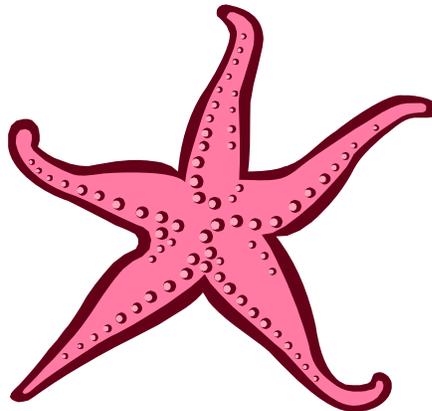


City of Oak Harbor

Shoreline Master Program



December 1998

CITY OF OAK HARBOR
SHORELINE MASTER PROGRAM

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CITY OF OAK HARBOR
SHORELINE MASTER PROGRAM

SECTION ONE - GENERAL

1.01 Title

This document shall be known and may be cited as the Shoreline Master Program for the City of Oak Harbor, Washington.

1.02 Short Title

This document may be referred to internally as “this Master Program.”

1.03 Official Map

There is hereby made a part of this Master Program a map which shall be known officially as the City of Oak Harbor Shoreline Master Program Designated Environments Map which may be referred to as “the Map.” The map shall show all the areas of the City of Oak Harbor which fall under the jurisdiction of this Master Program and the official designated environments for all affected lands and water. A copy of the map is attached hereto, as figure 1.

There shall be two official copies of the map, one of which shall reside in the custody of the City of Oak Harbor Planning Department, and the other at the Washington State Department of Ecology. Whenever any portion of the map is legally amended, the official copies shall be altered promptly to reflect that amendment.

As the map is an inseparable part of this Master Program, no part of the map may be altered or amended without the approval of the City of Oak Harbor City Council and the Washington State Department of Ecology as provided in RCW 90.58.190.

When questions arise as to the precise boundaries of any designated environment, the administrator shall make the final determination based on consideration of the natural and built environments and reasonable judgement, subject to the provisions of Section 10, below.

SECTION TWO - APPLICABILITY

2.01 General Applicability

This Master Program shall apply to all land and waters in or under the jurisdiction of the City of Oak Harbor as the same may fall under the jurisdiction of Chapter 90.58 RCW, the Shoreline Management Act, referred to herewith as “the Act.” The Master Program provides goals, policies and regulations which are additional to all other ordinances of the City of Oak Harbor. If the provisions of the Master Program conflict with other applicable local ordinances, policies and regulations, the most restrictive shall apply. Changes to comprehensive plans and associated ordinances shall be consistent with the policies of the Shoreline Management Act and this Master Program pursuant to RCW 90.58.340.

2.02 Applicability to Persons

This Master Program shall apply to every person, individual, firm, partnership, association, corporation, government agency, which develops, owns, leases or administers lands, wetlands or waters which fall under the jurisdiction of the Act.

2.03 Applicability to Federal Agencies

Direct federal agency actions and projects occurring on lands subject to the Washington State Shoreline Management Act and within the City's shoreline jurisdiction shall comply with WAC 173-27-060 (as filed on 9-30-96, effective 10-31-96).

2.04 Applicability to Development

This Master Program shall apply to all development as defined in Section 13 below.

2.05 Applicability to Substantial Development

This Master Program shall apply to all substantial development as defined in Section 13 below.

No substantial development shall be undertaken unless a valid shoreline management substantial development permit is first issued by the City and unless all work proceeds in compliance with the permit and the requirements of the Act, this Master Program and other applicable State and local regulations. Shoreline conditional use or variance permits may also be required.

2.06 Exemptions from Substantial Development Permit Requirements

1. The following developments shall not require substantial development permits. This list of exceptions is further articulated and supplemented by provisions of WAC 173-27-040, as amended.
 - a. Any development for which the total cost or fair market value is below the threshold established by the Shoreline Management Act and any amendments to the Act, if such development does not materially interfere with the normal use of the water or shoreline.
 - b. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or the elements. "Normal maintenance" shall be as defined by the Act.
 - c. Construction of the normal protective bulkhead common to single family residences; provided that such bulkheads are entirely located at or landward of the ordinary high water mark (OHWM). A "normal protective bulkhead" is constructed to protect land against erosion, not for the purpose of creating buildable land.
 - d. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action.

- e. Construction or modification of navigational aids such as channel markers and anchor buoys.
- f. Construction of a single family residence on wetlands by an owner, lessee or contract purchaser, for his or her own use or the use of his or her own family, which residence does not exceed a height of 35 feet above average grade level and which meets all requirements of the City and State agency(s) with jurisdiction.
- g. Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of a single family residence for which the total cost or fair market value is below the threshold established by the Shoreline Management Act, and any amendments to the Act.
- h. Construction and practices normal or necessary for farming, irrigation, and ranching activities, as provided for in the Act.
- i. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities as a part of an irrigation system for the irrigation of lands;
- j. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
- k. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on June 4, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;
- l. Any project with a certification from the governor pursuant to chapter 80.50 RCW;
- m. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under WAC 173-27-040(m).
- n. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020.
- o. Watershed restoration projects as defined and regulated in WAC 173-27-040(o).
- p. A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage, as regulated by the Act.
- q. The procedural requirements of chapter 90.58 RCW shall not apply to a project for which a consent decree, order or agreed order has been issued pursuant to chapter 70.105D RCW or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. The department shall, in consultation with the appropriate local government, assure that such projects comply with the substantive requirements of chapter 90.58 RCW, chapter 173-26 WAC and the local master program.

2. Exemption from substantial development permit requirements under this section and WAC 173-27-040 does not constitute exemption from the policies of the Act, the policies and regulations of this Master Program or other applicable local, State or Federal permit requirements. A conditional use or variance permit may also be required.
3. A written statement of exemption from the administrator is required for exempt developments as provided in Section 10 - Administration of this Master Program.

2.07 Applicability to Critical Areas Ordinance

In addition to any regulations stipulated under this chapter, management of critical areas, as defined in OHMC Section 20.20.020, are subject to the regulations set forth in OHMC Chapter 20.20.

SECTION THREE - GOALS AND GENERAL SHORELINE USE AND DEVELOPMENT POLICIES

3.01 General

The Shoreline Management Act establishes seven land and water use elements to be incorporated into every Master Program. These are shoreline use, economic development, public access, circulation, recreation, conservation and historic and cultural preservation.

The following goals and policies provide the foundation on which this entire Master Plan rests.

3.02 Shoreline Use

Goal

Protect the unique character of the City of Oak Harbor while providing for uses of shorelines and water areas which do not diminish the quality of the shoreline environment, and to assure the optimum opportunity for participation by Oak Harbor residents in the decision-making processes which may affect that unique character.

Policies

1. Designate shoreline environments, and provide for specific land and water uses appropriate to each environment. Identify and reserve shoreline and water areas with unique attributes for specific long-term uses, including commercial, residential, recreational and open space/conservancy uses.
2. Distribute, site and develop shoreline uses in a manner that maintains or improves the health, safety and welfare of the public when such uses must occupy shoreline areas.
3. Insure that the overall land use patterns that result in shoreline areas are compatible with shoreline environment designations and will not degrade habitat and ecological systems and other shoreline resources.
4. Balance the public trust with rights of private ownership when making shoreline planning and development decisions.

5. Prefer shoreline uses which foster long-term protection and enhancement of the shoreline environment over those which compromise public benefit for short term economic gain or convenience.
6. Shorelines should be reserved for water-oriented uses. Uses which are not water-oriented should not be permitted.
7. Protect the shoreline of Oak Harbor Bay, a shoreline of statewide significance, by respecting the statewide interest in its scenic quality, navigational use, aquatic resources and public access value.
8. Coordinate planning, zoning and other regulatory and non-regulatory programs to support Oak Harbor's shoreline objectives. For instance, the City Council has adopted the Harbor Watch plan for guiding redevelopment on Oak Harbor's downtown waterfront. The Harbor Watch plan is consistent with the policies and regulations of the Shoreline Management Act and this Master Program.

3.03 Economic Development

Goal

To acknowledge the critical importance of a balanced and diversified local economy for the long range well being of the City of Oak Harbor, by evaluating proposals for economic development along the shoreline or over the water with regard to the degree to which physical or social qualities of the City will be enhanced.

Policies

1. Commercial development on shorelines and over water should occur where such development already exists, and which is consistent with the provisions of this Master Program.
2. All shoreline and over-water development and use activities should be designed and constructed in a manner appropriate to the site and vicinity and to minimize adverse effects on the land and water environments.
3. Limit new shoreline development to that which is classified as water-dependent, water-related, or water-enjoyment uses and discourage and/or prohibit non-water-oriented uses which are not accessory to a water-oriented use.
4. Proposed economic development use of the shoreline should be consistent with the Comprehensive Plan. Specifically, downtown redevelopment should be consistent with the goals, policies and design element of the Harbor Watch Plan.
5. Develop, as an economic asset, recreational uses along shorelines in a manner that will enhance the public enjoyment of shorelines.

3.04 Public Access

Goal

Assure safe, convenient and diversified public access to the water and shoreline, while protecting the natural environment and maintaining the quality of life in Oak Harbor.

Discussion

The Shoreline Management Act and the City of Oak Harbor place emphasis on the right of the general public to enjoy the physical and aesthetic qualities of the shoreline, while allowing for controlled development consistent with the public trust. Public access may include activities ranging from shellfish harvesting on public tidelands to simple appreciation of water views from upland areas. Access may be to beaches, lands adjacent to the shoreline, and the water itself. This Master Program establishes development standards and other criteria for assuring public access to shoreline areas, while protecting the natural environment and private property rights

While public access is most frequently gained over public land, it can also be a mitigating component of private land development. In such cases, the public may gain either physical or visual access to or near the shoreline, consistent with the Shoreline Management Act and this Master Program, while the developer is able to complete a project that otherwise would have unacceptable impacts. Most often, this right of public access is obtained via a development condition and is expressed as an easement or conveyance of fee simple. Alternatively, developers may contribute to the cooperative development of public properties when there is a reasonable relationship between the development and required mitigation.

Policies

1. Provide, protect and enhance a public access system that is both physical and visual, utilizing both private and public lands. The Oak Harbor Bay Trail, as described by the City of Oak Harbor Comprehensive Park and Recreation Plan, provides a spine route for accessing Oak Harbor's shoreline.
2. Increase the amount and diversity of public access, consistent with the natural shoreline character, private property rights and public safety.
3. Provide handicap-accessible pathways and viewing areas along the shoreline in conformance with the Americans With Disabilities Act.
4. Enhance public access afforded by shoreline street ends. Priority should be given to developing passive recreational areas with parking areas setback away from the shoreline.
5. Provide landscape buffers or other appropriate design features to mitigate visual, noise, safety and privacy impacts of public access areas adjacent to private property.
6. Control the nature and time of public access area use where such use would otherwise be hazardous or incompatible with adjacent uses.

7. Maintain publicly owned shorelines for perpetuity, while limiting their use to water-dependent or water-enjoyment uses.
8. Require public access to water areas and along shorelines in association with all private and public developments.
9. Appropriately mark and maintain all public access to water areas and shorelines.
10. Connect public access areas with trails and paths where appropriate and consistent with other policies of this Master Program. Ecological and aesthetic values as well as private property values must be considered in establishing trails and paths.
11. Substantial development over water or on or near the shoreline should not impair or detract from the public's visual and physical access to the water. When unavoidable, such impacts should be mitigated in conformance with the policies of this Master Program.
12. Public views of upland areas from the water and shoreline should be preserved or enhanced to the extent possible. Excessive removal of vegetation is not an acceptable method of enhancing public views.

3.05 Circulation

Goal

Transportation systems developed along the shoreline should assure efficient movement of people, with minimum disruption of the shoreline environment and minimum conflict between different types of uses.

Policies

1. Develop pedestrian and bicycle routes along the shoreline as described by the Oak Harbor Comprehensive Parks and Recreation Plan.
2. Prohibit motorized vehicles along public shorelines except on existing public streets and in specially designated park areas.
3. Improve and maintain parking areas with sufficient capacity for shoreline visitors. Parking areas should include screening and bollards, wheel stops or other barriers to prevent automobiles from encroaching into shoreline environments.
4. Wherever practical, set back new streets and private drives at least 200 feet from the ordinary high water mark.
5. Limit seaplane access to designated shoreline sites, consistent with Master Program policies.

3.06 Recreation

Goal

Encourage diverse, appropriate and adequate water-oriented recreational opportunities which are compatible with and appropriate to the shoreline locations on which they are planned.

Policies

1. Provide optimal recreational opportunities now and in the future for both Oak Harbor residents and visitors without degrading the shoreline environment.
2. Review proposed recreational use of public shorelines and water areas to ensure consistency and compatibility with the Comprehensive Park and Recreation Plan, this Master Program and other adopted plans and policies.
3. Locate non-water-oriented uses outside the shoreline. Recreational uses which are not water dependent should not be allowed over water.
4. Recreational facilities and activities incompatible with shoreline Critical Areas should not be permitted within the shoreline environment.
5. Recreation is the first priority use for publicly owned shorelines. Natural and Aquatic environments should be limited to “passive” recreational use, or those uses which do not require extensive hard-surfacing, structures or utilities.

