marinas.

h. All boating facilities shall be the minimum size necessary to accommodate the anticipated demand. Specifically, the amount of overwater cover, the size and number of in-water structures, the waterward length of the facility, and the extent of any necessary associated shoreline stabilization or modification shall be minimized.

i. Applications for construction of a boat launch shall demonstrate that the proposed length of the boat launch is the minimum necessary to safely launch the intended craft. In no case shall the ramp extend beyond the point where the water depth is 6 feet below the OHWM, unless the City determines that a greater depth is needed for a public boat launch facility.

j. Overwater components of all boating facilities shall allow transmission of light through the deck surface where feasible.

k. Boat launches for non-motorized boats shall be constructed of gravel or other similar natural material.

l. Preferred launch ramp designs for motorized boats, in order of priority, are:

i. Open grid designs with minimum coverage of substrate.

ii. Seasonal ramps that can be removed and stored upland.

iii. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in shoreline profile

3. Site Design and Operation.

a. Boating facilities shall be designed so that lawfully existing or planned public shoreline access is not blocked, obstructed nor made dangerous.

b. Parking and outdoor storage areas associated with marinas shall be landscaped in a manner which provides a visual buffer between these uses and public access areas and screens these areas when viewed from the water.

c. Accessory uses at marinas or boat launches shall be limited to water-oriented uses or uses that support physical or visual shoreline access for substantial numbers of the general public. Accessory development may include, but is not limited to, parking, non-hazardous waste storage and treatment, stormwater management facilities, and utilities where these are necessary to support the water-oriented use.

d. All new marinas shall be designed to accommodate public access and enjoyment of the shoreline, including walkways, view points, and restrooms. Marinas may include specific areas restricted for security reasons.

e. The discharge of sewage and/or toxic materials from moored boats or shore installations shall be prohibited at all boating facilities. Marinas shall be required to include facilities for handling and disposal of all types of boat waste, including sewage, bilge fluids, oil, gas, and diesel.

4. Commercial

a. Applicability

Commercial development means those uses and facilities that are involved in wholesale or retail trade or other business activities. Examples include, but are not limited to, hotels, motels, grocery stores, restaurants, shops, restaurants, offices and indoor recreation facilities. Not included are port, industrial, residential or boating facilities, such as marinas.

b. Policies

1. Give priority to those commercial developments that are dependent on shoreline locations or that allow a substantial number of people to actively or passively enjoy the shoreline; preference should first be given to water-dependent uses, then to water-related and water-enjoyment uses.

2. Except for marinas, commercial docking, moorage, boat repair facilities and related facilities, prohibit new over-water commercial structures.

3. New commercial development over the water should occur only in areas where commercial development already exists, unless a specific identified need exists for a water dependent commercial good or service.
4. New and expanded commercial developments should be designed and located to protect and enhance public views of the water from upland properties and from public roads and walkways.
5. New and expanded commercial development should be permitted only where adequate parking area is or can be made available.

c. Regulations

1. New non-water-oriented commercial uses shall not be allowed unless there is no direct access to navigable waterways, or they are part of a mixed-use project that includes water-dependent uses as the primary use or navigation is severely limited at the proposed site and the use provides a significant public benefit with respect to SMA objectives for public access and ecological benefit.
2. Shoreline permit applications for commercial and mixed-use development shall include a detailed statement explaining how the type of commercial use(s) proposed, how they relate to the water or shoreline and whether they are water dependent, water related, water enjoyment or non-water oriented uses. Such statements shall include at least the following:
    a. Nature of the commercial activity.
    b. Need for shoreline or over-water location.
    c. Proposed measures to enhance the relationship of the activity to the shoreline (e.g. outdoor view dining area)
    d. Proposed provisions for public physical or visual access to and/or along the shoreline.
3. Over-water construction of commercial uses is prohibited, except as follows:
    a. Commercial docks and boat fueling stations.
    b. The development of docks, piers, marinas, boat launch ramps, fueling stations or similar shoreline boating facilities intended for general public use.
    c. Minor commercial uses that are accessory and clearly incidental to an allowed use may be provided on publicly owned docks and piers (e.g. boat rental, boater convenience store, boat services, etc).
    d. Bulkheads or landfills required by a water-dependent or public recreational use, which are necessary for that use.
4. All commercial developments which are non-water dependent shall be subject to the following requirements:
    a. A minimum of 20% of gross lot area exclusive of any public right-of-way shall be dedicated to outdoor open space. This area shall extend landward from the shoreline and be developed with landscaping and finished surfaces prior to occupancy.

