

Tukwila City Council Agenda

REGULAR MEETING

December 7, 2009

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| | | |
|---------------------------------------|---|---|
| <p>6. UNFINISHED BUSINESS (Cont.)</p> | <p>c. Authorize the Mayor to sign a contract with Phillip Hallstrom PJKH, LLC for the Seattle Southside Visitor Services Center (SSVS) website re-design in the amount of \$52,920.00 (see 11/23/09 C.O.W.).</p> <p>d. Authorize the Mayor to sign a contract with Lunar Cow for the Seattle Southside Visitor Services Center vacation planner re-design in the amount of \$50,910.00 (see 11/23/09 C.O.W.).</p> <p>e. Authorize the Mayor to sign an Interlocal Agreement with King County for services provided by the King County Road Services Division (see 11/23/09 C.O.W.).</p> <p>f. An ordinance adopting all King County Zoning, Land Use, Shoreline and other development regulations for any work related to the South Park Bridge.</p> <p>g. Authorize the Mayor to sign an amendment to Contract#06-059 with Commercial Development Solutions for 2010 project management services in the amount of \$132,000.00 (see 11/23/09 C.O.W.).</p> <p>h. An ordinance establishing new regulations regarding City cash reserves.</p> <p>i. Shoreline Master Program Ordinances (discussion only) (see 11/23/09 C.O.W.):</p> <p> 1) An ordinance approving and adopting a Shoreline Master Program update for the City of Tukwila to incorporate new State requirements.</p> <p> 2) An ordinance updating Comprehensive Plan policies for areas subject to shoreline jurisdiction to incorporate new State requirements.</p> <p> 3) An ordinance updating requirements for shoreline regulations to incorporate new State requirements regarding "Shoreline Overlay."</p> | <p>Pg. 33</p> <p>Pg. 35</p> <p>Pg. 37</p> <p>Pg. 39</p> <p>Pg. 51</p> <p>Pg. 53</p> <p>Pg. 63</p> <p>Pg. 67</p> <p>Pg. 101</p> <p>Pg. 113</p> |
| <p>7. NEW BUSINESS</p> | <p>a. An Interlocal Agreement with the cities of SeaTac, DesMoines and Covington for the implementation of the 2010 Minor Home Repair Program with the use of Community Development Block Grant funds in the amount of \$100,000.00.</p> <p>b. A resolution to reimburse capital expenditures in connection with the costs of the Southcenter Parkway Realignment in the Tukwila South annexation area, costs associated with the Strander Boulevard and Railroad Crossing improvements, and costs of flood control equipment, materials and supplies.</p> | <p>Pg. 169</p> <p>Pg. 181</p> |
| <p>8. REPORTS</p> | <p>a. Mayor c. Staff e. Intergovernmental</p> <p>b. City Council d. City Attorney</p> | |
| <p>9. MISCELLANEOUS</p> | | |
| <p>10. EXECUTIVE SESSION</p> | | |
| <p>11. ADJOURNMENT</p> | | |

Tukwila City Hall is wheelchair accessible.

Reasonable accommodations are available at public hearings with advance notice to the City Clerk's Office 206-433-1800/TDD 206-248-2933. This notice is available at www.ci.tukwila.wa.us, and in alternate formats with advance notice for those with disabilities.

Tukwila Council meetings are audio taped.

HOW TO TESTIFY

If you would like to address the Council, please go to the podium and state your name and address clearly for the record. Please observe the basic rules of courtesy when speaking and limit your comments to five minutes. The Council appreciates hearing from citizens, but may not be able to take immediate action on comments received until they are referred to a Committee or discussed under *New Business*.

COUNCIL MEETINGS

No Council meetings are scheduled on the fifth Monday of the month unless prior public notification is given.

Regular Meetings: The Mayor, elected by the people to a four-year term, presides at all Regular Council meetings held on the first and third Mondays of each month at 7 PM. Official Council action in the form of formal motions, adopting of resolutions and passing of ordinances can only be taken at Regular Council meetings.

Committee of the Whole Meetings: Council members are elected for a four-year term. The Council president is elected by the Council members to preside at all Committee of the Whole meetings for a one-year term. Committee of the Whole meetings are held the second and fourth Mondays at 7 PM. Issues discussed are forwarded to the Regular Council meeting for official action.

GENERAL INFORMATION

At each Council meeting citizens are given the opportunity to address the Council on items that are not included on the agenda during *Citizen Comment*. Please limit your comments to five minutes.

Special Meetings may be called at any time with proper public notice. Procedures followed are the same as those used in Regular Council meetings.

Executive Sessions may be called to inform the Council of pending legal action, financial or personnel matters.

PUBLIC HEARINGS

Public Hearings are required by law before the Council can take action of matters affecting the public interest such as land-use laws, annexations, rezone requests, public safety issues, etc. Section 2.04.150 of the Tukwila Municipal Code states the following guidelines for Public Hearings:

1. The proponent shall speak first and is allowed 15 minutes for a presentation.
2. The opponent is then allowed 15 minutes to make a presentation.
3. Each side is then allowed 5 minutes for rebuttal.
4. Citizens who wish to address the Council may speak for 5 minutes each. No one may speak a second time until everyone wishing to speak has spoken.
5. After each speaker has spoken, the Council may question the speaker. Each speaker can respond to the question, but may not engage in further debate at this time.
6. After the Public Hearing is closed, the Council may discuss the issue among themselves without further public testimony. Council action may be taken at this time or postponed to another date.

COUNCIL AGENDA SYNOPSIS



| -----Initials----- | | | | ITEM NO. 6. I. |
|--------------------|-------------|--------------------|--------------------|-----------------------|
| Meeting Date | Prepared by | Mayor's review | Council review | |
| 11/23/09 | JP | <i>[Signature]</i> | <i>[Signature]</i> | |
| 12/07/09 | JP | <i>[Signature]</i> | <i>[Signature]</i> | |
| 12/14/09 | JP | | | |
| | | | | |

ITEM INFORMATION

CAS NUMBER: **09-170** ORIGINAL AGENDA DATE: **NOVEMBER 23, 2009**

AGENDA ITEM TITLE **Four ordinances adopting a new Shoreline Master Program, revisions to Comprehensive Plan policies on the shoreline, a new shoreline overlay district, TMC 18.44 to replace the existing 18.44, and new definitions to be added to TMC 18.06.**

CATEGORY Discussion Motion Resolution Ordinance Bid Award Public Hearing Other
Date 11/23 & 12/7 Mitg Date Mitg Date Mitg Date 12/14/09 Mitg Date Mitg Date 4/20/09, Mitg Date

SPONSOR Council Mayor Adm Svcs DCD Finance Fire Legal P&R Police PW

SPONSOR'S SUMMARY **The council has held ten work sessions over the past five months to consider the Planning Commission recommended Shoreline Master Program (SMP). The Council has made revisions to this draft which are reflected in the revised SMP, the revised Comprehensive Plan policies, a new TMC 18.44, the Shoreline Overlay district of the Zoning Code, and new or revised definitions to be added to TMC 18.06. The Council is being asked to consider and approve these ordinances and the new Shoreline Master Program.**

REVIEWED BY COW Mtg. CA&P Cmte F&S Cmte Transportation Cmte
 Utilities Cmte Arts Comm. Parks Comm. Planning Comm.
 DATE: **10 work sessions over the past 5 months, concluding 11/17/09**

RECOMMENDATIONS:
 SPONSOR/ADMIN. **Department of Community Development**
 COMMITTEE **Ten Council work sessions to review SMP - 7/07/09 - 11/17/09**

COST IMPACT / FUND SOURCE

| | | |
|----------------------|-----------------|------------------------|
| EXPENDITURE REQUIRED | AMOUNT BUDGETED | APPROPRIATION REQUIRED |
| \$ | \$ | \$ |

Fund Source:
 Comments:

RECORD OF COUNCIL ACTION

| MTG. DATE | RECORD OF COUNCIL ACTION |
|-----------|--|
| 07/24/08 | Joint City Council/Planning Commission briefing on staff recommended SMP |
| 03/23/09 | Committee of the Whole briefing on Planning Commission recommended Draft SMP |
| 04/20/09 | Public Hearing |
| 11/23/09 | Forward to December 7 Regular Meeting for continued discussion |

ATTACHMENTS

| MTG. DATE | ATTACHMENTS |
|-----------|---|
| 11/23/09 | Informational Memorandum dated 11/19/09 |
| | Four SMP Ordinances, attachments and draft Cumulative Impacts Analysis |
| 12/7/09 | Informational Memorandum dated 12/02/09 |
| | Ordinance #1 and revised pages from Shoreline Master Program |
| | Ordinance #2 and revised Comprehensive Plan policies |
| | Revised Ordinance #3 and matrix identifying and explaining changes |
| | Summary of Comments received at November 23 C.O.W., per Council request |



INFORMATIONAL MEMORANDUM

TO: TUKWILA CITY COUNCIL

FROM: Carol Lumb, Senior Planner

DATE: December 2, 2009

SUBJECT: **Revisions to Ordinance #1 and Ordinance #2 Attachments and Ordinance #3, Shoreline Regulations**

Attached you will find three of the ordinances considered at the November 23, 2009 Committee of the Whole meeting.

Ordinance #1 is the ordinance adopting the Shoreline Master Program. Attached to this ordinance are the pages from the SMP that have been revised as a result of Council action on November 23, 2009. The changes have been identified in strikeout/underline format. Page numbers on the bottom left hand side of the documents are the page numbers from the SMP document you received in the November 23, 2009 Committee of the Whole agenda packet. No revisions were made to the ordinance text at the November 23 meeting.

Ordinance #2 is the ordinance that adopts revisions to the Shoreline Element of the Comprehensive Plan. Attached to the ordinance are the policies from the Comprehensive Plan Shoreline Element with the changes identified in strikeout/underline. No revisions were made to the ordinance text at the 11/23/09 meeting.

Ordinance #3 is the ordinance that adopts shoreline regulations (it will become the new Shoreline Overlay District and replace the current TMC 18.44). The revised ordinance is attached along with a **chart that identifies the changes made by the Council** at its meeting on November 23, 2009. Page number references in the chart are to the document you received in the November 23, 2009 Committee of the Whole Council meeting packet.

Also attached is a **summary of the verbal comments** received at the Committee of the Whole meeting on November 23, 2009, per the Council's request.

RECOMMENDATION

The Council is being asked to consider the 4 ordinances at the November 23, 2009 Committee of the Whole meeting and the December 7, 2009 Regular Meeting, and adopt the ordinances at the December 14, 2009 Special Meeting.

ATTACHMENTS

Ordinance #1 and revised pages from Shoreline Master Program
Ordinance #2 and revised Comprehensive Plan policies
Revised Ordinance #3 and Matrix Identifying and Explaining Changes
Summary of comments received at November 23, 2009 Committee of the Whole meeting

DRAFT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, APPROVING AND ADOPTING A SHORELINE MASTER PROGRAM UPDATE FOR THE CITY OF TUKWILA TO INCORPORATE NEW STATE REQUIREMENTS; REPEALING THE SHORELINE MASTER PROGRAM ADOPTED BY REFERENCE IN SECTION 5 OF THE COMPREHENSIVE PLAN, ADOPTED IN SECTION 1.A OF ORDINANCE NO. 1757; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City adopted a new Comprehensive Plan in 1995 to implement the goals and policies of the Growth Management Act of 1990 and the King County County-wide Planning Policies; and

WHEREAS, the Green/Duwamish River, a shoreline of the State regulated pursuant to RCW 90.58, runs through the entire length of the City of Tukwila; and

WHEREAS, due to the presence of the Green River in the City, the 1995 Comprehensive Plan included policies addressing shorelines; and

WHEREAS, as set forth in RCW 90.58.020, the State Legislature has found that shorelines of the State are among the most valuable and fragile of its natural resources and unrestricted construction on privately and publicly-owned shorelines of the State is not in the best public interest; and

WHEREAS, in RCW 90.58.020 the State Legislature directed local governments developing Shoreline Master Programs for shorelines of State-wide significance to give preference to the following uses, in order of preference, which: 1) recognize and protect the State-wide 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 shorelines; 6) increase recreational opportunities for the public in the shoreline; and 7) provide for any other element, as defined in RCW 90.58.100, deemed appropriate or necessary; and

WHEREAS, in 2003 the Washington State Department of Ecology (DOE) adopted new rules, pursuant to RCW 90.58.200, to carry out provisions of the Shoreline Management Act; and

WHEREAS, DOE's new rules are set forth in WAC 173-26, and these new rules provide direction to local jurisdictions concerning the regulation of uses on shorelines of the State; and

WHEREAS, RCW 90.58.080 directs local governments to develop or amend their shoreline master programs consistent with the required elements of the guidelines adopted by DOE, in accordance with a schedule established in that section; and

WHEREAS, the timetable set forth in RCW 90.58.080(2)(a)(ii) requires the City of Tukwila to amend its Shoreline Master Program by December 1, 2009; and

WHEREAS, the City began an update of its Shoreline Master Program in 1998, established a Citizens Advisory Panel for initial policy and regulation guidance, prepared background studies and used consultant services to prepare technical documents; and

WHEREAS, the City renewed and continued its updating of the Shoreline Master Program in 2008; and

WHEREAS, an environmental checklist was prepared for the staff draft Shoreline Master Program update, accompanied by a draft "Cumulative Impacts Analysis," an "Inventory and Characterization Report" and draft "Restoration Plan," and a Determination of Non-Significance was issued August 13, 2008; and

WHEREAS, the Planning Commission reviewed a staff draft Shoreline Master Program, held a public hearing on August 27, 2008, continued the hearing to October 9, 2008 to allow

additional public input, and recommended adoption of a revised Shoreline Master Program to the City Council in February 2009; and

WHEREAS, the City Council held a public hearing on April 20, 2009, continued the hearing to July 13, 2009 and July 20, 2009 and conducted ten in-depth work sessions to review the Planning Commission Recommended Draft Shoreline Master Program; and

WHEREAS, pursuant to WAC 173-26-186, City staff has analyzed the cumulative impacts of the staff draft Shoreline Master Program, the Planning Commission Recommended Draft Shoreline Master Program, and the Council revisions to the Planning Commission Recommended Draft Shoreline Master Program and determined that the Shoreline Master Program and accompanying goals, policies and regulations will achieve no net loss of shoreline ecological functions, as compared to current "baseline" conditions; and

WHEREAS, pursuant to WAC 173-26-186, the proposed Shoreline Master Program contains policies and regulations to ensure to net loss of shoreline ecological functions, to address adverse cumulative impacts and to fairly allocate the burden of addressing cumulative impacts among development opportunities; and

WHEREAS, the City Council reviewed written and verbal testimony and approved revisions to the Planning Commission Recommended Draft Shoreline Master Program to address issues raised by interested parties, individual Councilmembers, staff and the Department of Ecology; and

WHEREAS, throughout the process of updating the Shoreline Master Program, a variety of methods were used to notify the general public and property owners along the shoreline of the proposed Shoreline Master Program update, including mailings to property owners and tenants, notice boards along the Green River Trail, postings on the City's web site, creation of a broadcast email group who received updates of the shoreline review process and articles in the City's newsletter; and

WHEREAS, notice has been provided to the Washington State Department of Commerce, pursuant to RCW 36.70A.106;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Shoreline Master Program Established. The Shoreline Master Program, with accompanying maps set forth in "Attachment A," is hereby adopted and shall become binding as of the effective date of this ordinance on all properties within the shoreline jurisdiction.