3.07 Conservation

Goal

Preserve non-renewable natural resources unique to the shoreline, while conserving renewable resources for the benefit of existing and future generations.

Policies

1. Mitigate development and shoreline use impacts to water quality, erosion, siltation and the natural water and sand circulation systems.
2. Preserve views of the shoreline and scenic vistas from the shoreline by maintaining open space between buildings, clustering buildings and minimizing building height and total lot coverage as necessary.
3. Encourage preservation of open space in all proposed shoreline uses. Open space preservation may be required as a condition of development approval when necessary to meet public access policies of this Master Program.
4. Natural vegetation on shorelines should be retained to the extent possible. Designated shoreline access points should be established in convenient locations and appropriately marked to prevent trampling of vegetation.
5. Commercial sand, gravel and mineral extraction is incompatible with all designated shoreline environments of Oak Harbor. Grading and/or excavation should be limited to site preparation for approved developments.

6. Commercial timber harvesting is incompatible with all designated shoreline environments of Oak Harbor. Aesthetic, erosion and water quality controls should be used as necessary when non-commercial timber cutting occurs in conjunction with shoreline development. Timber cutting may be restricted in conformance with this Master Program and other City regulations.

3.08 Historic and Cultural Preservation

Protect and/or restore shoreline or water areas which have archaeological, historic, cultural, educational or scientific value.

Discussion

While no known areas of archaeological, historic or scientific value occur on the shoreline, new development may uncover such resources.

Policies

1. Sites suspected of having significant resources should be kept free of development until their value for preservation and/or removal is determined by the appropriate agencies.
2. Expert study of shoreline sites should be required prior to excavation when such areas are thought to contain significant resources.

3.09 Shorelines of State-wide Significance

Goal

Recognize the areas lying seaward from the line of extreme low tide of Oak Harbor Bay and Crescent Harbor as shorelines of statewide significance and manage the uses along these shorelines with the recognition of their regional importance.

Policies

1. Recognize and protect the state-wide interest over the local interest.
 - a. Solicit comments and opinions from groups and individuals representing state-wide interests by circulating the master program, and any amendments thereto affecting shorelines of state-wide significance, to state agencies, adjacent jurisdictions, citizen's advisory committees and local and state-wide interest groups.
 - b. Solicit comments, opinions and advice from individuals with expertise in ecology, geology, limnology, aquaculture and other scientific fields pertinent to shoreline management, as needed, in the development of the Shoreline Master Program.
2. Preserve the natural character of the shoreline.
 - a. Designate and administer shoreline environments and use regulations to minimize damage to the ecology and environment of the shoreline as a result of man-made intrusions on shorelines.

- b. Upgrade and redevelop those areas where intensive development already existing in order to reduce adverse impact on the environment and to accommodate future growth rather than allowing high intensity uses to extend into low-intensity use or underdeveloped areas.
 - c. Protect and preserve existing diversity of vegetation and habitat values, wetlands and riparian corridors associated with shoreline areas.
- 3. Result in long-term over short-term benefit.
 - a. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.
 - b. In general, preserve resources and values of shorelines of state-wide significance for future generations and restrict or prohibit development that would irretrievably damage shoreline resources.
 - c. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities or general enhancement of shoreline areas.
- 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, but not limited to: 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. Restrict or prohibit public access onto areas listed in policies 4.a. and 4.b. above which cannot be maintained in a natural condition under human use.
 - d. Shoreline materials including, but not limited to, bank substrate, soils, beach sands and gravel bars should be left undisturbed or mitigated by shoreline development.
 - e. Preserve environmentally sensitive wetlands for use as open space or buffers and encourage restoration of presently degraded wetland areas.
- 5. Increase public access to publicly owned areas of the shoreline.
 - a. Give priority to developing paths and trails to shoreline areas, linear access along the shorelines and to developed upland parking.
 - b. Locate development landward of the ordinary high water mark so that access is enhanced.
- 6. Increase recreational opportunities for the public on the shoreline.

- a. Plan for and encourage development of facilities for recreational use of the shoreline.
 - b. Reserve areas for lodging and related facilities on uplands, with setbacks from the shoreline, in order to allow for the provision of non-motorized access to the shoreline.
7. Uses shall be preferred which are consistent with control of pollution and prevention of damage to the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state.
 8. Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

SECTION FOUR - DESIGNATED SHORELINE ENVIRONMENTS

4.01 General

In order to employ the goals and policies of this Master Program effectively, the shoreline areas are assigned environment designations as set forth in WAC 173-16-040(4). The designations are applied to each area based on existing development patterns, the known biological and physical limitations of the area and the goals and desires of the public.

The system of environment categories is intended to encourage uses that will enhance the character of the environment in which they occur, and to provide reasonable development restrictions to prevent degradation of that character.

4.02 Urban Environment

Statement of Purpose

The urban environment is an area of intensive and diverse land use. The purposes of the urban designation is to ensure full use of already urbanized shorelines by providing for a variety of uses, particularly those that are water-dependent, water-related, or water-enjoyment.

Designation Criteria

Areas to be designated urban should meet one or more of the following criteria:

1. Shoreline used or planned for high-intensity commercial, public recreational and/or residential development.

2. Shorelines designated for expansion of urban uses based on adopted city plans for land use, utilities, roads and other services. The Harbor Watch plan provides land use, circulation and urban design policies for waterfront redevelopment in downtown Oak Harbor.
3. Shorelines with the least biological sensitivity and physical limitations to urban development.

Management Policies

1. Encourage new urban development in areas already developed with urban uses.
2. Limit waterfront land uses to those uses which are water-dependent or water-enjoyment.
3. Provide public access to the shoreline. New and expanded development should be designed to include physical or visual access.
4. Link public access points by pedestrian routes where practical.
5. Maximize use of waterfront land by amortizing non-conforming uses. Subsequent uses should conform to the policies and regulations of this Master Program.
6. Enhance the character and appearance of urban development through the application of sign, landscaping and site planning standards.
7. Regulate urban shoreline development to minimize adverse impacts on adjacent shoreline and upland areas.

4.03 Urban Residential Environment

Statement of Purpose

The urban residential designation recognizes and provides for residential development and other uses compatible with residential use.

Designation Criteria

Areas to be designated urban residential should meet one or more of the following criteria:

1. Shoreline areas in which single family residential uses predominate.
2. Areas planned for single family residential use in terms of utilities, access, and growth management objectives.

Management Policies

1. Urban residential shorelines should be restricted to uses compatible with residential use.
2. Non-residential uses permitted on urban residential shorelines should protect the residential character of the area. Permitted uses should not generate traffic, noise or pollutants at a level

greater than that generated by existing residential uses and should not detract from the aesthetic quality of the area.

4.04 Natural Environment

Statement of Purpose

The natural environment designation is intended to preserve unusual and/or valuable resource systems and to regulate all potential activities or uses which might degrade or alter the natural characteristics which make these areas unusual and/or valuable.

Designation Criteria

Areas to be designated natural should meet one or more of the following criteria:

1. Shorelines which represent undisturbed natural conditions.
2. Areas having a high scenic value in their natural states.
3. Areas which serve to maintain the natural character of adjoining natural shorelines occurring beyond the City's jurisdiction.
4. Areas which are hydrologically connected with designated upland conservation areas such as wetlands.

Management Policies

1. Keep natural areas free of all development which would adversely affect their ecological or scenic values.
2. Alterations should not be detrimental to the forces which create and maintain natural areas.
3. Limit access to scenic, historic, educational and low intensity recreational purposes.
4. Prohibit uses which consume physical or biological resources.

4.05 Aquatic Environment

Statement of Purpose

The aquatic environment is designated to protect the quality and quantity of surface water, to preserve water areas for water-dependent uses such as navigation and appropriate recreation, and to preserve natural features and resources of Oak Harbor Bay and Crescent Harbor from unnecessary degradation. Protected critical aquatic resources identified by the Oak Harbor Critical Areas Ordinance include kelp beds, shellfish growing areas, eelgrass beds, smelt spawning areas and sensitive algal communities. Oak Harbor Marina is a rearing site for various salmon and steelhead species which migrate through Oak Harbor Bay.

Designation Criteria

Areas designated aquatic shall include all water bodies under jurisdiction of the Act and within the boundaries or under the jurisdiction of the City of Oak Harbor, including the water surface and underlying lands seaward from the ordinary high water mark.

Management Policies

1. Development in the aquatic environment should be compatible with the adjacent upland environment designation; provided that, in the event aquatic development is adjacent to two upland environments the most restrictive shall apply unless the administrator determines that application of the less restrictive would not compromise the public interest.
2. Except for liveaboard vessels and houseboats located in marinas, uses which are not water dependent should be prohibited provided that water enjoyment uses at or near the ordinary high water mark which provide public access to and along the shoreline or over the water may be considered as a conditional use subject to applicable use policies and regulations.
3. Activities and uses which will degrade the ecological and aesthetic values of the area should be prohibited.
4. Developments and activities using aquatic areas should be located and designed to minimize interference with navigation, minimize adverse visual impacts, allow for passage of fish and other aquatic animals and minimize adverse affect on the water quality, geohydraulic shoreline processes and biological resources.
5. The joint use of structures permitted in aquatic areas should be encouraged.
6. Land based motor vehicles should not be permitted on tidelands except when necessary for emergency services, when authorized in permitted construction or repairs, or for boat launchings.

SECTION IV - USE POLICIES AND REGULATIONS

5.01 General

Chapter 173 16 WAC establishes twenty one categories of uses to be addressed in local master programs to carry out the intent and purposes of the Shoreline Management Act. While some of these use categories are not included in this Master Program they may, however, be considered in the future following amendments to the Master Program. The policies and regulations for each category are the criteria to be used for evaluating proposals for any permit under this master program or for any development within any area which is under the shoreline jurisdiction of the City of Oak Harbor.

Policies were developed for each use category based on the goals and general policies in section three above. The use policies are followed by regulations which specify how the policies will be put into effect. Regulations for location of each use within a specific shoreline environment are also included.

ENVIRONMENTS
Table of Uses

Shoreline Uses	Urban	Urban Res.	Natural	Aquatic
Commercial				
Agriculture	N	Y	C*	N
Aquaculture	N	N	C	C
Boating Facilities (marinas incl.)	Y	N	N	Y*
Water-dependent	Y	N	N	Y
Water-related, Water-enjoyment	Y	N	N	N
Non-water oriented	C	N	N	N
Forest Practices	C*	C*	C*	N
Industry	N	N	N	N
Recreation				
Recreation-active	Y	Y	Y*	Y*
Recreation-passive	Y	Y	Y	Y
RV Parks (public)	Y*	N	N	N
Residential	Y	Y	N	N
Mineral Extraction	N	N	N	N
Trans. Facilities				
Water-dependent	Y	Y	N	Y*
Non-water oriented	C	C	N	N
Signs (No off-premise)	Y	Y	N*	Y*
Utilities	Y	Y	Y*	Y*
Bulkheads	Y	Y	N	C*
Breakwaters	Y	Y	N	Y*
Jetties	C*	C*	N	C
Groins	C*	C*	N*	N
Dredging	C*	C*	N	C*
Landfill (non-waste)	C*	C*	N	C*
Docks & Piers	Y	Y	N	Y*
Mooring Buoys	C*	C	N	Y*

LEGEND:

- Y (Yes) Uses permitted in the specified environment subject to the policies and regulations contained in the Master Program
- N (No) Use prohibited in the specified environment.
- C (Conditional) Use permitted as a conditional use in the specified environment, subject to the policies and regulations contained in the Master Program.

* (Specific) See use regulations for specific standards related to these uses.

5.02 General Regulations

The following general regulations are based on the goals and general policies in section three above and shall apply to all use activities in all shoreline environments in which they are permitted.

1. Environmental Protection

- a. All uses and developments within the shoreline or over the water shall be located, designed and constructed to avoid disturbance of and detrimental effects on aquatic habitats, water circulation and erosion accretion processes.
- b. All shoreline and over water developments shall use measures to minimize increases in surface runoff and shall control runoff so that adjacent properties and water bodies are not degraded by sedimentation or pollutants.
- c. The release of oil, chemicals and other hazardous materials into the water is prohibited.
- d. All uses and developments within the shoreline or over the water shall use effective methods for control of erosion during construction and operation.
- e. Clearing, grading or filling for site preparation shall be limited to the minimum amount necessary for development.

