

CITY OF SAMMAMISH

Shoreline Master Program Update Proposed Revisions to Title 25 of the Sammamish Municipal Code

PUBLIC REVIEW DRAFT

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Ecology Grant #G0600310



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Chapter 25.01 Purpose and Intent

25.01.010 Purpose and Intent

The purposes of this Shoreline Master Program are:

- (1) To promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development, use, and restoration of Sammamish's shorelines; and
- (2) To manage shorelines in a positive, effective, and equitable manner; and
- (3) To further assume and carry out the responsibilities established by the Shoreline Management Act, and to adopt and foster the policies contained in the Revised Code of Washington (RCW) 90.58, the State Shoreline Management Act, for shorelines of the State.

25.01.020 Applicability

(1) All proposed uses and development, as defined in 25.02 [\(the definitions chapter of this Program\)](#) occurring within the shoreline jurisdiction shall comply with this Program and RCW 90.58. This Program regulates all uses and developments within the shoreline jurisdiction whether or not a shoreline permit is required. Uses and developments shall be classified as follows:

- (a) Permitted uses and developments – These are uses and development that are consistent with this Program and RCW 90.58. Such uses/development shall require a shoreline substantial development permit, a shoreline conditional use permit, or a statement that the use/development is exempt from a shoreline substantial development permit. Permitted uses and developments that do not meet the bulk or dimensional standards of this Program shall require a shoreline variance.
- (b) Prohibited uses and developments – These are uses and development that are inconsistent with this Program and/or RCW 90.58 and which cannot be allowed through any shoreline permit or variance.

(2) Classification of a use or development as permitted does not necessarily mean the use/development is allowed in all cases. It means the use/development may be permitted subject to review and approval by the City and/or the Department of Ecology. Many permitted uses/developments, including those that do not require a substantial development permit, can individually or cumulatively affect adjacent properties and/or natural resources and therefore must comply with the Program in order to avoid or minimize such adverse impacts.

(3) This Program shall apply to:

- (a) All of the lands and waters of Sammamish that meet the definition of shorelines of the state in RCW 90.58.030; and
 - (b) Every person, individual, firm, partnership, association, organization, local or state governmental agency, public or municipal corporation, or other non-federal entity proposing or undertaking any use and/or development in the Sammamish shoreline jurisdiction; and
 - (c) All non-federal uses and developments undertaken on federal lands and on lands subject to non-federal ownership, lease, or easement, even though such lands may fall within the external boundaries of federally owned lands.
 - (d) Federal agencies are subject to this Program and RCW 90.58, as provided by the Coastal Zone Management Act (Title 16 United States Code §1451 et seq.; and the Washington Administrative Code (WAC) 173-27-060(1)).
- (4) The provisions of this Program shall not apply to lands held in trust by the United States for Indian Nations, tribes or individuals.

25.01.030 Title

This document shall be known and may be cited as ‘The Sammamish Shoreline Master Program.’ This document may be referred to herein as the ‘SMP,’ or the ‘Program.’

25.01.040 Authority

Authority for enactment and administration of this Shoreline Master Program is the Shoreline Management Act of 1971, RCW 90.58, also referred to herein as ‘the Act.’

25.01.050 Governing Principles

The following principles along with the policy statements of RCW 90.58.020 establish basic concepts that underpin the goals, policies and regulations of this Program.

- (1) Any inconsistencies between this Program and the Act must be resolved in accordance with the Act.
- (2) The policies of this Program may be achieved by diverse means, one of which is regulation. Other means, authorized by the Act, include but are not limited to: acquisition of lands and/or easements by purchase, or gift; and implementation of capital facility and/or non-structural programs.
- (3) Regulation of private property to implement Program goals such as public access and protection of ecological functions and processes must be consistent with all relevant constitutional and other legal limitations.
- (4) Regulatory or administrative actions contained herein must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.

(5) The regulatory provisions of this Program are limited to shorelines of the state, whereas the planning functions of this Program may extend beyond the designated shoreline boundaries.

(6) The planning policies and regulatory provisions of this Program shall be integrated and coordinated with the Comprehensive Plan and local development regulations.

(7) Protecting the shoreline environment is an essential statewide policy goal, consistent with other policy goals. The policies and regulations of this Program are intended to protect shoreline ecological functions by:

(a) Requiring that current and potential ecological functions be identified and understood when evaluating new uses and developments;

(b) Requiring adverse impacts to be mitigated in a manner that ensures no net loss of shoreline ecological functions. Mitigation, as defined in Sammamish Municipal Code (SMC) 25.02 ~~(the definitions chapter of this Program)~~, shall include first avoiding the impacts, then minimizing the impacts, and then replacing/compensating for lost functions and/or resources;

(c) Ensuring that all uses and developments, including preferred uses and uses that are exempt from a shoreline substantial development permit, will not cause a net loss of shoreline ecological functions.

25.01.060 Reference to Plans, Regulations or Information Sources

(1) Uses and development regulated by this Program are subject to applicable provisions of the SMC, the Sammamish Comprehensive Plan, the Washington State Environmental Policy Act (RCW 43.21C and WAC 197-11), and other local, state and federal laws. Project proponents are responsible for complying with all applicable laws prior to commencing any use, development or activity.

(2) This Program shall be implemented according to the definitions contained in SMC 25.02. Where definitions contained in this Program conflict or differ from definitions contained in other sections of SMC, these definitions shall prevail.

(3) Unless otherwise stated, where this Program makes reference to any RCW, WAC, or other state, local or federal law or regulation the most recent amendment or current edition shall apply.

(4) In the event this Program conflicts with other applicable City policies or regulations, all regulations shall apply and unless otherwise stated, and the more restrictive provisions shall prevail.

25.01.070 Critical Areas Regulations Incorporated by Reference

(1) The Sammamish Critical Areas Ordinance SMC 21A.50 (Ordinance 02005-193, as adopted in December 2005) is hereby adopted as a part of this Program, except that the permit (SMC 21A.110), non-conforming use (SMC 21A.70), ~~public agency and utility exception (SMC 21A.50.070(1))~~, appeal (SMC 21A.50.030) and enforcement (SMC 21A.115) provisions of SMC 21A.50 and SMC Title 21A shall not apply within shoreline jurisdiction. The provisions of SMC 21A.50 shall apply to any use, alteration or development within shoreline jurisdiction whether or not a shoreline permit or written statement of exemption is required.

(2) All references to SMC 21A.50 in this Program are to the version adopted in December 2005.

(3) Non-conforming uses and improvements within the shoreline jurisdiction shall be subject to this Program and not SMC 21A.50, 21A.70, or 21A.110.

(4) Uses and developments within the shoreline jurisdiction that meet the Reasonable Use Exception provisions of SMC 21A.50.070(2) shall require a shoreline variance in accordance with this Program.

(5) Activities that are exempt or partially exempt from critical areas regulation per SMC 21A.50.050, 21A.50.060 and 21A.50.070 shall comply with this Program. Such activities may require a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit unless this Program and RCW 90.58.030(3)(e) specifically indicate the activity is exempt from the shoreline substantial development permit requirements.

25.01.080 Effective Date

This Program and all amendments thereto shall become effective immediately upon final approval and adoption by the Department of Ecology.

25.01.090 Liberal Construction

This Program is exempt from the rule of strict construction; therefore this Program shall be liberally construed to give full effect to its goals, policies and regulations.

25.01.100 Severability

If any section or provision of this Program is declared invalid it shall not affect the validity of this Program as a whole.

Chapter 25.02 Definitions

25.02.010 Definitions

- (1) Abandon. Abandon means to terminate the use of a structure by an affirmative act, such as changing to a new use; or to cease, terminate, or vacate a use or structure through non-action.
- (2) Act. Act means chapter 90.58 RCW, the Shoreline Management Act of 1971, as amended. (Also known as the SMA).
- (3) Active use area. Active use area means the portion of a shoreline buffer that is not required to be maintained in a naturally vegetated condition but can be used for recreational activities normally associated with single family residential development. The active use area shall remain free of structures and impervious surfaces except for accessory structures and impervious surfaces expressly allowed by this Program.
- (4) Alteration. Any human activity that results or is likely to result in an impact upon the existing condition of a shoreline is an alteration. Alterations include, but are not limited to, grading, filling, dredging, draining, channelizing, applying herbicides or pesticides or any hazardous substance, discharging pollutants except stormwater, grazing domestic animals, paving, constructing, applying gravel, modifying for surface water management purposes, cutting, pruning, topping, trimming, relocating or removing vegetation or any other human activity that results or is likely to result in an impact to existent vegetation, hydrology, fish or wildlife, or fish or wildlife habitat. Alterations do not include walking, fishing, or any other passive recreation or other similar activities.
- (5) Amendment. Amendment means a revision, update, addition, deletion, and/or re-enactment to the Sammamish SMP.
- (6) Applicant. Applicant means a property owner or a public agency or public or private utility that owns a right-of-way or other easement or has been adjudicated the right to such an easement pursuant to RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval.
- (7) Archaeological Resource/Site. Archaeological Resource/Site means a site that meets the criteria of a historic resource pursuant to SMC 21.10.020 (Historic Preservation Ordinance, pending adoption).
- (8) Associated Wetland. Associated Wetlands means wetlands that are in proximity to lakes, rivers or streams that are subject to the Shoreline Management Act and either influence or are influenced by such waters. Factors used to determine proximity and influence include but are not limited to: location contiguous to a shoreline waterbody, presence of a surface connection including through a culvert

or similar device, location in part or whole within the 100 year floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.

(9) Average existing grade level. Average existing grade level means the average of the natural or existing topography at the center of all exterior walls of a building or structure to be placed on a site; provided, that in the case of structures to be built over water, average grade level shall be the elevation of ordinary high water.

(10) Backfill. Backfill means the placement of earth material behind a retaining wall or structure.

(11) Bank. Bank means a steep rise or slope at the edge of a body of water or water course.

(12) Beach nourishment. Beach nourishment means the artificial replenishing of a beach by delivery of materials dredged or excavated elsewhere.

(13) Benthic. Benthic refers to a stream or lake bottom, including the sediment surface and some sub-surface layers.

(14) Berm. Berm means a constructed area of compacted earth.

(15) Bioengineering (also referred to as Bio-stabilization). Bioengineering or bio-stabilization means the practice of using natural vegetative materials to stabilize shorelines and prevent erosion. This may include use of bundles of stems, root systems, or other living plant material, soft gabions, fabric or other soil stabilization techniques, and limited rock toe protection where appropriate. Bioengineering projects often include fisheries habitat enhancement measures in project design (e.g., anchored logs, root wads, etc.). Such techniques may be applied to creeks, rivers, lakes, and reservoirs. Bioengineering may also be applied in upland areas away from the immediate shoreline.

(16) Boathouse. Boathouse means a structure designed for the storage of vessels, and not used as a residence or dwelling unit. Boathouses are to be distinguished from houseboats (see 49).

(17) Boat launch. Boat launch or boat ramp means a slab, pad, plank, rail, or graded slope specifically constructed and used for launching boats by means of a trailer, hand, or mechanical device.

(18) Boat Lift. Boat Lift is an in-water structure used for the dry berthing of vessels and personal water craft above the water level and lowering of vessels into the water periodically. A boat lift is used to berth and launch a single vessel, suspended over the water's surface. A boat lift is generally a manufactured unit without a canopy cover and may be placed in the water adjacent to a dock or as stand-alone structure.

(19) Breakwater. Breakwater means an off-shore structure, either floating or not, which may or may not be connected to the shore, such structure being designed to absorb and/or reflect back into the water body the energy of the waves.

(20) Buffer. Buffer means a zone, strip, or area of natural vegetation designed to separate incompatible uses or activities. Buffers separate and protect shorelines and critical areas from adverse impacts associated with adjacent land uses. Shoreline buffers are measured from the Ordinary High Water Mark (OHWM) except for projects affected by an approved Habitat Restoration Project that has altered the historic shoreline. In this situation, the shoreline buffer will be measured from the OHWM location in place prior to implementation of the restoration project.

(21) Building setback. Building setback means a line which establishes a definite point as determined by the minimum required distance between a structure and a specified line such as a lot, easement or buffer line, beyond which the foundation of a building shall not extend. For purposes of this Program, the building setback shall be 5 feet as measured from the landward edge of the shoreline buffer.

(22) Bulkhead. Bulkhead means a wall, embankment or other structure erected at or within ten feet of the OHWM and roughly parallel to the shoreline that retains or prevents sliding or erosion of land or protects land from wave or current action. Walls and other similar hard structures within 10 feet of the Ordinary High Water Mark shall be considered bulkheads.

(23) Clearing. Clearing means limbing, pruning, trimming, topping, cutting or removal of vegetation or other organic plant matter by physical, mechanical, chemical, or any other means.

(24) Cluster development. Cluster development means a site development technique that groups or clusters buildings in specific areas on a site rather than spread evenly throughout the parcel as in a conventional lot-by-lot development. The remaining land is to remain undeveloped in perpetuity and used for recreation, common open space, and/or preservation of critical areas.

(25) Compatible. Compatible means uses or activities capable of existing together or in the vicinity of one another without disharmony or without generating effects or impacts which are disruptive to the normal use and enjoyment of surrounding property.

(26) Conservation. Conservation means the prudent management of rivers, streams, wetlands, wildlife and other environmental resources in order to preserve and protect them. This includes the careful use of natural resources to prevent depletion or harm to the environment.

(27) Covered Moorage. Covered Moorage means boat moorage, with or without walls, that has a roof to protect the vessel(s).

(28) Development. Development means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the SMA (RCW 90.58) at any state of water level.

(29) Development regulations. Development regulations means the controls placed on development or land uses including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

(30) Director. Director means, unless otherwise specified, the director of the city department of community development or the director's designee.

(31) Dock. Dock means a fixed platform structure anchored in and/or floating upon a water body and connected to land to provide moorage or landing for waterborne pleasure craft and/or water-dependent recreation uses.

(32) Dredging. Dredging means the removal, displacement, and/or disposal of unconsolidated material such as sand, silt, gravel or other submerged materials, for purposes of modifying the bottom elevation of a water body, ditch, or wetland.

(33) Ecological functions or shoreline functions. Ecological functions or shoreline functions means work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-200(2)(c).

(34) Ecosystem-wide processes. Ecosystem-wide processes means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

(35) Environment or shoreline environment. Environment or shoreline environment means the categories of shorelines established by the City of Sammamish shoreline master program to differentiate areas whose features imply differing objectives regarding their use and future development.

(36) Excavation. Excavation is the removal of earth material.

(37) Exempt Development. Exempt Development means a use or development activity that is not required to obtain a substantial development permit under RCW 90.58.030(3)(e) and WAC 173-27-040, but which must otherwise comply with

applicable provisions of the Act and this Master Program and which must obtain a statement of exemption from the Director per SMC 25.01.020(1)(a). Conditional Use, Variance, or other permits may also still be required even though the activity does not require a Substantial Development Permit.

(38) Fair market value. Fair market value of a development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found-labor, equipment or materials.

(39) Feasible. Feasible means that a development proposal:

- (a) Can be accomplished with technologies and methods that have been successfully used in the past in similar circumstances; and
- (b) Has a reasonable likelihood of achieving its intended purpose.

(40) Fill. Fill means any solid or semi-solid material such as soil, sand, rock, gravel, wood chips, mining overburden, earth retaining structure, or other material from mining or other excavation activities, and materials used to create any structure or infrastructure, that when placed, changes the grade or elevation of the receiving site.

