Title 17B
SHORELINE MANAGEMENT REGULATIONS

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Chapter 17B.04
STATEMENT OF PURPOSE

Sections:

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17B.04.010 Purpose.

A. The city finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. Ever increasing pressures of additional uses are being placed on the shorelines, necessitating increased coordination in the management and development of the shorelines of the state. The city further finds that much of the shorelines in Mukilteo are in private ownership and that unrestricted construction on the privately owned or publicly owned lands is not in the best public interest. Therefore, coordinated planning is necessary in order to protect the public interest associated with shorelines while, at the same time, recognizing and protecting private property rights consistent with the public interest.

B. It is the policy of the city to provide for the management of the city shorelines by planning for and fostering all reasonable and appropriate uses. This policy is designed to ensure the development of these areas in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.

C. The city finds that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The city, in adopting regulations for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

1. Recognize and protect the statewide interest over local interest;

2. Preserve the natural character of the shoreline;

3. Result in long-term over short-term benefit;

4. Protect the resources and ecology of the shoreline;

5. Increase public access to publicly owned areas of the shorelines;

6. Increase recreational opportunities for the public in the shoreline;

7. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

D. In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline.

1. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state.

2. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the Department of Ecology through the shoreline permit process.

3. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definitions of "shorelines of the state" and "shorelands" shall not be subject to the provisions of Chapter 90.58 RCW, Shoreline Management Act of 1971. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.04.020 Adoption authority.

This title is hereby adopted as the city of Mukilteo shoreline management regulations and is adopted under the authority of Chapter 90.58 RCW, the Shoreline Management Act of 1971, and Chapter 173-27 WAC, Shoreline Management Act Guidelines for Development of Master Programs, as now or hereafter amended. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.04.030 Applicability.

The regulations of this title apply to all shorelines of the city and to the waters and underlying land of the Puget Sound extending to the middle of Puget Sound from the shoreline of the city between the northern and southern limits of the city and two hundred feet landward of such waters. Shoreline regulations shall apply to: (A) development on parcels that are located entirely within two hundred feet of the shoreline, associated wetlands, and floodplains, and (B) development on parcels where a portion of the project lies within two hundred feet of the shoreline, associated wetlands, and floodplains. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

Chapter 17B.08
DEFINITIONS

Sections:

17B.08.010 General.
17B.08.020 Definitions.

17B.08.010 General.

For the purposes of this title and to clarify the intent and meaning of certain words or terms, the following list of definitions is provided. All other words used in this title carry their customary meaning as defined in the Webster's dictionary. Words in the present tense include the future tense, and words in the singular tense include the plural and vice versa. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.08.020 Definitions.

"Act" means the Washington State Shoreline Management Act, Chapter 90.58 RCW.

"Adoption by rule" means an official action by the department to make a local government shoreline master program effective through rule consistent with the requirements of the Administrative Procedures Act, Chapter 34.05 RCW, thereby incorporating the adopted shoreline master program or amendment into the state master program.

"Amendment" means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

"Aquaculture" means the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery.

"Archaeological/historical" means uses, developments, and activities on sites of historical or archeological significance, or sites containing items of historical or archeological significance.

"Best available science" means current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 356-195-900 through 356-195-925. Sources of best available science are included in Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas published by the Washington State Department of ~~Community~~Commerce~~, Trade and Economic Development~~. The term "best available science" as used in this title includes the most current, accurate and complete scientific and technical information available as contemplated under WAC 173-26-201(2)(a).

"Biologist, qualified" means a person who possesses a bachelor's degree from an accredited college in biology, a branch of biology, limnology, biometrics, oceanography, forestry or natural resource

management. A qualified biologist is also a person determined by the city to be qualified based upon that person's education, professional referrals, related experience, work history, and examples of comparable projects.

"Biological habitat report" means a report prepared by a qualified biologist that evaluates the potential presence or absence of designated critical fish or wildlife species on a particular parcel of land. A biological habitat report shall contain an assessment of habitats including the following site and proposal related information at a minimum:

1. Detailed description of vegetation and location of Ordinary High Water Mark (OHWM) on and adjacent to the project area and its associated buffer. The OHWM shall be shown on project drawings and a description of field indicators used to establish the OHWM included in the assessment;

2. Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impact to the use of the site by the species;

3. A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitat located on or adjacent to the project area;

4. A detailed discussion of the direct and indirect potential impacts of habitat by the project, including potential impacts to water quality;

5. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted according to mitigation sequencing; and

6. A discussion of ongoing management practices that will protect habitat after the project site has been developed, included proposed monitoring and maintenance programs.

"Boat" means vessels less than twenty tons, used as a private pleasure craft.

"Boathouse" means a structure specifically designed or used for storage of boats.

"Boat launching facility" means a facility used for launching of boats by auto or hand, including ramps and other devices, along with adequate parking and maneuvering space. For the purpose of the chapter, boating facilities exclude docks serving four or fewer single-family residences.

"Breakwater" means protective structure usually built off-shore for the purpose of protecting the shoreline or harbor areas from wave action.

“Buffer” means an area, typically adjacent or otherwise associated with an environmentally sensitive feature, which is retained in its natural state. No clearing, grading, or filling is permitted within a buffer (unless specifically conditioned otherwise).

“Buildable area” is that portion of a lot within the setbacks established by the zoning district in which the lot lies. Open space tracts, native growth protection areas, drainage facilities, easements, or other similarly restricted land are not considered part of the buildable portion of a lot.

“Bulkhead” means a wall or embankment used for holding back earth and to protect structures or shoreline from wave action.

“Channel migration zone (CMZ)” means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

Critical Areas. For the purpose of the critical area regulations contained in Chapters 17B.52 ~~through 17B.52D~~, “critical areas” means those possessing existing slopes in excess of forty percent, or areas containing unstable soils or other geologic hazards, or natural drainage ways or ravines, areas of special flood hazard, areas of critical recharging effect on aquifers used for potable water, or areas that have been identified as providing significant wildlife habitat by the Washington Department of Fish and Wildlife, wetland areas, or those areas defined as shorelines of Mukilteo, the state, or of statewide significance.

“Day-lighting a stream” means to bring a previously culverted or piped stream or stormwater drain to the surface. Day-lighting projects reestablish a stream in its old channel where feasible, or create a new channel if necessary. Day-lighting projects shall include installation of habitat features such as large woody debris, creation/recreation of wetlands, streams, and ponds.

“Department” or “DOE” means the State Department of Ecology.

“Development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulk-heading; 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 this title at any state of water level. “Development” does not include dismantling or removing structures if there is no other associated development or re-development.

“Development regulations” means the controls placed on development or land uses by a county or city, 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 amendment thereto. Development does not include dismantling or removing structures if there is no other associated development or re-development. A forest practice that only involves timber cutting is not a development under the act and does not require a shoreline substantial development permit or

a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the act and may require a substantial development permit, as required by WAC 222-50-020.

"Dock" means any facility for the moorage of boats, including but not limited to piers, wharves, and quays.

"Dredging" means removal of sand, gravel, or other earth from the bottom of a body of water for the purpose of deepening a navigational channel or obtaining bottom materials. Dredging does not include maintenance sediment removal at pipe inlets or outlets or removal of material from man-made ponds excavated in nonwetland sites, including backwash solids drying areas, or stormwater ponds. Excavation for the purposes of constructing utilities and other permitted structures (e.g., pilings) shall not be considered dredging.

"Drift cell," "drift sector," or "littoral cell" means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion of shore forms created by such drift.

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

"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.

"Essential public facility" or "EPF" means a facility that is typically difficult to site, such as an airport, a state education facility, a state or regional transportation facility as defined in RCW 47.06.140, a state or local correctional facility, a solid waste handling facility, or an in-patient facility, including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020. The term "essential public facility" includes all facilities listed in RCW 36.70A.200, all facilities that appear on the list maintained by the State Office of Financial Management pursuant to RCW 36.70A.200(4), and all facilities listed as essential public facilities in the Mukilteo comprehensive plan.

"Essential public facility, local" means an EPF that is owned, operated, or sponsored by the city of Mukilteo, a special purpose district, Snohomish County (for facilities that do not provide service to the county-wide population), or another unit of local government. An EPF is "sponsored" by a local government when it is to be owned or operated by a nongovernmental entity pursuant to a contract with the local government to provide the EPF.

"Essential public facility, regional" means an EPF that is owned, operated, or sponsored by Snohomish County or a regional agency whose boundaries encompass the city and which serves the county-wide

population or an area that is greater than the county. An EPF is “sponsored” by the county or a regional agency when it is to be owned or operated by a nongovernmental entity pursuant to a contract with the county or regional agency to provide the EPF.

“Essential public facility, state” means an EPF that is owned, operated, or sponsored by the state of Washington.

“Feasible” means, for the purpose of this title, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

1. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

2. The action provides a reasonable likelihood of achieving its intended purpose; and

3. The action does not physically preclude achieving the project’s primary intended legal use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action’s infeasibility, the reviewing agency may weigh the action’s relative public costs and public benefits, considered in the short- and long-term time frames.

“Fill” means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

“Floodplain” is synonymous with one-hundred-year floodplain 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.

~~“Floodway” means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal conditions, by changes in surface soil conditions or changes in types or quality of vegetative groundcover conditions. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.~~"Floodway" means the area, as identified in a master program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that

occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

"Forestry" means the art and science of managing forests, tree plantations, and related natural resources. The main goal of forestry is to create and implement systems that allow forests to continue a sustainable continuation of environmental supplies and services. The city does not have any forest lands, as regulated by the Shoreline Management Act, that are not already characterized by urban growth and that have long-term significance for the commercial production of timber. However, clearing of land within the two-hundred-foot shoreline jurisdiction may require a forest practice permit.

"Forest practice permit" means a permit which is required for the removal of five thousand board feet or more of merchantable timber. Class IV—General forest practice permits are administered by the Department of Natural Resources. This permit is often approved as an adjunct to another development permit such as a building permit or residential subdivision.

"Geotechnical report" means a report, prepared by a licensed professional (either an engineering geologist or civil engineer specializing in geotechnical engineering and local shoreline geology and processes) legally able to practice in the state of Washington, shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:

1. Data regarding underlying geology, slope gradients, soil types, and subsurface information including boring and/or test pit logs describing soil stratification, and results of soil tests conducted.

2. Identify any previous landslide activity in the vicinity of the project and provide an assessment of the overall slope stability and the effect the development will have on the slope, adjacent properties, and shoreline over time.

3. Recommendations for grading procedures, fill placement and compaction criteria, temporary and permanent slope inclinations and support, and design criteria for corrective measures and opinions and recommendations regarding the capabilities of the site.

4. The report shall consider seismic stability of the site in drained and saturated conditions. The geotechnical report shall include a statement that the design criteria consider a seismic event with a ten percent probability of being exceeded in fifty years.

5. Potential for liquefaction and proposed mitigation measures.

6. A description of the hydrology (both surface and subsurface) of the site, including locating any wetland, streams, springs, seeps, groundwater, and shorelines along with recommendations consistent with the city's shoreline critical area regulations for addressing any impacts.

7. The report shall make a recommendation on building site location, foundation type and depths, minimum building setbacks, minimum deck and accessory building setbacks, and if necessary the minimum no-disturbance buffer from any geologic sensitive area based upon the geotechnical analysis. The report shall also include recommendations on the design of soft or hard stabilization structures in the shoreline area. Only if there is a threat to an existing structure that cannot be controlled by soft armoring methods may hard structures be used in accordance with Section 17B.18.060, Shoreline stabilization.

8. An estimate of bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or one-hundred-year storm event.

9. Assessment of potential impacts created by a tsunami if applicable.

10. Recommendations and requirements for handling contaminated soils and materials if encountered on the site.

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

"Groin" means a barrier-type structure extending from the back of shore into the water across the beach. The purpose of a groin is to interrupt sediment movement along the shore.

Habitat Report. See "Biological habitat report."

"Hearing Board" means the Shoreline Hearings Board (not the Growth Management Hearing Board(s)).

"In-water facilities" means boat-launching facilities, marinas, visitor docks, mooring buoys, residential docks, floats, seaplane access and moorage, docking facilities for cruise boats, and waterborne transportation facilities.

"In-water fill" means activities that involve the addition of soil, sand, rock, gravel, earth retaining structure, or other material to an area waterward of the ordinary high water mark or in shorelands in a manner that raises the elevation or creates dry land.

"Jetty" means an artificial barrier used to change the natural littoral drift to protect inlet entrances from clogging by excessive sediment.

"Long-term transient residential uses" means transient rentals and/or renting out a property for periods of less than thirty days and is considered a commercial activity according to the state Department of Revenue. Such uses are prohibited by the Permitted Use Matrix listed in Chapter 17B.16.

“Marine” means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith.

“Marina” means a facility providing for the rental or public use of moorage for pleasure craft and which may include accessory facilities such as sales, rentals, and light servicing of these craft.

“May” means the action is acceptable, provided it conforms to the provisions of this title.

“Moorage” means any device or structure used to secure a vessel for temporary anchorage, but which is not attached to the vessel (such as a pier or buoy).

“Mukilteo’s MUGA or municipal urban growth area” is that portion of Snohomish County’s southwest urban growth area that is being considered by the city of Mukilteo for future annexation and has been mutually agreed to by all surrounding cities through the Snohomish County Tomorrow process.

“Must” means a mandate; the action is required.

“No net loss—shorelines” means that while certain uses and development are appropriate and necessary and must be provided for and even fostered, all uses and development must be carried out in a manner that does not degrade the environmental resources of the shoreline. No use or development may supersede the requirement for environmental protection and there shall be no net loss of ecological functions necessary to sustain shoreline natural resources.

“No net loss—wetlands” means that while certain uses and development are appropriate throughout the city and must be provided for, all uses and development must maintain no net loss of wetlands, ecological function, value, and net acreage may be considered in achieving the overall goal. The intent of the city’s wetland regulations is to avoid and minimize wetland impacts where avoidance and minimization is feasible and reasonable.

“Nonconforming development” or “nonconforming structure” means an existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.

“Nonconforming lot” means a lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.

"Nonconforming use" means an existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.

“Non-water-oriented use” means those uses that are not water-dependent, water related, or water enjoyment.

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

Diagram A: Example of Shoreline Definitions

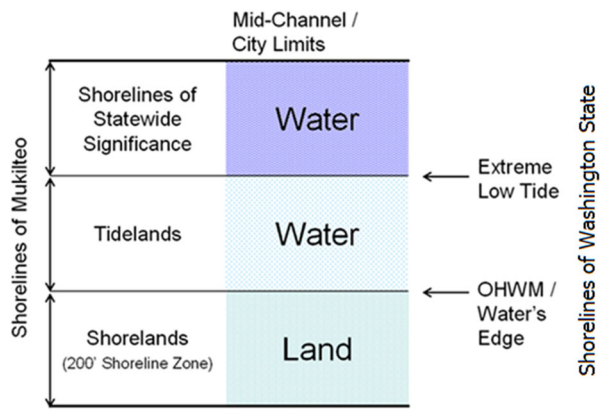
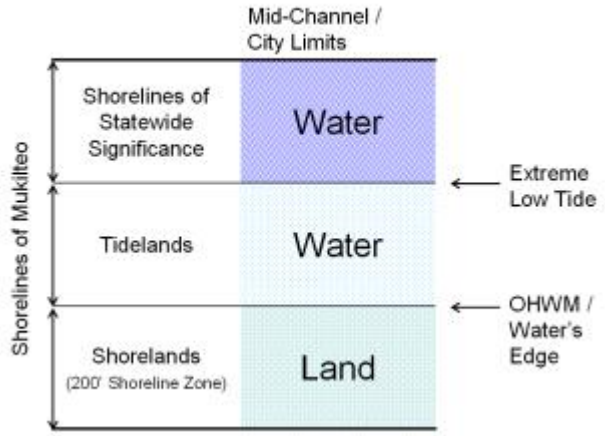


Diagram A: Example of Shoreline Definitions



"Overwater structure" means a structure extending on or over the surface of the water which has one or more walls, with or without a roof.

"Panhandle (pipestem or flag) lot" means a lot connected to the street with a narrow access corridor not less than twenty feet wide and not more than one hundred and fifty feet long and situated so that

another lot is located between the main portion of the flag lot and the street. Such lots are only permitted subject to the following conditions:

1. That the access corridor has and shall maintain a minimum height clearance of twelve feet;

2. That in platted subdivisions no more than two such lots shall occur for every fifteen lots in the subdivision;

3. That in platted subdivisions such lots shall be restricted to use in cul-de-sacs or where topography substantially interferes with the normal frontage required by the underlying zoning district; and

4. That in platted subdivision use of such lots shall require a showing that they are necessary to maintain the integrity and quality of the proposed development.

“Pier” means a general term including docks and similar structures consisting of a fixed or floating platform extending from the shore over the water secured or supported by pilings. Piers may also be used for fishing.

“Pile” “pilings” and “pile driving” means a column of wood or steel or concrete that is driven into the ground to provide support for a structure, a number of piles and the process of installing piles into the ground.

“Priority habitat” means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

1. Comparatively high fish or wildlife density;

2. Comparatively high fish or wildlife species diversity;

3. Fish spawning habitat;

4. Important wildlife habitat;

5. Important fish or wildlife seasonal range;

6. Important fish or wildlife movement corridor;

7. Rearing and foraging habitat;

8. Important marine mammal haul-out;

9. Refugia habitat;

10. Limited availability;

11. High vulnerability to habitat alteration;

12. Unique or dependent species; or

13. Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

"Priority species" means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

1. State-Listed or State Proposed Species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

2. Vulnerable Aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, gravid (egg bearing) female Dungeness crab and marine mammal congregations.

3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

4. Species listed under the federal Endangered Species Act as either candidate, threatened, or endangered.

"Provisions" means policies, regulations, standards, guideline criteria or environment designations.

"Public access" is a means of physical approach to and along the shoreline available to the general public. Public access may also include visual approach.

"Restore," "restoration" or "ecological restoration" means the reestablishment 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.

“Shall” means a mandate; the action must be done.

“Shorelands” or “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 title; the same to be designated as to location by the Department of Ecology.

“Shoreline” means the water and submerged lands of Port Gardner Bay, Possession Sound, Lake Serene, and including all shorelines of the state and shorelines of statewide significance as defined in RCW 90.58.030. See Diagram A under “ordinary high water mark.”

“Shoreline activity” means an activity associated with use of the shoreline or the use of energy toward a specific action or pursuit. Examples of shoreline activities include, but are not limited to, fishing, swimming, boating, dredging, fish spawning, wildlife nesting, or discharging of materials. Not all activities necessarily require a shoreline location.

“Shoreline administrator” means the city of Mukilteo planning director or ~~his/her~~ designee.

Shoreline Appeal—Date of Filing. The “date of filing” varies according to the type of permit being appealed:

1. An appeal of the city’s approval or denial of a substantial development permit or the city’s denial of a variance or conditional use permit, the “date of filing” is the date that Ecology actually receives a completed filing from the city on its permit decision.

2. An appeal of a conditional use permit or variance that has been approved by the city and approved or denied by Ecology, the “date of filing” is the date that Ecology transmits its final decision or order to the city, not the date the city actually receives the decision or order.

3. Where a project involves both a substantial development permit and a conditional use permit or variance, the latest applicable date of filing may be used in filing the project appeal.

For shoreline appeal process and timelines, the requirements of RCW 90.58.180 shall be followed.

“Shoreline areas” and “shoreline jurisdiction” means all “shorelines of the state” and “shorelands” as defined in RCW 90.58.030.

“Shoreline designations” means the seven shoreline overlay zones in the city: urban waterfront, urban waterfront park, urban conservancy, urban railroad, aquatic urban, aquatic urban conservancy, and urban lakefront.

“Shoreline master program” or “master program” or “SMP” means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline

master program for a county or city approved under Chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under Chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

"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 dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

"Shoreline restoration project" means a project designed to restore impaired ecological function of a shoreline.

"Shoreline stabilization—hard structural" means erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders, dimensional lumber or other materials to construct linear, vertical or near-vertical faces. These include bulkheads, rip-rap, groins, and similar structures.

"Shoreline stabilization—soft structural" means erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide stability in a nonlinear, sloping arrangement.

"Shoreline use" means the commitment of land or water surface to a given purpose or activity. Examples of shorelines uses include, but are not limited to, residential units, parks, marinas, open space, office buildings, ports, restaurants, wildlife preserves, utilities, essential public facilities or even nonuse. Not all uses, however, are necessarily reasonable or appropriate for a shoreline location.

"Shorelines of Mukilteo" means the total of all the "shorelands" (extending landward two hundred feet from the water's edge or OHWM) and the "shorelines of the state" (areas of Puget Sound lying seaward of the water's edge or ordinary high water mark) within the city limits, being those areas covered by the city's shoreline master program. See Diagram A under "ordinary high water mark." Shoreline designations include both the upland and the water or aquatic environment.

"Shorelines of state wide significance" within the city's jurisdiction, means all of the water areas of Possession Sound and Port Gardner Bay lying seaward of the line of extreme low tide, out to the city limits or to mid-channel. See Diagram A under "ordinary high water mark."

"Shorelines of the state" means those areas of Puget Sound lying seaward of the water's edge or ordinary high water mark. See Diagram A under "ordinary high water mark."

"Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this title, against taking the action.

“Significant vegetation removal” means the removal or alteration of trees, shrubs, and/or groundcover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

“State master program” means the cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by the department.

“Steep slopes” or “geologically sensitive slopes” means those areas within the city that are:

1. Affected by, contain, or exhibit unstable or potentially unstable soil types, steep slopes, erosion, earth movement, slides, surface water runoff, ground water, liquefaction, within the one-hundred-year floodplain, or within a tsunami hazard area.

2. Within the designated geologic sensitive area as shown on the city’s “geologic sensitive areas” map (see Attachment A at the end of Chapter 17B.52A).

3. Areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-080(4).

“Substantially degrade” means to cause significant ecological impact.

“Tidelands” means those areas lying between the water’s edge or ordinary high water mark (OHWM) and the line of extreme low water. See Diagram A under “ordinary high water mark.”

“Utility uses” means all services and facilities that produce, convey, store, or process power, gas, sewage, stormwater, communications, oil, waste, water, and the like. Utilities also include pump/lift stations and associated emergency generators.

“Water courses/streams” means the areas to which surface and subsurface waters naturally flow and which form a continuous channel through which water descends to natural outlets.

“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 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 operations 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.

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

“Water quality” means the physical characteristics of water within shoreline jurisdiction, including water quality, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this title, the term “water quality” refers only to development and uses regulated under this title and affecting water quality, such as impermeable surfaces and stormwater handling practices. “Water quality,” for purposes of this title, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

“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:

1. 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

2. 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.

“Water’s edge” means the line of the ordinary high water mark (OHWM).

“Wetland” means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in 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.

“Wetland delineation” means a technical procedure performed by a wetland specialist to determine the area of a wetland, ascertaining the wetland’s classification, function, and value, and to define the boundary between a wetland and adjacent uplands. Identification of wetlands and delineation of their boundaries pursuant to this title shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the city meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this program.

“Wetland report” is a report prepared by a wetland specialist that identifies all shoreline areas, water features, floodplains, wetlands, and other critical areas and their related buffers within three hundred feet of the project area. The report at a minimum shall contain: wetland delineation and required buffers, acreage, category, vegetative characteristics, soil conditions, water resources, functional evaluation, avoidance and sequencing measures, and proposed mitigation if proposed.

“Wetlands specialist” is a person who has earned a minimum of a Bachelor’s degree in biology, natural resources, or physical sciences with specific or related course work in wetland ecology, botany, or soils science from an accredited college or university, and two years professional experience in wetland delineation, wetland functional assessment and mitigation techniques or equivalent experience; or any person certified by the U.S. Army Corps of Engineers or Society of Wetland Scientists. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

Chapter 17B.12
SHORELINE DESIGNATIONS

Sections:

17B.12.010 Shoreline environment designations.
17B.12.020 Urban waterfront and urban waterfront park shoreline environments.
17B.12.030 Urban conservancy shoreline environment.
17B.12.040 Aquatic urban and aquatic urban conservancy environments.
17B.12.050 Urban lakefront environment.
17B.12.060 Urban railroad environment.
17B.12.070 Shoreline maps.

17B.12.010 Shoreline environment designations.

Mukilteo's shoreline is broken down into the following seven shoreline environment designations in compliance with the Shoreline Management Act of the state of Washington:

A. Urban Waterfront. Waterfront mixed-use (WMU) and downtown business district (DB) zones north of the Burlington Northern Santa Fe Railway tracks.

B. Urban Waterfront Park. Open space (OS) zone that includes Mukilteo Lighthouse Park.

C. Urban Conservancy. Applies to those areas south of the urban waterfront designation and within two hundred feet of the OHWM. The following zoning districts fall within the urban conservancy environment:

1. Residential Zones. RD-7.5, RD-8.4, RD-12.5, RD12.5(S), MRD, MR-PRD.

2. Heavy Industry Zone. HI (Mukilteo Water and Wastewater District (MWWD) sewer treatment plant).

3. Open Space Zone. OS.

D. Aquatic Urban. Means all lands waterward of the OHWM within the urban waterfront and urban waterfront park designations.

E. Aquatic Urban Conservancy. Means all lands waterward of the OHWM within the urban conservancy designation.

F. Urban Lakefront. Means all lands two hundred feet upland of the OHWM and waterward from OHWM to the middle of the lake around the entire perimeter of Lake Serene.

G. Urban Railroad. Means all lands two hundred feet upland of the OHWM owned by BNSF; tidelands are not included within this designation. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.12.020 Urban waterfront and urban waterfront park shoreline environments.

A. Urban waterfront encompasses the waterfront mixed-use and downtown business zoning district. The purpose of the urban waterfront designation is to provide for development and redevelopment of high-intensity, water-oriented (water enjoyment or water-related) commercial and recreational activities, transportation, and essential public facilities, while protecting existing ecological functions and improving ecological functions in areas that have been previously degraded.

B. Urban waterfront park encompasses Mukilteo Lighthouse Park (the lighthouse and former state park). The purpose of urban waterfront park is to allow for an urban waterfront park to be redeveloped and maintained providing a key component of waterfront access for the community. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.12.030 Urban conservancy shoreline environment.

The urban conservancy environment designation encompasses Mukilteo's shorelines south of Lighthouse Park. Mukilteo's municipal urban growth area's (MUGA's) shoreline area has also been designated urban conservancy. The purpose of the urban conservancy designation is to protect and improve wherever possible the ecological functions of the shoreline and nearshore in an urban setting, while allowing the retention of existing railroad tracks, the modification of existing railroad tracks necessary to optimize freight, passenger, and commuter rail service and the benefits of the Mukilteo commuter rail station, the provision of utilities, existing residences and a variety of water-oriented public access and recreational activities together with their related structures. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.12.040 Aquatic urban and aquatic urban conservancy environments.

The city has broken the aquatic environment into two distinct areas to coincide with the unique nature of Mukilteo's shoreline. The purpose of this aquatic environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

A. Aquatic urban area runs from the city's most eastern boundary with the city of Everett to the southern end of Lighthouse Park.

B. Aquatic urban conservancy area runs from the southern boundary of Lighthouse Park to the city's southern city limits and includes the annexation area. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.12.050 Urban lakefront environment.

Urban Lakefront includes all lands two hundred feet upland and waterward of the OHWM around the entire perimeter of Lake Serene. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.12.060 Urban railroad environment.

Urban railroad environment includes all Burlington Northern Santa Fe railroad right-of-way or easements within two hundred feet upland and waterward of the OHWM of Puget Sound. BNSF tidelands below the OHWM of Puget Sound fall within the aquatic environments. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.12.070 Shoreline maps.

There are two shoreline maps, copies of which are on file in the office of the city clerk, which by reference are adopted with and made a part of this title, and are known as (A) the shoreline environment designations and (B) an overlay to the official shoreline zoning map. The second map delineates the approximate boundaries of the two-hundred-foot shoreline zone as defined and determined in this title and may from time to time be amended by the council for the purpose of implementing the comprehensive plan.

Figure 1

Shoreline Environment Designations

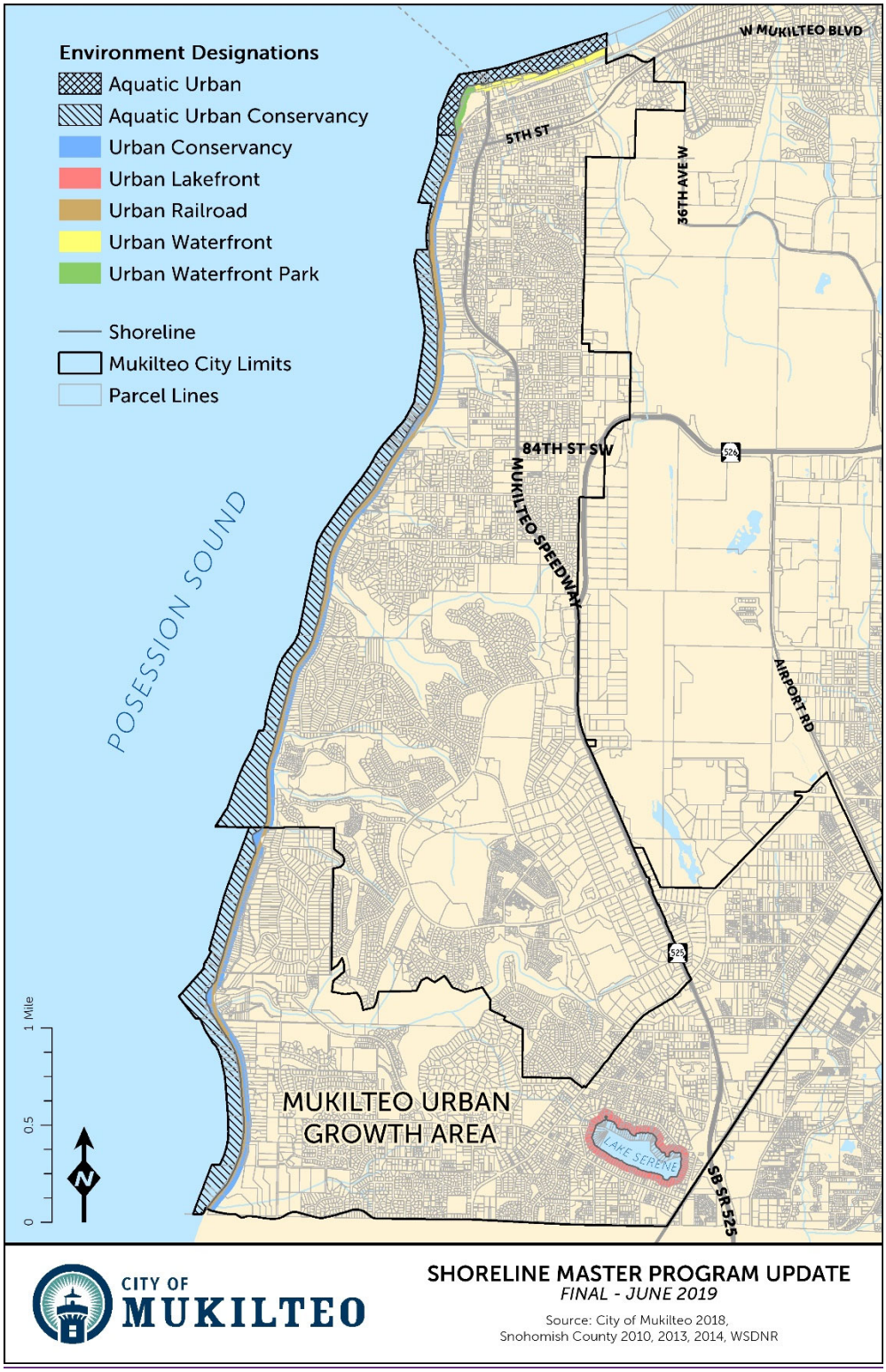
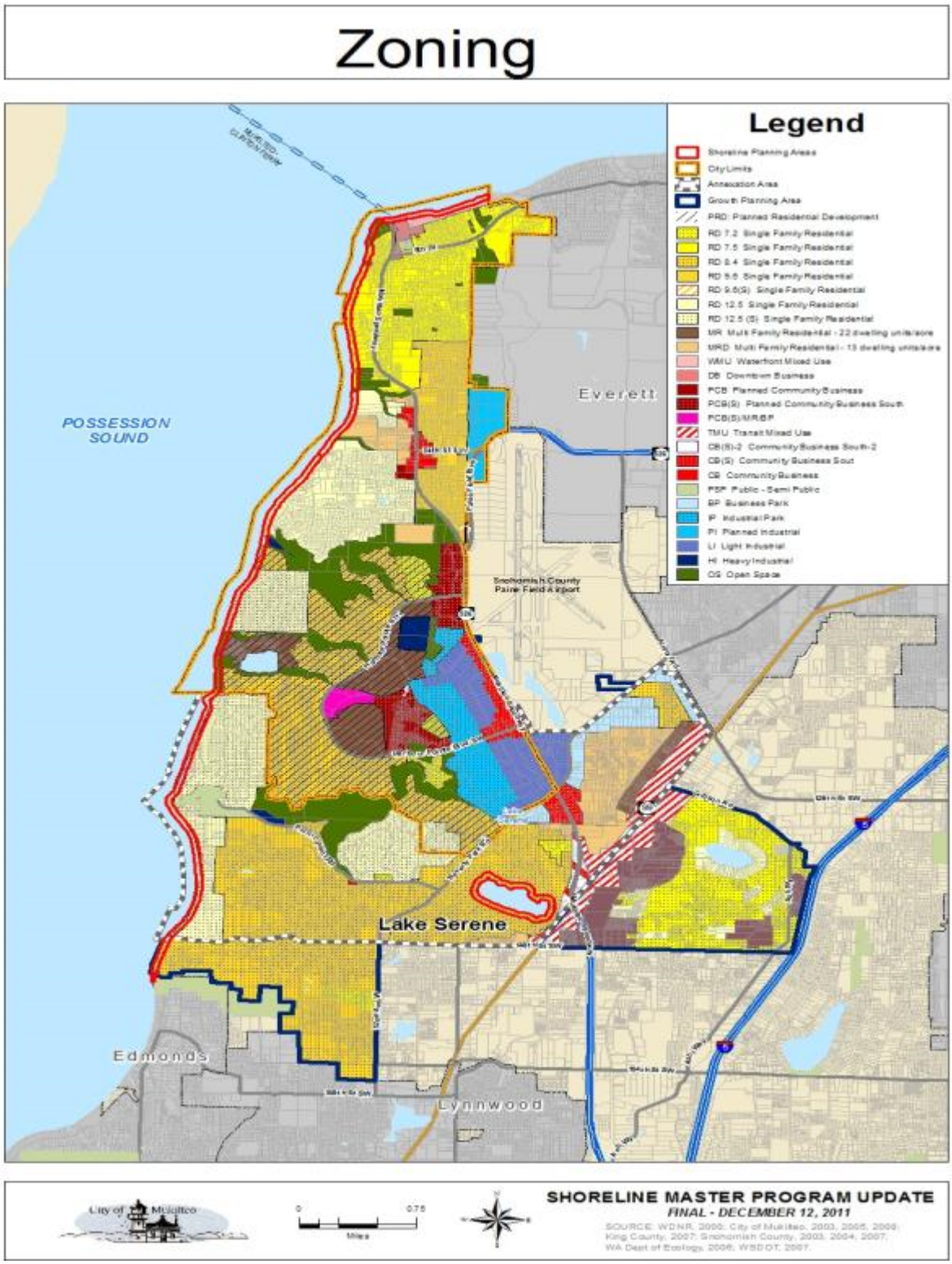


Figure 2

Zoning Map with Two-Hundred-Foot Shoreline Zone Shown as an Overlay



(Ord. 1295 § 10 (Exh. 1B) (part), 2011)

Chapter 17B.13
PROCEDURES

Sections:

17B.13.010 Administration.
17B.13.015 Exceptions.
17B.13.020 Development exempt from substantial development permit requirements.
17B.13.030 Statement of exemption.
17B.13.040 Requirements for exempted developments.
17B.13.050 Shoreline conditional or special uses and variances.
17B.13.060 Preapplication process.
17B.13.070 Development permit applications.
17B.13.080 Determination of a complete application.
17B.13.090 Notice of application.
17B.13.100 Public notice requirement.
17B.13.110 Permit review process.
17B.13.120 Special procedures for limited utility extension and bulkheads.
17B.13.130 Review authority.
17B.13.140 Notice of decision.
17B.13.150 Filing with the Department of Ecology.
17B.13.160 Time limits on approved permits.
17B.13.170 Revisions to shoreline permits.
17B.13.180 Appeals of shoreline permits.

17B.13.010 Administration.

A. The planning director or ~~his/her~~ designee is vested with the duty of administering the rules and regulations relating to the State Shoreline Management Act, Chapter 90.58 RCW (the "Act"), and the Mukilteo waterfront development and shoreline management regulations. The director shall prepare and require the use of such forms as are essential to the administration of this title.

B. This chapter includes the permit procedures for reviewing and issuing shoreline permits including shoreline substantial development permits, variances, conditional use permits, shoreline exemptions, and extensions to any of these permits or approvals.

C. All development must obtain a substantial development permit, unless the shoreline administrator determines that it qualifies for a shoreline exemption. Exempt development may still be subject to a conditional use permit or variance if the activity does not comply with the policies and regulations of the shoreline management plan or the State Shoreline Management Act. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.015 Exceptions.

A local SMP may consolidate all the Shoreline Management Act (SMA) exceptions to incorporate the Department of Ecology's recently revised rules with all applicable statutes as follows:

A. Developments not required to obtain shoreline permits or local reviews:

1. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

   i. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to Chapter 70.105D RCW, or to the Department of Ecology when it conducts a remedial action under Chapter 70.105D RCW.
   ii. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.
   iii. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.
   iv. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
   v. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to Chapter 80.50 RCW.
   vi. Projects that only involves timber cutting as part of a forest practice, pursuant to RCW 76.09.240.
   vii. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of Chapter 90.58 RCW.

17B.13.020 Development exempt from substantial development permit requirements.

A. The actions listed in this section shall be exempt from the city's shoreline substantial development permit procedures. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.

B. An exemption from the substantial development permit process is not an exemption from compliance with the Act or the Mukilteo shoreline master program, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of the Mukilteo shoreline master program and the State Shoreline Management Act.

C. The burden of proof that a development or use is exempt from the permit process is on the applicant.

D. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.

E. Project Conditions. The city may attach conditions to the approval of exempted developments and/or uses as necessary to ensure consistency of the project with the State Act and the Mukilteo shoreline master program.

F. Exemptions. The development activities listed in state law, WAC 173-27-040 ~~and 173-27-040~~ through 173-27-045, including any revisions or updates, shall not require substantial development permits.

G. A request for exemption shall be accompanied by materials adequate for the administrator to determine that the development qualifies for the stated exemption, and determine that it conforms with the protection standards of the SMP. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.030 Statement of exemption.

Some projects conducted on shorelines of the state also require review and approval by federal agencies. The Department of Ecology is designated as the coordinating agency for the state with regard to permits issued by the U.S. Army Corps of Engineers. The city shall follow the following procedures with regard to exempt development and is subject to federal permit review.

A. The city shall prepare an exemption statement, addressed to the applicant and the Department of Ecology, whenever a development is determined by the city to be exempt from the substantial development permit requirements and the development is subject to one or more of the following federal permit requirements:

1. A U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899. (The provisions of Section 10 of the Rivers and Harbors Act generally apply to any project occurring on or over navigable waters. Specific applicability information should be obtained from the Corps of Engineers.); or

2. A Section 404 permit under the Federal Water Pollution Control Act of 1972. (The provisions of Section 404 of the Federal Water Pollution Control Act generally apply to any project which may involve discharge of dredge or fill material to any water or wetland area. Specific applicability information should be obtained from the Corps of Engineers.)

B. The statement shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the city's analysis of the consistency of the project with the Mukilteo master program and the Shoreline Management Act. A copy of the exemption statement shall be placed in the official city record and a copy provided to the project proponent for their records. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.040 Requirements for exempted developments.

Any development exempted from obtaining a shoreline substantial development permit shall be consistent with the policies of the Mukilteo shoreline master program, shoreline management regulations, and the State Shoreline Management Act. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.045 Request for relief from shoreline regulations if needed.

The city may grant relief from shoreline master program development standards and use regulations within urban growth areas when the following apply:

A. A shoreline restoration project causes or would cause a landward shift in the ordinary high water mark, resulting in the following:
   1. Land that had not been regulated under this chapter prior to construction of the restoration project is brought under shoreline jurisdiction; or
   2. Additional regulatory requirements apply due to a landward shift in required shoreline buffers or other regulations of the applicable shoreline master program; and
      i. ~~(ii)~~ Application of shoreline master program regulations would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent;

B. The proposed relief meets the following criteria:
   A. The proposed relief is the minimum necessary to relieve the hardship;
   B. After granting the proposed relief, there is net environmental benefit from the restoration project;
   C. Granting the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with the shoreline master program; and
   D. Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under this section; and

C. The application for relief must be submitted to the Department of Ecology for written approval or disapproval. This review must occur during the Department of Ecology's normal review of a shoreline substantial development permit, conditional use permit, or variance. If no such permit is required, then the Department of Ecology shall conduct its review when the city provides a copy of a complete application and all supporting information necessary to conduct the review.
   1. Except as otherwise provided in subsection (B) of this section, the Department of Ecology shall provide at least twenty-days notice to parties that have indicated interest to the Department of Ecology in reviewing applications for relief under this section, and post the notice on their web site.
   2. The Department of Ecology shall act within thirty calendar days of close of the public notice period, or within thirty days of receipt of the proposal from the city if additional public notice is not required.

~~(2)~~D. The public notice requirements of subsection (1)(c) of this section do not apply if the relevant shoreline restoration project was included in a shoreline master program or shoreline restoration plan as defined in WAC 173-26-201, as follows:

1. ~~(a)~~ The restoration plan has been approved by the Department of Ecology under applicable shoreline master program guidelines;
2. ~~(b)~~ The shoreline restoration project is specifically identified in the shoreline master program or restoration plan or is located along a shoreline reach identified in the shoreline master program or restoration plan as appropriate for granting relief from shoreline regulations; and
3. ~~(c)~~ The shoreline master program or restoration plan includes policies addressing the nature of the relief and why, when, and how it would be applied.

E.~~(3)~~ A substantial development permit is not required on land within urban growth areas as defined in RCW 36.70A.030 that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the ordinary high water mark.

~~(4)~~F. The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

1. ~~(a)~~ "Shoreline restoration project" means a project designed to restore impaired ecological function of a shoreline.
2. ~~(b)~~ "Urban growth areas" has the same meaning as defined in RCW 36.70A.030.

17B.13.050 Shoreline conditional or special uses and variances.

A development or use that is listed as a conditional or special use pursuant to the Mukilteo shoreline master program, or is an unlisted use, must obtain a shoreline conditional use permit even though the development or use does not require a substantial development permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the Mukilteo master program, such development or use can only be authorized by approval of a shoreline variance. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.060 Preapplication process.

A. At the applicant's request, a preapplication conference shall be scheduled with representatives of the city planning, engineering, fire and building departments. The purpose of the preapplication process is for the applicant to provide city staff with the necessary information about the proposed project and site conditions so that the city can efficiently and effectively provide the applicant with the requirements that must be met in order to have the proposed project proceed through the formal review process.

B. For the city to accurately evaluate the proposed project at the preapplication conference, the applicant shall provide at a minimum a draft site plan, preliminary grading plan, building locations,

identification of the ordinary high water mark if applicable, and locations of storm drainage and utility connections.

C. It is impossible for the conference to be an exhaustive review of all potential issues. The discussions at the conference shall not bind or prohibit the city's future application or enforcement of all applicable laws.

D. Applications shall only become vested once a complete application is accepted; a preapplication does not vest a project. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.070 Development permit applications.

A. Permit Applications. All development permit applications shall be subject to the city project review process. All shoreline development requiring a substantial development permit, conditional use permit or variance under this title shall be subject to regulations and review procedures of this title. Review of development permits shall be carried out by the city planning, engineering, building, and fire departments for consistency with the SMP and SMP development regulations.

B. Review Process. Development permits shall be submitted on the city approved application form and shall include a supplemental application which consists of the state approved JARPA form. Project review shall follow the underlying permit review process as described in this chapter. A supplemental application is required for conditional or special uses. In addition to the other requirements of this title, a shoreline permit application shall only be approved after the project has met the requirements of Chapter 90.58 RCW, Shoreline Management Act of 1971, Chapter 173-27 WAC, the Department of Ecology's Shoreline Guidelines, the Mukilteo comprehensive plan, and the Mukilteo shoreline master program for the particular use. Depending on the application, project permit application review may be administrative or require a public hearing by a city designated official, hearing examiner, or board. In addition to the other requirements of this title, the project permit application shall only be approved after the project has met all environmental, zoning, engineering and building regulations and standards for the particular use.

C. Fees. All applications shall be submitted with the appropriate fees as established by city council resolution. The fees are necessary to reimburse the city for costs associated with processing permits including, but not necessarily limited to, staff time, postage, legal notices, paper, duplicating costs, and mileage.

D. Modifications to Shoreline Related Permits. Minor modifications to the approved shoreline permit may be authorized according to Section 17B.13.170, Revisions to shoreline permits.

E. Conflict. Where there is a conflict between various development regulations, the most restrictive regulation shall apply. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.080 Determination of a complete application.

A. Determination of Completeness. Within twenty-eight calendar days after receiving a shoreline permit application, the city shall mail or personally provide a written determination of completeness to the applicant which states either: (1) that the application is complete; or (2) that the application is incomplete and state what additional information is necessary to make the application complete. Once an application is complete, it shall be vested under the laws governing development.

B. Identification of Other Agencies with Jurisdiction. To the extent known by the city, other agencies with jurisdiction over project permit application shall be identified in the city's determination of completeness as required above.

C. Additional Information. A project permit application is complete for purposes of this section when it meets the submission requirements outlined in Table 1 following this section. This determination of completeness shall be made when the application is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequent to project review. If new information is required or where there are substantial changes in the proposed action, the city's determination of completeness shall not preclude the city from requesting additional information or studies either at the time of the determination of completeness or at some later time.

D. Incomplete Application Procedure. If the applicant received a determination of incompleteness from the city, the applicant shall have ninety calendar days to submit the necessary information to the city. Within fourteen calendar days after an applicant has submitted the requested additional information, the city shall prepare a written determination of completeness as described in the section above, and notify the applicant in the same manner.

E. Ninety Days for Resubmittals. If the applicant does not submit the required information within the ninety-day period, the planning director shall make findings that the application has lapsed for failure to submit the necessary information in a timely manner and close the project permit application file. The planning director may grant time extensions to submit the required information, not to exceed an additional ninety calendar days.

F. Refunds. In those situations where the application has lapsed because the applicant has failed to submit the required information within the necessary time period, or when the applicant requests their application be withdrawn, the applicant may obtain a refund of the unused portion of the application fee by submission of a written request to the planning department if a notice of application has not been issued. Refunds will be processed in accordance with the city's normal refund practices.

G. City's Failure to Provide a Determination of Completeness. If, within twenty-eight calendar days of the date of the submitted application, the city has not provided a written determination of completeness, an application shall be deemed complete as outlined in this section.

TABLE 1—SUBMITTAL REQUIREMENTS

Submittal Requirements	**Shoreline Substantial Permit**	**Shoreline Conditional or Special Use Permit**	**Shoreline Variance**
GENERAL APPLICATION			
application form (land use)	✓	✓	✓
supplemental application form	✓	✓	✓
project narrative	✓	✓	✓
review fee(s)	✓	✓	✓
height worksheet	•	✓	•
sewer/water/PUD availability letters	✓	✓	✓
SITE/BUILDING PLANS			
site plan	✓	✓	✓
reduced site plan (max. 11 x 17)	✓	✓	✓
building construction plans	✓	•	•
building elevations/floor plans	✓	✓	✓
reduced elevations/floor plans	✓	✓	✓
landscape plan	✓	✓	•
reduced landscape	✓	✓	•

CIVIL/ENGINEERING DOCUMENTS			
grading and clearing plan(s)	✓	✓	✓
drainage calculations/study	✓	✓	✓
road and drainage plans	✓	•	•
TESCP (erosion control)	✓	✓	✓
topography	✓	✓	✓
traffic study	•	•	•
water/sewer/utility plans	✓	✓	•
ENVIRONMENTAL DOCUMENTS			
geotechnical report	•	•	•
SEPA checklist	✓	✓	•
stream class report	•	•	•
wetland report	•	•	•
wildlife habitat report	•	•	•
habitat management plan	•	•	•
archaeological survey	•	•	•
OTHER			
access plan	•	•	•
cost/benefit analysis	•	•	•
cumulative impact analysis	•	•	•

operational plan	•	•	•
view analysis	•	•	•
BEFORE FINAL CERTIFICATE OF OCCUPANCY:			
as-builts	✓	•	•
reduced as-constructed plans	✓	•	•
as-constructed electronic	✓	•	•
sureties and bonds	✓	•	•
Footnotes: In the codified version of this checklist, a "✓" indicates that the item is required for submittal. Where "•" appears, these items may or may not be required. Contact the Mukilteo planning staff for assistance.			

(Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.090 Notice of application.

A. Generally. A notice of application shall be issued on all project permits not expressly exempted by this chapter.

B. Contents. The notice of application shall include:

1. The date of the application, the date of the determination of completeness, and the date of the notice of application;

2. A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under SEPA;

3. Identification of other permits not included in the application, to the extent known by the city;

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

5. A statement of the limits of the public comment period, which shall be thirty calendar days following the date of the notice of application for shoreline applications, and statements of the right of any person to comment on the application, receive notice of and participate in any hearing, request a copy of the decision once made, and any appeal rights;

6. The date, time, place and type of hearing, if applicable and scheduled at the date of the notice of application if known;

7. A statement of preliminary determination of consistency, if one has been made at the time of the notice of application, and of those development regulations that will be used for project mitigation and consistency;

8. Any other information determined appropriate by the city.

C. Time Frame of Issuance of a Notice of Application. Within fourteen calendar days after the city has made a determination of completeness on an application, the city shall issue a notice of application. If an open record predecision hearing is required for the requested project permit, the notice of application shall be provided at least fifteen calendar days prior to the open record hearing. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.100 Public notice requirement.

A. Noticing Requirements. All notices of application shall be noticed to the general public and property owners in the vicinity of such application by at least one of the following methods:

1. Mailing of the notice to the latest recorded real property owners as shown by the record of the county assessor within at least three hundred feet of the boundary of the property upon which the development is proposed;

2. Posting of the notice in a conspicuous manner on the property upon which the project is to be undertaken;

3. Any other manner deemed appropriate by the city to accomplish the objective of reasonable notice to adjacent landowners and the public;

4. Notice in the city's designated newspaper for public records. Shoreline permit notices shall be published at least once a week on the same day of the week for two consecutive weeks in the city's designated newspaper.

B. Agency Notification. The city shall provide notice to all agencies with jurisdiction per Chapter 43.21C RCW, state environmental policy, and to all other agencies that request in writing any such notice.