b. Parking shall not be located seaward of the buildings and adequate street access shall be provided. Shoreline permit applications shall include a parking plan showing the location, dimensions, and capacity of the proposed parking area and the proposed landscaping and screening.

c. A landscaping plan shall be submitted with shoreline permit applications.

5. All commercial uses must be sited and designed to avoid impacts to existing navigation, recreation and public access.

6. Nonconforming commercial structures that are intentionally modified, replaced, repaired or enlarged are subject to the requirements in Chapter 6, Section J (Nonconforming Development).

7. A new or expanded shoreline commercial development shall provide public access when required by Chapter 3, Section B.6.c and meet all standards identified therein.

5. Industrial and Port Facilities

a. Applicability

Industry applies to those businesses or uses involved in the production, processing, manufacturing or fabrication of goods. Warehousing and storage of materials or products is considered part of the industrial process. Water-dependent industries are those that require a location adjacent to the shoreline by reason of the intrinsic nature of their business. Ports are a specialized subcategory of general industrial use. Port facilities are centers of water-borne traffic and commerce. Industry and ports are both covered in this section.

Some industrial and port developments are often associated with a number of uses and modifications that are identified separately in this Master Program (e.g. parking, dredging). Each use activity and every type of shoreline modification should be carefully identified and reviewed for compliance with all applicable sections.

Some industrial and port facilities are intensive and have the potential to negatively impact the shoreline environment. When impacts cannot be avoided, they must be mitigated to assure no net loss of the ecological functions necessary to sustain shoreline resources. Please refer to Chapter 3, Section B.5, *Environmental Impacts and Mitigation.*

b. Policies

1. Water dependent and water related industrial development should only be allowed in areas designated Maritime. All other industrial uses should be prohibited.

2. Prohibit non-water-dependent industrial and port developments over water.

3. Require new industrial and port developments to provide physical and visual access to shorelines wherever possible, consistent with constitutional and statutory limitations, and provided such access does not interfere with industrial operations or endanger public health and safety.

4. Industrial development should not displace existing visual or physical public access.

5. Encourage cooperative use of docks, storage, parking and other accessory facilities among private or public entities in shoreline industrial and port areas.
6. Industrial uses and redevelopment are encouraged to locate where environmental cleanup and restoration can be accomplished.

c. Regulations

1. Only water-dependent industry and water-related industry shall be permitted in shoreline jurisdiction. The Maritime shoreline environment is the only environment where these uses shall be permitted.
2. Over-water construction of non-water-dependent industrial uses is prohibited. This provision is not intended to preclude the development of docks, piers or boating facilities that are necessary for the operation of the water-dependent or water-related use.
3. Industrial and port facilities shall be located, designed, constructed and operated so as to minimize impacts to shoreline resources and unnecessary interference with the rights of adjacent property owners, as well as adjacent shoreline or water uses. To this end, applications for industrial/port facilities must demonstrate conformance with the following criteria. The proposal shall:
    a. Comply with all federal, state, regional and local requirements regarding air and water quality.
    b. Industrial development and use shall be consistent with mitigation sequencing and result in no net loss of shoreline ecological function.
    c. All new or expanded industrial development shall be set back and buffered from adjacent shoreline properties that are used for or zoned for non-industrial purposes. Such buffering shall include landscaping, shrubs, trees and fencing as found to be appropriate depending on the impact.
    d. Industrial and port facilities shall be designed and operated to promote joint use of over-water and accessory facilities such as piers, docks, storage and parking whenever practicable.
    e. Protect public views of harbor areas and other recognized vistas. Private views of the shoreline, although considered during the review process, are not expressly protected.
    f. Adequate provisions shall be made for fire and safety hazards:
        i. The storage and handling of inflammable liquids, liquefied petroleum gases and explosives shall comply with rules and regulations falling under the jurisdiction of the City Fire Chief, the laws of the state and other local ordinances;
        ii. Bulk storage of inflammable liquids below ground shall be permitted, and the tank shall be located not closer to the property line than the greatest dimension (diameter, length or height of the tank).
        iii. Adequate fire fighting, fire prevention and safety equipment shall be provided as necessary to handle materials stored or used on the site.