2. Public Access

- a. Public access shall be required for all over water and shoreline development except single family residential development provided that public access may not be required where it is demonstrated by the applicant and determined by the City in it's findings that one or more of the following provisions apply:
 - i. Unavoidable hazards to the public exist which cannot be controlled by any practical means.
 - ii. Inherent security requirements of the use cannot be satisfied through the use of alternative design features or other solutions.
 - iii. The cost of providing the access easement or an alternative access mitigation is unreasonably disproportionate to the total cost of the proposed development.
 - iv. Significant adverse environmental impact will result which cannot be mitigated; or
 - v. Significant undue and unavoidable conflict between the proposed use and adjacent uses would occur and cannot be mitigated and provided further, that the applicant has first demonstrated and the City has determined in it's findings, that all reasonable alternatives have been exhausted, including but not limited to:

- (A) Regulating access by such means as a gate and/or limiting hours or use;
 - (B) Designed separation of uses and activities, for example, fences, terracing, use of hedges, landscaping, etc. and
 - (C) Provisions of/or contribution to an access site geographically separated from the proposal such as a trails system.
- a. No development shall be permitted to obstruct or impede public access to publicly owned shorelines.
 - b. Any public open space, access area or view corridor, required or otherwise provided in association with new or expanded development shall be of a size, location and design appropriate to the site proposed, primary use, adjacent uses, and the existing and projected demand by the community.
 - c. To the extent possible, public access locations shall have access from public roads.
 - d. Public access signs such as the standard state approved, local or equivalent shall be constructed, installed and maintained by the applicant. If the Council determines that use limitations are appropriate for reasons of public safety or to avoid use conflicts, such limitations shall be specified in permit conditions and posted on an on premise sign.
 - e. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development.
 - f. Provisions for handicapped impaired persons shall be included in conformance with the Americans with Disabilities Act.
 - g. Public access easements and permit conditions shall be recorded on property deeds and, in the case of a subdivision, on the face of a plat as a covenant running in perpetuity with the land. The required easement and/or covenant shall be recorded with the County Auditor's office at the time of permit approval.
 - h. Future actions shall not diminish the usefulness or value of the public access.

3. View Protection

- a. Shoreline permit actions including exemptions shall minimize the impacts on public views. View corridors should be identified with respect to existing residential, recreational and commercial areas and scenic points of interest, including Mt. Rainier, Mt. Baker, the Olympic Mountain range, Oak Harbor Bay and Saratoga Passage.
- b. All uses and developments within the shoreline or over water shall be designed and located to minimize obstruction or degradation of shoreline and water views from existing upland development and from public roads and walkways. Developments which will obstruct or significantly reduce the aesthetic quality of these views shall not be permitted.

- c. The Council may require modifications to standard setbacks, side yards, landscaping and all building heights, if it determines that such modifications are necessary to maintain public views of the shoreline or water. All structures shall be limited to 35 feet in height pursuant to WAC 173 27 030 (4) and RCW 90.58.320.

4. Parking

In addition to parking requirements imposed by other City ordinances the following regulations shall also apply:

- a. Parking areas serving shoreline and over water uses shall be located off the street and landward of uses served unless incorporated into authorized structures, park landscapes or shoreline viewing areas accessible to the public.
- b. Whenever adequate on site parking cannot be provided an upland parking site shall be required. Upland parking sites may serve individual uses or be managed for joint-use.
- c. Where there is no land area available on the landward side of developments or on adjacent uplands, parking areas shall be located no closer than 25 feet from the OHWM and shall be entirely screened from view from the water by plantings or a solid fence of a design consistent with other applicable ordinances. In no case shall a fence or other screen block views of the water from public roads or areas.
- d. Where public access is included as a part of a development proposal, additional parking spaces to serve the general public may be required.

5. Archaeological and Historic Sites

Archaeological areas and historic sites are non renewable resources which provide valuable opportunities for study of the past.

6. Policies

While no areas known to contain archaeological or historic value occur on Oak Harbor shorelines, potential for uncovering such areas should be recognized.

7. Regulations

- a. All substantial development permits shall contain the provision that, if during excavation or site development, any area of potential archaeological significance is uncovered, all activity in the immediate area shall be stopped and the administrator notified immediately. Activities authorized by the permit shall not be delayed by more than five working days after the administrator receives notice for inspection and disposition of the find unless the permit holder agrees to an extension of time.
- b. Archaeological excavation is permitted in all shoreline environments subject to the policies and regulations of this Master Program.

5.03 Signs and Outdoor Advertising

Introduction

Outdoor signs, and advertisements are publicly displayed, boards or other messages which inform, direct or advertise. The effects of these may be pleasing or distracting depending on their number, location and design. Proliferation of signs can reduce effectiveness of individual signs, traffic signals and handmade traffic control signs. Uncontrolled use of signs can degrade property values and detract from the natural beauty and enjoyment of the shoreline.

Policies

1. Keep shorelines and the water areas free of all unnecessary signs.
2. Prevent degradation of scenic views due to careless placement of signs.

In addition to compliance with Oak Harbor Sign Code chapter 19.36, the following regulations shall also apply:

1. Off premise, outdoor advertising signs are prohibited in any shoreline environment provided that this shall not apply to freestanding public service and information signs which are consistent with other provisions of this section.
2. Free standing signs shall not be approved or installed where it is feasible and practical to mount or paint the proposed sign on a building.
3. Free-standing signs shall be limited to low-profile signs as defined by the Sign Code chapter 19.36.

Regulations by Environment

Urban, Urban Residential

Signs and outdoor advertising shall be permitted in the urban or urban residential environment subject to the policies and regulations of this Master Program.

Natural

Signs and outdoor advertising are prohibited in the natural environment except official warning signs and signs required by law.

Aquatic

Signs and outdoor advertising shall be permitted in the aquatic environment only in conjunction with water dependent uses and only if they could not be located effectively on land.

5.04 Agriculture

Introduction

Agricultural practices are those methods used in vegetation and soil management such as tilling, control of weeds, plant diseases and insect pests, soil maintenance and fertilization. Many of these practices require the use of agricultural chemicals, most of which are water soluble and may wash into contiguous land and water areas causing significant alteration and damage to plant and animal habitats, particularly in shoreline areas. Also, when proper land management techniques are not observed, large quantities of mineral and organic sediments enter the water bodies through surface erosion.

Policies

1. Erosion control measures consistent with standards established by the U.S. Department of Agriculture should be employed.
2. Commercial feed lots and similar practices which concentrate animal wastes, pesticides and herbicides should not be permitted on shorelines.
3. Agricultural practices typically require extensive land area and therefore should not be encouraged in areas intended for intensive, multiple uses.

Regulations by Environment

Urban

Agricultural activities are prohibited in the urban environment.

Urban Residential

Agricultural activities are permitted within the urban residential environment subject to the policies and regulations of this Master Program.

Natural Environment

Agricultural activities which do not include substantial developments shall be permitted provided that the resource to be protected by the natural designation will not be degraded.

Aquatic Environment

Agriculture in aquatic areas is considered to be aquaculture and subject to provisions of section 5.05 Aquaculture below.

5.05 Aquaculture

Introduction

Aquaculture is the culture or farming of food fish, shellfish or other aquatic plants and animals. Potential locations for aquaculture are relatively restricted because of specific water quality, temperature, oxygen content, flow, salinity and other requirements. Aquaculture operations can

impede surface navigation and can have adverse visual and environmental impacts if not properly sited and operated.

Policies

1. Aquaculture should not be allowed in the following areas:
 - a. Areas that have little natural potential for the type of aquaculture under consideration.
 - b. Areas that have water quality problems and make the areas unsuitable for the type or types of aquaculture under consideration.
 - c. Areas devoted to established users of the aquatic environment with which the proposed aquacultural methods would substantially and materially conflict. Such uses would include but are not limited to navigation, moorage, sport or commercial fishing, underwater utilities and active, scientific research.
 - d. Areas where the design or placement of the facilities would substantially degrade the aesthetic qualities of the shoreline or the water area.
 - e. Areas where navigation by recreational boaters and commercial traffic will be significantly restricted.
 - f. Areas where an aquacultural proposal will result in any significant adverse environmental impact that cannot be eliminated or adequately mitigated through enforceable conditions of approval.

Regulations by Environment

Urban, Urban Residential

Aquaculture is prohibited in the urban and urban residential environments due to potential health risk and interference with navigation.

Natural Environment

Aquaculture is prohibited in the natural environment.

Aquatic Environment

1. Aquaculture shall be limited to small scale operations.
2. Aquaculture operations shall be reviewed as a conditional use subject to the policies and regulations of this Master Program.

5.06 Breakwaters

Introduction

Breakwaters are protective structures built off shore to protect Harbor areas, moorages and beaches from wave action. Breakwaters can be a rigid (rock or rubble), open pile or floating construction. All

types reduce or eliminate wave action but rigid breakwaters also obstruct the flow of sand and can starve beaches. Floating breakwaters do not generally have this effect.

Rigid breakwaters cover and eliminate aquatic habitats but create a different habitat. Water circulation may be impeded. Pile driving and construction of open pile or floating breakwaters temporarily damage aquatic habitats and may, depending on location and time of activity, damage spawning areas. Breakwaters can serve to provide public access to shorelines.

Policies

1. Breakwaters should be constructed only where water dependent uses are located seaward from the OHWM and where protection from strong wave action is essential.
2. Prefer floating breakwaters over rigid types.
3. Permit rigid breakwaters only where design features will eliminate significant, detrimental effects on water circulation, sand movement and aquatic life.
4. Locate, design and use breakwaters to maximize public benefits from the water.
5. Encourage multiple use of breakwaters in order to increase public access to the water.

Regulations

1. Breakwaters shall conform to all design requirements of the State Department of Fisheries and Wildlife and US Army Corps of Engineers.
2. Breakwaters shall be designed in a manner which will not have a significant adverse impact to water and sand circulation, aquatic life, navigation or visual access to the water.
3. Shoreline permit applications for breakwaters shall include at least the following information:
 - a. Purpose of breakwater and use to be protected.
 - b. Direction of net longshore drift.
 - c. Direction of strongest prevailing winds and tidal current.
 - d. Proposed construction materials and construction method.
4. Breakwaters shall permit public pedestrian access except those associated with a single family residential development.

Regulations by Environment

Urban, Urban Residential

Breakwaters shall be permitted in the urban or urban residential environment subject to the policies and regulations of this Master Program.

Natural

Breakwaters are prohibited in the natural environment.

Aquatic

Breakwaters are permitted in aquatic areas subject to the policies and regulations of this Master Program and to regulations applicable to the nearest adjoining shoreline environment.

5.07 Bulkheads

Introduction

Bulkheads are walls constructed parallel to the shore, usually at or near the OHWM, to prevent bank erosion by waves or currents. They may also be used as retaining walls to protect edges of a fill.

Bulkheads are usually constructed of timber pilings, concrete, steel or rock and may be solid or of open pile construction. They do not provide permanent erosion protection because waves continue to erode the foreshore and gradually undermine the bulkhead and/or subject it to more forceful waves. While bulkheads protect adjacent uplands temporarily, they may accelerate beach erosion. Other principle effects of bulkheads are aesthetic impacts and potential displacement or destruction of fish and shellfish habitats.

Policies

1. Locate, design and construct bulkheads so that adverse impacts on nearby beaches and on aquatic habitats will not result.
2. Design and construct bulkheads to minimize adverse effects on aesthetic qualities of the shoreline and the water.
3. Construct bulkheads at or as close as possible to the OHWM, without exceeding the minimum height necessary to stabilize the bank.
4. Prefer use of erosion resistant vegetation or other non structural methods, also known as “bioengineering,” over the use of a hard-surface bulkhead wherever possible.

Regulations

1. Bulkheads which are exempt from shoreline substantial development permit requirements under section 2.06, above, shall not be constructed until the administrator has reviewed the proposal and determined that the project is consistent with the policies and regulations of this Master Program.
2. Bulkheads shall be authorized only where the proponent demonstrates that one of the following conditions exists:
 - a. Erosion is seriously threatening an established use and structures on adjacent uplands.
 - b. A bulkhead is necessary in connection with a water dependent use permitted by this Master Program, or

- c. A bulkhead is the least destructive feasible means to stabilize a landfill permitted by this Master Program.
- 3 Bulkheads shall not be constructed in conjunction with new developments when practical alternatives exist.
- 4. Bulkheads shall comply with all design standards and best management practices of the State Department of Ecology and Army Corps of Engineers.
- 5. Shoreline permit applications for bulkheads shall provide at least the following information:
 - a. Purpose of bulkhead.
 - b. Demonstration and evidence of serious erosion problem.
 - c. Extreme low tide, mean lower tide, mean tide, mean higher tide and extreme higher tide elevations.
 - d. Direction of net longshore drift.
 - e. Materials and method of construction.
 - f. Elevations of the toe and crest of the proposed bulkhead with respect to water levels.

Regulations by Environment

Urban, Urban Residential

Bulkheads are permitted in the urban and urban residential environment subject to the policies and regulations of this Master Program.

Natural

Bulkheads are prohibited in the natural environment.

Aquatic

Bulkheads are not permitted in the aquatic environment except by conditional use and then only if either a location at or landward of the OHWM is not feasible, or they are in conjunction with stabilizing a permitted landfill; provided all upland and structural alternatives have been demonstrated as infeasible.