C. Public Comment on the Notice of Application. All public comments on the notice of application must be received by the planning department by four-thirty p.m. on the last day of the comment period.

Comments may be mailed, emailed, personally delivered or sent by facsimile. Comments should be as specific as possible.

D. Noticing for Noise Variances. Noise variances must be noticed with a fourteen-day appeal period. Noise exemptions do not require any notice; however, it is the city's policy to send out courtesy notices to adjacent property owners informing them of the duration and timing of the proposed activity. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.110 Permit review process.

A. When the city receives a permit application, consistency between the proposed project and the applicable regulations and comprehensive plan shall be determined through the process in this section and concurrently through the city's adopted SEPA ordinance.

B. Consistency. A permit application shall be granted only when the development proposed is consistent with the applicable requirements of:

1. The development standards contained in this title;

2. The policies and procedures of the Shoreline Management Act of 1971, Chapter 90.58 RCW;

3. The provisions of the shoreline management permit and enforcement procedures, Chapter 173-27 WAC; and

4. The Mukilteo shoreline master program and development regulations.

C. In the absence of applicable development regulations, the city shall determine whether the city's adopted comprehensive plan and shoreline master program contain policies which address the unregulated impacts.

D. SEPA Analysis.

1. The city shall also review the application for compliance with the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, the SEPA Rules, Chapter 197-11 WAC, and the city's environmental policy ordinance, Chapter 17B.84, and shall:

i. ~~a.~~ Determine whether the applicable regulations require studies that adequately analyze the entire project permit application's specific probable adverse environmental impacts;

ii. ~~b.~~ Determine if the applicable regulations require measures that adequately address such environmental impacts;

iii. ~~c.~~ Determine whether additional studies are required and/or whether the application should be conditioned with additional mitigation measures; and

iv. ~~d.~~ Provide prompt and coordinated review by government agencies and the public regarding compliance with applicable environmental laws and plans,

including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level.

2. In its review of a shoreline permit application, the city may determine that the requirements for environmental analysis, protection and mitigation measures in the applicable development regulations, comprehensive plan and/or in other applicable local, state or federal laws provide adequate analysis of and mitigation for the specific adverse environmental impacts of the application.

E. Conditions. The city may attach conditions to the approval of permits as necessary to ensure consistency of the project with the city regulations, the comprehensive plan, the Shoreline Management Act, and the Mukilteo shoreline master program. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.120 Special procedures for limited utility extension and bulkheads.

An application for a substantial development permit for a limited utility extension or for the construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion shall be subject to all of the requirements of this chapter except that WAC 173-27-120 shall be followed for time periods and procedures. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.125 Special procedures for Washington State Department of Transportation (WSDOT) projects.

A. Permit review time for projects on a state highway is 90 days for local governments pursuant to RCW 47.01.485.

~~A.~~B. Projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions pursuant to RCW 90.58.140.

~~The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities is exempt.~~

17B.13.130 Review authority.

A. The permit review process for project permits, as governed by the Regulatory Reform Act, Local Project Review Act, Chapter 36.70B RCW, provides for no more than one open record hearing and one closed record appeal. The open record hearing shall consist of the public hearing on the proposed development as well as any appeal hearing on a threshold determination (except for a determination of significance) or an appeal of an administrative decision. Appeal of a hearing board's final decision shall be heard during a closed record hearing before a single decision-making body or officer.

B. Table 2. Table 2 describes the open record and closed record hearing process for all permits subject to this title within the city. If any conflict arises between the hearing process described in Table 2 and other portions of the Mukilteo Municipal Code, the requirements of Table 2 shall prevail.

C. Public Hearing Notice. All public hearings shall be advertised in the city's designated newspaper at least ten calendar days prior to the public hearing date.

Table 2

Permit Authority and Public Hearing Process

Type I Administrative Decision (No Hearing Required)	**Type II Hearing Examiner Decision (Open Record Hearing)**	**Type III Planning Commission Decision (Open Record Hearing)**	**Type IV Planning Commission Recommendation (Open Record Hearing)**	**Type V City Council Decision (Administrative Open Record Hearing)**
Permitted Shoreline Substantial Development Applications	Shoreline Conditional Use, Variances, and SUPs	None	None	None
Shoreline Hearings Board appeals: within twenty-one days of the "date of filing" as defined in RCW 90.58.140(6)				
All shoreline permit appeals (substantial, CU, variance, and SUP) shall be submitted to the State Shoreline Hearings Board		None	None	None

D. Joint Public Hearing. The Community Development ~~planning~~ director may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency, on the proposed action as long as: (1) the hearing is held within the city limits; (2) the requirements listed below are met; and (3) the city acts as the lead agency on the proposed application.

E. The applicant may request that the public hearing on a project permit application be combined with other required public hearings as long as the joint hearing is held within the time periods set forth in this chapter. In the alternative, the applicant may agree to a particular schedule if additional time is needed in order to complete the hearings.

F. A joint public hearing may be held with another local, state, regional, federal or other agency and the city on a project permit application as long as: (1) the other agency is not expressly prohibited by statute from doing so and has the authority to hold its public hearing in the city of Mukilteo; (2) sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance or rule; and (3) the agency has received sufficient notice and the necessary information about the proposed project to properly prepare, advertise, and hold its hearing at the same time as the local government. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.140 Notice of decision.

A. Following the completion of the administrative review or permit hearing, the application shall be approved, approved with conditions or denied and a written notice of decision shall be issued within ten calendar days. The notice of decision shall be issued within one hundred twenty calendar days after the city notifies the applicant that the application is complete, subject to any delays permitted by law.

B. To determine the number of days that have elapsed after the local government has notified the applicant that the project permit application is complete, the following periods shall be excluded:

1. Any period during which the applicant has been requested by the city to correct plans, perform required studies, or provide additional information;

2. Any period during which an environmental impact statement is being prepared following a determination of significance;

3. Any period for administrative appeals of project permits, if an open record appeal hearing or a closed record appeal, or both, are allowed;

4. Any extension of time mutually agreed upon by the applicant and the city.

C. The notice of decision shall include the final determination of approval or denial of the project, a statement of any threshold determination made under SEPA, and the procedure to appeal the notice of decision. The notice of decision shall be provided to the applicant and to any person who, prior to the rendering of the decision, has requested such notice or who submitted substantive comments about the application.

D. If the city is unable to issue its notice of decision within the one hundred twenty calendar days from the determination of completeness, it shall provide written notice to the project applicant including the reasons the time limits have not been met and an estimated date for issuance of the notice of decision. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.150 Filing with the Department of Ecology.

A. All shoreline applications for a permit or a permit revision shall be submitted to the Department of Ecology by return receipt requested mail upon a final decision by the city. Final decision by the city shall mean the notice of decision, whether it be an approval or denial, which is established after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals have lapsed.

B. When a substantial development permit and a conditional use or variance permit are required for a development, the submittal on the permits shall be made concurrently.

C. A complete submittal shall consist of the following documents and information:

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

2. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable master program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s) as established in WAC 173-27-140 through 173-27-170;

3. The final decision of the city;

4. The permit data sheet required by WAC 173-27-190; and

5. Where applicable, the city shall also file the applicable documents required by Chapter 43.21C RCW, the State Environmental Policy Act, or in lieu thereof, a statement summarizing the actions and dates of such actions taken under Chapter 43.21C RCW.

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

E. Submittal of substantial development permits, conditional use permits, variances, rescissions and revisions is complete when all of the documents required pursuant to subsections C and D of this section have been received by the Department of Ecology. If the Department of Ecology determines that the submittal does not contain all of the documents and information required by this section, the Department of Ecology shall identify the deficiencies and so notify the city and the applicant in writing. The submittal and permit are void unless and until the material requested in writing is submitted to the Department of Ecology.

F. "Date of filing" of the city's final decision involving approval or denial of a substantial development permit, or involving a denial of a variance or conditional use permit, is the date of actual receipt of a complete submittal by the Department of Ecology.

G. "Date of filing" of a permit for a conditional use or variance approved by the city, and such permits which also involve concurrent submittal by the city of a substantial development permit, is the date of transmittal of the Department of Ecology's final decision on the variance or conditional use permit to the city and the applicant.

H. The Department of Ecology shall provide a written notice to the local government and the applicant of the "date of filing."

I. When a permit has been appealed pursuant to RCW 90.58.180, upon conclusion of all review proceedings, a copy of the final order shall be provided to the city and the Department of Ecology. When the project has been modified in the course of the review proceeding, plans or text shall be provided to the city, consistent with the provisions of WAC 173-27-180, that clearly indicate the final approved plan, and the city shall reissue the permit accordingly and submit a copy of the reissued

permit and supporting documents consistent with subsection C of this section to the Department of Ecology for completion of the file on the permit. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.160 Time limits on approved permits.

A. Shoreline Permit Applications. The following time requirements shall apply to all shoreline development permits and to any development authorized pursuant to a variance or conditional use permit.

1. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of the master program and the act, the city may adopt appropriate time limits as a part of action on a substantial development permit or essential public facility with the approval of the Department of Ecology, and the city may adopt appropriate time limits as a part of action on a conditional use or variance permit. "Good cause based on the requirements and circumstances of the project" shall mean that the time limits established are reasonably related to the time actually necessary to perform the development on the ground and complete the project that is being permitted, and/or are necessary for the protection of shoreline resources.

2. Where neither the city nor the Department of Ecology include specific provisions establishing time limits on a permit as a part of action on the permit, the following time limits shall apply:

a. Construction shall be commenced or, where no construction is involved, the use or activity shall be commenced within two years of the effective date of a shoreline permit; provided, that the city may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology.

b. Authorization to conduct development activities shall terminate five years after the effective date of a shoreline permit; provided, that the city may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology.

3. The effective date of a shoreline permit shall be the date of the last action required on the shoreline permit and all other government permits and approvals that authorize the development to proceed, including all administrative and legal actions on any such permit or approval. It is the responsibility of the applicant to inform the city of the pendency of other permit applications filed with agencies other than the city and of any related administrative and legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given to the city prior to the date established by the shoreline permit or the provisions of this section, the expiration of a permit shall be based on the shoreline permit.

4. Construction under an approved permit shall not begin and is not authorized until twenty-one days from the date of filing with the Department of Ecology, or until all review proceedings and appeal processes have been completed.

5. When permit approval is based on conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity; provided, that an alternative compliance limit may be specified in the permit.

6. The city shall notify the Department of Ecology in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by this section shall require a new permit application. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.170 Revisions to shoreline permits.

A. A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the master program and/or the policies and provisions of Chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision. When an applicant seeks to revise a permit, local government shall request from the applicant detailed plans and text describing the proposed changes.

B. If the city determines that the proposed changes are within the scope and intent of the original permit, and are consistent with the applicable master program and the act, the city may approve a revision. “Within the scope and intent of the original permit” means all of the following:

1. No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less;

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

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

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

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

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

C. Revisions to permits may be authorized after original permit authorization has expired under WAC 173-27-100. The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of Chapter 90.58 RCW, this regulation and the local master program. If the proposed change constitutes substantial development then a new permit is required, provided this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.

D. If the sum of the revision and any previously approved revisions violate the provisions of this section, local government shall require that the applicant apply for a new permit.

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

F. If the revision to the original permit involves a conditional use or variance, the city shall submit the revision to the Department of Ecology for approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of this subsection. The Department of Ecology shall render and transmit to the city and the applicant its final decision within fifteen days of the date of Ecology's receipt of the submittal from the city. The city shall then notify parties of record of Ecology's final decision.

G. The revised permit is effective immediately upon final decision by the city or upon final action by the Department of Ecology. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.13.180 Appeals of shoreline permits.

Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may seek review from the shorelines hearings board by filing a petition for review within twenty-one days of the date of filing as defined in Chapter 90.58 RCW. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

Chapter 17B.16
PERMITTED USES

Sections:

17B.16.010 Purpose.
17B.16.020 Categories of uses.
17B.16.030 Lots.
17B.16.040 Shorelines Permitted Use Matrix.
17B.16.050 Development regulations for archaeological/historical.
17B.16.060 Development regulations for land subdivision.
17B.16.070 Development regulations for parking.
17B.16.090 Development regulations for commercial and mixed-use development.
17B.16.100 Development regulations for essential public facilities.
17B.16.110 Development regulations for in- or over-water facilities in the aquatic urban and aquatic urban conservancy environment.
17B.16.115 Additional development regulations of the urban lakefront environment.
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17B.16.130 Development regulations for public access and recreation.
17B.16.140 Development regulations for residential dwelling units (single-family and multifamily).
17B.16.150 Development regulations for residential units in mixed-use development.
17B.16.160 Development regulations for transportation.
17B.16.170 Development regulations for utility uses.
17B.16.180 Development regulations for wireless communication facilities.
17B.16.190 Regulations for special events in urban waterfront and urban waterfront park.
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17B.16.210 Development regulations for redevelopment of the NOAA facility.
17B.16.220 Development regulations for forest practice permits.
17B.16.230 Development regulations for industrial uses.
17B.16.240 Development regulations for in-stream structures.
17B.16.250 Development regulations for dive parks.
17B.16.260 Development regulations of the urban railroad environment.

17B.16.010 Purpose.

A. The purpose of this chapter is to establish permitted and conditional uses by zone for uses within the shoreline areas of the city. Uses with additional requirements are indicated on the Permitted Use Matrix by reference numbers.

B. Permitted and conditional uses in the shoreline jurisdiction shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water. Shoreline development must comply with the shoreline management plan's goals and policies and environment designation

management policies contained in the Mukilteo comprehensive plan and shoreline management plan as well as specific shoreline use regulations, shoreline critical area regulations, and shoreline modification activity provisions contained in Chapter 17B.18. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.020 Categories of uses.

A. The Permitted Use Matrix summarizes the permitted (P), special use permit (SUP), conditional use (C), and prohibited (X) uses. The permitted and conditional uses in each zone or shoreline environment present the uses most compatible with the goals and policies of Mukilteo's comprehensive plan, shoreline management plan (SMP) and the requirements of the Washington State Shoreline Management Act (SMA).

B. In general, uses are permitted, conditional, or prohibited. Shoreline uses that are not specifically listed on the Permitted Use Matrix will require a shoreline conditional use permit if consistent with the goals and policies of the shoreline management plan. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.030 Lots.

Uses shall be established upon legally created or legal nonconforming lots. A lot may have more than one permitted or conditional use placed within its bounds, except that only one single-family dwelling unit may be placed on a lot. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.040 Shorelines Permitted Use Matrix.

A. Table 1 Permitted Use Matrix.

Shoreline Use Designation	**Urban Waterfront**	**Urban Waterfront Park**	**Urban Conservancy**	**Aquatic Urban**	**Aquatic Urban Conservancy**	**Urban Lakefront and Uplands**	**Urban Railroad**
Residential Use							
Animal and Horse Shelter Building, Barns	X	X	C	X	X	C	X
Caretakers Quarters	P[1]	P	X	X	X	X	X
Home Occupation[3]	P	X	P	X	X	P	X
Mixed-Use (Commercial w/Multifamily)	P[2]	X	X	X	X	X	X
Single-Family Detached Residences and Accessory Uses	X	X	P	X	X	P	X
Multifamily in MR Zone Only (MF are Prohibited in All SFR Zones)	X	X	P (in MR Zone Only)	X	X	X	X
Long-Term Transient Residential Uses	X	X	X	X	X	X	X
Swimming Pool, Private[7]	P	X	P	X	X	P	X

Commercial Uses							
Art Gallery	P	P[1]	X	X	X	X	X
Art Studio in Conjunction with Retail	P	P[1]	X	X	X	X	X
Adult Entertainment	X	X	X	X	X	X	X
Bed and Breakfast	P	C[(4,5,6)]	X	X	X	X	X
Brewery, Micro; Winery[8]	X	X	X	X	X	X	X
Cleaning Establishment	X	X	X	X	X	X	X
Clubs, Charitable, Nonprofit or Social Organizations	X	X	X	X	X	X	X
Commercial Parking Lot or Garage	P[9]	X	X	X	X	X	X
Concession Stand	C	P[1]	X	X	X	X	X
Financial Institutions	X	X	X	X	X	X	X
Health Club	X	X	X	X	X	X	X
Hotel/Motel	P	X	X	X	X	X	X
Museum	C	P[1]	X	X	X	X	X

Office, General	P[10]	X	X	X	X	X	X
Restaurant	P	X	X	X	X	X	X
All Other Commercial/Retail Service Uses:							
Water—Enjoyment	P	X	X	X	X	X	X
Water—Dependent	P	X	X	X	X	X	X
Water—Related	P	X	X	X	X	X	X
Tavern	X	X	X	X	X	X	X
Industrial Uses							
All Other Industrial Uses Not Listed	X	X	X	X	X	X	X
Mining	X	X	X	X	X	X	X
Railroad Tracks and Accessory Uses	X	X	X	X	X	X	C
Sewer Outfalls	C	C	C	C	C	X	C
Stormwater Outfalls	P	P	P	P	P	P	P
Water and Sewer Treatment Plants and Modifications Thereto	X	X	C	X	X	X	X

Public Uses							
Local Marine Education Facilities	P	P	P	P	P	X	X
Pedestrian Bus/Transportation Shelter	P	P	X	X	X	X	X
Special Events	P	P	P	P	P	P	X
Recreation							
Dive Park	C	C	X	C	X	X	X
Mukilteo Lighthouse and Park	X	P[1]	X	P	X	X	P
Park Caretakers Quarters	P[1]	P[1]	X	X	X	X	X
Park, Public	P	P	P	P	P	P	X
Park/Recreation/Public Access (Including Bicycle Trails, and Bicycle Lanes Along Streets)	P	P[1]	P (passive recreation only)	P	P	P	X
Water—Enjoyment	P	P[1]	X	P	X	X	X
Water—Dependent	P	P[1]	X	P	X	X	X
Water—Related	P	P[1]	X	P	X	X	X

Utilities (Underground Required)							
Major Aboveground Utility Facilities	C	C	C	C	C	C	X
Wireless Communication Facilities—Detached	X	X	X	X	X	X	X
Wireless Communication Facilities—Attached	C	C	C	X	X	X	X
Other							
Agriculture	X	X	X	X	X	X	X
Aquaculture ~~X~~C[13] ~~C~~[13]~~X~~							
Commercial Aquaculture, by private entity	X	X	X	X	X	X	X
Aquaculture, by tribal treaty rights	C	C	X	C	C	X	X
Forestry	X	X	X	X	X	X	X
Moved-In Buildings	C	C	C	X	X	C	X
Nonconforming Use: Changes or Intensification	C	C	C	C	C	C	X

Temporary Emergency Use	C	C	C	C	C	C	C
Transportation Facilities	P	P	P	C w/EPF	X	X	C
Boating Facilities and Other Specific Shoreline Uses							
Boating Facilities Not Otherwise Listed	X	X	X	X	X	X	X
Boathouse	X	X	X	X	X	X	X
Boats; Live Aboard	X	X	X	X	X	X	X
Boat Launches	C	P[1]	X	C	X	X	X
Buoys	P	P[1]	X	P	P	X	X
Covered Moorage	X	X	X	X	X	X	X
Day Moorage	C	X	X	C	X	X	X
Docks	P[1]/C	P[1]/C	X	P[1]/C	X	P	X
Floats	P	P[1]	X	P	X	P	X
Marinas	X	X	X	X	X	X	X
Non-Water-Oriented	P	C	X	C	X	X	X

Navigation Devices	P	P	P	P	P	P	X
Piers	P[1]/C	P[1]/C	X	P[1]/C	X	X	X
Seaplane Facilities	C	X	X	C	X	X	X
Essential Public Facilities (EPF)							
Local EPF	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP
Regional EPF	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP
State	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP
Land Development							
Subdivision of Land or Binding Site Plans	P	P	X (waterward of BNSF tracks)	X	X	P	X

B. Reference Notes for the Permitted Use Matrix.

1. Master Plan Required. The use must be listed in or included as an element of a master plan approved by the Mukilteo city council before the use will be allowed.

2. Residential Units.

a. Single-Family Dwelling Units.

i. No single-family residence may be located north or northwest of the Burlington Northern railroad tracks.

ii. Single-family residences that existed prior to the effective date of the ordinance codified in this title may be altered; provided, that the alterations include only those repairs that are necessary and incidental to meet requirements of law regarding unsafe buildings and that the building is not expanded.

iii. An existing single-family residence may be expanded only if the alteration is combined with commercial uses in accordance with the provisions of this title and the living portion of the building is relocated to above the commercial space. The commercial space shall cover the entire ground floor (street level) of the structure.

b. Multifamily Dwelling Units.

i. Multifamily residences may be located in the WMU district as an accessory use, provided they are combined with retail, service, professional offices or other commercial use.

ii. Dwelling units shall be located above permitted commercial, office, and parking uses.

iii. Density shall be determined based on lot coverage and building height. A maximum of twenty percent of the units may be less than one thousand gross square feet.

3. Home Occupation. Home occupations are allowed, providing the following conditions are met:

a. Occupation is clearly subordinate to the use of the dwelling as a residence;

b. Occupations must be of such a nature that they are customarily carried out by the occupants, within the confines of a residence to the exclusion of accessory buildings and that there is no more than one person other than members of the immediate family employed;

c. There is no stock in trade other than that produced by the inhabitants which are displayed or sold on the premises;

d. That there is no exterior evidence that the structure is being used for any nonresidential purpose, with the exception of a nonluminous sign bearing the name and occupation of the occupant, three square feet maximum placed flat against the building; and

e. That there is nothing about the occupation which would disturb the surrounding neighbors, such as vibrations, smoke, dust, increased traffic, loud noises, and/or bright lights.

4. Uses in the OS District. Uses only allowed at the Mukilteo Lighthouse Park.

5. Uses in the OS District. Uses only allowed at the Mukilteo Lighthouse Park grounds.

6. Accessory Uses in the OS District. Only allowed if accessory, incidentals, and subordinate to, and in support of, a principal public recreational use. Accessory structures shall be in keeping with existing design and scale of the site and surrounding neighborhood.

7. Swimming Pools. Private swimming pools are allowed, provided the following conditions are met:

a. It is for the sole use of occupants and their guests;

b. No swimming pool will occupy a front yard;

c. The swimming pool will not be located closer than seven feet from any rear or side property line; and

d. The swimming pool will be screened from adjacent properties by a solid wall or fence six feet in height.

8. Brewery, Micro; and Winery. Shall be permitted only in combination with a restaurant or tavern, and shall not exceed the square footage of the principal use.

9. Commercial parking lots are allowed in conjunction with the multi-modal transit station.

10. Offices are allowed in multi-use buildings, providing the first (ground) floor is reserved for retail.

11. Shoreline Uses. Where allowed in the Permitted Use Matrix, private, noncommercial docks for individual residential or community use may be authorized; provided, that:

a. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible;

b. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.

c. An inventory of the site and adjacent beach sections shall be prepared to assess the presence of critical saltwater habitats and functions. The methods and extent of the inventory shall be consistent with accepted research methodology. At a minimum, the Department of Ecology should be consulted with for guidance and technical assistance.

12. Essential Public Facilities. Docks, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:

a. The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;

b. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;

c. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat;

d. The project is consistent with the state's interest in resource protection and species recovery. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

13. Only tribal aquaculture is allowed as per treaty rights and following MMC 17B.16.270.

17B.16.050 Development regulations for archaeological/historical.

A. If any item of possible archeological or historical significance is uncovered during excavation or development, all work shall immediately stop, and the city of Mukilteo, State Office of Archeology and Historic Preservation, and potentially the appropriate Native American Tribes shall be immediately notified. The project proponent shall then be required to provide a site inspection and evaluation by a professional archeologist to ensure that all possible valuable archeological data are properly recovered.

B. Significant archeological and historic resources shall be permanently preserved for study, education, and public observation. When the city of Mukilteo determines (in consultation with the State Office of Archeology and Historic Preservation and appropriate Tribes) that a site has significant archeological, cultural, scientific, or historical value, a substantial development permit (which would pose a threat to the site) shall not be issued. The city may require that development be postponed in such areas to allow investigation of or public acquisition and/or retrieval and preservation of significant artifacts.

C. In the event that unforeseen factors constituting an emergency necessitate rapid action to retrieve or preserve artifacts or data described above, the project may be exempted from the permit requirement of these regulations. The city shall notify the Department of Ecology, the State Attorney General's Office, and the State Office of Archeology and Historic Preservation of such a waiver in a timely manner.

D. Archeological excavations may be permitted subject to the provisions of the SMP policies.

E. Archeological sites located both in and outside the shoreline jurisdiction are subject to Chapter 27.44 RCW (Indian Graves and Records) and Chapter 27.53 RCW (Archeological Sites and Records) and shall comply with Chapter 25-48 WAC as well as provisions in this SMP.

F. Access to identified historical or archeological resources shall be designed and managed so as to give maximum protection to the resource and the surrounding environment.

G. Identified archeological or historical resources shall be considered in park, open space, public access, and site planning, with access to such areas designed and managed so as to give maximum protection to the resource and surrounding environment.

H. Interpretive signs and displays for archeological or historical features shall be provided where appropriate. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.060 Development regulations for land subdivision.

A. Urban Conservancy Environment.

1. Within the urban conservancy environment designation, subdivisions of land shall only be permitted in lands landward of the BNSF railroad tracks where a building pad of two thousand five hundred square feet can be located outside of any critical areas and their buffer.

2. Lands west of the railroad tracks in urban conservancy designation may not be further subdivided.

3. Within the urban conservancy environment designation, all subdivisions shall remove existing bulkheads or revetments to soften the shoreline as part of the approval process where feasible.

B. All Environmental Designations.

1. Tidelands/submerged lands shall not be used in calculation of minimum lot size. All property must be above the ordinary high water mark (OHWM) not created by bulkheads or rip rap.

2. Community and public access and utility easements to the shoreline property are required unless shown not to be feasible due to impacts to critical areas. Access must be provided via separate access tracts.

3. Subdivision shall be prohibited where shoreline stabilization is required for development to occur.

4. Plats shall sufficiently set back residential development, including appurtenant structures and uses, from steep slopes and shoreline vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses. A geotechnical report shall be submitted with the plat application that addresses building setbacks necessary to protect steep slopes and shorelines.

5. All subdivisions shall be designed to retain vegetation on steep slopes and shall be required to provide riparian vegetation enhancement where needed along the shoreline or as buffers to critical areas.

6. Plats and subdivisions must be designed, configured and developed in a manner that ensures that no net loss of ecological functions results at full build-out of the lots. A biological

assessment shall be submitted with the application that addresses no net loss of ecological functions.

7. Plats and subdivisions must be designed, configured and developed in a manner that does not require the need for new shoreline stabilization or flood hazard reduction measures that would impact other properties, public improvements, or a net loss of shoreline ecological functions.

8. All types of over-water residences are prohibited.

9. Docks, piers, and floats are allowed per Section 17B.16.115, docks. A subdivision is only allowed one shared dock or pier as follows:

i. ~~a.~~ Two lots: seven hundred square feet.
ii. ~~b.~~ Three or more lots: one thousand square feet. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.070 Development regulations for parking.

A. On-site parking for single-purpose or joint use/shared parking lots and garages in commercial, mixed-use, and multi-modal development within the two-hundred-foot shoreline jurisdiction in the urban waterfront environment designation and WMU zones shall not be located within seventy-five feet of the OHWM except for the area on the eastside of Park Avenue located within the shoreline jurisdiction. On-site parking for single-purpose or joint use/shared parking lots and garages shall be located a no less than five feet from the edge of the promenade. This is based on the recorded Binding Site Plan (AFN 201701205001) for the former Tank Farm property. Off-street parking is limited to the parking necessary to support a permitted use unless created as shared or joint parking.

B. Off-site parking for permitted uses within the shoreline jurisdiction shall be located outside the shoreline jurisdiction in joint-use or shared parking garages or lots where garages are not feasible except for the area on the eastside of Park Avenue located within the shoreline jurisdiction. This is based on the recorded Binding Site Plan (AFN 201701205001) for the former Tank Farm property. If it's necessary for the project success to have accessory parking within seventy-five feet of the shoreline, all accessory parking will be located on a public street or as part of a shared parking garage.

C. Parking garages or parking lots shall be located landward of the permitted shoreline use, such that a building or park use separates the shoreline from the parking lot or stalls except for the area on the eastside of Park Avenue located within the shoreline jurisdiction. This is based on the recorded Binding Site Plan (AFN 201701205001) for the former Tank Farm property. . Parking under or in back of buildings shall be preferred over stand-alone parking lots. Parking to the side must be camouflaged by solid walls with landscaping.

D. Parking lots shall be concealed by using the following at a minimum:

1. Five-foot-wide landscaping strip with trees and hedges within and along the perimeter of the use.

2. Parking garages shall provide commercial, recreational, or other uses along the street frontage of Front Street and the pedestrian promenade unless otherwise allowed by the Mukilteo city council through the tank farm redevelopment process with Sound Transit, Washington State Ferries, and the Port of Everett.

3. Parking lots shall be designed with water quality treatment as required by the most recently adopted stormwater manual.

E. Parking over water is prohibited, except as necessary for ferry terminal operations.

F. Shared parking for uses with different hours of operation is strongly encouraged.

G. Parking facilities for shoreline uses shall provide ADA compliant pedestrian circulation within the parking area and to the shorelines.

H. Public view parking shall be integrated into parking lots serving the promenade, parks, and open spaces along the shoreline.

I. Parking facilities shall be planned, located, and designed so that each facility will have the least possible adverse effect on unique or fragile shoreline features and existing ecological functions.

J. Lighting shall be shielded from surrounding uses and the water.

K. Stormwater runoff shall be directed away from the shoreline and to an approved and designated stormwater collection facility that has best available technology (BAT) treatment before releasing directly into Puget Sound.

L. Parking requirements of Section 17B.25.090 and Chapter 17B.56 shall also apply to all development proposals. If there is a conflict between these sections, the most restrictive shall apply. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.090 Development regulations for commercial and mixed-use development.

A. This section applies to uses that are involved in wholesale, retail, service, and business trades, as well as mixed-use, water-dependent, water-related and water-enjoyment facilities. This section does not apply to boat or marina facilities or essential public facilities, both of which are addressed separately in this chapter. Preference of uses shall be as follows:

1. Water-Dependent Uses. 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 may be located north of Front Street.

2. Water-Enjoyment Uses. 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 operations 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. Water-enjoyment uses may be located north of Front Street.

3. Water-Related Uses. 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. Water-related uses must be separated from the shoreline by another land parcel and located south of Front Street.

4. Non-Water-Dependent Uses. Means those uses that are not water-dependent, water-related, or water-enjoyment. Non-water-dependent uses must be separated from the shoreline by another land parcel and located south of Front Street.

B. City of Mukilteo design standards for mixed-use development related to off-street parking areas (Guideline 2), lighting of pedestrian zones (Guideline 3), and pedestrian streetscapes (Guideline 5) as stated in Chapter 17B.25 shall apply, except in those cases where needs for ferry terminal security render these guidelines infeasible.

C. New development or redevelopment of non-water-dependent use adjacent to the shoreline shall protect, enhance, or mitigate shoreline ecological functions affected by the project. The Department of Fish and Wildlife shall be consulted on the appropriate development practices.

D. New over-water construction shall be limited to water-dependent uses or essential public facilities.

E. Waterward of OHWM, water-related and water-enjoyment uses may occupy an existing structure, provided they are auxiliary to and in support of water-dependent uses and provided the size of the over-water construction is not expanded for non-water-dependent uses. Non-water-oriented uses may occupy an existing structure; provided, that:

1. They are necessary for the support of water-dependent transportation uses or intermodal public transportation systems,

2. The size of the over-water construction is not expanded for non-water-dependent uses, and

3. No other feasible alternative for their location at another site exists.

4. The use is part of a mixed-used project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or

5. Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

F. In areas designated for commercial use, non-water-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right-of-way. Non-water-dependent commercial uses shall not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.

G. Any over-water development shall meet all requirements established by the Department of Ecology, Washington State Department of Fish and Wildlife (WDFW) and U.S. Army Corps of Engineers (Corps). These requirements may include preparation and review of a biological assessment and/or habitat management plan.

H. Commercial uses located within the shoreline jurisdiction and adjacent to the shoreline shall not be located so as to obstruct or impede pedestrian beach access at low tide waters, as established by the mean low tide mark.

I. All commercial buildings adjacent to the shoreline or pedestrian promenade shall have their loading and service areas located on the upland side (i.e., off the public street), except when no other feasible location is available and where adequate provisions have been made to screen the loading and service area from the shoreline. Best management practices and procedures (BMPs) shall be employed for the safe handling of fuels and toxic or hazardous materials. BMPs shall also be employed for all services and activities performed to minimize impacts to water quality. All actions necessary to ensure that contaminants do not enter the water or storm drainage system shall be taken.

J. Pedestrian Promenade. All development within the two hundred (200) feet Shoreline Jurisdiction shall provide pedestrian accessibility along the waterfront. The intent of the waterfront promenade is to have a walkway/boardwalk and beach access from Lighthouse Park to the east side of the tank farm/Everett city limits.

1. All new development shall be set-back twenty (20) -from the rip rap or from a newly established beach and shall incorporate fifteen (15) feet of pedestrian amenities with a five (5) foot landward setback from the pedestrian amenities that conform to the waterfront promenade standards and provide beach access where feasible.

2. Public access to the beach or access to the promenade is required of commercial and mixed-use developments within the shoreline jurisdiction. Access points need to be a minimum of twenty-five feet wide and shall be provided at least every two hundred feet.

3. Visual access to Puget Sound is also required of commercial and mixed-used developments. Building breaks or portals may be used to provide visual access to the sound. Visual access shall be at least twenty-five feet wide and shall be provided at least every two hundred feet at street level. Portals can act as both visual access to the sound and public access to the shoreline.

4. Sidewalks along Front Street shall be a minimum of eight (8) feet. All other sidewalks in the shoreline area shall be no less than five feet.

K. Visual access to Puget Sound is also required of all developments south of Front Street. Building breaks or portals may be used to provide visual access to the sound. Visual access shall be at least twenty-five feet wide and shall be provided at least every two hundred feet at street level. Portals can act as both visual access to the sound and public access to the shoreline. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.100 Development regulations for essential public facilities.

A. Essential public facilities and transportation facilities of statewide significance are necessary and important in the provision of public systems and services. The city of Mukilteo already hosts or borders on a number of essential public facilities, including but not limited to, the following:

1. The Mukilteo Lighthouse and Fog Horn;
2. The Washington State Ferries Mukilteo-Clinton Ferry Terminal;
3. The Sound Transit Mukilteo Station;
4. The Port of Everett Rail Barge Facility;
5. The Snohomish County mental health evaluation facility;
6. Snohomish County Paine Field Airport;
7. Burlington Northern Railroad Tracks;
8. State Route 525;
9. State Route 526; and
10. The Mukilteo water and wastewater district's Big Gulch wastewater treatment facility and its outfall.

B. The purpose of this chapter is to implement the Shoreline Management Act, Growth Management Act and the Mukilteo comprehensive plan by establishing processes for the siting and expansion of essential public facilities in the city of Mukilteo as necessary to support orderly growth and delivery of public services. The city's goal in promulgating the regulations under this chapter is to ensure the timely, efficient and appropriate siting of EPFs while simultaneously acknowledging and mitigating the significant community impacts often created by such facilities. Nothing in this chapter should be construed as an attempt by the city to preclude the siting of essential public facilities in contravention of applicable state law.

C. Requirements for Siting or Expansion of Local Essential Public Facilities.

1. A special use permit shall be required as provided in this section before any local essential public facility (other than a secure community transition facility as defined in RCW 71.09.020) may be located or expanded within the city of Mukilteo, regardless of the zoning district in which such facility is or is proposed to be located.

2. A complete application for a special use permit for a local essential public facility shall include all items set forth under the general application, site/building plans, civil/engineering, and environmental categories in Table 2 adopted by Section 17B.13.040, with the exception of a plat map. The planning director shall develop a supplemental application form which addresses and provides sufficient information to judge the application's compliance with each of the approval criteria set forth in subsection D of this section.

3. A special use permit for a local essential public facility shall be processed as a Type II permit under the process set forth in Table 4 adopted by Section 17B.13.070. Notice of the application and the required public hearing shall be given as provided in Section 17B.13.090 and 17B.13.100. Notices shall be posted on site, posted at the city's designated posting places, advertised in the city's official newspaper, and mailed to property owners within three hundred feet.

4. A special use permit for a local essential public facility shall be approved upon a determination that:

a. The project sponsor has demonstrated a need for the project, as supported by a detailed written analysis of the projected service population, an inventory of existing and planned comparable facilities, and the projected demand for the type of facility proposed;

b. The project sponsor has reasonably investigated alternative sites, as evidenced by a detailed explanation of site selection methodology, as verified by the city and reviewed by associated jurisdictions and agencies;

c. Only water-dependent essential public facilities shall be allowed over water;

d. Necessary infrastructure is or will be made available to ensure safe transportation access and transportation concurrency;

e. Necessary infrastructure is or will be made available to ensure that public safety responders have capacity to handle increased calls or expenses that will occur as the result of the facility;

f. The project sponsor has the ability to pay for all capital costs associated with on-site and off-site improvements;

g. The facility will not unreasonably increase noise levels in residential areas, especially at night;

h. Visual screening will be provided that will mitigate the visual impacts from streets and adjoining properties;

i. The local essential public facility is not located in any residential zoning district identified in Table 17B.16.040, except as provided in this subsection. If the land on which a local essential public facility is proposed is located in any such residential zoning district, the applicant must demonstrate to the hearing examiner that there is no other feasible location for the facility and that the exclusion of the facility from the residential districts of the city would preclude the siting of all similar facilities anywhere within the city. If the applicant is able to make such a demonstration, the hearing examiner shall authorize the essential public facility to be located in the residential zoning district;

j. The local essential public facility meets all provisions of this code for development within the zoning district in which it is proposed to be located, including but not limited to the bulk regulations of Chapter 17B.20, except as provided in this subsection. If a local essential public facility does not meet all such provisions, the applicant must demonstrate that compliance with such provisions would preclude the siting of all similar facilities anywhere within the city. If the applicant is able to make such a demonstration, the hearing examiner shall authorize the essential public facility to deviate from the provisions of this code to the minimum extent necessary to avoid preclusion; and

k. Any and all probable significant adverse environmental impacts are mitigated.

5. If the hearing examiner determines that any one or more of the decision criteria set forth in subsection (C)(4) of this section is not met by the proposal, the hearing examiner shall impose such reasonable conditions on approval of the special use permit as may be necessary in order to enable the facility to meet the decision criteria.

6. The decision criteria set forth in subsection (C)(4) of this section shall not be applied in such a manner as to preclude the siting or expansion of any local essential public facility in the city of Mukilteo. In the event that a local essential public facility cannot, by the imposition of reasonable conditions of approval, be made to meet the decision criteria set forth in subsection (C)(4) of this section on the preferred site described in the proposal, the hearing examiner shall either:

a. Require the local essential public facility to be located on one of the investigated alternative sites, if the proposal can be reasonably conditioned to meet the decision criteria at the alternative site; or

b. Approve the siting or expansion of the local essential public facility at the preferred site with such reasonable conditions of approval as may be imposed to mitigate the impacts of the proposal to the maximum extent practicable, if there is no available alternative site on which the decision criteria can be met.

D. Siting and Expansion of State and Regional Essential Public Facilities.

1. Any proposal for the siting or expansion of a state or regional essential public facility shall follow the procedures established by Chapter 17B.13 for the underlying permit, e.g., building permit, subdivision, binding site plan, etc.; provided, that a public hearing shall be held prior to the issuance of any such permit in order to obtain public input on the permit criteria and conditions of approval. If the underlying permit ordinarily requires a public hearing, the public hearing required by this section shall be consolidated with the required public hearing and heard by the same hearing body or officer. If the underlying permit does not ordinarily require a public hearing, the hearing examiner shall conduct the public hearing and shall thereafter be the approval authority for such underlying permit. Notice of the application and the required public hearing shall be given as provided in Section 17B.13.090 and 17B.13.100. Notices shall be posted on site, posted at the city's designated posting places, advertised in the city's official newspaper, and mailed to property owners within three hundred feet.

2. State and regional essential public facilities shall not be located in any residential zoning district identified in Table 17B.16.040 except as provided in this subsection. If the land on which a state or regional essential public facility is proposed is located in any such residential zoning district, the applicant must demonstrate to the hearing examiner that there is no other feasible location for the facility and that the exclusion of the facility from the residential districts of the city would preclude the siting of all similar facilities anywhere within the city. If the applicant is able to make such a demonstration, the hearing examiner shall authorize the essential public facility to be located in the residential zoning district.

3. State and regional essential public facilities shall meet all provisions of this code for development within the zoning district in which they are proposed to be located, including but not limited to the bulk regulations of Chapter 17B.20, except as provided in this subsection. If a state or regional essential public facility does not meet all such provisions, the applicant must demonstrate to the hearing examiner that compliance with such provisions would preclude the siting of all similar facilities anywhere within the city. If the applicant is able to make such a demonstration, the hearing examiner shall authorize the essential public facility to deviate from the provisions of this code to the minimum extent necessary to avoid preclusion.

4. The hearing examiner shall impose reasonable conditions upon the state or regional essential public facility in order to ensure that:

a. Necessary infrastructure is or will be made available to ensure safe transportation access and transportation concurrency;

b. Necessary infrastructure is or will be made available to ensure that public safety responders have capacity to handle increased calls or expenses that will occur as the result of the facility;

c. The project sponsor has the ability to pay for all capital costs associated with on-site and off-site improvements;

d. The facility will not unreasonably increase noise levels in residential areas, especially at night;

e. Visual screening will be provided that will mitigate the visual impacts from streets and adjoining properties; and

f. Any and all probable significant adverse environmental impacts are mitigated.

g. The hearing examiner shall not impose conditions in such a manner as to preclude the siting or expansion of any state or regional essential public facility in the city of Mukilteo. In the event that a state or regional essential public facility cannot, by the imposition of reasonable conditions of approval, be made to mitigate the impacts described in subsection D of this section, the hearing examiner shall approve the siting or expansion of the state or regional essential public facility with such reasonable conditions of approval as may mitigate such impacts to the maximum extent practicable.

E. Only water-dependent essential public facilities shall be allowed over water.

F. New construction of essential public facilities that results in unavoidable impacts to ecological functions, including the temporary or long-term loss of habitat, shall mitigate the loss of ecological functions to the extent feasible and practical.

G. No mitigation shall be required by the city for routine repair and rehabilitation of EPFs if said repair and/or rehabilitation does not result in unavoidable impacts to ecological functions or permanent loss of habitat; mitigation may or may not be required by other governmental agencies or tribal governments. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.110 Development regulations for in- or over-water facilities in the aquatic urban and aquatic urban conservancy environment.

A. In-water facilities (such as docks, covered moorage, boathouses, or live-aboards), for single-family, multifamily, and mixed-used developments are prohibited in the aquatic urban and aquatic urban conservancy environment.

B. General requirements that apply to all allowed (permitted or conditional uses) in- or over-water facilities use:

1. All in-water and boating facilities shall only be located where access can be provided in accordance with city of Mukilteo development standards and the International Fire Code regulations.

2. All in-water and boating facilities shall comply with all state and federal permitting regulations including the Department of Fish and Wildlife, Corps of Engineers, and Snohomish health district requirements.

3. All dimensions shall be the minimum necessary to support the intended use.

4. Docks and piers for water-dependent uses shall be located at least five feet from the extended side property lines, except for joint-use structures which may abut property lines, provided the adjacent property owners have mutually agreed to the structure location in a contract agreement recorded with Snohomish County recorder's office.

5. Piles, floats, or other structural members in direct contact with the water shall be constructed of concrete or steel in accordance with current BMPs and shall not be treated or coated with herbicides, fungicides, or pentachlorophenol. Use of arsenate compounds or creosote is prohibited. As a least preferred option, ACZA treated wood is only allowed as long as it meets post-treatment procedures of American Wood-Preservers' Association and Western Wood Preservers Institute, and is approved by applicable state and federal agencies.

6. Pilings employed in piers or any other structure shall have a minimum vertical clearance of two feet above extreme high water and maximum clearance of five feet above the OHWM, except when needing to meet ADA standards.

7. Floating structures shall at no time rest on the beach substrate, with the exception of a public boat launch as approved by local, state and federal agencies.

8. All construction-related debris shall be disposed of properly and legally. Any debris that enters the water shall be removed promptly.

9. All applicable permits from federal and state agencies shall be obtained, and "concurrence" must be received regarding effects to any species listed under the Endangered Species Act (ESA). This may include preparation and review of a biological assessment based upon a federal or state nexus as part of this process. Development shall not result in a net loss of shoreline ecological function or other significant adverse impacts.

10. Marine fuel, oil, and other petroleum product storage must occur landward of the OHWM. Pumping or distribution of marine fuel, oil, or other petroleum products may occur on a pier facility; provided, that such a pier is firmly attached to the piling and that the facility is part of the NOAA facility, ferry terminal complex or essential public facility. (Also, see underground fuel storage requirements, Chapter 8.12, storage of gasoline and oil.)

11. Provide visual and physical public access to the shoreline. Public access shall be designed to be environmentally sound and aesthetically compatible with adjacent areas, as well as be safe for users. Docks or piers constructed with safety railings shall meet the height requirements of the International Building Code, ASSHTO, and built with an open framework. Access corridors

shall be a minimum of twenty-five feet wide. Development shall also comply with the additional development regulations for recreation and public access as provided for in this chapter.

12. All new piers or docks must be fully grated. Decking shall have a minimum open space of forty percent, and shall result in at least sixty percent ambient light beneath the structure.

13. Length, width, and pilings shall be designed using best management practices as conditioned in environmental permitting documents approved by WDFW and USACE.

14. Lighting associated with overwater structures shall be beamed, hooded or directed to avoid causing glare on adjacent properties or waterbodies. Illumination levels shall be the minimum necessary for safety.

15. Extended off-shore mooring shall be prohibited unless the applicant submits a copy of a state issued lease agreement or permission.

16. All over-water structures shall be designed and located so as not to constitute a hazard to navigation or other public uses of the water.

17. All over-water structures shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe structures shall be removed or repaired promptly by the owner.

C. Additional Regulations for Day Use Moorage Facilities.

1. The existing day moorage facility extending waterward of SR 525 may continue in its present location or be relocated as allowed by local, state, and federal regulations.

2. Day moorage facilities may have up to five slips.

3. Covered moorage is prohibited.

4. Overnight moorage (between two-thirty a.m. and four-thirty a.m.) is prohibited at the “day use moorage facility.”

5. Moorage facilities shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. Exterior finishes shall be generally nonreflective.

D. Additional Regulations for the Mukilteo Ferry Terminal Facilities.

1. Ferry and boating facilities shall be located where there are suitable environmental conditions, including mixing and flushing adequate to avoid water quality problems, and where avoidance of areas that affect littoral drift, fish, and shellfish spawning and rearing, while being able to design structures that allow for continued fish passage.

2. Design and operation of ferry and boating facilities shall mitigate for impacts to water quality standards set by the Department of Ecology (Section 401 Water Quality Certification and WAC 173-201(A)).

E. Repair, Replacement, and Expansion of Existing Over-Water Structures.

1. Existing over-water structures may be repaired and/or replaced in the same location as the existing structure.

2. Repair or replacement of fifty percent or more of an existing over-water deck structure shall include replacement of the entire decking with grated decking material to achieve a minimum open space of forty percent, and shall result in at least sixty percent ambient light beneath the structure.

3. Repair or replacement of less than fifty percent of an existing over-water deck structure shall use grated decking on the area to be replaced. However, if the cumulative repair of the structure in any three-year period totals fifty percent or more than the entire decking shall be replaced with grated decking material to achieve a minimum open space of forty percent, and shall result in at least sixty percent ambient light beneath the structure.

4. Replaced pilings or other structural members in direct contact with the water shall be constructed of concrete or steel in accordance with current BMPs and shall not be treated or coated with herbicides, fungicides, or pentachlorophenol. Use of arsenate compounds or creosote is prohibited. ACZA treated wood is allowed as long as it meets post-treatment procedures of American Wood-Preservers' Association and Western Wood Preservers Institute.

5. Expansions of existing over-water structures by more than ten percent shall meet all of the requirements for new structures.

6. Other repairs to existing legally established facilities where the nature of the repair is not described in the above subsections shall be considered minor repairs and are permitted, consistent with all other applicable codes and regulations.

F. Boat Launches.

1. The maximum waterward intrusion of any portion of any launching ramp shall be the point where the water depth is eight feet below the ordinary high water mark.

2. Boat ramps are only permitted for public access, public recreational uses, and emergency access.

3. The existing boat launch at Lighthouse Park shall be allowed to continue and shall be maintained per best management practices.

4. Any new boat launch facility shall be subject to the review procedures and regulations of this title. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.115 Additional development regulations of the urban lakefront environment.

Docks, piers and other boating facilities shall be subject to the following requirements:

A. General Requirements.

1. In-water facilities such as covered moorage, boathouses, or live-aboards for single-family developments are prohibited in the urban lakefront environment.

2. Docks and piers shall be designed to minimize adverse impacts on ~~marine~~ aquatic life, shore processes, and ecological functions. All permit conditions and mitigation measures called for in approved environmental documents (e.g., B.A., WDFW, HPA, USACE permits) must be followed.

3. All floats or floating docks shall include stops that serve to keep the float bottom off ~~tidelands at low tide~~the lake bed. Grounding of floats shall be minimized to the extent possible.

4. Overhead wiring or plumbing shall be prohibited on piers and docks.

5. Railings shall be clear or open framework design and shall conform to the International Building Code, AASHTO, or labor and industry requirements as applicable.

6. Dock, pier, and boating facility lighting shall be designed to shine downward in a controlled manner, shall be of a low wattage, shall be designed to limit spill, and shall not exceed a height of three feet above any dock or promenade surface (e.g., bollards). Where additional lighting is needed to improve ecological functions or pedestrian safety, lighting shall meet the design standards of the multi-modal master plan, or as required for ferry terminal security and safety.

B. Docks, Piers, Floats and Ells.

1. Only piers and ramps can be within thirty feet of shore. All floats and ells must be at least thirty feet waterward of OHWM.

2. Skirting. Skirting is prohibited and any existing skirting must be removed.

3. New Piers. Surface coverage of pier must not exceed the following:

a. Single property owner: four hundred eighty square feet.

b. Two property owners: seven hundred square feet.

c. Three or more property owners: one thousand square feet.

4. Except for floats, the bottom of all structures must be at least one and one-half feet above OHWM.

5. Pier/walkway must be fully grated.

6. Pier/walkway must be no wider than four feet.

7. Ramps must not exceed three feet in width and be fully grated.

8. Ells must not exceed six feet wide by twenty feet long with a two-foot-wide strip of grating down the center or six feet wide by twenty-six feet long and fully grated.