Section 2. Repealer. The Shoreline Master Program, adopted by reference in Section 5 of the 1995 Comprehensive Plan, adopted in Section 1.A of Ordinance No. 1757, is hereby repealed.

Section 3. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 4. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City and shall take effect and be in full force and effect on the later of five days after passage and publication as provided by law, or approval of the Shoreline Master Program set forth in "Attachment A" by the Washington State Department of Ecology.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Special Meeting thereof this _____ day of _____, 2009.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, CMC, City Clerk

Jim Haggerton, Mayor

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____

Passed by the City Council: _____

Published: _____

Office of the City Attorney

Effective Date: _____

Ordinance Number: _____

Attachment: "Attachment A" - Shoreline Master Program

FOLLOWING ARE AMENDED PAGES FROM THE SHORELINE MASTER PROGRAM, WHICH IS ATTACHMENT A TO ORDINANCE NUMBER 1 (adopting the Shoreline Master Program)

These pages have been revised as a result of Council action on November 23, 2009. The changes have been identified in ~~strikeout~~/underline format. Page numbers on the bottom left hand side of the documents are the same page numbers from the SMP document in the November 23, 2009 Committee of the Whole agenda packet. No revisions were made to the ordinance text at the November 23 meeting.

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| Map 7. Shoreline Public Access |

APPENDICES

- A. Shoreline Inventory and Characterization Report
- B. Shoreline Restoration Plan

Mean Higher High Water (MHHW): means the average of the higher high water height of each tidal day, and used in determining the OHWM for the tidally influenced portions of the river.

Native Vegetation: means vegetation with a genetic origin of Western Washington, Northern Oregon and Southern British Columbia, not including cultivars.

No Net Loss: means a standard intended to ensure that shoreline development or uses, whether permitted or exempt, are located and designed to avoid loss or degradation of shoreline ecological functions that are necessary to sustain shoreline natural resources. ~~In cases where unavoidable loss results from allowed uses or developments, the standard is met through appropriate mitigation, consistent with the provisions of this master program.~~

Nonconforming: means a use or development which was lawfully constructed or established prior to the effective date of the Shoreline Management Act or the Shoreline Master Program or amendments thereto, but which does not conform to present regulations or standards of the program.

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

Ordinary high water mark: means that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters (all lakes, streams, and tidal water) are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology. 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.

Overwater Structure: means any device or structure projecting over the OHWM, including, but not limited to bridges, boat lifts, wharves, piers, docks, ramps, floats or buoys.

~~**Pre-existing Non-conforming Structure:**~~ means a structure legally established prior to the effective date of the Shoreline Master Program, but which does not conform to present regulations or standards of the program.

~~**Pre-existing Non-conforming Use:**~~ means a use legally established prior to the effective date of the Shoreline Master Program, but which does not conform to present regulations or standards of the program.

Public Access: means the ability of the general public to reach, touch or enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Public access may be provided by an owner by easement, covenant, or similar legal agreement of substantial walkways, corridors, parks, or other areas serving as a means of view and/or physical approach to public waters. The Director may approve limiting public access as to hours of availability, types of activity permitted, location and area.

Regional Detention Facility: means a stormwater detention and/or retention facility that accepts flow from multiple parcels and/or public ROW. The facility may be public or private. The facility shall be designed such that a fence is not required, planted with native vegetation, designed to blend with the surrounding environment, and provide design features that serve both public and private use, such as an access road that also can serve as a trail. The facility shall also be designed to locate access roads and other impervious surfaces as far from the river as practical.

Revetment: means a sloping structure built to increase bank strength and protect an embankment, or shore against erosion by waves or river currents. A revetment is usually built of rock rip-rap, wood, or poured concrete. One or more filter layers of smaller rock or filter cloth and "toe" protection are included. A revetment typically slopes and has a rough or jagged face. The slope differentiates it from a bulkhead, which is a vertical structure.

Riparian: means the land along the margins of rivers and streams.

Riverbank analysis and report: means a scientific study or evaluation conducted by qualified experts and the resulting report to evaluate the ground and/or surface hydrology and geology, the geomorphology and hydraulic characteristics of the river, the affected land form and its susceptibility to mass wasting, erosion, scouring and other geologic hazards or fluvial processes. The report shall include conclusions and recommendations regarding the effect of the proposed development on geologic and/or hydraulic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological, hydrological and hydraulic impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical/Hydrological/Hydraulic reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

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 watermark; 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 the SMA.

6. SHORELINE GOALS AND POLICIES

The goals and policies listed below are taken from the City's 1995 Comprehensive Plan. Strikeout/underlining has been used to indicate proposed revisions to the original 1995 text to reflect changed circumstances or newer requirements. The goals and policies are found in Chapter 5 of the Comprehensive Plan. The Comprehensive Plan will be amended to reflect these changes to goals and policies.

6.1 Shoreline Environment Designations, Comprehensive Plan Goal 5.1

Goal: Shoreline Environment designations that meet Washington State Shoreline Management Act requirements, and reflect local conditions and Tukwila's long-term vision for its shoreline. The shoreline jurisdiction generally extends for 200 feet on either side of the Ordinary High Water mark, consistent with the Washington State Shoreline Management Act. In order to implement this goal, the SMP proposes three Environment Designations: Shoreline Residential, Urban Conservancy, and High Intensity (as detailed in the Shoreline Environment Section) that comply with the Washington State Shoreline Management Act and function well for the City.

Policies:

- New Policy 5.1.1: Shoreline Residential Environment. In the Shoreline Residential Environment, priority shall be given to the following:
 - Uses that preserve or restore the natural character of the shoreline or promote preservation of vegetation, open space, flood plain or sensitive area lands; and
 - Development that is compatible with the natural and biological limitations of the land and water and that will not require extensive alteration of the shoreline or new "hard" structural shoreline stabilization. Where possible the removal of bulkheads, revetments, levees or other "hard" structural shoreline stabilization is required. Hard structural shoreline stabilization may be replaced with alternative bioengineered bank stabilization; and
 - On publicly owned property, water-dependent or water-related recreational activities that are compatible with the character of the shoreline residential areas.
 - Maintenance of existing single-family residential development patterns and public open space and recreation uses;
 - Residential and recreational development that promotes vegetation conservation and enhancement, sensitive areas protection, and maintenance of water quality to assure no net loss of shoreline ecological functions;
 - Residential and recreational development that contributes to the restoration of ecological functions over time in areas where ecological degradation has occurred.

- Policy 5.1.2, Urban Conservancy Environment: In the Urban Conservancy Environment priority shall be given to the following:
 - Development that promotes vegetation conservation and enhancement, sensitive areas protection, and preservation of water quality to assure no net loss of shoreline ecological functions.
 - Water enjoyment uses
 - Uses that remove shoreline armoring, unless required for a shoreline dependent use, and uses that prevent and/or minimize flood damage;
 - Uses that preserve or restore shoreline ecological functions provided by vegetation, open space, flood plain or sensitive area lands;
 - Uses that minimize interference with navigation and flood control, consider impacts to public views, and allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration;
 - Uses that provide public access and public recreation whenever feasible and when ecological impacts can be mitigated;
 - Development that is compatible with the natural and biological limitations of the land and water that do not require extensive alteration of the shoreline or new shoreline stabilization, except for restoration projects.
 - Uses that provide public access and public recreation whenever feasible and ecological impacts can be mitigated;
 - Enhancement and restoration of ecological functions; and
 - Redevelopment of underutilized areas and development of commercial and industrial activities where shoreline impacts are minimized and where there is no net loss of shoreline functions.