5.08 Commercial Development

Introduction

Commercial developments are those involving the use or construction of facilities for wholesale and retail trade and services. These include hotels, motels, shops, restaurants, offices and indoor recreation facilities. Not included are port, industrial, residential or boating uses.

Commercial development frequently requires extensive space for normal operation and parking. The principle impacts on shorelines from commercial development are aesthetic effects, erosion and introduction of pollutants (for example, sedimentation, wastes). Pollutants are generated from surface runoff, oil and fuel spills, and from poorly contained organic wastes. Intensive commercial use also affects traffic volumes and circulation patterns.

In many cases, commercial development will include associated uses which are identified as separate use categories in this Master Program. Associated signs, utilities, landfills, transportation facilities and water-dependent industry are subject to policies and regulations established for those uses in addition to the provision of this section.

Policies

1. New commercial development over the water or on shorelines should occur only in areas where commercial development already exists and only when it is consistent with the provisions of this Master Program.
2. Commercial development on waterfront land shall be restricted to water oriented uses.
3. 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.
4. New and expanded commercial development should be permitted only where adequate parking area is or can be made available.

Regulations

1. Shoreline permit applications for commercial development shall include a detailed statement explaining the nature and intensity of the relationship of the proposed development to the water or shoreline, for example, water dependent, water related, water enjoyment or non water oriented. 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 or water.
 - d. Proposed provisions for public physical or visual access to and/or along the shoreline and/or water.
2. Commercial docks and boat fueling stations shall be permitted to locate over water. No other commercial uses may include over water structures, except marinas or piers for public located next to downtown intended for general public use, bulkheads or landfills required by a water dependent or public recreational use, which is necessary to enable public use of the waterfront.

3. Shoreline permit applications for commercial development shall include a parking plan showing the location, dimensions and capacity of the proposed parking area and the proposed landscaping or screening.
4. All commercial developments which are not-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 area shall be outdoor open space. This area shall extend landward from the shoreline and be developed with finished surfaces and landscaping prior to occupancy.
 - b. On site parking shall not be located seaward of the buildings and adequate street access shall be provided.
 - c. A landscaping plan shall be submitted with shoreline permit applications.

Regulations by Environment

Urban

Commercial development shall be permitted in the urban environment subject to the policies and regulations of this Master Program, provided that commercial structures not permitted over the water shall be set back at least 40 feet from the OHWM and shall not exceed the average height of existing buildings within 200 feet of the proposal.

Urban Residential, Natural

Commercial development is prohibited in the urban residential or natural environment.

Aquatic

Water dependent uses which require location over water to function shall be permitted subject to the policies and regulations of this Master Program. Other commercial development is prohibited.

5.09 Docks, Piers and Mooring Buoys

Introduction

Docks and piers are structures extending from shore over the water used for landing places and moorage of vessels. Piers are built as platforms above the water while docks float on the water surface.

Docks and piers can be used for recreation, commercial or industrial purposes. Those containing more than 10 moorage spaces are considered marinas and are regulated under Section 5.14 below.

Floating docks generally, have less visual impact than piers but can alter sand movement and water circulation in areas where tides and littoral drift are significant. Piers do not obstruct sand movement and can provide diverse marine habitat. Both types can impede navigation, increase cluttered look of the shoreline, reduce usable water surface area and increase local levels of pollutants associated with boat use. Pile driving for dock or pier construction can temporarily disrupt water quality and may, depending on location and time of construction, harm spawning areas. Shading from excessive above water development can degrade aquatic plant life.

A mooring buoy is a device which floats on the water and is attached to the bottom, and which is, or can be, used for holding a vessel in place.

Policies

1. Mooring buoys will be preferred over individual docks for private residences. Docks and piers are preferred for non-residential use.
2. The use of floating docks should be required in areas where scenic and/or aquatic habitat values are high and wave action is not excessive.
3. Piers should be required where significant littoral drift occurs and where scenic values will not be impaired.
4. The size and length of docks and piers should be the minimum necessary to obtain adequate mooring depth at low tide.
5. The combination of fixed and floating structures is desirable in many cases and should be considered.
6. Preference should be given to the joint use of docks by several property owners.
7. In evaluating applications for docks or piers, the capacity of the site to absorb effects of waste discharges and gas and oil spills should be considered.

Regulations

1. Mooring buoys shall be permitted only by conditional use permit. As a finding of approval for mooring buoys in the Urban designation, commercial structures must demonstrate that the use of a dock or pier would be infeasible.
2. All shoreline permit applications for docks or piers shall be evaluated on the basis of multiple considerations including but not limited to potential impacts on littoral drift, sand movement, water circulation and quality, fish and wildlife, navigation, scenic values and public access to the shoreline and water.
3. Multiple use and expansion of existing moorage facilities is preferred over construction of new facilities.
4. All floating docks shall have stops to keep floats off the tidelands at low tide.
5. Docks and piers which are not a part of a marina shall be the shortest length required to obtain a depth of three feet of water at MLLW. In no event shall the dock or pier exceed 60 feet in length.
6. Shoreline permit applications for docks or piers to serve single, commercial uses shall not be granted until nearby commercial enterprises have been contacted regarding their water access needs and plans. Where more than one enterprise needs and could realistically make use of a single moorage facility, permits for individual facilities shall not be granted.

7. Applications for individual docks or piers associated with single family residential use shall be approved only after the applicant has demonstrated that joint ownership or joint use with neighbors is inappropriate or infeasible.
8. Commercial and community moorage facilities and other docks and piers having more than ten moorage spaces shall be subject to applicable policies and regulations under Section 5.14 below.
9. Abandoned or unsafe docks and piers shall be removed or repaired promptly by the owner. If any such structure is deemed by the City of Oak Harbor to be a hazard to the public, the City may, after written notice to the owner, abate the structure if the owner fails to do so within a reasonable time. The City may impose a lien on the related shoreline property in an amount equal to the cost of the abatement.

Regulations by Environment

Urban,

Docks and piers shall be permitted in the urban environment subject to the policies and regulations of this Master Program. Mooring buoys shall be reviewed as a conditional use within the urban environment.

Urban Residential

Docks, piers and mooring buoys shall be reviewed as conditional uses in the urban residential environment.

Natural

Docks, piers and mooring buoys are prohibited in the natural environment.

Aquatic

Docks, piers and mooring buoys are permitted in the aquatic environment subject to the policies and regulations of this Master Program and the regulations applicable to the adjacent adjoining shoreline environment.

5.10 Dredging

Introduction

Dredging is the removal or displacement of earth (sand, gravel, mud, silt and/or other materials) from the bottom of the water body or marsh, bog or swamp. Dredging is normally done for specific purposes such as constructing or maintaining navigation channels, marinas, pipelines or cables or to obtain fill material for construction.

Dredge spoil is material removed by dredging. Disposal of dredge spoils is also subject to policies and regulations for landfills.

Dredging usually occurs in shallow areas and may disturb aquatic life and water quality by causing a temporary increase in turbidity, altering nutrient and dissolved oxygen levels in the water and suspending toxic materials from sediments. It may cause loss of aquatic plants and animals by removal or from effect of suspended sediments.

Dredge spoil disposal in water or shoreline areas can affect water quality by sedimentation or introduction of pollutants. Disposal sites are less damaged by depositing spoils in areas with like particle size and composition.

Policies

1. Dredging operations should be located and conducted in a manner that will minimize damage to the natural resources and systems of the dredged area surrounding bedlands and the area in which dredge spoils are to be deposited.
2. Dredge spoil disposal in water areas should not be allowed except for habitat improvement or where deposition of uplands would be more detrimental to shoreline resources than deposition in water.
3. Dredge spoil disposal sites could be identified with assistance of the State Department of Fish and Wildlife, Game and Natural Resources and Army Corps of Engineers.
4. Dredging solely to obtain fill material should not be allowed.

Regulations

1. Dredging may be permitted as a conditional use only for the following purposes and only where other alternatives are impractical:
 - a. To improve water quality or aquatic habitat.
 - b. To obtain or improve navigability or water flow.
 - c. To mitigate conditions which could endanger public safety.
 - d. To create or improve public recreational opportunities.
2. All dredge spoils shall be deposited at disposal sites which are consistent with the policies and regulations of this Master Program.
3. Applications for shoreline permits for dredging shall include at least the following information:
 - a. Location, size and physical characteristics of proposed dredge site.
 - b. Information on stability of bedlands adjacent to proposed dredge site.
 - c. Total initial spoils, volume and composition.
 - d. Location, size, capacity and physical characteristics of proposed spoils disposal site.

- e. Plan for disposal or reuse of maintenance spoils for life of project or a period of 25 years, whichever is shorter.

Regulations by Environment

Urban, Urban Residential

Dredging shall be permitted as a conditional use in the urban or urban residential environment subject to the policies and regulations of this Master Program, and the Oak Harbor Critical Areas Ordinance.

Natural

Dredging is prohibited in the natural environment.

Aquatic

Dredging shall be permitted in the aquatic environment subject to the policies and regulations of this Master Program, the Oak Harbor Critical Areas Ordinance and regulations applicable to the nearest adjoining shoreline environment.

5.11 Forest Management

Introduction

Forest management practices are those methods used for protection, production and harvesting of timber. Poor logging practices on shorelines result in slash and debris accumulation and may increase the suspended sediment load and the turbidity of the water.

Policies

The City of Oak Harbor shorelines, other than those which are not designated natural areas, have been converted to non forest uses. Commercial timber harvest is not an appropriate use within the City of Oak Harbor or natural area shorelines.

Regulations

Commercial timber harvest is prohibited within 200 feet of the OHWM in any designated shoreline environment. Selective timber cutting of up to 30 percent of forest cover may be permitted as a conditional use, as provided by RCW 90.58.150.

5.12 Jetties and Groins

Introduction

Jetties are built perpendicular to shore at Harbor entrances to prevent creation of sand bars where these impede navigation. They are normally built of steel, rock or concrete depending on foundation, wave and economic conditions. A jetty must be tall enough to obstruct sand movement entirely; this prevents sand build up but also impounds sand that would otherwise supply downdrift beaches, starving them and contributing to beach erosion.

Groins are barrier structures built seaward from shore, sometimes in series to preserve or create a beach by trapping sand. This is achieved at the expense of downdrift shores unless the groin system is filled to capacity with sand.

Policies

1. Jetties and groins should not be permitted unless the applicant demonstrates that the project would result in long term public benefit which outweighs adverse impacts on natural shoreline processes.
2. In reviewing applications for jetties or groins, the City should consider carefully the ecological and aesthetic effects on the shoreline of the water.

Regulations

1. Jetties and groins may be permitted only as conditional uses.
2. Applicants for shoreline permits for jetties or groins shall have the burden of providing consistency with policy #1 of this section.

Regulations by Environment

Urban, Urban Residential

Jetties and groins shall be permitted in the urban or urban residential environment as conditional uses, subject to the policies and regulations of this Master Program and the Oak Harbor Critical Areas Ordinance.

Natural

Jetties and groins are prohibited in the natural environment, with the exception of groins used for beach enhancement projects, which shall be a conditional use in the natural environment.

Aquatic

Jetties shall be permitted in the aquatic environment as conditional uses, subject to the policies and regulations of this Master Program, the Oak Harbor Critical Areas Ordinance and regulations applicable to the nearest adjoining shoreline environment. Groins are prohibited in the aquatic environment.

5.13 Landfills

Introduction

Fill is placement of soil, sand and/or gravel in water areas to create new land area in water or on shorelines to raise the elevation of the land. Solid waste disposal is depositing garbage, ashes, construction waste, vehicles and vehicle parts and other discarded material in water or on land.

Fill commonly eliminates natural vegetation and covers and destroys plant and animal life. It may also alter or destroy natural shoreline features, create erosion and siltation problems and reduce water surface area.

Solid waste disposal in a landfill is a potential source of organic and inorganic pollutants harmful to water quality and to public health and safety. Adequate containment of these materials cannot be assumed.

Policies

1. Landfills should not be permitted where any feasible upland or structural alternative exists and where permitted, should be tightly controlled.
2. Where landfill may be appropriate for some water oriented uses, priorities should be given to water dependent uses and for public uses. Several factors should be considered in evaluating fill proposals and in designating areas appropriate for fill. These factors include the total water surface area reduction, fill contents, impacts on water flow, circulation and quality impacts on natural resources and systems potential destruction of habitats, potential erosion problems and potential restrictions of navigation.
3. Landfills and associated development, where permitted, should provide public access to the shoreline or the water.
4. Landfills for solid waste disposal is an inappropriate use of the shoreline.
5. Landfills should not be authorized for non water oriented uses.