9. Finger ell must not exceed two feet wide by twenty feet long and must be fully grated.

10. Float width must not exceed six feet and the length cannot exceed twenty feet.

11. Floats must contain at least a two-foot strip of grating down the center.

12. All grating must have at least sixty percent open area.

C. Pilings.

1. Piling. The first in-water set of piles shall be steel, four inches and at least eighteen feet from OHWM.

2. Beyond the first set of piles, piles for a new pier must be spaced no closer than twenty feet apart and no greater than twelve inches in diameter.

3. Piling Beyond the First Set. Replacement or proposed new piling can be steel, concrete, plastic or untreated wood. No creosote, pentachlorophenol, CCA, or comparably toxic compounds not approved for marine use, shall be used for any piling.

D. Construction Methodology.

1. If an impact hammer pile driver for steel piling is utilized, a sound attenuation device or system must be implemented during pile driving. Steel piling cannot exceed a twelve-inch diameter.

2. Piling with diameter of ten inches or less—one Corps approved sound attenuation device is required.

3. For piling with a diameter greater than ten inches, up to twelve inches, two Corps approved sound attenuation devices are required.

4. Treated Wood. No creosote, pentachlorophenol, CCA, or comparably toxic compounds not approved for marine use shall be used for any portion of the overwater structure. ACZA treated wood must meet post-treatment procedures.

E. Environmental Protection.

1. Invasive aquatic weeds must be removed by nonchemical means.

2. Emergent vegetation must be planted per the Corps' requirements.

3. A ten-foot-wide strip of vegetation along the entirety of the shoreline (including shorelines of any joint-use applicants) shall be provided. A six-foot-wide path through the vegetation is allowed for access to the pier.

4. Only Corps authorized species, number of plants, and correct spacing of plants will be utilized.

5. A performance standards plan shall be submitted and implemented with a five-year monitoring period:

a. One hundred percent survival of all trees and shrubs for the first two years.

b. One hundred percent of trees and eighty percent of shrubs must survive years three to five.

6. Impact Reduction Reports. A status report on the project and mitigation, including as-built drawings, must be submitted to the Corps within twelve months from the date the Corps issues an RGP to the permittee. Planting monitoring reports will be due annually for five years from the date.

7. Fish Work Windows. The required Corp fish work window shall be met. Note: The Corp fish work window may be different than the HPA work window.

8. Bald Eagle Work Window. The required bald eagle work windows shall be met, if applicable to the project location.

9. General Work Prohibition Times.

a. January 1st through August 15th (nesting areas).

b. November 1st through March 31st (wintering areas).

10. Work in the Dry. Work that disturbs the substrate, bank, or shore shall occur in the dry weather.

11. Operation of Equipment. Equipment shall be operated from the top of the bank, dry gravel bar, temporary work platform, barge, or similar out-of-water location.

12. Equipment shall be operated in a manner that minimizes suspended particulates from entering the water column.

13. All equipment used in or around waters shall be clean and inspected daily prior to use to ensure that the equipment has no fluid leaks. Any equipment that develops a leak shall be removed from the site immediately and not used again until it has been adequately repaired.

F. Repair, Replacement, and Expansion of Existing Over-Water Structures.

1. Existing over-water structures may be repaired and/or replaced in the same location as the existing structure.

2. Repair or replacement of fifty percent or more of an existing over-water deck structure shall include replacement of the entire decking with grated decking material.

3. Repair or replacement of less than fifty percent of an existing over-water deck structure shall use grated decking on the area to be replaced. However, if the cumulative repair of the structure in any three-year period totals fifty percent or more then the entire decking shall be replaced with grated decking material.

4. Replaced pilings or other structural members in direct contact with the water shall be constructed of concrete or steel in accordance with current BMPs and shall not be treated or coated with herbicides, fungicides, paint, or pentachlorophenol. Use of arsenate compounds or creosote is prohibited.

5. Expansions of existing over-water structures by more than ten percent shall meet all of the requirements for new structures.

6. Other repairs to existing legally established facilities where the nature of the repair is not described in the above subsections shall be considered minor repairs and are permitted, consistent with all other applicable codes and regulations. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.120 Development regulations for Mukilteo Lighthouse historic facility and park.

The Mukilteo Lighthouse Park is located in the urban waterfront park environment designation. The purpose of this designation is to allow for an urban waterfront park to be redeveloped and maintained providing a key element of public access for the community.

A. The Mukilteo Lighthouse is a publicly owned recreational facility that has been designated as a historic landmark. It is located upland of the OHWM and within the two-hundred-foot shoreline management zone. The surrounding park encompasses areas both below and above OHWM. Land uses will be determined by the park management plan as adopted or amended by the city under the parks and open space zone.

B. The Mukilteo Lighthouse and related facilities shall be maintained, designed, and managed to give maximum protection to the resource and surrounding environment while providing extensive public access.

C. Uses allowed within existing structures must conform to an approved master plan.

D. Modifications to structures and/or facilities must be consistent with the historical character of the original structure and/or facility and shall be approved by the State Historical Preservation Officer.

E. Off-street parking shall be provided per the requirements of the park master plan and shared parking is encouraged where possible. A parking structure is allowed.

F. Physical and visual public access to the water shall be maintained.

G. Upper beach restoration/enhancement shall be required as part of any site development/master plan.

H. All marine waters, tidelands and uplands within two hundred feet of the OHWM are critical saltwater habitats regulated by Chapter 17B.52C and habitats identified in Section 17B.52.030. Any land use development proposal that occurs within a habitat and/or its buffer, or outside a habitat or buffer but potentially affects that habitat or buffer, shall be regulated pursuant to the standards of Section 17B.52C.040, including but not limited to activities such as demolition, drainage, any disturbance to the water level, destroying or altering habitat vegetation through clearing, harvesting, shading or planting vegetation that would alter the habitat or buffer would require a permit. If the city determines that habitat or buffer impacts might occur as a result of the proposal a biological/habitat report, as defined in Section 17B.08.020 must be submitted to the city for review prior to the issuance of a development permit. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.130 Development regulations for public access and recreation.

A. Public Access and Recreation. Public access shall be required of all commercial, mixed-use, multifamily and public facility developments when located within the shoreline jurisdiction. Public access for residential development is included in the land subdivision subsection of this chapter.

1. Public access shall be provided at all street ends.

2. All new development shall be set back twenty (20~~) feet~~) feet from the rip rap or from a newly established beach.

3. Public access shall include access to the promenade and/or the beach. Access points need to be a minimum of twenty-five feet wide and shall be provided at least every two hundred feet.

4. These public access points shall be either established in a permanent public access easement or dedicated to the city of Mukilteo. If dedicated to the city, no part of the structure or development shall be deemed nonconforming due to setbacks.

5. Signs indicating the public's right to access shoreline areas shall be installed and maintained in conspicuous locations at recreational facility points of access.

6. Developments shall include provision for nonmotorized access to the shoreline. Motorized vehicular access to the shoreline/nearshore shall be prohibited except at boat launches and for launch maintenance activities.

7. Visual access to Puget Sound is also required. Building breaks or portals may be used to provide visual access to the sound. Visual access shall be at least twenty-five feet wide and shall be provided at least every two hundred feet at street level. Portals can act as both visual access to the sound and public access to the shoreline.

8. Recreational use(s) (other than those at the Mukilteo Lighthouse Park) that are thought to have an impact on the nearshore marine environment shall require a biological assessment reviewed by WDFW to determine whether the proposed development will create a significant environmental impact and if so how it will be mitigated.

B. Minor Exemptions. The following activities will be exempt from the regulations set forth in this section:

1. Access improvements to the shoreline.

2. Riparian vegetation enhancement/replanting and maintenance.

3. Eelgrass transplant.

4. Underwater improvements covered by a marine park master plan approved by the city of Mukilteo as well as permitted by WDFW.

5. Public access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. This exemption may only be used if it can be shown that there is no alternative to provide public access elsewhere along the shoreline or by providing viewing platforms, separation of uses through site planning and design and/or restricting hours of public access.

C. Park uses are subject to the following:

1. All the uses and facilities shall be located, constructed or developed in accordance with a master/site plan approved by city council.

2. All proposals for park and recreation facilities shall be accompanied by an adopted master or site plan which is drawn to scale and shows the location of all park activities, recreational facilities, utilities, parking areas, structures, points for ingress and egress, vehicular and pedestrian circulation features, existing and proposed vegetation as may be a part of and necessary to describe the proposal.

3. All proposals for park and recreation facilities shall be designed and constructed in conformance with the overall plan for the waterfront as contained in the comprehensive plan, ~~and~~ the multi-modal plan, the downtown waterfront plan, and the Japanese Gulch plan. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.140 Development regulations for residential dwelling units (single-family and multifamily).

A. This section covers single-family and multifamily residential dwelling units and accessory structures including detached single-family dwellings and multifamily dwellings. Dwelling units with mixed-use projects are addressed in Chapter 17B.25, mixed-use development, and Section 17B.16.150.

B. In the urban conservancy environment designation properties zoned MR or MRD, which are separated from the shoreline by another property, public right-of-way, or railroad right-of-way residential development is allowed in the shoreline area where they are permitted by zoning.

C. New over-water or floating on water residential development is prohibited.

D. All dwellings and secondary uses shall be designed and located to maintain ten feet of separation between buildings on an adjacent lot per the bulk standard requirements.

E. New dwelling units and secondary uses shall be designed to preserve and enhance existing shoreline vegetation, control erosion, and protect water quality during and after construction. Plans for temporary and permanent soil stabilization are required.

F. No existing single-family dwelling unit or secondary use shall be enlarged or substantially remodeled unless it is served by public sanitary sewer or a health department approved system that provides treatment superior to that of a septic tank and drain field.

G. All multifamily development projects of two or more units shall provide public access to the shoreline per Section 17B.16.130, Development regulations for public access and recreation.

H. All other critical area regulations shall apply. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.150 Development regulations for residential units in mixed-use development.

A. This section applies to dwelling units in mixed-use developments and apartments, townhouses, and condominiums.

B. Dwelling units in mixed-use developments are permitted only in the following:

1. Urban Waterfront Environment Designation and WMU Zoning District. In the second floor of structures with water-oriented uses and only if the residential uses do not conflict with existing or planned water-oriented uses in the WMU district along Front Street or as an integral part of the redevelopment of the multi-modal master plan without precluding the pedestrian promenade or other essential public facilities.

a. New dwelling units over water are prohibited.

b. New dwelling units in mixed-use development shall be designed to preserve and enhance existing shoreline vegetation, control erosion and stormwater, and protect water quality during and after construction. Plans for temporary and permanent soil stabilization are required, where necessary.

c. New dwelling units and accessory uses in mixed-use development and accessory uses in the urban waterfront environment (WMU or DB zones) shall be set back a minimum of twenty (20) -feet, fifteen (15) from the rip rap and five (5) feet from the pedestrian promenade, to accommodate the pedestrian promenade and any marine riparian vegetation required from the ordinary high water mark (OHWM) and must accommodate flooding and storm surges.

d. Dwelling units and secondary uses in mixed-use development in the urban waterfront environment shall orient buildings and rooflines to views of the shoreline, thereby minimizing impact upon views of shorelines from other above properties.

e. Mixed-use developments shall comply with the design standards contained in Chapter 17B.25, Design Standards.

C. All mixed-use development projects shall provide public access to the shoreline per Section 17B.16.130, Development regulations for public access and recreation. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.160 Development regulations for transportation.

A. Transportation uses include facilities and structures that aid in the land and water surface movement of people, goods, and services (e.g., pedestrian, bicycles, vehicular, public transit, railroad, and marine traffic circulation) as well as roadways, streets, and highways. In addition to these regulations, the Washington State Ferry System and Mukilteo Terminal are addressed under the essential public facilities regulations section.

B. Transportation and utility facilities shall be required to make joint use of rights-of-way and to consolidate stream crossings on the tank farm property to the extent feasible to allow for as much of Japanese Gulch stream to be daylighted as possible.

C. New construction, maintenance, and repair work to transportation facilities shall be conducted in a manner that minimizes impacts to water quality, maintains public utilization of the shoreline, and protects ecological functions.

D. New and expanded transportation facilities shall be designed to minimize impacts on shoreline views by providing view corridors that are a minimum of twenty-five feet wide and that shall be provided at least every two hundred feet. Further, landscaping shall be provided to minimize visual impacts by using low growing trees and shrubs (less than forty feet tall).

E. Transportation facilities allowed to cross over water bodies, such as streams and wetlands, shall utilize bridges elevated with open pile or pier structures whenever feasible.

F. Transportation facilities shall be located and designed to minimize the need for routing surface waters into and through culverts. If bridge structures are not feasible, open-bottom culverts are required.

G. New transportation facilities shall be located and designed to prevent or minimize the need for shoreline protective measures such as riprap or other bank stabilization, fill, bulkheads, groins, or jetties in the marine environment.

H. Transportation facilities shall be designed, constructed, and maintained to contain and control all debris, overburden, runoff, erosion, and sediment generated from the affected area. Relief culverts and diversion ditches shall not discharge onto erodible soils, fills, or side cast materials.

I. With prior approval of USACE, DOE, and WDFW, sand, gravel, and native soils deposited during landslides along marine bluffs shall not be considered in-water fill when disposed of into Puget Sound. This practice will serve two purposes (1) expediting transportation corridor maintenance, and (2) maintaining sediment supply to the near-shore marine environment and thereby slowing beach erosion and promoting the health of eelgrass and kelp beds.

J. Mechanical means of roadside brush control shall be used versus herbicides and is encouraged along the railroad tracks in shoreline areas unless otherwise approved by WDFW.

K. All shoreline areas disturbed by facility construction or maintenance shall be stabilized immediately after construction or maintenance activities and shall be seeded or replanted with native vegetation or landscaped, as applicable, as soon as practical, but in no event longer than six months.

L. Any over-water or in-water transportation facility, including bridges, crossings, culverts, and similar devices shall meet all requirements established by WDFW and the city's critical area codes. These requirements may include preparation and review of additional environmental studies.

M. Any ferry launch facility, terminal building or vehicle holding area must be designed and located in accordance with the city's waterfront master design or multi-modal plans and any development in the waterfront area must be approved by the city through an administrative design review process. The ferry and commuter rail facilities and multi-modal station shall include public restrooms, sheltered passenger waiting areas and covered platforms that also provide adequate protection along the sides, and shall incorporate interior and exterior public art.

N. New roads within the shoreline designation shall include sidewalks and bike lanes and where needed bus stops or other public transportation improvements. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.170 Development regulations for utility uses.

A. On-site utility features serving a primary use, such as water, sewer or gas line to a structure are "accessory utilities" and are considered a part of the primary use. These utilities shall be located outside the two-hundred-foot shoreline jurisdiction unless it is not feasible to serve the site otherwise.

B. All utilities within the shoreline jurisdiction shall be installed underground or under structures. Utilities should be located in existing rights-of-way and utility corridors and jointly shared utility corridors or road rights-of-way whenever possible.

C. In-water utilities or infrastructure shall be allowed below the ordinary high water mark (OHWM) only if no other feasible alternatives exist and only if a biological assessment based on a federal or state nexus determines that the proposed utilities will not create a significant environmental impact. A habitat management plan and mitigation may be required.

D. Utility facilities shall be located in or near to existing public right-of-way corridors unless no alternative exists.

E. Utility production and processing facilities, such as power plants and sewage treatment plants, or part of those facilities that are non-water-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.

F. Development of utilities and facilities that may require periodic maintenance or that cause significant environmental impacts shall be discouraged, except where other alternatives are not feasible, or where access roads exist. When permitted, those facilities shall include adequate provisions to protect against significant environmental impacts to the shoreline or upland critical area.

G. Unless no feasible alternative location exists, utilities shall be prohibited in wetlands, estuaries, geotechnical hazard areas, critical fish and wildlife habitat areas, their required buffers and other unique and critical areas. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.180 Development regulations for wireless communication facilities.

A. Wireless communication facilities shall not be allowed within the shoreline jurisdiction, except for public agency emergency and operation infrastructure or for homeland security.

B. When it can be demonstrated that no practicable alternative site exists, “attached” wireless communication facilities (WCF) may be constructed on or within existing/new buildings. WCF facilities must be designed to blend with the building to which they are attached. Antenna array proposed to extend higher than the height of the building/structure to which it is attached must be screened unless the screening is more intrusive into view corridors.

C. Monopoles and lattice towers are prohibited.

D. Wireless communication facilities (WCF) shall meet the following performance standards:

1. Setbacks. Attached and detached WCFs reviewed under this section shall not be located within any required setback areas; provided, however, the setback requirement for underground facilities shall be a minimum of five feet from any property line, except where:

a. Structures which exceed forty-five feet in height shall be set back from any lot line five feet more than specified in the individual zone for every ten feet, or fraction thereof, over forty-five feet of height.

b. The required setback, as listed above, may be reduced by the planning director, if the applicant can demonstrate to the planning director's satisfaction that the reduced setback would result in a greater natural vegetative screening of the WCF than would have been provided by meeting the WCF development regulations.

c. All equipment shelters, cabinets, or other on-the-ground ancillary equipment shall meet the setback requirements of the zone in which they are located, except that the rear setback may be reduced to five feet if the structure meets all other standards.

2. Height in Commercial Zones. The combined height of the WCF and any support structure shall not exceed eighty-five feet. The applicant shall demonstrate a justification for the proposed height of the structures and an evaluation of alternate designs, which might result in lower heights. Utility poles, street lights and traffic signals may be excepted from the height limitations at the discretion of the planning director. If additional height over that allowed in the zone is justified it may be allowed through the conditional use permit process. Due to the proximity of Paine Field Airport to the city all WCFs shall be approved by the Federal Aviation Administration (FAA) and the Snohomish County Airport at Paine Field to ensure that the facilities are not located within the restricted airspace.

3. Landscaping. Equipment shelters and cabinets and other on-the-ground ancillary equipment shall be screened using Type I and ten feet of Type II landscaping around the enclosure in accordance with the requirements contained in Chapter 17B.58. Support structures shall be landscaped using Type I screening around the compound's perimeter. Trees with significant height and fullness upon maturity shall also be used to visually screen the tower from adjacent properties.

4. Lighting. Except as specifically requested by the FAA, the Federal Communication Commission (FCC), and/or the Snohomish County Airport at Paine Field, transmission structures shall not be illuminated, except transmitter equipment shelters may use lighting for security reasons as long as the light is shielded downward to remain within the boundaries of the site.

5. Concealment Technology. All WCFs shall employ concealment technology in their design, construction and maintenance and reduce the WCFs' aesthetic impacts to the maximum extent possible. Such concealment technology shall include, at a minimum, the following:

a. All antenna support structures and antennas shall be painted a nonreflective color, approved by the planning director, which blends into the nearby surroundings of the WCF so as to minimize the visual impact of the support structures or antennas.

b. New antenna support structures shall be located in such a manner that existing trees on the site are used to screen the WCF from view from roadways, residences, and other properties; provided, however, that all WCFs shall be designed in a manner which minimizes the need for removal or topping of existing trees.

c. To the maximum extent possible, WCFs shall be designed to resemble an object other than a WCF which is already present in the local environment, such as a tree, a street light or a traffic signal. It may include the use of colors or materials to blend into the building materials from which a structure is constructed. Examples of concealment technology include, but are not limited to, the use of innovative site design techniques, existing or new vegetation and landscaping, paint and other surface treatments, alternative antenna configuration and/or selection, utilization of antenna support structures designed to resemble trees, and any other practice which screens the WCF from observation from roadways, residences, and other properties or otherwise has the effect of reducing the aesthetic impacts associated with the WCF.

6. Noise. No equipment shall be operated at a WCF (attached or detached) so as to produce noise in excess of the applicable noise standards under Chapter 8.18, except for in emergency situations requiring the use of a backup generator, where the noise standards may be exceeded on a temporary basis. Air conditioning and ventilation equipment associated with the ancillary equipment of the WCF shall be designed and configured in a manner so that noise impacts on adjacent properties with residential uses are minimized to the maximum extent practicable through the use of baffling and/or other noise attenuation techniques and that the noise levels generated by the ancillary equipment otherwise comply with applicable noise regulations adopted by the city. In descending order, preference shall be given to the following configurations of air conditioning and ventilation equipment: (a) orientation toward properties with nonresidential uses; (b) orientation toward streets; and (c) orientation toward the furthest residential use.

7. Co-Location. It is the policy of the city to minimize the number of detached WCFs and to encourage the co-location of more than one WCF on a single support tower. No new detached WCFs may be constructed unless it can be demonstrated to the satisfaction of the permit authority that existing support towers are not available for co-location of an additional WCF, or that their specific locations do not satisfy the operational requirements of the applicant. In addition, all detached WCFs shall be designed to promote facility and site sharing. All facilities shall make available unused space for co-location of other telecommunication facilities, including space for those entities providing similar, competing services. Co-location is not required if the host facility can demonstrate that the addition of the new service or facilities would impair existing service or cause the host to go off-line for a period of time. Nothing in this section shall prohibit the owner of an existing facility from charging a reasonable fee for co-location of other telecommunications facilities.

8. Abandonment and Obsolescence. A WCF shall be removed by the facility owner within six months of the date it ceases to be operational or if the facility falls into disrepair.

9. Maintenance. All WCFs shall be maintained in good and safe condition and in a manner that complies with all applicable federal, state and local requirements.

10. Electromagnetic Emissions. All applicants shall demonstrate compliance with all applicable FCC regulations regarding the radio-frequency emissions of WCFs. If at any time radio frequency emissions exceed any of the standards established by the FCC, the applicant shall immediately discontinue use of the WCF and notify the city. Use of the WCF may not resume until the applicant demonstrates that corrections have been completed which reduce the radio-frequency emissions to levels permitted by the FCC.

11. Special Exceptions. When adherence to the development standards listed in this section result in a physical barrier which would block signal reception or transmission, or prevent service coverage in the targeted area, a special exception may be granted by the approval authority. When considering a special exception request, the permit authority shall consider:

a. The height of the proposed WCF shall be no greater than necessary to transmit and receive signals of an acceptable quality.

b. The applicant has demonstrated that aesthetic impacts associated with the proposed WCF have been minimized to the maximum extent possible using concealment technology, site design, and/or architecturally compatible improvements to existing structures.

c. The levels, types, and availability of the telecommunications services proposed by the applicant are designed to serve areas primarily within the city.

d. Alternative locations are not available for the proposed WCF.

12. Use of City Right-of-Way. Any telecommunications carrier who desires to construct, install, operate, maintain, or otherwise locate telecommunication facilities in, under, over, or across any public right-of-way of the city for the purpose of providing telecommunications services shall obtain permission from the city, authorizing use of the city right-of-way. WCFs attached to utility poles, streetlights and traffic signals may be exempted from the setback requirements at the discretion of the planning director.

13. Conditional Use Permit Criteria. In addition to the performance standards listed in Section 17B.64.030, a conditional use permit for a detached WCF shall only be approved if the wireless provider can demonstrate that no other attached WCF alternative(s) are available that can provide the same level of service coverage to the targeted area. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.190 Regulations for special events in urban waterfront and urban waterfront park.

A. A special event must be sponsored or co-sponsored by the city of Mukilteo. Examples of special events are Arts in the Park, Lighthouse Festival, Celebration of the 1855 Treaty Signing, dedications, etc.

B. A facility use permit must be obtained from the city of Mukilteo for a special event. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.200 Development regulations for change in use.

A change in use does not necessarily require a permit (other than a business license), but the new use must be water-dependent, water-related, or water-enjoyment and comply with the permitted use matrix and development regulations contained in this title.

A. Change in Use with No Physical Property or Building Alterations. Applications for a change in use within the shoreline jurisdiction which does not alter the property or structures shall be accompanied by a written summary of the proposed change in use and description of how it complies with the city's shoreline regulations. All uses must comply with the Permitted Use Matrix of this title including obtaining a shoreline conditional use permit if needed.

B. Change in Use which Requires Alterations to Property or Buildings. Applications for a change in use which include modifications to buildings or property shall comply with the permit review procedures of this title and meet all development standards contained herein.

C. Nonconforming uses, buildings, and lots shall comply with Chapter 17B.68. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.210 Development regulations for redevelopment of the NOAA facility.

A. Scientific materials and equipment shall be sufficiently enclosed, screened and secured so as to preclude unauthorized access.

B. Facility development shall provide public visual and physical access to the shoreline. Facilities shall be designed to accommodate the pedestrian promenade as adopted as part of the 1995 Mukilteo Multimodal Master Plan for redevelopment or future master plans as adopted by the city of Mukilteo.

C. Facility redevelopment shall include public use of existing, rehabilitated, or new piers; said public use may only be limited due to security or safety issues.

D. NOAA facility redevelopment may site public and educational activities along the public promenade at the corner of Park Avenue or at the corner of Front and Park Avenue. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.220 Development regulations for forest practice permits.

A. While the city does not have any designated forest lands, there are significant ravines and steep slopes that are forested. All development within these areas shall comply with Chapters 17B.52 through 17B.52D. When a forest practice is required within the shoreline jurisdiction and where there is a likelihood of conversion to nonforest uses, the applicant shall ensure no net loss of shoreline ecological functions and shall maintain the ecological quality of the watershed's hydrologic system. A biological assessment shall be prepared by a qualified professional to ensure no net loss of shoreline functions.

The city may use the technical assistance of the Department of Ecology, other state agency, or city on-call consultant to evaluate the report at the applicant's expense.

B. A forest practice permit is required whenever more than five thousand board feet of merchandisable timber is harvested from an area or property. This is generally equivalent to one standard log truck load.

C. With respect to timber situated within two hundred feet abutting landward of the ordinary high water mark within shorelines of statewide significance and not within a critical area, the city may allow only selective commercial timber cutting, so that no more than thirty percent of the merchantable trees may be harvested in any ten-year period of time; provided, that other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental; provided further, that clear cutting of timber which is solely incidental to the preparation of land for other uses authorized by this chapter may be permitted. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.230 Development regulations for industrial uses.

No industrial uses are allowed within the shoreline jurisdiction with the exception of the Mukilteo water and waste water plant, sewer outfalls, and stormwater outfalls. Development regulations for theses uses are covered under the utilities section of this chapter. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.240 Development regulations for in-stream structures.

In-stream structure means a structure placed by humans within stream or river waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures are regulated under the critical areas chapters of this code, Chapter 17B.52C, Fish and Wildlife Habitat Conservation Areas. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.250 Development regulations for dive parks.

A. Master Plan Required. Prior to acceptance of shoreline permit application for a dive park in the city of Mukilteo, the use must be listed or included as an element of the parks plan or as a separate master plan approved by the Mukilteo city council.

B. Dive parks shall be subject to the shoreline conditional use permit criteria as well as the following requirements:

1. All land use modifications within the aquatic environments, including installation of man-made reefs, concrete blocks, tractor tires, PVC pipes of various sizes, sunken navigation buoys, sunken boats, or other such structures shall be approved by all applicable state and federal agencies. A biological assessment shall be prepared as required by such agencies.

2. All development regulations contained within this title shall be met as a condition of the shoreline permit.

3. Safety enhancements such as buoy markers shall be installed to protect divers and swimmers from watercraft vessels.

4. Upland enhancements should be installed over time as funding becomes available; facilities should include: restroom facilities (permanent or portable), shower facility, signage, and parking. Parking can include shared parking spaces both off and on street spaces.

5. Maintenance and management plan for the facility shall be prepared that identifies long-term maintenance and environmental protection responsibilities at the site. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.260 Development regulations of the urban railroad environment.

A. General. This section contains regulations pertinent to the development of railroad facilities.

B. Permitted Use.

1. The principal use permitted in this section is the use of the subject property by the railroad for its tracks (i.e., single main tracks, double main tracks and team tracks), yards and buildings but especially for its main line.

2. In shoreline environments where this use is allowed the following accessory uses, structures and facilities are permitted as part of this use:

a. Subgrade and roadbed.

b. Railroad track/road crossing signals.

c. Slide fences.

d. Railroad signals.

e. Bridges (i.e., pedestrian overpass bridges, vehicular overpass bridges and pipeline overpass bridges).

f. Railroad signage (e.g., speed, track, whistle, etc.).

g. Drainage facilities, including fish passable culverts.

h. Railroad crossings.

i. Storage of items for maintaining the area.

j. Underpasses.

k. Pedestrian safety fencing, provided it does not exceed six feet in height above grade and is not constructed of solid sight-obscuring material. If the proposed fence is to exceed either six feet in height, or is constructed of solid sight-obscuring material, then a shoreline variance is required.

3. All land use modifications as contained in this title, including specific regulations on bulkheads and other shoreline protective structures, shall be complied with.

C. Overwater Structures Prohibited. No building or other major structure may be located within the aquatic urban or aquatic urban conservancy environments.

D. Height.

1. In the urban railroad shoreline environment, the maximum permitted height of structures is thirty feet above grade level.

2. Accessory buildings shall not exceed fifteen feet in height above average grade level.

3. Bridges and overpasses may exceed the maximum height limit.

4. Slide fences shall not exceed six feet in height.

5. Signal devices and signage shall be determined on a case-by-case basis according to the goals and policies of the Shoreline Management Act, Chapters 173-16 and 173-27 WAC. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.16.270 Development regulations for aquaculture.

Commercial aquaculture by private entities is not permitted within City of Mukilteo shoreline jurisdiction. The rights of treaty tribes to aquatic resources within their usual and accustomed areas should be addressed through the permit review process

A. New aquaculture uses along the shoreline require a Conditional Use Permit.

B. Ongoing maintenance, harvest, replanting, restocking of or changing the species cultivated in any existing or permitted aquaculture operation is not considered new use/development, and shall not require a new permit, unless or until:

1. The physical extent of the facility or farm is expanded by more than 25 percent or more than 25 percent of the facility/farm changes operational/cultivation methods compared to the conditions that existed as of the effective date of this program or any amendment thereto. If the amount of expansion or change in cultivation method exceeds 25 percent in any 10-year period, the entire operation shall be considered new aquaculture and shall be subject to applicable permit requirements of this section; or
2. the facility proposes to cultivate species not previously cultivated in the state of Washington.

C. Aquaculture that involves little or no substrate modification shall be given preference over those that involve substantial modification. The applicant/proponent shall demonstrate that the degree of proposed substrate modification is the minimum necessary for feasible aquaculture operations at the site.

D. The installation of submerged structures, intertidal structures, and floating structures shall be allowed only when the applicant/proponent demonstrates that no alternative method of operation is feasible.

1. Aquaculture uses and developments that require attaching structures to the bed or bottomlands shall use anchors, such as helical anchors, that minimize disturbance to substrate.
2. All in-water aquaculture facilities shall ensure compliance with state and federal requirements, especially when location is proposed near underwater park facilities.

E. Aquaculture proposals that involve substantial substrate modification or sedimentation through dredging, trenching, digging, mechanical clam harvesting, or other similar mechanisms, shall not be permitted in areas where the proposal would adversely impact existing kelp beds or other macroalgae, eelgrass beds or habitat conservation areas.

F. Aquaculture activities, which would have a significant adverse impact on natural, dynamic shoreline processes or which would result in a net loss of shoreline ecological functions, shall be prohibited.

G. Commercial salmon net pen facilities shall not be located in Mukilteo waters.

H. If uncertainty exists regarding potential impacts of a proposed aquaculture activity, and for all experimental aquaculture activities, baseline and periodic operational monitoring by a City-approved consultant (unless otherwise provided for) may be required, at the applicant's/proponent's expense, and shall continue until adequate information is available to determine the success of the project and/or the magnitude of any probable significant adverse environmental impacts. Permits for such activities shall include specific performance measures and provisions for adjustment or termination of the project at any time if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.

I. Where aquaculture activities are authorized to use public facilities, such as boat launches or docks, the City shall reserve the right to require the applicant/proponent to pay a portion of the cost of maintenance and any required improvements commensurate with the use of such facilities.

J. No processing of any aquaculture product, except for the sorting or culling of the cultured organism and the washing or removal of surface materials or organisms after harvest, shall occur in or over the water unless specifically approved by permit. Aquaculture wastes shall be disposed of in a manner that will ensure strict compliance with all applicable governmental waste disposal standards, including but not limited to the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (Chapter 90.48 RCW). No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation.

K. Predator control shall not involve the killing or harassment of birds or mammals. The use of nonlethal, nonabusive predator control measures shall be contingent upon receipt of written approval from the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service, as required.

~~A.~~ Application requirements.

1. A site plan map including:

a. The perimeter of the proposed aquaculture operations area.

b. Existing bathymetry depths based on mean lower low water (MLLW datum).

c. Adjacent upland use, vegetation, presence of structures, docks, bulkheads and other modifications. If there are shore stabilization structures, provide the beach elevation at the toe of the structure and the top of the structure (MLLW datum).

d. Areas where specific substrate modification will take place or structures will be constructed or installed.

e. Access provisions for barges or track equipment.

f. Location of storage or processing structures or facilities.

2. A baseline description of existing conditions, including best available information on:

a. Water quality.

b. Tidal variations.

c. Prevailing storm wind conditions.

d. Current flows.

e. Flushing rates.

f. Littoral drift.

g. Areas of differing substrate composition.

h. Areas of aquatic, intertidal, and upland vegetation complexes.

i. Existing shoreline or water uses and structures.

j. Aquatic and benthic organisms.

k. A vegetation habitat survey must be conducted. The WDFW must be contacted prior to the survey to ensure it is conducted according to the most current WDFW eelgrass/macroalgae survey guidelines.

l. Assessment of aquatic species, including forage fish, and spawning and other lifecycle use of, or adjacent to, the site.

Chapter 17B.18
SHORELINE MODIFICATION REGULATIONS

Sections:

17B.18.010 Purpose.
17B.18.020 Permitted modifications.
17B.18.030 Upland clearing, grading, and fill—Landward of the OHWM.
17B.18.040 Dredging and dredge disposal.
17B.18.050 In-water fill.
17B.18.060 Shoreline stabilization.
17B.18.070 Beach enhancement and in-water mitigation projects.
17B.18.080 Shoreline restoration projects.

17B.18.010 Purpose.

A. The purpose of this chapter is to establish permitted and conditional uses by zone for modifications within the shoreline area of the city.

B. Permitted and conditional modifications in the shorelines of the state shall be designed and constructed in a manner to minimize any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

C. Proposed shoreline modifications must comply with the Mukilteo shoreline management program's goals and policies contained in Chapter 3 and environment designations contained in Chapter 4 of the Mukilteo shoreline master program as well as specific shoreline critical area regulations, and shoreline modification activity provisions contained in this section. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.18.020 Permitted modifications.

The Shoreline Permitted Use Matrix summarizes the permitted (P), special use permit (SUP), conditional use (C), and prohibited (X or no mark) modifications in all shoreline designations.

P= Permitted Use **SUP = Special Use Permit** **C= Conditional Use Permit** **X= Prohibited Use**	**Urban Waterfront**	**Urban Waterfront Park**	**Urban Conservancy**	**Aquatic Urban**	**Aquatic Urban Conservancy**	**Urban Lakefront**	**Urban Railroad**
New Beach Restoration/Enhancement	P	P	P	P	P	P	P

Bioengineering	P	P	P	P	P	P	P
Revetments[2]	P[1]/C[2]	P[1]/C[2]	C	C[2]/X	C[2]/X	C[2]/X	C
Bulkheads[2]	C[2]/X	C[2]/X	C[2]/X	C[2]/X	C[2]/X	C[2]/X	C
Breakwaters/Rock[2]	P[1]/C[2]	C[2]/X	C[2]/X	C[2]/X	C[2]/X	C[2]/X	C
Weirs/Groins[2]	C[2]/X	C[2]/X	C[2]/X	C[2]/X	C[2]/X	C[2]/X	X
Dredging[3]	P[3]/C	P[3]/C	P[3]/C	P[3]/C	P[3]/C	P[3]/C	P[3]/C
Hazardous Waste Cleanup	P	P	P	P	P	P	P
Fill (Waterward of OHWM)	C	C	C	C	C	C	C
Repairs of Existing Shoreline Modifications	P	P	P	P	P	P	P
Soft Construction	C	C	C	C	C	C	C
Railroad	C	C	C	C	C	X	C
Essential Public Facilities—In-Water Work	C/SUP	C/SUP	C/SUP	C/SUP	C/SUP	C/SUP	C/SUP
Utilities	P	P	P	C	C	C	P

P[1] = Master plan required.

C[2] = Hard stabilization is only allowed with a conditional use permit as provided for in WAC 173-26-231(3)(a)(iii)(B)(i) and Section 17B.18.060. Otherwise hard stabilization is prohibited.

P[3] = Dredging is only allowed as a permitted use if associated with shoreline restoration or beach enhancement/nourishment projects.

(Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.18.030 Upland clearing, grading, and fill—Landward of the OHWM.

A. All clearing and grading activities shall be limited to the minimum necessary per Chapter 15.16 and the critical area provisions of this program.

B. Clearing, grading, and fill activities may be permitted only when associated with an approved shoreline substantial development permit or shoreline conditional use permit. Temporary stockpiling of materials (up to six months) is allowed in association with the tank farm redevelopment if there are no adverse impacts to water quality, critical areas or their buffers due to these activities. Upon completion of construction, remaining cleared areas shall be replanted as approved by the city. Replanted areas shall be monitored and maintained to ensure the reestablishment of vegetation.

C. Normal nondestructive pruning and trimming of vegetation for maintenance purposes shall not be subject to the regulations contained in this section. Clearing by hand-held equipment of invasive, nonnative shoreline vegetation or plants listed on the State Noxious Weed List is permitted in shoreline locations if native vegetation is promptly reestablished in the disturbed area. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.18.040 Dredging and dredge disposal.

A. New development shall be sited and designed to avoid or, if not possible, to minimize the need for new dredging and/or continued need for maintenance dredging and/or placement of fill in the nearshore, except for beach enhancement activities.

B. Dredging and dredge material disposal shall be done in a manner which avoids or minimizes significant ecological impacts and impacts which cannot be avoided should be mitigated in a manner that ensures no net loss of shoreline ecological functions.

C. New development shall be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging. Dredging for the purpose of establishing, expanding, or relocating or reconfiguring navigation channels and basins should be allowed where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

D. Dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high-water mark. The project must be either associated with a MTCA or CERCLA habitat restoration project or, if approved through a shoreline conditional use permit, any other significant habitat enhancement project.

E. Dredging and dredge disposal allowed below the ordinary high water mark (OHWM) is regulated by the U.S. Army Corps of Engineers (USACE) and may be regulated by state agencies that may include WDFW and DOE.

F. Dredging shall be accomplished in a manner that avoids or minimizes environmental impacts.

G. Dredging operations shall be planned and conducted to minimize interference with navigation and adverse impacts to other shoreline uses, commercial fisheries, and upland properties.

H. Dredging for the sole purpose of obtaining fill material is prohibited.

I. Dredging in association with shoreline restoration or beach enhancement/nourishment that has been permitted is allowed.

J. Deposition of dredge spoils (not including landslide materials impacting BNSF railroad operations) in water areas that adversely affect fish and shellfish resources is prohibited except where materials are being used for habitat improvement or substrate improvements or for redistribution of materials.

K. The location of dredge disposal shall be approved by U.S. Army Corps of Engineers and appropriate state agencies (e.g., WDFW and DOE). (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.18.050 In-water fill.

A. Fill waterward of the ordinary high water mark (OHWM) is prohibited, except for water-dependent essential public facilities, water-dependent uses, public access, recreational uses, and habitat and beach restoration projects that are otherwise consistent with the SMP and have been approved by WDOE, WDFW and U.S. Army Corps of Engineers. The use of bridge or pier alternatives must be determined to be unfeasible if fill is to be allowed.

B. Non-water-oriented uses are prohibited from filling below the OHWM.

C. Fill below the OHWM may be allowed for the above uses after approval of the WDOE, U.S. Army Corps of Engineers and consultation with WDFW, demonstrating that the proposed development/fill will not create a significant environmental impact. Mitigation may be required as part of this activity.

D. When fill is permitted, the fill shall be restricted to the minimum amount necessary to provide for the proposed use and shall be linked to a specific development proposal permitted under the SMP. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.18.060 Shoreline stabilization.

Shoreline stabilization includes actions taken to address erosion impacts to property, dwellings, businesses, or essential structures caused by manmade processes such as boat wakes and natural processes, such as current, flood, wind, or wave action. These include structural and nonstructural methods. Nonstructural methods include building setbacks, relocation of the structure to be protected,

erosion and ground water management, planning and regulatory measures to avoid the need for structural stabilization. Structural methods include “hard” and “soft” structural stabilization measures.

A. Maintenance and Repair. Normal maintenance and repair actions are not exempt from substantial development permits if they cause substantial adverse effects to shoreline resources or the environment. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures. Some shoreline stabilization measures for single-family residences may be exempt from a shoreline substantial development permit in accordance with WAC 173-27-040(2). However, such measures must comply with the provisions of this SMP.

1. An existing shoreline stabilization structure shall not be replaced with a similar structure unless there is need to protect primary structures from erosion caused by currents or waves and a nonstructural measure is not feasible. The replacement structure shall be designed, located, sized, and constructed to minimize harm to ecological functions. Replacement walls or bulkheads shall not encroach waterward of the OHWM unless there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

2. When an existing bulkhead is being repaired or replaced by construction of a vertical wall fronting the existing wall, it shall be constructed no farther waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an OHWM has been established by the presence and action of water landward of the bulkhead, then the replacement bulkhead must be located at or landward of the actual OHWM.

3. Replacement bulkheads may be built to the height of the original bulkhead.

B. New Development and/or Structures.

1. New development shall, where feasible, be located and designed to eliminate the need for concurrent or future shoreline stabilization. New non-water-dependent development that would require shoreline stabilization that would cause significant adverse impacts to adjacent or down-current properties is prohibited.

2. New development, including single-family residences, that includes structural shoreline stabilization will not be allowed unless all of the conditions below are met:

a. The need to protect the development from damage due to erosion caused by natural processes, such as currents and waves, and by manmade processes such as boat wakes, is demonstrated through a geotechnical report.

b. The erosion is not being caused by upland conditions, such as loss of vegetation and drainage.

c. Nonstructural measures, such as placing the development farther from the shoreline, planting vegetation, low impact development measures, or installing on-site drainage improvements, are not feasible or not sufficient.

d. The structure will not result in a net loss of shoreline ecological functions.

3. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization will not be needed during the life of the structure, as demonstrated by a geotechnical analysis.

C. New or Expanded Shoreline Stabilization Measures.

1. New stabilization measures are not allowed except to protect or support an existing or approved development, as necessary for human safety, for the restoration of ecological functions, or for hazardous substance remediation pursuant to Chapter 70.105D RCW. The construction of a bulkhead for the primary purpose of retaining or creating dry land that is not specifically authorized as a part of the permit is prohibited.

2. New or enlarged structural shoreline stabilization measures for an existing development or residence shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by currents, waves, or boat wakes. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a geotechnical report, is not demonstration of need. The geotechnical report must include estimates of erosion rates and damage within three years and must evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. The project design and analysis must also evaluate vegetation enhancement and low impact development measures as a means of reducing undesirable erosion.

3. “Hard” structural shoreline stabilization measures, such as bulkheads, are not allowed unless the applicant can demonstrate through a geotechnical report that “soft” structural measures such as vegetation or beach enhancement, or nonstructural measures, such as additional building setbacks, are not feasible.

4. Where structural shoreline stabilization measures are demonstrated to be necessary, the size of stabilization measures shall be limited to the minimum necessary. The city’s shoreline administrator may require that the proposed structure be altered in size or design or impacts otherwise mitigated. Impacts to sediment transport shall be avoided or minimized.

5. The city’s shoreline administrator will require mitigation of adverse impacts to shoreline functions such as the inclusion of vegetation conservation as part of shoreline stabilization, where feasible. In order to determine acceptable mitigation, the city’s shoreline administrator may require the applicant to provide necessary environmental information and analysis, including a description of the existing OHWM, based on field indicators. The determination of

the OHWM is based on a site-specific investigation using field indicators and in case of a disagreement as to its location, the ultimate decision on the OHWM shall rest with Ecology. The OHWM determination along with a restoration plan outlining how proposed mitigation measures would result in no net loss of shoreline ecological functions shall be submitted for review.

6. Shoreline stabilization measures that incorporate ecological restoration through the placement of rocks, gravel or sand, and native shoreline vegetation may be allowed. Soft shoreline stabilization that restores ecological functions may be permitted waterward of the OHWM.

7. Following completion of shoreline modification activities, disturbed shoreline areas shall be restored to preproject conditions to the greatest extent possible. Vegetation conservation measures, including the planting of native vegetation along the shoreline, are a condition of all new bulkhead and replacement construction. Plantings shall consist of native grasses, shrubs, and trees as approved by the city's shoreline administrator in keeping with preexisting or typical naturally occurring bank vegetation. Vegetation shall be fully reestablished within three years. All revegetation projects shall include a program for monitoring and maintenance. Areas which fail to adequately reestablish vegetation shall be replanted with approved plants until the plantings are viable.

D. Design of Shoreline Stabilization Measures.

1. Bulkhead design and development shall conform to all other applicable city and state agency policies and regulations, including the Washington State Department of Fish and Wildlife criteria governing the design of bulkheads.

2. Gabions (wire mesh filled with concrete or rocks) are prohibited, except as a conditional use where it is determined that gabions are the least environmentally disruptive method of shoreline stabilization.

3. Stairs and other allowed structures may be built as integral to a bulkhead but shall not extend waterward of the bulkhead or structure unless it is necessary to access the shoreline or a use or structure is otherwise allowed over water.

4. Bulkheads shall be designed to permit the passage of surface or ground water without causing ponding or over-saturation of retained soil/materials of lands above the OHWM.

5. Adequate toe protection and proper footings shall be provided to ensure bulkhead stability without relying on additional riprap.

E. Materials and Dimensional Standards. New bulkheads and other shoreline stabilization structures shall not be constructed higher than twenty-four inches above the OHWM or, if the bulkhead is set back from the shoreline, twenty-four inches above grade at the base of the bulkhead or structure. On steep

slopes, new bulkheads may be built taller than twenty-four inches high if necessary to meet the existing slope.

F. Essential public facilities may deviate from these standards so long as they provide proof to the city, state and federal agencies that the facility cannot be reasonably built or maintained by meeting these standards and adequate mitigation is provided to compensate for any ecological impacts. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.18.070 Beach enhancement and in-water mitigation projects.

A. Beach enhancement and restoration projects shall be permitted when it is demonstrated that no significant long-term change in littoral drift or redirection of waves, current, or sediment that will adversely affect adjacent properties or habitat will result. Repetitive enhancement is encouraged in smaller quantities rather than a large project done all at once.

B. Design alternatives for beach enhancement shall be based on best available science or accepted practice at that time, using WDFW, DOE, and USACE (if within USACE jurisdiction) staff advice and consultation to design and approve the enhancement alternative.

C. Beach enhancement activities shall not result in the creation of additional dry land for development purposes, but can be used to improve public access or to allow for the planting of riparian vegetation and shall not extend waterward of the OHWM more than necessary to achieve the desired stabilization and/or beach nourishment or the reduction in shoreline/nearshore scouring.

D. Beach enhancement waterward of OHWM requires the approval of the WDOE, WDFW and the USACE (if within USACE jurisdiction) to ensure that it does not prevent spawning or nesting, destroy breeding habitat of priority species, or is used in areas where littoral drift of enhancement materials will adversely affect adjacent spawning grounds.

E. Beach enhancement shall provide opportunities for normal public use of the shoreline beyond the construction period. Any new public access must be compatible with approved beach enhancement activities. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.18.080 Shoreline restoration projects.

Shoreline restoration projects include those activities proposed and conducted specifically for purpose of establishing, restoring or enhancing habitat along the shoreline. The following regulations apply under this section:

A. Establishment and/or enhancement of native vegetation is required for all work waterward of the ordinary high water mark.

B. Projects involving land disturbance activities, both waterward and upland of the ordinary high water mark shall remove nonnative or invasive plants listed on the Snohomish County noxious weed list, unless otherwise authorized by the city.

C. Conversion of hard structural shoreline stabilization to soft shoreline stabilization shall be required per Section 17B.18.060, Shoreline stabilization.

D. Implementation of any project or activity identified in the city's restoration plan shall be permitted.

E. Implementation of any project or activity identified in the WRIA 8 or 7 plans shall be permitted.
(Ord. 1295 § 10 (Exh. 1B) (part), 2011)

Chapter 17B.20
BULK REGULATIONS

Sections:

17B.20.010 Lot requirements.
17B.20.020 Bulk matrix.
17B.20.030 Panhandle (pipestem) lots.
17B.20.040 Reducing lot area.
17B.20.050 Sight distance triangle.
17B.20.060 Fences and freestanding walls.
17B.20.063 Hedges.
17B.20.065 Development agreements.
17B.20.070 Additional development regulations for the WMU district.

17B.20.010 Lot requirements.

Lot dimensions and building heights shall conform to the requirements listed in Table 1, Bulk Matrix, unless modified elsewhere in this title. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.20.020 Bulk matrix.

A. The bulk matrix contains setback, lot coverage, building height and lot dimension regulations for all zones in the city. The following is a listing of abbreviations used in the bulk matrix and their meanings:

1. IBC = International Building Code;
2. sf = square feet;
3. row = right-of-way;
4. C/L = centerline.

Table 1

BULK MATRIX

Zone	Maximum Building Height[1, 15]	Minimum Lot Area	Minimum Lot Width			Minimum Average Lot Depth	Minimum Setbacks[3]					Maximum Lot Coverage
			Setback Line	Lot Line	Corner Lot Line		Front[2]	Interior (Side)	Corner (Side)	Rear	Setback From Top of Riprap	
Urban Waterfront												
WMU	35’	None	None	None	None	None	None	None	None	None[12]	20’[12]	None[13]
DB	35'	None	25'	25'	25'	None	None	None	None	None[12]	35'—50'[12]	None
Urban Waterfront Park												
POS	25'—35'[14]	None	None	None	None	None	None	None, except 20' next to residential zone	None	IBC, except 20' next to residential zone	35'—50'[12]	None
Urban Conservancy												
RD 7.5	30'	7,500 sf	50'	30'	60'	85'	20'	5'; with 15' of	20'[4]	20', or 15' for	Top of Slope +	35%

								total side yard		corner lots'[5]	25'	
RD 8.4	35'	8,400 sf	None	65'	70'	None	20'	5'	20'	5'[5]	Top of Slope + 25'	35%
RD 12.5	30'	12,500 sf	60'	40'	60'	85'	25'	5'; with 15' of total side yard	20'[4]	25'[5]	Top of Slope + 25'	30%
RD 12.5(S)	35'	12,500 sf	None	75'	80'	None	20'	5'	20'	5'[5]	Top of Slope + 25'	35%
MR	35'	7,500 sf[6]	None	60'	70'	None	25'	Varies[7]	Varies[7]	Varies[7]	Top of Slope + 25'	40%
MRD	Varies[8]	7,500 sf[9]	50'	30'	60'	85'	25'	Varies[10]	20'[4]	20'	Top of Slope + 25'	40%
HI	65'	None	None	None	None	None	25'	IBC next to commercial zones, 50' next to residential zones	25'	IBC next to commercial zones, 50' next to residential zones	200'	None
Aquatic Urban and Aquatic Urban Conservancy (Tidelands). See development regulations for permitted uses and in and over water												

structures.												
All	N/A	None	None	None	None	None	None	None	None	None	None	None
Urban Lakefront												
RD 8.4	35'	8,400 sf	None	65'	70'	None	20'	5'	20'	5'[5]	75'	35%
Urban Railroad (Applies to BNSF Railroad Right-of-Way Only). See development standard regulations for restrictions.												
All	N/A	None	None	None	None	None	None	None	None	None	None	None

B. Reference Notes for Bulk Matrix.

1. Appurtenances such as stairwells, mechanical equipment, and elevator shafts that do not exceed the maximum building height by more than ten feet are allowed in the following zones: WMU, HI, and POS.