- New Policy 5.1.3, High Intensity Shoreline Environment: In the High Intensity Environment, priority shall be given to the following:
 - Water dependent commercial and industrial uses;
 - Development that promotes vegetation conservation and enhancement, sensitive areas protection, and preservation of water quality to assure no net loss of shoreline ecological functions.
 - Uses that remove shoreline armoring, unless required for a shoreline dependent use, and uses that prevent and/or minimize flood damage;
 - Uses that preserve or restore shoreline ecological functions provided by vegetation, open space, flood plain or sensitive area lands;
 - Uses that minimize interference with navigation and flood control, consider impacts to public views, and allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration;
 - Uses that provide public access and public recreation whenever

- feasible and when ecological impacts can be mitigated;
- Development that is compatible with the natural and biological limitations of the land and water that do not require extensive alteration of the shoreline or new shoreline stabilization, except for restoration projects.
- Uses that provide public access and public recreation whenever feasible and ecological impacts can be mitigated;
- Enhancement and restoration of ecological functions; and
- Redevelopment of underutilized areas and development of intensive commercial and industrial activities where shoreline impacts are minimized and where there is no net loss of shoreline functions.

6.2 Shoreline Planning and Management, Comprehensive Plan Goal 5.2

Goal: Expanded value of the river as a community and regional resource through regional coordination of shoreline management programs and through programs that foster river appreciation and awareness, involving partnerships among businesses, schools, government and community organizations.

Policies:

- Policy 5.2.1: Coordinate shoreline planning and management activities with other local jurisdictions and their plans such as the WRIA 9 Salmon Habitat Plan and the King County Flood Hazard Management Plan to establish region-wide consistency in addressing river issues with regional implications, such as economic development, public access, wildlife habitat, water quality control and flood control.
- Policy 5.2.2: Promote river stewardship and increase river awareness through actions which further shoreline goals, such as educational programs, community activities, and partnerships with Tukwila residents, businesses, schools, government, and community organizations.
- New Policy 5.2.3: Promote and participate in the implementation of the Watershed Resource Inventory Area (WRIA) 9 Plan, including supporting the recommended projects located in Tukwila to improve the habitat functions of the Green/Duwamish River, as well as the Plan policies and goals.

C. Implementation Strategies:

- WRIA 9 Salmon Habitat Plan
- Tukwila SMP Restoration Plan
- King County Flood Hazard Management Plan

6.3 Land Development Use and Economic Vitality, Comprehensive Plan Goal 5.3

Goal: Development along the shoreline that fosters the economic vitality of Tukwila while preserving the long-term benefits of the river.

Policies:

- Policy 5.3.1: Implement Shoreline Design Guidelines to:
 - Encourage design that views the river as an amenity;
 - Guide the design of multiple shoreline uses;
 - Establish techniques for increasing multiple shoreline use;
 - Prioritize locations for use;
 - Encourage removal of invasive species with nonchemical methods and maintenance of native planted vegetation to minimize the presence of invasive species.
- Policy 5.3.2: Design and locate all shoreline development to minimize impacts on areas identified as important for other river uses, such as wildlife and aquatic habitat, river vegetation, public access and recreation, historical resource and flood control.
- Policy 5.3.3: When no other feasible alternative exists, allow structures for water dependent uses to be placed in the water, or structural reinforcement of the riverbank, only when this provides a significant, long-term public benefit, does not interfere with navigation or flood management, does not cause a loss of shoreline function or is essential to a water-dependent use.
- Policy 5.3.4: Prohibit the construction of new flood control facilities unless constructed to incorporate habitat restoration features and work to remove existing shoreline armoring – where possible– to restore habitat functions.
- Policy 5.3.5: Recognize and promote the river’s contribution to the economic vitality of Tukwila, as a valuable amenity for existing and future businesses which depend on or benefit from a shoreline location.
- Policy 5.3.6: Ensure that shoreline development does not diminish the commercial navigability of the River.
- Policy 5.3.7: Tukwila Urban Center Development Policy: Design and locate shoreline development in the Tukwila Urban Center to encourage water enjoyment uses that:
 - Provide for shoreline multiple uses that are consistent with the underlying zoning;

- Provide additional benefits, such as riverbank restoration, fishing piers, non-motorized boat launches, river views, or interpretive signs;
- Support public access to and along the shoreline;
- Provide water-enjoyment uses as transitions between the river and non-water dependent uses;
- Encourage efficient use of land, through such techniques as clustering, mixed use projects, cooperative parking or parking located under principal structures, and shared utility and access corridors.
- Ensure that new development and re-development in the Urban Center acknowledges the goal of a continuous street façade along Christensen Road and the riverfront and locates parking facilities to the interior of the lot.

Implementation Strategies for Policy 5.3.7:

- Shoreline Design Guidelines
 - Development Standards
 - Tukwila Urban Center Plan
- MIC Development Policy 5.3.8: Ensure that non-water dependent shoreline development in the MIC provides for shoreline multiple uses to the extent that site security and the success of industrial operations are not jeopardized; ensures no net loss of shoreline function and provides adequate mitigation for the loss of shoreline multiple use opportunities.
 - MIC Development Policy 5.3.9: Allow opportunities for commercial and recreational marinas to locate in Tukwila downstream of the turning basin, where compatible with existing and future navigability and existing and future ecological restoration projects.
 - Policy 5.3.10: Development outside the Tukwila Urban Center or MIC: Design and locate shoreline development outside of the Tukwila Urban Center and the MIC to:
 - Provide for multiple shoreline uses;
 - Provide water-enjoyment uses as transitions between the river and non-water dependent uses;
 - Encourage efficient use of land through such techniques as clustering, mixed-use projects, cooperative parking or parking located under principal structures, and shared utility and access corridors;
 - Treat the river as an amenity in the design and location of the project.

6.4 Private Property Rights, Comprehensive Plan Goal 5.4

Goal: Protect rights of property owners to reasonable use and enjoyment of private

property, through appropriate location, access to, and design of shoreline uses.

Policies

- Policy 5.4.1: Design, locate and manage shoreline uses in a manner which maintains reasonable use and enjoyment of private property.
- Policy 5.4.2: Design and locate public access in a way that is appropriate for the site, depending on site conditions and private property concerns.
- Policy 5.4.3: Special sensitivity is required for residential property; therefore, all single-family residential development of four or fewer single-family residential lots is excluded from requirements to provide private or public access. Single family property owners are not exempt from the responsibility to improve the habitat value of the shoreline environment.
- Policy 5.4.4. Maintain flexibility in methods of obtaining public access, to allow for different site conditions and private property concerns that might conflict with public access, such as privacy, safety, and security.
- New Policy 5.4.5: Obtain additional easement area to permit the improvement of flood control and river habitat by setting back levees or removing revetments and other hard shoreline armoring and replacing with more habitat-friendly flood control levees or other shoreline treatment.

6.5 Shoreline Design Quality, Comprehensive Plan Goal 5.5

Goal: Enhanced identity of the river as a unique community asset through high quality development and public activities that reflect Tukwila's history and sense of community pride.

Policies:

- Policy 5.5.1: Require that shoreline development outside of the MIC:
 - Ensures no net loss of shoreline function;
 - Is designed to be consistent with Tukwila Shoreline Design Guidelines;
 - Reflects principles of high quality design, in such areas as site planning, architecture and landscaping;
 - Includes setbacks, bulk, height, density, landscape buffers and provisions for open space that enhance the shoreline environment.

Implementation Strategies for Policy 5.5.1:

- Shoreline design guidelines
 - Shoreline development standards
 - Tukwila Urban Center Plan
- Policy 5.5.2: Require that shoreline development in the MIC:

- Is designed to be consistent with Tukwila Shoreline Design Guidelines;
- Maintains or enhances the existing visual quality along the river;
- Provides trees and other landscaping to buffer industrial uses that are incompatible with other river uses;
- Provides amenities that enhance enjoyment of the river by employees.

Implementation Strategies for Policy 5.5.2:

- Shoreline design guidelines
- Shoreline development standards

6.6 Access and Recreational Use, Comprehensive Plan Goal 5.6

Goal: Increase the amount and diversity of opportunities for public recreation and access to and along the river, including visual and cultural access, access to the water's edge, opportunities for small boat navigation and access, and connections to other neighborhoods, consistent with the shoreline character.