Regulations

1. Landfills located seaward of the OHWM shall be permitted only as conditional use and shall be permitted only when in conjunction with, and where necessary, to support water dependent uses or public recreational uses, consistent with the provisions of this Master Program. Landfills for uses associated with water dependent uses but which are not themselves water dependent, including parking, shall not be permitted seaward of the OHWM.
2. Landfills shall be permitted only when they conform to an approved development plan for an activity or use which has already been approved or is being reviewed concurrently, include methods to contain materials on the fill site and provide methods to control erosion of the perimeter. Speculative landfills are prohibited.
3. Pile or pier supported structures, such as wharves or boardwalks, shall be used instead of landfills in water areas where seaward extension of the shoreline is necessary and where such structures are feasible. Landfills may be authorized only where no feasible alternative upland or structural solution exists.
4. Sanitary landfills and/or disposal of solid waste is prohibited within shoreline jurisdictions.
5. Applications for shoreline permits which include landfilling shall include at least the following information:
 - a. Source, volume and physical composition of the fill material.

- b. Purpose and proposed use of fill area.
 - c. Documentation of authorized use or proposed use.
 - d. Method and schedule of placement and compaction.
 - e. Surfacing and runoff treatment controls.
 - f. Perimeter erosion controls.
 - g. Location of fill relative to the OHWM, extreme high tide, mean tide and mean lower tide level.
6. Where fills are permitted the amount of material used shall be the minimum necessary for the proposed uses.

Regulations by Environment

Urban, Urban Residential

Landfills which are part of an authorized shoreline development may be permitted in the urban or urban residential environment as a conditional use, subject to the policies and regulations of this Master Program and the Oak Harbor Critical Areas Ordinance, provided that landfills are prohibited for the sole purpose of creating additional land area.

Natural

Landfills are prohibited in the natural environment.

Aquatic

Landfills may be permitted in the aquatic environment only as a conditional use, subject to the policies and regulations of this Master Program, the Oak Harbor Critical Areas Ordinance, and regulations applicable to the nearest adjoining shoreline environment.

5.14 Marinas

Introduction

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 fuel 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. They 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 and human wastes, erosion and siltation). Temporarily, circulation and sand movement may be impeded and affect beaches or alter aquatic habitats. Marinas with several associated uses may require extensive 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.

Policies

1. Marinas should be located, designed and constructed to minimize adverse affect on aquatic habitats, water and sand circulation, adjacent shorelines and uses and on shoreline and water views.
2. Marinas should be designed to accommodate public access including provision of facilities such as walkways, view points, restrooms and fishing piers.
3. Regional and local moorage needs should be weighed and balanced against adverse ecological and aesthetic effects in the City's consideration of expanded or new marina development.

Regulations

1. Marinas shall be designed to minimize their adverse impacts on marine life and adjacent shoreline uses.
2. Marinas shall be designed to make use of the natural site configuration to the greatest extent possible.
3. Marina development shall comply with applicable federal and state agency policies and regulations including design criteria established by the State Department of Fish and Wildlife, U.S. Army Corps of Engineers Dredging and Construction Standards, Department of Health Regulations for waste collection and disposal and other agency standards for fuel storage. Marinas shall be equipped to contain and clean up oil, gasoline and other hazardous substance spills.
4. Where landfills seaward of the OHWM is permitted, it shall be only for the necessary water dependent portions of the facility and shall conform in particular to the policies and regulations of section 5.13 above. Landfill is prohibited for the creation of new parking areas or accessory uses within 25 feet from the OHWM.
5. Parking associated with marinas shall be subject to the provisions of section 5.02 above and 5.20 below.
6. 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.
7. Current best management practices to control environmental pollution shall be applied to boat construction, repair and maintenance activities and, where applicable, shall be made a condition to shoreline permits.
8. Structures and uses associated with marinas but which are not themselves dependent on a water location shall not be located over the water or on landfill and shall meet appropriate setbacks and other provisions of this Master Program.

9. Parking and outdoor storage areas associated with marinas shall be landscaped in a manner which provides a visual buffer between these uses and the top of the bank.
10. Marinas may include specific areas restricted for security reasons. The incorporation of reasonable public access facilities into the design shall be required.
11. Marina development shall require the installation of vessel pump out and/or on-shore sewage and waste disposal facilities, as applicable, when moorage is provided to boats requiring waste disposal.

Regulations by Environment

Urban

Marinas shall be permitted in the urban environment subject to the policies and regulations of this Master Program and the Oak Harbor Critical Areas Ordinance.

Urban Residential, Natural

Marinas are prohibited in the urban residential or natural environments.

Aquatic

Marinas shall be permitted in the aquatic environment subject to the policies and regulations of this Master Program, the Oak Harbor Critical Areas Ordinance and regulations applicable to the urban shoreline environment.

5.15 Mineral Extraction

Introduction

Mineral extraction is the removal of naturally occurring materials from the earth for economic use. The Puget Sound region is rich in non metallic minerals including sand, gravel, clay and various types of stone. The dollar value of these is comparatively high but the processes of extraction frequently result in erosion and siltation, water quality problems, degradation of fish and shell fish habitats and those of other bottom dwelling marine animals. Removal of sand and gravel can deplete resources which may not be restored through natural processes.

Policies

Oak Harbor shorelines have been developed with, or are planned for conversion to, uses that are incompatible with mineral extraction.

Regulations

Mineral extraction is prohibited in all environment designations.

5.16 Water-Dependent Industry

Oak Harbor shorelines have been developed with, or are planned for conversion to, uses that are incompatible with industrial development.

Policy and Regulation

Industrial uses are prohibited on shorelines of Oak Harbor. An amendment to this Master Program allowing for industrial development may be considered at such a time that the Navy Seaplane Base is evaluated for reuse.

5.17 Recreation

Introduction

Recreational developments that depend on the use of the water or the shorelines include various boating activities, swimming, fishing, viewing of water dependent commercial activities, walkways and parks.

Parking areas for recreational developments are subject to sections 5.02 above and 5.20 below.

Docks and piers and marinas are separate land use categories with policies and regulations in other sections of this Master Program.

Impacts associated with recreational developments depend on the intensity and variety of uses, type and scale of construction and sensitivity of the site.

Policies

1. Preference should be given to developments which provide for recreational activities and improvements facilitating public access to the shoreline.
2. A variety of water oriented recreational activities should be encouraged to locate on shorelines to satisfy diverse needs and interests of residents and visitors.
3. Linkage such as walkways, walking and/or bicycle paths between shoreline recreational and public access areas should be provided.
4. Recreational developments should be located, designed and operated to be compatible with adjacent uses and to minimize adverse affects on ecological and aesthetic qualities of the shoreline and the water.
5. Recreational developments should be designed to preserve or create open space and public use of the water and the shorelines.

Regulations

1. The City may adjust or require changes to project dimensions, use intensity, parking provisions or landscaping in approving recreational developments to ensure that scenic views and ecological qualities of the site are protected.
2. Protect the rights and property of residents from adverse impacts due to recreational shoreline uses.

3. Safe pedestrian walkways shall be provided between parking areas and recreational facilities they serve.
4. Recreational facilities which normally require the use of large quantities of chemical fertilizers and herbicides such as playing fields shall not be located over water or in shoreline areas, unless adequate provisions can be made for protection of water areas from drainage and surface runoff.
5. Shoreline permit applications for recreational development shall include a parking and landscaping plan.

Regulations by Environment

Urban, Urban Residential

Recreational development shall be permitted in the urban or urban residential environment subject to the policies and regulations of this Master Program and the Oak Harbor Critical Areas Ordinance. However, RV Parks (public) are prohibited in the urban residential designation.

Natural

Recreational development of a nature and intensity consistent with the purpose and management policies of the natural environment shall be permitted subject to the policies and regulations of this Master Program and the Oak Harbor Critical Areas Ordinance; provided that roads, parking areas, restrooms and other facilities shall not be located within 200 feet of the OHWM. Use of chemical fertilizers, pesticides and herbicides shall not be permitted. Any permitted landscaping shall consist solely of native vegetation.

Aquatic

Recreational developments shall be permitted in the aquatic environment subject to the policies and regulations of this Master Program, the Oak Harbor Critical Areas Ordinance and regulations applicable to the nearest adjoining shoreline environment.

5.18 Residential Development

Introduction

Residential development means one or more buildings or portions of buildings, short plats or subdivisions designed and/or used for dwellings. It includes single family, multi family and group housing units. It also includes common appurtenances to residential uses such as driveways, utilities, garages, accessory buildings and fences. Residential development does not include hotels, motels, floating homes, camping facilities, or recreational vehicle parks.

Landfills, bulkheads, utilities and docks associated with residential development are subject to policies and regulations for those use categories. Parking areas for developments other than detached single family units are subject to sections 5.02 above and 5.19 below.

The primary impacts from residential development are aesthetic effects, associated impacts from intensified human activities, increased surface water run off, erosion and effects on traffic volumes

and circulation patterns. Multi family development generally involves more land area and more intensive use and impact than individual single family developments.

Policies

1. Residential development is not a water dependent use and should not be permitted to locate over the water provided that liveaboard vessels may be accommodated in marinas.
2. The scenic qualities of the shoreline and the water should be considered in every application for residential development.
3. To protect the scenic qualities all structures should be located where they will blend into their surroundings as much as possible.
4. Residential development should not be permitted on shorelines where bulkheading or other structural fortification would be necessary at the time of construction or in the foreseeable future to protect the development.
5. New residential development should occur where residential uses already exist which are consistent with the provisions of the Master Program.

Regulations

1. New and/or expanded residential development shall be located and designed to preclude the need for shoreline stabilization structures.
2. Non exempt residential development which will require bulkheads or other structural fortification at the time of construction or in the foreseeable future shall not be approved.
3. Single family residences and appurtenant structures shall be located at least 30 feet landward from the OHWM unless existing development within 200 feet of side property lines has a lesser average shoreline setback. In such cases, the minimum setback required shall be the average established by existing development, provided the minimum setback shall only be reduced upon demonstration that significant view blockage will occur relative to views enjoyed by adjacent properties. Multi family development shall be located at least 40 feet landward of the OHWM and a minimum of 12 feet landward of the OHWM shall be dedicated to public access or recreational use.
4. Residential development and accessory uses shall also meet standards provided in other appropriate City ordinances.
5. Residential and appurtenant structures which will exceed the physical capability of the site to absorb impacts of development or which will significantly and adversely alter aesthetic qualities of the site shall not be approved.
6. Creation of landfills in water bodies for the purpose of residential development is prohibited.
7. Floating homes are prohibited. Liveaboard vessels and houseboats shall be subject to the provisions of Subsection 4.05 and shall be restricted to marinas with sanitation facilities adequate to accommodate them.

8. Community facilities shall be located on inland portions of the shoreline and setback from the OHWM at least 50 feet.
9. Appurtenant uses shall be designed and located to be compatible with adjacent uses and to avoid obstruction of shoreline and water views from neighboring properties.

Regulations by Environment

Urban, Urban Residential

Residential development shall be permitted in the urban environment subject to the policies and regulations of this Master Program.

Natural, Aquatic

Residential development is prohibited in the natural and aquatic environments.

5.19 Transportation Facilities

Introduction

Transportation facilities that depend on or serve City of Oak Harbor shorelines include roads, paths, seaplane operations, public and private parking areas. Excluded are the marina and other moorage developments regulated by other sections of this Master Program.

Policies

1. Transportation facilities should not be located over water or on shorelines if they could feasibly and practically be located elsewhere.
2. When transportation facilities are located over water or on shorelines, they should be designed and constructed to minimize their impacts on shoreline resources and natural systems. See also, Section 5.13, regulation #3.
3. 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.
4. Transportation facilities and utilities should be installed in the same rights of way when the effect will be to reduce adverse impacts of installation on shorelines.
5. Trails and bicycle routes along shorelines should be provided in conformance with the Oak Harbor Comprehensive Parks and Recreation Plan.

Regulations

1. New arterial or collector roads shall be located outside the shoreline area if an upland location is feasible and practical.

2. New transportation facilities shall be located and designed to minimize need for landfill, vegetation removal, bank stabilization and grading.
3. Graded areas and slopes altered during construction shall be stabilized and where appropriate, planted with native vegetation.
4. Provisions for pedestrian access where appropriate shall be included in new public transportation facilities to and along the shoreline.

Regulations by Environment

Urban, Urban Residential

Transportation facilities shall be permitted in the urban or urban residential environment subject to the policies and regulations of this Master Program.

Natural

Transportation facilities are prohibited in the natural environment.

Aquatic

Seaplane facilities where shoreline crossings are essential shall be permitted in the aquatic environment subject to the policies and regulations of this Master Program.

5.20 Utilities

Introduction

Utilities are services and facilities that produce, store, transmit or process electrical power, gas, water, sewage, oil or communications. Utility development includes installation of pipes or wires, structures and utilities apparatus. Disruption of soil and vegetation are the primary effects of installations on shorelines. In water areas, dredging or trenching temporarily affects aquatic life by removal or by suspension of sediments. Visual impacts may result from clearing rights of way, placement of structures, wires and utility poles, and design and location of signs.

Policies

1. Utilities and transportation facilities should be installed in the same rights of way when the effect will be to reduce adverse impacts on the shoreline.
2. Disturbance of the shoreline resulting from installation and/or maintenance of utilities should be minimized.
3. New utility facilities should be located underground to prevent adverse effects on scenic views.