2. Front setbacks shall be measured from the edge of the front property line.

3. For the setback requirements next to critical slope areas, refer to Section 17B.52A.060.

4. Corner lot setbacks for the RD 12.5, RD 7.5 and MRD zones: twenty feet for side adjoining a street; otherwise same setbacks as specified for interior lots for the side adjoining an interior lot. For dwellings that border a private road from which they do not receive vehicular access, the required setback shall be one-half the width of the right-of-way plus ten feet. For those dwellings that receive primary vehicular access from a private road, the setback required from the centerline of the right-of-way shall be one-half the width of the right-of-way plus twenty feet.

5. Detached garages, carports and accessory buildings. All detached single-family residential garages, carports and accessory buildings shall be sited outside the two-hundred-foot shoreline zone unless there is no other location to locate the structure.

6. In the MR zone, the maximum density shall be calculated based on two thousand square feet of land per dwelling unit. In a PRD (MR) density shall be based on one thousand seven hundred square feet.

7. MR Setbacks.

a. Single-family detached structures shall have the minimum setbacks required in the RD 8.4 zone.

b. Other structures shall have a minimum rear setback of twenty-five feet and a minimum total side setback of fifteen feet, with a minimum single side setback of five feet. Building separation shall be a minimum of fifteen feet.

c. Multistory structures over two stories shall increase setbacks for each additional story as follows:

i. Front: three feet;

ii. Rear: three feet;

iii. Side: five feet total with minimum side increased by three feet;

iv. Building separation: five feet.

8. Building height in the MRD zone may extend to forty-five feet (except thirty feet on level sites: zero to eight percent); and provided, that the developer demonstrate to the satisfaction of the city council that the height is consistent with the following criteria:

a. The project shall not obstruct the sound and mountain views from other single-family residential properties by more than twenty percent;

b. Shall have access to major trafficways;

c. Shall not exceed the height limits as provided in this chapter;

d. Shall not exceed the density limits as provided in this chapter;

e. Shall not exceed the site coverage as provided in this chapter.

9. In the MRD zone, the minimum usable land area per dwelling unit (for computations of density) shall be three thousand three hundred fifty square feet except that where computations result in a partial dwelling unit greater than three-fourths, a full unit shall be allowed for lots which meet the minimum lot area requirements.

10. Interior side setbacks in the MRD zone shall be measured as follows:

a. One and two stories, five feet (except that the sum of the two side yards must not be less than fifteen feet) with not less than fifteen feet between structures on adjoining properties;

b. Three stories, twelve feet (except that the sum of the two side yards must not be less than twenty-four feet);

c. Four stories, fifteen feet (except that the sum of the two side yards must not be less than twenty-four feet).

11. Height of Buildings.

a. The height of buildings within the two-hundred-foot shoreline jurisdiction shall be a maximum of thirty-five (35) No flat roofs are allowed over fifty percent (50%) of the building.

b. Building proposals for essential public facilities may exceed these height limits as needed provide the facility. However, the developer/agency shall provide documentation showing that the proposed height is the minimum necessary to meet the operational needs of the facility.

12. Buildings shall be set-back twenty (20) feet from the waterfront riprap ~~along the waterfront~~ to allow for a fifteen (15) foot pedestrian promenade with a five (5) foot building setback from the pedestrian promenade..

13. Breaks in the facade and building footprint along the waterfront shall be included to retain water views from Front Street and for pedestrian access to the waterfront promenade and beach, as regulated by the shoreline master program plan. All new buildings or additions to buildings located on land areas adjacent to Possession Sound and Port Gardner Bay shall be designed and constructed in such a manner that each floor provides the following amount of horizontal and vertical space open to public access and open to vistas of the sound and the bay:

a. On the first floor, twenty percent of lot width shall be open to public access and vistas to and of Possession Sound and Port Gardner Bay;

b. The equivalent of twenty-five percent of lot depth shall be open for public vistas on all floors above the first;

c. A structure located on the north side of Front Street may not extend for more than one hundred lineal feet on the first floor without being interrupted by a space at least ten feet in width that is open to public access and vistas to and of Possession Sound and Port Gardner Bay.

14. Building height in the POS district: thirty-five feet, except twenty-five feet within two hundred feet of the ordinary high water mark at the Mukilteo Lighthouse Park.

15. Essential public facilities are exempt from the maximum building height regulation. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.20.030 Panhandle (pipestem) lots.

Panhandle lots shall be allowed subject to the following additional requirements:

A. Minimum street lot frontage of twenty feet;

B. Maximum length of one hundred fifty feet;

C. Area calculations are determined at the minimum lot width line;

D. Minimum height clearance of twelve feet;

E. Allowed on no more than two lots for every fifteen lots of subdivided property;

F. Allowed in cul-de-sacs or where topography does not allow the normal frontage required by the underlying zone; and

G. Allowed only if necessary to maintain the integrity and quality of the proposed development. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.20.040 Reducing lot area.

No minimum lot area shall be so reduced or diminished that the setbacks or other open spaces shall be smaller than prescribed by this title, nor shall the land use density be increased in any manner except in conformity with the regulations established by this title. Government structures and facilities shall have no minimum lot area. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.20.050 Sight distance triangle.

No structures, fences, or freestanding walls shall be built as to obstruct the visibility at an intersecting street. In addition, for public safety reasons vegetation shall not be allowed to grow to a height or width which could obstruct visibility at an intersection. Unobstructed visibility at corners is measured according to the following diagrams.

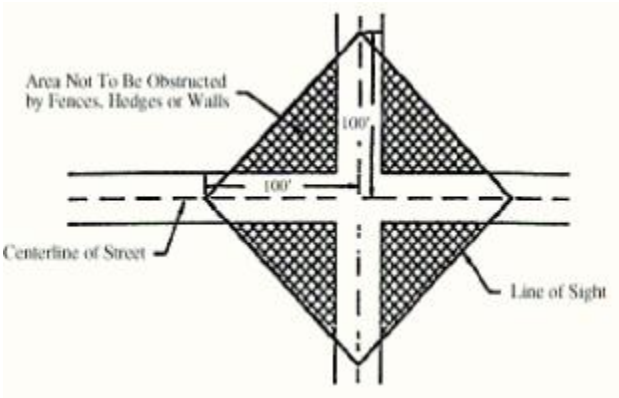
A. Single-Family Residential Properties. Unobstructed vision at corners for all fences, freestanding walls, and hedges shall be measured in accordance with the following sight distance triangle:

1. Where posted speed on both streets is twenty-five miles per hour or less; and

2. No stop signs or other traffic control features are present on either street.

Diagram A

Single-Family Residential Sight Distance Triangle



B. Properties Adjacent to a Controlled Intersection. Properties adjacent to a controlled intersection shall be designed to maintain unobstructed vision at intersections in accordance with the following standards:

1. Unobstructed sight distances shall be designed according to the following speed limit schedule:

Posted Speed Limit (on the public right-of-way)	25 mph	30 mph	35 mph	40 mph
Sight Distance	300'	400'	530'	600'

2. These distances are required for an approaching vehicle to be able to reduce speed or stop in order to prevent a collision.

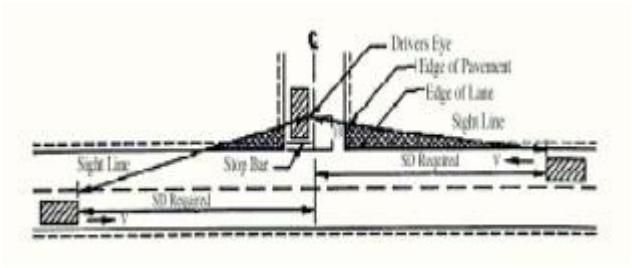
3. For road approaches where left turns are not allowed, a sight triangle need only be provided to the left, as shown.

4. For road approaches where left turns are allowed, provide a sight triangle to the right in addition to the one to the left. The sight distance to the right is measured along the centerline of the roadway.

5. Sight distance numbers are for passenger vehicles only. If there are a significant number of trucks, greater than ten percent of ADTs (average daily trips), using the intersection, then the sight distance shall be increased in accordance with the AASHTO requirements as determined by the public works director.

Diagram B

Sight Distance at Controlled Intersections



(Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.20.060 Fences and freestanding walls.

A. Fences and Freestanding Walls. Fences and freestanding walls are allowed under the following conditions:

1. Materials.

a. Fence materials shall consist of metal, wood, and/or masonry units, and shall be consistent with the architectural character of adjacent structures. Fencing materials should create a solid and non-see-through separation or screening.

b. Chain link fences shall only be allowed as a safety separation between stormwater facilities and other hazards (other than swimming pools). Only black vinyl coat or black painted chain link is allowed.

c. Adjoining, adjacent, and connecting fences shall be similar in design and constructed from like materials.

2. Height.

a. In residential zones, fences and freestanding walls located in side and rear yards may not exceed six feet in height and must be stepped down to not more than four feet or forty-eight inches at the front setback line. Decorative features, artwork, or trellises may be allowed on a fence as along as the features do not add additional screening or opaqueness which in effect increases the height of the fence.

b. In commercial and industrial zones, fences and freestanding walls may not exceed eight feet in height and may not obstruct the vision of an intersecting street. Unobstructed vision at corners is measured according to the sight distance triangle requirement.

c. Fences around schools and utility substations may not exceed eight feet in height, except as allowed under the administrative modification section or with an approved conditional use permit, and may not obstruct the visions of an intersecting street. Unobstructed vision at corners is measured according to the sight distance triangle requirement diagram.

d. For purposes of measuring fence and freestanding wall height, the height shall be measured from the lowest point of the fence touching the ground to the highest point on either side of the fence. If a fence is placed upon a rockery or retaining wall, the fence must be set back a minimum of two feet, or the height of the fence and rockery/retaining wall combined will be used to measure the overall height of the fence or freestanding wall.

3. Placement. For safety reasons, fences and freestanding walls on corner lots may not be constructed of any material or built to a height which would obstruct vision of an intersecting street. Unobstructed vision at corners is measured according to the sight distance triangle requirement diagram.

B. Administrative Modifications. If the strict application of this section would restrict reasonable screening of a person's property, the planning director or his/her designee may allow deviations from this section under the following conditions and criteria:

1. The applicant shall submit a written statement, site plan, and elevation drawings describing the proposal and why the deviation is necessary.

2. The adjoining property owners shall be notified of the requested modification and given fourteen calendar days to comment on the proposal.

3. When reviewing the modification request, the planning director or his/her designee must find that the following criteria have been met:

a. Fences or freestanding walls may not be increased by more than two feet in height;

b. Sight distance vision of an intersecting street may not be obstructed. Unobstructed vision at corners is measured according to the sight distance triangle diagram.

c. The deviation must be necessary because of special circumstances relating to the topography, location, or surroundings of the subject property; and

d. The deviation is not objectionable to adjacent property owners.

C. Variances. Increases in the height of fences or freestanding walls by more than two feet in height shall be subject to the review procedures and requirements of Section 17B.64.040, variances. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.20.063 Hedges.

For safety reasons, trees, hedges, and/or vegetation shall not be allowed to grow to a height or width which would obstruct vision at intersecting streets. Unobstructed vision at corners is measured according to the sight distance triangle diagram. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.20.065 Development agreements.

A. The city council may approve a development agreement for any parcel whose zoning falls within the commercial, public categories on the permitted use matrix which contains project elements, a vesting period, and establishes or modifies the development standards on a site-specific basis, including but not limited to density, parking, streets, setbacks, building separation, landscaping and other standards, pursuant to the procedures of RCW 36.70B.170 through 36.70B.210.

B. Development agreements may not deviate from the permitted uses as allowed as listed in this code.

C. Procedure—Community Meeting. Within thirty days of the notice of application, a community meeting shall be held to obtain public comments on the proposed development agreement. The purpose of the meeting is to identify issues, concerns and/or constraints which may affect the project and surrounding community. The community meeting is not intended to be part of the official record of the application. At a minimum the development agreement shall include:

1. An outline of the agreement;

2. Bubble diagram showing proposed uses and access;

3. List of permitted uses and issues.

D. Community Meetings. For projects that will include a development agreement, the following notice and comment periods apply:

1. The notice of application shall include the date, time and place for the community meeting.

2. Written comments regarding the development agreement may be submitted before the community meeting, at the community meeting, or within fourteen days after the community meeting.

E. Final Decision. Consideration and a decision on the final draft of the development agreement shall be done after a public hearing but prior to the final decision on the related project. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.20.070 Additional development regulations for the WMU district.

A. Commercial uses shall comply with the following:

1. All the uses shall be contained within an entirely closed structure with the exception of eating establishments wherein outdoor eating space does not obstruct vehicular movement, parking, and ferry loading facilities.

2. Commercial uses located north of the Burlington Northern Santa Fe (BNSF) railroad tracks shall not be so located as to obstruct or impede pedestrian access of beach areas at low tide waters as established by the mean low tide mark. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

Chapter 17B.25
DESIGN STANDARDS

Sections:

17B.25.010 Purpose.
17B.25.020 Design review.
17B.25.030 Overall district design.
17B.25.040 Transit-supportive design.
17B.25.050 Overall architectural design.
17B.25.055 Residential dwelling units.
17B.25.060 Overall building form.
17B.25.065 Waterfront, port, mixed-use, and transportation related building design.
17B.25.070 Building design.
17B.25.090 Off-street parking—Parking facilities—Lots—Structures.
17B.25.100 Landscape design.
17B.25.110 Pedestrian walkway.
17B.25.120 Design guidelines.

17B.25.010 Purpose.

A. A mixed-use district (Waterfront Mixed Use (WMU district)) is intended to accommodate and foster pedestrian usage by combining commercial/retail uses and residential uses in the same buildings or in close vicinity of each other. The interaction of these different uses during day and evening hours provides a dynamic that cannot usually be created with typical single use zones. This concept harkens back to a village where people lived and worked in close proximity. This concept also tries to reduce dependency upon the automobile, makes pedestrians a focal point, and encourages human interaction, smaller scale buildings, and a vibrant sidewalk environment.

B. For projects in those zoning districts where mixed-use developments are allowed, the following design review standards shall apply, with examples depicted in Section 17B.25.120, Guidelines for mixed-use developments. Where specifically called out, those additional design details that address the waterfront or multi-modal project shall apply only to waterfront redevelopment projects. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.25.020 Design review.

Administrative design review will be used by the city to approve development (site plans and architectural designs) in mixed-use districts. The planning director will make urban design decisions based on the following guidelines to promote visual quality in these areas of the city. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.25.030 Overall district design.

A. Mixed-use development should create a new diverse and pedestrian-friendly neighborhood, with a mix of housing, shopping, workplace and entertainment uses and nodes for transportation access, all within a short walk of each other. A range of types, sizes, amenities, and uses will enhance a series of inviting functional public spaces, including shopping streets and pedestrian-friendly streetscapes, open spaces, courtyards, trails, residential, office, and retail in mixed-use buildings. The design principles for buildings and streets are taken from traditional small towns that provided a close-in community life.

B. To foster pedestrian usage in the mixed-use district, sidewalks must be a minimum of eight (8) feet in width, except when the public works director determines this width is not feasible.

C. Properties or development projects abutting major streets in the district should have zero- to ten-foot setbacks from the right-of-way, pedestrian-friendly store fronts with display windows along fifty percent of their facade and the facades should not be plain or sterile but incorporate architectural features, such as windows, entrances, variations in setback, so that no wall plane is wider or longer than two and one-half times the height of the wall plane.

D. Front Street is intended to accommodate and foster pedestrian usage in the waterfront mixed-use district. Properties or development projects abutting Front Street shall:

1. Have a zero setback from the right-of-way and the building shall maintain a continuous frontage along Front Street.

2. Highway 525 from the railroad bridge north to the water is meant to provide arterial access to Front Street, but should also be pedestrian- and transit-oriented by having either courtyard or building fronting along it.

3. Breaks in the building are permitted to meet shoreline standards and to encourage pedestrian access into and through projects to the water.

E. Off-street parking in commercial areas should either be behind or to the side of development.

1. A minimum of curb cuts should be allowed along streets for parking access.

2. Vehicular access to parking lots and garages should only be permitted along Front Street when there is no other side street or alley access. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.25.040 Transit-supportive design.

The Downtown Waterfront Master Plan was adopted in 2016 and it describes a revitalized waterfront that includes an urban street front with local businesses, looped pedestrian promenade, bike lanes, and playful waterfront uses. This allows community members to experience the waterfront from an urban environment to a natural shoreline while focusing on connecting people both physically and thematically to the intrinsic natural, cultural, and urban qualities that compose the past, present, and

future of the Mukilteo waterfront. The Downtown Water Front Master Plan addresses the different types of ...A station area plan is needed to guide transit and surrounding area uses in the waterfront area. The Plan also addresses plan should address land use, access, infrastructure and various modes including pedestrian, bicycle and transit. With the relocation of the Ferry Terminal, the new The multi-modal (intermodal) station is located in an area that should be located to minimize walking distances between transportation modes and transfers between modes and distances to commercial waterfront development. The following transit supportive uses are encouraged in this transit-oriented district (TOD): small grocery store(s), bakery, convenience-retail, ATMs, coffee shop or stand(s), newsstand, drug store, carry-out food outlets, stationery/gift store, video rental store, dry cleaning outlet, flower shop/florist, beauty shop, barber, and photo-finishing shop. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.25.050 Overall architectural design.

A. Building design concepts should respond to the site plan by forming street edges and by encouraging active, safe street life offering a variety of activities. Buildings should recognize site patterns and help define entries to interior courtyards, building entrances, and public spaces to encourage family and community activities.

B. Use architectural styles that are associated with traditional neighborhood design and newer multifamily designs that delineate separation of the units. Commercial architectural styles should mimic the old Main Street concept with architectural context taken from waterfront, northwest timber or historic building designs.

C. The architectural designs should utilize a variety of roof forms to create diverse elevations. Residential units, office and commercial/retail spaces should overlook the streets and courtyards as part of a unified and defined sense of space.

D. Parapets, cornices, shed roofs, dormers and other secondary roof forms create variety in the units and break up the massing of the overall buildings. Varied roof heights and roof elements also serve to reinforce the diverse experience of the streetscape. Vertical elements such as bays and decks which sometimes carry to the ground and to upper levels help to create variation in the facade that modulate the building facade.

E. The materials used in design of the buildings should also reinforce the diverse experience of the elevations. Roof colors should be coordinated to complement the color schemes.

F. Plaza or courtyard materials can be used to create a community space, through the use of color and scoring as patterns in the hardscape. Landscape creates diversity, provides color and softens the building and hardscape environment, while benches or seating areas, play areas and public art help residents and visitors enjoy the space and environment, making it a place where people want to visit, shop, live and recreate. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.25.055 Residential dwelling units.

Mixed-use residential dwelling units are allowed as follows:

A. Multifamily residences in the waterfront mixed-use zoning district shall follow the density standards listed in Section 17B.16.040(B)(2), Single-Family and Multifamily Residences. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.25.060 Overall building form.

Buildings should provide and enhance the pedestrian scale and orientation of the district. The following concepts help to achieve that goal:

A. When part of a project, ~~B~~buildings should be built to the street property line or right-of-way easement to enclose a pedestrian-oriented landscape. Pedestrian-oriented amenities are important such as outdoor dining associated with an eating establishment, recessed plaza or specific district design standards or landscape needs adjacent to the promenade. The setback ~~cannot~~ should be used for parking. See Section 17B.25.120, Guideline 1: Overall Form, Guideline 6: Street Walls and Guideline 7: Ground Floor Transparency.

B. Buildings should utilize elements such as massing, materials, windows, canopies and articulated roof forms to create a visually distinct "base" as well as a "cap."

C. Within larger projects, variations in facades, floor levels, architectural features and exterior finishes are encouraged to create the appearance of several smaller buildings. Upper stories should be articulated with features such as bays and balconies. See Section 17B.25.120, Guideline 8: Encouraging Varied Detail, and Guideline 9: Small-Scale Building Increments.

D. Special attention should be given to designing a primary building entrance, one that is clearly visible from the street and incorporates changes in mass, surface, or finish to give emphasis.

E. Corner and public buildings because of location, purpose or size should be given special attention in the form of building features, such as towers, cupolas, and pediments.

F. The development of ground level view points and corridors as well as public balconies and roof spaces which take advantage of solar access and views are encouraged.

G. Minor pedestrian passages should be provided between buildings where access is needed to allow pedestrians to move through the district to another. See Section 17B.25.120, Guideline 4: Minor Pedestrian Passages. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.25.065 Building Designs for the w~~W~~aterfront, port, mixed-use, and transportation related buildings~~ design~~.

Development on the waterfront shall be designed in the following context:

~~A. Building design needs to reflect historic waterfront materials and building designs.~~

A~~B~~. Sites or buildings abutting or facing the multi-modal station should maintain continuity in design elements of the station such as roof lines and materials, and connect existing or proposed pedestrian spaces and amenities and landscape treatments.

B~~C~~. The multi-modal station, transportation and port related facility designs should be compatible with local plans and regulations, and must be approved by the city. Station design should address all transportation modes (ferry, rail, bus, bicycle and vehicles), transfer needs and pedestrians.

~~Building facades along Front Street should be pedestrian-oriented with the majority of the street wall being made up of windows and other interesting design features, and businesses that are interactive retail should be promoted (i.e., artist studio and gallery, hands-on displays or merchandise, etc.).~~

~~D. The multi-modal station, transportation and port related facility designs should be compatible with local plans and regulations, and must be approved by the city. Station design should address all transportation modes (ferry, rail, bus, bicycle and vehicles), transfer needs and pedestrians.~~ (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

~~17B.25.070 Building design.~~

C~~A~~. Architectural Details. The following architectural elements are required to provide visual interest and create a sense of human scale:

1. Building facades along Front Street should be pedestrian-oriented with the majority of the street wall being made up of windows and other interesting design features, and businesses that are interactive retail should be promoted (i.e., artist studio and gallery, hands-on displays or merchandise, etc.).

2. Awnings, Sunshades and Canopies. Weather protection is encouraged for pedestrian street frontages with ground floor commercial. The minimum width of such elements shall be four feet. Minimum height is eight feet, maximum height is twelve feet. Awnings with painted signs are permitted, however, must be externally lit. Internally illuminated awnings are not permitted. See Section 17B.25.120, Guideline 10: Weather Protection.

3. Front Porches. Front porches, stoops, bay windows and dormers are encouraged on buildings which contain residential dwellings.

4. Trees, Plants and Flowers. The use of potted plants and flowers as well as street trees are encouraged, but should not impede pedestrian traffic.

5. Street Furniture. Public seating, trash receptacles and informational directional kiosks should be of uniform design and be provided throughout district where needed. Sidewalk widths, street trees, landscaping, weather protection, public art, street furniture and other amenities for pedestrians in public right-of-way and public plazas are required abutted by

private development and must provide an additional three feet to six feet for a total sidewalk width of no less than eight feet. See Section 17B.25.120, Guideline 5: Pedestrian-Oriented Streetscapes.

6. Exterior Lighting. Pedestrian areas need to be well marked and well-lit. Exterior lighting should be an integral part of the architecture and landscape design. Street lighting should relate in scale to the pedestrian character of the area. Pedestrian lighting should be provided at a pedestrian scale of three to twelve feet, with the source light being shielded to reduce glare, thereby encouraging safe access to these areas twenty-four hours per day. Overall, lighting and pedestrian zone lighting is needed but should not create glare or light spillage off site or beyond parking lots and streets. See Section 17B.25.120, Guideline 3: Lighting Pedestrian Zone.

7. Portals. Portals at the entrances to buildings may be allowed at a minimum width of twelve feet. This width may be reduced at the discretion of the director, if the sides of the portal have windows or openings.

B. Building Fenestration.

1. Facades. Any facade visible from a public right-of-way, pedestrian corridor or public open space should incorporate fenestration. Fenestration patterns for street level uses should have generous amounts of clear glass and be designed to incorporate displays. Glass curtain walls, reflective glass, and painted or dark tinted glass are not permitted. See Section 17B.25.120, Guideline 7: Ground Floor Transparency.

2. Blank Walls. Where windowless walls are necessitated by the uses housed within the building, they should have an interesting exterior treatment such as artwork, decorative tile, or masonry, or trellises with plant material. Blank walls visible from a public way, larger than ten feet in any dimension, which exceed two hundred square feet, must be screened by one of the above methods. See Section 17B.25.120, Guideline 6: Street Walls.

3. Street Visibility. Upper and lower story windows are encouraged to overlook streets and open spaces, thereby helping to provide “community eyes” to make these spaces more comfortable and safe. See Section 17B.25.120, Guideline 11: Designs for Pedestrian Safety.

C. Proportions. The scale of all structures in relationship to other structures and spaces is important. Buildings and the spaces between should relate easily and openly to the external public areas. To balance horizontal features on longer facades, vertical building elements, such as building entries, should be emphasized.

D. Modulation. Building facades visible from public rights-of-way, pedestrian corridors or public open space, except for ground floor commercial, shall be modulated approximately every forty feet. The modulation shall have a minimum depth of four feet.

E. Articulation. Facades should be varied and articulated to provide visual interest to pedestrians. The roof line of buildings should be modulated and should include interesting architectural features, such as

decorative eave, trim, or cornice. Window articulation through use of a decorative trim, such as window hoods and the use of smaller regularly spaced windows in upper stories with smaller divided lights. Store front designs and materials should be allowed to be unique while maintaining the character of the building facade of which they are a part. The base of buildings should be articulated through use of plinths, pilasters or other elements.

F. Materials and Colors. Exterior building materials and finishes should convey an impression of permanence and durability. Materials such as masonry, stone, stucco, wood, terra cotta, and tile are encouraged. Where masonry is used for exterior finish, decorative patterns should be considered. These patterns could include a change in color or material. Exterior colors should be given careful consideration in the context of the surrounding buildings and environment.

G. Screening.

1. All wall-mounted mechanical, electrical, communication, and service equipment, including satellite dishes and vent pipes, should be screened from public view by parapets, walls, fences, landscaping or other approved means.

2. All rooftop and sidewall mechanical equipment and other extensions allowed above the building height shall be concealed by or integrated within the roof form or screened from view. The following appurtenances or necessary extensions above the roofline that require screening include: stairwells, elevator shafts, air conditioning units, large vents, heat pumps and mechanical equipment.

3. Service and loading areas must be screened from street and pedestrian ways. See Section 17B.25.120, Guideline 12: Screening Utility Equipment and Services.

H. Parks and Open Space. The Port of Everett (POE)/Washington State Ferries (WSF) Binding Site Plan set aside twenty percent (20%) of the Tank Farm property as open space, which included the promenade, City parks and open space tracts. Plazas, play areas, landscape buffers and open spaces (sensitive areas) can be included in the Parks and Open Space area. Ten percent of the area will be in useable parks, plazas and play areas. Pedestrian and bicycle paths and connections are required within the development and shall be provided to the closest activity areas (i.e., schools, business area, park, major arterial, etc.). See Section 17B.25.120, Guideline 19: Parks and Open Space. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.25.090 Off-street parking—Parking facilities—Lots—Structures.

A. Off-street parking in commercial areas outside of the two hundred feet shoreline zone shall either be behind or to the side of development with ground-floor retail along the street frontage.

B. Structured parking is encouraged to maximize development potential in this relatively small, narrow waterfront mixed-use district.

C. Shared or joint parking is encouraged south of Front Street so that parking needs generated by development north of Front Street can be accommodated outside the two-hundred-foot shoreline zone ~~of two hundred feet from the ordinary high tide~~.

D. A minimum of curb cuts should be allowed along Front Street for parking access.

E. Adjacent street frontage to commercial properties can be counted on a one-to-one basis towards the parking requirement on streets that are improved and have designated parking.

F. Residential units in the downtown business and waterfront mixed-use districts shall provide one and one-half parking space per unit. Parking for the commercial/retail/office space shall be determined using the parking matrix contained in Chapter 17B.56, Off-Street Parking.

G. Employee parking shall be provided on site, or as part of a shared parking agreement or at a parking structure.

H. Joint or shared access, and off-street parking, internal circulation or parking is encouraged with adjacent uses.

I. A development can reduce the required off-street parking spaces up to fifty percent when it can be demonstrated, in a parking-traffic study, prepared by a traffic engineer, that use of transit or demand management programs, special characteristics or customer, client, employee or resident population will reduce expected vehicle use and parking space demand for their development, as compared to standard Institute of Transportation Engineers vehicle trip generation rates and city parking requirements.

J. Parking lots shall have internal landscaping as well as be screened from streets and pedestrian ways. (See Section 17B.25.120, Guidelines 21: Parking Lots—Landscape Design and 22: Screening Parking Lots—Pedestrian Environment.)

K. Parking garages shall be screened to improve the pedestrian environment in mixed-use zones. (See Section 17B.25.120, Guideline 23: Screening Parking Garages—Pedestrian Environment.)

L. Parking Facilities—Lots—Structures for Transit.

~~1. Long-term (eight plus hours), single-occupant vehicle, commuter parking near station is to be discouraged five years after commuter rail is operational.~~

~~2. Provide close-in (near multi-modal station) preferential parking for carpools and vanpools.~~

~~3. Joint and shared parking are encouraged among retail, office, entertainment, housing, tourist, marina and parking uses (day/night, weekend/weekday, and seasonal (June to September and October to May)) to promote maximum use of parking in the waterfront use district by all users.~~

~~4. Park and ride spaces serving the commuter rail, ferry and bus activities should not be permitted in the multi-modal station area (majority of district) after three to five years or when there is full development and operation of these integrated modes.~~

~~5. Park and ride lot(s) as defined in the multi-modal terminal access study report shall not exceed the requirements proposed for commuter rail or bus, and park and rides shall not be larger than eighty parking spaces, unless the lot is for shared parking or is converted to a parking garage with retail space fronting Front Street.~~

~~6. Bike racks and weatherproof lockers for bicycles should be provided at the multi-modal station and commuter rail platform.~~

~~7. Well defined pedestrian walkways should be provided in parking lots and around the multi-modal station from parking to building, ferry loading, and commuter rail platform. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)~~Shall adhere to the requirements outlined in 17B.56.040.

17B.25.100 Landscape design.

Development in a mixed-use district should have extensive landscaping of large parking areas along streetscapes and for pedestrian-oriented open spaces which can be seen from the street and pedestrian-oriented areas. Landscaping can also help to define areas and separate areas thereby bringing a human scale to these intense uses.

A. The waterfront area has the potential of suffering from large paved areas causing temperatures to rise during warmer months, from having declining air quality due to increased transportation uses, and from appearing to be a vast wasteland of parking lots. Vegetation and trees can help mitigate these conditions, by providing shade that will lower temperatures, and by helping to clean the air.

1. Parking areas should have one tree per every four parking stalls or trees between every two to four ferry loading lanes. (See Section 17B.25.120, Guideline 21: Parking Lots—Landscape Design.)

B. Parking areas must be screened from all pedestrian-oriented areas through the use of trees, shrubs, walls and/or trellis structures with plants. See Section 17B.25.120, Guideline 21: Parking Lots—Landscape Design.

C. Parking lots should provide landscaping next to buildings and along walkways. Parking lots should provide enough trees so that fifty percent of the lot is shaded within a five-year period and landscape beds have a ninety percent ground coverage in five years.

D. Arbors or trellises supporting living landscape materials should be considered for ornamentation on exterior walls. Any such feature should cover an area of at least one hundred square feet and include sufficient plantings to achieve at least thirty percent coverage by plant materials within three years.

E. Where pedestrian activity is encouraged onto the site, the screening doesn't have to be site obscuring.

F. Utilities are required to be under ground, and aboveground equipment should be located away from major pedestrian streets and corners. Equipment boxes and vaults must be placed in back of the sidewalk and where landscaping can minimize or screen their impact. See Section 17B.25.120, Guideline 12: Screening Utility Equipment and Services. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.25.110 Pedestrian walkway.

Waterfront promenade shall provide for maximum pedestrian accessibility along the waterfront. The intent of the waterfront promenade is to have a walkway/boardwalk or beach access from the Coast Guard Lighthouse to the eastside of the tank farm/Everett city limits. (See Section 17B.25.120, Guideline 24: Waterfront Promenade and Guideline 25: Mixed-Use Development.)

A. All new development will have a minimum setback of twenty (20) feet from rip rap. A fifteen (15) foot promenade with a five (5) foot building setback shall be built within the twenty (20) foot setback that conforms to the waterfront promenade standards or to provide access to the beach.

B. The shoreline program requires breaks between buildings to facilitate access to the water and to maintain view corridors.

1. The breaks between buildings must be at least every two hundred feet.

2. The first floor must be open for pedestrian passageway and views, but the second floor may be constructed above, if the roof is modulated.

3. The minimum width of such breaks shall be twenty-five feet.

C. Park Street should also be developed to link 2nd Street to the water, with emphasis on a pedestrian overpass and walkway improvements. The design of the overpass shall be approved by the city.

D. Sidewalks along Front Street should be a minimum of ten feet. Sidewalks in the WMU area should be no less than five feet. All sidewalks shall be constructed of concrete.

E. Decorative light standards and bollards are required on the waterfront promenade. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

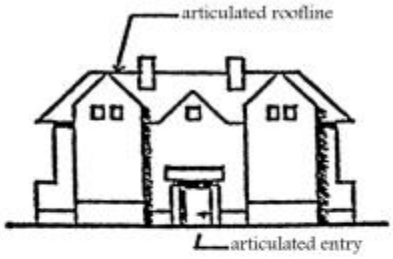
17B.25.120 Design guidelines.

All developments, inside and outside of the shoreline jurisdiction, shall comply with the following design guidelines:

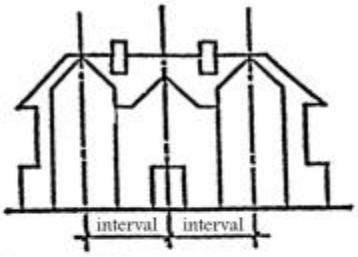
A. Guideline 1: Overall Form. Buildings should utilize elements such as massing, materials, windows, canopies, and pitched or terraced roof forms to create both a visually distinct “base” as well as a “cap.”

Multi-level buildings with commercial, office, or residential uses are strongly encouraged to create more clearly defined street edges (with zero setbacks from the sidewalk) and to provide upper-story activities which overlook the street and plazas. Easy access to the second story is strongly encouraged to allow economic viability for commercial uses and/or separate entrances for residential uses.

1. Articulation and Modulation. Buildings shall be articulated to reduce the apparent scale of buildings. Strong vertical and horizontal reveals, offsets, and three-dimensional detail can be incorporated into building design to create shadow lines and break up flat surfaces. The following are examples of how building articulation can be achieved.



Articulation



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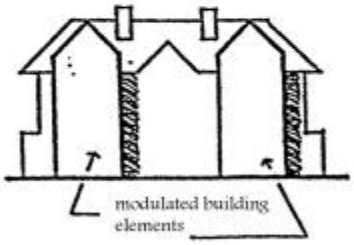
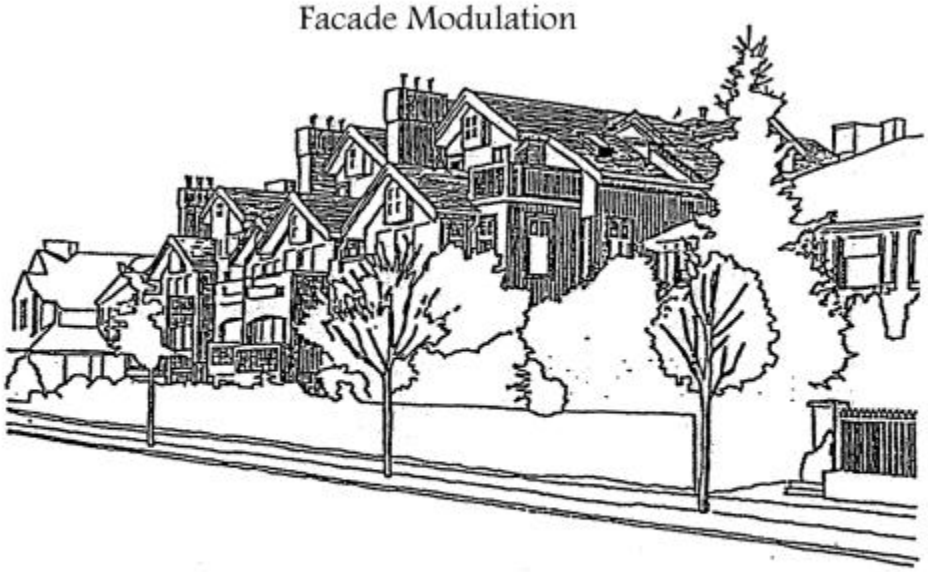


Modulation

Source: MAKERS Architecture and Urban Design, "Residential Development Handbook for Snohomish County, Washington, Communities," Marcy 1992.

Facade Modulation



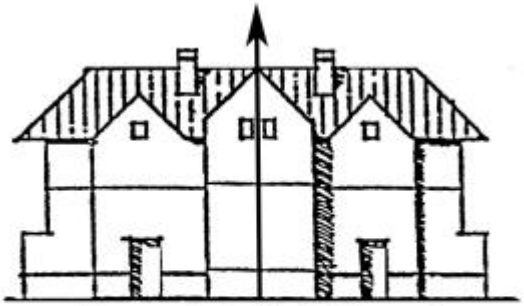
Source: City of Seattle, Washington, "Design Review: Guidelines for Multifamily and Commercial Buildings," October 1993.)

Facade modulation and pitched roofs help reduce the apparent bulk of this building.

2. Building Form. The use of wood siding and traditional roof forms make it possible to relate this development to the rest of the neighborhood.

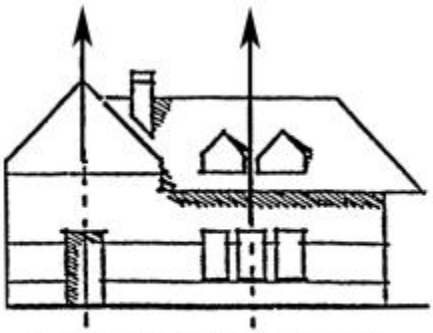
Sources: City of Boston, Massachusetts, "Design Guidelines for Neighborhood Houseing," January 1988.

Axial symmetry is a formal design organization in which the building elements on one side of the centerline axis are the same as on the other side.



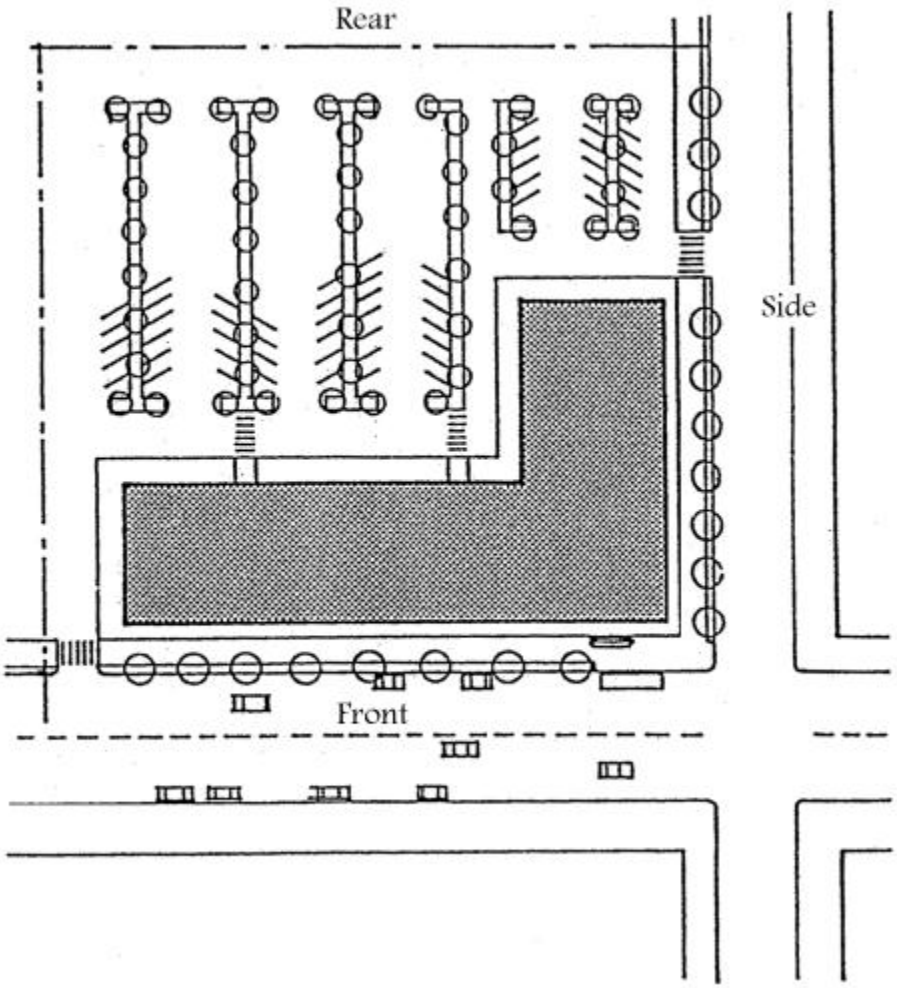
Symmetrically Balanced:
Order acheived by balancing
both sides around the center.

Asymmetry is an informal composition in which larger design elements are often visually balanced by a number of smaller elements within the composition.

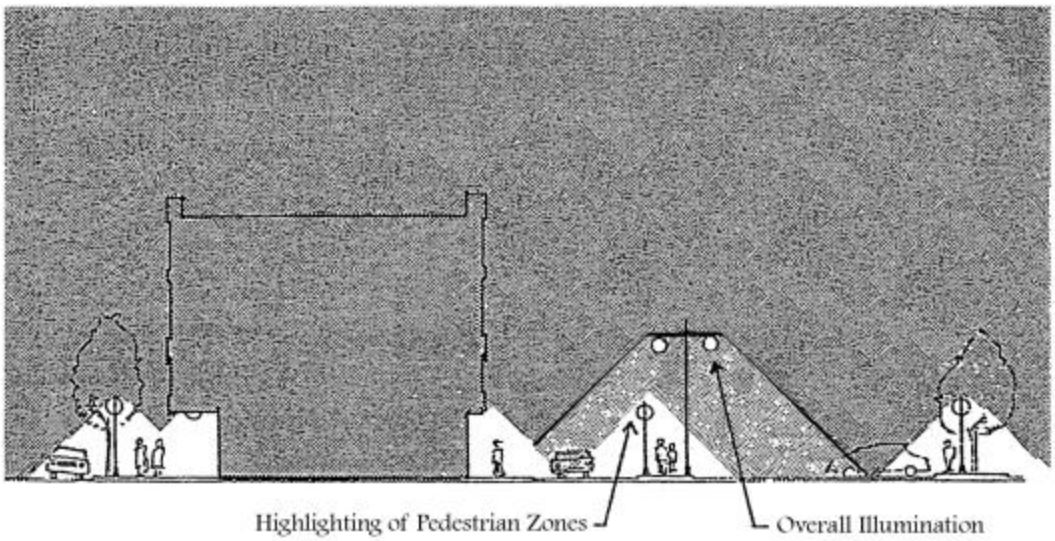


Asymmetrically Balanced:
Balanced among several points

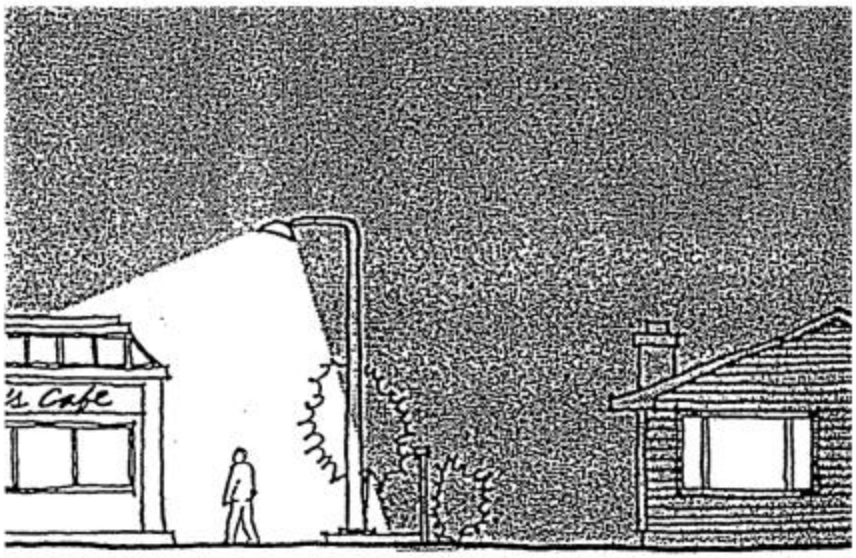
B. Guideline 2: Site Design. Off-street parking areas are to be located at the rear or side of buildings and should be well lit, without creating light spillage onto other properties.



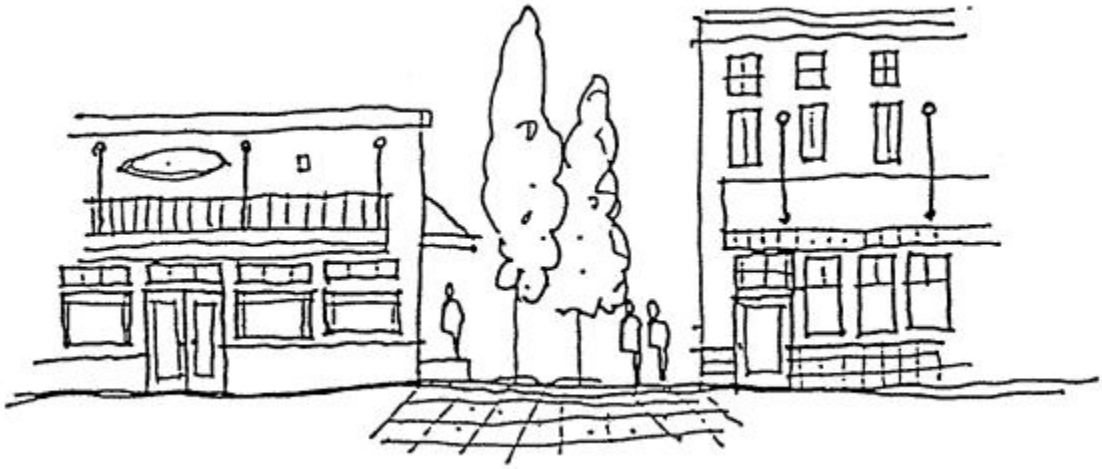
C. Guideline 3: Lighting Pedestrian Zones. Pedestrian corridors outside of buildings need to be clearly marked and well lit. Lighting should be sufficient for security and identification without allowing light to trespass onto adjacent sites.



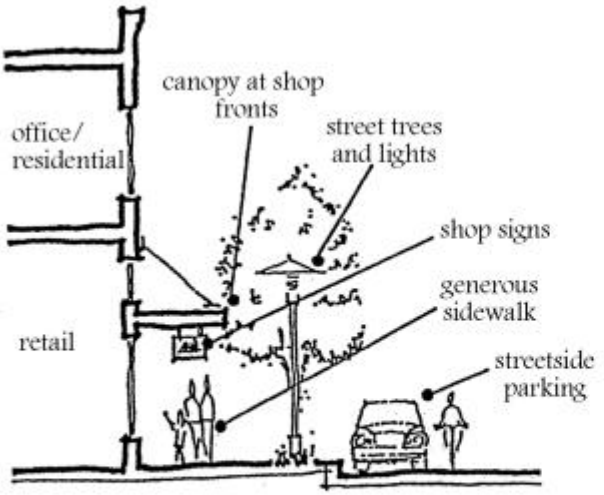
Lighting Pedestrian Zones

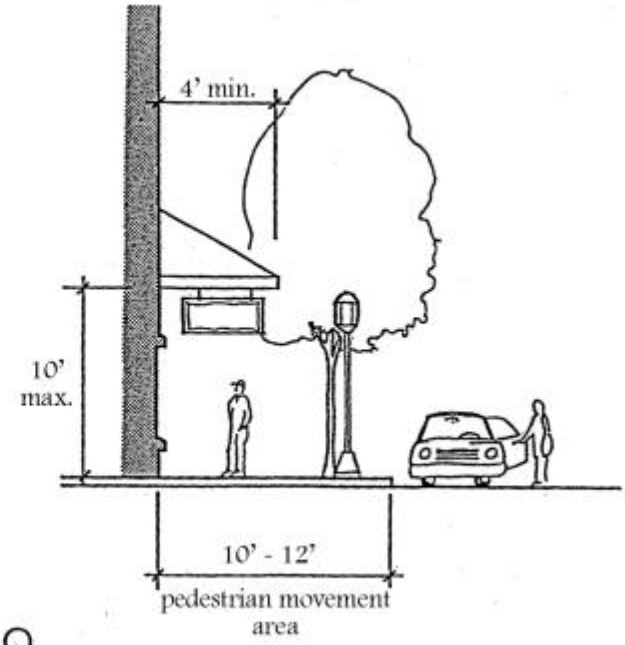


D. Guideline 4: Minor Pedestrian Passages. Pedestrian corridors outside of buildings need to be clearly marked and well lit. Lighting should be sufficient for security and identification without allowing light to trespass onto adjacent sites.

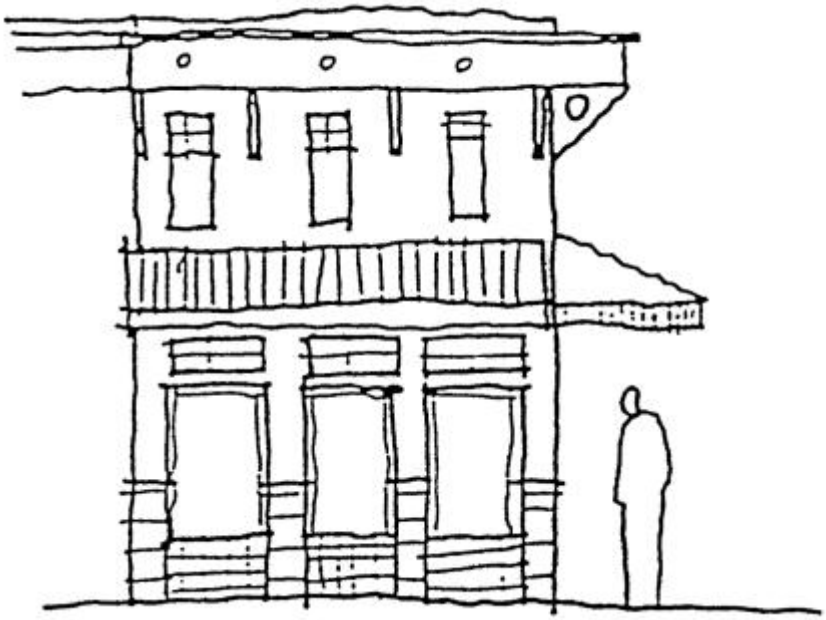


E. Guideline 5: Pedestrian-Oriented Streetscapes. Buildings in the mixed-use zones should provide cover for pedestrians such as awnings along the length of any facade abutting a sidewalk. Other streetscape amenities should include street trees, broad sidewalks, building and pedestrian lighting, overhanging signs for pedestrians, necessary street furniture and on-street parking where feasible.