Policies:

- Policy 5.6.1: Retain and improve areas identified as important in the network of public access to the river, including cross-town connections, former railroad right-of-ways and unimproved street-end right-of-ways, historic sites, unique natural features or other areas valuable for their interpretive potential.
- New Policy 5.6.2: Maintain existing parks along the shoreline and acquire additional park land to increase access and recreation opportunities.
- Policy 5.6.3: Incorporate river access requirements to guide the design, location and management of shoreline public access in short plats over 4 lots and all subdivisions as well as multi-family, commercial and industrial development; to identify types of access appropriate and feasible for various site conditions and locations; and to establish strategies, funding sources and priorities for acquisition and enhancement of shoreline public access.

Implementation Strategies for Policies 5.6.1-5.6.3:

- Shoreline design guidelines
- Shoreline access guidelines
- Shoreline development standards
- Walk and Roll Plan
- Parks and Open Space Plan
- Policy 5.6.4: Design, locate and manage public access for diverse types and variable levels of intensity in order to minimize impacts on vulnerable features of the natural environment and to minimize conflicts with private

property uses.

- Policy 5.6.5: Where shoreline development provides public access areas, reserve such areas for use by the public through the means most appropriate for the type, scale and impacts of the development, such as dedication, donation or sale of an easement or right-of-way to the City.
- Policy 5.6.6: Support the implementation of the King County Green River Trail, per the existing King County Green River Trail Master Plan as well as pedestrian/bicycle connections with the Trail from properties on the opposite bank and the expansion of this trail where appropriate.

Policies for Development outside MIC:

- Policy 5.6.7: Require subdivisions, multi-family residential uses and commercial and industrial uses along the shoreline to provide a trail for public access along the river in areas identified for trail connections, consistent with the King County Green River Trail Master Plan, Shoreline Master Program or any other approved access plan.

Implementation Strategies for Policy 5.6.7

- King County Green River Trail Master Plan
- Shoreline public access standards
- Walk and Roll Plan
- Parks and Open Space Plan
- Policy 5.6.8: Where shoreline public access is provided, ensure that it is designed to be safe and convenient and includes access amenities such as benches, drinking fountains, public parking areas, handicapped access, and appropriate lighting, consistent with the shoreline access guidelines.

Implementation Strategies for Policy 5.6.8

- King County Green River Trail Master Plan
- Shoreline public access standards
- Walk and Roll Plan
- Parks and Open Space Plan
- Policy 5.6.9: Except for single-family residential development of four or fewer single-family residential lots, shoreline development shall maintain and encourage views of the water from the shoreline and from upland area, through design of building height, bulk and modulation, and windows, breezeways and outdoor spaces.

Implementation Strategies

- Shoreline design guidelines
- New Policy 5.6.10: Public access improvements should be designed and constructed to:
 - Look and “feel” welcoming to the public;
 - Connect to public areas, street ends, and other pedestrian or public throughfares;
 - Enhance the character of Tukwila;
 - Avoid conflicts with water-dependent uses;
 - Provide for public safety and minimize impacts to private property and individual privacy and security;
 - Require a low level of operation and maintenance;
 - Ensure that construction (i.e. structures and access pathways) incorporates environmentally sensitive design and materials (e.g., non-toxic, natural materials)
- Policy 5.6.11: Improve pedestrian connections between the river, Green River Trail and the Urban Center’s commercial, office and residential uses.

Policies for Development in MIC

- Policy 5.6.12: For MIC properties included in the King County Green River Trail Master Plan or other approved access plan, require shoreline development to provide a trail for public access along the river.
- Policy 5.6.13: Where shoreline public access is provided, ensure that it is designed to be safe and convenient and includes access amenities such as benches, drinking fountains, public parking areas, handicapped access and appropriate lighting, consistent with the shoreline access guidelines.
- Policy 5.6.14: For MIC properties not included in the King County Green River Trail Plan, require shoreline development to provide public access or a private natural area in lieu of public access, or otherwise mitigate the loss of public access.

Implementation Strategies for Policies 5.6.12-14

- Shoreline design guidelines
- Shoreline access guidelines
- Walk and Roll Plan
- Parks and Open Space

6.7 Transportation within the Shoreline Jurisdiction, Comprehensive Plan
Goal 5.7

Goal: Safe corridors and amenities for pedestrians, cyclists and users of public transportation, allowing more citizens to access and enjoy the river.

Policies:

- Policy 5.7.1: Design and locate transportation uses within the shoreline jurisdiction to be compatible with shoreline vegetation or other habitat features, turn-outs or parking areas for public access, biofiltration swales to protect water quality, public art or interpretive signs.
- Policy 5.7.2: Ensure the transportation uses within the shoreline jurisdiction and within those corridors identified as river cross-connections provide safe, convenient and attractive pedestrian, bicycle and boater access and facilities for public transportation.
- Policy 5.7.3: Minimize transportation impacts to the natural environment (such as air, noise, odor or water pollution) and enhance the natural environment wherever possible through planting trees and other habitat features.
- Policy 5.7.4: Encourage maintenance of the river's navigability up to the Turning Basin, where this achieves a greater public interest and a balance between costs and benefits to the broader community and impacts to the habitat functions of the river, in recognition of the historical significance of navigation and its importance to the economic vitality of water-dependent uses and the MIC

6.8 Historical Resource Use and Archaeological Protection, Comprehensive Plan Goal 5.8

Goal: Recognition of the river's contribution to Tukwila history and community identity through identification, enhancement, restoration, and protection of sites with historic and cultural value and through development of interpretive and educational programs.

Policies

- Policy 5.8.1: Ensure that shoreline development reflects the river's important role in Tukwila's history and that long-term public use of the river as an historical resource is protected by providing for the identification, protection and interpretation of unique historic and archaeological features.
- Policy 5.8.2: Ensure that public shoreline development reflects the river's natural features and community traditions.
- New Policy 5.8.3: Ensure that archaeological artifacts and sites are protected when development takes place in the shoreline jurisdiction.

6.9 Natural Environment and Habitat Use, Comprehensive Plan Goal 5.9

Goal: Restored, enhanced, and protected natural environment resources along the river, including trees, wildlife habitat and features with value for long-term public, scientific and educational uses.

Policies

- Policy 5.9.1: Ensure that shoreline development results in no net loss of shoreline ecological function, minimizes impacts on wildlife and that significant vegetation, sandbars, wetlands, watercourses, and other critical areas identified as important for habitat are maintained through the proper location, design, construction, and management of all shoreline uses and activities.
- Policy 5.9.2: Ensure that shoreline development and activities protect riverbank vegetation and, where feasible, restore degraded riverbanks in accordance with the vegetation management provisions of the Shoreline Master Program, in order to minimize and compensate for impacts to fish and wildlife habitat.
- Policy 5.9.3: Mitigate unavoidable disturbances of significant vegetation or habitat through replacement of habitat and provision of interpretive features consistent with the shoreline access guidelines.
- New Policy 5.9.4: Support relief from certain shoreline master program requirements for properties affected by habitat restoration projects that result in the movement of the ordinary high water mark.
- New Policy 5.9.5: Support establishing the Transition Zone as the priority area for habitat restoration projects given its importance for subtidal and intertidal habitats to allow salmonids to gradually adjust to the change between fresh and saltwater conditions.

6.10 Water Quality, Surface Water and Flood Control Use, Comprehensive Plan Goal 5.10

Goal: Improved water quality and quantity control programs affecting the Green/Duwamish River that improve the river's water quality, provide habitat for fish and wildlife, protect public health and safety, and enhance public enjoyment of the river.

Policies:

- Policy 5.10.1: Design, locate, and manage shoreline development including streets, flood control projects, surface water drainage and sewer systems, clearing and grading activities, and landscaping in a manner which minimizes opportunities for pollutants to enter the river, provides erosion control and otherwise protects water quality.
- Policy 5.10.2: Design, manage, and mitigate flood control uses to minimize impacts to other shoreline uses such as trees and riverbank vegetation, public access and recreation, and fish habitat; and set them back from the river,

where feasible for the project, with land areas between the water and the levee set aside as open space for public recreation or wildlife habitat.