Regulations

1. Immediately upon completion of utilities installation or maintenance projects, shoreline areas disturbed shall be restored to pre project configurations, replanting with local vegetation and the vegetation maintained until it is firmly established.
2. Utility lines, pipes, stations, plants and other apparatus shall not be installed in shoreline areas unless there is no feasible alternative.
3. Utility lines shall be installed underground.
4. Underwater cables and utility structures which must cross shorelines shall be installed underground from the OHWM mark to a point landward which allows for unimpeded public access.
5. Where utility installation on shoreline areas is approved, clearing shall be confined to the minimum necessary for installation and to prevent interference of operation by vegetation.
6. Where utility lines or similar apparatus must cross shorelines they shall be located within the route which will cause the least ecological and aesthetic damage to the shoreline.

Regulations by Environment

Urban, Urban Residential

Utility development shall be permitted in the urban or urban residential environment subject to the policies and regulations of this Master Program.

Natural, Aquatic

Utility developments shall be permitted in the natural or aquatic environment only if no feasible alternative exists and if the facilities are installed underground. In such cases, installation shall be subject to the policies and regulations of this Master Program and the Oak Harbor Critical Areas Ordinance. Utilities installed on docks, piers and marinas shall be subject to the policies and regulations within the respective sections of this Master Program.

SECTION SIX - VARIANCES

6.01 General

The purpose of the variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in this Master Program where there are extraordinary or unique circumstances relating to the lands/shorelines such that the strict implementation of this Master Program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

An applicant for a variance must show that if he or she complies with these regulations he or she cannot make a reasonable use of his or her property. The fact that he or she might make a greater profit by using his or her property in a manner contrary to the intent of this Master Program is not sufficient reason for granting a variance.

Requests for use variances shall not be approved. Requests for conditional uses are to be evaluated using the provisions of Section 7 of this Master Program.

6.02 Authority

The City Council may authorize variances from the standard of this Master Program in accordance with this section.

6.03 Grounds

1. Variance permits for development that will be located landward of the ordinary high water mark (OHWM) as defined in RCW 90.58.030 (2)(b) except within those areas designated by the department as marshes, bogs or swamps pursuant to Chapter 173.22 WAC may be authorized provided the applicant can demonstrate all of the following.
 - a. That the strict application of the bulk, dimensional or performance standards set forth in this applicable Master Program precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by the Master Program.
 - b. That the hardship described in 6.03 (1)(a) above is specifically related to the lands or shoreline and is the result of unique conditions such as irregular lot shape, size or natural features and the application of the Master Program. The hardship is not, for example, attributable to deed restrictions or the applicants own actions.
 - c. That the design of the project is compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment.
 - d. That the requested variance does not constitute a grant of special privilege not enjoyed by the other properties in the area and is the minimum necessary to afford relief; and
 - e. That the public interest will suffer no substantial detrimental effect.
2. Variance permits for development that will be located either seaward of the ordinary high water mark (OHWM) as defined in RCW 90.58.030 (2)(b) or within marshes, bogs or swamps as designated by the department under Chapter 173.22 WAC may be authorized provided the applicant can demonstrate all of the following:
 - a. That strict compliance with the bulk, dimensional or performance standards set forth in the applicable Master Program precludes a reasonable use of the property not otherwise prohibited by the Master Program.
 - b. That the proposal is consistent with the criteria established under 1.b. through 1.e. of this section; and

- c. That the public rights of navigation and use of the shorelines will not be adversely affected.
3. In the granting of all variance permits consideration shall be given to the cumulative impact on additional requests for like actions in the area. For example, if variances were granted to other developments in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects on the shoreline environment.

6.04 Procedure

Applications for variances shall be made in form prescribed by the Administrator. Application, notice and City review procedures shall be identical to those required for substantial development permits. If a variance application is directly related to a project for which a substantial development permit is required the two shall be treated as one application and all substantial development permit notices shall identify the nature of the variance requested.

6.05 Notification of Final Action

Variances issued pursuant to this section shall be subject to review by the Department of Ecology as required by RCW 90.58.140. Upon approval or denial of the variance by the Council, a copy of the application and final action shall be mailed to the department within five days of the action. Development may not commence until 30 days after the Department of Ecology's final order on the variance is transmitted to local government and the applicant or until all review and appeal proceedings initiated within 30 days of such transmittal have been terminated.

6.06 Relationship to Other Local Regulations

Variances granted from the provisions of other local regulations shall not be construed to constitute variances from the provisions of this Master Program.

SECTION SEVEN - CONDITIONAL USES

7.01 General

The purpose of a conditional use permit is to allow greater flexibility in varying the application of the use regulations of this Master Program in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit to prevent undesirable effects of the proposed use.

7.02 Authority

The City Council may approve conditional use applications for:

1. Uses classified as conditional uses in the provisions of this Master Program.
2. Expansion or renovation of existing non conforming uses provided the provisions of Section 9 below are met, and provided further that all of the following criteria are met:

- a. The goals and policies of this Master Program are enhanced, including the promotion of public access.
 - b. Uses which are specifically prohibited or which would thwart the intent of the Act or this Master Program shall not be authorized.
 - c. The use or activity is enlarged, intensified, increased or altered only to the minimum amount necessary to achieve the intended functional purpose.
 - d. The use or activity is consistent with the provisions of the Act and this Master Program to the greatest extent possible.
3. Uses not classified or set forth in this Master Program.
 4. A change of use from a permitted to a conditional use.

7.03 Criteria

Conditional uses shall be approved only when the applicant can demonstrate that all of the following criteria are met:

1. That the proposed use is consistent with the policies of RCW 90.58.020 and the policies of this Master Program.
2. That the proposed use will not interfere with the normal public use of public shorelines or water.
3. That the proposed use of the site and design of the project is compatible with other permitted uses within the area.
4. That the proposed use will cause no unreasonably adverse effects to the shoreline environment in which it is to be located.
5. That the public interest suffers no substantial, detrimental effect.
6. With respect to uses which are not classified or set forth in this Master Program the applicant must demonstrate, in addition to the criteria set forth in 1 through 5 above, that extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of the Master Program.

Uses which are specifically prohibited by this Master Program may not be authorized.

In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

7.04 Procedure

Applications for conditional uses shall be made in a form prescribed by the Administrator. Notice and City review procedures for conditional use permit applications shall be identical to those required for standard shoreline permit applications.

7.05 Notification of Final Action

The provisions of section 6.05 above shall also apply to conditional use permit applications as required by RCW 90.58.140 (10).

7.06 Relationship to Other Local Regulations

Approval of conditional uses granted under other local regulations shall not be construed to constitute approval of a shoreline conditional use.

SECTION EIGHT - REVISIONS TO PERMITS

8.01 General

When an applicant seeks to revise a previously approved permit, the Administrator shall determine if the proposed changes are within the scope and intent of the original permit and may approve a revision subject to the following conditions:

1. That the proposed changes are within the scope and intent of the original permit and provided that all of the following conditions are met:
 - a. No additional over water construction is involved except that pier, dock or float construction may be increased by 200 square feet or 10% from provisions of the original permits, whichever is less.
 - b. Ground area coverage and height of each structure may be increased a maximum of 10% from the provisions of the original permit, subject to a maximum height of 35 feet.
 - c. Additional separate structures may not exceed a total of 200 square feet.
 - d. The revised permit does not authorize development to exceed height, lot coverage, setback or any other requirements of the Master Program.
 - e. Additional landscaping is consistent with the conditions attached to the original permit and with the Master Program.
 - f. The use authorized pursuant to the original permit has not changed.
 - g. No adverse environmental impacts will be caused by the project revision.
 - h. That all the original permit conditions and improvements have been met, or acceptable assurance, such as a performance bond or development agreement, are provided for the same.

- i. That the permit has not expired. Permits may be extended by the administrator for up to the time necessary for completion of revisions.
2. That the sum of the revision and any previously approved revisions conform with all provisions for this section including retaining the scope and intent of the original permit.
3. Within eight (8) days of the date of final City action, the revision, including the revised site plan, text and final ruling on consistency with this section shall be filed with the Department and the Attorney General. In addition, the City shall notify parties of record of this action.
4. If the revision to the original permit involves a conditional use or variance which was conditioned by the Department, City shall submit a revision to the Department for the Department's approval, approval of the conditions, or denial. The revision shall indicate that it is being submitted under the requirements of WAC 173-27-100(6). The Department shall render and transmit to the City and the applicant its final decision within 15 days of the date of the Department's receipt of the submittal.
5. The revised permit is effective immediately upon final action by the City or, when appropriate, under WAC 173-27-100(6) by the Department.
6. Appeals shall be in accordance with RCW 90.58.180 and shall be filed within 30 days from the date of receipt of the City's action by the Department, or when appropriate, under WAC 173-27-100(6), the date the Department's final decision is transmitted to the City and the applicant. Appeals shall be based only upon contentions or non compliance with the provisions of section 1 above. Construction undertaken pursuant to that portion of the revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

SECTION NINE - NON CONFORMING USES

Non conforming uses and non conforming structures which were lawfully established or constructed prior to the effective date of this Master Program and amendments hereto, which do not conform to present regulations, standards or policies may continue provided that:

1. The use or structure is not enlarged, intensified, increased or altered in any way which increases its non conformity, except that the expansion or renovation of existing non conforming structures or uses may be considered as a conditional use subject to section 7.02 above.
2. A non-conforming structure which is moved any distance must be brought into conformity with the Master Program.
3. If a non conforming structure is damaged to an extent not exceeding 50% replacement cost of the original structure, it may be reconstructed to those configurations which were existing immediately prior to the time the structure was damaged so long a restoration is completed within one year of the date of damage.
4. If a non-conforming use is discontinued for 12 consecutive months, any subsequent use shall be conforming.

5. A non conforming use shall not be changed to another non conforming use, regardless of the conforming or non conforming status of the building or structure in which it is housed.
6. A non conforming use which is changed to a conforming use shall not thereafter be changed to any non conforming use.
7. An undeveloped lot, tract, parcel, site, or division which was established prior to the effective date of this Master Program, and is otherwise lawful, but which does not conform to the present lot size or density standards, may be developed so long as such development conforms to other requirements of this Master Program.

SECTION TEN - ADMINISTRATION

10.01 General

The purpose of this section is to establish policies for the application and enforcement of the provisions of this Master Program. Additional substantial development permit and exemption procedures may be specified in other City ordinances.

10.02 Application

Any person desiring to begin substantial development of all or any part of the shorelines of the City of Oak Harbor shall apply to the City using forms provided by the Planning Department. The application shall be in the form required by the Department of Ecology under WAC 173-27-190 as amended and such other information as is specified by the Planning Department.

10.03 Fees

A fee in the amount established by the City Council adopted fee schedule shall be paid to the Planning Commission at the time an application is submitted to cover the cost of administration.

10.04 Notice Required

Upon receipt of a proper application for shoreline development permit, the Planning Department shall publish notices thereof at least once a week on the same day of the week for two consecutive weeks in a newspaper of general circulation within the City of Oak Harbor. In addition, the Planning Department shall insure that additional notice of such application is given by at least one of the following methods:

1. Mailing of the notice to the latest recorded real property owners as shown by the records of the County Assessor within at least 300 feet of the boundary of the property upon which the substantial development permit is proposed.
2. Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

3. Any other manner deemed appropriate by the Planning Department to accomplish the objectives of reasonable notice to adjacent landowners and the public.

The applicant shall pay all costs of providing notice required under this section. Such costs shall be assessed by the administrator and may be incorporated with the application fee.

4. An affidavit that the notice has been properly published, and/or as applicable, posted or deposited in the U.S. mail pursuant to this Section shall be affixed to the application. All such notices shall include a statement that within thirty (30) days of the final newspaper publication, any interested person may submit his written views upon the application to the City or notify the City of his desire to receive a copy of the action taken upon the application. All persons who notify the City of their desire to receive a copy of the final order shall be notified in a timely manner of the action taken upon the application. If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on the application at such hearing.
5. All notices of applications for shoreline management substantial development, conditional use or variance permits shall conform with the contents requirements of WAC 173-27-110 as amended.

10.05 Planning Department

The City of Oak Harbor Planning Department is hereby assigned the responsibility of assuring compliance with the Shoreline Management Act and this Chapter.

1. Responsibilities and Duties. The responsibilities and duties shall include as follows:
 - a. Prepare and utilize such administrative forms as are deemed necessary;
 - b. Advise citizens and applicants for Shoreline Management Substantial Development Permits of administrative requirements of the Shoreline Management Act and Oak Harbor's Master Program and ordinance;
 - c. Make administrative decisions and interpretations regarding "exemptions" from the permit process of the Shoreline Management Act and Oak Harbor's Master Program and Ordinance;
 - d. Insofar as possible, assure that all Substantial Development, Variance and Conditional Use applications are proper and complete prior to review;
 - e. Insofar as possible, insure that pertinent data, correspondence and information regarding a permit application has been considered and is in order prior to transmittal to the Oak Harbor Planning Commission and Oak Harbor City Council;
 - f. Provide technical and administrative assistance to the Planning Commission and City Council;
 - g. Undertake measures to inform the citizens of the City of Oak Harbor of the philosophy, purposes, goals, requirements, implications and technical considerations associated with the Shoreline Management Act and Oak Harbor's Master Program;

- h. Seek remedies for either violations of the Shoreline Management Act or the City of Oak Harbor Master Program, or for noncompliance with conditions of any approved Substantial Development Permit and variance or conditional use permit issued by the City of Oak Harbor.