(41) Filling. Filling means the act of transporting or placing by any manual or mechanical means fill material from, to, or on any soil surface, including temporary stockpiling of fill material.

(42) Float. Float means a structure or device, which is moored, anchored, or otherwise secured in the waters of Sammamish, and which is not connected to the shoreline.

(43) Flood plain. Floodplain means the total area subject to inundation by the base flood. Flood plain is synonymous with one hundred-year flood plain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the Act.

(44) Flood hazard reduction. Flood hazard reduction refers to actions taken to reduce flood damage or hazards. Flood hazard reduction measures may consist of nonstructural or indirect measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, bioengineering measures, and storm water management programs; and of structural measures intended to contain flow within

the channel, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

(45) Geotechnical report or geotechnical analysis. Geotechnical report or geotechnical analysis means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

(46) Grading. Grading means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

(47) Hazard tree. Hazard tree means any tree that meets the criteria on SMC 21A.15.586. The City may require documentation by a certified arborist of the damaged, diseased, dead, or other hazardous condition.

(48) Hearings Board. Hearings Board means the shoreline hearings board established by the SMA.

(49) Height. Height is measured from average existing grade level to the highest point of a structure, exclusive of television antennas, chimneys, and similar appurtenances. Temporary construction equipment is also excluded in this calculation.

(50) Houseboat. Houseboat means a vessel that is designed or used as a place of residence without a means of self-propulsion and steering equipment or capability.

(51) Impervious surface. Impervious surface for purposes of this Program, means any nonvertical surface artificially covered or hardened so as to prevent or impede the percolation of water into the soil mantle at natural infiltration rates including, but not limited to, roofs, swimming pools, and areas that are paved, graveled or made of packed or oiled earthen materials such as roads, walkways, or parking areas and excluding landscaping, surface water flow control, and water quality treatment facilities, access easements serving neighboring property and driveways to the extent that they extend beyond the street setback due to location within an access panhandle or due to the application of requirements to site features over which the applicant has no control.

(52) Landward. Landward means to or toward the land.

(53) Launch Ramp. See boat launch.

(54) Landslide. Landslide means an episodic downslope movement of a mass that includes but is not limited to soil, rock or snow.

(55) Littoral drift. Littoral drift means the natural movement of sediment along marine or lake shorelines by wave action in response to prevailing winds.

(56) Lot. Lot means any tract or parcel of land shown on an officially recorded short plat or long plat or a parcel of land officially recorded or registered as a unit of property and described by platted lot number or by metes and bounds and lawfully established for conveyancing purposes on the date of recording of the instrument first referencing the lot.

(57) Multifamily Residential Development. Includes dwelling, apartment (SMC 21A.15.355), townhouse (SMC 21A.15.370) and similar structures containing two or more attached residential units. Multifamily shall not include cottage housing or accessory dwelling units.

(58) Native shoreline vegetation. Native shoreline vegetation means vegetation comprised of plant species, other than noxious weeds, which are indigenous to the coastal region of the Pacific Northwest and that reasonably could have been expected to naturally occur on the site.

(59) Natural or existing topography. Natural or existing topography means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavating or filling.

(60) Non-conforming use or development. Nonconforming use or development means a shoreline use or development which was lawfully constructed or established prior to the effective date of the Act or the applicable SMP, or amendments thereto, but which does not conform to present regulations or standards of this SMP.

(61) Non-water-oriented uses. Non-water-oriented uses means those uses that are not water-dependent, water-related or water-enjoyment and which have little or no relationship to the shoreline. Examples of non-water-oriented uses include professional offices, automobile sales or repair shops, mini-storage facilities, department stores, and gas stations.

(62) Normal appurtenance. Normal appurtenance means a structure or use that is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark. Normal appurtenances include, but are not limited to, walkways, utilities, fences, septic tanks and drainfields, and grading which does not exceed two hundred fifty (250) cubic yards and which does

not involve placement of fill in any wetland or waterward of the ordinary high water mark.

(63) Normal maintenance. Normal maintenance includes interior and exterior repairs and incidental alterations. Normal maintenance and repair may include, but is not limited to, painting, roof repair and replacement, plumbing, wiring and electrical systems, mechanical equipment replacement and weatherization. Incidental alterations may include construction of nonbearing walls or partitions.

(64) Normal protective bulkhead common to single-family residences. Normal protective bulkhead common to single-family residences means a bulkhead constructed on a building site zoned to permit one single-family residence and containing one single-family residence.

(65) No Net Loss. No Net Loss means the maintenance of the aggregate total of the City's shoreline ecological functions. The no net loss standard requires that the impacts of shoreline development and/or use, whether permitted or exempt, be identified and mitigated such that there are no resulting adverse impacts on ecological functions or processes. Each project shall be evaluated based on its ability to achieve the no net loss standard.

(66) Ordinary High Water Mark (OHWM). Ordinary High Water Mark (OHWM) means the mark on all lakes and streams that will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition existed on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology. In any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining freshwater shall be the line of mean high water

(67) Pier. See dock.

(68) Preferred shoreline use. A preferred shoreline use is identified in the Act as a use that is unique to or dependent upon a shoreline location. Water-dependent, water-related, and water-enjoyment uses are preferred shoreline uses. Single-family residential development is also preferred use according to the Act.

(69) Primary structure. Primary structure means the structure associated with the principal use of the property. If more than one structure is associated with the principal use of the property, the one with the highest assessed value shall be considered the primary structure.

(70) Priority Species. Priority species means any species designated by WDFW as requiring protective measures for their survival due to population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority

species include State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations (e.g., heron colonies, bat colonies) considered vulnerable; and species of recreational, commercial, or tribal importance that are vulnerable.

(71) Provisions. Provisions means policies, regulations, standards, guidelines, criteria, or environment designations.

(72) Public access. Public access means the public's ability to get to and use the State's public waters, the water/land interface and associated public shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and/or visual access facilitated by scenic roads and overlooks, viewing towers and other public sites or facilities.

(73) Public interest. Public interest means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development.

(74) Public utility. Public utility means the facilities of a private business organization such as a public service corporation, or a governmental agency performing some public service and subject to special governmental regulations, the services which are paid for directly by the recipients thereof. Such services shall include but are not limited to: water supply, electric power, telephone, cablevision, natural gas and transportation for persons and freight. The term also includes broadcast towers, antennas and related facilities operated on a commercial basis.

(75) Reasonable alternative. Reasonable alternative means any alternative that meet the criteria in SMC 21A.15.948.

(76) Restoration, or ecological restoration. Restoration means, in the context of 'ecological restoration,' the re-establishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

(77) Revetment. Revetment means a sloped wall constructed of rip rap or other suitable material placed on stream banks or other shorelines to retard bank erosion and minimize lateral stream movement. A revetment typically slopes waterward and has a rough or jagged face. The slope differentiates it from a bulkhead, which is a vertical structure.

(78) Riprap. Riprap means a layer, facing or protective mound of angular stones randomly placed to prevent erosion, scour or sloughing of a structure or embankment; also, the stone so used.

(79) Sediment. Sediment is material settled from suspension in a liquid medium.

(80) Shorelands. Shorelands, also referred to as shoreland areas, means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology.

(81) Shoreline armoring. Shoreline armoring refers to bulkheads and hard structures installed along the shore to stabilize the bank and prevent erosion. See shoreline stabilization.

(82) Shoreline conditional use. Shoreline conditional use means a use specifically designated as a shoreline conditional use in the shoreline master program or a use that is not classified within the SMP.

(83) Shoreline environment designation. Shoreline environment designation means the categories of shorelines of the state established by the City of Sammamish shoreline management master program to differentiate between areas whose features imply differing objectives regarding their use and future development.

(84) Shoreline jurisdiction. Shoreline jurisdiction means all 'shorelines of the state' and 'shorelands' as defined by this Program and RCW 90.58.

(85) Shoreline modifications. Shoreline modifications means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dock, pier, weir, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

(86) Shoreline stabilization. Shoreline stabilization means actions taken to prevent or mitigate erosion impacts to property, dwellings, businesses, or structures caused by natural shoreline processes such as currents, floods, tides, wind or wave action. Shoreline stabilization includes structural armoring approaches such as bulkheads and revetments and nonstructural approaches such as bio-engineering.

(87) Shorelines. Shorelines means all of the water areas within the City of Sammamish, including reservoirs, and their associated wetlands together with the lands underlying them; except:

- (a) Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less and the wetlands associated with such upstream segments;
 - (b) Shorelines on lakes less than 20 acres in size and wetlands associated with such lakes.
- (88) Shorelines of Statewide Significance. Shorelines of statewide significance means those shorelines described in RCW 90.58.030 (2)(e) that are within the City of Sammamish. Lake Sammamish is a designated shoreline of statewide significance.
- (89) Shorelines of the State. Shorelines of the state are the total of all 'shorelines' and 'shorelines of statewide significance' within the City of Sammamish.
- (90) Shoreline variance. Shoreline variance is a means to grant relief from the specific bulk, dimensional or performance standards in the SMP, but not a means to vary a use of a shoreline.
- (91) Significant tree. Significant tree means a tree that is a coniferous tree with a DBH of eight (8) inches or more, or a deciduous tree with a DBH of twelve (12) inches or more, where DBH means the diameter of a tree as measured at breast height (54 inches above the ground).
- (92) Soft-shore bank stabilization. See bioengineering.
- (93) Structure. Structure means anything permanently constructed in or on the ground, or over the water, excluding fences six feet or less in height, uncovered decks less than 18 inches above grade, uncovered paved areas, and structural or nonstructural fill. It does not include vessels.
- (94) Substantial development. Substantial development means any development with a total cost or fair market value of five-thousand seven hundred and eighteen dollars (\$5,718.00) or more that requires a shoreline substantial development permit. The threshold total cost or fair market value of \$5,718.00 is set by the state office of financial management and may be adjusted in the future pursuant to SMA requirements, as defined in RCW 90.58.030(3)(e) as now or hereafter amended.
- (95) Substantially degrade. Substantially degrade means to cause significant ecological impact.
- (96) Transportation uses. Transportation use means a use whose primary purpose is the movement and circulation of people, goods, and services. This includes, but is not limited to public roads, rails, parking areas, non-motorized travel corridors, trails, and similar features.
- (97) Vegetation conservation area. Vegetated conservation area means a protected area adjacent to the shoreline that contain elements of both aquatic and terrestrial

habitats that mutually influence each other. Vegetation in this area is to be generally conserved to protect ecological functions of the shoreline.

(98) Vessel. Vessel includes ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water.

(99) Water-dependent use. Water-dependent use means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations. Water-dependent uses are preferred uses of the shoreline according to the Act.

(100) Water-enjoyment use. Water-enjoyment use means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

(101) Water-oriented use. Water-oriented use means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

(102) Water-related use. Water-related use means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

(a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

(b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

(103) Water quality. Water quality means the physical chemical, aesthetic, and biological characteristics of water.

(104) Wetland. Wetland means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater

treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

Public Review Draft

Chapter 25.03 Master Program Element Goals

25.03.010 Archaeological, Historical and Cultural Resources Goals

The following goals address protection and restoration of buildings, sites and areas having historic, cultural, scientific, and/or educational value.

- (1) Designate, retain and protect shoreline areas having archeological, historic, cultural, scientific or educational value, locally or regionally.
- (2) Maintain finite and irreplaceable links to the past by identifying, preserving, protecting, and restoring archaeological, historic and cultural sites.
- (3) Protect historic and cultural sites and buildings that are listed on state or national historic registers, eligible for such listing, or identified in the City's Comprehensive Plan from destruction or alteration, and from encroachment by incompatible uses.
- (4) Acquire archaeological, historical and cultural sites through purchase or gift.
- (5) Foster a greater appreciation for shoreline management, environmental conservation, natural history, and cultural heritage using signage and other interpretive tools as appropriate.
- (6) Ensure that tribal governments and the State Department of Archaeology and Historic Preservation are involved in the review of projects that could adversely affect such resources.
- (7) Protect from intrusion or harm any newly discovered or suspected significant sites until their value for retention is determined.
- (8) Ensure that the educational and scientific values of archeological, historic, cultural resources are considered when evaluating proposed shoreline developments and uses.
- (9) Participate in cooperative restoration programs between local, state, and federal public agencies, tribes, non-profit organizations, and landowners.

25.03.020 Conservation Goals

The following goals address the preservation of natural resources, scenic vistas, aesthetics, and vital shoreline areas for fisheries and wildlife and for the benefit of present and future generations.

- (1) Acquire (i.e., through purchase, easements, donation or other agreement), and maintain as open space, shorelines with unique or valuable natural attributes for public benefit.

- (2) Preserve, enhance and/or protect shoreline resources (i.e., wetlands and other fish wildlife habitats) for their ecological functions and values, and aesthetic and scenic qualities.
- (3) Maintain natural dynamic processes of shoreline formation and sustainability through effective stewardship, management, and use of shorelines.
- (4) Where feasible, enhance or restore areas that are biologically and/or aesthetically degraded while maintaining appropriate use of the shoreline.
- (5) Maintain or enhance shoreline vegetation to protect water quality, fish and wildlife habitat, and other ecological functions and processes.
- (6) Implement policies that can help reverse adverse impacts caused by existing/past shoreline development.

25.03.030 Public Access Goals

The following goals address the ability of the public to reach, touch, view, and travel on the shorelines of the state and to view the water and the shoreline from adjacent locations.

- (1) Provide opportunities for physical and visual public access to public shorelines when such access can be reasonably accommodated without human health, safety, and/or security risks, and without adverse effects on shoreline functions and processes, private property rights, and/or neighboring uses.
- (2) Acquire (i.e., through purchase, easements, donation or other agreement) property to provide public access to the water's edge in appropriate and suitable locations.
- (3) Provide incentives to private shoreline property owners to provide public access.
- (4) Ensure that new developments minimize visual and physical obstruction of the water from shoreline roads and upland areas.
- (5) Ensure that utility and transportation rights-of-way, including street ends that abut the shoreline, are made available for public access and use where appropriate.
- (6) Ensure that shoreline recreational facilities and other public access points are connected by trails, pathways, waterways, and other access links where appropriate.

25.03.040 Recreation Goals

The following goals call for providing and expanding water-oriented public recreational opportunities including, but not limited to, parks and ecological study areas.

- (1) Provide additional water-oriented recreation opportunities that are diverse, convenient, and adequate for people of different ages, health, family status and financial ability.

- (2) Locate recreational uses in shoreline areas that can support those uses without risks to human health, safety, and/or security, and without adverse effects on shoreline functions and processes, private property rights, and/or neighboring uses.
- (3) Plan for future shoreline recreation needs, and to acquire (i.e., through purchase, donation or other agreement) shoreline areas that provide active and/or passive recreation opportunities.
- (4) Support other governmental and non-governmental efforts to acquire and develop additional shoreline properties for public recreational uses.

25.03.050 Shoreline Use Goals

The following goals address the general distribution, location, and extent of all uses within shoreline jurisdiction.

- (1) Give first preference to single-family residential uses and water-dependent uses including public recreational uses that provide public access to shorelines. Secondary preference should be given to water-related and water-enjoyment uses.
- (2) Ensure that shoreline use patterns are compatible with the ecological functions and values, and with the surrounding land use, and that they avoid disruption of natural shoreline processes.
- (3) Encourage uses that allow or incorporate restoration of shoreline areas that have been degraded as a result of past activities.
- (4) Ensure that all new development in shoreline areas is consistent with the City's Comprehensive Plan and the Washington State Growth Management Act (RCW 36.70A).
- (5) Ensure that shoreline uses satisfy the economic, social, and physical needs of the citizens of Sammamish.