- Policy 5.10.3: Consistent with project feasibility, mitigate unavoidable negative impacts on other shoreline uses owing to flood control uses through such measures as restoration of trees and native riverbank vegetation, provision of public access to the water's edge, interpretive features, or other mitigation of loss of opportunities for shoreline multiple uses.
- New Policy 5.10.4: Obtain additional easements, where needed, from property owners to set back levees to improve flood control and shoreline habitat functions. Where possible, as redevelopment occurs, replace bulkheads, revetments or other hard bank stabilization with more natural levees, riverbanks or other shoreline treatments, to improve flood control, ecological functions and habitat where possible.

C. Implementation Strategies

- Increase levee setback to incorporate flatter, more stable slope and vegetated mid-slope benches
- Shoreline access guidelines
- Surface Water Management Plan
- WRIA 9 Plan water quality policies
- Shoreline Restoration Plan

6.11 Public Health, Safety and Welfare, Comprehensive Plan Goal 5.11

Goal: Shoreline uses that do not endanger public health, safety and welfare, or the capacity of the river to provide long-term benefits and resources to the community.

Policies:

- Policy 5.11.1: Design, locate, and manage shoreline uses, such as capital improvement projects and private development, in a manner that does not endanger public health, safety and welfare, and enhances the capacity of the river to provide long-term flood protection, habitat and other benefits and resources to the community and the environment.

purposes and criteria established therein.

1. Permitted Uses: No uses or structures are permitted in the Shoreline Residential Buffer except for the following:
 - a. Shoreline Restoration Projects;
 - b. Over-water structures subject to the standards in the Over-water Structures section associated with water-dependent uses, public access, recreation, flood control or channel management. Private, single residence piers for the sole use of the property owner shall not be considered an outright use on the shoreline. A dock may be allowed when the applicant has demonstrated a need for moorage and that the following alternatives have been investigated and are not available or feasible:
 - 1). commercial or marina moorage;
 - 2). floating moorage buoys;
 - 3). joint use moorage pier/dock.
 - c. Public parks, recreation and open space;
 - d. Public pedestrian bridges
 - e. Public and/or private promenades, footpaths or trails;
 - f. Recreation structures such as benches, tables, viewpoints, and picnic shelters, provided no such structure shall exceed 15 feet in height or 25 square feet in area or block views to the shoreline from adjacent properties;
 - g. Signs conforming to the Sign Code;
 - h. Maintenance or redevelopment of levees for flood control purposes, provided ~~a mid slope vegetated bench and native plantings along the toe of the levee are incorporated into any redeveloped levee wherever feasible~~ they are designed to meet the minimum levee profile;
 - i. Vehicle bridges, only if connecting public rights-of-way;
 - j. Utility towers and utilities except the provision, distribution, collection, transmission or disposal of refuse;
 - k. Fire lanes when co-located with levee maintenance roads;
 - l. New shoreline stabilization utilizing the development standards in the Shoreline Stabilization section of this SMP.
 - m. Water dependent uses and their structures, as long as there is no net loss of shoreline ecological function;
 - n. Fences, provided the maximum height of a fence along the shoreline is four feet and the fence does not extend waterward beyond the top of the bank; chain link fences must be vinyl coated.
 - o. Existing essential streets, roads and rights of way may be maintained or improved;
 - p. Outdoor storage, only in conjunction with a water dependent use.
 - q. Support facilities for above or below ground utilities or pollution control, such as runoff ponds, filter systems, detention ponds and

- outfall facilities, provided they are located at or below grade and as far from the OHWM as technically feasible;
 - r. Essential public facilities, both above and below ground; and
 - s. Landfill as part of an approved remediation plan for the purpose of capping contaminated sediments.
 - t. Patios, or decks not exceeding 18-inches in height, limited to a maximum 200 square feet and 50% of the width of the river frontage. Decks or patios must be located landward of the top of the bank and be constructed to be pervious and of environmentally friendly materials.
2. Conditional Uses: Only the following may be allowed as a Conditional Use in the Shoreline Residential buffer subject to the requirements, procedures and conditions established by this program:
- a. Dredging activities when in compliance with all federal and state regulations, when necessary for navigation or remediation of contaminated sediments.
 - b. Dredging for navigational purposes is permitted 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 is restricted to maintaining previously dredged and/or existing authorized location, depth and width. Dredging of bottom materials for the purpose of obtaining fill material is prohibited.
 - c. New private vehicle bridges.

B. Shoreline Residential Environment -- Uses

The Shoreline Residential Environment shall consist of the remaining area within the 200 foot shoreline jurisdiction that is not within the Shoreline Residential River Buffer. Uses shall meet the purposes and criteria of the Shoreline Residential Development Zone as established in the Shoreline Environment Designation section.

- 1. Permitted Uses: The Shoreline Residential Environment shall contain residential, recreational and limited commercial uses and accessory uses as allowed in the underlying zoning district. In addition, the Shoreline Residential Environment shall allow the following uses:
 - a. All uses permitted in the Shoreline Residential River Buffer;
 - b. For non-residential uses, parking/loading and storage facilities located to the most upland portion of the property and adequately screened and/or landscaped in accordance with the Vegetation Protection and Landscaping section;
 - c. Railroad tracks; and
 - d. Public or private roads.
- 2. Conditional uses: All uses listed as conditional uses ~~in the Shoreline Use~~

Table subject to the requirements, procedures and conditions established by this program.

8.3 Urban Conservancy Environment -- Uses

The Urban Conservancy Environment shall consist of the areas identified in the Shoreline Environment Designations sections of this SMP. Uses shall meet the purposes and criteria of the Urban Conservancy Environment established therein.

A. Urban Conservancy Environment Buffer – Uses

1. Permitted uses: The following uses are permitted in the Urban Conservancy River Buffer:
 - a. Shoreline Restoration Projects.
 - b. Over-water structures subject to the standards established in the Over-water Structures Section that are associated with water-dependent uses, public access, recreation, flood control, channel management or ecological restoration;
 - c. Public parks, recreation and open space
 - d. Public and/or private promenades, footpaths or trails;
 - e. Public pedestrian bridges;
 - f. Recreation structures such as benches, tables, viewpoints, and picnic shelters, provided no such structure shall exceed 15 feet in height and 25 square feet in area and views of the shoreline are not blocked from adjacent properties;
 - g. Signs conforming to the Sign Code;
 - h. Maintenance or redevelopment of levees for flood control purposes, provided that any redevelopment of a levee shall ~~incorporate a mid-slope vegetated bench~~ meet the minimum levee profile wherever feasible;
 - i. New vehicle bridges: permitted only if connecting public rights-of-way; existing public or private vehicle bridges may be maintained or replaced.
 - j. Utility towers and utilities except the provision, distribution, collection, transmission or disposal of refuse;
 - k. Levee maintenance roads;
 - l. Plaza connectors between buildings and levees, not exceeding the height of the levee, are permitted for the purpose of providing and enhancing pedestrian access along the river and for landscaping purposes.
 - m. New shoreline stabilization utilizing the development standards in the Shoreline Stabilization Section.
 - n. Existing essential streets, roads and rights of way may be maintained or improved.
 - o. Water dependent commercial and industrial development, if permitted

- by the underlying zoning district;
 - p. Regional detention facilities that meet the City's Infrastructure Design and Construction Standards along with their supporting elements such as ponds, piping, filter systems and outfalls.
 - q. Support facilities for above or below ground utilities or pollution control, such as runoff ponds, filter systems, detention ponds and outfall facilities, provided they are located at or below grade and as far from the OHWM as technically feasible;
 - r. Outdoor storage, only in conjunction with a water dependent use.
 - s. Essential public facilities, both above and below ground.
 - t. Landfill as part of an approved remediation plan for the purpose of capping contaminated sediments.
2. Conditional Uses: Only the following may be allowed as a Conditional Use in the Shoreline Urban Conservancy Environment buffer subject to the requirements, procedures and conditions established by this program:
- a. Dredging activities 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;
 - b. Dredging for remediation of contaminated sediments when mitigation is provided. Dredging of bottom materials for the purpose of obtaining fill material is prohibited. Dredging activities must comply with all federal and state regulations.
 - c. New private vehicle bridges.