F. Guideline 6: Street Walls. The street wall or zero setback of buildings from the sidewalk is intended to have buildings visually and functionally interact with the pedestrians on the sidewalk.

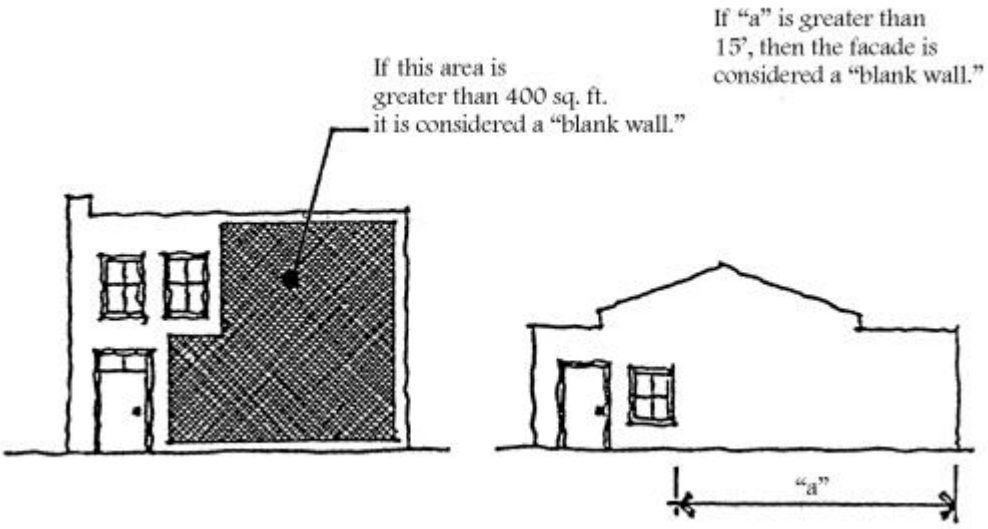


1. The Two Criteria for Designating a “Blank Wall.” Blank feature walls work against the neighborhood’s objectives for increased pedestrian activity and residential qualities. However, in areas with a diversity of land uses, blank walls can occur frequently because of fire wall requirements and narrow setbacks. Therefore, the following provisions are recommended to mitigate their effects.

~~A~~2 “blank wall” subject to the “blank wall treatment” requirements is a wall that meets any of the following criteria:

a. Any wall or portion of a wall that has a surface area of four hundred square feet without a window, door or other architectural feature.

b. Any wall surface or section of a wall over four feet in height located within fifteen feet of a street right-of-way at ground level that is longer than fifteen feet as measured horizontally without having a ground level window or door lying wholly or in part within that fifteen-foot section.



2. Blank Wall Treatment. All blank walls within twenty feet of the street right-of-way or within fifty feet of a residentially zoned lot should be treated in one or more of the following ways:

a. Installing a trellis in front of the wall with climbing vines or plant materials.

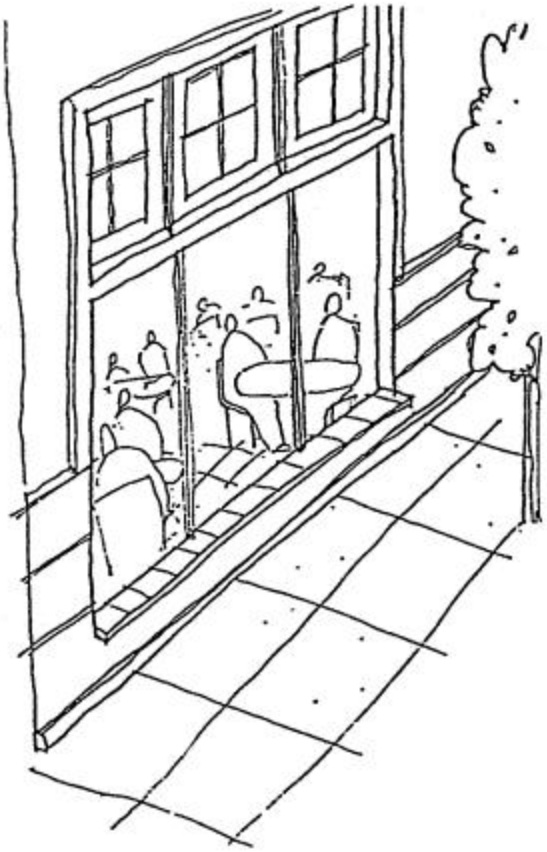
b. Providing a landscaped planting bed at least five feet wide in front of the wall and planting with plant materials that obscure or screen at least fifty percent of the wall's surface within five years.

c. Incorporating decorative mosaic or colored masonry into the design of the wall.

d. Providing artwork (mural, sculpture, relief, etc.) over at least fifty percent of the blank wall surface.

e. Other similar method approved by the city.

G. Guideline 7: Ground Floor Transparency. The ground floor of buildings in mixed-use developments is required to have windows that allow for visual connections between activities inside and outside the building. The ground floors of buildings should face sidewalks and pedestrian pathways and should have generous amounts of clear glass so people can see into the building.



H. Guideline 8: Encouraging Visual Detail.

1. Residential and commercial buildings in mixed-use developments should include details that create a sense of human scale, and that break down the bulk of larger buildings. The following are ways to incorporate details and articulate a building:

a. Base articulation (using solid materials or raising the first floor).

b. Visible trim around windows and building corners.

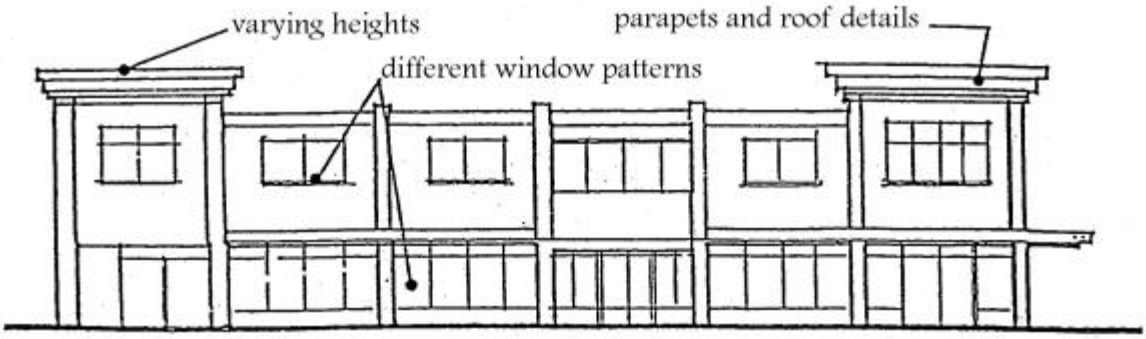
c. Using columns or vertical relief.

d. Bay windows and dormers.

e. Front porches, stoops, or balconies.

f. Varied heights of buildings.

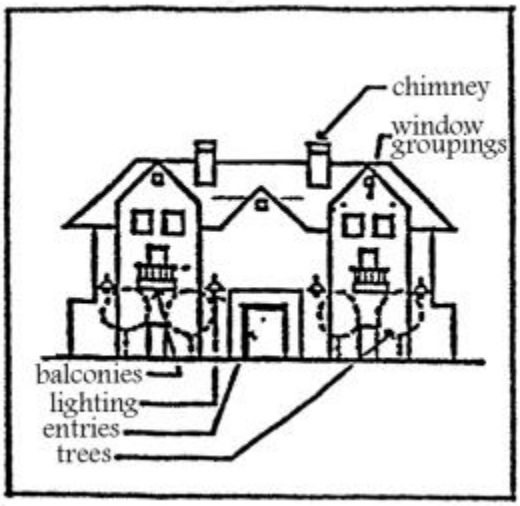
g. Parapet and roof details.



2. Building Materials. Vary building materials by using things such as patterned masonry, shingles, bricks or stone. Other examples include individualized patterns or continuous wood details such as shingles in a geometric pattern, decorative moldings, brackets, wave trim or lattice work, ceramic tile, stone, glass block, carrera glass or similar materials.

The architectural detail and varied materials demonstrate quality design and reduce the scale of this four-story residential building by clearly articulating the bottom, middle and top.

3. Tripartite Articulation. Detailing can unify a design and lend scale and character by incorporating fascia, columns, or other distinctive detailing.

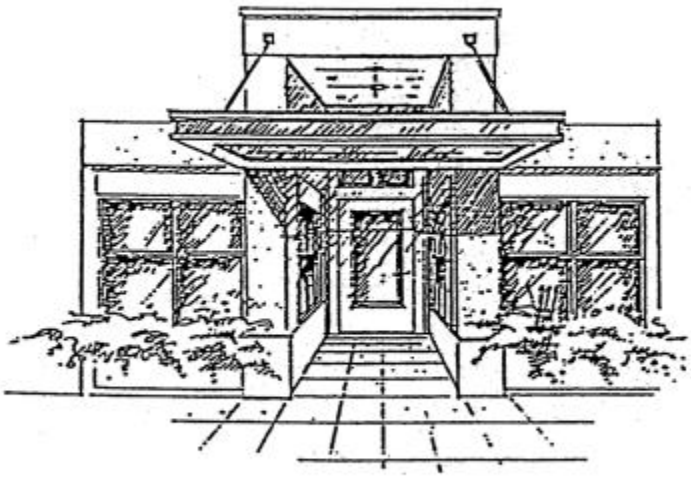


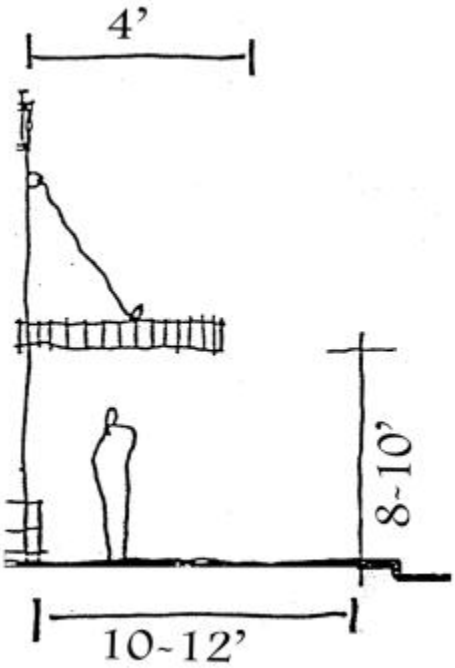
Buildings can be articulated in several ways. The following development uses a variety of techniques to present a human scale and attractive appearance.

This contemporary mid-rise building is breaking away from its former rectangular box image with the use of more articulated building forms such as terracing and varied rooflines.

I. Guideline 9: Small-Scale Building Increments. Breaking buildings into small increments helps to add visual interest and scales the building to human proportions. The facades of buildings are to be divided into small units, such as narrow storefronts, bays, separated roof forms. Long or large uninterrupted walls or windowless walls are not allowed.

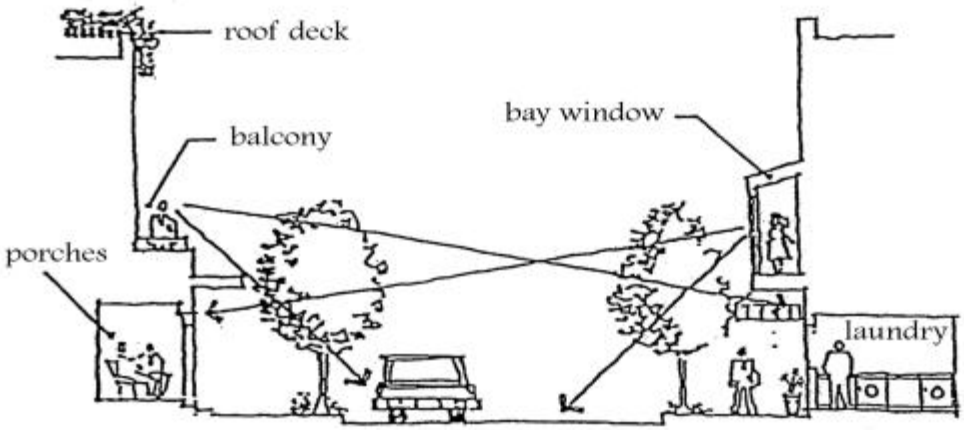
J. Guideline 10: Weather Protection. Weather protection is required in mixed-use developments to give pedestrians some protection from the rain in these areas. The weather protections such as awning, canopy or marquee should be located eight to ten feet above the sidewalk with a minimum width of four feet.

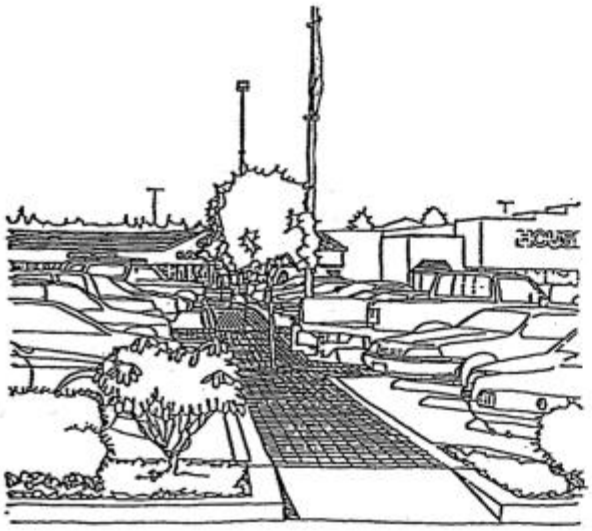


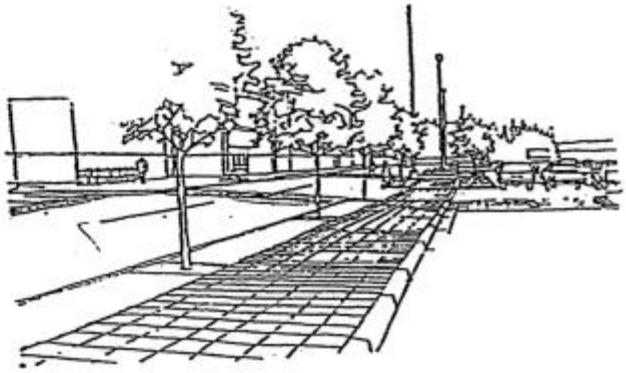


K. Guideline 11: Designs for Pedestrian Safety. Building designs should consider "informal" surveillance of public and semi-public outside areas. Visibility should be provided from store fronts, upper story bay windows, balconies, roof decks, porches or outdoor cafes.

Well-marked pedestrian access shall be provided within parking lots and from the interior of parking lots to exterior sidewalks.





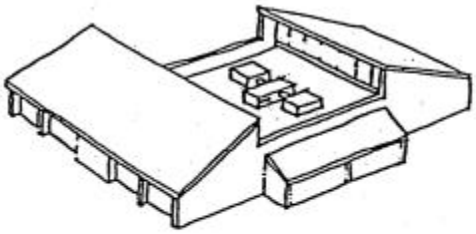


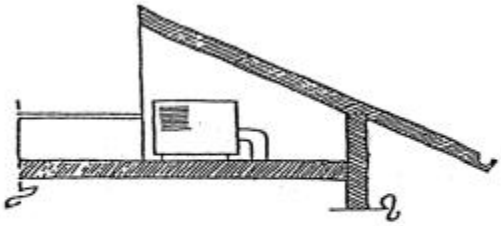
L. Guideline 12: Screening Utility Equipment and Services. Mechanical equipment on roofs or walls should be screened by extending parapets, using roof wells, clerestory, or integrating it into the roofline.

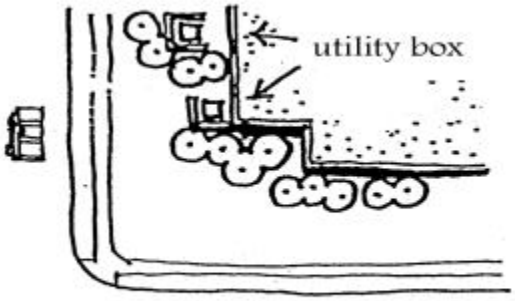
The use of landscaping and site design is required to screen utility vaults and equipment.

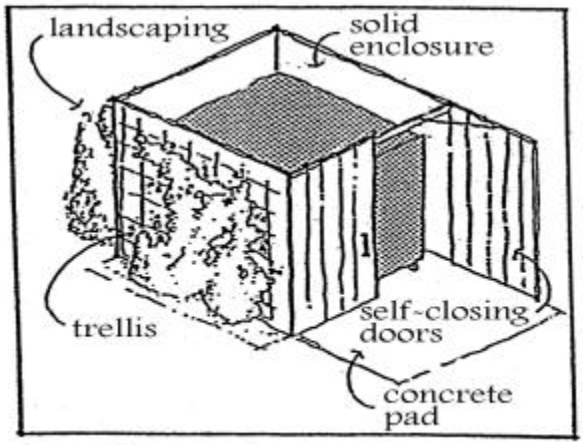
Loading, trash dumpsters, recycling bins and storage areas should be located so they are not visible from the street and are concealed with solid fencing and gates/doors. Landscaping should be used to soften the appearance of the enclosure.

Utilities shall be undergrounded in mixed-use districts.

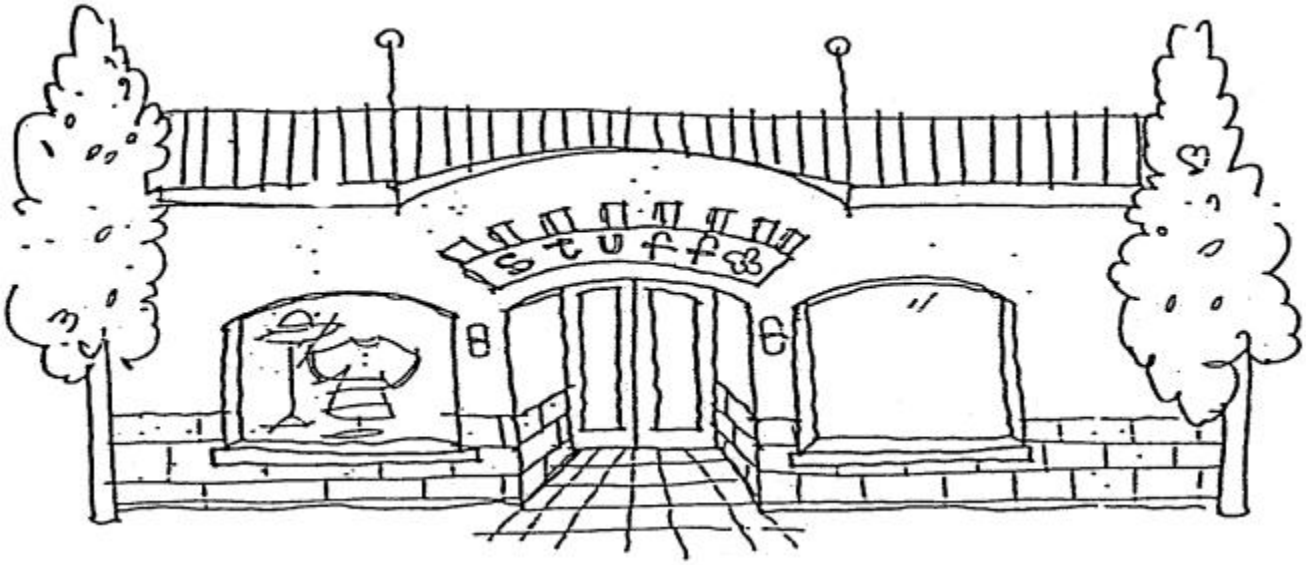




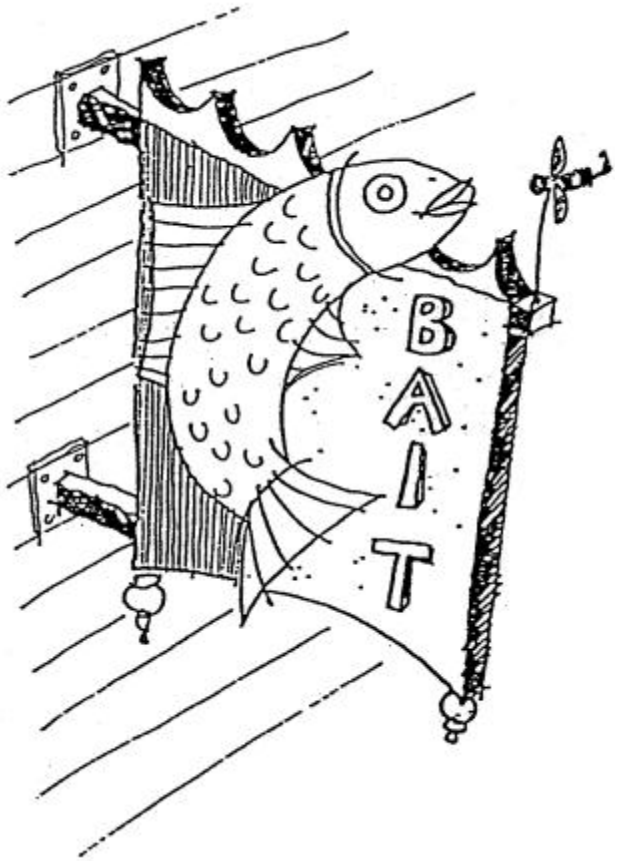




M. Guideline 13: Sign Integration. Sign integration should be used in new development wherever possible, so signage is part of the overall design approach.

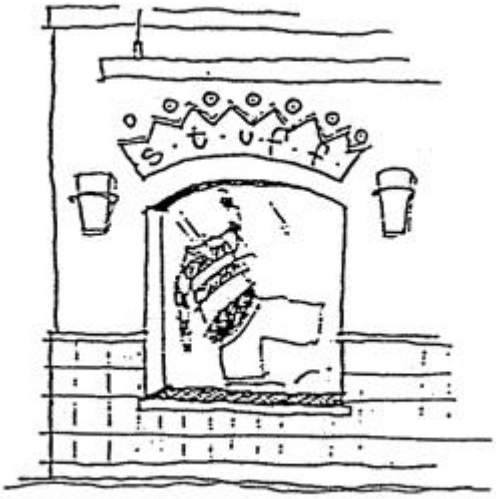


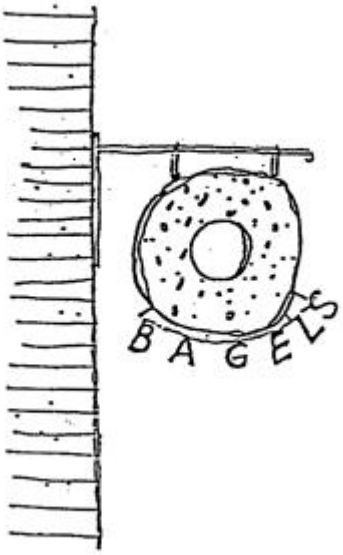
N. Guideline 14: Signage Creativity. Creativity is encouraged in signage and graphic design. Signs can be expressive in form and lighting. Standard, back-lighted, metal frame and plastic signs are discouraged.



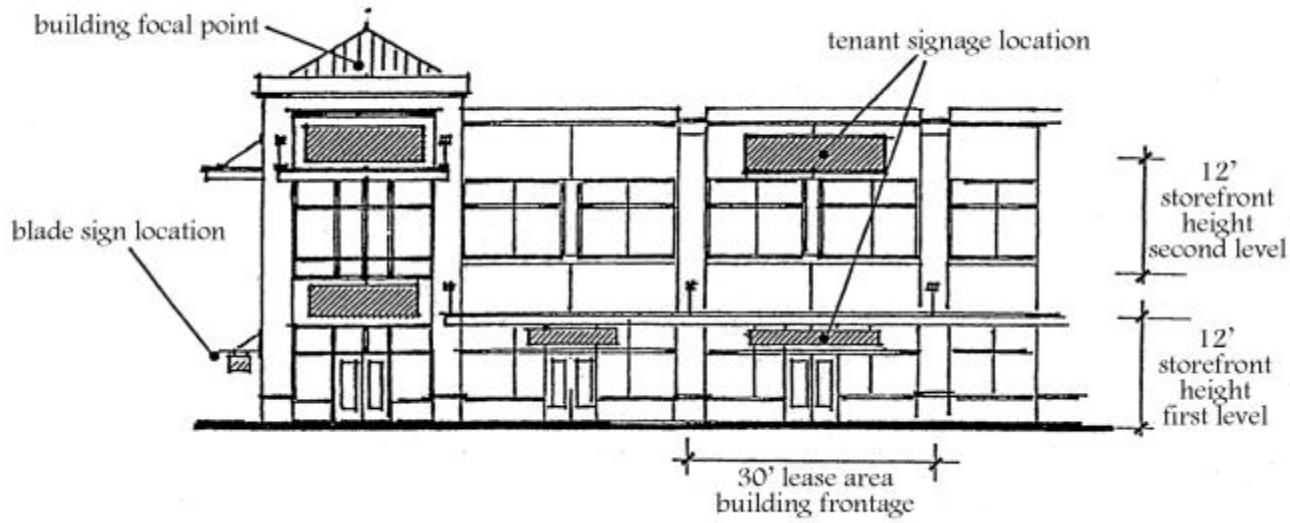
O. Guideline 15: Building-Mounted Signs and Lighting. Signs can be located on the facades of buildings. This building-mounted sign will be the principal location to announce goods and services. The only other signs allowed are the overhanging sign and the “open” sign.

Signage needs to be unobtrusive and the form of lighting can only be back lit or externally lit. Internally illuminated signs are not allowed.

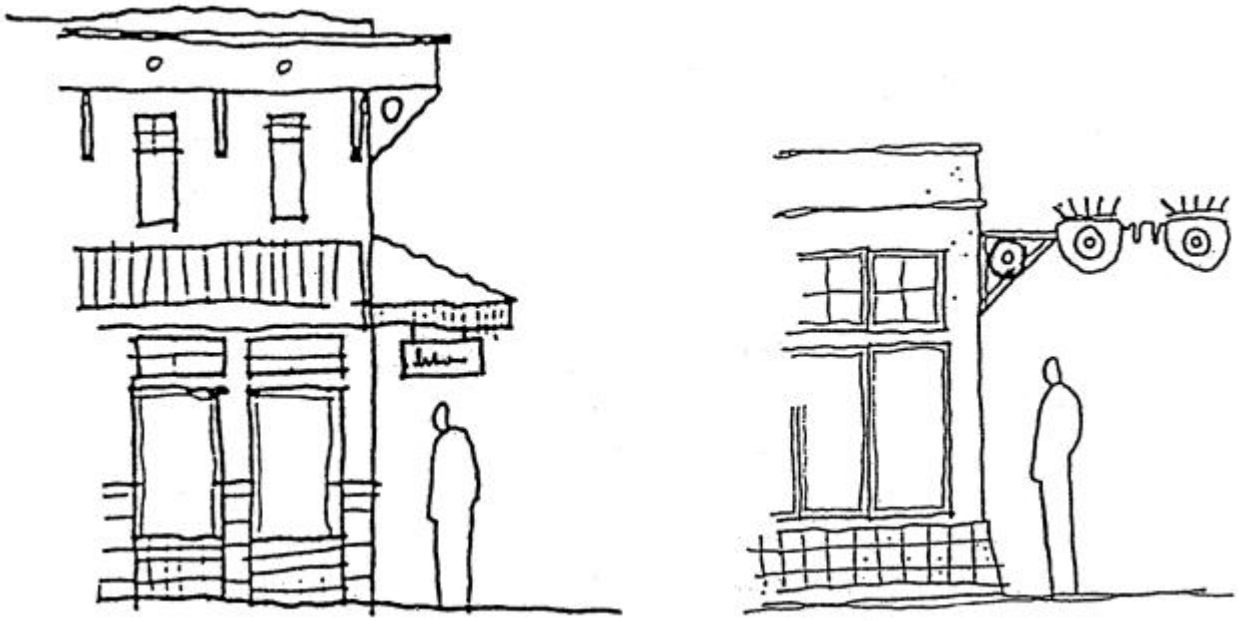




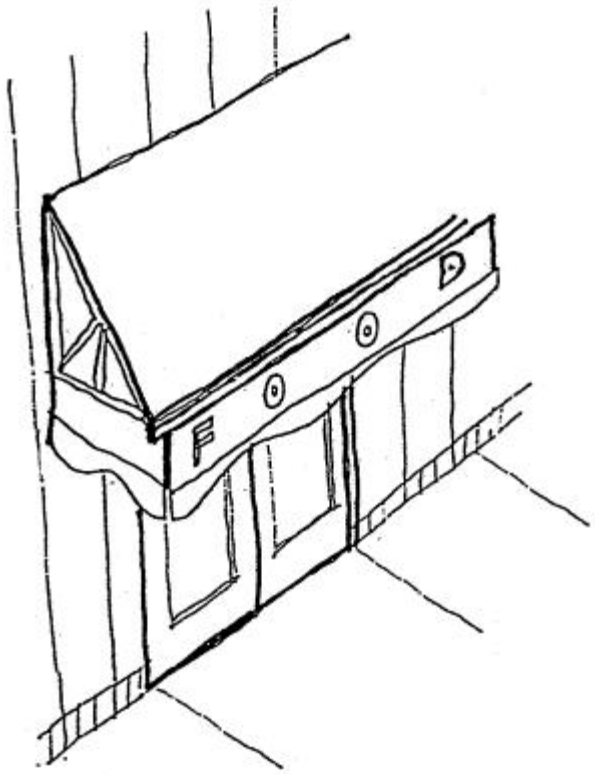
P. Guideline 16: Locations of Signs on Buildings. Signage placement shall be centered over tenant storefronts and shall not exceed twenty-four square feet in total area for each storefront.



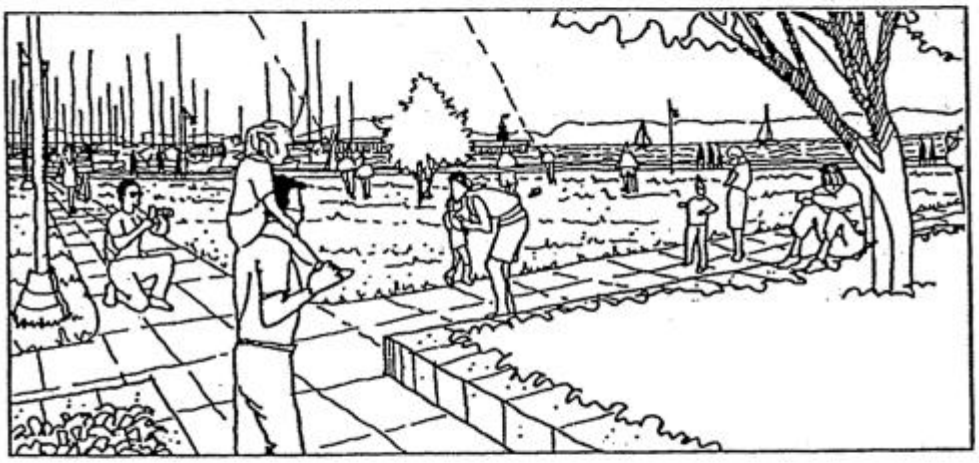
Q. Guideline 17: Overhanging, Building-Mounted or Blade Signs. These signs mounted perpendicular to the building face are allowed to provide pedestrian oriented signage for retail and office uses. They should be scaled to the pedestrian, must be at least eight feet above the sidewalk, and are encouraged to be creative/symbolic rather than using only letters.

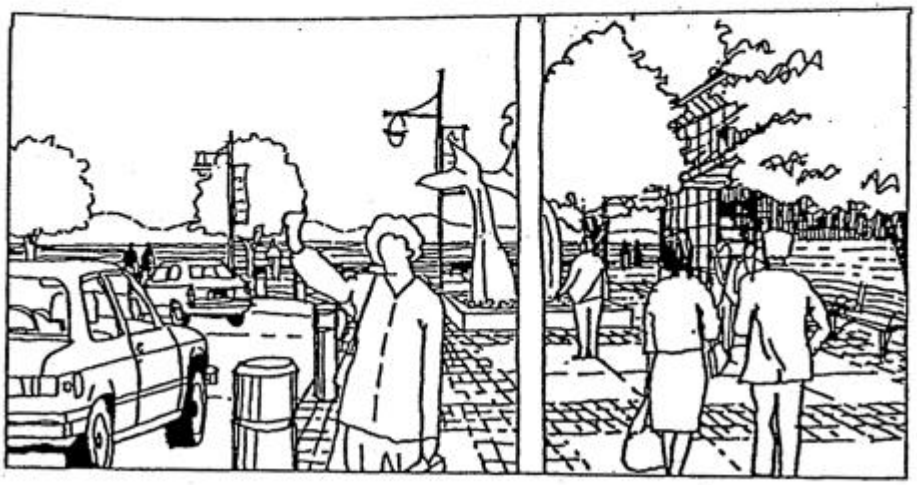


R. Guideline 18: Awning Signs. Awnings, or similar weather protection, are required along sidewalks in retail/mixed-use areas. Signs painted on the awnings are allowed, but awnings can not be internally illuminated.



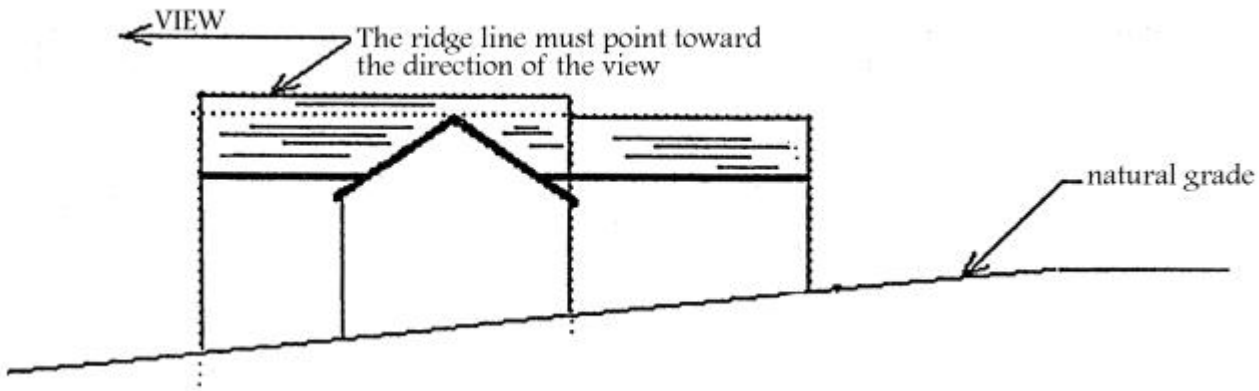
S. Guideline 19: Parks and Open Space. The Port of Everett (POE)/Washington State Ferries (WSF) Binding Site Plan set aside twenty percent (20%) of the Tank Farm property as open space, which included the promenade and City parks and open space tracts. Plazas, play areas, landscape buffers and open space (sensitive areas) can be included in the open space requirement. Ten percent of the area will be in useable parks, plazas and play areas. Pedestrian and bicycle paths and connections are required within the development, and shall be provided to the closest activity area (i.e., schools, business area, park, major arterial, etc.).



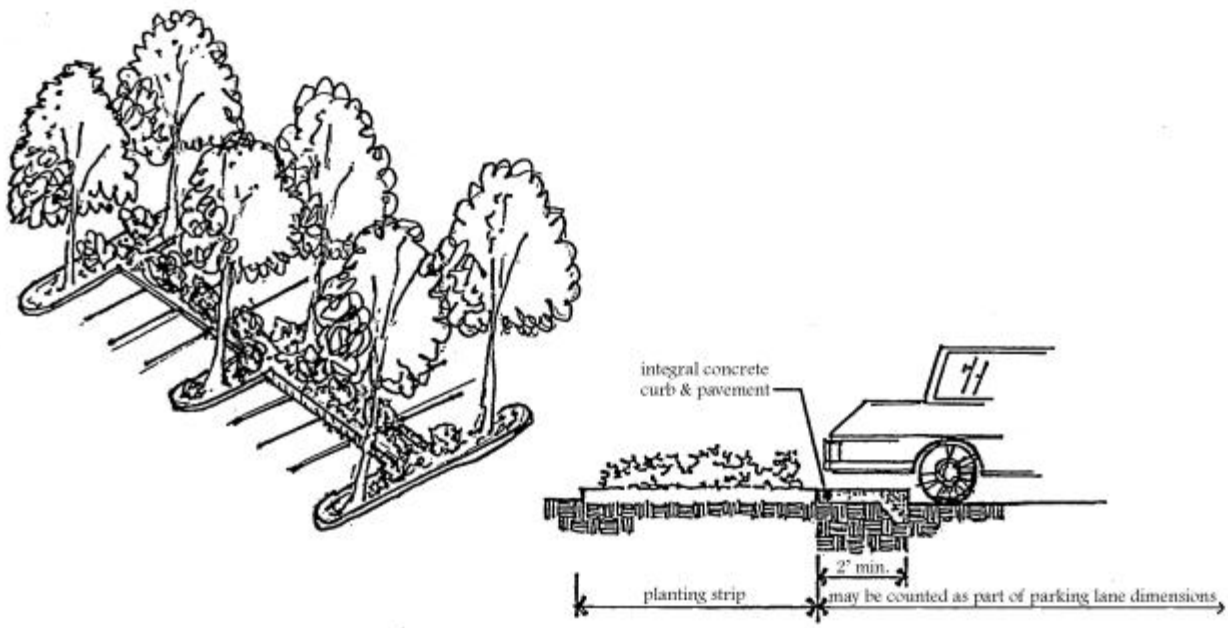


T. Guideline 20: View Corridor. View corridors shall be considered and protected in the waterfront areas. The view corridors created by Park Street and SR 525 running north and south in Mukilteo provide important view corridors. Front Street also provides another view corridor to the water. To help protect view corridors and allow for buildings and public areas to share and retain access to these views, buildings shall configure their ridge lines to be perpendicular north and south, or to the shore, or to the

significant view. The basic structure and pitched roof shall be located to provide maximum view corridors between structures.



U. Guideline 21: Parking Lots—Landscape Design. Parking lots shall be landscaped to improve the views of parking areas for pedestrians and from views uphill above the parking lots, and to help reduce the apparent size and amount of impervious surface. Landscaping and screening of the perimeter is required using deciduous trees and planting beds. To protect view corridors within and over the WMU zone, tree species should be used that grow to less than thirty feet in the waterfront area and less than forty feet otherwise. Trees should be a minimum of two and one-half inches caliper in planting beds, and planting beds shall be a minimum of five feet wide. Drip irrigation is required. Landscaping should be drought resistant, and/or be of indigenous species. Where parking is allowed to overhang the landscaping beds, an additional two feet shall be added to the width of stalls. The location of trees, and light poles (luminaires) should be coordinated to ensure minimum light levels.



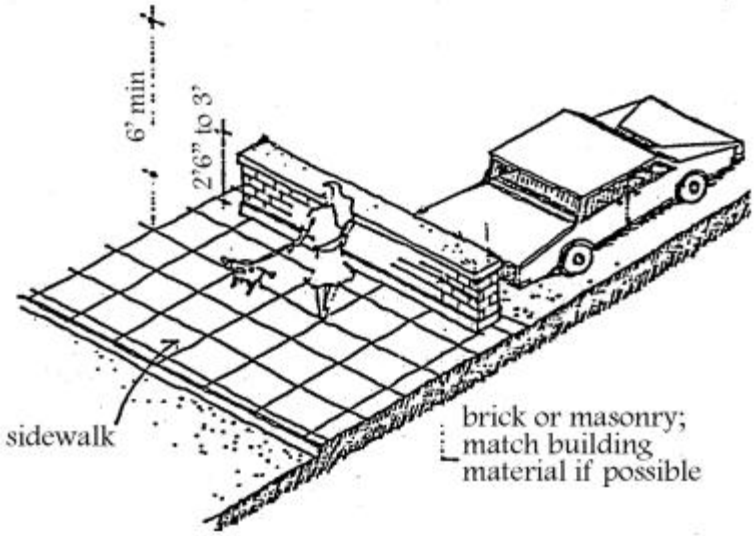
5-7 foot landscaped beds, depending on if vehicle overhang is allowed or a 2' integral curb

Deciduous trees will be two and one-half inches in caliper, and there will be one tree for every four parking stalls with fifty percent of the parking lot being shaded within a five-year period. Groundcover in landscape beds should achieve ninety percent coverage in five years.

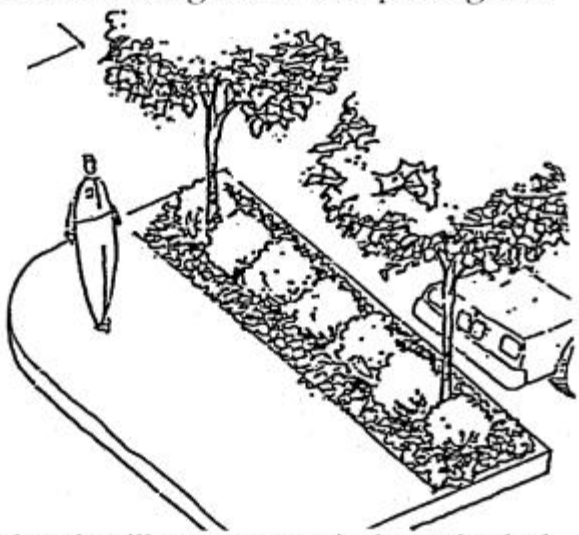
V. Guideline 22: Screening Parking Lots—Pedestrian Environment. Parking lots shall be screened to reduce the negative visual impact of parking lots and parked vehicles. Screening also improves the edge of the streetscape and helps to define the street. All parking lots, storage, loading, or maintenance areas should be screened using one of two methods:

1. Provide a screen wall at least two and one-half feet high of durable or attractive materials.

2. Provide a landscape perimeter bed or hedge that is maintained at two and one-half feet high.

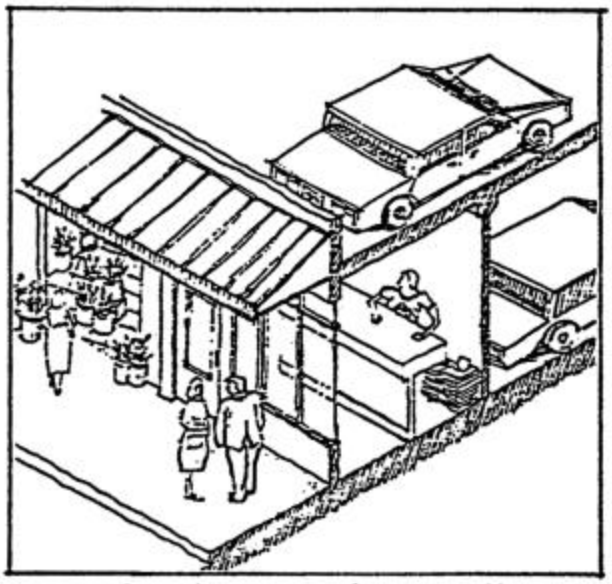


Low wall with trellis above for hanging plant is ideal as a screening element for parking lots.

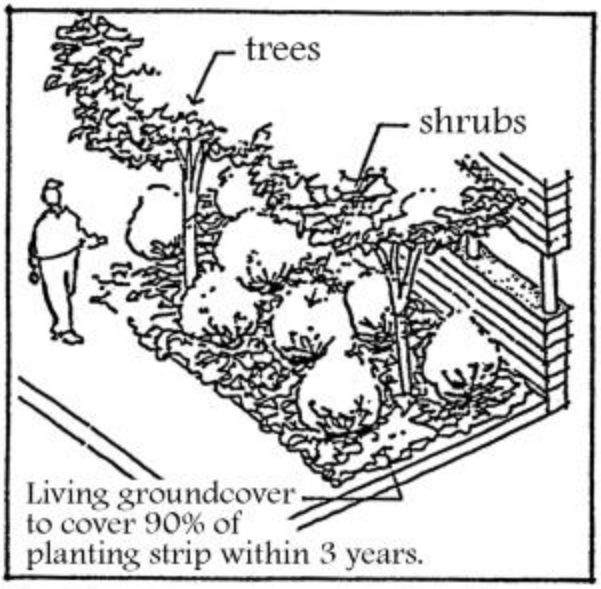


This drawing illustrates a typical standard of perimeter landscaping. Other plant material combinations and dimensions may be appropriate.

W. Guideline 23: Screening Parking Garages—Pedestrian Environment. Parking garages shall be placed in back of first floor retail. Garage entrances shall not be off arterial streets such as Front Street. At-grade parking structures or garages adjacent to local or secondary streets such as Park Street should be set back ten feet from the sidewalk to allow for dense landscaping. Providing either commercial activity or dense landscaping along pedestrian ways will improve the pedestrian environment and reduce the impact of at-grade parking structures.

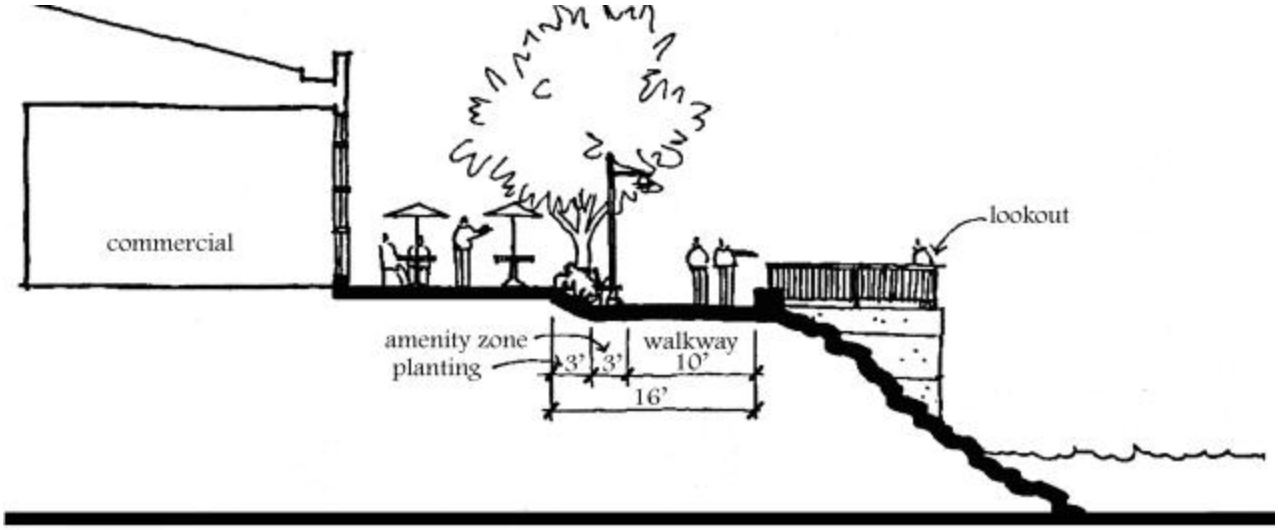


Street level spaces for small businesses, creating a more active and pedestrian friendly street edge.

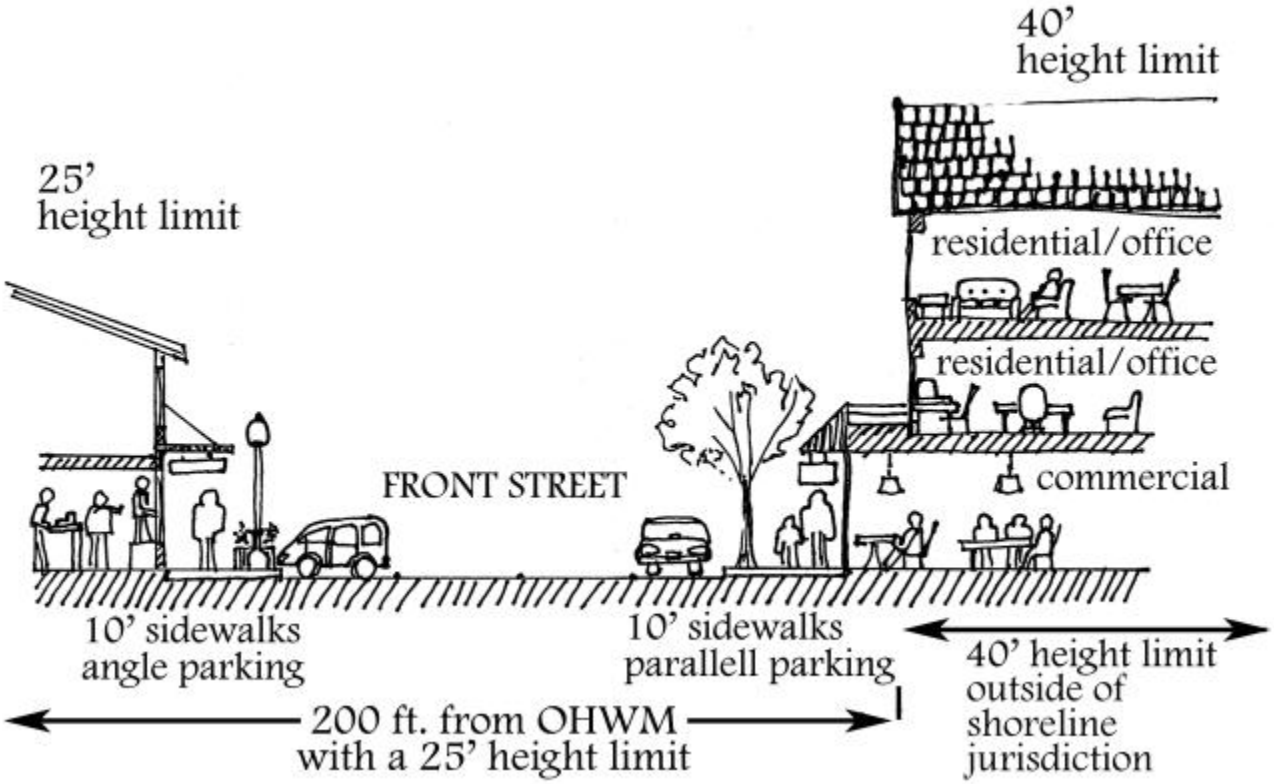


Parking garage screening bed.

X. Guideline 24: Waterfront Promenade. The waterfront promenade shall provide for maximum pedestrian accessibility and enjoyment of the waterfront. The intent of the waterfront promenade is to have a walkway/boardwalk that provides either outlook areas or access to the beach.



Y. Guideline 25: Mixed-Use Development. A mixed-use development is intended to accommodate and foster pedestrian usage by combining commercial/retail uses and residential uses in the same buildings or in close vicinity of each other. Residential uses shall be above the commercial/retail space which harkens back to the early 1900s when people lived and worked in close proximity. This concept makes pedestrians a focal point, encourages human interaction, and provides a vibrant sidewalk environment.