25.03.060 Shoreline Restoration and Enhancement Goals

The following goals address re-establishment, rehabilitation and improvement of impaired shoreline ecological functions and/or processes.

- (1) Improve shoreline functions and processes over time through regulatory, voluntary and incentive-based public and private programs and actions.
- (2) Encourage cooperative restoration programs between local, state, and federal public agencies, tribes, non-profit organizations, and landowners.
- (3) Integrate restoration efforts with other parallel natural resource management efforts including, but not limited to, salmon conservation, basin management, and water cleanup plans.

25.03.070 Transportation and Essential Public Facility Goals

The following goals address the general location and extent of existing and proposed thoroughfares, transportation/circulation routes, as well as other public utilities and facilities.

- (1) Develop efficient circulation systems in harmony with the topography and other natural characteristics of the shoreline and in a manner that assures the safe movement of people and goods without adverse effects on shoreline use and development or on shoreline ecological functions and processes.
- (2) Provide and/or enhance physical and visual public access to shorelines along public roads (i.e., turnouts, and viewpoints) in accordance with the public access goals.
- (3) Limit circulation systems in shoreline areas to those that serve permitted and/or preferred shoreline uses.
- (4) Encourage shoreline circulation systems that provide alternative routes and modes of travel, including non-motorized travel.

Chapter 25.04 General Shoreline Management Policies

25.04.010 Archaeological, Historic and Cultural Resources

- (1) Public or private uses, activities, and development should be prevented from destroying or damaging any site having historic, cultural, scientific or educational value as identified by the appropriate authorities and deemed worthy of protection and preservation.
- (2) The City should work with tribal, state, federal and other local governments as appropriate to identify significant local historic, cultural and archaeological sites in observance of applicable state and federal laws protecting such information from general public disclosure. Such sites should be protected, preserved and/or restored for study, education and/or public enjoyment to the maximum possible extent.
- (3) Site development plans for public lands should incorporate measures for historic, cultural and archaeological resource preservation, restoration, and education with open space or recreation areas whenever compatible and possible.
- (4) Owners of property containing identified historic, cultural or archaeological sites are encouraged to make development plans known well in advance of application so that appropriate agencies, such as the Washington State Department of Archaeology and Historic Preservation, and others, may have ample time to assess the site and make arrangements to preserve historical, cultural and archaeological values as applicable.
- (5) If development is proposed adjacent to an identified historic, cultural or archaeological site, then the proposed development should be designed and operated to be compatible with continued protection of the historic, cultural or archaeological site.

25.04.020 Critical Areas and Environmental Protection

- (1) This Program should provide a level of protection to critical areas within shoreline jurisdiction that is at least equal to the protection provided by the City's critical areas regulations (SMC 21A.50) adopted pursuant to the Growth Management Act and the City's Comprehensive Plan.
- (2) Shoreline use/development should occur in a manner that maintains existing natural shorelines, assures no net loss of shoreline ecological functions and processes and protects critical areas and associated buffers designated in SMC 21A.50.
- (3) Permitted uses should be designed and conducted to minimize, in so far as practical, damage to the ecology and environment. Shoreline ecological functions that should be protected include, but are not limited to, fish and wildlife habitat, conservation and recovery of ESA-listed species, food chain support and water

temperature maintenance. Shoreline processes that should be protected include, but are not limited to, water flow; erosion and accretion; infiltration; groundwater recharge and discharge; sediment delivery, transport, and storage; large woody debris recruitment; organic matter input; and nutrient and pathogen removal.

(4) In assessing the potential for net loss of ecological functions or processes, both project-specific and cumulative impacts should be considered in accordance with WAC 173-26-186(8)(d).

25.04.030 Flood Hazard Reduction

(1) Flood hazard reduction should be managed through the City's Stormwater Management Plan, Comprehensive Plan, and development regulations in SMC 25.05, SMC 15.10 and frequently flooded areas regulations in SMC 21A.50.

(2) Development within the floodplains associated with the City's shorelines that would individually or cumulatively increase the risk of flood damage should be discouraged.

(3) Non-structural flood hazard reduction measures should be given preference over structural measures. Structural flood hazard reduction measures should be avoided whenever possible. When necessary, they should be accomplished in a manner that assures no net loss of ecological functions and ecosystem-wide processes. Non-structural measures include setbacks, land use controls prohibiting or limiting development in areas that are historically flooded, stormwater management plans, or biomechanical measures.

(4) Where possible, public access should be integrated into publicly financed flood control and management facilities.

25.04.040 Public Access

(1) Physical and/or visual access to shorelines should be incorporated into all publicly sponsored shoreline development projects when public health and safety concerns can be adequately addressed and when shoreline ecological functions and/or processes can be adequately protected.

(2) The design of all public shoreline access areas should minimize potential impacts to private property.

(3) Incentives for public access improvements such as density or bulk and dimensional bonuses shall be provided when consistent with applicable zoning and subdivision regulations.

25.04.050 Restoration and Enhancement

(1) This Program recognizes the importance of restoring shoreline ecological functions and processes and encourages cooperative restoration efforts and

programs between local, state, and federal public agencies, tribes, non-profit organizations, and landowners to improve shorelines with impaired ecological functions and/or processes.

(2) Restoration actions should restore shoreline ecological functions and processes as well as shoreline features and should be targeted towards meeting the needs of sensitive and/or locally important plant, fish and wildlife species as well as the biological recovery goals for salmonid species, habitat and populations.

(3) Restoration should be integrated with and should support other natural resource management efforts in King County and in the greater Puget Sound region.

(4) Priority should be given to restoration actions that meet the goals and objectives contained in the restoration element of this Program.

25.04.060 Shoreline Use

(1) The following uses/developments should be given preference for locating on the shoreline when they are consistent with City zoning regulations and located, designed, and maintained in a manner that minimizes adverse impacts to ecological functions:

- (a) Single-family residences, and
- (b) Water-dependent and water-related public recreational use/development; and
- (c) Uses and developments that provide physical and/or visual access to the shoreline for substantial numbers of people.

(2) Appropriate areas should be reserved for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.

(3) Non-water-oriented uses/developments should be limited to those shoreline locations where water-oriented uses are inappropriate.

(4) Non-water-oriented uses/developments should be allowed only when they demonstrably contribute to the objectives of the Shoreline Management Act.

25.04.070 Shoreline Vegetation Conservation

(1) All shoreline developments and uses should be planned and designed to retain or replace shoreline vegetation with the overall purpose of achieving no net loss of the ecological functions and processes performed by the vegetation. Important functions of shoreline vegetation include, but are not limited to:

- (a) Providing shade necessary to maintain water temperatures required by salmonids, and other aquatic biota.
 - (b) Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macro invertebrates.
 - (c) Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence/severity of landslides.
 - (d) Reducing fine sediment input into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff.
 - (e) Improving water quality by preventing wind mixing, and facilitating infiltration and vegetative uptake of nutrients and pollutants.
 - (f) Providing a source of large woody debris.
 - (g) Providing habitat for wildlife, including connectivity for travel and migration corridors.
 - (h) Using native plants.
- (2) Shoreline developments and uses should be planned and designed to promote retention and installation of native shoreline vegetation. The retention and installation of native shoreline vegetation should be preferred over retention and installation of non-native shoreline vegetation.
- (3) Clearing and thinning for limited view corridors should only be allowed where it does not adversely impact ecological and/or aesthetic values, and/or slope stability¹. Vegetation conservation should be preferred over the creation or maintenance of views to protect shoreline ecological functions and aesthetics.

25.04.080 Site Planning

- (1) Shoreline use/development should be designed in a manner that directs land alteration to the least sensitive portions of the site to maximize vegetation conservation; minimize impervious surfaces and runoff; protect riparian, nearshore and wetland habitats; protect fish and wildlife and their habitats; protect archaeological, historic and cultural resources; and preserve aesthetic values.
- (2) Low Impact Development (**LID**) techniques should be encouraged in order to minimize impervious surface area and surface runoff in accordance with the

¹ Limbing is allowed per the CAO. This policy is not intended to contradict the CAO standards, which would apply, but merely states a preference for minimizing such activities.

Technical Guidance Manual for Puget Sound and the City's LID Ordinance (SMC 21A.85).

(3) Where geologic conditions are conducive to infiltration, the City encourages infiltration systems for stormwater to mimic the natural infiltration and ground water interflow processes as long as the infiltration will not create or exacerbate slope instability or degrade water quality.

(4) Shoreline uses should not deprive other uses and users of reasonable access to navigable waters and/or restrict access of treaty tribes to their "usual and accustomed" areas.

25.04.090 Views and Aesthetics

(1) Shoreline use and development should be designed and maintained to minimize obstructions of the public's visual access to the water and shoreline.

(2) Shoreline use and development should not significantly detract from shoreline scenic and aesthetic qualities that are derived from natural or cultural features, vegetative cover and historic sites/structures.

25.04.100 Water Quality, Stormwater and Nonpoint Pollution

(1) New shoreline uses and developments should be located, constructed, operated, and maintained to prevent water quality and storm water quantity impacts that would adversely affect shoreline ecological functions, or cause significant impact to shoreline aesthetic qualities or recreational opportunities.

(2) New shoreline uses and developments should incorporate comprehensive and aggressive strategies to control total phosphorus loading to shoreline lakes over the long term.

(3) New shoreline uses and developments should be designed and operated to minimize the need for chemical fertilizers, pesticides or other chemical treatments to prevent contamination of surface and ground water and/or soils and avoid adverse effects on shoreline ecological functions and values.

(4) New shoreline uses and developments and uses should minimize impervious surface and incorporate low impact development techniques where feasible to minimize surface water runoff and prevent water quality degradation.

Chapter 25.05 Shoreline Modification Policies

25.05.010 Boat Launch Ramps and Rails

- (1) Regional needs for public boat launches should be coordinated with park and recreation plans and co-located with other compatible water-dependent uses. Review of launch facilities for motorized boats or large watercraft should be coordinated with recreation providers, including the Washington State Parks Department, adjacent cities and King County to avoid unnecessary duplication and to efficiently provide recreational resources while minimizing adverse impacts to shoreline ecological functions and processes. This policy is not intended to limit new launches for human powered watercraft such as kayaks.
- (2) New or expanding public launch ramps and rails should only be sited where suitable environmental conditions are present and should avoid sensitive or critical habitat and areas with which priority species have a primary association.
- (3) Private boat launch ramps and rails should be discouraged when they increase impervious surface area in the shoreline jurisdiction and/or require clearing of shoreline vegetation.

25.05.020 Docks, Piers, Floats, Boat Lifts, and Mooring Buoys

- (1) As an alternative to continued proliferation of individual private docks and piers, mooring buoys are preferred over docks and piers. Shared or joint-use docks are preferred over single-user docks where feasible, especially where water use conflicts exist or are predictable.
- (2) New moorage designed and used as a facility for access to watercraft should only be allowed as an accessory to water-dependent uses or for public access. Moorage accessory to a single-family residence should be allowed only where there is a demonstrated need and where mooring buoys and joint-use facilities are not feasible.
- (3) Public and private piers, docks, floats, and lifts should be designed and constructed with appropriate mitigation as required by this Program to ensure no net loss of ecological processes and functions. Piers, docks, floats, and lifts should not be placed in locations where they will impact critical habitats.
- (4) The type, design, and location of docks, piers, floats and lifts should be consistent with state and federal regulations and compatible with the area in which they are located. In assessing compatibility, shoreline characteristics, shoreline functions and processes, wind and wave action, water depth, aesthetics, and adjacent land and water uses should be considered.

25.05.030 Dredging, Filling and Excavation

- (1) Dredging should only be allowed to facilitate ecological restoration or enhancement, provide public access, or provide water-oriented public recreation.
- (2) New development should be sited and designed to avoid the need for new maintenance dredging.
- (3) When allowed, dredging, filling and excavation should be planned and operated to minimize adverse impacts to shoreline ecology; adverse impacts to shoreline and adjacent upland uses; and interference with navigation.
- (4) Dredging for the primary purpose of obtaining fill material to create uplands should not be allowed.
- (5) Dredging, filling and excavation should only be allowed waterward of the ordinary high water mark (OHWM) when alternatives are infeasible and when the filling is:
 - (a) Part of a publically sponsored ecological restoration or enhancement project; or
 - (b) Part of a City-approved restoration or mitigation project that involves bulkhead removal and/or shoreline vegetation enhancement; or
 - (c) Required to provide public access for a substantial number of people; or
 - (d) Required to provide water-oriented public recreation for a substantial number of people.
- (6) Filling and excavation should not be allowed where structural shore stabilization would be required to maintain the materials placed or excavated.
- (7) When allowed, filling and excavation should be conducted so that water quality, habitat, hydrology, and drainage patterns are not adversely affected.
- (8) Excavation below the OHWM shall be considered dredging and shall be subject to the dredging policies and regulations of this Program.

25.05.040 Shoreline Stabilization

- (1) Bulkheads and other forms of ‘hard’ shoreline armoring should be discouraged. Alternatives to ‘hard’ shoreline armoring, including those that implement bioengineering and bio-stabilization methods, should be used whenever possible.
- (2) Shore stabilization including bulkheads and revetments should be located, designed, and maintained to minimize adverse effects on shoreline ecology,

including effects on the project site and adjacent properties. Probable effects of proposed shoreline stabilization on ongoing shoreline processes and functions should be fully evaluated for consistency with this Program before projects are permitted.

(3) Shoreline stabilization should be located and designed to fit the physical character of a specific shoreline reach, which may differ substantially from adjacent reaches.

(4) Shoreline stabilization should not interfere with existing or future public access to public shorelines nor with other appropriate shoreline uses such as recreation.

(5) Shoreline stabilization projects on public lands should be designed to accommodate multiple use, restoration, and/or public access, provided that safety and ecological protection are fully addressed.

(6) Where erosion threatens existing use or development, a comprehensive program for shoreline management should be established to address causes and effects.

(7) Failing, harmful, unnecessary, or ineffective shoreline stabilization structures should be removed, and shoreline ecological functions and processes should be restored using non-structural methods.

(8) The City should facilitate voluntary enhancement and restoration projects that replace hard shoreline armoring with bio-engineered approaches to shoreline stabilization. The City should provide technical assistance, education, and regulatory incentives for bulkhead removal.

(9) Where existing bulkheads are replaced or substantially repaired or replaced, the replacement/repair should incorporate fish-friendly design elements to minimize adverse effects on nearshore habitats including salmonid use.

Chapter 25.06 Use-specific Policies

25.06.010 Residential Use

The following residential use policies should inform planning, permitting, and development of private residential uses on private lands within the shoreline environment.

(1) Single-family residences and their normal appurtenant structures are a preferred shoreline use when developed in a way that controls pollution and prevents damage to the shoreline environment.

(2) New residential development in the shoreline jurisdiction should be located and designed to minimize adverse effects on shoreline process and functions. Residential development should not be allowed to result in net loss of shoreline ecological functions.

(3) Structures or development for uses accessory to residential development should minimize impervious surface and vegetation clearing, be visually and physically compatible with adjacent shoreline features, and be reasonable in size and purpose.

(4) Residential developments are encouraged to protect, enhance, and restore shoreline ecological functions using low impact development techniques and other conservation measures.