iv. Flammable/explosive, hazardous materials shall be kept removed from adjacent activities to a distance that is compatible with the potential danger involved.

v. Provisions shall be made to minimize the probability of spills of fuel or other toxic substances and to handle accidental spoils that occur.

vi. Emission of dangerous radioactivity shall be prohibited.

4. Provide for necessary shielding or other measures to prevent on-site mechanical or electrical equipment from interfering with the use of electrical apparatus off-site.
5. Exterior lighting shall be shielded to prevent nuisance glare and prevent trespass of light onto adjacent properties or water bodies to the maximum extent practicable.
6. Arc welding, acetylene torch cutting or similar processes shall be performed so as not to be seen from any point beyond the property.
7. Noxious odors shall be eliminated to the extent feasible.
8. A new or expanded shoreline industrial development shall provide public access when required by Chapter 3, Section B.6.c and meet all standards identified therein.

6. Parking

a. Applicability

Parking is the temporary storage of automobiles or other motorized vehicles. The following provisions apply only to parking that is accessory to a permitted shoreline use. Parking as a primary use and parking which serves a use not permitted in shoreline jurisdiction is prohibited.

b. Policies

1. Parking should be permitted in shoreline jurisdiction only if there is no other feasible option as determined by the Administrator, and if the following criteria are met:
   a. Parking facilities in shoreline areas should be located and designed to minimize adverse impacts including those related to stormwater runoff, water quality, visual qualities, public access, and vegetation and habitat maintenance, and shall result in no loss of ecological functions.
   b. Parking in shoreline areas should not restrict access to the site by necessary public safety vehicles, utility vehicles, or other vehicles requiring access to shoreline properties.

c. Regulations

1. Parking as a primary use is prohibited in Shoreline jurisdiction.
2. Parking in shoreline areas must directly serve a permitted shoreline use. Where public access is included as part of a development proposal, additional parking spaces available to the general public may be allowed.

3. Parking facilities shall provide adequate provisions to control surface water runoff to prevent it from contaminating water bodies.
4. Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened or in cases when an alternate orientation would have less adverse impact on the shoreline.
5. Exterior parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties. Exterior parking facilities for nonresidential uses shall be landscaped with vegetation in such a manner that plantings provide an effective "full-screen" within three years of project completion when viewed from adjacent areas within Shoreline jurisdiction.
6. New and reconstructed parking areas shall utilize all feasible Low Impact Development (LID) techniques as described in the most recent edition of the *Low Impact Development Manual: Technical Guidance for Puget Sound* and the City's adopted stormwater design manual.

7. Recreational Development

a. Applicability

Recreational uses include passive activities, such as walking, viewing and fishing, as well as active uses, such as swimming, boating, and other outdoor recreational activities. This section applies to both public and private non-commercial shoreline recreational facilities, including passive areas such as Freund Marsh and Windjammer Park, as well as more intense recreational uses, such as the Oak Harbor Marina.

Uses and activities associated with recreational developments that are identified as separate use activities in this SMP, such as "Boating Facilities," "Private Overwater Structures," and "Residential Development," are subject to the regulations established for those uses in addition to the standards for recreation established in this section.

b. Policies

1. Preference should be given to developments that provide for recreational activities and improvements facilitating public access to the shoreline. A variety of water-oriented recreational activities should be encouraged to satisfy the diverse needs of residents and visitors.
2. Recreational development should be located, designed, and operated to be compatible with adjacent uses and to minimize adverse effects on ecological and aesthetic qualities of the shoreline and water.
3. The coordination of local, state and federal recreation planning should be encouraged. Expansions to City recreational facilities, such as the Oak Harbor Marina and Waterfront Trail, should be coordinated with plans for restoration activities on U.S. Navy property to expand connections between these recreation opportunities.