10.06 Planning Commission

- 1. Planning Commission. The Oak Harbor Planning Commission shall serve as the hearing agency for applications hereunder.
- 2. Responsibilities and Duties. The Oak Harbor Planning Commission shall:
 - a. Establish and maintain by laws and rules of procedure prescribing the conduct of meetings and public hearing;
 - b. Review all proper and complete Substantial Development Permit Applications within the scope of Oak Harbor's Master Program, goals, policies and use requirements;
 - c. Solicit and review any and all information, testimony or data from interested persons, groups, or agencies with respect to Substantial Development Permit applications, variances and conditions;
 - d. Conduct public hearings associated with (b) and (c) above;
 - e. Make findings, and thereafter formulate and transmit recommendations to the City Council for either granting or denying Shoreline Management Substantial Development permit applications.

10.07 City Council

The City Council of the City of Oak Harbor is the sole authority empowered to grant or deny a Substantial Development Permit.

- 1. Responsibilities and Duties shall include as follows:
 - a. Consider through public hearings or other means, all pertinent data, testimony, correspondence and recommendations related to any application for a Shoreline Management Substantial Development Permit.
 - b. Make findings and thereupon take action to grant or deny applications for permits in full compliance with the City of Oak Harbor's Shoreline Master Program, the Shoreline Management Act, and regulations and requirements adopted pursuant thereto.

10.08 Responsibilities of Applicant

The applicant's responsibility is to prove all elements of need for a substantial development, variance or conditional use.

10.09 Permit Consideration Process

1. Following acceptance of the application, the Administrator shall cause public notices of the application to be published in a newspaper of general circulation in the County once a week on the same day of the week for two weeks. Publication costs shall be borne by the applicant.
2. Beginning on the date of the last published notice, a 30 day review period will commence, during which time the Administrator shall collect relevant data, except communications from persons and agencies wishing to express views on the application.
3. Following the 30-day review period and provided the applicant has submitted all required information, the application shall be heard at the next regular meeting of the Oak Harbor Planning Commission.
4. The Planning Commission shall forward its recommendations along with Findings of Fact to the City Council who may either concur in their recommendation or schedule a hearing before the City Council or remand to the Planning Commission. After such additional hearing, the Council may grant or deny the permit or modify the same and grant.

10.10 Permits for Substantial Development, Conditional Use or Variance

1. Each permit for a substantial development, conditional use or variance issued by the City shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until thirty (30) days from date of filing with the Department of Ecology as defined in RCW 90.58.140(6) as amended and WAC 173-27-190 or until review proceedings initiated within thirty (30) days from the date of such filing have been terminated; except as provided in RCW 90.58.140(5)(a), (b) and (c).
2. Permits for substantial development, conditional use, or variance shall be in substantially the form set out in WAC 173-27-180 and 173-27-190.

10.11 Notification After Granting of Permit or Denial

The Planning Department, shall notify the following persons in writing of the City Council's final approval or denial of a shoreline development permit as required by State law and rules and regulations adopted hereunder:

1. The applicant;
2. The Department of Ecology;
3. The Attorney General;
4. Any person who has submitted written comments on the application;
5. Any person who has written the Planning Commission requesting notification.

10.12 Appeals

Any person aggrieved by the granting, denying, or rescinding of a Shoreline Development Permit may seek review by filing a request for review with the Washington State Shorelines Hearings Board, the Department of Ecology, and the Attorney General within thirty (30) days of receipt of the final order as specified in RCW 90.58.180 as amended.

10.13 Bonds

To guarantee that conditions imposed in conjunction with permit approval are completed, a security in a form satisfactory to the City may be required of the applicant in an amount satisfactory to the City Council. Any such bond may be reviewed for acceptability by the City Engineer and/or City Attorney.

10.14 Exempt Developments

1. Construction Notice. Notice must be given to the Planning Department at least ten (10) working days before beginning any exempt development on the shorelands or wetlands of Oak Harbor. The notice shall include the following information:
 - a. The description of property.
 - b. The proposed development.
 - c. The name and address of the property owner.
 - d. The name and address of the person to be doing the work.
 - e. The reason for the claimed exemption.
2. Letter of Exemption. Whenever a development falls within the exemptions stated in WAC 173-27-040 and the development is subject to a U.S. Corps of Engineers section 10 permit under the Rivers and Harbors Act of 1899, or a section 404 permit under the Federal Water Pollution Control Act of 1972, the City shall prepare a letter addressed to the applicant and the Washington Department of Ecology, exempting the development from the substantial development permit requirements of Chapter 90.58 RCW. The exemption letter shall be in the form required by the Department of Ecology as required under WAC 173-27-050, as amended.
3. Compliance with the Master Program. If the project is exempt from obtaining a permit under the Chapter, the Building Official, in granting any building permit, and the site plan administrator, in approving any site plan, shall attach conditions to the permit to require compliance with policies listed in Section 19.56.040 above when the permit or site plan concerns shorelines or wetlands of the City of Oak Harbor.

10.15 Revocation of Permit

The Administrator may revoke any permit or halt project construction if conditions of a Substantial Development, Variance or Conditional Use Permit are not fulfilled or are violated or if other use requirements are violated. Revocation by the Administrator shall be in the form of a "cease and desist" order, served by the Administrator or a duly appointed representative. The Administrator may, if it is deemed necessary, require that additional conditions be imposed on a Shoreline Management Substantial Development Permit Application to insure compliance with the Shoreline Management Act and Oak Harbor's Master Program.

10.16 Penalties

The City Attorney shall bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are made of the shorelines of the State located within Oak Harbor in conflict with the provisions and programs of this Ordinance in accordance with RCW 90.58.210 and RCW 90.58.220, as amended. Violations of this chapter and the Oak Harbor Master Program are hereby declared public nuisance and subject to abatement.

10.17 Violator's Liability for Damages

Any person subject to the Shoreline Management Act, RCW 90.58.230, as amended, or the Master Program of the City of Oak Harbor who violates any provision of said Act or Master Program or permit issued pursuant thereto, shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to violation. The Attorney General or Oak Harbor City Attorney may bring suit for damages under this Section on behalf of the State or local government.

10.18 State Environmental Policy Act Compliance

1. Proposals for shoreline developments which are not categorically exempt from the review requirements of the State Environmental Policy Act (SEPA) as provided in WAC 197-11-305 shall be subject to chapter 197 11 WAC and the City's implementing ordinances in addition to those contained in this Master Program.
2. Application materials and public notice requirements of SEPA shall be integrated with application and notice requirements of this Master Program to the extent possible.
3. If the responsible official issues a mitigated declaration of non significance pursuant to WAC 197-11-350 for shoreline permit application, the required modifications and mitigation measures shall be integrated with the permit application and approval documents.
4. If an environmental impact statement (EIS) is required by the responsible official pursuant to WAC 197-11-360, financial responsibility for preparation of the EIS shall be on the applicant.

SECTION ELEVEN - AMENDMENTS

11.01 Master Program

1. Changing Community Needs. New information and other change in conditions will make review and amendment of this Master Program necessary. To insure that amendments are not arbitrary or directed to individual advantage, all proposed amendments shall be treated as amendments to the City Comprehensive Plan and handled according to procedures established in chapter RCW 35A.63. Final action is reserved for the Council subject to approval by the Department of Ecology as required by RCW 90.58.190.
2. This Master Program shall be reviewed and amended as necessary no more once per year, concurrent with any Comprehensive Plan updates. The Planning Commission may recommend changes at any time.

3. Procedures for amending this Master Program are as set forth in RCW 90.58.120 and chapter 173 19 WAC.

SECTION TWELVE - DEFINITIONS

12.01 General

The following words shall have the following meanings as used in this Master Program. Unless stated to the contrary the definition contained in WAC 173-27-030 as amended shall apply.

1. **Abandoned sign** means a sign which advertises a product, service or location no longer available at the locations where the sign is located.
2. **Abandoned building** or use means a building or use which has not been used for twelve consecutive months or any twelve months in any consecutive twenty four months period.
3. **Abut** means land which extends to the OHWM.
4. **Accretion shore form** means a shoreline with a backshore produced by long term deposition of sand or gravel by littoral shift.
5. **Act** means the Shoreline Management Act of 1971, chapter 90.58 RCW as amended.
6. **Administrator** means the City Supervisor of the City of Oak Harbor or his or her designated representative.
7. **Average grade level** means the average of the natural or existing elevation of a building site provided that in the case of a structure to be built over water, average grade level shall mean the elevation of ordinary high water.
8. **Buffer zone** means an area designed to separate incompatible uses or activities.
9. **Council** means the City Council of Oak Harbor.
10. **Department** means the Washington State Department of Ecology.
11. **Development** means the use involving the construction or exterior alteration of structures, dredging, drilling, dumping, filling, removal of sand, gravel or minerals, bulkheading, pile driving, placement of obstructions or any project of a permanent or temporary nature which interferes with normal public use of the surface of waters subject to the Act.
12. **Driftway** means the portion of the shore process corridor through which sand and gravel are transported by littoral drift.
13. **Fair market value of a development** is the expected price at which the development can be sold to a willing buyer. For developments which involve non structural operations such as dredging, drilling, dumping, or filling, the fair market value is the expected cost of hiring a contractor to perform the operation, or where no such value can be calculated, the total of Labor, equipment used, transportation and other costs incurred for the duration of the permitted project.

14. **Habitat** means a place or type of a site in which a plant or animal naturally, or normally lives and grows.
15. **Height** is a measure from average grade level to the highest point of a structure provided, that television antennas, chimneys and similar appurtenances shall not be used in calculating height, except where it obstructs the view of a substantial number of residences on areas adjoining such shorelines. Temporary construction equipment is excluded in this definition.
16. **Littoral drift (or longshore drift)** means the natural movement of sediments along shorelines as a result of wave and wind action.
17. **Natural system** means a group of related objects and/or forces existing in nature.
18. **Non water oriented** means upland uses which have little or no relationship to the shoreline or water. All uses which do not meet the definition of water dependent, water related or water enjoyment are classified as non water oriented uses.
19. **Ordinary high water mark (OHWM)** means the mark on all lakes, streams and tidal water which will be found by examining beds or banks and determining where the presence and action of water are common and usual and continued in all ordinary years as to mark on the soil or character distinct from that of the adjoining upland in respect to vegetation as it exists on the effective date of the Act or as it may be changed naturally thereafter, or as it may change thereafter in accordance with permits issued by the City or the Department of Ecology.