25.06.020 Recreational Use

The following recreational use policies should inform the planning and development of public parks and other public recreational lands within shoreline jurisdiction.

(1) Public recreational development should be located on public lands to facilitate the public's ability to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline.

(2) Public recreational development should incorporate public education regarding shoreline ecological functions and processes, the effect of human actions on the environment and the role of the public in shoreline management.

(3) Public recreational development should be located where existing infrastructure (utilities and roads) are adequate, or may be provided without significant damage to shore features commensurate with the number and concentration of anticipated users.

25.06.030 Transportation Use

The following transportation use policies should inform planning, permitting, and development of all public transportation uses within the shoreline environment. Public transportation uses include all development where transportation facilities, including public roadways, public trails, parking areas, associated facilities, and all other vehicular and pedestrian circulation facilities, are the primary land use. Public transportation uses do not include residential access driveways associated with private residences.

(1) New transportation facilities should be located outside of the shoreline jurisdiction unless alternative non-shoreline locations are infeasible or the transportation facility is required to serve water-dependent or public uses.

(2) When required, new transportation facilities should be planned to fit the topographical characteristics of the shoreline as much as possible and to minimize alterations to the shoreline environment.

(3) When existing transportation facilities located within shoreline jurisdiction require maintenance or other improvements to address public health and safety, the maintenance/improvement should be designed and implemented to minimize additional impacts on the shoreline environment and, if possible, to correct past impacts caused by the transportation facility.

25.06.040 Utility Use

The following utility use policies should inform planning, permitting, and development of all utility uses within the shoreline environment. Utility uses include all development where public and/or private utility facilities are the primary land use. Utility uses do not include onsite utility uses associated with private residential land use.

- (1) New public or private utilities should be located inland from the land/water interface, preferably outside of the shoreline, unless:
 - (a) They have a water-dependent component such as a water intake or outfall; or
 - (b) Water crossings are unavoidable; or
 - (c) They are required for authorized shoreline uses consistent with this Program.
- (2) Utilities should be located and designed to avoid public recreation and public access areas and significant natural, historic, archaeological or cultural resources.
- (3) Development of pipelines and cables, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance which would disrupt shoreline ecological functions, should be discouraged except where no other feasible alternative exists.
- (4) When existing utilities located within shoreline jurisdiction require maintenance or other improvements to address public health and safety, the maintenance/improvement should be designed and implemented to minimize additional impacts on the shoreline environment and, if possible, to correct past impacts caused by the utility.

Chapter 25.07 Jurisdiction and Environment Designations

25.07.010 Shoreline Jurisdiction

(1) The policies and regulations of this program shall apply to the waters of Lake Sammamish, Pine Lake and Beaver Lake and their adjacent shorelands and any other areas that the City may annex that meet the definition of shorelines as defined extent of shoreline jurisdiction shall be determined as defined in SMC 25.02.080 (Shoreline jurisdiction) and RCW 90.58.030.

(2) On Lake Sammamish, the shoreline jurisdiction shall be based on a minimum ordinary high water mark (OHWM) elevation of 28.18 feet NGVD29. The OHWM on Pine Lake and Beaver Lake shall be determined based on site-specific observation and assessment using accepted protocols and criteria established by the Department of Ecology, until or unless the City adopts a specific elevation.

(3) No streams meeting the definition of 'shoreline' are included within the City limits as of the date of adoption of this Program. If the City annexes unincorporated areas that include Patterson Creek or other 'shorelines' or 'shorelands' as defined by this Program, shoreline jurisdiction will be determined based on the criteria and definitions in SMC 25.02 and RCW 90.58.

25.07.020 Shoreline Environment Designations

(1) Shorelines shall be assigned one of the following environment designations:

(a) Shoreline Residential Environment (SR). The purpose of the 'Shoreline Residential' environment is to accommodate residential development and accessory structures that are consistent with this Program. This designation shall apply to shorelines that do not meet the criteria for Urban Conservancy and that are characterized by single-family or multifamily residential development or are planned and platted for residential development.

(b) Urban Conservancy Environment (UC). The purpose of the 'Urban Conservancy' environment is to protect and restore relatively undeveloped or unaltered shorelines to maintain open space, floodplains or habitat, while allowing a variety of compatible uses. This designation shall apply to shorelines that retain important ecological functions, even if partially altered. These shorelines are suitable for low intensity development, uses that are a combination of water-related or water-enjoyment uses, or uses that allow substantial numbers of people to enjoy the shoreline.

(2) The shoreline environment designations established in 25.07.020.1 shall apply to the land and water areas subject to shoreline jurisdiction as defined in 25.02.080 and RCW 90.58. Uses and developments that occur waterward of the OHWM shall be governed by the regulations pertaining to the adjoining shoreland area and all such uses shall be considered accessory to the adjacent primary use.

~~(2)~~(3) Shoreline Environment Designations are delineated on a map, hereby incorporated as a part of this Program [Appendix A] that shall be known as the Official Shoreline Map. The Official Shoreline Map is for planning purposes only. The map does not necessarily identify or depict the lateral extent of shoreline jurisdiction or all associated wetlands. The lateral extent of the shoreline jurisdiction shall be determined on a case-by-case basis based on the location of the ordinary high water mark (OHWM), floodway and/or the presence of associated wetlands.

~~(3)~~(4) Undesignated and/or unmapped shorelines shall be designated 'Urban Conservancy' in accordance with WAC 173-26-211 (2) (e).

~~(4)~~(5) If disagreement develops as to the exact location of a shoreline environment designation boundary line shown on the Official Shoreline Map, the following rules shall apply:

- (a) Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.
- (b) Boundaries indicated as approximately following roads shall be respectively construed to follow their centerlines.
- (c) Boundaries indicated as approximately parallel to or extensions of lots lines or roads shall be so construed.
- (d) Whenever existing physical features are inconsistent with boundaries on the Official Shoreline Map, the Director shall interpret the boundaries.
- (e) Appeals of such interpretations may be filed pursuant to the applicable appeal procedures described in SMC 25.08.

25.07.030 Shoreline Use Table (see attached use table)

25.07.040 Shorelines of Statewide Significance – Lake Sammamish

(1) In accordance with RCW 90.58.020, the following policies are hereby adopted for Lake Sammamish, which is a shoreline of statewide significance. The City shall manage the Lake Sammamish shoreline to give preference to uses and developments that:

- (a) Recognize and protect the statewide interest over local interest.
- (b) Preserve the natural character of the shoreline.
- (c) Result in long term over short term benefit.
- (d) Protect the resources and ecology of the shoreline.
- (e) Increase public access to publicly owned areas of the shoreline.

- (f) Increase recreational opportunities for the public in the shoreline environment.

Public Review Draft

Chapter 25.08 Lake Sammamish Regulations

25.08.010 Lake Sammamish General Regulations

Unless otherwise stated, the following regulations shall apply to all development and uses within the Lake Sammamish shoreline jurisdiction regardless of shoreline environment designation.

(1) Archaeological, Historic and Cultural Resources

(a) Upon receipt of application for a shoreline permit or request for a statement of exemption for a development proposal located on or adjacent to a City of Sammamish historic, cultural, or archeological resource, the application or request shall be additionally processed pursuant to the requirements of SMC 21.10.120 (Historic Resources - review process pending adoption).

(b) Whenever historic, cultural or archaeological sites or artifacts are inadvertently discovered during shoreline development, work on that portion of the development site shall be stopped immediately, the site secured and the discovery reported as soon as possible to the Director. Upon notification of such find, the property owner shall notify the Washington State Department of Archaeology and Historic Preservation, and the Director shall notify the historic preservation officer and shall require a site investigation to determine the significance of the discovery. Based upon the findings of the site investigation and consultation with the historic preservation officer and the Washington State Department of Archaeology and Historic Preservation, the Director may require that an immediate site assessment be conducted or may allow stopped work to resume.

(2) Critical Areas and Environmental Protection

(a) Unless otherwise stated, all shoreline development and uses shall comply with the City's critical areas regulations in SMC 21A.50 as incorporated into this Program ~~and this Program~~.

(b) A shoreline buffer consistent with SMC 21A.50.351 ~~and 21A.50.352~~ shall be established on Lake Sammamish. In accord with SMC 21A.50.351, the standard buffer shall extend forty five (45) feet landward of the ordinary high water mark and may be increased or reduced in accordance with the provisions of the 21A.50.351(2) and (3) as appropriate. The City may approve a buffer reduction without a shoreline variance provided the reduction meets the standards set forth in 21A.50.351. A five (5)-foot-wide building setback shall be established landward of the buffer as required by 21A.50.210.

(c) Shoreline buffers may be altered in accordance with the Program and the provisions of 21A.50.352.

~~(e)(d)~~ An applicant for any new shoreline use or development shall mitigate adverse environmental impacts in accordance with SMC 21A.50 whether or not the use/development requires a shoreline permit or is exempt from a shoreline permit. Mitigation measures shall be implemented in the sequence prescribed in SMC 21A.50.135.

~~(d)(e)~~ Prior to approving a new use or development, or verifying that a proposed use/development is exempt as defined by WAC 173-27-040, the Director may require the applicant to identify and evaluate the cumulative impacts of similar developments to assure that the no-net-loss standards of this Program are achieved. The Director may condition any proposal as necessary to mitigate cumulative impacts and may deny a proposal if there is strong evidence that cumulative adverse effects can not be effectively mitigated.

(3) Public Access

(a) The City shall not require public access for any single-family residential development involving ~~fewer than 4~~four (4) or fewer lots/dwelling units, or for any use/development accessory to a single-family residential development involving four (4) or fewer than 4 lots/dwelling units.

(b) The City may require physical or visual public access for any of the following uses/developments:

(i) Where land is subdivided into more than four parcels; or

(ii) Where use/development occurs on public land or by any public entity, including public parks and public utility districts; or

(iii) Where use/development will create increased demand for public access to the shoreline; or

(iv) Where a use /development will interfere with the public use of the lands or waters subject to the Act.

(c) When considering whether to require public access for a subdivision of more than four (4) lots/dwelling units, the City shall consider access options that avoid and minimize effects on the subdivision residents. Measures to mitigate impacts on adjoining uses shall include requiring only visual access from street ends for subdivisions of fewer than ten (10) lots/dwelling units and providing limited and controlled physical access for subdivisions of ten (10) or more lots/dwelling units.

~~(e)(d)~~ The City shall not require physical public access for any new use/development, including subdivisions of ten (10) or more lots/dwelling units, that meets one or more of the following conditions:

- (i) The access would create unavoidable health or safety hazards to the public which cannot be prevented by practical means; or
- (ii) The cost of providing the access or easement is unreasonably disproportionate to the long-term cost of the proposed development; or
- (iii) The access would create environmental harm that cannot be mitigated; or
- (iv) The access would create adverse and unavoidable conflict with the proposed use and/or adjacent uses in a way that cannot be mitigated; or
- (v) The City has provided more effective public access through a public access planning process and plan as described in WAC 173-26-221(4)(c).

~~(d)~~(e) Development of public access facilities in, on or over the water shall be constructed using materials that allow light penetration and do not contaminate water. Facilities in, on or over the water shall be of non-reflective materials that are compatible in terms of color and texture with the surrounding area. The underside of over-water facilities may incorporate reflective materials where necessary to reduce the effects of shadowing.

~~(e)~~(f) Public access shall be located adjacent to other public areas, accesses and connecting trails, and connected to the nearest public street end.

~~(f)~~(g) Public access facilities shall be maintained over the life of the use or development. Future actions by successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.

(4) Shoreline Vegetation Conservation

(a) To conserve shoreline vegetation, all new uses and development shall comply with the buffer and setback standards established in SMC 21A.50.351(1) and 21A.50.210, respectively, as required by 25.08.010(2) of this Program.

(b) Water-oriented uses and developments that, according to this Program, are specifically allowed to locate waterward of the standard shoreline buffer and building setback may be approved by the Director without a shoreline variance.

(c) The Director may approve a reduced buffer in accordance with 21A.50.351(3) if the shoreline restoration actions allowed by 21A.50.351(3) are implemented.

(d) Aquatic weed control shall only occur when native plant communities and associated habitats are threatened or when an existing water-dependent use is restricted by the presence of weeds.

- (e) Vegetation clearing shall be limited to the minimum necessary to accommodate approved shoreline uses/development. Vegetation management plans required pursuant to 21A.50A.351(3) shall include removal of noxious weeds and/or non-native invasive species as necessary to facilitate establishment of a stable community of native plants.
 - (f) Vegetation conservation standards shall not limit or restrict the removal of hazard trees determined to be unsafe by the City.
- (5) Site Planning
- (a) Site plans shall limit the amount of clearing, grading, and impervious surface to the minimum necessary to accommodate the allowed use/development.
 - (b) ~~Interior and e~~Exterior lighting shall be designed to minimize glare or other adverse effects that could infringe upon enjoyment or use of adjacent properties, public areas or roadways or cause adverse effects on fish and wildlife species and their habitats. Minimization measures shall include limits on light fixtures levels and use of light shields or other screening devices.
- (6) Restoration
- (a) Ecological restoration projects shall be carried out in accordance with an approved restoration plan and in accordance with the policies and regulations of this Program.
- (7) Water Quality, Stormwater, and Nonpoint Pollution
- (a) Shoreline use and development shall incorporate all known, available, and reasonable methods of preventing, controlling, and treating stormwater to protect and maintain surface and ground water quantity and quality in accordance with SMC 15.05 (Surface Water Management) and other applicable laws.
 - (b) Best management practices (BMPs) for controlling erosion and sedimentation and preventing pollutants from entering shoreline waterbodies shall be implemented for all new uses/development.
 - (c) To avoid water quality degradation by malfunctioning or failing septic systems located in the shoreline jurisdiction, on-site sewage systems shall be located, designed, and maintained to meet all applicable water quality, utility, and health standards.
 - (d) All materials that may come in contact with water shall be constructed of untreated wood, concrete, steel or other approved non-toxic materials. Materials used for dock decking or other structural components shall be approved by applicable state agencies, including WDFW, for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with

creosote, copper chromium arsenic or pentachlorophenol is prohibited in shoreline water bodies.

25.08.020 Lake Sammamish Shoreline Modification Regulations

The following regulations shall apply to all uses and developments that require modification of the Lake Sammamish shoreline.

(1) Boat Launch Ramps and Rails

(a) Launch ramps and rails associated with private residential development shall be prohibited on the Lake Sammamish shoreline. Piers, docks, floats or other forms of moorage shall not be permitted for residential waterfront lots that have existing launch ramps or rails. Existing launch ramps and rails may be maintained and repaired in accordance with non-conforming use provisions in 25.10.100.3.

(b) Launch ramps and rails associated with public recreational uses shall be allowed as a conditional use on the Lake Sammamish shoreline.

(c) Launch ramps or rails shall be anchored to the ground through the use of tie-type construction. Asphalt, concrete, or other ramps which solidly cover the water body bottom are prohibited.

(d) No portion of a public launch ramp or rail shall be placed or extend more than sixty (60) feet waterward of the ordinary high water mark.

(e) No portion of a public launch ramp or rail shall be placed or extend to a depth greater than eight feet below the ordinary high water mark.

(2) Docks, Piers, Floats, Boat/Jet Ski Lifts, and Mooring Buoys

(a) Public and private docks, piers, lifts, floats, and mooring buoys may be permitted on the Lake Sammamish shoreline provided they are constructed of Washington Department of Fish and Wildlife-approved non-treated and non-toxic materials and meet all of the requirements of this section and SMC 25.08.030.