4. Recreational developments and plans should promote the conservation of the shoreline's natural character, ecological functions, and processes while expanding the public's ability to enjoy the shoreline.
5. Shoreline areas with a potential for providing recreation or public access opportunities should be identified and acquired by lease or purchase, or through partnerships with nonprofit and service organizations, and incorporated into the park and open space system.
6. Recreational development should be designed to preserve or create open space and public use of the water and shorelines.
7. Links between existing and future shoreline parks, recreation areas and public access points should be created via a non-motorized network using existing rights-of-way or through acquisition of easements and/or land, where feasible.
8. Recreational activities should be designed to avoid conflict with private property rights, and to minimize and mitigate negative impacts on adjoining property.

c. Regulations

1. Recreational uses and developments shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard.
2. Water-dependent recreational activities such as swimming, boating, and fishing, and water-enjoyment activities that benefit from waterfront scenery such as picnicking, hiking and bicycling shall be emphasized in planning public and private (excluding residential) noncommercial recreation sites in the shoreline corridor.
3. All recreational developments shall make adequate provisions for:
    a. Non-motorized and pedestrian access;
    b. The prevention of trespass onto adjacent properties, including but not limited to landscaping and fencing;
    c. Protection and restoration of environmentally sensitive areas and shoreline processes and functions;
    d. Signs indicating the public's right of access to shoreline areas, installed and maintained in conspicuous locations at the point of access and the entrance; and
    e. Buffering of such development from adjacent private property or natural area.
4. In approving shoreline recreational developments, the City may apply conditions to project dimensions, use intensity, parking provisions, or landscaping to ensure that the development will maintain, enhance or restore desirable shoreline functions or scenic qualities.
5. Swimming areas shall be separated from boat launch areas.

6. The construction of swimming facilities, piers, moorages, floats and launching facilities waterward of the OHWM shall be governed by the regulations relating to either Boating Facilities (Section 4.D.3) and Piers, Docks, Floats, and Mooring Buoys (Section 5.C.4) of this SMP.
7. Fragile and unique shoreline areas with valuable ecological functions, such as wildlife habitats, shall be used only for non-intensive recreation activities that do not involve the construction of structures.
8. All structures associated with a recreational use, except water dependent structures, such as docks and boardwalks, and appurtenances that provide access to the water for that use, shall maintain a standard setback from the OHWM per Chapter 4, Section C, Table 2. Further setback reduction shall require restoration or enhancement of the shoreline buffer, as required by the Shoreline Administrator.
9. A new or expanded shoreline recreational development shall provide public access when required by Chapter 3, Section B.6.c and meet all requirements identified therein.
10. Applications for new recreational development within the shoreline jurisdiction shall include a parking and landscaping plan. Safe pedestrian walkways shall be provided between parking areas and recreational facilities.

8. Residential Development

a. Applicability

Residential development means one or more buildings, structures, lots, parcels, or portions thereof which are designed for and used or intended to be used to provide a place of abode for human beings, including single family residences and other detached dwellings together with accessory uses and structures normally applicable to residential uses located landward of the OHWM, including, but not limited to, swimming pools, garages, sheds, fences and saunas.

Provisions relating to vegetation conservation are included in Chapter 3. Provisions relating to shoreline modifications, such as shoreline stabilization, dredging and fill, trams, and overwater structures, associated with residential development can be found in Chapter 5.

b. Policies

1. Residential development is not a water-dependent use and should not be allowed to locate over water, except in the case of liveaboard vessels moored at marinas.
2. Residential structures should be designed and sited in such a manner as to not detract from the scenic and aesthetic qualities of the shoreline.
3. Residential development should be discouraged in portions of the shoreline jurisdiction where bulkheading or other forms of hard shoreline stabilization would be necessary at the time of construction or in the foreseeable future to protect the residence.