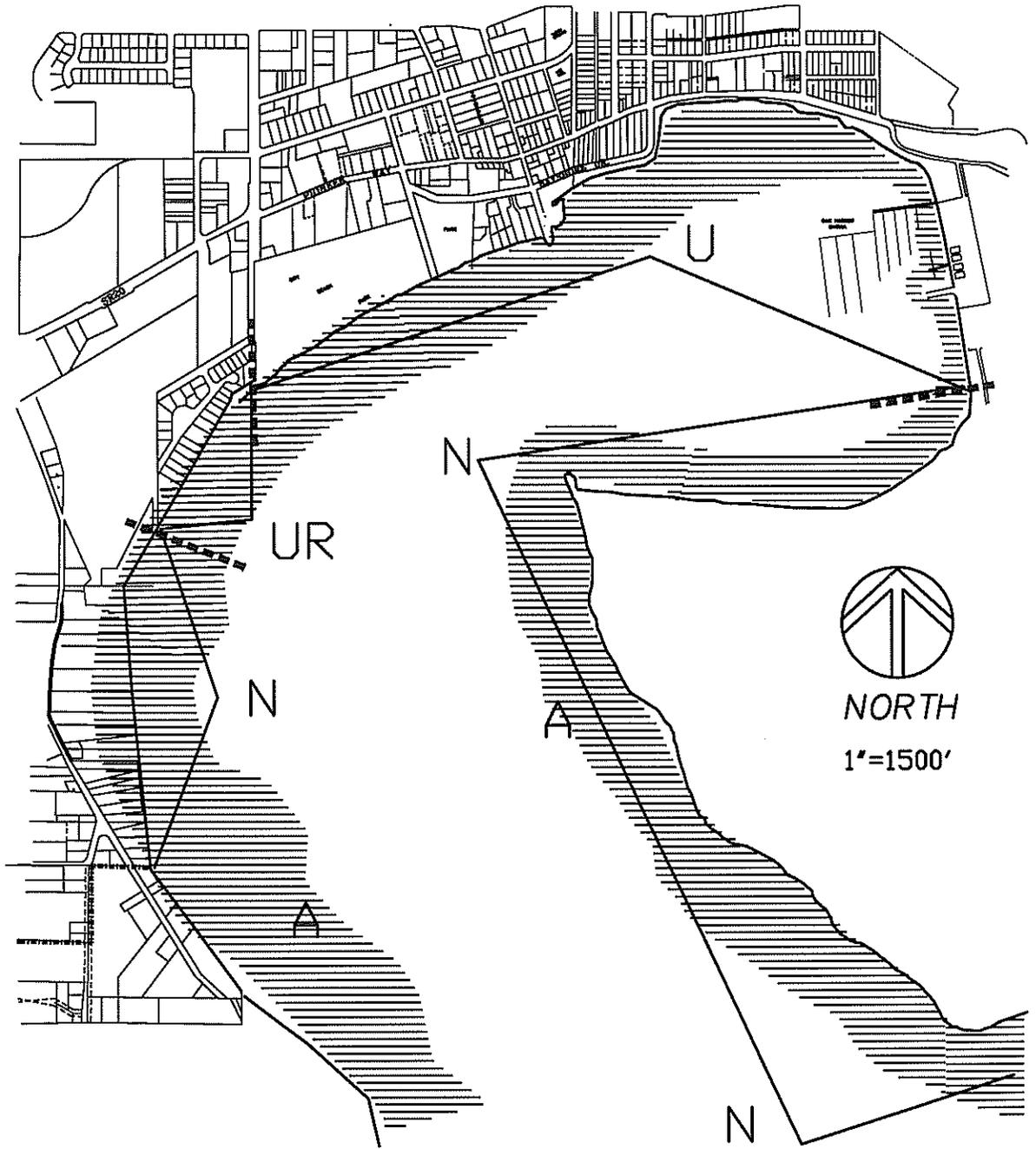
In any location where the ordinary high water mark cannot be found and in all cases with respect to tidal waters, it shall be the line of mean higher high tide.

20. **Planning Commission** means the City of Oak Harbor Planning Commission.
21. **Public Access** is an unobstructed access available to the general public to enjoy the shoreland, tidelands and waters of the State. Primary public access is a means of physical approach to and along the waters edge. Views to the water are considered a secondary type of public access. Public access may combine visual and physical elements in a variety of ways and generally means access without charge or cost to the public. Whenever public access is made available only in exchange for payment of some cost or charge, whether direct or indirect, it shall not be deemed to satisfy the public access requirements of this program unless under all of the circumstances it is clear that large numbers of the public will be likely to enjoy the access on a regular basis at a cost that would not be unreasonable or prohibitive to any segment of the public.
22. **Shoreline Permit** means a substantial development permit, conditional use permit, variance permit or any combination thereof.
23. **Sedimentation** means the process by which material is transported and deposited by water or wind.
24. **Setback** means the distance the structure is placed behind a specific line or topographic feature.
25. **Shorelines of the State** means shorelines and shorelines of Statewide significance.

26. **Shorelines** means all the water areas of the State and underlying land including associated wetlands except shorelines of Statewide significance, shorelines of streams with a mean annual flow of less than 20 cubic feet per second and shorelines of lakes less than 20 acres in size.
27. **Shorelines of Statewide Significance** means those areas of Puget Sound and the Strait of Juan De Fuca and adjacent saltwater north to the Canadian line and lying seaward from the line of extreme low tide.
28. **Shore process corridor** means the area of interface between land and water in which certain geological, biological and hydraulic actions critical to the integrity of the shoreline take place.
29. **Substantial Development** means any development in which the total cost or fair market value, whichever is higher, exceeds \$2,500 or any development which materially interferes with normal public use of the water or shorelines except as provided in section 2.06 above.
30. **Vessel** means a ship, boat, barge or any other floating craft which is designed and used for navigation and which does not interfere with the normal public use of the water.
31. **Water Dependent Use** means a use that is dependent on the water due to the intrinsic nature of it's operation and which cannot function other than in a waterfront location. Examples include but are not limited to boat construction, repair and maintenance and other moorages, waterfront parks and fishing piers.
32. **Water Enjoyment Use** means a recreational use such as a park, pier or other use facilitating public access as a primary character of the use, or a use that provides for passive and active interaction of a large number of people with the water or shoreline for leisure and enjoyment as a general character of the use and which, through location, design and operation assure the public's ability to interact with the water or shoreline. In order to qualify as a water enjoyment use, the use must be open to the public and most, if not all, of the water or shoreline oriented space in the facility must be devoted to the specific aspects of the use that fosters shoreline or water interaction. Water enjoyment uses may include, but are not limited to, restaurants, museums, aquariums, scientific, ecological reserves, resorts and mixed use commercial provided that such use conform to the above requirements and provisions of the Master Program.
33. **Waterfront** means those portions of the shoreline area that are not separated from the water by a public street or road.
34. **Water Oriented Use** means any one or a combination of water dependent, water related or water enjoyment uses.
35. **Water Related Use** means a use that is not intrinsically dependent on a shoreline location but which cannot function economically except at a shoreline location. Examples include, but are not limited to, marine electronics, plumbing and other marine repair services, boat rigging and outfitting services and marina, port or boat rental offices.
36. **Wetlands** means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark.

OAK HARBOR URBAN AREA

SHORELINE ENVIRONMENTS DETAIL MAP

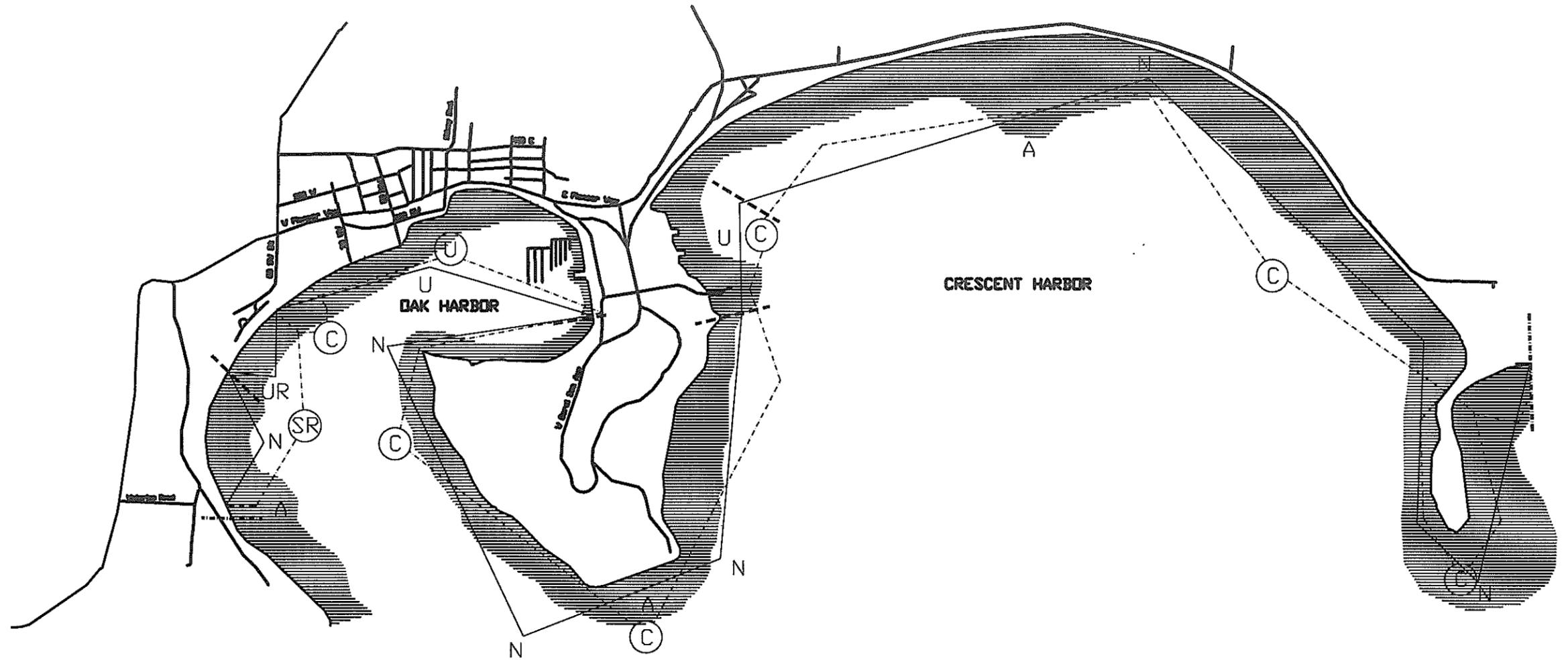


LEGEND

- UGA Limits
- Environment Boundaries

- U: Urban
- UR: Urban Residential
- N: Natural
- A: Aquatic

1998



LEGEND

- UGA Limits
- Environment Boundaries
- Island County Environments
- City of Oak Harbor Environments

City of Oak Harbor Proposed Environments

- U: Urban
- UR: Urban Residential
- N: Natural
- A: Aquatic

Island County Adopted Environments

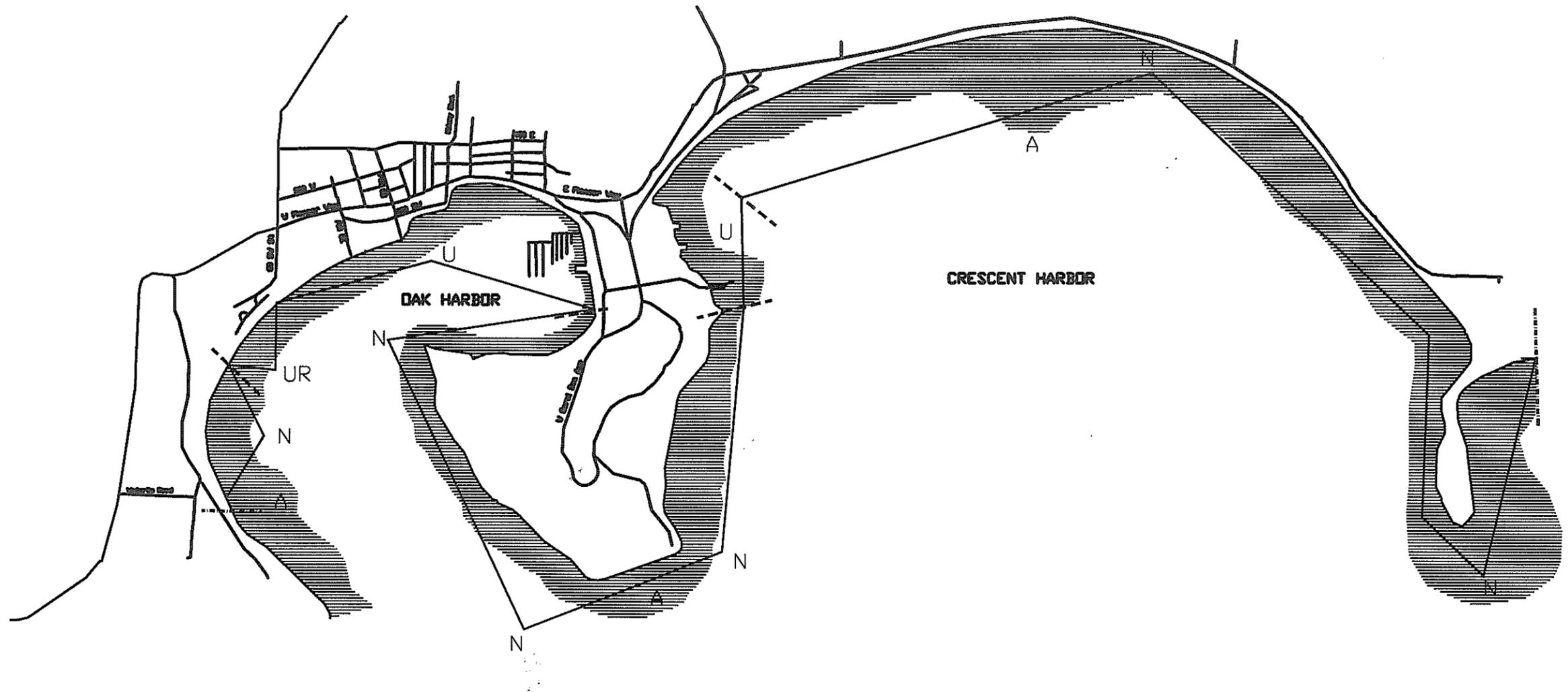
- U Urban
- C Conservancy
- R Rural
- SR Shoreline Residential



1"=2500'

EXISTING AND PROPOSED ENVIRONMENTS SHORELINE MASTER PROGRAM

Prepared by: City of Oak Harbor, 1996
Amended May 1997



LEGEND

- UGA Limits
- Environment Boundaries
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1"=2500'



**CITY OF OAK HARBOR
DESIGNATED ENVIRONMENTS MAP
SHORELINE MASTER PROGRAM**