(b) The following regulations shall apply to public recreational docks and piers on public lands:

(i) No public recreational dock or pier shall exceed three thousand (3,000) square feet of over-water surface area, exclusive of moorage covers.

(ii) No public recreational float shall have more than one hundred fifty (150) square feet of surface area.

(c) The following regulations shall apply to private docks, piers, floats, lifts and mooring buoys accessory to single-family residential use/development and/or those that are developed as private shared facilities:

(i) Private docks, piers, and lifts shall be allowed only when the applicant has demonstrated a need for moorage and when commercial moorage, joint use or shared moorage, and/or mooring buoys are not available or feasible.

(ii) Docks and piers shall be the minimum size required to provide for moorage and shall not exceed three (3) feet in height above the extreme high water level.

(iii) The waterward extent of any new ~~No~~ dock, pier, or in-water/overwater moorage structure shall ~~be not be greater allowed to extend further waterward than the average distance of the nearest docks on either side of the location of the new dock/pier~~ as measured perpendicularly from the ordinary high water mark, provided that the mean water depth at the waterward-most extent of the dock is at least eight (8) feet. The City may require a shorter dock length if needed to ensure adequate spacing between docks on opposite or adjacent shorelines or if the proposed dock would otherwise create an obstruction.

(iv) In the Urban Conservancy environment, all new residential docks must maintain a minimum distance of two hundred (200) feet from all other existing docks.

(d) No pier, dock, float, or in-water/overwater moorage structure shall be wider than fifty (50) percent of the lot ~~with width at the waterfront edge which it is associated~~.

(e) No pier, dock, float, or in-water/overwater moorage structure shall be located closer than fifteen (15) feet from the side property line extended, except that joint-use piers, docks, lifts and floats may abut property lines for the common use of adjacent property owners when mutually agreed to by the property owners in a contract recorded with the King County division of records and elections.

(f) For each residential lot, no more than one of each of the following overwater structure may be allowed: one residential dock/pier, one boat or jet ski lift and one float ~~may be allowed~~. For two or more adjoining residential lots utilizing a joint-use dock/pier, lift, and/or float, no more than one joint-use dock/pier, one lift and one float may be allowed.

(g) A ~~No covered~~ pier, dock, lift, float, or other moorage structure shall may be covered provided that the cover is made of translucent (light penetrating) material. Only one covered moorage structure shall be allowed per residential lot ~~be permitted waterward of the ordinary high water mark~~.

(h) No float shall have more than one hundred fifty (150) square feet of surface area.

(i) No dwelling unit may be constructed on a pier, dock, float or other moorage structure.

(j) The use of fill to construct docks, piers, and floats shall only be allowed pursuant to the requirements of SMC 25.08.020(3).

(k) When existing docks or piers are repaired, replaced or reconstructed, owners shall be required to replace ~~treated~~ wood treated with or other harmful ~~materials-chemicals that come in contact with water~~ with untreated WDFW-approved wood, non-polluting concrete, plastic or steel as follows:

(i) When the repair and/or replacement involves ten percent (10%) or less of the dock/pier area or ten percent (10%) or less of the number of pilings, no change in dock materials is required.

(ii) When the repair and/or replacement involves eleven to twenty-nine percent (11-29%) of the dock/pier area or eleven to twenty-nine percent (11-29%) of the number of pilings, the use of non-treated materials for all replacement parts and components shall be required.

(iii) When the repair/replacement involves thirty percent (30%) or more of the dock/pier area or thirty percent (30%) of the number of pilings, the entire structure shall be replaced with non-treated materials.

(iv) When the repair/replacement involves more than thirty percent (30%) of the dock/pier area or more than thirty percent (30%) of the existing pilings during any ten (10) year period, the use of non-treated materials for the entire dock shall be required.

(v) When the existing dock/pier is moved or expanded or the shape reconfigured, the entire dock shall be replaced with non-polluting concrete, untreated wood, plastic or steel materials.

(3) Dredging, Filling and Excavation

(a) Dredging, filling, and/or excavation waterward of the OHWM may be allowed when necessary to support the following:

(i) Publically sponsored ecological restoration or enhancement projects; or

(ii) City-approved restoration and mitigation projects that involve bulkhead removal and/or shoreline vegetation enhancement; or

(iii) Bio-engineered shoreline stabilization projects, including bio-engineered shoreline stabilization associated with private residential developments.

(b) Dredging, filling, and/or excavation waterward of the OHWM may be allowed with a conditional use permit when necessary to support the following:

- (i) Alteration, maintenance and/or repair of existing transportation facilities and utilities currently located within shoreline jurisdiction, when alternatives or less impacting approaches are not available; or
 - (ii) Publically sponsored non-restoration projects that provide public access for a substantial number of people; or
 - (iii) Construction of public docks/piers for public water-dependent recreational use, provided that the dredging, filling and/or excavation are limited to the minimum needed to accommodate the public dock/pier.
- (c) Except as allowed in SMC 25.09.020(3)(b), dredging, filling, and/or excavation waterward of the OHWM associated with construction of a residence or any structure accessory to a residential development/use shall be prohibited.
- (d) When permitted, dredging, filling and excavation activities must comply with all of the following standards:
- (i) Alternatives to dredging, filling and excavation are infeasible; and
 - (ii) Normal surface water movement and drainage patterns shall be maintained to the maximum extent feasible; and
 - (iii) Fill materials shall not adversely affect water quality; and
 - (iv) Fill shall allow surface water penetration into the ground where such conditions existed prior to the fill; and
 - (v) The dredging, filling and/or excavation shall be timed to minimize damage to shoreline ecological functions and processes and aquatic life; and
 - (vi) Fill within the one hundred-year (100-year) floodplain shall not reduce the flood plain water storage capacity or in any way increase flood hazard or endanger public safety.
- (e) Unavoidable impacts of dredging, filling and/or excavation shall be mitigated as required by this Program.
- (f) Dredge material shall be disposed in legally established upland locations away from the shoreline and should be coordinated with appropriate agencies.
- (4) Shoreline Stabilization
- (a) New or expanded bioengineered shoreline stabilization (also known as bio-stabilization) shall be permitted.
 - (b) New or expanded hard structural shoreline stabilization may be allowed with a conditional use permit only when alternatives to structural shoreline

stabilization including natural, flexible methods, native plant vegetative stabilization, and other forms of bioengineering and bio-stabilization are determined to be infeasible or insufficient to protect the structure, and when required to protect:

- (i) Projects whose primary purpose is remediating hazardous substances pursuant to RCW 70.105 when non-structural approaches such as vegetation planting and/or onsite drainage improvements are not feasible or do not provide sufficient protection.
 - (ii) Structures that provide public access for substantial numbers of people.
 - (iii) Existing single-family residences provided there is conclusive evidence, documented by a geotechnical analysis, that the primary structure is in danger of shoreline erosion caused by currents or waves and not caused by normal sloughing, vegetation removal, or poor drainage.
- (c) When allowed pursuant to SMC 25.08.020(4)(b), structural shoreline stabilization must meet all of the following requirements:
- (i) The impacts can be mitigated in accordance with the mitigation sequencing prescribed by the Program such that there is no net loss of shoreline ecological functions or processes; and
 - (ii) The size of shoreline stabilization structure shall be limited to the minimum necessary to protect the primary structure/use. Shoreline stabilization shall be designed by a state licensed professional geotechnical engineer and/or engineering geologist and constructed according to applicable state and federal laws; and
 - (iii) The shoreline stabilization shall be constructed using fish-friendly design elements and maintained in a manner that does not degrade the quality of affected waters; and
 - (iv) No motor vehicles, appliances, similar structures nor parts thereof, nor structure demolition debris, nor any other solid waste shall be used for shoreline stabilization; and
 - (v) Bulkheads and other similar hard stabilization structures shall be located so as to tie in flush with existing bulkheads on adjoining properties, except in instances where the adjoining bulkheads do not comply with the design or location requirements set forth in this Program; and
 - (vi) The shoreline stabilization shall be designed and constructed with gravel backfill and weep holes so that natural downward movement of surface or ground water may continue without ponding or saturation.

(d) Bulkheads on shores exposed to significant wave action shall be designed to dissipate wave energy and scouring.

(e) Stairs or other permitted pedestrian access structures may be built into a bulkhead but shall not extend waterward of it.

(f) Geotechnical analysis required pursuant to this section shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. Hard armoring shall not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three (3) years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions.

(g) When evaluating the need for structural shoreline stabilization, the Director shall consider alternatives to structural stabilization in the following order of preference:

(i) No action (allow the shoreline to retreat naturally).

(ii) Increased building setback.

(iii) Use of flexible defense works constructed of natural materials including bioengineered shoreline protection, bio-stabilization, protective berms, or vegetative stabilization.

(h) When evaluating a proposal against the above priority system, at a minimum the following site elements shall be considered:

(i) Existing topography; and

(ii) Existing development; and

(iii) Location of abutting bulkheads; and

(iv) Impacts to habitat.

(i) An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect primary uses or structures from erosion caused by currents or waves. The replacement shall require a shoreline substantial development permit.

(j) Replacement shoreline stabilization shall not encroach waterward of the ordinary high water mark or the existing stabilization structure unless the primary use being protected is a residence that was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

~~(j)~~(k) Existing shoreline stabilization structures that are being replaced shall be removed unless removing the structure will cause more environmental harm than leaving it in place.

~~(k)~~(l) Subdivisions shall be designed to assure that future development of the established lots will not require structural shoreline stabilization. Use of a bulkhead, revetment or similar structure to protect a platted lot where no structure presently exists shall be prohibited.

~~(l)~~(m) Gabions shall not be used to stabilize shorelines because of their limited durability and the potential hazard to shoreline users and the shoreline environment.

~~(m)~~(n) Breakwaters, jetties, rock weirs, groins and similar structural modifications shall be prohibited.

~~(n)~~(o) When permitted, revetments or similar hard structures shall be placed landward of associated wetlands.

(5) In assessing compliance with the provisions of this section, the Director shall require the applicant or project sponsor to provide technical reports that describe alternatives to structural approaches and analyze the environmental effects of each alternative. Technical reports shall be prepared by a Washington State licensed engineer and/or a qualified biologist as appropriate. The reports shall meet the application requirements of SMC 20.05 (Procedures for Land Use Permit Applications, Public Notice, Hearings and Appeals).

25.08.030 Lake Sammamish Use-specific Regulations

All uses and development in the Lake Sammamish shoreline jurisdiction shall adhere to the following regulations, as applicable according to the specific use, and all other regulations of this Program.

(1) Residential Use – All Lake Sammamish shoreline environments

The following regulations apply to all residential uses and developments within the Lake Sammamish shoreline jurisdiction including private recreational uses on private lots that do not have an existing residential structure. Residential use requirements specific to the Urban Conservancy and Shoreline Residential environments are detailed in sections 25.08.030(2) and 25.08.030(3), respectively.

(a) Single-family residential use is a preferred shoreline use and shall be permitted in Urban Conservancy and Shoreline Residential environments when consistent with this Program and the Act, including the goal to ensure no net loss of shoreline ecological functions.

(b) Residential development and normal appurtenances shall be located sufficiently landward of the ordinary high water mark to preclude the need for

new structural shoreline stabilization and/or flood protection for the useful life of the structure.

(c) Residential developments on existing lots equal to or less than three thousand (3,000) square feet (SF) in size shall be limited to one of the following:

(i) No more than thirty percent (30%) total impervious surface area and no more the twenty-five (25) feet in height above average grade; or

(ii) No more than twenty-five percent (25%) total impervious surface area and no more the thirty-five (35) feet in height above average grade.

(d) When implementing SMC 25.02.030(1)(c), the calculation of impervious surface area shall include only those portions of the lot landward of the ordinary high water mark. The height limit shall apply to the primary residential structure.

(e) New residential development, including all accessory structures other than docks, piers, lifts and floats allowed pursuant to SMC 25.08.020(2), shall be prohibited in, on, or over water or within floodways. Floating homes shall be prohibited.

(f) As mandated by the RCW 90.58.320, no shoreline permit may be issued for any new or expanded building or structure of more than thirty five (35) feet above average grade level on shorelines that will obstruct the view of a substantial number of residences on areas adjoining such shorelines, except where overriding considerations of the public interest will be served.

(g) Interior setbacks within two hundred (200) feet of the Ordinary High Water Mark shall total fifteen percent (15%) of the width of the lot, with a minimum setback of five (5) feet on either side of the lot, and shall remain free of above ground structures, except fences. Fences within the shoreline buffer shall not exceed **forty-eight (48) inches** in height provided that fences shall not be located within wetlands or streams. Fences outside of the shoreline buffer, but within shoreline jurisdiction, shall not exceed seventy two (72) inches in height provided that fences shall not be located within wetlands or streams.

(h) Structures accessory to residential development, other than fences, shall be sited outside (landward of) the shoreline buffer and building setback, except that the following accessory structures may be allowed waterward of the buffer and setback without a shoreline variance when consistent with SMC 21A.50.352:

(i) Residential docks, piers, lifts, and/or floats allowed pursuant to SMC 25.08.020(2).

(ii) **Water-oriented accessory structures, excluding accessory dwelling units, in any portion of the shoreline buffer and setback provided that accessory structures are prohibited in, on or over water pursuant to SMC 25.08.030(1)(e) and that the maximum total footprint is one hundred fifty**

(150) square feet or less and no structure exceeds eight (8) feet in height above existing average grade level. Water-oriented structures within shoreline buffers shall be located to avoid areas of greater sensitivity and habitat value and Accessory structures shall not be located within wetlands or streams.

(2) Residential Use – Urban Conservancy Environment

In addition to Sections 25.08.010 (Lake Sammamish General Regulations), 25.08.020 (Lake Sammamish Shoreline Modification Regulations), and 25.08.030(1) (Residential Use – All Lake Sammamish shoreline environments), the following regulations will apply to all residential uses within the Lake Sammamish Urban Conservancy environment.

- (a) Subdivision of existing parcels shall be prohibited.
- (b) All new residential docks must maintain a minimum distance of two hundred (200) feet from all other existing docks.
- (c) Total impervious surface area shall not exceed thirty percent (30%) of the total parcel area, excluding any portion of the parcel waterward of the OHWM, provided that parcels smaller than three thousand (3,000) square feet in total size shall be subject to the impervious surface limits in SMC 25.08.030(1)(c).

(3) Residential Use – Shoreline Residential Environment

In addition to Sections 25.08.010 (Lake Sammamish General Regulations), 25.08.020 (Lake Sammamish Shoreline Modification Regulations), and 25.08.030(1) (Residential Use – All Lake Sammamish shoreline environments), the following regulations will apply to all residential uses within the Lake Sammamish Shoreline Residential environment.

- (a) Total impervious surface area shall not exceed forty percent (40%) of the total parcel area, excluding any portion of the parcel waterward of the OHWM, provided that parcels smaller than three thousand (3,000) square feet in total size shall be subject to the impervious surface limits in SMC 25.08.030(1)(c).
- (b) Subdivision shall be permitted only when all created lots have a minimum upland lot size of at least twelve thousand five hundred (12,500) square feet and a minimum width of eighty (80) feet.