4. Residential development should be designed so as to preserve existing shoreline vegetation, control erosion and protect water quality using best management practices and where possible, utilizing low impact development technologies.
5. The City should encourage the use of alternative paving products, such as pervious pavers, for walkways, driveways, and patios, as a mechanism for reducing impervious surfaces and surface water runoff.
6. Development should, at a minimum, achieve no net loss of ecological functions necessary to sustain shoreline natural resources, even for exempt development.

c. Regulations

1. Residential development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard.
2. Structures or other development accessory to residential uses are permitted in shoreline jurisdiction, if allowed under all other applicable standards in this SMP and subject to the provisions of the City's zoning code. Accessory uses and appurtenant structures not specifically addressed in the SMP shall be subject to the same regulations as primary residences.
3. New and/or expanded residential development shall be located and designed to avoid the need for shoreline stabilization structures.
4. Floating homes shall be prohibited in all shoreline environment designations. Liveaboard vessels and houseboats may be approved, provided they comply with the development regulations of the Aquatic environment and are located within marinas equipped with adequate sanitation facilities to accommodate them.
5. All additions to residential structures must comply with all standards in this SMP, including required shoreline setbacks established in Table 2.
6. Nonconforming residential structures that are intentionally modified, replaced, repaired or enlarged are subject to the requirements in Chapter 6, Section J (Nonconforming Development).
7. In order to maintain visual access to the waterfront, fences within the required setback from the OHWM shall be:
    a. No more than 4 feet high when separating two residential lots and no more than 6 feet high when separating a residential lot from a park or commercial use, and
    b. May not extend beyond the OHWM.
8. The stormwater runoff for all new or expanded pavements or other impervious surfaces shall be directed to infiltration systems, and other Low Impact Development techniques shall be incorporated into new development as feasible, in accordance with the City's adopted Surface Water Design Manual and the *Low Impact Development Technical Guidance Manual for Puget Sound.*

9. A new or expanded shoreline residential development shall provide public access when required by Chapter 3, Section B.6.c and meet all requirements identified therein.

9. Signage and Outdoor Advertising

a. Applicability

A sign is defined as a device of any material or medium, including structural component parts, which is used, or intended to be used, to attract attention to the subject matter for advertising, identification or informative purposes. The following provisions apply to any public or private sign directing attention to a service, community, site, facility, or entertainment, conducted or sold either on or off premises.

b. Polices

1. Signs in the shoreline environment should be the minimum size necessary to achieve their purpose and should be placed in a manner that minimizes impacts on views.
2. Signs should be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses.
3. Signs should not block or otherwise interfere with visual access to the water or shorelines.
4. Outdoor advertising and billboards are not an appropriate use of the shoreline areas within shoreline jurisdiction.

c. Regulations

1. Signs shall comply with the City's sign regulations.
2. Sign plans and designs shall be submitted for review and approval at the time of shoreline permit approval.
3. Temporary or obsolete signs shall be removed within seven (7) days of elections or termination of any other functions. Examples of temporary signs include: real estate signs, directions to events, political advertisements, event or holiday signs, and construction signs.
4. Signs that do not meet the policies and regulations of this program shall be removed or required to conform within two years of the adoption of this master program.
5. Free-standing signs shall not be approved or installed where it is feasible to mount, affix, or paint the proposed sign on a building.
6. The following types of signs <u>may be allowed</u> in all shoreline environments:
    a. Water navigational signs and highway signs necessary for operation, safety and direction.
    b. Public information signs directly relating to a shoreline use or activity.
    c. Off-premise, freestanding signs for community identification, information, or directional purposes.

d. National, site and institutional flags or temporary decorations customary for special holidays and similar events of a public nature.

7. The following signs are prohibited:

   a. Off-premises detached outdoor signs advertising a good or service.

   b. Spinners, streamers, pennants, flashing lights, and other animated signs used for commercial purposes.

   c. Signs placed on trees or other natural features.

   d. Commercial signs for products, services, or facilities located off-site.