Z. Guideline 26: Historic Context. Examples of Historic Buildings.

(Ord. 1295 § 10 (Exh. 1B) (part), 2011)

Chapter 17B.52
CRITICAL AREAS REGULATIONS (WITHIN THE TWO-HUNDRED-FOOT SHORELINE JURISDICTION)

Sections:

17B.52.010 Purpose of critical areas regulations.
17B.52.020 Critical areas defined.
17B.52.022 Exceptions.
17B.52.030 Authority.
17B.52.035 Native growth protection areas (NGPA) and buffers.
17B.52.036 Shoreline vegetation conservation.
17B.52.038 Incorporation of best available science.
17B.52.039 Water quality.
17B.52.040 Enforcement.
17B.52.050 Consistency.

17B.52.010 Purpose of critical areas regulations.

The purpose of the critical area regulations contained in Chapters 17B.52A through 17B.52D is:

A. To designate and classify ecologically sensitive and hazardous areas and to ~~protect these areas and their functions and values~~assure no net loss of shoreline ecological functions, while also allowing for reasonable use of private property.

B. To implement the goals, policies, guidelines, and requirements of Mukilteo's comprehensive plan, the Washington State Growth Management Act, and the Shoreline Management Act.

C. The city of Mukilteo finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit Mukilteo and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation of flood waters, ground water recharge and discharge, erosion control, protection from hazards, historical, archaeological, and aesthetic value protection, and recreation. These beneficial functions are not listed in order of priority.

D. To protect critical areas in accordance with the Growth Management Act and through the application of the best available science and in consultation with state and federal agencies and other qualified professionals.

E. To limit development and alteration of critical areas and provide minimum development regulations to:

1. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, liquefaction, tsunami or flooding;

2. Maintain healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species;

3. Preserve, replace or enhance, to the maximum extent practicable, native evergreens, specimen deciduous trees, understory and groundcover within the city;

4. To minimize water quality degradation and the sedimentation of creeks, streams, ponds, lakes, wetlands and other Puget Sound water bodies;

5. To minimize the impact of increased runoff, erosion and sedimentation on downstream properties and water bodies caused by improper land development maintenance practices;

6. To maintain and protect the habitat of threatened and endangered wildlife species;

7. To maintain and protect the Mukilteo shoreline including the protection of eelgrass and forage fish habitats;

8. To maintain and protect groundwater resources and hydraulic flows that support seasonal and year around water bodies;

9. To minimize adverse effects of alteration in ground and surface water quantities, locations and flow patterns;

10. To decrease potential landslide, flood and erosion damage to public and private property;

11. To promote site-planning building practices which are consistent with the city's natural topographical, vegetational and hydrological features;

12. Direct activities not dependent on critical areas resources to less ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas; and

13. Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and fish and wildlife habitat conservation areas.

F. To provide flexibility and attention to site-specific characteristics when administering this code. It is not the intent of this code to make a parcel of property unusable by denying its owner reasonable use of the property nor to prevent the provision of public facilities and services necessary to support existing development.

G. The city of Mukilteo's enactment or enforcement of this chapter shall not be construed to benefit any individual person or group of persons other than the general public. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52.020 Critical areas defined.

For the purposes of the critical area regulations contained in Chapters 17B.52 through 17B.52D, "critical areas" is defined as those possessing existing slopes of forty percent or greater, or areas containing unstable soils or other geologic hazards, or natural drainage ways or ravines, areas of special flood hazard, areas of critical recharging, effect on aquifers used for potable water, water supporting hydrologic flows for seasonal or year around water bodies, or areas that have been identified as providing significant wildlife habitat by the Washington Department of Fish and Wildlife and National Marine Fisheries Service, wetland areas, or those areas defined as shoreline of Mukilteo, the state or of state wide significance. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52.022 Exceptions.

The Shoreline Management Act does not allow critical area exemptions. Any request for changes or modifications to the standards listed herein shall be submitted via a variance application. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52.030 Authority.

Chapters 17B.52 through 17B.52D are adopted pursuant to the Growth Management Act, Chapter 36.70A RCW, and the Shoreline Management Act, Chapter 90.58 RCW. Development regulations contained within these chapters for the protection of critical areas shall constitute adequate mitigation of adverse or significant adverse environmental impacts on critical areas for the purposes of Chapter 17B.84, implementing the State Environmental Policy Act. If an application meets the minimum standards as listed in these chapters for the protection of critical areas, no additional environmental review will be required by the city. State and federal approval may be required for work within wetlands or in water. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52.035 Native growth protection areas (NGPA) and buffers.

A. Any area in which development is prohibited by the city's critical area regulations shall be set aside in a native growth protection area. NGPAs shall be placed in a separate tract on which development is prohibited, protected by execution of an easement, dedicated to a conservation organization or land trust, or similarly preserved through a permanent protective mechanism acceptable to the city. The location and limitation associated with the critical area and its buffer shall be shown on the face of the deed, site plan, or plat applicable to the property and shall be recorded with the Snohomish County assessor's office.

B. Native growth protection areas and buffers shall not be used for storage or deposit of construction debris or material, or deposit of vegetative spoils.

C. All native growth protection areas shall be shown on the development site plans or final plat map, and shall be noted as follows:

There shall be no clearing, excavation, or fill within a native growth protection area shown on the face of this site plan/plat, with the exception of required utility installation, removal of dangerous trees, thinning of woodlands for the benefit of the woodlands as determined by a certified landscape architect or arborist, and removal of obstructions on drainage courses, or as allowed under Section 17B.52A.070, Vegetation Management on Steep Slopes.

D. A temporary sign shall be placed at the boundary of all native growth protection areas during periods of construction, clearing, grading, or excavation on adjacent property. The sign shall describe the limitations of on-site disturbance and development within the native growth protection area. A permanent sign shall be placed at the boundary of all native growth protection areas describing the limitation on development. NGPA signs shall be spaced fifty feet on center along the periphery of the critical area.

E. A written report by a certified landscape architect, arborist, or wetland specialist shall be provided with all requests to modify or disturb a native growth protection area. The report shall be reviewed by the planning and public works directors, which shall approve, condition, or reject the request based on findings presented.

F. Development in city owned gulches that are zoned parks and open space is limited to those recreational activities permitted by the Mukilteo Municipal Code or a master park plan approved by the city council. Many of these gulches and ravines have critical areas that are regulated by the city's critical areas ordinance and should be reflected in any development proposal. However, since they are protected by the parks and open space zoning designation the requirement to place these publicly owned properties in native growth protection areas would be duplicative and unnecessary. Therefore, existing public infrastructure, such as the sewer plant and sewer and water lines, located within major ravines and/or on property zoned parks and open space under the ownership of the city of Mukilteo are not required to place the critical areas within a native growth protection area. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52.036 Shoreline vegetation conservation.

Buffers to wetlands, streams, and shorelines are listed in each applicable code section. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52.038 Incorporation of best available science.

A. Preparation of Critical Area Reports/Biological Assessments/Habitat Management Plans. Critical area reports prepared to determine whether "no net loss" to a critical area will be achieved before

alteration or mitigation to a critical area is undertaken shall rely on the best available science to protect the functions and values of a critical area and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish, such as salmon and bull trout, and their habitat, where applicable.

B. Best Available Science to Be Consistent with Criteria. The best available science is that scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific professional, or team of qualified scientific professionals that is consistent with criteria established in WAC 365-195-900 through 365-195-925 and WAC 173-26-201(2).

C. Absence of Valid Scientific Information. Where there is significant uncertainty about the risk to critical area function, or permitting an alteration of, or impact to the critical area, that cannot be resolved because of incomplete scientific information, the planning director shall take a "precautionary or a no-risk approach," that strictly limits development and land use activities until the uncertainty is sufficiently resolved. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52.039 Water quality.

All development shall comply with the city's adopted storm drainage requirements as adopted in Chapter 13.12, Surface Water Management, and Chapter 13.16, Storm Drainage System. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52.040 Enforcement.

A. Any violation of the provisions of Chapters 17B.52 through 17B.52D shall be enforced through the procedures set forth in Title 18, Land Use Enforcement.

B. Any violation of the critical area regulations shall result in the immediate issuance of a stop work order which shall remain in effect until the violation has been corrected. In addition to the stop work order, violations of this chapter shall constitute a civil infraction as outlined in Chapter 18.25, Civil Infractions, and Chapter 1.32, General Penalties. The first violation shall constitute a Class III civil infraction, the second offense shall constitute a Class II civil infraction and the third and each violation thereafter within a one-year period shall be classified as a Class I civil infraction.

C. In addition to any other penalties provided by law, removal of vegetation or encroachment into a buffer area or NGPA shall result in the immediate issuance of a stop work order or citation. The violator shall file a landscaping plan with the city for review and all required replacement landscaping shall be installed prior to withdrawal of the stop work order. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52.050 Consistency.

A. These critical area regulations shall apply in addition to zoning, grading, building, landscaping, storm and surface water, and other regulations adopted by the city of Mukilteo.

B. Any individual critical area adjoined by another type of critical area shall have the buffer and meet the requirements that provide the most protection to the critical areas involved. When any provision of this chapter or any existing land-use regulation conflicts with this chapter, whichever provides more protection to the critical area shall apply.

C. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Mukilteo's shoreline substantial development permits, WDFW Hydraulic Permit Act (HPA) permits, Section 106 of the National Historic Preservation Act, U.S. Army Corps of Engineers Section 404 permits, National Pollution Discharge Elimination System (NPDES) permits administered by the Washington Department of Ecology). The applicant is responsible for complying with these requirements, apart from the process established in this chapter.

D. Wherever the requirements of the critical areas chapters are in conflict with the requirements of the applicable zoning ordinance, subdivision ordinance or any federal, state, or lawfully adopted rules or regulations, the most restrictive standards shall apply. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

Chapter 17B.52A
GEOLOGIC SENSITIVE AREA REGULATIONS

Sections:

17B.52A.010 Purpose of regulations.
17B.52A.020 Designation of geologic sensitive areas.
17B.52A.030 Mapping of geologic sensitive areas.
17B.52A.040 Analysis required.
17B.52A.050 Development in geologic sensitive areas.
17B.52A.060 Modifications and flexibility.
17B.52A.070 Vegetation management on steep slopes.
17B.52A.080 Development standards.
17B.52A.090 Repair of slope instabilities.
17B.52A.100 Density calculation for critical slope areas.
17B.52A.110 Seasonal restriction.
Attachment A Geologic Features Boundary Map.

17B.52A.010 Purpose of regulations.

A. The purpose of this chapter is to designate geologic sensitive areas in the shorelines management area and to regulate development activities in or near geologic sensitive areas to safeguard the public health, safety and welfare.

B. Several geologic conditions influence development on or adjacent to slopes including: slope inclination, soil types, underlying geology, groundwater and seepage, surface water runoff and vegetative cover. Therefore, for the purposes of this chapter, a geologic sensitive areas map has been prepared for the city that will be used to determine when additional site analysis will be required as a condition of development. This map is to be used as a trigger point for further site analysis and does not mean that properties that fall within a geologic sensitive area are unbuildable. Development within the city will be allowed, conditionally allowed, or prohibited, based on the city's review of the findings of a geotechnical report of the site prepared by either an engineering geologist licensed in Washington State and/or a registered professional civil engineer licensed in the state of Washington (herein referred to as "licensed professional") which addresses each of the items in this chapter.

C. Development within these geologic sensitive areas should be evaluated based on their impacts on the surrounding terrain and geological conditions, not in isolation. Management of the entire system should be considered during the development process. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52A.020 Designation of geologic sensitive areas.

Geologic sensitive areas include areas susceptible to erosion, sliding, earthquake, or other geological events and conditions. These pose a threat to the health and safety of citizens when improper and incompatible development is sited in these areas. Such incompatible development may not only place itself at risk, but also may cause or increase the hazards to surrounding development and land uses. Areas susceptible to one or more of the following types of hazards shall be designated as a geologic sensitive area:

A. Areas subject to erosion rated moderate to severe or higher by the U.S. Department of Agriculture's Natural Resource Conservation Service;

B. Areas subject to erosion caused by streams, surface drainage, or along the shoreline;

C. Areas within a stream's channel migration zone;

D. Areas mapped on the city of Mukilteo's Landslide Hazard Map having a moderate or higher rating;

E. Areas that are found to have, based on a site specific inspection, all of the following characteristics:

1. Springs or ground water seepage;
2. Hillsides showing intersecting geologic contacts; and
3. Slopes steeper than fifteen percent; fifteen-foot rise over one-hundred-foot run.

F. Areas that are underlain or covered by mass wastage debris or landslide materials;

G. Areas of known landslides, earth movement, or containing evidence of past landslides or earth movement;

H. Areas of steep slopes; slopes that have forty percent (forty percent or a twenty-two-degree angle) or steeper gradients and having a vertical relief greater than ten feet, excluding constructed slopes;

I. Areas subject to liquefaction due to soil type and/or location or seismically induced ground disturbance such as surface rupture, fissuring, and lateral spreading;

J. Areas that have soil types that fall within soil category II or III per the Preliminary Surficial Geologic Map of the Mukilteo and Everett Quadrangles, Snohomish County, Washington, 1976; and/or

K. Areas that are subject to tsunami wave action.

Table 1

Soil Type Category Chart

Soil Category	Soil Name[a]	Soil Map Identification
I	Vashon Till	Qvt
II	Double Bluff Drift	Qdb
II	Vashon Recessional Outwash	Qvr
II	Vashon Advance Outwash	Qva
II	Whidbey Formation	Qw
II	Artificial Fill	Af
II	Modified Land	ml
III	Beach Deposits	Qb
III	Landslides	Qls
III	Peat	Qp
III	Old Landslides	Qols
III	Esperance Sand	Qe

[a] Soil map identification from Preliminary Surficial Geologic Map of the Mukilteo and Everett Quadrangles, Snohomish County, Washington, 1976.

(Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52A.030 Mapping of geologic sensitive areas.

Utilizing the source documents listed, the city of Mukilteo has established geologic sensitive areas within its corporate limits. These areas are shown on Attachment A, geologic sensitive areas map. All properties within or touching the limits shown on the map are considered to be on geologic sensitive land. This map is intended to be used as a guide for the city, project applicant and/or property owners and may be continuously updated as new sensitive areas are identified. The geologic sensitive areas map is also to be used as a reference and does not identify all or any final sensitive area designations.

A. City of Mukilteo Landslide Hazard Map;

B. City of Mukilteo Soil Identification Map;

C. U.S. Department of Agriculture's Natural Resource Conservation Service Maps;

D. Coastal Zone Atlas (for marine bluff hazards);

E. U.S. Geological Survey Landslide Hazard, Seismic Hazard, and Volcano Hazards Maps;

F. Washington State Department of Natural Resources Seismic Hazard Maps for Western Washington;

G. Washington State Department of Natural Resources Slope Stability Maps;

H. National Oceanic and Atmospheric Administration Tsunami Hazard Maps; and

I. Federal Emergency Management Agency Flood Insurance Maps. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52A.040 Analysis required.

A. Full Geotechnical Analysis. All development proposals which include lands that are within the designated geologic sensitive area shall submit a geotechnical report and site assessment. The report and site assessment shall be provided at the applicant's expense and shall contain the following information:

1. Site Plan and Analysis. Along with the standard site plan requirements, the following information shall be provided for the subject property:

a. Topography map at two-foot contour intervals prepared by a licensed land surveyor for the entire site including abutting public rights-of-way, private roads, or access easements.

b. Location of all significant trees shall be shown on the site plan and field located by a licensed land surveyor. Significant trees include eight-inch conifers and twelve-inch deciduous trees measured at four feet above existing grade.

c. Drainage flow characteristics including pipes, drains, catch basins, drainage structures, culverts, under-drain pipes, and other structures shall be shown on the site plan prepared by a licensed land surveyor.

d. Location of all critical and sensitive areas as identified in Chapters 17B.52 through 17B.52D including wetlands, streams, shorelands, and geologic sensitive areas.

e. Location of all existing site improvements and the amount of existing impervious surface area.

f. Location of all utilities: both above and below ground.

2. Geotechnical Report. The report, prepared by a licensed professional (either an engineering geologist or civil engineer specializing in geotechnical engineering and local shoreline geology and processes) legally able to practice in the state of Washington, shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:

a. Data regarding underlying geology, slope gradients, soil types, and subsurface information including boring and/or test pit logs describing soil stratification, and results of soil tests conducted.

b. Identify any previous landslide activity in the vicinity of the project and provide an assessment of the overall slope stability and the effect the development will have on the slope, adjacent properties, and shoreline over time.

c. Recommendations for grading procedures, fill placement, compaction criteria, temporary and permanent slope inclinations and support, and design criteria for corrective measures and opinions and recommendations regarding the capabilities of the site.

d. The report shall consider seismic stability of the site in drained and saturated conditions. The geotechnical report shall include a statement that the design criteria consider a seismic event with a ten percent probability of being exceeded in fifty years.

e. Potential for liquefaction and proposed mitigation measures.

f. A description of the hydrology (both surface and subsurface) of the site, including locating any wetland, streams, springs, seeps, groundwater, and shorelines along with recommendations consistent with the city's shoreline critical area regulations for addressing any impacts.

g. The report shall make a recommendation on building site location, foundation type and depths, minimum building setbacks, minimum deck and accessory building setbacks, and if necessary the minimum no-disturbance buffer, from any geologic sensitive area based upon the geotechnical analysis. The report shall also include recommendations on the design of soft or hard stabilization structures in the shoreline area. Only if there is a threat to an existing structure that cannot be controlled by soft armoring methods may hard structures be used in accordance with Section 17B.18.060, Shoreline stabilization.

h. An estimate of bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or one-hundred-year storm event.

i. Assessment of potential impacts created by a tsunami if applicable.

j. Recommendations and requirements for handling contaminated soils and materials if encountered on the site.

k. Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure 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. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three 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. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

3. Third Party Review. A qualified licensed professional as defined in Chapter 17B.08.020 shall prepare all reports and studies required of the applicant by this chapter. The city may retain a qualified licensed professional civil engineer that specializes in geotechnical engineering or an engineering geologist, licensed to practice in the state of Washington, at the expense of the applicant, to review and confirm the applicant's reports, studies, and plans.

4. Grading and Erosion Control Plan. All development proposals within a geologic sensitive area shall submit grading, excavation, and erosion control plans approved and sealed by a licensed professional in accordance with Chapter 15.16, Grading and Excavation.

a. The grading plan shall include a schedule showing when each stage of the project will be completed, and estimate starting and completion dates; the schedule shall be drawn up to limit to the shortest possible period the time that soil is exposed and unprotected;

b. Show measures to be taken for slope stabilization and erosion control using best management practices as contained in the Department of Ecology's Storm Water Management Manual for the Puget Sound Basin, or other methodology as approved by the public works director.

5. Landscape/Revegetation Plan. A revegetation plan shall be prepared which uses the guidelines developed by the Department of Ecology in their publication "Vegetation Management: A Guide for Puget Sound Bluff Property Owners," or other methodology as approved by the planning and public works directors. The revegetation plan shall include:

a. Measures to be taken for protection and replacement of the natural vegetative cover;

b. Vegetation trimming debris shall be removed from slopes in such a fashion as to not disturb existing vegetation; and

c. A schedule showing when each stage of the project will be revegetated with estimated starting and completion dates.

B. Geotechnical Letter Requirements. For the following single-family residential development applications, a letter prepared by a licensed professional may be prepared in lieu of the full geotechnical reporting requirements. A geotechnical letter summation shall include an assessment of the existing geological and geotechnical site conditions including surface water runoff, ground water, soil types, erosion, and slope stability. The licensed professional shall prepare conclusions and recommendations on the suitability of the proposed development and any mitigation necessary to address existing site conditions that may need to be modified due to the proposed development.

1. Additions to single-family residences two hundred square feet or less in size and more than twenty-five feet of the geologic sensitive area.

2. Additions to single-family residences greater than two hundred square feet in size but less than thirty percent of the size of the entire structure.

3. Second or third story additions where the footprint of the existing structure is not changed.

4. Earth retaining walls less than ten feet high that are at least fifty feet from a geologic sensitive area.

5. Land clearing, grubbing, and grading more than fifty feet from a geologic sensitive area.

6. Detached auxiliary buildings such as garages and sheds with no living spaces within fifty feet of a geologic sensitive area.

C. Exceptions. For the following single-family and multifamily residential development applications, the public works director may waive the requirements for a full geotechnical analysis or letter if the development has no impact on a geologic sensitive area:

1. Additions to single-family residences less than two hundred square feet in size where the addition is located in such a manner that the existing structure is located between the addition and the geologic sensitive area.

2. Detached auxiliary buildings such as garages and sheds that are fifty feet or more away from a geologic sensitive area.

3. Decks attached to single-family and multifamily residential structures where no additional load bearing weight is added to an adjacent geologic sensitive area.

D. Additional Review. The public works director may require a higher level of analysis than indicated in subsections B and C of this section if there is a localized condition on the site that cannot be adequately addressed in a letter report. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52A.050 Development in geologic sensitive areas.

A. Geologically Hazardous Areas (WAC 173-26-221(2)(c)(ii)(D)). Development in designated geologically hazardous areas shall be regulated in accordance with the following:

1. New development or the creation of new lots that would cause foreseeable risk from geological conditions to people or improvements during the life of the development shall be prohibited.

2. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. The stabilization measures shall conform to WAC 173-26-231(3)(a)(iii)(A) through (F) and Section 17B.18.060, Shoreline stabilization. If there is a conflict between the two regulations, the most restrictive shall apply.

3. Where no alternatives, including relocation or reconstruction of existing structures, are found to be feasible, and less expensive than the proposed stabilization measure, stabilization structures or measures to protect existing primary residential structures may be allowed in strict conformance with WAC 173-26-231(3)(a)(iii)(A) through (F) and Section 17B.18.060, Shoreline stabilization, requirements and then only if no net loss of ecological functions will result. If there is a conflict between the two regulations, the most restrictive shall apply.

4. Applicants proposing development on undeveloped lots within a geologic sensitive area shall comply with the building setback and buffer recommendation presented in the geotechnical analysis. In no case shall the critical slope setback be less than twenty-five feet

from a steep slope (forty percent or twenty-two-degree angle) unless allowed through the variance provisions of the Mukilteo Municipal Code and supported by a geotechnical report and approved by the public works director. Decks which add no substantial loading weight to the sensitive area and accessory buildings one hundred and twenty square feet or less may extend into the setback area to within ten feet of the top or toe of a steep slope.

5. New lots developed as part of a subdivision, short subdivision, binding site plans and those lots reconfigured as part of a boundary line adjustment, shall be created in such a manner so that:

a. There is sufficient area to construct all proposed structure(s), driveways, private roads, parking areas, drainage facilities, and yard areas while maintaining a twenty-five-foot building setback from a steep slope (forty percent slope or twenty-two-degree angle) or as recommended the geotechnical analysis.

b. The lots must comply with the bulk requirements of the underlying zone in which they are located.

6. Utilities. Utility installation and repair projects within a geologic sensitive area shall comply with the reporting requirements contained in Section 17B.52A.040, Analysis required. Geotechnical analysis letters may be allowed for projects less than two hundred feet in length. Exemptions may be allowed by the public works director for less than fifty feet. Utilities shall be designed according to the site specific geotechnical analysis and to meet typical public safety standards that include but are not limited to: use of polyethylene encased ductile iron restraint joint pipes, isolation valves, pipe anchors, under drains, borings, uses of high density polyethylene pipe (HDPE), flexible expansion joints, minimized clearing, replanting of native vegetation, and installation of erosion control measures. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52A.060 Modifications and flexibility.

Alterations of the geologic sensitive areas or an associated setback may only occur where:

A. A site assessment has been submitted showing that the proposal will have no adverse impact on the stability or erosion susceptibility of the adjacent sensitive slope area;

B. The impacted slope area totals no more than twenty percent of the entire parcel;

C. Only where a slope modification is approved by the public works director, the twenty-five-foot setback will not be required nor will the twenty-five-foot setback area be counted towards the twenty percent impact area as noted above;

D. The modification will not increase surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions;

E. The activity will not adversely impact other critical areas as regulated by Chapters 17B.52 through 17B.52D;

F. The development will not decrease slope stability on adjacent properties; and

G. Stormwater runoff from any new impervious surface shall be collected in a detention system and directed to an enclosed drainage system. Where minor additions of less than one thousand square feet of new impervious areas are proposed to existing developed properties that do not have detention facilities, the stormwater runoff shall be directed to the city's storm drainage system or be designed for natural infiltration or dispersion. At no time shall concentrated stormwater runoff be allowed to flow directly over a steep slope or impact a neighboring property. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52A.070 Vegetation management on steep slopes.

Vegetation on steep slopes (slopes of forty percent and greater) shall be preserved over the entire steep slope area except as listed below in subsections A through D of this section. Modifications from this section may be allowed as recommended in the Department of Ecology's handbook "Vegetation Management: A Guide for Puget Sound Bluff Property Owners" and as approved by the city's planning and public works directors.

A. Alder, willow and bitter cherry and other similar trees may be cut and removed from the site in a method determined by the planning director and public works director; however, the stumps and root systems shall be left undisturbed to protect the slope from erosion. Deep rooted bushes or groundcover such as ocean spray, snow berry, salal or evergreen huckleberry shall be planted around the stump of the tree to establish erosion control functions that the tree once provided.

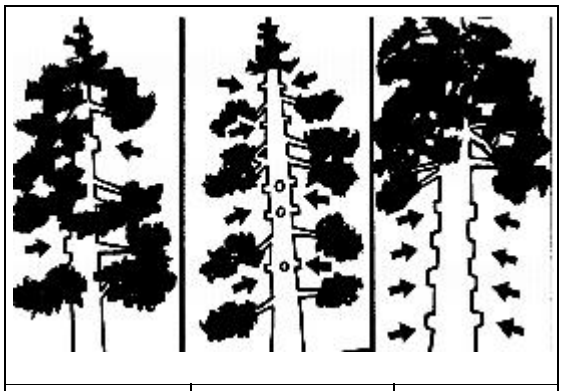
B. Trees (such as big leaf maple, vine maple, Pacific madrona, red cedar and Douglas fir) which help to stabilize bluffs, offer wildlife habitat, and keep soils from being over saturated with water may not be cut down, except with the submittal of a geotechnical report and as approved by the public works director to maintain slope stability. There shall be no topping of trees on steep slopes. However, the following tree trimming practices may be used in combination to provide some views without compromising tree health or slope stability. When using these tree trimming or pruning practices, a minimum of sixty percent of the original tree canopy/foliage must be retained to maintain the tree's health (Figures 17B.52A.070A and 17B.52A.070B).

1. Windowing. Pruning major limbs that obscure a view, excluding the top third of the tree;

2. Interlimbing. Removal of an entire branch or individual branches throughout the canopy, excluding the top third of the tree, to allow more light to pass through as well as reducing wind resistance; and

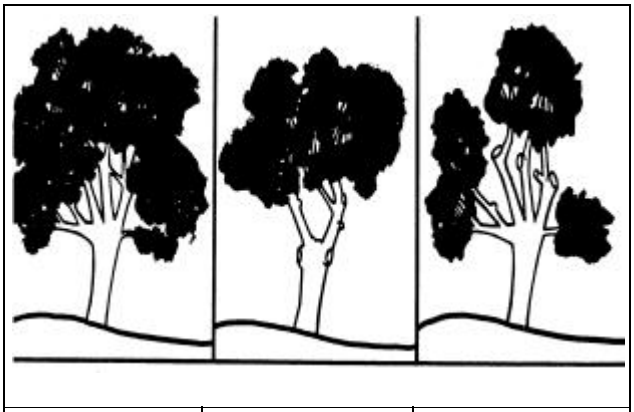
3. Skirting-Up. Limbing the tree from the bottom upward to a maximum of twenty feet from the ground.

Figure 17B.52A.070A
ALTERNATIVE PRUNING PRACTICES
CONIFERS



Windowing: Maintain the top 1/3 of tree	Interlimbing: Maintain the top 1/3 of tree	Skirting-Up: Maintain top 2/3 of crown

Figure 17B.52A.070B
ALTERNATIVE PRUNING PRACTICES DECIDUOUS



Before	After (Correct)	After (Wrong)

C. Himalayan blackberry, Scot's broom, thistle and other similar invasive plants (including those listed by the Snohomish County noxious weed control board) may be removed manually from a steep slope with no or minimal soil disturbance, but the slope must immediately be replanted with native shrub species such as Oregon grape, salal and evergreen huckleberry.

D. Unless otherwise provided or as part of an approved alteration, removal of vegetation from erosion or landslide hazard or related buffer shall be prohibited. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52A.080 Development standards.

Development within a geologic hazard area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of this title. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

A. The proposed development shall provide a safety factor of one and one-half for static conditions and one and two-tenths for dynamic conditions for seismic occurrences. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current adopted version of the International Building Code;

B. Structures and improvements shall be clustered to avoid geologic sensitive areas and other critical areas;

C. Structures and improvements shall minimize alterations to the natural contour of the slope and foundations shall be tiered to conform to existing topography;

D. Structures and improvements shall be located to preserve the most sensitive portion of the site and its natural landforms and vegetation;

E. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;

F. Single-family residential development shall be designed so that the impervious lot coverage does not exceed fifty percent of the site; and

G. Stormwater runoff shall be collected, detained, and released in accordance with the city's stormwater detention requirements. At no time shall concentrated stormwater runoff be allowed to flow directly over a steep slope or impact a neighboring property. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52A.090 Repair of slope instabilities.

Repair of slope instabilities and slope failures on an emergency basis shall be allowed by the planning and public works directors as needed to correct an immediate danger to the public health, welfare and safety. The directors shall use the guidance of this chapter when evaluating the necessary repairs and add mitigation measures as appropriate to ensure that the intent of this chapter has been met. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52A.100 Density calculation for critical slope areas.

A. An owner of a site or property containing a geologic hazard area may be permitted to transfer the density attributable to the geologic hazard area portion of the property to another nonsensitive portion of the same site or property subject to the limitation of this section.

B. Up to one hundred percent of the density that could be achieved on the geologic sensitive area portion of the site can be transferred to the nonsensitive portion of the property, subject to:

1. The density limitation of the underlying zoning classification;

2. The minimum lot size of the underlying zoning classification may be reduced to three thousand square feet in order to accommodate the transfers in densities;

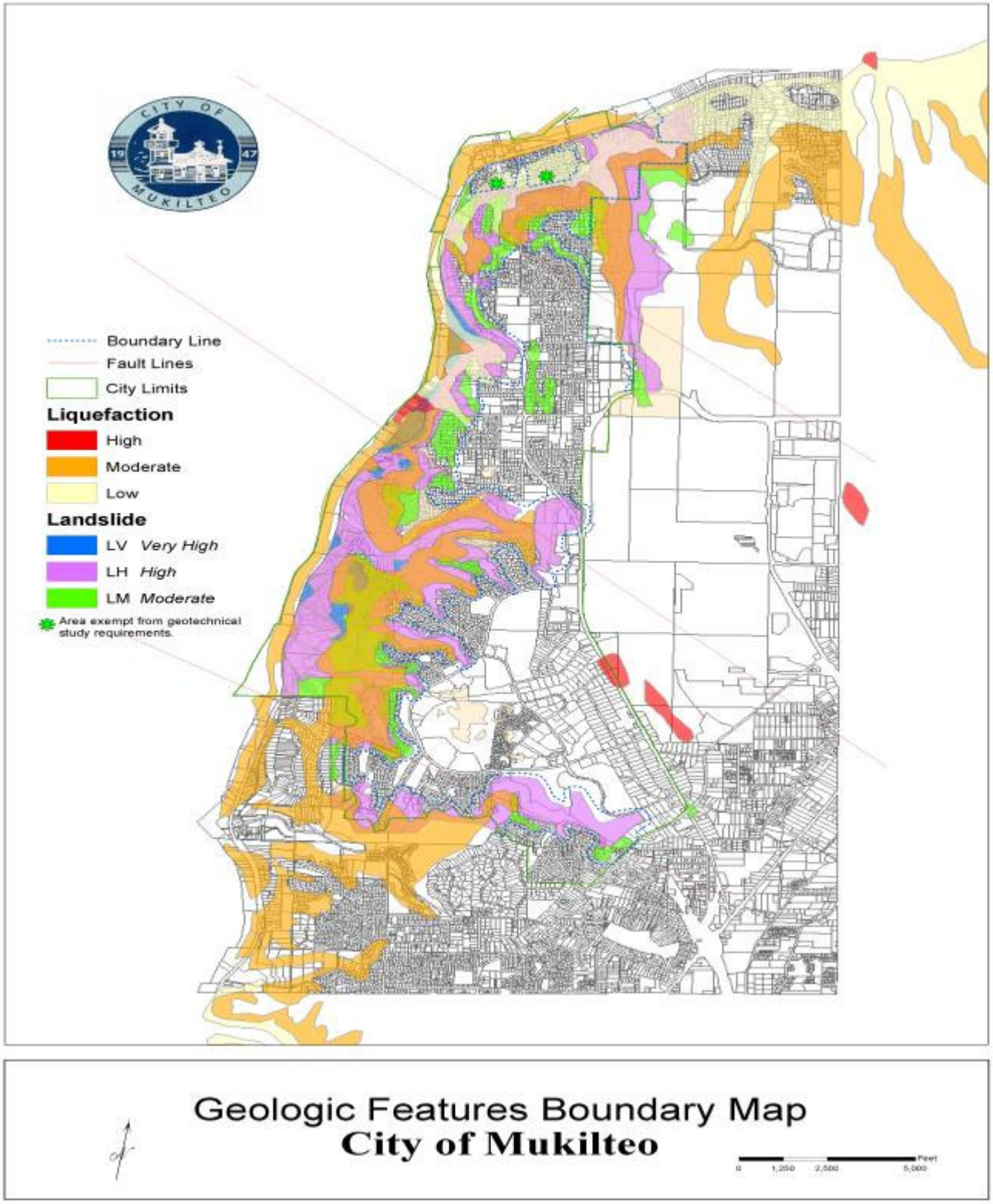
3. Applicable setbacks may be reduced to fifteen feet, and the lot coverage standards of underlying zoning regulations may be increased to sixty percent;

4. Provided that the area to which the density is transferred shall not be constrained by another environmentally critical area regulation. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52A.110 Seasonal restriction.

Clearing and grading within the wet weather months (October to April) shall only be allowed with the approval of the public works director and the developer shall fully implement a winter weather construction plan using at a minimum the current best management practices as outlined in Section 15.16.160, Erosion control. Failure to implement the winter weather construction plan and/or turbid water leaves the site, construction shall be stopped immediately until proper erosion control devices are implemented and established. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

Attachment A



(Ord. 1295 § 10 (Exh. 1B) (part), 2011)

Chapter 17B.52B
WETLAND REGULATIONS

Sections:

17B.52B.010 Purpose and intent of wetland regulations.
17B.52B.020 Applicability of wetland provisions.
17B.52B.030 Regulated activities.
17B.52B.040 Wetland inventory maps.
17B.52B.050 Wetland permit process and application requirements.
17B.52B.060 Wetland rating and classification.
17B.52B.070 Buffer areas.
17B.52B.080 Density transfer calculations for wetland areas.
17B.52B.090 Wetland alteration and mitigation.
17B.52B.100 Mitigation standards and criteria.
17B.52B.110 Mitigation plan requirements.
17B.52B.120 Monitoring program and contingency plan.

17B.52B.010 Purpose and intent of wetland regulations.

A. The city finds that wetlands perform many important biological and physical functions that benefit the city and its residents, including but not limited to: helping to maintain water quality; storing and conveying stormwater and floodwater; recharging groundwater; providing important fish and wildlife habitat; and serving as areas for recreation, education and scientific study and aesthetic appreciation. Protection of wetlands is, therefore, necessary to protect public health, safety, and general welfare.

B. This chapter contains standards to manage development in association with the city's wetland resources and enhance and restore wetlands where possible. The intent of these regulations is to avoid and minimize wetland impacts where avoidance and minimization is feasible and reasonable. In appropriate circumstances, impacts to wetlands resulting from regulated activities may be compensated for, consistent with this chapter. The city's overall goal is to achieve no net loss of wetland function and value, and net acreage may be considered in achieving the overall goal.

C. It is the intent of this chapter to implement the goals and policies of the city comprehensive plan, including those pertaining to natural features and environmental protection; aesthetics and community character; opportunities for economic development; creating a balanced transportation system; ensuring adequate public facilities; and achieving a mix of land use types and densities consistent with the city's land use plan.

D. It is the further intent of this chapter to establish special standards for the protection of wetlands and potential habitat of anadromous fish in compliance with the Washington Growth Management Act of 1990 (Chapter 36.70A RCW and its amendments and WAC 365-195-900 through 365-195-925, WAC 173-26-221(2)(c)) and best available science requirements. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52B.020 Applicability of wetland provisions.

A. The wetland management provisions of this chapter apply to any regulated activity (Section 17B.52B.030) potentially affecting a wetland or its buffer.

B. To avoid overlap and duplication, all city permit applications leading to the development or alteration of land, including but not limited to applications for: clearing and grading; subdivision or short subdivision, building permit, planned unit development; shoreline substantial development; variance and conditional use, shall be subject to and coordinated with the wetland requirements of this chapter and Chapter 17B.13, project permit review process.

C. Nonproject actions, including but not limited to, rezones, annexations, and adoption of plans and programs, shall be required to comply with the Growth Management Act (GMA), Chapter 36.70A RCW, including submittal of appropriate wetland information as determined by the city according to this chapter.

D. This chapter shall apply as any other overlay to development or land use regulations established by the city. In the event of a conflict between regulations in this chapter and any other city code, the regulations, which provide greater protection to environmentally sensitive areas, shall apply. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52B.030 Regulated activities.

The following activities associated with any land use development proposal that occurs within a wetland and/or its buffer, or outside a wetland or buffer but potentially affecting the wetland or buffer, shall be regulated pursuant to the standards of this chapter:

A. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;

B. Dumping, discharging or filling any material;

C. Draining, flooding or disturbing the water level or water table;

D. Alteration, construction, reconstruction, or demolition of any structure or infrastructure, including driving piling or placing obstructions;

E. Destroying or altering wetland vegetation through clearing, harvesting, shading or planting vegetation that would alter the wetland or buffer character; provided, that these activities are not part of a forest practice governed under Chapter 76.09 RCW and its rules;

F. Activities that result in significant changes in water temperature, physical or chemical characteristics of the wetland or buffer, including water quantity and quality, soil flow, or natural contours;

G. Any other activity potentially affecting a wetland or wetland buffer not otherwise exempt from this chapter; and

H. Work to maintain wetlands intentionally created from nonwetland areas as mitigation for wetland impacts. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52B.040 Wetland inventory maps.

A. The city shall maintain wetland maps showing the approximate location and extent of wetlands within city jurisdiction. These maps will only show wetlands identified to date, and shall be used only as a general guide to assist property owners. The location and extent of wetlands are determined on a lot-by-lot, project-by-project basis and, if a wetland is not shown on the inventory map, does not necessarily mean wetlands do not occur on the lot. The city will update the wetland inventory map as wetlands are mapped in the field and submitted by applicants to the city.

B. The wetland boundary and type shall be determined by a qualified wetland specialist according to the wetland delineation procedures as defined in the definitions in Section 17B.08.020. In the event of any conflict between the wetland location or designation shown on the city's map and the location or designation as determined in the field by a qualified wetland specialist using the defined wetland delineation procedures, the field determination shall control. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52B.050 Wetland permit process and application requirements.

A. Preapplication Conference. All applicants are encouraged to meet with the city prior to submitting an application subject to the wetland provisions of this chapter. The purpose of this meeting shall be to discuss the wetland requirements, process and procedures; to review the critical areas checklist and any conceptual plans prepared by the applicant; to identify potential wetlands impacts and mitigation measures; and to familiarize the applicant with state and federal wetland programs. Such conference shall be for the convenience of the applicant and any recommendations shall not be binding on the applicant or the city.

B. Wetland Specialist. A qualified wetland specialist as defined in Section 17B.08.020 shall prepare all reports and studies required of the applicant by this chapter. The city may retain a qualified wetland specialist, at the expense of the applicant, to review and confirm the applicant's reports, studies, and plans.

C. Wetland Delineation Report. If the city determines that wetland or buffer impacts might occur as a result of the proposal, a wetland delineation report, as defined in Section 17B.08.020, must be submitted to the city for review prior to the issuance of a development permit pursuant to Chapter 17B.13 (project permit review process). The report must be prepared in accordance with city permit application requirements pursuant to Chapter 17B.13 and incorporate best available science as defined in Section 17B.08.020. The report will analyze the extent, type, and function of wetlands and buffers on any site where regulated or exempt activities are proposed. The report will also be used by the city to

determine the appropriate wetland type and buffer requirement for the wetland, and to assist the city in determining appropriate mitigation if required.

D. Integration with Other Code Sections. This section is not intended to create a separate wetland permit process for development proposals. To the extent possible, and pursuant to Chapter 17B.13, the city shall consolidate and integrate the review and processing of wetland-related aspects of proposals with other land use and environmental considerations and approvals. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

E. Wetland delineations shall be considered valid for five years following the reviewing agency verification. The buffer required by the critical areas ordinance in effect at the time of complete permit application shall apply.

17B.52B.060 Wetland rating and classification.

A. Classification. Wetlands shall be classified as Category I, II, III or IV using the 2014 Washington State Department of Ecology's Wetland Rating System for Western Washington, or as amended hereafter. Wetland delineations shall be determined in accordance with the currently approved federal wetland delineation manual and applicable regional supplements. All areas within the city meeting the wetland designation criteria in the procedure are hereby designated critical areas and are subject to the provisions of this program.

B. Sources. Sources used to identify designated wetlands include, but are not limited to:

1. United States Department of the Interior, Fish and Wildlife Service, National Wetlands Inventory.

2. Areas identified as hydric soils, soils with significant soil inclusions and "wet spots" within the United States Department of Agriculture/Soil Conservation Service Soil Survey for Snohomish County.

3. Washington State Department of Natural Resources, Geographic Information System: Hydrography and Soils Survey Layers.

4. City of Mukilteo critical areas inventory maps. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52B.070 Buffer areas.

A. Buffer Areas Required. The establishment of wetland buffer areas shall be required for all development proposals and activities adjacent to wetlands to protect the functions and integrity of the wetland. Buffers between regulated activities and wetlands help stabilize soil and prevent erosion, filter suspended solids and nutrients and harmful toxic substances, moderate effects of stormwater runoff, support and protect plant and animal species and habitats, enhance plant and wildlife diversity, and discourage adverse human effects in the wetland.

B. Intention of Buffers. Buffers are not intended to be established or to function independently of the wetland; they are established to protect.

C. Allowed Use or Activity. The establishment of a buffer or buffer mitigation shall not prevent a use or activity that would otherwise be permitted in the wetland or buffer as allowed in subsections H and I of this section.

D. Buffer Requirements. The standard buffer widths in Table 1—Wetland Buffer Widths have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington.

1. The use of the buffer widths in Table 1 requires the implementation of the mitigation measures in Table 1A, where applicable, to minimize the impacts of the adjacent land uses.

2. If an applicant chooses not to apply the mitigation measures in Table 1A, then a thirty-three percent increase in the width of all buffers is required. For example, a seventy-five-foot buffer with the mitigation measures would be a one-hundred-foot buffer without them.

3. The buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

Table 1 – Wetland Buffer Widths

Wetland Category	Buffer width (in feet) based on habitat score			
	3-4	5	6-7	8-9
Category I: Based on total score	75	105	165	225
Category I: Bogs and Wetlands of High Conservation Value	190			225
Category I: Coastal Lagoons	150		165	225
Category I: Interdunal				225
Category I: Forested	75	105	165	225
Category I: Estuarine	150 (buffer width not based on habitat scores)			
Category II: Based on score	75	105	165	225
Category II: Interdunal Wetlands	110		165	225
Category II: Estuarine	110 (buffer width not based on habitat scores)			
Category III (all)	60	105	165	225
Category IV (all)	40			

4. The following list of mitigation measures as referenced in Table 1A – Mitigation Measures shall be used to minimize impacts from proposed development on wetlands:

Table 1A – Mitigation Measures

Disturbance	Measures to Minimize Impacts
Lights	Direct lights away from wetland.
Noise	Locate activity that generates noise away from wetland. If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer.
Toxic Runoff*	Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered. Establish covenants limiting use of pesticides within 150 feet of wetland. Apply integrated pest management.
Stormwater Runoff	Retrofit stormwater detention and treatment for roads and existing adjacent development. Prevent channelized flow from lawns that directly enters the buffer. Use Low Intensity Development techniques (per Puget Sound Water Quality Action Team (PSAT) publication on LID techniques).
Changes in Water Regime	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns.
Pets and Human Disturbance	Use fencing and/or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for ecoregion; place wetland and its buffer in a separate tract.
Dust	Use best management practices to control dust.
Disruption of corridors or connections	Maintain connections to offsite areas that are undisturbed. Restore corridors or connections to offsite habitats by replanting.

Disturbance	Measures to Minimize Impacts
*These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.	

E. Increased Wetland Buffer Area Width. Buffer widths shall be increased on a case-by-case basis as determined by the planning director when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include but not be limited to the following criteria:

1. The wetland is used by a plant or animal species listed by the federal government or the state as endangered, threatened, candidate, sensitive, monitored or documented priority species or habitats, or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or

2. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or

3. The adjacent land has minimal vegetative cover or slopes greater than thirty percent.

F. All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.

G. Buffer Averaging. The widths of buffers may be averaged if this will improve the protection of wetland functions or if it is the only way to allow for reasonable use of a parcel. There is no scientific information available to determine if averaging the widths of buffers actually protects wetland functions; therefore, averaging shall only be allowed in the below listed situations. Averaging may be used in conjunction with any of the other provisions for reduction in buffers.

1. Averaging to improve wetland protection may be permitted when all of the following conditions are met:

a. ~~a.~~ The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower rated area.

b. ~~b.~~ The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion.

c. ~~c.~~ The total area of the buffer averaging is equal to the area required without averaging.
d. ~~d.~~ The buffer at its narrowest point is never less than three-fourths of the required width.
e. ~~e.~~ Mitigation sufficient to compensate for the impacts as determined by a qualified specialist is provided for all buffer averaging proposals.

2. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:

a. There are no feasible alternative to the site design that could be accomplished without buffer averaging.

b. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a report from a qualified wetland professional.

c. The total buffer area after being averaged is equal to the area required without the averaging.

d. The buffer at its narrowest point is never less than three-fourths of the required buffer width.

e. Mitigation sufficient to compensate for the impacts as determined by a qualified specialist is provided for all buffer averaging proposals.

H. Low Impact Uses. The Community Development Director ~~planning director~~ may authorize the following low impact uses and activities within a wetland and wetland buffer upon showing that said uses or activities will be performed in a manner that will not adversely disturb the wetland, significantly increase the impervious surface of the buffer, or decrease the functions of the associated wetland: pedestrian trails, viewing platforms, interpretative signage, and the boring of underground utilities pursuant to best management practices. Uses permitted within the buffer shall be located in the outer portion of the buffer as far as possible from the wetland. Trails should be located in the outer twenty-five percent of the buffer, avoid significant trees and should be no more than five feet wide with a pervious surface.

I. Stormwater Facilities Not Allowed in Buffers. Except where previously approved stormwater facilities were located in wetlands, all new stormwater management facilities shall be limited to vegetation-lined swales designed for stormwater management and stormwater dispersion outfalls: provided, that they are placed within the outer twenty-five percent of the buffer of a Category III and IV wetland only. Stormwater detention ponds and outlet structures shall not be allowed in wetlands or their buffers. The outer twenty-five percent of the buffer of a Category III and IV wetland can be used for stormwater flow path and dispersion.

J. Buffers Designated as Native Growth Protection Areas(NGPA~~s~~). Buffers shall be shown on the development site plans or final plat maps along with the notation requirements identified in Section 17B.52.035, native growth protection areas and buffers.

K. Existing Designated Buffers. If an existing property has a previously delineated and/or approved wetland and associated buffer approved by the city, the approved wetland buffer will remain in effect for a period of five years. Redevelopment, and/or additions outside of the existing footprint shall be subject to the previously approved buffer; however, a buffer enhancement plan may be required in accordance with subsection F of this section if the wetland or buffer has become degraded or is currently not functioning or if the wetland and/or buffer may be negatively affected by proposed new development.

L. Existing Legal Nonconforming Use of a Buffer. Where a legally established, nonconforming use of the buffer exists (e.g., a road or structure that lies within the width of a wetland buffer), proposed actions in the buffer may be permitted as long as they do not increase the degree of nonconformity. This means no increase in the impacts to the wetland from activities in the buffer. For example, the construction of an urban road is being proposed next to a Category II wetland. A one-hundred-fifty-foot buffer would be needed to protect function. If, however, an urban road is already present and only fifty feet from the edge of the Category II wetland, the additional one hundred feet of buffer may not be needed if the road is being widened. A vegetated buffer on the other side of the road would not help buffer the existing impacts to the wetland from the road. If the existing road is resurfaced or widened (e.g., to add a sidewalk) along the upland edge, without any further roadside development that would increase the degree of nonconformity, the additional buffer is not necessary. The associated increase in impervious surface from widening a road, however, may necessitate mitigation for impacts from stormwater. If, however, the proposal is to build a new development (e.g., shopping center or residential development) along the upland side of the road, the impacts to the wetland and its function may increase. This would increase the degree of nonconformity. The project proponent would need to provide the additional one hundred feet of buffer extending beyond the road or apply for buffer averaging.

N. Minor Additions. Minor additions or alterations such as decks and small additions less than one hundred twenty square feet, interior remodels, or tenant improvements which have no impact on the wetland or wetland buffer are exempt from the buffer enhancement requirements. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52B.080 Density transfer calculations for wetland areas.

A. An owner of a property containing wetlands may be permitted to transfer the density attributable to the wetland area to another nonwetland, nonsensitive portion of the same site or property, subject to the limitations of this section.

B. Up to one hundred percent of the density that could be achieved on the wetland and buffer portion of the site can be transferred to the nonwetland portion, subject to:

1. The density limitations of the underlying zoning classification;

2. The minimum lot size of the underlying zoning classification may be reduced to three thousand square feet in order to accommodate the transfers in densities;

3. Applicable front and rear building setbacks as listed in the bulk matrix may be reduced to fifteen feet, and the lot coverage standards of underlying zoning regulations may be increased to sixty percent;

4. The area to which density is transferred shall not be constrained by another environmentally critical area regulation;

5. All required wetland buffers shall be applied to the parcel and set aside in native growth protection area tract(s). (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52B.090 Wetland alteration and mitigation.

A. Sequencing. After careful consideration of the potential impacts and a determination that impacts are unavoidable, unavoidable impacts to wetlands shall be mitigated. Mitigation shall be applied in the following sequence of steps, listed in the order of priority from top to bottom. Work within wetlands requires state and likely federal authorization in addition to city approval.