B. Urban Conservancy Environment -- Uses

- 1. Permitted Uses: All uses permitted in the Urban Conservancy Environment Buffer and/or the underlying zoning district may be allowed.
- 2. Conditional Uses: All uses listed as Conditional Uses ~~in the underlying zone Shoreline Use Table~~ may be allowed subject to the requirements, procedures and conditions of this program.

8.4 High Intensity Environment -- Uses

The High Intensity Environment Buffer shall consist of the area identified in the Shoreline Environment Designations section. Uses shall meet the purposes and criteria of established therein.

A. High Intensity Environment Buffer -- Uses

1. Permitted uses: The following uses are permitted in the High Intensity River Buffer:
 - a. Shoreline Restoration Projects.
 - b. Over-water structures subject to the standards established in the Over-water Structures Section that are associated with water-dependent uses, public access, recreation, flood control, channel management or ecological restoration;
 - c. Public parks, recreation and open space;
 - d. Public and/or private promenades, footpaths or trails;
 - e. Public pedestrian bridges;
 - f. Recreation structures such as benches, tables, viewpoints, and picnic shelters, provided no such structure shall exceed 15 feet in height and 25 square feet in area and no views of the shoreline are blocked from adjacent properties;
 - g. Signs conforming to the Sign Code;
 - h. Maintenance or redevelopment of levees for flood control purposes, provided that any redevelopment of a levee shall meet the minimum levee profile ~~incorporate a vegetated bench~~ wherever feasible;
 - i. New vehicle bridges: permitted only if connecting public rights-of-way; existing public or private vehicle bridges may be maintained or replaced.
 - j. Utility towers and utilities except the provision, distribution, collection, transmission or disposal of refuse;
 - k. Levee maintenance roads;
 - l. Plaza connectors between buildings and levees, not exceeding the height of the levee, are permitted for the purpose of providing and enhancing pedestrian access along the river and for landscaping purposes.
 - m. New shoreline stabilization utilizing the development standards in the Shoreline Stabilization section of this SMP.
 - n. Existing essential streets, roads and rights of way may be maintained or improved.
 - o. Water dependent commercial and industrial development, if permitted by the underlying zoning district;
 - p. Regional detention facilities that meet the City's Infrastructure Design and Construction Standards along with their supporting elements such as ponds, piping, filter systems and outfalls.
 - q. Support facilities for above or below ground utilities or pollution control, such as runoff ponds, filter systems, detention ponds and outfall facilities, provided they are located at or below grade and as far from the OHWM as technically feasible;
 - r. Outdoor storage, only in conjunction with a water dependent use.
 - s. Essential public facilities, both above and below ground.
 - t. Landfill as part of an approved remediation plan for the purpose of capping contaminated sediments.

2. Conditional Uses: Only the following may be allowed as a Conditional Use in the Shoreline High Intensity Environment buffer subject to the requirements, procedures and conditions of this program.
 - a. Dredging activities 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;
 - b. Dredging for remediation of contaminated sediments when mitigation is provided. Dredging of bottom materials for the purpose of obtaining fill material is prohibited. Dredging activities must comply with all federal and state regulations.
 - c. New private vehicle bridges.

B. Shoreline High Intensity Environment-- Uses

The Shoreline High Intensity Environment shall consist of the remaining area within the 200 foot shoreline jurisdiction that is not within the Shoreline High Intensity Environment Buffer area. Uses shall meet the purposes and criteria of the Shoreline Environment Designations section.

1. Permitted Uses: All uses permitted in the High Intensity Environment Buffer and/or the underlying zoning district may be allowed.
2. Conditional Uses: All uses listed as Conditional Uses ~~in the Shoreline Use Table underlying zone~~ may be allowed subject to the requirements, procedures and conditions established by this program.

properties and on the river channel, be directed downward so as to illuminate only the immediate area; and be shielded to eliminate direct off-site illumination;

3. The general grounds need not be lighted;
4. The lighting is incorporated into a unified landscape and/or site plan.

9.4 Surface Water and Water Quality

The following standards apply to all shoreline development.

A. New surface water systems may not discharge directly into the river or streams tributary to the river without pre-treatment to reduce pollutants and meet State water quality standards.

B. Such pre-treatment may consist of biofiltration, oil/water separators, or other methods approved by the City of Tukwila Public Works Department.

C. Shoreline development, uses and activities shall not cause any increase in surface runoff, and shall have adequate provisions for storm water detention/infiltration.

D. Stormwater outfalls must be designed so as to cause no net loss of shoreline ecological functions or adverse impacts where functions are impaired. New stormwater outfalls or maintenance of existing outfalls must include shoreline restoration as part of the project.

E. Shoreline development and activities shall have adequate provisions for sanitary sewer.

F. Solid and liquid wastes and untreated effluents shall not be allowed to enter any bodies of water or to be discharged onto shorelands.

G. The use of low impact development techniques is required, unless such techniques conflict with other provisions of the SMP or are shown to not be feasible due to site conditions.

H. Regional detention facilities shall be designed such that a fence is not required, planted with native vegetation, designed to blend with the surrounding environment and provide design features that serve both public and private use, such as an access road that also can serve as a trail. The facility shall also be designed to locate access roads and other impervious surfaces as far from the river as practical.

9.5 Flood Hazard Reduction

The following standards apply to all shoreline development.

E. Shoreline Variance Permits Waterward of OHWM

1. Shoreline Variance permits for development and/or uses that will be located either waterward of the ordinary high water mark or within any sensitive area may be authorized only if the applicant can demonstrate all of the following:
 - a. That the strict application of the bulk, dimensional or performance standards set forth in this Master Program preclude all reasonable permitted use of the property; and
 - b. That the proposal is consistent with the criteria established under D above; and
 - c. The public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance.
2. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area such that the total of the variances would remain consistent with RCW 90.58.020 and not cause substantial adverse effects to the shoreline environment.
3. Variances from the use regulations of the master program are prohibited.

14.5 Non-conforming Development

A. Non-conforming Uses

Any preexisting lawful use of land that would not be allowed under the terms of this SMP may be continued as an allowed, legal non-conforming use, so long as that use remains lawful, subject to the following:

1. No such non-conforming use shall be enlarged, intensified, increased or extended to occupy a greater use of the land, structure or combination of the two, than was occupied at the effective date of adoption of this SMP;
2. No non-conforming use shall be moved or extended in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this SMP;
3. If any such non-conforming use ceases for any reason for a period of more than 24 consecutive months, any subsequent use shall conform to the regulations specified by this SMP for the shoreline environment in which such use is located. Upon request of the owner, prior to the end of the 24 consecutive months and upon reasonable cause shown, the City Council may grant an extension of time beyond the 24 consecutive months, per 14.5 C. ;
4. If a change of use is proposed to a use determined to be non-conforming by application of provisions in this SMP, the proposed new use must be a

permitted use in the SMP or a use approved under a Conditional Use Permit process. For purposes of implementing this section, a change of use constitutes a change from one Permitted, Conditional Use category to another such use category as listed within the zoning code.