(4) Recreational Use – All Lake Sammamish shoreline environments

Recreational use regulations apply to public lands where development of public recreational facilities is the primary land use. The recreational use and development requirements of this section (25.08.030(4)) apply to all Lake Sammamish shoreline environments. Recreational use and development requirements specific to the Urban Conservancy and Shoreline Residential environments are detailed in sections 25.08.030(5) and 25.08.030(6), respectively.

- (a) Public recreational development is a preferred shoreline use and shall be allowed when consistent with underlying zoning pursuant to SMC 21A.10, this

Program, and the Act, including the goal to ensure no net loss of shoreline ecological functions.

(b) Public recreational activities and facilities located within shoreline jurisdiction shall be water-oriented, and shall provide physical or visual access to the shoreline.

(c) The following water-oriented public recreational structures may be allowed waterward of the shoreline buffer and building setback without a shoreline variance when consistent with SMC 21A.50.352:

(i) Public docks, piers, and/or floats allowed pursuant to SMC 25.08.020(2).

(ii) Public picnic shelters and similar facilities for water enjoyment uses provided that such structures are prohibited in wetlands and streams, or in, on or over water, and that the maximum total footprint of all structures per lot is five hundred (500) square feet and that no structure exceeds ten (10) feet above existing average grade level.

(d) Non-water-oriented public recreational development shall be located outside of the shoreline buffer and building setback, as specified in SMC 21A.50.351. Shoreline buffer reduction for non-water-oriented public recreational development shall require a shoreline variance except as allowed under SMC 21A.50.351(3).

(e) Public recreational developments shall provide for non-motorized access to the shoreline (e.g., pedestrian and/or bicycle paths), unless such access is infeasible due to public health and safety considerations.

(f) Proposals for public recreational developments shall include a landscape plan that uses plant species to be approved by the City. Landscape plans shall incorporate the use of native, self-sustaining vegetation.

(5) Recreational Use – Urban Conservancy environment

In addition to Sections 25.08.010 (Lake Sammamish General Regulations), 25.08.020 (Lake Sammamish Shoreline Modification Regulations), and 25.08.030(4) (Recreational Use – All Lake Sammamish shoreline environments), the following regulations will apply to all recreational uses and development within the Lake Sammamish Urban Conservancy environment.

(a) The total area of new impervious surface associated with any new public recreational development shall not exceed thirty (30) percent of the total parcel area, excluding any portion of the parcel waterward of the OHWM.

(6) Recreational Use – Shoreline Residential environment

In addition to Sections 25.08.010 (Lake Sammamish General Regulations), 25.08.020 (Lake Sammamish Shoreline Modification Regulations), and 25.08.030(4) (Recreational Use – All Lake Sammamish shoreline environments), the following regulations will apply to all recreational uses and development within the Lake Sammamish Shoreline Residential environment.

- (a) The total area of new impervious surface associated with any new public recreational development shall not exceed forty (40) percent of the total parcel area, excluding any portion of the parcel waterward of the OHWM.

(7) Transportation – All Lake Sammamish shoreline environment

Transportation regulations shall apply to any use or development where transportation infrastructure is or is proposed to be a primary land use, including new or expanded roadways, trails, and parking facilities. Transportation regulations shall not apply to residential access drives, which are accessory to residential use. The transportation regulations of this section apply to all Lake Sammamish shoreline environments.

- (a) Transportation uses and development shall be carried out in a manner that maintains or improves State water quality standards for receiving waters through implementation of state and City stormwater regulations.
- (b) New transportation facilities and improvements to existing transportation facilities, not including trails, shall be located outside of the shoreline buffer and any required building setback. Any required impacts within the shoreline buffer shall meet standards of mitigation, as specified by this Program and SMC 21A.50.
- (c) New roads shall be located to minimize the need for routing surface waters into and through culverts.
- (d) New transportation facilities shall be located and designed to preclude the need for shoreline stabilization.
- (e) Parking in shoreline areas shall be limited to that which directly serves a permitted shoreline use including on-street parking where otherwise allowed in SMC Title 14 (Public Utilities and Transportation) and Title 21A. Parking as a primary use shall be prohibited.
- (f) Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading and alteration of topography and natural features. Roadway and driveway alignment shall follow the natural contours and minimize width to the maximum extent feasible.
- (g) Parking facilities shall be located and designed to minimize adverse environmental impacts, including, but not limited to:

- (i) Stormwater runoff;
- (ii) Water quality;

(iii) Visual qualities; and

(iv) Public access.

(h) Parking is prohibited on structures located in, on or over water.

(8) Utilities – All Lake Sammamish Shoreline Environments

Utility regulations shall apply to any use or development where utility infrastructure is or is proposed to be the primary land use. The utility regulations of this section apply to all Lake Sammamish shoreline environments.

(a) Utility facilities shall provide for multiple use of sites and rights-of-way, except in instances where multiple use would unduly interfere with utility operations, endanger public health and safety, or create a significant and disproportionate liability for the owner.

(b) When feasible, utility lines shall use existing rights-of-way, corridors and/or bridge crossings and shall avoid duplication and construction of new or parallel corridors in all shoreline areas.

(c) Conveyance utilities shall be placed underground or alongside or under bridges except where the presence of bedrock or other obstructions make such placement infeasible.

(d) Transmission and distribution facilities shall cross areas of shoreline jurisdiction by the shortest, most direct route feasible, unless such route would cause significant environmental damage.

(e) Utility developments shall be located and designed so as to avoid or minimize the use of structural shoreline stabilization.

(f) All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, except in situations where no other feasible alternative exists. In those limited instances when permitted, automatic shut-off valves shall be provided on both sides of the water body.

(g) Clearing of vegetation for the installation or maintenance of utilities shall be minimized and disturbed areas shall be restored following project completion consistent with the requirements of City stormwater management regulations.

Chapter 25.09 Pine Lake and Beaver Lake Regulations

25.09.010 Pine and Beaver Lake General Regulations

Unless otherwise stated, the following regulations apply to all uses and development within the Pine Lake and Beaver Lake shoreline jurisdictions regardless of shoreline environment designation.

(1) Archaeological, Historic and Cultural Resources

- (a) Upon receipt of application for a shoreline permit or request for a statement of exemption for a development proposal located on or adjacent to a City of Sammamish historic, cultural, or archeological resource, the application or request shall be additionally processed pursuant to the requirements of SMC 21.10.120 (Historic Resources - review process).
- (b) Whenever historic, cultural or archaeological sites or artifacts are inadvertently discovered during shoreline development, work on that portion of the development site shall be stopped immediately, the site secured and the discovery reported as soon as possible to the Director. Upon notification of such find, the property owner shall notify the Washington State Department of Archaeology and Historic Preservation, and the Director shall notify the historic preservation officer and shall require a site investigation to determine the significance of the discovery. Based upon the findings of the site investigation and consultation with the historic preservation officer and the Washington State Department of Archaeology and Historic Preservation, the Director may require that an immediate site assessment be conducted or may allow stopped work to resume.

(2) Critical Areas and Environmental Protection

- (a) Unless otherwise stated, all shoreline development and uses shall comply with the City's critical areas regulations in SMC 21A.50 and this Program.
- (b) A shoreline buffer of forty five (45) feet shall be established on Pine and Beaver Lakes to protect water quality, preserve aesthetic qualities, and maintain habitat values. Unless otherwise stated, all new shoreline uses and developments shall be located landward of the shoreline buffer plus a five (5) foot building setback. The buffer shall extend horizontally from the ordinary high water mark of the lake and shall be maintained in a vegetated condition as follows:
 - (i) Eighty percent (80%) of the significant trees within the entire shoreline buffer area must be retained. This requirement shall not apply to hazard trees as defined by this Program.
 - (ii) Fifteen percent (15%) of the total shoreline buffer area or at least two hundred (200) square feet may be used for 'active use' and not subject to any vegetation retention requirements other than SMC 25.09.010(2)(b)(i).
 - (iii) The area outside the 'active use' area defined in SMC 25.09.010(2)(b)(ii), shall be vegetated with trees and shrubs. Up to fifteen percent (15%) of the naturally vegetated area may be composed of non-native or ornamental plantings.
- (c) In addition to meeting the buffer requirements in 25.09.010(2)(b), seventy percent (70%) of the significant trees within shoreline jurisdiction must be

retained, provided that the Director may reduce this to fifty percent (50%) of significant trees if one or more of the following mitigation measures is implemented:

(i) The applicant/property owner compensates for the additional twenty percent (20%) tree removal by replacing the felled trees with coniferous trees at least eight (8) feet in height and deciduous trees at least one and one-half (1.5) inches in diameter (DBH) at a ratio of 2:1 such that two new trees are planted for each significant tree removed according to the requirements of SMC 21A.35.240 (Development Standards—Landscaping and Irrigation);

(ii) The applicant/property owner restores a portion of the shoreline as follows:

a. By removing an existing bulkhead located at, below, or within ten (10) feet landward of the lake's ordinary high water mark (OHWM) and restoring the shoreline to a natural or semi-natural state, including restoring topography, soil composition, and vegetation; or

b. By restoring the shoreline to a natural or semi-natural state through planting if no bulkhead is present and the shoreline is largely devoid of shrubs and trees.

(iii) The applicant/property owner earns at least fourteen (14) low impact development incentive points by implementing one or more of the LID techniques allowed in SMC 21A.85.040.

(d) An applicant for any new shoreline use or development shall mitigate adverse environmental impacts in accordance with SMC 21A.50 whether or not the use/development requires a shoreline permit or is exempt from a shoreline permit. Mitigation measures shall be implemented in the sequence prescribed in SMC 21A.50.135.

(e) ~~Prior to approving a new use or development, or verifying that a proposed use/development is exempt as defined by WAC 173-27-040, the Director may shall require the applicant to identify and evaluate the cumulative impacts of similar developments to assure that the no net loss standards of this Program are achieved.~~ The Director may condition any proposal as necessary to mitigate cumulative impacts and may deny a proposal if there is strong evidence that cumulative adverse effects can not be effectively mitigated.

(3) Public Access

(a) The City shall not require public access for any single-family residential development involving four (4) or fewer ~~than four (4)~~ lots/dwelling units, or for any use/development accessory to a single-family residential development involving ~~fewer than~~ four (4) or fewer lots/dwelling units.

(b) The City may require physical or visual public access for any of the following uses/developments:

(i) Where land is subdivided into more than four (4) lots/dwelling units/parcels; or

(ii) Where use/development occurs on public land or by any public entity, including public parks and public utility districts; or

(iii) Where use/development will create increased demand for public access to the shoreline; or

(iv) Where use/development will interfere with the public use of the lands or waters subject to the Act.

(c) When considering whether to require public access for a subdivision of more than four (4) lots/dwelling units, the City shall consider access options that avoid and minimize effects on the subdivision residents. Measures to mitigate impacts on adjoining uses shall include requiring only visual access from street ends for subdivisions of fewer than ten (10) lots/dwelling units and providing limited and controlled physical access for subdivisions of ten (10) or more lots/dwelling units.

(d) The City shall not require physical public access for any new use/development, including subdivisions of ten (10) or more lots/dwelling units, that meets one or more of the following conditions:

(i) The access would create unavoidable health or safety hazards to the public which cannot be prevented by practical means; or

(ii) The cost of providing the access or easement is unreasonably disproportionate to the long-term cost of the proposed development; or

(iii) The access would create environmental harm that cannot be mitigated; or

(iv) The access would create adverse and unavoidable conflict with the proposed use and/or adjacent uses in a way that cannot be mitigated; or

(v) The City has provided more effective public access through a public access planning process and plan as described in WAC 173-26-221(4)(c).

(e) Development of public access facilities in, on or over the water shall be constructed using materials that allow light penetration and do not contaminate water. Facilities in, on or over the water shall be of non-reflective materials that are compatible in terms of color and texture with the surrounding area. The underside of over-water facilities may incorporate reflective materials where necessary to reduce the effects of shadowing.

~~(e)~~(f) Public access shall be located adjacent to other public areas, accesses and connecting trails, and connected to the nearest public street end.

~~(f)~~(g) Public access facilities shall be maintained over the life of the use or development. Future actions by successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.

(4) Shoreline Vegetation Conservation

(a) To conserve shoreline vegetation, all new use and development shall comply with the buffer and setback standards established in SMC 25.09.010 (2).

(b) Water-oriented uses/development that, according to this Program, are specifically allowed to locate waterward of the standard shoreline buffer and building setback may be approved by the Director without a shoreline variance.

(c) Uses and development that require a reduction of the standard shoreline buffer shall require a shoreline variance.

(d) Aquatic weed control shall only occur when native plant communities and associated habitats are threatened or when an existing water-dependent use is restricted by the presence of weeds.

(e) Vegetation clearing shall be limited to the minimum necessary to accommodate approved shoreline uses or development. Vegetation management plans required pursuant to 25.09.010(2) shall include removal of noxious weeds and/or invasive species as necessary to facilitate establishment of a stable community of native plants.

(f) Vegetation conservation standards shall not limit or restrict the removal of hazard trees.

(5) Site Planning

(a) Site plans shall limit the amount of clearing, grading, and impervious surface to the minimum necessary to accommodate the allowed use/development.

(b) ~~Interior and e~~Exterior lighting shall be designed to minimize glare or other adverse effects that could infringe upon enjoyment or use of adjacent properties, public areas or roadways or cause adverse effects on fish and wildlife species and their habitats. Minimization measures shall include limits on light fixtures levels and use of light shields or other screening devices.

(6) Restoration

- (a) Ecological restoration projects shall be carried out in accordance with an approved restoration plan and in accordance with the policies and regulations of this Program.

(7) Water Quality, Stormwater, and Nonpoint Pollution

- (a) Shoreline use and development within the Pine Lake subbasin and Beaver Lake management district shall be conducted in accordance with the provisions of SMC 21A.50.355.

- (b) Shoreline uses and development shall incorporate all known, available, and reasonable methods of preventing, controlling, and treating stormwater to protect and maintain surface and ground water quantity and quality in accordance with SMC 15.05 (Surface Water Management) and other applicable laws.

- (c) Best management practices (BMPs) for controlling erosion and sedimentation and preventing pollutants from entering shoreline waterbodies shall be implemented for all new uses/development.

- (d) To avoid water quality degradation by malfunctioning or failing septic systems located in the shoreline jurisdiction, on-site sewage systems shall be located, designed, and maintained to meet all applicable water quality, utility, and health standards.

- (e) All materials that may come in contact with water shall be constructed of ~~untreated~~ WDFW-approved materials including approved wood, concrete, steel or other ~~approved~~ non-toxic materials. Materials used for dock decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic or pentachlorophenol is prohibited in shoreline water bodies.

25.09.020 Pine and Beaver Lake Shoreline Modification Regulations

The following regulations shall apply to all uses and developments that require modification of the Pine or Beaver Lake shorelines.

(1) Boat Launch Ramps and Rails

- (a) Launch ramps and rails associated with private residential development shall be prohibited on the Pine and Beaver shorelines. Piers, docks, floats or other forms of moorage shall not be permitted for residential waterfront lots that have existing launch ramps or rails. Exiting launch ramps and rails may be repaired or maintained in accordance with the non-conforming use provisions of 25.10.100.3.

- (b) Launch ramps and rails associated with public recreational uses shall be allowed as a conditional use on the Pine and Beaver shorelines.

(c) Launch ramps or rails shall be anchored to the ground through the use of tie-type construction. Asphalt, concrete, or other ramps which solidly cover the water body bottom are prohibited.