1. Avoiding the impact altogether by not taking a certain action or parts of actions;

2. Minimizing impacts by limiting the degree of magnitude of the action and its implementation (e.g., use of appropriate technology, consideration of alternative site plans and building layouts and/or reductions in the density or scope of the proposal);

3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;

4. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;

5. Compensating for the impact by replacing, enhancing or otherwise providing equivalent or greater wetland functions;

6. Monitoring the impact and taking appropriate corrective measures.

B. Altering Wetlands. Unless otherwise approved by the city and Ecology through a shoreline variance, alteration of wetlands and/or their buffers may be permitted subject to the following criteria:

1. Category I Wetlands. Alterations of Category I wetlands shall be avoided.

2. Category II and III Wetlands. With respect to activities proposed in Category II and III wetlands, the following standards shall apply:

a. Water-dependent activities may be allowed where there are no practicable alternatives that would have a less adverse impact on the wetland, its buffer, and other critical areas.

b. Where non-water-dependent activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited, unless the applicant demonstrates that:

i. The basic project purpose cannot reasonably be accomplished and successfully avoided, or result in less adverse impact on a wetland on another site or sites in the general region; and

ii. All alternative designs of the project as proposed, that would avoid or result in less of an adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration, or density of the project, are not feasible.

3. Category IV Wetlands. Activities and uses that result in unavoidable and necessary impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objective. Full mitigation for the acreage and lost functions will be provided under the requirements of this chapter.

C. Mitigation for Alterations. Proposals which include compensatory mitigation shall demonstrate that:

1. All feasible and reasonable measures will be taken to reduce impacts and losses to the wetlands, or to avoid impacts where avoidance is required by these regulations;

2. The restored, created, or enhanced wetland will be as available and persistent as the wetland it replaces;

3. No overall loss will occur in wetland area, function, or values;

4. The applicant has the financial resources and technical expertise to satisfactorily complete the project;

5. The applicant can demonstrate the capacity to monitor the site and make corrections during the monitoring period if the project fails to meet projected goals; and

6. The applicant can protect and manage, or provide for the protection and management of, the compensation area to avoid further development or degradation and to provide long-term persistence of the project area.

D. Comparable Alternative Mitigation. Owners of property with Category II through IV wetlands may also provide a comparable alternative mitigation plan which will result in equal or better wetland quality. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52B.100 Mitigation standards and criteria.

A. Location and Timing of Mitigation.

1. Restoration, creation, or enhancement actions should be undertaken on or adjacent to the site, or where restoration or enhancement of a former wetland is proposed, within the same watershed. Replacement in-kind of the impacted wetland is preferred for creation, restoration, or enhancement actions. The city may accept or recommend restoration, creation, or enhancement which is off site and/or out-of-kind if the applicant can demonstrate that on-site or in-kind restoration, creation, or enhancement is infeasible due to constraints such as parcel size or wetland type, or that a wetland of a different type or location is justified based on regional needs or functions.

2. Whether occurring on site or off site, the mitigation project shall occur near an adequate water supply (river, stream, and groundwater) with a source of hydrology to the wetland to ensure a successful development or restoration.

3. Any agreed upon mitigation plan shall be completed before initiation of other permitted activities, unless a phased or concurrent schedule has been approved by the city.

B. Wetland Mitigation Ratios.

1. Where wetland alterations are permitted by the city, the applicant shall restore, create, or enhance equivalent wetland area in order to compensate for wetland losses. Equivalent areas are determined according to wetland category, acreage, function, the length of time it takes for the restored or created wetland to approximate the characteristics of the original wetland, and the probability of success. Where feasible, applicants are encouraged to provide a higher type and quality of wetland than the altered wetland based on "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington" (Ecology Publication No. 10-06-011) to calculate potential mitigation functions.

2. The following ratios shall be established as a starting point for further discussion with each proponent on a case by case compensatory mitigation analysis and plan. Ratios shall apply to creation or restoration that is in-kind, is on site, is the same category, is timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases as required by the permitting agency or agencies. Where feasible, applicants are encouraged use Ecology Publication No. 10-06-011 "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington" to calculate mitigation ratios.

Table 2—Wetland Mitigation Ratios

Category and Type of Wetland	Reestablishment or Creation	Rehabilitation	Reestablishment or Creation (R/C) and Enhancement (E)	Enhancement Only
Category I				
Forested	6:1	12:1	1:1 R/C and 10:1 E	24:1
Based on Score for Functions	4:1	8:1	1:1 R/C and 6:1 E	16:1
Estuarine	Case by Case	6:1 rehabilitation of an estuarine wetland	Case by Case	Case by Case
Bog	Irreplaceable – Avoidance Required	6:1 rehabilitation of a bog	Case by Case	Case by Case
Coastal Lagoon	Irreplaceable – Avoidance Required	6:1 rehabilitation of a coast lagoon	Case by Case	Case by Case
Natural Heritage	Irreplaceable – Avoidance Required	6:1 rehabilitation of a natural heritage site	Case by Case	Case by Case
Category II				
Estuarine	Case by Case	4:1	Case by Case	Case by Case
Interdunal	2:1 Compensation has to be interdunal	4:1 Compensation has to be interdunal	1:1 R/C and 2:1 E	8:1
All Other	3:1	8:1	1:1 R/C and 4:1 E	12:1
Category III	2:1	4:1	1:1 R/C and 2:1 E	8:1
Category IV	1.5:1	3:1	1:1 R/C and 2:1 E	6:1

~~TABLE 2~~

~~WETLAND MITIGATION RATIOS~~

~~CATEGORY AND TYPE OF WETLAND~~	~~CREATION OR REESTABLISHMENT~~	~~REHABILITATION~~	~~ENHANCEMENT~~	~~PRESERVATION~~
~~Category 1: Bog, National Heritage Site~~	~~Not Considered Possible~~	~~6:1~~	~~Case by Case~~	~~10:1~~
~~Category I: Mature Forested~~	~~6:1~~	~~12:1~~	~~24:1~~	~~24:1~~
~~Category I: Based on Functions~~	~~4:1~~	~~8:1~~	~~16:1~~	~~20:1~~
~~Category II~~	~~3:1~~	~~6:1~~	~~12:1~~	~~20:1~~
~~Category III~~	~~2:1~~	~~4:1~~	~~8:1~~	~~15:1~~
~~Category IV~~	~~1.5:1~~	~~3:1~~	~~6:1~~	~~10:1~~

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

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

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

d. Enhancement. The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify or improve functions or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention or habitat. Activities typically consist of planting vegetation, controlling nonnative or

invasive species, modifying the site elevation or the proportion of open water to influence hydroperiods, or some combination of these. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres.

e. ~~Preservation. The removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easement, repairing water control structures or fence or structural protections. Preservation does not result in a gain of wetland acres but may result in a gain in functions over the long term.~~Preservation. Preservation of high quality wetland and buffer may be allowed as compensation for wetland impacts on a case-by-case basis. Mitigation ratios for preservation in combination with other forms of mitigation will generally range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being lost or degraded and the quality of the wetlands being preserved. Guidance in the Department of Ecology's publication "Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance" will be consulted during consideration of preservation as compensatory mitigation.

C. Mitigation Banking. The use of a mitigation bank or approved in-lieu fee sites may be approved for use as a compensation for unavoidable impacts to wetland when:

1. The bank is certified under Chapter 173-700 WAC;

2. The planning director or his/her designee determines that the wetland mitigation bank provides appropriate mitigation for the authorized impacts;

3. The proposed use of credits is consistent with the terms and conditions of the bank's certification;

4. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification;

5. Credits from certified wetland mitigation bank may be used to mitigate for impacts located with the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52B.110 Mitigation plan requirements.

A. Where it is determined by the city that compensatory wetland mitigation is required or appropriate, a qualified wetland specialist shall prepare a preliminary and final mitigation plan using best available science in accordance with city requirements for city review. The mitigation plan shall include:

1. Environmental Goals and Objectives. The plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

a. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;

b. A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and

c. An analysis of the likelihood of success of the compensation project.

2. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this chapter have been met. These criteria shall at a minimum include plant survival and cover and hydrology.

3. Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed and shall include detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques. The written plan shall include:

a. The proposed construction sequencing, timing, and duration;

b. Grading and excavation details;

c. Erosion and sediment control features;

d. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

e. Measures to protect and maintain plants until established.

4. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measure to be taken if monitoring or evaluation indicates project performance standards are not being met.

B. The applicant's qualified wetland specialist and the city must monitor installation of any construction to ensure mitigation is constructed or otherwise installed according to the approved mitigation plan requirements.

C. For those projects that are only required to provide buffer enhancement mitigation, an applicant may use the city's conceptual buffer mitigation plan as a basis to prepare a buffer enhancement plan. The final plan must be approved by the city's planning director prior to final approval of a proposed project. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52B.120 Monitoring program and contingency plan.

A. Monitoring Program Required. A monitoring program shall be included as a part of the approved mitigation plan. To ensure that the performance standards of the approved mitigation plan have been met, the mitigation and/or buffer enhancement site(s) shall be monitored for a minimum of five years. The monitoring period required by the city may be extended an additional two years if the wetland or buffer is not performing as expected by the mitigation or enhancement plan. The monitoring reports shall be submitted on August 1st, or as otherwise agreed upon by the city and the applicant, of each year during the monitoring period. Monitoring reports shall follow the recommendations contained in the Department of Ecology's publication "Guidance on Wetland Mitigation in Washington State," Part Two.

B. Sureties. An acceptable surety device is required to ensure the applicant's compliance with the terms of the mitigation agreement.

1. Performance Surety. All wetland mitigation and buffer enhancement shall be completed prior to final plat approval and/or building occupancy depending on the type of application. However, when improvements cannot be completed prior to final acceptance due to weather conditions which may negatively affect the success of the project, a performance surety may be used. The surety shall equal one hundred fifty percent of the cost of the mitigation project, and the required improvements shall be installed in a satisfactory manner within six months or less.

2. Maintenance Surety. A maintenance surety shall be required on all mitigation projects to ensure that the improvements successfully survive the monitoring periods set above.

a. Wetland Mitigation Projects. The amount of the maintenance surety shall be equal to fifteen percent of the cost of the mitigation project and the term of the surety shall reflect that of the monitoring program.

b. Buffer Enhancement Projects. The amount of the maintenance surety shall be equal to fifteen percent of the costs of the enhancement project and the term of the surety shall reflect that of the monitoring program.

3. Monitoring Deposit. A cash deposit shall be submitted with all sureties prior to final acceptance of the project to cover the city's estimated costs to review the yearly monitoring reports and conduct a site inspection to ensure the performance standards are being met.

C. Long-Term Maintenance. To ensure the long-term success of the wetland, the applicant or their heirs or successors shall be responsible for the long-term maintenance of the wetland and its associated

buffer. The wetland and buffer shall be kept clear of weeds, invasive plant material, lawn clippings, junk, debris, intrusions or the like. (Ord. 1295 § 10 (Exh. 1B) (part), 201

Chapter 17B.52C
FISH AND WILDLIFE HABITAT CONSERVATION AREAS

Sections:

17B.52C.010 Purpose and intent.
17B.52C.020 Applicability of provisions.
17B.52C.030 Designation of fish and wildlife habitat conservation areas.
17B.52C.040 Regulated activities.
17B.52C.050 Prohibited uses in critical saltwater habitat.
17B.52C.060 Habitat maps.
17B.52C.070 Permit process and application requirements.
17B.52C.080 Classification of fish and wildlife habitat.
17B.52C.090 Buffer areas.
17B.52C.095 Tree preservation.
17B.52C.100 Land divisions and density calculations.
17B.52C.110 Habitat and stream alteration and mitigation.
17B.52C.115 Facilitation of restoration projects.
17B.52C.120 Mitigation standards and criteria.
17B.52C.130 Performance standards.
17B.52C.140 Mitigation plan requirements.
17B.52C.150 Monitoring and contingency plan.

17B.52C.010 Purpose and intent.

A. The city of Mukilteo finds that shorelines, streams, riparian habitat, and wildlife conservation areas, referred to as "habitats," perform many important physical and biological functions that benefit the city and its residents, including but not limited to: providing opportunities for food, cover, nesting, breeding and movement for fish and wildlife, and maintaining species and genetic diversity. Protection of shorelines, streams, and riparian habitat for fish and wildlife species is necessary to protect the public health, safety and general welfare. These regulations contain requirements and standards for the protection of streams and riparian areas for fish and wildlife species.

B. This section of the city code contains standards, guidelines, criteria and requirements intended to identify, evaluate and mitigate potential impacts to habitat conservation areas within the city and to enhance degraded habitats, shorelines, and streams in appropriate cases. It is recognized that, within Mukilteo, most streams are located in steep ravines and protection of the ravines is regulated under the city's critical slope area regulations.

1. For the purpose of this chapter, protection of "habitats" shall include all habitats associated with regulated shorelines, streams, fish, and wildlife species.

2. The intent of these regulations is to avoid and minimize impacts to habitats to the greatest extent feasible. Unavoidable impacts resulting from regulated activities shall be mitigated consistent with this chapter.

3. The overall goals of these regulations are to: manage land so as to maintain fish and wildlife species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created, although this does not imply maintaining all individuals of all species at all times; and achieve no net loss in fish or wildlife habitat, or stream functions.

C. It is the further intent of this code to:

1. Implement the goals and policies of the city comprehensive plan and shoreline management plan, including but not limited to those pertaining to: natural features and environmental protection; aesthetics and community character; providing adequate housing and infrastructure; providing opportunities for economic development; creating a balanced transportation system; ensuring adequate public facilities; allowing for essential public facilities; and achieving a mix of land use types and densities consistent with the city's land use plan;

2. Comply with the requirements of the Growth Management Act, Chapter 36.70A RCW, and its amendments, the Shoreline Management Act, Chapter 90.58 RCW, the respective implementing rules, and best available science requirements; and

3. Coordinate environmental review and permitting of development projects to avoid duplication and delay. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52C.020 Applicability of provisions.

A. The fish and wildlife habitat conservation area management provisions of this chapter apply to any regulated activity (Section 17B.52C.040) potentially affecting a habitat or its buffer unless otherwise exempt under Section 17B.52C.050.

B. To avoid overlap and duplication, all city permit applications leading to the development or alteration of land, including but not limited to applications for: clearing and grading; subdivision or short subdivision; building permit; shoreline substantial development; variance and conditional use shall be subject to and coordinated with the requirements of this chapter and Chapter 17B.13, project permit review process.

C. Nonproject actions, including but not limited to, rezones, annexations, and adoption of plans and programs, shall be required to comply with the Growth Management Act (GMA), Chapter 36.70A RCW, including submittal of appropriate information as determined by the city.

D. This chapter shall apply as any other overlay to development or land use regulations established by the city. In the event of a conflict between regulations in this chapter and any other city code, the regulations, which provide greater protection to the shoreline and critical areas, shall apply. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52C.030 Designation of fish and wildlife habitat conservation areas.

A. While not all of the below listed critical habitat areas exist in the city of Mukilteo, these regulations provide for the protection of the following fish and wildlife habitat conservation areas:

1. Habitats with which state or federally designated endangered, threatened, and sensitive species have a primary association. The Washington Department of Fish and Wildlife, U.S. Fish and Wildlife Service, and the National Marine Fisheries Service shall be consulted for current listing status;

2. State priority habitats and areas associated with state priority species as identified by the Washington State Department of Fish and Wildlife;

3. Habitats and species of local importance, if any are adopted by the city of Mukilteo;

4. Naturally occurring ponds under twenty acres;

5. Lakes and ponds over twenty acres in size, streams, and rivers planted with game fish by a governmental or tribal entity.

6. State natural area preserves and natural resource conservation areas;

7. Areas of rare plant species and high quality ecosystems as identified by the Washington Natural Heritage Program and the city's species of local significance if any;

8. Land useful or essential for preserving connections between habitat blocks and open space;

9. Commercial and recreation shellfish areas, including all public and private tideland or bedlands suitable for shellfish harvest as well as shellfish protection district established pursuant to Chapter 90.72 RCW;

10. Critical saltwater habitat;

11. Critical freshwater habitat;

12. Kelp and eelgrass beds; and

13. Forage fish spawning areas including herring and smelt.

B. All areas within the city of Mukilteo meeting one or more of these criteria, regardless of any formal identification, are subject to the provisions of this chapter and shall be managed consistent with best available science, such as the Washington Department of Fish and Wildlife's Management Recommendations for Priority Habitat and Species. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52C.040 Regulated activities.

A. The following activities associated with any land use development proposal that occurs within a habitat and/or its buffer, or outside a habitat or buffer but potentially affecting the habitat or buffer, shall be regulated pursuant to the standards of this chapter:

1. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter or materials of any kind;

2. Dumping, discharging or filling any material;

3. Draining, flooding or disturbing the water level or water table;

4. Alteration, construction, reconstruction, or demolition of any structure or infrastructure, including driving piling or placing obstructions;

5. Destroying or altering habitat vegetation through clearing, harvesting, shading or planting vegetation that would alter the habitat or buffer character; provided, that these activities are not part of a forest practice governed under Chapter 76.09 RCW and its rules;

6. Activities that result in significant changes in water temperature, physical or chemical characteristics of the habitat or buffer, including water quantity and quality, soil flow, or natural contours;

7. Any other activity potentially affecting a habitat or buffer not otherwise exempt from this chapter; and

8. Work to maintain fish and riparian habitats intentionally created from non-habitat areas as mitigation for fish and wildlife impacts. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52C.050 Prohibited uses in critical saltwater habitat.

A. Standards. Docks, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:

1. The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020.

2. Avoidance and minimization of impacts to critical saltwater habitats by an alternative alignment or location are not feasible.

3. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.

4. The project is consistent with the state's interest in resource protection and species recovery.

B. Private, noncommercial docks for individual residential or community use is prohibited in critical saltwater habitat areas. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52C.060 Habitat maps.

A. The approximate location and extent of fish and wildlife habitat conservation areas within the city's planning area are shown on the maps adopted as part of this chapter. These maps shall be used as a general guide only for the assistance of property owners and other interested parties; boundaries are generalized. The actual type, extent and boundaries of habitat areas or streams shall be determined by a qualified professional according to the procedures, definitions and criteria established by this chapter. In the event of any conflict between the habitat location or type shown on the city's maps and the location or designation as determined in the field by a qualified scientist, the field determination shall control.

B. The following critical area maps are hereby adopted:

1. City of Mukilteo critical areas map;

2. Washington Department of Fish and Wildlife Priority Habitat and Species maps;

3. Washington State Department of Natural Resources, Official Water Type Reference maps, as amended;

4. Washington State Department of Natural Resources Natural Heritage Program mapping data;

5. Washington State Department of Natural Resources State Natural Area Preserves and Natural Resources Conservation Area maps;

6. Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors reports published by the Washington Conservation Commission;

7. Washington State Department of Natural Resources Puget Sound Intertidal Habitat Inventory maps;

8. Washington State Department of Natural Resources Shorezone Inventory; and

9. Washington State Department of Health annual Inventory of Shellfish Harvest Areas. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52C.070 Permit process and application requirements.

A. Preapplication Conference. All applicants are encouraged to meet with the city prior to submitting an application subject to the provisions of this chapter. The purpose of this meeting shall be to discuss the fish and wildlife habitat conservation requirements, process and procedures; to review the critical areas checklist and any conceptual plans prepared by the applicant; to identify potential impacts and mitigation measures; and to familiarize the applicant with state and federal programs. Such conference

shall be for the convenience of the applicant and any recommendations shall not be binding on the applicant or the city.

B. Biological/Habitat Report. If the city determines that habitat or buffer impacts might occur as a result of the proposal, a biological/habitat report, as defined in Section 17B.08.020 must be submitted to the city for review prior to the issuance of a development permit pursuant to Chapter 17B.13 (project permit review process). The report must be prepared in accordance with city permit application requirements pursuant to Chapter 17B.13 and incorporate best available science as defined in Section 17B.08.020. The report will analyze the extent, type, and function of habitats and buffers on any site where regulated or exempt activities are proposed. The report will also be used by the city to determine the appropriate buffer requirements for the fish and wildlife areas and to assist the city in determining appropriate mitigation if required.

C. Biologist. A qualified biologist as defined in Section 17B.08.020 shall prepare all reports and studies required of the applicant by this chapter. The city may retain a qualified biologist, at the expense of the applicant, to review and confirm the applicant's reports, studies, and plans.

D. Permit Process. This section is not intended to create a separate permit process for development proposals. To the extent possible, and pursuant to Chapter 17B.13, the city shall consolidate and integrate the review and processing of fish and wildlife habitat-related aspects of proposals with other land use and environmental considerations and approvals. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52C.080 Classification of fish and wildlife habitat.

A. Streams. Streams shall be classified according to the stream type system as provided in WAC 222-16-031, Interim water typing system.

TABLE 1.

FRESHWATER HABITAT—STREAM CLASSIFICATION AND ATTRIBUTES

Stream Types	Attributes	Typical Stream Segments
Type 1	All waters, within their ordinary high water mark, as inventoried as "shorelines of the state."	No Type 1 streams are located within the city of Mukilteo
Type 2	All waters with twenty feet or more between each bank's ordinary high water mark and have high use, important water quality features, public recreation, and fish and wildlife uses.	No Type 2 streams are located within the city of Mukilteo
Type 3	Waters that have five or more feet between each bank's ordinary high water mark, and a moderate to slight use and are moderately important from a water quality standpoint for domestic use, public recreation, and fish and wildlife habitat.	• Japanese Gulch—North of 5th Street • Big Gulch and the South Fork of Big Gulch next to Harbour Pointe Boulevard • Picnic Point Creek—to the fork in Sector 20 (portion in Snohomish County) • Lunds Gulch (Snohomish County) • Stream segments where blockages to fish can be removed
Type 4	Waters that are perennial nonfish habitat streams.	• Japanese Gulch—south of 5th Street and north of 71st Place SW (due to blockages) • Brewery Creek—between 2nd Street and 5th Street • Goat Trail Ravine • Olympic View Ravine • Smuggler's Gulch • North fork of Big Gulch • Upper Chennault Creek • Lower Chennault Creek

		• Hulk Creek (portion in Snohomish County) • North fork of Picnic Point Creek (portion in Snohomish County) • Norma Creek (within Snohomish County)
Type 5	Seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of the year and are not located downstream from any stream reach that is a Type 4 Water.	• Japanese Gulch—south of 71st Street • Brewery Creek—south of 5th Street • Small feeder streams into Big Gulch • Picnic Point Creek—south fork in Sector 20 • Small feeder streams into Picnic Point Creek

B. Freshwater Lakes—Lake Serene. The purpose of the freshwater environment designation is to protect, restore, and improve, wherever possible, the ecological functions of the freshwater environment of Lake Serene, while allowing existing single-family development and park and lake recreational uses to continue to occur along with associated docks. The freshwater environment designation consists of both the upland single-family development and redevelopment and park development and associated in-water docks occurring on Lake Serene. The shoreline designation applies to Lake Serene and upland two hundred feet of the ordinary high water mark (OHWM) and all of the freshwater of the lake.

C. Federal, State, and Local Species.

1. Federally designated endangered, threatened, and candidate species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listing status.

2. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the Washington Department of Fish and Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (State Endangered Species) and WAC 232-12-011 (State Threatened and Sensitive Species). The

State Department of Fish and Wildlife maintains the most current listing and should be consulted for current listing status.

3. Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the Department of Fish and Wildlife.

4. Habitats and species of local importance, if any, are those identified by the city, including but not limited to those habitats and species that, due to their population status or sensitivity to habitat manipulation, warrant protection. Habitats may include a seasonal range or habitat element with which a species has a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long run.

D. Critical Saltwater Habitat. Critical saltwater habitat includes all in-water lands, tidelands, and uplands within two hundred feet of the ordinary high water mark of Puget Sound. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52C.090 Buffer areas.

A. Buffer Widths. The establishment of buffer areas shall be required for all development proposals and activities adjacent to fish and wildlife habitat areas to protect the functions and integrity of the habitat. The following buffering widths are established:

1. Critical Freshwater Habitat—Streams.

TABLE 2

STREAM BUFFER WIDTH REQUIREMENTS[1]

Streams	**Standard Buffer Width**
Type 1	250 feet
Type 2	250 feet
Type 3	150 feet
Type 4 (H)	75 feet

Type 4 (L)	50 feet
Type 5 (H and L)	50 feet

[1] As measured horizontally on each side of the stream from the ordinary high water mark (OHWM) of the stream.

Note 1: Most streams within Mukilteo are located within steep ravines, where the ravine as a whole is protected under critical slope area regulations contained in Chapter 17B.52A. Steep slopes are defined as slopes 40 percent or greater.

Note 2: Mukilteo does not contain any Type 1 or 2 streams.

Note 3: H = High mass wasting; L = Low mass wasting

2. Critical Freshwater Habitat—Lakes. A ten-foot-wide buffer of vegetation along the entirety of the shoreline shall be provided. A six-foot-wide path through the vegetation is allowed for access to a pier.

3. Federal, State, and Local Wildlife Habitats and Species. The establishment of buffer areas may be required for regulated activities in or adjacent to federal, state, and local species and habitat areas. Buffers shall consist of an undisturbed area of native vegetation established to protect the integrity, functions and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby. Buffers shall be determined by the department based on information in the biological/habitat report, a habitat management plan approved by the Department of Fish and Wildlife supplemented by its own investigations, the intensity and design of the proposed use, and adjacent uses and activities. Buffers are not intended to be established or to function independently of the habitat they are established to protect. Buffers shall be measured from the edge of the habitat area as measured in the field.

4. Critical Saltwater Habitat—Marine Shorelines. All development within the two-hundred-foot shoreline jurisdiction shall apply the following buffers to critical saltwater habitat:

a. In the urban waterfront and urban waterfront park environments the buffers shall be determined based on a case by case study.

b. In the conservancy environment the buffer shall be the same as steep slopes: twenty-five feet from the top of slope.

c. In addition, all projects which affect the marine shorelines shall mitigate for the project impacts to the shoreline in accordance with best available science and as required by any state or federal agency.

B. Buffer Enhancement. Where existing buffer area plantings provide minimal vegetative cover and cannot provide the minimum water quality (per the current Department of Ecology's Stormwater Management Manual for Western Washington~~the Puget Sound Basin~~) or habitat functions (per the requirements of the Department of Ecology and Fish and Wildlife), buffer enhancement shall be required. Where buffer enhancement is required a plan shall be prepared that includes plant densities that are not less than five feet on center for shrubs and ten feet on center for trees. Monitoring and maintenance of plants shall be required in accordance with Section 17B.52C.150, Monitoring and contingency plan. Existing buffer vegetation is considered inadequate and will require enhancement through additional native plantings and removal of nonnative plants when:

1. Nonnative or invasive plant species provide the dominant cover;

2. Vegetation is lacking due to disturbance and stream or wetland resources could be adversely affected; or

3. Enhancement plantings in the buffer could significantly improve buffer functions.

If according to the buffer enhancement plan, additional buffer mitigation is not sufficient to protect the habitat, the city may require larger buffers where it is necessary to protect habitat functions based on site-specific characteristics.

C. Buffer Averaging. Buffer widths may be modified by averaging buffer widths as long as the total area contained within the buffer after averaging is no less than the required buffer prior to averaging and as set forth below. A buffer enhancement plan shall be required for any request for buffer averaging. The enhancement plan shall be similar to a mitigation plan as described in Section 17B.52C.140, and include provisions for mitigation monitoring and contingency plans similar to the requirements of Section 17B.52C.150.

1. Buffer width averaging shall be allowed only where the applicant demonstrates through a report prepared by a qualified biologist or habitat specialist that:

a. Buffer averaging is necessary to avoid a hardship caused by circumstances to the property;

b. The habitat contains variations in sensitivity due to existing physical characteristics, or the buffer varies in characteristics and it would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

c. Lower intensity land uses would be located adjacent to areas where the buffer width is reduced;

d. Buffer width averaging will not adversely impact fish and wildlife habitat conservation areas;

e. The buffer width may be reduced by thirty-five percent of the standard buffer, but not less than thirty-five feet.

D. Buffer Reduction. Buffers may be reduced by twenty-five percent where the applicant demonstrates through a report relying on best available science and prepared by a qualified specialist that through buffer enhancement the smaller buffer would provide equal or better protection than the larger buffer. Enhancement techniques can include, but are not limited to:

1. Planting of native trees or shrubs, increasing the diversity of plant cover types, replacing exotic species with native species, or reestablishing fish area adjacent to a stream where one currently does not exist will result in improved function of the fish habitat.

2. Fish barrier removal to restore accessibility to resident or anadromous fish.

3. Fish habitat enhancement using log structures incorporated as part of a fish habitat enhancement plan.

4. Stream and/or Retention/Detention Pond Improvements.

i. Removal or modification of existing stream culverts (such as at road crossings) to improve fish passage and flow capabilities, or

ii. Upgrade of retention/detention facilities or other drainage facilities beyond required levels to provide a more naturalized habitat.

E. Activities Allowed in Buffers. The planning director may authorize the following low impact uses and activities within a buffer upon showing that said uses or activities will be performed in a manner that will not disturb the fish and wildlife habitat conservation area, increase the impervious surface of the buffer, or decrease the functions of the associated habitat: pedestrian trails, viewing platforms, interpretative signage, stormwater recharge facilities that benefit the habitat, utility easements and the installation of underground utilities pursuant to best management practices. Uses permitted within the buffer shall be located in the outer portion of the buffer as far as possible from the water body, stream or associated wetland.

F. No Stormwater Facilities Allowed in Buffers. Stormwater management facilities, such as water quality swales, shall not be located within the required buffer unless no other locations are feasible and the location of such facilities will not have an adverse impact on the habitat. Stormwater detention ponds shall not be allowed in buffers.

G. Designated in NGPAs. Buffers shall be shown on the development site plans or final plat maps along with the notation requirements identified in Section 17B.52.035, Native growth protection areas and buffers.

H. Existing Designated Buffers. If an existing property has a previously delineated and approved fish and wildlife habitat conservation area and associated buffer by the city, the approved conservation area

and buffer may remain in effect for a period of five years. Redevelopment, and/or additions outside of the existing footprint shall be subject to the previously approved buffer; however, a buffer enhancement plan may be required in accordance with subsection B of this section if the habitat buffer area has become degraded or is currently not functioning or if the habitat area and/or buffer maybe negatively affected by proposed new development.

I. Minor Additions. Minor additions or alterations such as decks and small additions less than one hundred twenty square feet, interior remodels, or tenant improvements which have no impact on the habitat area or buffer may be exempt from the buffer enhancement requirements.

J. Stream Crossings. Stream crossings are allowed within a buffer if necessary to provide access to property and if the crossing impacts are fully mitigated consistent with an approved critical areas report.

K. Streambank Stabilization. Streambank stabilization needed to protect structures from future channel migration may only be allowed in a buffer if bioengineering or soft armoring techniques are used. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52C.095 Tree preservation.

To ensure adequate habitat for wildlife, no cutting of trees over twenty-four inches in diameter is allowed in the two-hundred-foot shoreline zone except for dead, dying, diseased or hazardous trees as determined by a certified landscape architect or arborist and approved by the planning and public works directors. However, where one or more trees must be removed to provide a building footprint for development or for essential public facilities, the developer shall provide one-to-one replacement of Douglas fir trees or similar tree species that in the future will provide nesting or roosting habitat for raptors when the trees mature. Replacement trees shall be a minimum of six feet in height at the time of planting. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52C.100 Land divisions and density calculations.

A. An owner of a site or property containing fish or wildlife habitat may be permitted to transfer the density attributable to the habitat area to another nonhabitat, nonsensitive portion of the same site or property, subject to the limitations of this section and other applicable regulations.

B. Up to one hundred percent of the density that could be achieved on the habitat and buffer portion of the site can be transferred to the nonhabitat portion, subject to:

1. The density limitations of the underlying zoning classification;

2. The minimum lot size of the underlying zoning classification may be reduced to three thousand square feet in order to accommodate the transfers in densities;

3. Applicable front and rear building setbacks as listed in the bulk matrix may be reduced to fifteen feet, and the lot coverage standards of underlying zoning regulations may be increased to sixty percent;

4. The area to which density is transferred shall not be constrained by another environmentally critical area regulation.

5. All required stream or wildlife conservation buffers shall be applied to the parcel and set aside in native growth protection area tract(s). (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52C.110 Habitat and stream alteration and mitigation.

After careful consideration of the potential impacts and a determination that impacts are unavoidable, unavoidable impacts to fish and wildlife habitats shall be mitigated. Mitigation shall be applied in the following sequence of steps, listed in the order of priority from top to bottom. Work within these habitats requires state and likely federal authorization in addition to city approval.

A. Sequencing. Mitigation actions by an applicant shall occur in the following priority sequence:

1. Avoiding the impact altogether by not taking a certain action or parts of actions;

2. Minimizing impacts by limiting the degree of magnitude of the action and its implementation (e.g., use of appropriate technology, consideration of alternative site plans and building layouts and/or reductions in the density or scope of the proposal);

3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;

4. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;

5. Compensating for the impact by replacing, enhancing or otherwise providing equivalent or greater stream and wildlife functions;

6. Monitoring the impact and taking appropriate corrective measures.

B. Stream Alteration. Alteration of streams may be permitted by the city subject to the following standards. However, the applicant must also obtain state and federal approvals for work within the OHWM in addition to meeting the city's requirements.

1. Type 1, 2, and 3 Streams. Alterations of Type 1, 2, and 3 streams shall be avoided, however where avoidance is not feasible projects will be subject to Section 17B.52.022 and shall be submitted as a shoreline variance,

2. Type 4 and 5 Streams. All feasible and reasonable measures shall be taken to reduce impacts to Type 4 and 5 streams. Alterations may be permitted subject to the mitigation standards and criteria of this chapter; and provided, that no overall net loss will occur in stream functions and fish habitat value,

3. Relocation of a stream may occur only when it is part of an approved mitigation or rehabilitation plan, and will result in equal or better habitat and water quality, and will not diminish the flow capacity of the stream,

4. New culverts and culvert replacements shall be consistent with the standards in Design of Road Culverts for Fish Passage (WDFW 2003) and may be placed in streams only under the following circumstances:

a. For street/driveway crossings—only in Type 4 or 5 streams (bridges are recommended to cross Type 1, 2 and 3 streams). For site development—only Type 5 streams,

b. When fish passage will not be impaired,

c. When the following design criteria are met:

i. Installation of culverts of, in order of priority, bottomless pipe arch, elliptical or round pipe (Type 5 streams only),

ii. Installation of oversized culverts (i.e., exceeding the diameter needed to accommodate flows),

iii. Culverts include gradient controls and creation of pools within the culvert for Type 4 or 5 streams,

iv. Gravel substrate will be placed in the bottom of the culvert to a minimum depth of one foot for Type 4 or 5 streams,

d. The applicant will keep any culvert that is part of a mitigation or enhancement plan free of debris and sediment to allow free passage of water and, if applicable, fish,

e. An hydraulic project approval (HPA) is obtained from the Washington Department of Fish and Wildlife, and

f. The city may require that a culvert be removed from a stream as a condition of approval, unless the culvert is not detrimental to fish habitat or water quality, or removal would be detrimental to fish or wildlife habitat or water quality.

C. Marine Shoreline. New, replacement, or substantially improved marine shoreline erosion control measures may be permitted consistent with all necessary state and federal permits and in accordance with an approved critical area report that demonstrates the following:

1. No feasible alternative would provide adequate protection to upland property;

2. Bioengineering or soft armoring shall be employed to the greatest extent feasible;

3. Mitigation measures shall ensure there is no net loss of the functions of intertidal or riparian habitat, allowing for off-site mitigation if necessary. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52C.115 Facilitation of restoration projects.

Stream buffers may be further reduced up to fifty percent only where creation of a surface channel, daylighting a stream that was previously culverted or piped, or daylighting use of box culverts or trestles is proposed and where the applicant demonstrates through a report relying on best available science and prepared by a qualified specialist that through buffer enhancement the smaller buffer would provide equal or better protection than the larger buffer. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52C.120 Mitigation standards and criteria.

A. Habitat Performance Standards. The performance standards and criteria contained in this section shall be considered by applicants and incorporated into plans submitted for regulated activities in fish and wildlife habitat conservation areas. It is recognized that in specific situations, all the listed standards may not apply or be feasible to implement, or that individual standards may conflict.

1. Consider habitat in site planning and design;

2. Locate buildings and structures in a manner that preserves and minimizes adverse impacts to important habitat areas;

3. Integrate retained habitat into open space and/or landscaping, consistent with the provisions of adopted city requirements;

4. Where possible, consolidate habitat and vegetated open space in contiguous blocks;

5. Locate habitat contiguous to other habitat areas, open space or landscaped areas to contribute to a continuous system or corridor that provides connections to adjacent habitat areas and allows movement of wildlife;

6. Use native species in any landscaping of disturbed or undeveloped areas and in any enhancement of habitat or buffers. The introduction of nonnative species will not be allowed;

7. Emphasize heterogeneity and structural diversity of vegetation in landscaping;

8. Recommendations to remove and/or control any nonnative or undesirable species of plants and animals;

9. Preserve significant trees, preferably in groups, consistent with city's tree preservation regulations, if any, and with achieving the objectives of these standards; and

10. Locate mitigation areas such that contiguous habitat corridors are maintained, thus minimizing the isolation of individual habitats.

B. Landscape Plan. A landscape plan shall be submitted consistent with the city's landscape requirements and with the goals and standards of this chapter. The plan shall reflect the recommendations contained in reports prepared pursuant to these regulations. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52C.130 Performance standards.

A. Endangered, Threatened, Sensitive, and Candidate Species.

1. No development shall be allowed within a habitat conservation area or buffer with which state or federal endangered, threatened, sensitive, or candidate species have a primary association, except that which is provided by a management plan established by the Washington Department of Fish and Wildlife or applicable state or federal agency.

2. Whenever activities are proposed adjacent to a habitat conservation area with which state or federal endangered, threatened, sensitive, candidate species have a primary association, such areas shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the city. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to the consultation with the Washington State Department of Fish and Wildlife for animal species, the Washington Department of Natural Resources for plant species, and other appropriate federal or state agencies.

3. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a bald eagle site (verified nest territory or communal roost), a habitat management plan shall be developed by a qualified professional. Activities are adjacent to bald eagle site when they are within eight hundred feet or within one half mile (two thousand six hundred forty feet) and in a shoreline foraging area. The city shall verify the location of eagle management area for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the Washington Department of Fish and Wildlife.

B. Anadromous Fish.

1. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:

a. Activities shall be timed to occur only during the allowable work window as designated by the Washington Department of Fish and Wildlife for the applicable species;

b. An alternative alignment or location for the activity is not feasible;

c. The activity is designed so that is will not degrade the functions or values of the fish habitat or other critical areas;

d. Erosion control measures shall be designed to use bioengineering methods or soft armoring techniques, according to an approved critical areas report; and

e. Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical areas report.

2. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

3. Fill, when authorized by the city's shoreline management program, shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impact and shall only be allowed for a water-dependent use.

C. Marine Shoreline. Development within an aquatic habitat or two hundred feet of the shoreline shall be consistent with the Mukilteo comprehensive plan, shoreline management plan, and the regulations contained in this title. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52C.140 Mitigation plan requirements.

A. If the city determines that impacts to habitats may occur as a result of a development project, a biological/habitat assessment report shall be required. The preparation and submission of this report is the responsibility of the applicant. The report shall rely on best available science as defined in Section 17B.08.020 and shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat. The city may retain a qualified consultant at the applicant's expense to review and confirm the applicant's reports, studies and plans.

B. A biological/habitat assessment is an investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. The assessment of habitats for the site and project shall at a minimum include the following information:

1. Detailed description of vegetation and location of the OHWM on and adjacent to the project area and its associated buffer. The OHWM shall be shown on project drawings and a description of field indicators used to establish the OHWM included in the assessment;

2. Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

3. A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;

4. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;

5. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with the mitigation sequencing required by this chapter; and

6. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring, maintenance, and enforcement programs.

C. When appropriate due to the type of habitat or species present or the project conditions, the planning director may also require the habitat management plan to include:

1. An evaluation by an independent qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate;

2. A request for consultation with the Washington Department of Fish and Wildlife or the local Native American Indian Tribe or other appropriate agency; and

3. Detailed surface and subsurface hydrologic features both on and adjacent to the site. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52C.150 Monitoring and contingency plan.

A. A monitoring program shall be included as a part of the approved mitigation plan for a fish and wildlife habitat conservation area. To ensure that the performance standards of the approved mitigation plan have been met, the mitigation and/or buffer enhancement site(s) shall be monitored for a minimum of five years. A longer monitoring period may be required by the city based on either the initial mitigation plan or a review of subsequent monitoring reports. The monitoring reports shall be submitted on August 1st, or as otherwise agreed upon by the city and the applicant, of each year during the monitoring period.

B. An acceptable surety device is required to ensure the applicant's compliance with the terms of the mitigation agreement.

1. Performance Surety. All mitigation and buffer enhancement shall be completed prior to final plat approval and/or building occupancy depending on the type of application. However, when improvements cannot be completed prior to final acceptance due to weather conditions which may negatively affect the success of the project, a performance surety may be used. The

performance surety shall equal one hundred fifty percent of the cost of the mitigation project, and the required improvements shall be installed in a satisfactory manner within six months or less.

2. Maintenance Surety. A maintenance surety shall be required on all mitigation projects to ensure that the improvement successfully survives the monitoring periods set above.

a. Stream Mitigation Projects. The amount of the maintenance surety shall be equal to fifteen percent of the cost of the mitigation project and the term of the surety shall reflect the term of the monitoring program.

b. Buffer Enhancement Projects. The amount of the maintenance surety shall be equal to fifteen percent of the costs of the enhancement project and the term of the surety shall reflect the term of the monitoring program.

3. Monitoring Deposit. A cash deposit shall be submitted with all sureties prior to final acceptance of the project to cover the estimated city's costs to review the yearly monitoring reports and conduct a site inspection to ensure the performance standards are being met.

C. Long-Term Maintenance. To ensure the long-term success of the fish and wildlife habitat conservation area, the applicant or their heirs or successors shall be responsible for the long-term maintenance of the habitat area and its associated buffer. The habitat and buffer shall be kept clear of weeds, invasive plant material, lawn clippings, junk, debris, intrusions or the like. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

Chapter 17B.52D
FLOOD HAZARD AREAS

Sections:

17B.52D.010 Purpose.
17B.52D.015 Applicability of provisions.
17B.52D.020 Flood hazard regulations.
17B.52D.030 Flood insurance rate maps.
17B.52D.040 Designation of frequently flooded areas.
17B.52D.050 Reporting requirements.
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17B.52D.070 Development standards—Frequently flooded areas.
17B.52D.080 Subdivision of land—Frequently flooded areas.
17B.52D.090 Alteration of watercourses.

17B.52D.010 Purpose.

The purpose of this chapter is to designate and protect flood hazard areas in the downtown waterfront area and shoreline area to protect aquifers used for potable water. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52D.015 Applicability of provisions.

Regulations only apply to the Lighthouse Park, Front Street, and Park Street between the shoreline and 1st Street. These regulations do not apply to the various streams and ravines throughout the city because:

A. There are no streams which have a flow of twenty cfs or greater; and

B. The BNSF railroad tracks have effectively bermed the marine shoreline and eliminated flooding problems along the Mukilteo shoreline. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52D.020 Flood hazard regulations.

All development proposals in special flood hazard areas shall be subject to the provisions of Chapter 15.12, Flood Damage Prevention. All studies shall be prepared by a registered professional engineer licensed in the state of Washington. At the city's option, the studies/plans may be reviewed by a consultant retained by the city at the applicant's expense. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52D.030 Flood insurance rate maps.

Flood insurance rate maps (FIRM), the official maps on which the Federal Insurance Administration has delineated both areas of flood hazard and risk premium zones applicable to the community, are available at the city for viewing. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52D.040 Designation of frequently flooded areas.

A. Frequently Flooded Areas. Frequently flooded areas shall include:

1. FEMA Maps. Those areas identified on FEMA flood insurance maps as areas of special flood hazard which include those lands in the floodplain subject to a one percent or greater chance of flooding in any given year. For the purposes of this chapter, areas of special flood hazard for the city of Mukilteo are hereby declared generally to be those areas shown as Zone A (including Zones A, AE, A1—A30, AH, AO, AR and A99) on the following FEMA maps or panels: Panel 1010—53061C1010 E, Panel 1020—53061C1020 E, and Panel 1015—53061C1015E. The ~~following~~ preceding maps and panels were revised and effective on November 8, 1999, and such maps and panels are adopted by this reference as a part of this chapter as if fully set forth herein or the most recent updates to those maps and panels.~~.~~ In 2010, FEMA began a study of 74 miles of coastline in Snohomish County, including Mukilteo, and provided preliminary Digital Flood Insurance Rate Maps (DFIRM) and studies to Snohomish County, which can be viewed at Snohomish County Planning and Development Services. The Urban Waterfront and Urban Waterfront Park areas of the shoreline are mapped as high risk flood hazard areas. The Urban Conservancy areas of the shoreline are also mapped as high risk flood hazard areas, with the area south of Big Gulch Creek having an additional hazard associated with storm waves.

2. City Discretion and Designation. Flood insurance maps, digital flood insurance rate maps (DFIRM), and the city's critical areas map are to be used as a guide and should be considered a minimum designation of frequently flooded areas. As flood insurance maps may be continuously updated as areas are reexamined or new areas are identified, newer and more restrictive information for flood hazard area identification shall be the basis for regulation. The city of Mukilteo shall retain the right to designate and identify areas known to be prone to flooding outside of the one-hundred-year floodplain and subject them to the provisions and protections of this title and Chapter 15.12.

3. Use of Additional Information. The planning director may use additional flood information that is more restrictive or detailed than that provided in the flood insurance study conducted by the Federal Emergency Management Agency (FEMA) to designate frequently flooded areas, including historical data, high water marks, photographs of past flooding, location of restrictive floodways, maps showing future build-out conditions, maps that show riparian habitat area, or similar information. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52D.050 Reporting requirements.

Critical area reports for frequently flooded areas must meet the requirements of this section and Chapter 15.12. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

A. Preparation by a Qualified Professional. A frequently flooded areas report shall be prepared by a qualified professional who is a hydrologist or engineer licensed in the state of Washington with experience in preparing flood hazard and tsunami assessments.

B. Areas to Be Addressed. The following areas shall be addressed in a critical area report for frequently flooded areas:

1. The site area of the proposed activity;

2. All areas of a special flood hazard area, as indicated on the flood insurance map(s) within two hundred feet of the project area; and

3. All other flood areas indicated on the flood insurance map(s) within two hundred feet of the project area.

C. Flood Hazard Assessment. A critical area report for a proposed activity within a frequently flooded area shall contain a flood hazard and tsunami assessment including the following site and proposal related information at a minimum:

1. Site and Construction Plans. A copy of the site and construction plans for the development proposal showing:

a. Floodplain (one-hundred-year flood elevation), ten- and fifty-year flood elevations, floodway, other critical areas, buffers, and shoreline areas;

b. Proposed development, including the location of existing and proposed structures, fill, storage of materials, drainage facilities, and parking with dimensions indicating distances to the floodplain;

c. Clearing limits; and

d. Elevation of the lowest floor (including basement) of all structures, and the level to which any nonresidential structure has been flood proofed.

2. Watercourse and Floodway Alteration. Alteration of natural watercourses shall be avoided, if feasible. If unavoidable, a critical area report shall include:

a. Extent of Watercourse and Floodway Alteration. A description of and plan showing the extent to which a watercourse and floodway will be altered or relocated as a result of proposal;

b. Maintenance Program Required for Watercourse and Floodway Alterations. A maintenance program that provides maintenance practices for the altered or relocated

portion of the watercourse and floodway to ensure that the flood carrying capacity is not diminished;

c. Information Regarding Other Critical Areas. Potential impacts to wetlands, fish and wildlife habitat, shorelines, and other critical areas shall be addressed in accordance with the applicable sections of this title; and

d. Compliance Documentation. Information describing and documenting how the proposed watercourse and floodway alteration complies with the requirements of the fish and wildlife habitat conservation areas chapter of this title, the Mukilteo shoreline management plan, and other applicable state or federal permit requirements. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52D.060 Warning and disclaimer of liability.

The degree of flood protection required by this chapter and Chapter 15.12 is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods or tsunamis can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This title does not imply that land outside frequently flooded areas or uses permitted within such areas will be free from flooding or flood damages. This title shall not create liability on the part of the city of Mukilteo, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this title or any administrative decision lawfully made hereunder. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52D.070 Development standards—Frequently flooded areas.

Development standards and provisions for protection of frequently flooded areas are provided as applicable to areas of special flood hazard in Chapter 15.12. Conformance with the provisions for flood hazard reduction in Chapter 15.12 shall constitute conformance with the protection of critical areas Section 17B.52.010 per the mandates of the Washington Growth Management Act and purposes and objectives of this title. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52D.080 Subdivision of land—Frequently flooded areas.

All lots created through binding site plans, subdivision, short subdivisions, or adjusted through lot line adjustments shall provide adequate building space outside the one-hundred-year floodplain, the floodway, and the channel migration and floodway zone. The location of the floodplain, floodway, or channel migration zone shall be shown as a “no-build” zone on the face of the preliminary and final plat, binding site plan, or record of survey in the case of a lot line adjustment. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.52D.090 Alteration of watercourses.

Alteration of natural watercourses shall be avoided, if feasible. If unavoidable, the following provisions shall apply to the alteration:

A. Habitat Regulations. Watercourse alteration shall only be allowed in accordance with the fish and wildlife habitat conservation areas chapter of this title.

B. Blockage. Watercourse alteration project shall not result in blockage of side channels.

C. Notification. In accordance with city's noticing requirements contained in Chapter 17B.13, the city shall notify adjacent communities, the State Departments of Ecology and Fish and Wildlife, and the Federal Insurance Administration about the proposed watercourse alteration.

D. Maintenance of Alterations. The applicant shall maintain the altered or relocated portion of the watercourse to ensure that the flood carrying capacity is not diminished. Maintenance shall be bonded for a period of five years, and be in accordance with an approved maintenance program. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

Chapter 17B.56
OFF-STREET PARKING

Sections:

17B.56.010 Requirements.
17B.56.020 Ingress and egress provisions.
17B.56.030 Location and design of parking lots.
17B.56.040 Parking facilities—Lots—Structures for transit.
17B.56.050 Parking spaces next to the shoreline.
17B.56.060 Off-street parking spaces required.
17B.56.070 Fractional spaces.
17B.56.080 Special provisions for waterfront mixed-use district.
17B.56.090 Parking for unspecified uses.
17B.56.100 Parking credit for alternatives to automobile access.
17B.56.110 Master parking study required for tank farm site.
17B.56.120 Mixed-use occupancies.
17B.56.130 Joint uses.
17B.56.140 Loading and delivery space.
17B.56.150 Parking lot development standards.
17B.56.160 Parking lot surfacing requirements.
17B.56.170 Illumination.

17B.56.010 Requirements.