10. Transportation

a. Applicability

Transportation facilities that serve the City of Oak Harbor shorelines include roads, paths, seaplane operations, and public and private parking areas. Excluded are the marina and other moorages regulated by other sections of this master program.

b. Policies

1. Non-water dependent transportation facilities should not be located over water or within the shoreline jurisdiction where a feasible alternate location exists. Before approval of new transportation facilities within the shoreline environment, the City should require an alternatives analysis to evaluate the feasibility of locating the facility elsewhere.

2. When transportation facilities are located over water or on shorelines, they should be designed to minimize their impacts on shoreline resources and avoid net loss of ecological function.

3. Joint use of transportation corridors within the shoreline jurisdiction for roads, utilities and motorized and non-motorized forms of transportation should be encouraged, where feasible.

4. Pedestrian trails and bicycle paths along shorelines should be promoted in conformance with the Oak Harbor Parks, Recreation, and Open Space Plan.

5. Rights of way and other facilities that provide scenic views or access to the water should be retained in public ownership and kept open whenever possible.

c. Regulations

1. New road construction in the shoreline jurisdiction shall be allowed only when demonstrated through an alternatives analysis that an upland location is neither feasible nor practical.

2. Transportation facility development shall result in no net loss of shoreline ecological functions and shall be designed to minimize the need for landfill, vegetation removal, bank stabilization, and grading. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.

3. Graded areas and slopes altered during construction shall be stabilized and, where appropriate, planted with native vegetation.
4. Expansion of existing roadways within the shoreline jurisdiction shall be allowed only when the proponent demonstrates that:
    a. No alternative route is feasible;
    b. Site grading, removal of vegetation, bank stabilization, and use of fill has been minimized;
    c. The roadway is constructed and maintained to cause the least possible adverse impact on the land and water environment; and
    d. The roadway is found to be in the public interest.
5. Transportation and primary utility facilities shall be required to make joint use of rights of- way, and to consolidate crossings of water bodies to minimize adverse impacts to the shoreline.
6. All debris and other waste materials from roadway construction shall be disposed of in such a way as to prevent their entry into any water body.
7. Road designs must provide safe pedestrian and non-motorized vehicular crossings where public access to shorelines is intended.
8. Streets within shoreline jurisdiction shall be designed with the minimum pavement area required. Gravel and more innovative materials shall be used where feasible for pathways and road shoulders to minimize the amount of impermeable surfaces and help to maintain a more natural appearance.

11. Utilities (Primary)

a. Applicability

Utilities are services and facilities that produce, transmit, store, process or dispose of electric power, gas, water, sewage, and communications. Utilities in this SMP are divided into primary and accessory based on type and scale. The provisions of this section apply to primary use and activities such as solid waste handling and disposal, water transmission lines, sewage treatment facilities and mains, power generating or high voltage transmission facilities, gas distribution lines and storage facilities, stormwater mains and regional stormwater treatment facilities.

b. Policies

1. New primary utilities should be located outside of the SMA unless no other feasible option exists. Where allowed they should utilize existing transportation and utility sites, rights-of-way and corridors whenever possible, rather than creating new corridors. Joint use of rights- of- way and corridors should be encouraged.
    a. Solid waste disposal activities and facilities should be prohibited in shoreline areas. "Solid waste facilities" are not to be construed as storage of recyclable materials.

b. Primary utilities should avoid locating in environmentally sensitive areas unless no feasible alternatives exist.

c. Wherever primary utility facilities and corridors must be placed in a shoreline area, they should be located so as to protect scenic views. Whenever possible, such facilities should be placed underground or designed to minimize impacts on the aesthetic qualities of the shoreline area.

2. New utilities installed in the shoreline jurisdiction should be located underground whenever possible to minimize adverse effects on scenic views and other aesthetic resources.

c. Regulations

1. Primary utilities shall be located outside of shoreline jurisdiction unless no other feasible option exists. When allowed under this regulation, primary utilities shall be located landward of the ordinary high water mark unless such location is not feasible or would result in potentially greater environmental impacts. Where utilities must cross the shoreline environment, they shall be located along a route that would involve the least environmental and aesthetic impacts to the shoreline.