(d) No portion of a public launch ramp or rail shall be placed or shall extend more than sixty (60) feet waterward of the ordinary high water mark.

(e) No portion of a public launch ramp or rail shall be placed or extended to a depth greater than eight (8) feet below the ordinary high water mark.

(2) Docks, Piers, Floats, Boat Lifts, and Mooring Buoys

(a) Public and private docks, piers, lifts, floats, and mooring buoys may be permitted on the Pine and Beaver shorelines provided they meet the requirement of this section and SMC 25.09.030.

(b) The following regulations shall apply to public recreational docks and piers on public lands:

(i) No public recreational dock or pier shall have more than three thousand (3,000) square feet of over-water surface area.

(ii) No public recreational float on public land shall have more than one hundred fifty (150) square feet of surface area.

(c) The following regulations shall apply to private docks, piers, floats, lifts and mooring buoys accessory to single-family residential use/development and/or those that are developed as private shared facilities:

(i) Private docks, piers, and lifts shall be allowed only when the applicant has demonstrated a need for moorage and when commercial moorage, joint use or shared moorage, and/or mooring buoys are not available or feasible.

(ii) Docks and piers shall be the minimum size required to provide for moorage and shall not exceed three (3) feet in height above the extreme high water level.

(iii) The waterward extent of any new dock, pier, or in-water/overwater moorage structure shall not be greater than the average distance of the nearest docks on either side as measured perpendicularly from the ordinary high water mark, provided that the mean water depth at the waterward-most extent of the dock is at least eight (8) feet.
~~No dock, pier, or in-water/overwater moorage structure shall be allowed to extend further waterward than the average distance of the nearest docks on either side of the location of the new dock/pier as measured perpendicularly from the ordinary high water mark.~~
The City may require a shorter dock length if needed to ensure adequate spacing between docks on opposite or adjacent shorelines or if the proposed dock would otherwise create an obstruction.

(iv) In the Urban Conservancy environment, all new residential docks must maintain a minimum distance of two hundred (200) feet from all other existing docks.

(d) No pier, dock, float, or in-water/overwater moorage structure shall be wider than fifty percent (50%) of the lot width at the waterfront edge with which it is associated.

(e) No pier, dock, float, or in-water/overwater moorage structure shall be located closer than fifteen (15) feet from the side property line extended, except that joint-use piers, docks, lifts and floats may abut property lines for the common use of adjacent property owners when mutually agreed to by the property owners in a contract recorded with the King County division of records and elections.

(f) For each residential lot, no more than one of each of the following overwater structures may be allowed: one residential dock/pier, one lift and one float. For two or more adjoining residential lots utilizing a joint-use dock/pier, lift, and/or float, no more than one joint-use dock/pier, one lift and one float may be allowed per residential lot, or one joint-use dock/pier, one lift and one float for two or more adjoining residential lots shall be allowed.

(g) A ~~No covered~~ pier, dock, lift, float, or other moorage structure shall may be covered provided that that cover is made of translucent material. Only one covered moorage structure may be allowed per residential lot be permitted waterward of the ordinary high water mark.

(h) No float shall have more than one hundred fifty (150) square feet of surface area.

(i) No dwelling unit may be constructed on a pier, dock, float or other moorage structure.

(j) The use of fill to construct docks, piers, and floats shall only be allowed pursuant to the requirements of SMC 25.09.020(3).

(k) When existing docks or piers are repaired, replaced or reconstructed, owners shall be required to replace ~~treated~~ wood treated with or other harmful materials ~~that come in contact with water~~ with untreated WDFW-approved materials including approved wood, non-polluting concrete, plastic or steel as follows:

(i) When the repair and/or replacement involves ten percent (10%) or less of the dock/pier area or ten percent (10%) or less of the number of pilings, no change in dock materials is required.

(ii) When the repair and/or replacement involves eleven to twenty-nine percent (11-29%) of the dock/pier area or eleven to twenty-nine percent (11-

29%) of the number of pilings, the use of non-treated materials for all replacement parts and components shall be required.

(iii) When the repair/replacement involves thirty percent (30%) or more of the dock/pier area or more than thirty percent (30%) of the number of pilings, the entire structure shall be replaced with non-treated materials.

(iv) When the repair/replacement involves more than thirty percent (30%) of the dock/pier area or more than thirty percent (30%) of the existing pilings during any ten (10) year period, the use of non-treated materials for the entire dock shall be required.

(v) When the existing dock/pier is moved or expanded or the shape reconfigured, the entire dock shall be replaced with non-polluting concrete, untreated wood, plastic or steel materials.

(3) Dredging, Filling and Excavation

(a) Dredging, filling, and/or excavation waterward of the OHWM may be allowed when necessary to support the following:

- (i) Publically sponsored ecological restoration or enhancement projects; or
- (ii) City-approved restoration and mitigation projects that involve bulkhead removal and/or shoreline vegetation enhancement; or
- (iii) Bio-engineered shoreline stabilization projects, including bio-engineered shoreline stabilization associated with private residential developments.

(b) Dredging, filling, and/or excavation waterward of the OHWM may be allowed with a conditional use permit when necessary to support the following:

- (i) Alteration, maintenance and/or repair of existing transportation facilities and utilities currently located within shoreline jurisdiction, when alternatives or less impacting approaches are not available; or
- (ii) Publically sponsored non-restoration projects that provide public access for a substantial number of people; or
- (iii) Construction of public docks/piers for public water-dependent recreational use, provided that the dredging, filling and/or excavation are limited to the minimum needed to accommodate the public dock/pier.

(c) Except as allowed in SMC 25.09.020(3)(b), dredging, filling, and/or excavation waterward of the OHWM associated with construction of a residence or any structure accessory to a residential development/use shall be prohibited.

- (d) When permitted, dredging, filling and excavation activities must comply with all of the following standards:
- (i) Alternatives to dredging, filling and excavation are determined to be infeasible; and
 - (ii) Normal surface water movement and drainage patterns shall be maintained to the maximum extent feasible; and
 - (iii) Fill materials shall not adversely affect water quality; and
 - (iv) Fill shall allow surface water penetration into the ground where such conditions existed prior to the fill; and
 - (v) The dredging, filling and/or excavation shall be timed to minimize damage to shoreline ecological functions and processes and aquatic life; and
 - (vi) Fill within the one hundred-year (100-year) floodplain shall not reduce the flood plain water storage capacity or in any way increase flood hazard or endanger public safety; and
 - (vii) Unavoidable impacts of dredging, filling and/or excavation shall be mitigated as required by this Program; and
 - (viii) Dredge material shall be disposed in legally established upland locations away from the shoreline and should be coordinated with appropriate agencies.

(4) Shoreline Stabilization

- (a) New or expanded bioengineered shoreline stabilization (also known as bio-stabilization) shall be permitted.
- (b) New or expanded hard structural shoreline stabilization may be allowed with a conditional use permit only when alternatives to structural shoreline stabilization including natural, flexible methods, native plant vegetative stabilization, and other forms of bioengineering and bio-stabilization are determined to be infeasible or insufficient to protect the structure, and when required to protect:
 - (i) Projects whose primary purpose is remediating hazardous substances pursuant to RCW 70.105 when non-structural approaches such as vegetation planting and/or onsite drainage improvements are not feasible or do not provide sufficient protection.
 - (ii) Structures that provide public access for substantial numbers of people.

(iii) Existing single-family residences provided there is conclusive evidence, documented by a geotechnical analysis, that the primary structure is in danger of shoreline erosion caused by currents or waves and not caused by normal sloughing, vegetation removal, or poor drainage.

(c) When allowed pursuant to SMC 25.08.020(4)(b), structural shoreline stabilization must meet all of the following requirements:

(i) The impacts can be mitigated in accordance with the mitigation sequencing prescribed by the Program such that there is no net loss of shoreline ecological functions or processes; and

(ii) The size of shoreline stabilization structure shall be limited to the minimum necessary to protect the primary structure/use. Shoreline stabilization shall be designed by a state licensed professional geotechnical engineer and/or engineering geologist and constructed according to all applicable laws; and

(iii) The shoreline stabilization shall be constructed and maintained in a manner that does not degrade the quality of affected waters; and

(iv) No motor vehicles, appliances, similar structures nor parts thereof, nor structure demolition debris, nor any other solid waste shall be used for shoreline stabilization; and

(v) Bulkheads and other similar hard stabilization structures shall be located so as to tie in flush with existing bulkheads on adjoining properties, except in instances where the adjoining bulkheads do not comply with the design or location requirements set forth in this Program; and

(vi) The shoreline stabilization shall be designed and constructed with gravel backfill and weep holes so that natural downward movement of surface or ground water may continue without ponding or saturation.

(d) Stairs or other permitted pedestrian access structures may be built into a bulkhead but shall not extend waterward of it.

(e) The geotechnical analysis required pursuant to this section shall include an assessment of on-site drainage and related issues and shall indicate whether the primary structure is likely to be damaged within three (3) years.

(f) Geotechnical analysis required pursuant to this section shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. Hard armoring shall not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three (3) years as a result of shoreline erosion in the absence of such hard armoring measures, or where

waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions.

(g) When evaluating the need for structural shoreline stabilization, the Director shall consider alternatives to structural stabilization in the following order of preference:

- (i) No action (allow the shoreline to retreat naturally).
- (ii) Increased building setback.
- (iii) Use of flexible defense works constructed of natural materials including bio-engineered shoreline protection, biostabilization, protective berms, or vegetative stabilization.

(h) When evaluating a proposal against the above priority system, at a minimum the following site elements shall be considered:

- (i) Existing topography; and
- (ii) Existing development; and
- (iii) Location of abutting bulkheads; and
- (iv) Impacts to habitat.

(i) An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect primary uses or structures from erosion caused by currents or waves. The replacement shall require a shoreline substantial development permit. Replacement shoreline stabilization shall not encroach waterward of the ordinary high water mark or the existing stabilization structure unless the primary use being protected is a residence that was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

(j) Existing shoreline stabilization structures that are being replaced shall be removed from the shoreline unless removing the structure will cause more environmental harm than leaving it in place.

(k) Subdivisions shall be designed to assure that future development of the established lots will not require structural shoreline stabilization. Use of a bulkhead, revetment or similar structure to protect a platted lot where no structure presently exists shall be prohibited.

(l) Gabions shall be prohibited on shorelines because of their limited durability and the potential hazard to shoreline users and the shoreline environment.

- (m) Breakwaters, jetties, rock weirs, groins and similar structural modifications shall be prohibited.
- (n) When permitted, revetments or similar hard structures shall be placed landward of associated wetlands.
- (o) In assessing compliance with the provisions of this section, the Director shall require the applicant or project sponsor to provide technical reports that describe alternatives to structural approaches and analyze the environmental effects of each alternative. Technical reports shall be prepared by a Washington State licensed engineer and/or a qualified biologist as appropriate. The reports shall meet the application requirements of SMC 20.05 (Procedures for Land Use Permit Applications, Public Notice, Hearings and Appeals).

25.09.030 Pine and Beaver Lake Use-specific Regulations

All development and use in the Pine Lake or Beaver Lake shoreline jurisdiction shall adhere to the following regulations, as applicable, according to the specific use, and all other regulations of this Program.

(1) Residential Use – All Pine and Beaver Lake shoreline environments

The following regulations apply to all residential use and developments within the Pine and Beaver shorelines regardless of environment designation including private recreational uses on private lots that do not have an existing residential structure. Residential use requirements specific to the Urban Conservancy and Shoreline Residential environments are detailed in sections 25.09.030(2) and 25.09.030(3), respectively.

- (a) Single-family residential use is a preferred shoreline use and shall be permitted when consistent with this Program and the Act, including the goal to ensure no net loss of shoreline ecological functions.
- (b) Residential development and normal appurtenances shall be located sufficiently landward of the ordinary high water mark to preclude the need for new structural shoreline stabilization and/or flood protection for the useful life of the structure.
- (c) New residential development, including all accessory structures other than docks, piers, lifts and floats allowed pursuant to SMC 25.09.020(2), shall be prohibited in, on, or over water or within floodways. Floating homes shall be prohibited.
- (d) As mandated by the RCW 90.58.320, no shoreline permit may be issued for any new or expanded building or structure of more than thirty five (35) feet above average grade level on shorelines that will obstruct the view of a substantial number of residences on areas adjoining such shorelines, except where overriding considerations of the public interest will be served.

(e) Interior setbacks within two hundred (200) feet of the Ordinary High Water Mark shall total fifteen percent (15%) of the width of the lot, with a minimum setback of five (5) feet on either side of the lot, and shall remain free of above ground structures, except fences. Fences within the shoreline buffer shall not **exceed forty-eight (48) inches** in height provided that fences shall not be located within wetlands or streams. Fences outside of the shoreline buffer, but within shoreline jurisdiction shall not exceed seventy two (72) inches in height provided that fences shall not be located within wetlands or streams.

(f) Structures accessory to residential development, other than fences, shall be sited outside (landward of) the shoreline buffer and building setback, except that the following accessory structures may be allowed waterward of the buffer and setback without a shoreline variance when consistent with SMC 21A.50.352:

(i) Residential docks, piers, lifts, and/or floats allowed pursuant to SMC 25.08.020(2).

(ii) Water-oriented accessory structures, excluding accessory dwelling units, in any portion of the shoreline buffer and setback provided that accessory structures are prohibited in, on or over water pursuant to SMC 25.09.030(1)(c) and that the maximum total footprint is one hundred fifty (150) square feet or less and no structure exceeds eight (8) feet in height above existing average grade level. Water-oriented accessory structures shall be located to avoid areas of greater sensitivity and habitat value and shall not be located within wetlands or streams.

(g) As mandated by RCW 90.58.320, no shoreline permit may be issued for any new or expanded building or structure of more than thirty five (35) feet above average grade level on shorelines that will obstruct the view of a substantial number of residences on areas adjoining such shorelines, except where overriding considerations of the public interest will be served.

(2) Residential Use – Urban Conservancy environments

In addition to Sections 25.09.010 (Pine and Beaver Lake General Regulations), 25.09.020 (Pine and Beaver Lake Shoreline Modification Regulations) and 25.09.030(1) (Residential Use – All Pine and Beaver Lake shoreline environments), the following regulations will apply to all residential uses within the Pine Lake and Beaver Lake Urban Conservancy environment.

(a) Subdivision of existing parcels shall be prohibited.

(b) The total area of all new impervious surface shall not exceed fifteen (15) percent of the total parcel area, excluding any portion of the parcel waterward of the OHWM.

(c) All new residential docks must maintain a minimum distance of two hundred (200) feet from all other existing docks.

(3) Residential Use – Shoreline Residential environments

In addition to Sections 25.09.010 (Pine and Beaver Lake General Regulations), 25.09.020 (Pine and Beaver Lake Shoreline Modification Regulations), and 25.09.030(1) (Residential Use – All Pine and Beaver Lake shoreline environments), the following regulations will apply to all residential uses within the Pine Lake and Beaver Lake Shoreline Residential environment.

- (a) The minimum lot width required for subdivision shall be sixty (60) feet and landward portion of all lots created through subdivision shall have a minimum size of twelve thousand five hundred (12,500) square feet, provided that all other regulations of this Program, SMC 21A.25, King County Health, and the Washington State Department of Health (septic system siting standards) are met.
- (b) The total area of all new impervious surface associated with new residential development shall not exceed thirty (30) percent of the total parcel area, excluding any portion of the parcel waterward of the OHWM.