Every building hereafter erected, moved, reconstructed, enlarged or subject to change in use from a lower intensity to a higher intensity shall have parking spaces meeting the requirements of this chapter, and the parking spaces shall be made permanently available and maintained for parking purposes. No building permit shall be issued until plans showing provisions for the required parking have been submitted and approved as conforming to the standards of this chapter. Every lot or parcel of land used as a public or private parking area or new or used car sales area and having a capacity of three or more vehicles shall be developed and maintained in accordance with this chapter. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.56.020 Ingress and egress provisions.

The city engineer shall have the authority to fix the location, width and manner of approach of vehicular ingress or egress from a building or parking area to a public street and to alter existing ingress and egress as may be required to control street traffic in the interest of public safety and general welfare. All new structures shall take primary access from a public street or private road that complies with the private road requirement as established by Section 17.54.020 and any other applicable ordinance. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.56.030 Location and design of parking lots.

A. Off-street parking in commercial areas shall either be behind or to the side of development with ground-floor retail along the street frontage.

B. In the relatively small, narrow waterfront mixed-use district, structured parking is encouraged to maximize development potential.

C. Shared or joint parking is encouraged south of Front Street so that parking needs generated by development north of Front Street can be accommodated outside the shoreline zone of two hundred feet from the ordinary high tide.

D. A minimum of curb cuts should be allowed along Front Street for parking access.

E. Adjacent street frontage to commercial properties can be counted on a one-to-one basis towards the parking requirement on streets that are improved and have designated parking.

F. Employee parking shall be provided on site, or as part of a shared parking agreement or at a parking structure.

G. Joint or shared access, and off-street parking, internal circulation or parking is encouraged with adjacent uses.

J. Parking lots shall have internal landscaping as well as be screened from streets and pedestrian ways. (See Section 17B.25.120, Guidelines 21: Parking Lots—Landscape Design and 22, Screening Parking Lots—Pedestrian Environment.)

K. Parking garages shall be screened to improve the pedestrian environment in mixed-use developments. (See Section 17B.25.120, Guideline 23: Screening Parking Garages—Pedestrian Environment.) (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.56.040 Parking facilities—Lots—Structures for transit.

A. Near the multi-modal station, provide close-in preferential parking for carpools and vanpools.

B. Long-term (eight plus hours), single-occupant vehicle, commuter parking near station is to be discouraged five years after commuter rail is operational.

C. Joint and shared parking are encouraged among retail, office, entertainment, housing, tourist, marina and parking uses (day/night, weekend/weekday, and seasonal (June to September and October to May)) to promote maximum use of parking in the waterfront use district by all users.

D. Park and ride spaces serving the commuter rail, ferry and bus activities should only be permitted in or in close proximity to the multi-modal station area (majority of district). ~~after three to five years or when there is full development and operation of these integrated modes unless they are in a parking garage.~~

E. Park and ride lot(s) are allowed for the purpose of serving the ~~as defined in the multi-modal terminal access study report shall not exceed the requirements proposed for~~ commuter rail, ferry terminal and ~~or~~ bus facilities. As a secondary use, park and ride lot(s) may be used to accommodate recreational uses along the waterfront. Park and ride lot(s) shall be designed in accordance with 17B.56.030. ~~, and park and rides shall not be larger than one hundred twenty parking spaces, unless the lot is for shared parking or is converted to a parking garage with retail space fronting Front Street if the garage is placed south of Front Street and west of the multi-modal terminal.~~

F. Bike racks and/or weatherproof lockers for bicycles should be provided at the multi-modal station and commuter rail platform.

G. Well defined pedestrian walkways should be provided in parking lots and around the multi-modal station from parking to building, ferry loading, and commuter rail platform. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.56.050 Parking spaces next to the shoreline.

All off-street parking spaces on the eastside of Park Avenue within the shoreline jurisdiction shall be located ~~a~~ no less than five feet from the edge of the promenade. This is based on the recorded Binding Site Plan (AFN 201701205001) for the former Tank Farm property. All other off-street parking spaces along the remainder of the shoreline zone shall be a minimum of seventy-five feet landward of the ordinary high water mark. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.56.060 Off-street parking spaces required.

The required number of off-street parking spaces is as set out in Table 17B.56.040.

Table 17B.56.040

OFF-STREET PARKING REQUIREMENTS

Use Classification:	**Number of Spaces Required**
Cafeteria-style restaurant at ferry terminal	No spaces required
General office use including banks, real estate offices, medical/dental offices	3 per 1,000 square feet of gross floor area
Libraries, art galleries, museums	3 per 1,000 square feet of gross floor area

Mixed-use development	Retail/Office Uses—3/1,000 square feet of gross floor area; Residential—1.5 per studio or 1 bedroom unit; 2 per 2 or more bedroom units; plus 1 per every 4 units for guest parking)
Multiple-family dwellings	1.5 per studio or 1 bedroom unit; 2 per 2 or more bedroom units; plus 1 per every 4 units for guest parking)
Park and recreational facilities	As determined by the planning director based on projected needs
Passenger terminals (bus, rail, ferry)	To be determined by the planning director, or designee
Restaurants, taverns, or bars for on-premises consumption	5 per 1,000 square feet of gross floor area for 4,000 square feet or less; 20 plus 10 per 1,000 square feet of gross floor area greater than 4,000 square feet or 1 space per 3 seats, whichever is greater
Retail stores and personal service shops	3 per 1,000 square feet of gross floor area plus employee parking, which shall be accommodated on site. The square footage of common areas used exclusively for storage or circulation may be deducted from the total gross floor area, subject to planning director, or designee, approval.
Single-family or two-family dwellings	2 per dwelling; driveways may be counted as 1 parking space
Sewer treatment plants	1 per employee and 2 guest spaces

(Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.56.070 Fractional spaces.

If the provisions of this chapter result in a parking requirement which includes a fractional parking space equal to or greater than one-half, one parking space shall be required. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.56.080 Special provisions for waterfront mixed-use district.

A. On-Street Parking Credit. A reduction in the number of off-street parking spaces shall be allowed on a one-to-one basis, based upon the actual number of existing or proposed parking spaces meeting city requirements on adjacent street frontage. The city requirements for on-street stalls and vehicular circulation are specified in Chapter 10.08, Parking of Motor Vehicles. The provision shall apply only to

lots with frontages that are improved with curbs, gutter and sidewalk. Parking in alleys shall not be counted as a credit toward the off-street parking requirements. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.56.090 Parking for unspecified uses.

Where the parking requirements for a use are not specifically defined herein, the parking requirements for such use shall be determined by the planning director or designee. Such determination shall be based upon staff investigation, parking requirements for comparable uses, and comparative data as may be available and appropriate for the establishment of minimum parking requirements. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.56.100 Parking credit for alternatives to automobile access.

A development can reduce the required off-street parking spaces up to fifty percent when it can be demonstrated, in a parking-traffic study, prepared by a traffic engineer, that use of transit or demand management programs, special characteristics or customer, client, employee or resident population will reduce expected vehicle use and parking space demand for their development, as compared to standard Institute of Transportation Engineers' vehicle trip generation rates and city parking requirements. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.56.110 ~~Master parking study required for tank farm site~~ Joint parking and common parking areas.

~~A master parking study will be required to be prepared for the redevelopment of the tank farm site by the Port of Everett. This study shall encourage j~~Joint parking and common parking areas shall be encouraged to reduce the impervious surface in the shoreline area. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.56.120 Mixed-use occupancies.

A reduction from the parking space requirements as specified in Table 17B.56.040, Off-Street Parking Requirements, may be allowed by the planning director, or designee, for mixed-use buildings or developments if an adequate shared parking program is developed. Requirements of the program are as outlined in the following subsections:

1. A shared parking study based on the current methodology accepted by the city and prepared by a licensed traffic engineer with experience in performing shared parking studies shall be submitted. The study must demonstrate that the development will result in a more efficient use of parking provided because the combined peak parking demand is less than the normal standards due to the following factors: (a) different, off-setting parking activity or intensity patterns of the business in the development; and/or (b) it can be reasonably anticipated that a number of customers or clients will be served by both uses while on the site;

2. Adequate parking and access shall be provided for users and employees. These should be consistent with the requirements of WMU zone and the 1995 Multimodal Plan or future master plans (park and tank farm) as adopted by the city of Mukilteo; and

3. A shared parking allocation plan showing all shared parking shall be submitted. The number of spaces required for an approved shared parking plan shall be based on the number of spaces estimated to be the combined use peak parking demand. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.56.130 Joint uses.

A. Joint use of required parking spaces may occur where two or more uses on the same or separate sites involving more than one property owner are able to share the same parking spaces because their parking demands occur at different times. Applicants applying for approval of a joint use parking plan may be required to furnish a parking study as described in Section 17B.56.120 and must meet the following conditions:

1. When use of another site for parking is proposed, such parking shall be located within a district permitting such a use.

2. There is not substantial conflict in the principal operating hours of the uses for which the joint use of the parking facility is proposed.

3. The applicant shall present a binding legal agreement, which may include a parking easement, in a form acceptable to the city. The agreement shall be executed by the parties holding an ownership interest in the properties subject to a joint use parking agreement. Further, it shall provide that the agreement may be enforced by the city and shall be irrevocable for the term of the proposed joint use parking. The agreement shall also provide that in the event the joint use parking becomes unavailable, adequate replacement of off-street parking shall be provided in accordance with this chapter. Such instrument, after being approved to form and manner by the city attorney, shall be approved by the planning director, or designee, and recorded with the Snohomish County auditor's office.

B. The city shall maintain a record of all uses and of the owners or tenants that are subject to a joint use agreement. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.56.140 Loading and delivery space.

With the exception of existing buildings, new buildings or structures involving the receipt or distribution of vehicles, material or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interference with the public uses of the streets or alleys. The space, unless otherwise adequately provided for, shall include a ten-foot-by-twenty-five-foot loading space, with fourteen-foot height clearance for every twenty thousand square feet, or fraction thereof, of gross building area used or land used for above-mentioned purposes. The space shall be so situated that no part of a truck or van using the loading space will project into the

public right-of-way, nor unduly block parking lot ingress and egress. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.56.150 Parking lot development standards.

Table 1 **Interlocking—Conventional Cars**								
Parking Layout	**Angle**	**Dimensions**			**One Way**		**Two Way**	
See Diagram 1	**Parking Angle (Degrees)** **A**	**Stall Width** **B**	**Curb Length** **C**	**Stall Depth** **D**	**Angle Width** **E**	**Parking Section Width** **F**	**Angle Width** **E**	**Parking Section Width** **F**
Parallel	0	8'	21'	8'	12'/22'	28'/38'	22'/24'	38'/40'
Angular	20	8.5'	24.9'	10.5'	11'	32'	20'	41'
	30	8.5'	17'	13.2'	11'	37.4'	20'	46.4'
	40	8.5'	13.2'	15.3'	12'	43'	20'	51'
	45	8.5'	12'	16.4'	13.5'	46.3'	20'	52.8'
	50	8.5'	11.1'	17.3'	13.5'	50.1'	20'	54.6'
	60	8.5'	9.8'	18.6'	18.5'	55.7'	22'	59.2'
	70	8.5'	9'	19.3'	19.5'	58.1'	22'	60.6'
	80	8.5'	8.6'	19.5'	24'	63'	24'	63'
Perpendicular	90	8.5'	8.5'	19'	25'	63'	25'	63'

ACCEPTABLE PARKING DESIGNS

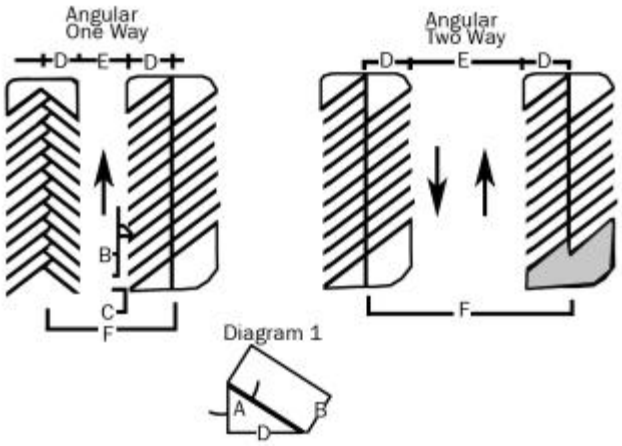

Table 2 **Interlocking—Compact Cars**								
Parking Layout	**Angle**	**Dimensions**			**One Way**		**Two Way**	
See Diagram 1	**Parking Angle (Degrees)** **A**	**Stall Width** **B**	**Curb Length** **C**	**Stall Depth** **D**	**Angle Width** **E**	**Parking Section Width** **F**	**Angle Width** **E**	**Parking Section Width** **F**
Parallel	0	8'	20'	8'	12'	28'	20'	36'
Angular	45 60	8' 8'	11.3' 9.2'	14.1' 15.9'	12.5' 17'	40.7' 48.8'	20' 22'	48.2' 53.8'
Perpendicular	90	8'	8'	16'	22'	54'	25'	57'

A. ~~Building~~ S~~s~~ites which contain more than one hundred parking spaces shall be designed with access lanes and fire lanes not less than twenty-five feet in width, forming a continuous route or loop connecting at both ends with public streets. In parking lots containing less than one hundred parking spaces and in parking garages, emergency access shall be provided subject to approval of the planning director after consultation with the fire chief. Emergency access shall be provided to within fifty feet of any mixed-use building. If any of these requirements are impractical due to the peculiarities of the site and/or building, other provisions for emergency access may be approved by the fire chief. Parking in fire

lanes is prohibited. Signs and/or painting/striping on the parking lot surface shall be specified by the fire chief.

B. All parking stalls and aisles shall be designed according to Tables 1 and 2, interlocking parking standards for conventional and compact cars, unless all parking is to be done by parking attendants on duty at all times that the parking lot is in use for the storage of automobiles. Up to forty percent of the off-street parking spaces required by this chapter may be designed for compact cars in accordance with Table 2, compact car staff and aisle specification. The parking stalls shall be individually marked in the parking plan and on each constructed parking stall as being for compact cars only. Parking at any angle other than those shown is permitted, providing the width of the stalls and aisles is adjusted by interpolation between the specified standards. Parking lots shall be so designed that automobiles shall not back out into public streets. ~~Handicapped~~ Disabled parking shall be installed in accordance with the Regulations for Barrier-Free Facilities as adopted by the Washington State Building Code ~~Advisory~~ Council. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.56.160 Parking lot surfacing requirements.

All off-street parking areas shall be graded and paved before an occupancy permit for the building use is issued. Parking lots shall be designed with proper storm drainage and water quality BMPs and allow for marking of stalls and installation of other traffic control devices as set forth by the city public works director and this title. All traffic control devices such as parking strips designating car stalls, directional arrows or signs, curbs, bull rails, and other developments shall be installed and completed as shown on the approved plans. Hard surfaced parking areas shall use paint or similar devices to delineate parking stalls and directional arrows. Pedestrian walks shall be curbed, or raised six inches above the lot surface. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.56.170 Illumination.

Any lights provided to illuminate any public parking area, any semi-public parking area, or private parking lot or parking garage area permitted by this title shall be arranged so as to reflect the light away from any dwelling unit and the public right-of-way. Flashing lights are only allowed for essential public facilities and must be approved by the State Highway Department and/or the public works director. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

Chapter 17B.58
LANDSCAPING

Sections:

17B.58.010 Intent.
17B.58.020 Applicability.
17B.58.030 Landscape plans.
17B.58.040 Landscaping requirements for parking lots.
17B.58.050 Street frontages.
17B.58.060 Additional landscape requirements for the waterfront mixed-use district.
17B.58.070 Landscape requirements and specifications.
17B.58.080 Maintenance of landscaping.
17B.58.090 Landscaping of required yards.
17B.58.100 Screening.
17B.58.110 Pedestrian walkway.

17B.58.010 Intent.

The purpose and intent of this chapter is to encourage healthy, attractive landscapes in the property and to assist property owners in developing their property in a manner which is consistent with its natural constraints. Minimum requirements and standards are established to promote safety, provide screening between incompatible uses, to safeguard privacy, to promote wise and efficient use of potable water resources, to protect water quality and aesthetics of streams and wetlands and the aesthetic assets of to community, and to reduce the impact of development on the environment. It is expected that good landscaping design principles will be applied at all times, including:

A. Spacing for proper growth and root development.

B. Layering of landscaping, including groundcover, scrubs and trees.

C. Safety to pedestrian and vehicular traffic.

D. Proper access and patrol for fire and police departments.

E. Wise and efficient use of water resources.

F. Planting variety to add spring, summer and fall color.

G. Enhance the streetscape using street trees.

H. Providing relief to blank walls or buffers to parking lots and parking garages. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.58.020 Applicability.

Landscaping shall be required according to the provisions of this chapter for all uses except single-family dwellings and shall apply throughout the city. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.58.030 Landscape plans.

A. A plan of the proposed landscaping and screening shall be provided, which shall be incorporated into plans submitted for building permit review.

B. Landscape plans shall be drawn to scale, including dimensions and distances, and shall clearly delineate the existing and proposed parking spaces or other vehicular use area, access aisles, driveways, and the location, size and description of all landscape materials using both botanical and common names.

C. Landscape plans shall be subject to the approval of the planning director. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.58.040 Landscaping requirements for parking lots.

A. Purpose. The purpose of parking lot landscaping is to soften the visual appearance, screen views of parking lots, add shade, limit the amount of impervious surface and reinforce safe pedestrian access to buildings and connecting sidewalks.

1. To break up the visual effect created by large expanses of barren asphalt;

2. To encourage the preservation of mature evergreen and other large trees which presently grow throughout the county;

3. To ensure the preservation of land values by creating an environmental quality that complements the objectives of the respective land uses.

B. Landscape Plans. No building permit shall be issued where landscaping is required until a landscaping plan has been submitted and approved by the planning director.

C. Parking Lots. Parking lot landscaping shall consist of all of the following:

1. One tree for every six parking stalls. Trees to consist of shade canopy deciduous trees a minimum of two inches in caliper.

2. Five shrubs shall be provided for every one hundred fifty square feet of parking island.

3. Evergreen groundcovers shall be planted to achieve ninety percent coverage within three years of the time of planting. Lawn may be used in lieu of shrubs and groundcovers for parking islands exceeding two hundred square feet in area.

4. A landscape island shall be provided at the end of parking aisles.

5. The total of all interior landscaped areas shall be equal to or greater than ten percent of the total parking lot area (including parking, maneuvering, and loading areas). The first five feet in width of perimeter landscaped areas abutting public rights-of-way may count towards the requirement.

6. If grass pave, rain store, or an equivalent alternative is proposed for the parking lot design, an alternative landscape plan may be approved the city; provided, that the intent of this chapter has been met.

7. Shrubs shall be planted to have a three-foot minimum height differential from the parking lot and shall be spaced to form a continuous shrub to shield parking and pedestrian areas.

D. Additional Plantings. Additional plantings may be placed on street right-of-way behind the sidewalk line if the property owner provides the city with a written release of liability for damages which may be incurred to the planting area from any public use of right-of-way.

E. Amount and Location. Ten percent of the parking area shall be in landscaping; provided, that:

1. No landscaping area is less than fifty square feet in area;

2. No parking stall is located more than forty-five feet from a landscaped area. The city may approve landscaping plans involving alternatives to this specification for individual properties if it finds the alternatives would be more effective in meeting the purposes of this section;

3. All landscaping must be located between parking stalls, at the end of parking columns, or between stalls and the property line. No landscaping which occurs between the parking lot and a building or recreation area shall be considered in the satisfaction of these requirements.

F. Size Exception. Parking lots containing less than twelve parking spaces need provide only perimeter screening to satisfy the ten percent area requirements.

G. Materials Used. Planting areas shall include liberal landscaping using primarily such materials as trees, ornamental shrubs, lawn, groundcover or combinations of such materials placed in three layers.

H. Protective Curbing. All landscaped areas shall be protected from vehicle damage by a six-inch protective curbing and, if necessary, wheel blocks.

I. Timing of Installation. All required landscaping shall be installed prior to building occupancy; provided the planning director may authorize up to a one hundred twenty-day delay where planting season conflicts would produce high probability of plant loss. For the maintenance and/or replacement of landscape areas, a bond or assignment of funds to the city in a reasonable amount and for a reasonable duration as determined by the planning director shall be required.

J. Setback. Parking lots shall be set back a minimum of five feet from any property line and shall be landscaped to screen vehicles from the sidewalk. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.58.050 Street frontages.

A. A streetscape landscape zone shall be required for all streets. The purpose of these streetscape landscape improvements is to promote an aesthetic "urban" streetscape while screening parking fields from drivers and pedestrians.

B. The streetscape landscape shall consist of a minimum five-foot-wide planting strip adjacent to the curb and a minimum five-foot and up to a ten-foot-wide sidewalk.

C. Landscaping shall consist of the following:

1. Two-and-one-half-inch caliper deciduous street trees shall be planted twenty feet on center within the right-of-way planting strip. Street tree varieties to include sunset maples or those complementary to the surrounding developments.

2. Evergreen groundcovers shall be planted to achieve ninety percent coverage within three years of the time of planting. Low perennials are encouraged within the planter strips.

3. Cul-de-sac street trees to be planted inside of sidewalk for fire trucks.

4. Individual planters (e.g., half wine barrels) and hanging baskets are encouraged and may be credited as meeting some of the landscaping requirements. Other adjustments/credits to the landscape requirements may be made at the discretion of the planning director. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.58.060 Additional landscape requirements for the waterfront mixed-use district.

Development in waterfront mixed-use district should have extensive landscaping of large parking areas, along streetscapes and for pedestrian-oriented open spaces which can be seen from the street and pedestrian-oriented areas. Landscaping can also help to define areas and separate areas thereby bringing a human scale to these intense uses.

A. The waterfront area has the potential of suffering from large paved areas causing temperatures to rise during warmer months, from having declining air quality due to increased transportation uses, and from appearing to be a vast wasteland of parking lots. Vegetation and trees can help mitigate these conditions, by providing shade that will lower temperatures, and by helping to clean the air.

1. Parking areas should have one tree per every four parking stalls. (See Section 17B.25.120, Guideline 21: Parking Lots—Landscaping Design.)

B. Parking areas must be screened from all pedestrian-oriented areas through the use of trees, shrubs, walls and/or trellis structures with plants. See Section 17B.25.120, Guideline 21: Parking Lots—Landscape Design.

C. Parking lots should provide landscaping next to buildings and along walkways. Parking lots should provide enough trees so that fifty percent of the lot is shaded within a five-year period and landscape beds have a ninety percent ground coverage in three years.

D. Arbors or trellises supporting living landscape materials should be considered for ornamentation on exterior walls. Any such feature should cover an area of at least one hundred square feet and include sufficient plantings to achieve at least thirty percent coverage by plant materials within three years.

E. Where pedestrian activity is encouraged onto the site, the screening doesn't have to be site obscuring.

F. Utilities are required to be under ground, and aboveground equipment should be located away from major pedestrian streets and corners. Equipment boxes and vaults must be placed in back of the sidewalk and where landscaping can minimize or screen their impact. See Section 17B.25.120, Guideline 12: Screening Utility Equipment and Services. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.58.070 Landscape requirements and specifications.

The following landscape requirements and specifications shall apply to all landscaping required under this chapter.

A. Plant Selection. All plants shall be adapted to their sites (sun exposure, cold hardiness, hydrozones, soil type, soil pH, etc.). Plants with differing environmental/cultural requirements shall not be used together if desirable circumstances cannot be provided for both. New plant materials shall consist of native or drought tolerant varieties or nonnative species that have adapted to the climatic conditions of the Puget Sound region.

B. Plant Sizes for Streetscape Landscape. Minimum plant sizes for new landscape buffers shall be as follows:

1. Groundcovers: minimum four-inch pots planted to achieve ninety percent coverage within three years.

2. Shrubs: eighteen-inch height for required shrubs.

3. Canopy street trees: two-one-half-inch caliper.

4. Deciduous trees: two-inch caliper for canopy trees between five-foot to six-foot height for multi-stem trees.

5. Evergreen trees: six-foot height.

C. Plant Sizes for all Parking Lot Areas.

1. Groundcovers: four-inch pot with twelve-inch spacing or one-gallon pot with eighteen-inch spacing;

2. Interior shrubs: eighteen-inch height or spread for required shrubs.

3. Buffer shrubs: twenty-four-inch height or spread for required shrubs.

4. Deciduous trees: two-inch caliper.

5. Evergreen trees: six-foot height.

D. Plant Standards. All plant materials used shall meet the most recent American Association of Nurserymen Standards for nursery stock: ANSI 260.1.

E. Tree Pruning. All pruning shall be done in accordance with the International Society for Arboricultural Standards. It is required that all pruning be done to current standards. In no case is tree topping allowed except to create snags in critical areas.

F. Shrub Pruning. Shrubs shall not be pruned below the minimum heights required by these standards.

G. Soil Porosity. Soils in planting areas shall have adequate porosity to allow root growth. Soils which have been compacted to a density greater than eighty-five percent (penetrable with a hand shovel) shall be loosened to increase aeration to a minimum depth of eighteen inches or to the depth of the largest plant root ball, whichever is greater. Imported top soils shall be tilled into existing soils to prevent distinct soil interface from forming. After soil preparation is completed, motorized vehicles shall be kept off the area to prevent compaction and damage to underground irrigation systems and utilities.

H. Tree Protection. Where vehicles overhang into required landscape areas, trees shall be located such that they are not damaged by parked vehicles. Trees in lawn areas are required to have a mulched bed extending twelve inches in all directions from the base of the tree.

I. Water-Wise Planting. Plants having similar water use characteristics (hydrozones) shall be grouped together.

J. Water-Wise Irrigation. A permanent (or temporary for establishment with temporary being at least two years), efficient irrigation system shall be installed in all landscapes that do not have high soil moisture conditions. The system shall be designed to conserve water by using the best practical techniques available. Best practical management techniques available may include, but not be limited to: automatic controllers to ensure proper duration of watering, sprinkler head selection and spacing designed to minimize overspray, and separate zones for turf and plants with similar hydrozones and for full sun exposure and shady areas to meet watering needs of different sections of the landscape.

K. Water-Wise Mulches and Soil Amendments. Soil amendments may be necessary for a healthy growing medium, which will increase the survival rate for new planting and reduce on-going maintenance requirements. The following guidelines shall be followed when amending soil:

1. Incorporate water and nutrient holding materials into the soil as deep as possible.

2. Use fully composted organic material.

3. Mulch new planting areas to minimize evaporation, reduce weed growth and slow erosion.

4. Use fully composted material.

5. All mulches used in planter beds shall be feathered to the base of the plants. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.58.080 Maintenance of landscaping.

Whenever landscaping is required under the provisions of this code, shrubs and trees in the landscaping and planting areas shall be maintained in a healthy growing condition. Dead or dying trees or shrubs shall be replaced immediately, and the planting area shall be maintained free of weeds and trash. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.58.090 Landscaping of required yards.

All required front and side yard areas abutting on the improved streets or highways traveled by the public shall be landscaped with planting materials such as lawn, shrubs, flowers and deciduous and evergreen trees, except those portions of the area covered by driveways or sidewalks. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.58.100 Screening.

A. Trash, Recycling and Storage Area Screening. All dumpsters, individual refuse containers, trash compactors and permanent storage areas ("containers") shall meet the following standards:

1. An architectural screen a minimum of one foot in height greater than the tallest portion of the container, or a minimum of six feet in height, shall surround all sides except the access entry. Building walls of adjacent structures may be used to partially satisfy this requirement. Screen walls shall be a solid visual screen constructed out of concrete block and/or masonry units. Wood may be used for gates, trellises, and other architectural screening elements that complement the surrounding buildings.

2. Container door(s) shall provide a solid visual screen and be constructed out of wood.

3. A concrete slab shall be installed as the base material within the container.

4. Landscape plant materials shall be used to soften the appearance of the container. Trellis-like elements with vines are encouraged to screen views into the enclosure from above. The three sides of the container that are not used for access shall be landscaped.

5. Recycling areas shall be conveniently located near central trash areas. They shall be large enough to contain the separate recycling of green yard materials, newspapers/print, glass (clear and mixed), plastic, and aluminum cans.

B. Screening of Loading Docks. Loading docks shall be screened to minimize and break up visibility from the right-of-way and pedestrian paths as may be practicable with fencing and or vegetation, such as evergreen hedges, as well as trees and shrubs. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.58.110 Pedestrian walkway.

The waterfront promenade shall provide for maximum pedestrian accessibility along the waterfront. The intent of the waterfront promenade is to have a walkway/boardwalk or beach access from Lighthouse Park to the eastside of the rail—barge facility at the Everett city limits.

A. All new development will have a minimum setback of twenty (20) feet from rip rap. A fifteen (15) foot promenade shall be built within the twenty (20) foot setback that conform to the waterfront promenade standards or to provide access to the beach.

B. The shoreline program requires breaks between buildings to facilitate access to the water.

C. A pedestrian overpass should connect the Sound Transit pedestrian overpass with Mukilteo Lane with pedestrian stairs leading up to Second Street and Loveland Avenue. The purpose of this overpass is to connect the Old Town area with Mukilteo Landing and the waterfront.

D. Sidewalks along Front Street should be a minimum of eight (8) feet. Sidewalks in the WMU area should be no less than five feet. All sidewalks shall be constructed of concrete, and intersections shall have special treatments which include the city's salmon imprint and scored pedestrian crosswalks. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

Chapter 17B.68
NONCONFORMING USES, BUILDINGS AND LOTS

Sections:

17B.68.010 Purpose.
17B.68.015 Applicability
17B.68.020 Permitted nonconforming uses.
17B.68.030 Discontinuance.
17B.68.040 Change of ownership.
17B.68.050 Nonconforming uses.
17B.68.060 Nonconforming buildings.
17B.68.070 Nonconforming lots.
17B.68.080 Restoration of buildings.
17B.68.090 Abatement.

17B.68.010 Purpose.

The purpose of this chapter is to provide for those circumstances, uses and lots which would not be consistent with regulations of this title but which enjoy rights of privilege based on their previous legal existence. The objective of this title and this chapter is to set the terms by which all nonconforming buildings, uses, and lots will ultimately be brought into compliance with the terms of this title as it is adopted and amended. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.68.015 Applicability

All nonconformances in shoreline jurisdiction shall be subject to the provisions of this chapter. For nonconformance of use, structures and lots within shoreline critical areas, Chapter 17B.52, Critical Areas Regulations, and MMC 17B.68 apply. When there is a conflict between this chapter and Chapter 17B.52 as applicable to critical areas, the more restrictive standards shall apply.

17B.68.020 Permitted nonconforming uses.

A. A use (including the building and land it occupies) which existed prior to the adoption of the ordinance codified in this title which would be permitted under the terms of this law as a conditional use is considered a conforming permitted use and requires no further action. If such a conditional use is expanded, it is required to comply with the requirements for obtaining conditional use permits.

B. All uses, buildings or lots which do not conform to the provisions of this title are considered nonconforming. Any such use, building or lot legally existing prior to the adoption of this law shall be allowed to continue as is provided by the regulations of this chapter. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.68.030 Discontinuance.

If a nonconforming 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. Any future uses shall be in compliance with the use regulations of the district in which it exists. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.68.040 Change of ownership.

Ownership, tenancy, or management of an existing nonconforming use may be changed as long as the use is not altered. Change of character is allowed when a use is changed from nonconforming to conforming. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.68.050 Nonconforming uses.

Expansion of an existing nonconforming use or intensification of an existing nonconforming use within the confines of an existing structure or lot may only occur subject to the following conditions:

A. Uses and developments that were legally established and are nonconforming with regard to the use regulations of this title may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC 173-27-040(2)(g) upon approval of a conditional use permit.

B. A use which is listed as a conditional use but which existed prior to adoption of this title, or any relevant amendment, and for which a conditional use permit has not been obtained shall be considered a nonconforming use.

C. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:

1. No reasonable alternative conforming use is practical; and

2. The proposed use will be at least as consistent with the policies and provisions of the act and the master program and as compatible with the uses in the area as the preexisting use.

D. To ensure that the use will not become a nuisance or a hazard, the city may attach conditions to the permit as are deemed necessary to ensure compliance with the requirements of this title and the Shoreline Management Act. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.68.060 Nonconforming structures~~buildings~~.

Nonconforming ~~buildings~~ structures may be altered, repaired, enlarged, added to or moved only as regulated by this section.

A. Structures that were legally established and are used for a conforming use but are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density ~~may continue as legal nonconforming structures~~shall be considered conforming structures and may be maintained and repaired.

B. Nonconforming structures may be enlarged or expanded provided that said enlargement meets the applicable provisions of the master program. In the absence of other more specific regulations, proposed expansion shall not increase the extent of nonconformity by further encroaching upon or extending into areas where construction would not be allowed for new structures, unless a shoreline variance permit is obtained.

C. Nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC 173-27-040 (2)(g) upon approval of a conditional use permit.

D. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

E. In the absence of other more specific regulations, a structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:

(i) No reasonable alternative conforming use is practical; and

(ii) The proposed use will be at least as consistent with the policies and provisions of the act and the master program and as compatible with the uses in the area as the preexisting use.

(iii) In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the master program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.

F. A nonconforming structure which is moved any distance must be brought as closely as practicable into conformance with the applicable master program and the act.

G. If a nonconforming development is damaged to an extent not exceeding seventy-five percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within two years of the date the damage occurred.

~~**A. Structures that were legally established and are used for a conforming use but which are nonconforming with regard to setbacks, buffers or yards, area, bulk, height or density may be maintained, repaired, enlarged, or expanded; provided, that said enlargement does not increase the**~~

~~extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.~~

~~B. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.~~

~~C. A nonconforming structure which is moved any distance must be brought into conformance with the requirements of this title and the Shoreline Management Act. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)~~

17B.68.070 Nonconforming lots.

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 Shoreline Management Act or the Mukilteo shoreline master program but which does not conform to the present lot size standards may be developed if permitted by other land use regulations of the city and so long as such development conforms to all other requirements of this title. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.68.080 Restoration of buildings.

If a nonconforming development is damaged to an extent not exceeding seventy-five percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged; provided, that application is made for the permits necessary to restore the development within six months of the date the damage occurred and all permits are obtained and the restoration is completed within two years of permit issuance. For the purposes of this section “damage” means property damage caused by earthquakes, landslides, floods, storms, accidental fires or other accidental causes beyond the control of the owner. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.68.090 Abatement.

Whenever the owner of a nonconforming use, building or lot fails to discontinue or remove a nonconforming use consistent with the provisions of this title, the city shall take such action as may be necessary to abate the use. Such action shall include the following:

A. The code enforcement officer shall make a determination regarding the kind of violation, the length of time the use, building or lot has been in violation of this title and the date the nonconforming use was established;

B. Written notification shall be given the property owner and the occupant regarding the violation and the date the city intends to take action; and

C. Violations continuing past the date specified are subject to the penalties prescribed in Title 18. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

Chapter 17B.72
ADMINISTRATION

Sections:

17B.72.010 Authority.
17B.72.020 Interpretation.
17B.72.030 Jurisdiction.
17B.72.040 Minimum requirements.
17B.72.050 Zoning and shoreline regulations review.
17B.72.060 Amendments to Mukilteo shoreline regulations.

17B.72.010 Authority.

The authority to administer and to enforce this title is granted to the mayor or ~~his~~ designee as provided for in this section:

A. Mayor or ~~His~~ Designee. Except as otherwise provided in Section 17B.13.010, the mayor or ~~his~~ designee shall administer and enforce this title and shall:

1. Issue all building permits, certificates of occupancy, and maintain records thereof;

2. Issue all variance and conditional use permits which have been granted under the provisions of Chapter 17B.13, Procedures, and Chapter 17B.64, Conditional Uses and Variances, and maintain records thereof;

3. Conduct inspections which are necessary to ensure compliance with the regulations of this title;

4. Make a determination from public records concerning nonconforming uses and issue written statements of intent to all violators of the nonconforming use regulations of this title. The statements shall be sent by certified mail; and

5. Perform all other duties as assigned ~~to him~~ by this title.

B. Hearing Examiner. The hearing examiner performs the following functions:

1. Establishes the rules and regulations as are necessary to perform ~~his or her~~ functions. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.72.020 Interpretation.

When it is the case that there is confusion regarding the purpose of a particular section or subsection of this code, it is the responsibility of the city attorney to interpret this title. When there is confusion regarding how a particular section or subsection of this code is to be applied in an individual instance, it

is the responsibility of the mayor or ~~his~~ designee to interpret this title. The interpretations shall be strictly in accordance with the provisions of this section.

A. Application of Standards. In the interpretation and application of this title it is the minimum standards which shall apply for the protection and promotion of the public health, morals, safety, comfort and general welfare.

B. Overlapping Regulations. Whenever this title imposes a restriction which is greater than any other restriction on the use of buildings, the provisions of this title shall apply.

C. Other Permits and Agreements.

1. Building Permits Issued Before the Effective Date of the Ordinance Codified in This Title. All building permits issued before the effective date of the ordinance codified in this title are considered valid; provided, that the building permit was issued prior to the effective date of the ordinance codified in this title, and that the permit has not expired prior to the effective date of the ordinance codified in this title, and that construction was begun as provided for by the permit prior to the effective date of the ordinance codified in this title and is being carried on under the terms of that permit;

2. Occupancy Permits. Any new building completed but unoccupied prior to the effective date of the ordinance codified in this title must receive an occupancy permit prior to the occupancy. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.72.030 Jurisdiction.

The provisions and standards contained in this title are held to be minimum standards with which compliance is essential to the permitted uses, and shall not be construed as limiting the legislative discretion of the city council to further restrict the permissive uses, or to withhold or revoke permits for uses where, notwithstanding the existence of the minimum standards set forth in this title, the promotion and protection of the public health, safety and welfare bears a substantial relation to the withholding, denial or revocation of permits or uses. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.72.040 Minimum requirements.

In their interpretation and application, the provisions of this title are held to be minimum requirements adopted for the public health, safety and general welfare. Whenever the requirements of this title differ from the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive of those imposing the higher standards shall govern. It is not intended by this title to interfere with or abrogate or annul any easements, covenants, restrictions or other lawful agreements between private parties. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.72.050 Zoning and shoreline regulations review.

This title shall be periodically reviewed and adjustments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and regulations. This review process shall be consistent with ~~Chapter~~ WAC 173-26-104 ~~WAC and/or Chapter RCW~~ and shall include public hearings to obtain the views and comments of the public. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.72.060 Amendments to Mukilteo shoreline regulations.

A. Any of the provisions of this title may be amended as provided for in RCW 90.58.060~~120~~ and 90.58.1~~2~~00 and Chapter 173-26 WAC. Amendments or revisions to this title ~~do not~~ become effective ~~until~~ 14 days from ~~approved by~~ the Washington State Department of Ecology's written notice of final action.

B. Proposals for shoreline environment redesignation (i.e., amendment to the shoreline maps and descriptions) must demonstrate consistency with the criteria set forth in WAC 173-22-040. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

C. Amendments to the shoreline master program may follow the optional SMP amendment process that allows for a shared local/state public comment period for efficiency as outline in WAC 173.26.104~~04~~.

D. Amendment submittals sent to the Washington State Department of Ecology for final review should by in digital format and include a summary of amendments made in response to public comments and the final periodic review checklist and clarified in WAC 173-26-110 and WAC 173-26-120.

17B.72.070 Moratoria authority.

A. The City may adopt moratoria or other interim official controls as necessary and appropriate to implement C~~c~~hapter 90.58 RCW.
B. Adopting a moratorium or control under this section the City must:
   1. Hold a public hearing on the moratorium or control within sixty days of its adoption;
   2. Adopt detailed findings of fact that include, but are not limited to, justifications for the proposed or adopted actions and explanations of the desired and likely outcomes;
   3. Notify the Department of Ecology of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing required by this subsection;
   4. Provide that all lawfully existing uses, structures, or other development shall continue to be deemed lawful conforming uses and may continue to be maintained, repaired, and redeveloped, so long as the use is not expanded, under the terms of the land use and shoreline rules and regulations in place at the time of the moratorium.

C. A moratorium or control may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review. A moratorium or control may be renewed for two six-month periods if the city complies with subsection (B)(1) of this section before each renewal. If a moratorium or control is in effect on the date a proposed master program or amendment is submitted to the department, the moratorium or control must remain in effect until the department's final action under RCW 90.58.090; however, the moratorium expires six months after the date of submittal if the Department of Ecology has not taken final action.

Chapter 17B.80
SIGNS

Sections:

17B.80.010 Intent.
17B.80.020 Signage in waterfront mixed-use district, urban waterfront environment, parks and open space district, and urban waterfront park environment.
17B.80.030 Signage in shoreline urban conservancy environment.
17B.80.040 Signage specific to shorelines.

17B.80.010 Intent.

The intent of these signage requirements is to encourage creative signs which have a strong design relationship to the architectural and site design elements of the project. This chapter describes sign types which are allowed in the waterfront mixed-use district, and within the two-hundred-foot shoreline jurisdiction. These sign regulations shall serve as guidelines in the park and open space district as signs in this district shall be included in the project permits for park development or redevelopment and are approved administratively by the planning director. Signs shall also comply with all other adopted procedures and standards as listed in the city's sign code regulations which limit sign height and placement which in effect protects public view of the water. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.80.020 Signage in waterfront mixed-use district, urban waterfront environment, parks and open space district, and urban waterfront park environment.

Signage in the waterfront mixed-use and downtown business district and urban waterfront environment should clearly relay information and should be appropriate scale to the buildings and should focus on the close-in nature of the slow vehicle and pedestrian traffic. Signage shall be consistent throughout the district, except for essential public facilities:

A. Signage throughout the waterfront area should be consistent, while public transportation should have its own character but which is complementary to signage for private development, other public transportation or facility design and to the public project's building character.

B. Windows along Front and First Streets can have painted or etched lettering above seven feet as signage for the business.

C. Signs should be an integral part of the building rather than an afterthought. Wall-mounted signs shall not project more than six inches from the building.

D. Wall signs shall not be internally illuminated.

E. Sign creativity is encouraged. Signs may be fabricated of mixed media, including metal reverse-illuminated letters, suspended neon letters, illuminated individual letters, signs etched or cut out of solid material such as wood or brass and illuminated from behind.

F. Building-mounted or wall signs for retail shops and commercial area will be located in the storefront area above the door height and below canopy (typically eight feet above floor).

G. Signs shall be centered between architectural elements and between columns to allow building architecture to be expressed. Signs shall not necessarily be centered on lease premises.

H. Signs shall be compatible in scale and proportion with building design and other signs.

I. Signage shall be placed facing primary pedestrian streets.

J. Letter height shall not exceed eighteen inches. Larger first letters up to twenty-four inches will be permitted.

K. Length of the signs shall not be more than two-thirds of the overall "tenant" facade area or less than three feet from demising wall of lease premises. Each sign is calculated separately and shall conform to all applicable maximum area limitations. Calculated maximum areas are not transferable to other facades. Each tenant is allowed to place signage on no more than two facades.

L. Pole and monument signs are prohibited.

M. Wall signs shall not exceed ten percent of the front building facade, or tenant space, that faces a public street. Wall signs on the side and rear of the building may not exceed five percent of the building facade. At a minimum each business having a facade which faces the public street frontage shall be permitted one wall sign having a maximum twenty square feet of sign area. For the purpose of calculating the facade for wall sign area that portion of the front facade above the bearing walls shall be excluded. For multiple-tenant buildings the sign area shall be calculated using only the facade area leased by the tenant (for example, if a building has one hundred square feet of facade area and there are two tenants with equal facade area then each tenant shall be allotted fifty square feet of facade area). Towers, cupolas, parapets, pitched roofs, trusses, poles, chimneys, and other architectural, artistic or mechanical features shall not be counted towards the facade area.

N. Awnings with signs painted on them are allowed, but the awnings cannot be internally illuminated and the signage area counts against the overall wall signage allowance.

O. Overhanging, building-mounted or blade signs which hang from the canopy, arcade or building front may be utilized to increase visibility. Overhanging signs shall not have an area of more than three square feet or exceed two inches in thickness. Overhanging signs area is not included in signage area allowed under the sign code. The bottom of the sign should not be lower than eight feet above ground.

P. Signs shall be consistent with Section 17B.25.120, Guideline 13: Sign Integration, Guideline 14: Sign Creativity and Guideline 15: Building-Mounted Signs and Lighting. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.80.030 Signage in shoreline urban conservancy environment.

Only public service directional or informational signs shall be allowed in the shoreline urban conservancy environment. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.80.040 Signage specific to shorelines.

A. Over-water sign(s) on floats or pilings shall be permitted only when related to a water-dependent use, transportation facilities, and for navigation, information, or other public information purposes.

B. Permitted Signs. The following additional types of signs are permitted in all shoreline areas, subject to the provisions contained within this section:

1. Water navigational signs, highway and railroad signs, and other like informational signs necessary for operation, safety, and direction;

2. Public information, interpretative and/or directional signs directly related to a shoreline use or activity;

3. Signs with changing (variable) messages; provided, that the information displayed is public messages or travel-related information;

4. National, state, or institutional flags or temporary decorations customary for special holidays and similar events of a public nature as approved or co-sponsored by the city;

5. Temporary directional signs to public, city co-sponsored or quasi-public events if removed at the end of the event. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

Chapter 17B.84
STATE ENVIRONMENTAL POLICY ACT (SEPA)

Sections:

17B.84.010 Compliance.
17B.84.020 Interaction of SEPA with the shoreline management process.
17B.84.030 Interaction of NEPA with the shoreline management process.
17B.84.040 Projects partially within shoreline jurisdiction.
17B.84.050 Flexible thresholds for categorical exemptions.

17B.84.010 Compliance.

A. Compliance with SEPA, including all review or waiting periods, is required before a decision on an application can be made.

B. Every shoreline substantial development permit must be accompanied by demonstration of compliance with the State Environmental Policy Act (SEPA), through an environmental impact statement (EIS), a determination of nonsignificance (DNS), environmental checklist, or a determination of categorical exemption.

C. The shoreline substantial development permit application and SEPA analysis should identify future uses intended for the site to avoid the possibility of piecemeal or inappropriate phasing of development.

D. Project review conducted pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, shall occur concurrently with project review set forth in this chapter. Except as modified by this chapter, the SEPA review process shall follow the provisions of Chapter 43.21C RCW and Chapter 197-11 WAC. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.84.020 Interaction of SEPA with the shoreline management process.

A. Conditioning and denial of a shoreline permit may be done under powers granted by SEPA rules (WAC 197-11-660).

B. The SEPA checklist must identify all local, state, and/or federal permits or approvals that may be required.

C. If required, an EIS should include an evaluation of the project's consistency with existing plans and policies (e.g., the local SMP) and zoning regulations. (Note: Only those elements that will be "significantly" impacted need to be evaluated in an EIS. The land use element of SEPA may not be significantly impacted enough to be included in a final EIS.)

D. Shoreline substantial development permits shall not be issued until the SEPA review periods are complete to allow for appeals (fourteen-day review for DNSs; seven-day waiting period for a final EIS). (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.84.030 Interaction of NEPA with the shoreline management process.

A. Federal agencies are required to consider the environmental impacts of agency sponsored developments, permits, and grants under processes defined by the National Environmental Policy Act (NEPA).

B. NEPA requires full disclosure of environmental impacts and their consideration by an agency prior to a decision.

C. Under NEPA, agencies prepare an environmental assessment ("EA"), and use it to determine whether an EIS is required. For projects not requiring an EIS, a finding of no significant impact (FONSI) is issued.

D. NEPA requires examination of some economic, social justice, and other technical considerations that are excluded from SEPA. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.84.040 Projects partially within shoreline jurisdiction.

For projects only partially located within shoreline jurisdiction, the State Environmental Policy Act (SEPA) would apply to the entire project. While the shoreline permit must incorporate consideration of the entire integrated project and a determination of consistency with the policies of the SMA and the local SMP must be made, only the portion within the shoreline jurisdiction must meet the SMA and local SMP regulations and standards (e.g., height limit, lot coverage, etc.). (Ord. 1295 § 10 (Exh. 1B) (part), 2011)

17B.84.050 Flexible thresholds for categorical exemptions.

A. The city establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(d~~b~~) in the following zoning districts: WMU, POS, and within the two-hundred-foot shoreline jurisdiction.

1. For single-family residential projects ~~dwelling units in WAC (1)(b)(i)~~: up to ~~twenty~~ thirty dwelling units;

2. For multifamily residential projects, up to sixty dwelling units;

3. For agricultural structures in WAC 197-11-800(1)(d~~b~~)~~(ii)~~: up to ~~thirty~~ forty thousand square feet;

4~~3~~. For office, school, commercial, recreational, service or storage buildings, ~~in WAC (1)(b)(iii):~~ up to thirty ~~eight~~ thousand square feet;

5. For parking facilities, up to ninety ~~and up to thirty~~ parking spaces;

6~~4~~. For parking lots in WAC 197-11-800(1)(b)(iv): up to ~~forty~~ ninety parking spaces;

7~~5~~. For landfills and excavations in WAC 197-11-800(1)(b)(v): up to one thousand ~~five hundred~~ cubic yards;

17B.84.051 Categorical exemptions without flexible thresholds.

A. Actions listed in WAC 197-11-800(2)(25).

~~A.~~B.~~6.~~ The following wireless communications facilities not in a designated environmentally sensitive area and which do not consist of a series of actions, some of which are not categorically exempt, or that together may have a probable significant adverse environmental impact:

1.~~a~~. The siting of wireless service facilities are exempt if:

(i) The collocation of new equipment, removal of equipment, or replacement of existing equipment on existing or replacement structures that does not substantially change the physical dimensions of such structures; or

(ii) The siting project involves constructing a wireless service tower less than sixty feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone.

2. For the purposes of this subsection:

(i) " Wireless services" means wireless data and telecommunications services, including commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(ii) "Wireless service facilities" means facilities for the provision of wireless services.

(iii) "Collocation" means the mounting or installation of equipment on an existing tower, building, structure for the purposes of either transmitting or receiving, or both, radio frequency signals for communication purposes.

(iv) "Existing structure" means any existing tower, pole, building, or other structure capable of supporting wireless service facilities.

(v) "Substantially change the physical dimensions" means:

a. The mounting of equipment on a structure that would increase the height of the structure by more than ten percent, or twenty feet, whichever is greater; or

b. The mounting of equipment that would involve adding an appurtenance to the body of the structure that would protrude from the edge of the structure more than twenty feet, or more than the width of the structure at the level of the appurtenance, whichever is greater.

c. This exemption does not apply to projects within a critical area designated under GMA

~~Microcells to be attached to an existing structure that is not a residence or school and does not contain a residence or a school;~~

~~b. A facility that includes personal wireless service antennas, other than a microcell, and is to be attached to an existing structure (which may be an existing tower) that is not a residence or school and does not contain a residence or a school, and is located in a commercial, industrial, manufacturing, forest, or agricultural zone; and~~

~~c. A facility that involves construction of a personal wireless service tower less than sixty feet in height that is located in a commercial, industrial, manufacturing, forest, or agricultural zone. (Ord. 1295 § 10 (Exh. 1B) (part), 2011)~~