2. In the case of a new primary utility facility, the determination as to the feasibility of alternative locations outside the shoreline area and/or the possibility of using existing rights-of-way may include, but is not necessarily limited to, consideration of: (1) construction impacts on the community, including impacts on traffic and adjacent land uses; (2) engineering considerations, including restoration or disruption issues related to the presence of existing public improvements and utility facilities; (3) environmental considerations, including impacts on the ecological function both within and outside of the shoreline; and (4) project considerations, including construction cost, construction schedule and expenditures or contractual commitments made by the proponent of the corridor, prior to the adoption of this SMP, in acquiring rights for the proposed route.

3. Primary utility facilities shall avoid disturbance of unique and fragile areas, as well as wildlife spawning, nesting and rearing areas. Utility facility development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.

4. Utility development shall, through coordination with local government agencies, provide for compatible, multiple use of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety or create a significant and disproportionate liability for the owner.

5. Utility lines shall utilize existing rights-of-way, corridors and/or bridge crossings whenever possible and shall avoid duplication and construction of new corridors in all shoreline areas. Proposals for new corridors or water crossings must fully substantiate the infeasibility of existing routes.

6. Solid waste disposal sites and facilities are prohibited in the shoreline environment.

7. Where major facilities must be placed in a shoreline area, the location and design shall be chosen so as not to destroy or obstruct scenic views.
8. Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and upon project completion any disturbed areas shall be restored to their pre-project condition.
9. The City shall hold public meetings prior to the issuance of a Substantial Development Permit for a major primary utility project in accordance with the administrative procedures outlined in this Master Program to allow for the greatest amount of public input to help guide utility-related decisions.
10. New utility lines installed within the shoreline jurisdiction shall be located underground unless it can be demonstrated that such underground installation would be infeasible or would cause greater adverse impacts to the shoreline environment than an above-ground installation. Underwater cables or utility structures that must cross the shoreline jurisdiction to upland areas shall remain buried above the OHWM to a point that allows unimpeded access to the shoreline.

12. Utilities (Accessory)

a. Applicability

Utilities have been split into accessory and primary with accessory meaning utilities that affect small-scale distribution services connected directly to the uses along the shoreline. For example, power distribution, telephone, cable, water and sewer service lines, stormwater collection and conveyance, are all considered as utilities accessory to shoreline uses. They are covered in this section because they concern all types of development and have the potential of impacting the ecological condition and visual quality of the shoreline and its waters.

b. Policies

1. Utilities are necessary to serve shoreline uses and should be properly installed to protect the shoreline and water from contamination and degradation.
2. Utility facilities and right-of-ways should be located outside of the shoreline area to the maximum extent possible. When utility lines require a shoreline location, they should be placed underground, where feasible.
3. Utility facilities should be designed and located in a manner which preserves the natural landscape and shoreline ecology, and minimizes conflicts with present and planned land uses.

c. Regulations

1. Utility developments shall, through coordination with local government agencies, provide for compatible, multiple use of sites and rights-of-way. Such uses include shoreline access points, trail systems, and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, or endanger public health and safety.
2. In shoreline areas, accessory utilities shall be placed underground unless demonstrated to be infeasible. Further, such lines shall utilize existing rights-of-way, and existing corridors whenever

possible. Existing above ground lines shall be moved underground when properties are redeveloped or in conjunction with major system upgrades or replacements.

3. Utility facilities shall be located and designed to avoid destruction of, or damage to, important wildlife areas, and other unique and fragile areas. Utility facility development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.
4. Clearing for the installation or maintenance of utilities shall be kept to a minimum, and upon project completion, any disturbed area shall be restored, to the greatest extent feasible, to pre-project conditions, including replanting with native species, or other species as approved by the City, and maintenance care. If the previous condition is identified as being undesirable for shoreline function, then landscaping and other improvements shall be undertaken.
5. The location and construction of outfalls shall comply with all appropriate federal, state, county and city regulations.
6. Proposals for new utility corridors (e.g. local power or water distribution) shall fully substantiate the infeasibility of existing routes.