(4) Recreational Use – All shoreline environments

Recreational use regulations apply to public lands where development of public recreational facilities is the primary land use. The recreational use requirements of this section apply to all Pine Lake and Beaver Lake shoreline environments. Recreational use requirements specific to the Urban Conservancy and Shoreline Residential environments are detailed in SMC 25.09.030(5) and 25.09.030(6), respectively.

- (a) Public recreational development is a preferred shoreline use and shall be allowed when consistent with underlying zoning pursuant to SMC 21A.10, this Program, and the Act, including the goal to ensure no net loss of shoreline ecological functions.
- (b) Public recreational activities and facilities located within shoreline jurisdiction shall be water-oriented, and shall provide physical or visual access to the shoreline.
- (c) The following public water-oriented recreational structures may be allowed waterward of the shoreline buffer and building setback without a shoreline variance when consistent with SMC 21A.50.352:
 - (i) Public docks, piers, and/or floats allowed pursuant to SMC 25.09.020(2).
 - (ii) Public picnic shelters and similar facilities for water enjoyment uses provided that such structures are prohibited in, on or over water and are prohibited within wetlands and streams, and that the maximum total footprint of all structures per lot is five hundred (500) square feet and that no structure exceeds ten (10) feet above existing average grade level.

- (d) Non-water-oriented public recreational development shall be located outside of the shoreline buffer and setback and any required building setback, as specified in SMC 21A.50.351. Shoreline buffer reduction for non-water-oriented public recreational development shall require a shoreline variance.
 - (e) Public recreational developments shall provide for non-motorized access to the shoreline (e.g., pedestrian and/or bicycle paths), unless such access is infeasible due to public health and safety considerations.
 - (f) Proposals for public recreational developments shall include a landscape plan that uses plant species to be approved by the City. Landscape plans shall incorporate the use of native, self-sustaining vegetation.
 - (g) All temporary and/or permanent impacts to the shoreline buffer required for development of recreational facilities shall meet standards of mitigation, as specified by this Program and SMC 21A.50.
 - (h) The total area of new impervious surface associated with any new public recreational development shall not exceed thirty (30) percent of the total parcel area, excluding any portion of the parcel waterward of the OHWM.
 - (i) Public recreational facilities with playing fields or with impervious surfaces shall incorporate appropriate means to prevent erosion, control runoff, and prevent chemicals and sediment from entering water bodies per the standards of SMC 15.05 (Surface Water Management).
- (5) Transportation – All shoreline environments
- (a) The transportation regulations in SMC 25.08.020 (7) (Lake Sammamish shoreline use-specific regulations) shall apply to all Pine Lake and Beaver Lake shoreline environments.
- (6) Utilities – All shoreline environments
- (a) The utility regulations SMC 25.08.020 (8) (Lake Sammamish shoreline use-specific regulations) shall apply to all Pine Lake and Beaver Lake shoreline environments.

Chapter 25.10 Permit Criteria and Administrative Standards

25.10.010 Permits – General Regulations

- (1) To be authorized under this Program, all uses and developments shall be planned and carried out in a manner that is consistent with SMC and this Program regardless of whether a shoreline substantial development permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.
- (2) The City shall not issue any permit for development within shoreline jurisdiction until approval has been granted pursuant to this Program. Any development subsequently authorized by the City shall be subject to the same terms and conditions which apply to the development authorized pursuant to this Program.
- (3) When a development or use is proposed that does not comply with the bulk, dimensional and/or performance standards of this Program, such development or use may only be authorized by approval of a shoreline variance even if the development or use does not require a substantial development permit.
- (4) A development or use that is listed as a conditional use pursuant to this Program, or is an unlisted use, must obtain a conditional use permit even if the development or use does not require a substantial development permit.
- (5) Issuance of a shoreline substantial development permit, shoreline variance or shoreline conditional use permit does not constitute approval pursuant to any other federal, state or City laws or regulations.
- (6) All shoreline permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Director, documenting compliance with bulk and dimensional policies and regulations of this Program. The director may attach conditions to the approval as necessary to assure consistency with the RCW 90.58 and this Program. Such conditions may include a requirement to post a performance bond assuring compliance with permit requirements, terms and conditions.
- (7) No permit shall be issued for any new or expanded building or structure of more than thirty five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where this Program does not prohibit the same and then only when overriding considerations of the public interest will be served.

25.10.020 Permits – Substantial Development

- (1) Substantial development as defined by RCW 90.58.030 shall not be undertaken by any person on the shorelines of the state without first obtaining a

substantial development permit from the director, unless the use or development is specifically identified as exempt from a substantial development permit.

(2) The director may grant a substantial development permit only when the development proposed is consistent with the policies and procedures of RCW.90.58; the provisions of this WAC 173-27; and this Program.

(3) The director is authorized to grant a shoreline substantial development permit when all of the criteria enumerated in WAC 173-27-150 are met.

25.10.030 Permits – Exemptions from a Substantial Development Permit

(1) Uses and developments that are not considered substantial developments pursuant to RCW 90.58.030(3)(e) and WAC 173-27-040 shall not require a substantial development permit but shall conform to the policies and regulations of this Program.

(2) If any part of a proposed development is not eligible for exemption as defined in RCW 90.58.030(3)(e) and WAC 173-27-040, then a substantial development permit is required for the entire proposed development project.

(3) Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.

(4) The burden of proof that a development or use is exempt is on the applicant or proponent of the development action.

(5) The holder of a certification from the governor pursuant to RCW 80.50 shall not be required to obtain a permit under this Program.

25.10.040 Permits – Statements of Exemption

(1) The director is hereby authorized to grant or deny requests for statements of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in RCW 90.58.030 and WAC 173-27-040. The statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the director's analysis of the consistency of the project with this Program and the Act.

(2) Exempt activities related to any of the following shall not be conducted until a statement of exemption has been obtained from the director: dredging, flood control and in-water structures, archaeological or historic site alteration, clearing and ground disturbing activities such as filling and excavation, docks, shore stabilization, or free-standing signs.

- (3) The director shall have the authority to require a statement of exemption for any proposed development or use if s/he has cause to believe a substantial question exists as to qualifications of the specific use or development for the exemption or there is a likelihood of adverse impacts to shoreline ecological functions.
- (4) No written statement of exemption is required for emergency development pursuant to WAC 173-14-040(1)(d).
- (5) In accordance with WAC 173-27-040, statements of exemptions may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and Act.
- (6) A denial of an exemption shall be in writing and shall identify the reason(s) for the denial. In accordance with SMC 20.50.020(1)(a), the director's decision on a statement of exemption is not subject to administrative appeal.
- (7) Whenever the exempt activity also requires a U.S. Army 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, a copy of the written statement of exemption shall be sent to the applicant/proponent and Ecology pursuant to WAC 173-27-050.
- (8) Any person claiming exemption from the substantial development permit requirements shall make an application to the director for such an exemption in the manner prescribed by the director.

25.10.050 Permits – Shoreline Variance

- (1) The director is authorized to grant a variance from the performance standards of this master program only when all of the criteria enumerated in WAC 173-27-170 are met.
- (2) The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Program would impose unnecessary hardships on the applicant/proponent or thwart the policies set forth in RCW 90.58.020.
- (3) Shoreline variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.
- (4) The burden of proving that a proposed shoreline variance meets the criteria in WAC 173-27-170 shall be on the applicant. Absence of such proof shall be grounds for denial of the application.

(5) Proposals that qualify as a Reasonable Use Exception pursuant to SMC 21A.50.070(2) shall require a shoreline variance.

(6) In the granting of all shoreline variances, consideration shall be given to the cumulative environmental impact of 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 should also remain consistent with the policies of RCW 90.58.020 and should not produce significant adverse effects to the shoreline ecological functions and processes or other users.

(7) Before making a determination to grant a shoreline variance, the City shall consider issues related to the conservation of valuable natural resources, and the protection of views from nearby public roads, surrounding properties and public areas. Shoreline variance requests based on the applicant's/proponent's desire to enhance the view from the subject development may be granted where there are no likely detrimental effects to existing or future users, other features or shoreline ecological functions and/or processes, and where reasonable alternatives of equal or greater consistency with this Program are not available. Shoreline variances shall not be granted that allow a greater height or lesser shore setback than what is typical for the area immediately surrounding the development site.

(8) A variance from City development code requirements shall not be construed to mean a shoreline variance from shoreline master program use regulations and vice versa.

(9) Shoreline variances may not be used to permit a use or development that is specifically prohibited in an environment designation.

(10) The burden of proving that a proposed shoreline variance meets these conditions shall be on the applicant; absence of such proof shall be grounds for denial of the application.

(11) The fee that shall accompany an application for a shoreline variance shall be set forth by resolution.

25.10.060 Permits – Conditional Use

(1) The City is authorized to issue shoreline conditional use permits only when all the criteria enumerated in WAC 173-27-160 are met.

(2) The burden of proving that a proposed shoreline conditional use meets the criteria in WAC 173-27-160 shall be on the applicant. Absence of such proof shall be grounds for denial of the application.

(3) The City is authorized to impose conditions and standards to enable a proposed shoreline conditional use to satisfy the conditional use criteria.

25.10.070 Administration – General Standards

(1) Unless otherwise stated, this Program shall be administered according to the standards and criteria in RCW 90.58 and WAC 173-27.

25.10.080 Permit Process – Land Use Decision

(1) Shoreline substantial development permits, shoreline variances and shoreline conditional use permits shall be subject to all of the applicable requirements of SMC 20.05.

25.10.090 Permit Process – Appeals

(1) Appeals of the final decision of the City with regard to shoreline management shall be governed by the provisions of RCW 90.58.180.

(2) Appeals to the Shoreline Hearings Board of a decision on a shoreline substantial development permit, shoreline variance or shoreline conditional use permit may be filed by the applicant/proponent or any aggrieved party pursuant to RCW 90.58.180.

(3) The effective date of the City’s decision shall be the date of filing with the Department of Ecology as defined in RCW 90.58.140.

25.10.100 Non-conforming Use and Development – Alteration or Reconstruction

(1) Non-conforming Structures

(a) Structures that were legally established but which are non-conforming with regard to setbacks, buffers; area; bulk; height or density may be maintained, or repaired, provided that the maintenance/repair does not increase the extent of non-conformity by encroaching upon or extending into areas where new construction or use would not be allowed.

(b) Structures that are non-conforming to building setback and/or buffer requirements for shorelines, wetlands, streams, ponds or landslide hazard areas may undergo structural modification, addition, and/or replacement pursuant to SMC 21A.50.060, sections (1)(a) and (1)(b). Structure non-conformity for any reason other than building setback and/or buffer requirements for wetlands, streams, ponds or landslide hazard areas must comply with regulations (c) through (g) of this section.

(c) Voluntary additions to or reconstruction of ~~remodel, reconstruction, or renovation of the exterior portion of~~ an existing, legally established non-conforming structure is allowed provided that the addition or remodel, ~~reconstruction, or renovation~~ does not increase the degree of non-conformity subject to the following criteria:

(i) If the total area proposed for voluntary ~~remodel, addition or reconstruction, or renovation~~ is ~~less than~~ fifty percent (50%) ~~or less~~ of the original structure area (total square feet), property owner(s) would need to restore an equivalent portion of the shoreline buffer to offset the impact, such that the area of the reconstruction and/or addition is equal to the area of shoreline buffer restoration and/or enhancement.

(ii) If the total area of ~~modification~~ ~~addition or reconstruction~~ is greater than fifty ~~one~~ percent (50~~1~~%) of the existing structure and is less than or equal to seventy-five percent (75%) of the existing structure, the property owner(s) would be required to restore and/or enhance all available shoreline buffer area to offset the impact.

(iii) If the total area of ~~modification~~ ~~addition or reconstruction~~ is greater than seventy-five percent (75%) of the existing structure, the property owner(s) would need to relocate the structure to conform with the required buffer and setback provisions.

(d) The voluntary ~~remodel, addition or reconstruction, or renovation~~ standards in 25.10.100.1.c are not intended to apply to interior remodels, reconstruction, or renovations that do not modify the exterior footprint of the existing structure. Interior remodels, reconstruction, and renovations shall not require buffer restoration unless the exterior footprint of the structure is modified.

(e) If a property owner has successfully completed a shoreline restoration program pursuant to a separate City or state permit or approval, additional shoreline restoration shall not be required pursuant to 25.100.10.1.c.

(f) If a non-conforming structure is damaged by fire, explosion, or other casualty and/or natural disaster to an extent that is less than seventy-five percent (75%) of fair market value of the original structure, it may be reconstructed to those configurations existing immediately prior to the time the damage occurred provided that all of the following criteria are met:

(i) The owner(s) makes a good faith effort to initiate the redevelopment process, including initiating the permit application process, within twelve (12) months of the date the damage occurred.

(ii) All permits are obtained and the restoration is completed within two (2) years of permit issuance. This period may be extended for one additional year by the director if the applicant has submitted the applications necessary to establish the use or activity and has provided written justification for the extension.

(g) If a non-conforming structure is damaged by fire, explosion, or other casualty and/or natural disaster, to an extent exceeding seventy-five percent (75%) of fair market value of the original structure, it shall be reconstructed to

conform to the dimensional requirements of this Program unless there is no feasible means of meeting the dimensional standards, in which case it may be reconstructed to those configurations existing immediately prior to the time the damage occurred.

~~(f)~~(h) A structure for which a variance has been issued shall be considered a legal non-conforming structure and the requirements of this section shall apply as they apply to pre-existing non-conformities.

~~(g)~~(i) A non-conforming structure which is moved outside the existing footprint must be brought into conformance with this Program and RCW 90.58.

(2) Non-conforming Lots

(a) An undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established in accordance with local and state subdivision requirements prior to the effective date of the act or the applicable master program but which does not conform to the present lot size standards may be developed if permitted by other land use regulations so long as such development conforms to all other requirements of this Program.

(3) Non-conforming uses

(a) Uses that were legally established [as of XXX date] and are non-conforming with regard to the use regulations of this Program may continue as legal non-conforming uses.

(b) An existing use designated as a conditional use that lawfully existed prior to the adoption of this Program or the adoption of an applicable amendment hereto and which has not obtained a conditional use permit shall be considered a legal non-conforming use and may be continued subject to the provisions of this section without obtaining a conditional use permit.

(c) If a non-conforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming. A use authorized pursuant to subsection (6) of this section shall be considered a conforming use for purposes of this section.

25.10.110 Rules of Director

(1) The Director is authorized to adopt such rules as are necessary and appropriate to implement this Program. The Director may prepare and require the use of such forms as are necessary to its administration.

25.10.120 Enforcement, Violations and Penalties

- (1) The director is authorized to enforce the provisions of this title, the ordinances and resolutions codified in it, and any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions of WAC 173-27.
- (2) This Program will be enforced by the means and procedures set forth in SMC Title 23.

25.10.130 Initiation of Development

- (1) Development pursuant to a shoreline substantial development permit, shoreline variance, or shoreline conditional use shall not begin and shall not be authorized until twenty one (21) days after the "date of filing" or until all appeal proceedings before the Shoreline Hearings Board have terminated.

25.10.140 Permit Revisions

- (1) A permit revision is required whenever the applicant/proponent proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this Program or the Act. Changes that are not substantive in effect do not require a permit revision.
- (2) An application for a revision to a shoreline permit shall be submitted to the director. The application shall include detailed plans and text describing the proposed changes. The City shall review and process the request in accordance with the requirements of WAC 173-27-100.