5. A structure that is being or has been used for a nonconforming use may be used for a different nonconforming use after demonstrating the following criteria have been met:

- a. No reasonable alternative conforming use is practical;
- b. The proposed use will be at least as consistent with the policies and provisions of the SMP and as compatible with the uses in the area as the preexisting use;
- c. The use or activity is enlarged, intensified, increased or altered only to the minimum amount necessary to achieve the intended functional purpose;
- d. The structure(s) associated with the non-conforming use shall not be expanded in a manner that increases the extent of the nonconformity;
- e. The change in use will not create adverse impacts to shoreline ecological functions and/or processes;
- f. The applicant restores and or/enhances the entire shoreline buffer, including but not limited to paved areas no longer in use on the property, to offset the impact of the change of use per the vegetation management standards of this program. This may include the restoration of paved areas to vegetated area if no longer in use; and

~~g. The use complies with the conditional use permit criteria of this Program.~~

The preference is to reduce exterior uses in the buffer to the maximum extent possible.

B. Non-conforming Structures

Where a lawful structure exists at the effective date of adoption of the SMP that could not be built under the terms of the SMP by reason of restrictions on height, buffers or other characteristics of the structure, it may be continued as an allowed, legal structure so long as the structure remains otherwise lawful subject to the following provisions:

1. No such structure may be enlarged or altered in such a way that increases its degree of nonconformity or increases its impacts to the functions and values of the shoreline environment. Ordinary maintenance and repair of and upgrades to a non-conforming structure is permitted, including but not limited to painting, roof repair and replacement, plumbing, wiring, mechanical equipment repair/replacement, repaving and weatherization. These and other alterations, additions or enlargements may be allowed as long as the work done does not extend further into any required buffer, increase the amount of impervious surface, or increase the impacts to the functions and values of the shoreline environment. Complete plans shall be required of all work

contemplated under this section.

2. Should such structure be destroyed by any accidental means the structure may be reconstructed to its original dimensions and location on the lot provided application is made for permits within twelve (12) months of the date the damage occurred and all reconstruction is completed within two years of permit issuance. In the event that the property is redeveloped, such redevelopment must be in conformity with the provisions of this SMP.
3. Should such structure be moved for any reason or any distance whatsoever, it shall thereafter conform to the regulations of this SMP after it is moved.
4. When a non-conforming structure, or structure and premises in combination, is vacated or abandoned for 24 consecutive months, the structure, or structure and premises in combination, shall thereafter be required to be in conformance with the regulations of the SMP. Upon request of the owner, prior to the end of the 24 consecutive months, and upon reasonable cause shown, the City Council may grant an extension of time beyond the 24 consecutive months per 14.5 C.
5. Residential structures and uses located in any single-family or multiple-family residential zoning district and in existence at the time of adoption of this SMP shall not be deemed nonconforming in terms of height, use, or location provisions of this title. Such buildings may be rebuilt after a fire or other natural disaster to their original dimensions, location and height, but may not be changed except as provided in the non-conforming uses section of this chapter.
6. Single-family structures in single- or multiple family residential zone districts, which have legally non-conforming setbacks from the OHWM per the SMP buffer, shall be allowed to expand the ground floor only along the existing building line(s), so long as the existing distance from the nearest point of the structure to the OHWM is not reduced, and the square footage of new intrusion into the buffer does not exceed 50% of the square footage of the current intrusion. As a condition of building permit approval a landscape plan showing removal of invasive plant species within the entire shoreline buffer and replanting with appropriate native species must be submitted to the City. Maintenance of these plantings through the establishment period is required recommended.
7. Within the shoreline jurisdiction, existing structures that do not meet the requirements of the SMP may be ~~remodeled~~, altered, reconstructed or replaced, provided that:
 - a. The new construction is within the original dimensions and location on the lot;
 - b. The new construction does not further intrude into or adversely impact the required buffer;

- c. The use or activity is enlarged, intensified, increased or altered only to the minimum amount necessary to achieve the intended functional purpose;
- d. The reconstruction will not create adverse impacts to shoreline ecological functions and/or processes;
- e. For properties in non-leveed portions of the river, the applicant re-slopes the bank to a 2.5:1 or 3:1 angle as appropriate for the shoreline environment designation and restores and/or enhances the entire shoreline buffer, including but not limited to paved areas no longer in use on the property. Where an existing building would prevent the re-sloping of the bank to 2.5:1 or 3:1 as applicable, the applicant must re-slope to the extent possible, remove invasive vegetation and re-vegetate according to the provisions in section 9.10. For properties behind levees that do not meet the minimum profile, restore and/or enhance the remaining buffer area and remove invasive vegetation and plant with native vegetation on the levee prism as permitted by the COE; and
- ~~f. The property owner applies for and is granted approval of a Type 2 Permit decision with public notice Shoreline Conditional Use Permit.~~

For the purposes of this section, alteration is defined as work that exceeds 50% of the assessed valuation of the building over a three year period.

- 8. A non-conforming-use, within a non-conforming structure, shall not be allowed to expand into any other portion of the structure.

C. Requests for Time Extension – Nonconforming Uses and Structures

A property owner may request, prior to the end of the 24 consecutive months, an extension of time beyond the 24 consecutive months. Such a request ~~shall be considered as a conditional use permit and~~ may be approved only when:

- 1. For a nonconforming use, a finding is made that no reasonable alternative conforming use is practical;
- 2. For a nonconforming structure, special economic circumstances prevent the lease or sale of said structure within 24 months; and
- 3. The applicant restores and/or enhances the shoreline buffer on the property to offset the impact of the continuation of the pre-existing use. For nonconforming uses, the amount of buffer to be restored and/or enhanced will be determined based on the percentage of the existing building used by the nonconforming use for which a time extension is being requested. Depending on the size of the area to be restored and/or enhanced, the Director may require targeted plantings rather than a linear planting

arrangement. The vegetation management standards of this Program shall be used for guidance on any restoration/enhancement. For nonconforming structures, for each six month extension of time requested, 15% of the available buffer must be restored/enhanced.

Conditions may be attached to the permit that 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.

D. Building Safety

Nothing in this SMP shall be deemed to prevent the strengthening or restoring to a safe condition of any non-conforming building or part thereof declared to be unsafe by order of any City official charged with protecting the public safety.

1. Alterations or expansion of a non-conforming use structure, that are required by law or a public agency in order to comply with public health or safety regulations are the only alterations or expansions allowed.
2. Alterations or expansions permitted under this section shall be the minimum necessary to meet the public safety concerns.

E. Non-conforming Parking Lots

1. Nothing contained in this SMP shall be construed to require a change in any aspect of a structure or facility covered thereunder including, without limitation, parking lot layout, loading space requirements and curb-cuts, for any structure or facility which existed on the date of adoption of this SMP.
2. If a change of use takes place, or an addition is proposed, which requires an increase in the parking area by an increment less than 100%, the requirements of the SMP shall be complied with for the additional parking area.
3. If a change of use takes place, or an addition is proposed, which requires an increase in the parking area by an increment greater than 100%, the requirements of the SMP shall be complied with for the entire parking area.

F. Non-conforming Landscape Areas

1. Adoption of the vegetation protection and landscaping regulations contained in this SMP shall not be construed to require a change in the landscape improvements for any legal landscape area which existed on the date of adoption of this SMP, unless and until the property is redeveloped or alteration of the existing structure beyond the thresholds provided herein.
2. At such time as the property is redeveloped or the existing structure is altered beyond the thresholds provided herein and the associated premises does not

comply with the vegetation protection and landscaping requirements of this SMP, a landscape plan which conforms to the requirements of this SMP shall be submitted to the Director for approval.

DRAFT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, UPDATING THE SHORELINE ELEMENT OF THE CITY'S COMPREHENSIVE LAND USE PLAN TO INCORPORATE POLICIES THAT REFLECT NEW STATE REQUIREMENTS FOR AREAS SUBJECT TO SHORELINE JURISDICTION; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City adopted a new Comprehensive Plan in 1995 to implement the goals and policies of the Growth Management Act of 1990 and the King County County-wide Planning Policies; and

WHEREAS, the Green/Duwamish River, a shoreline of the State, regulated pursuant to RCW 90.58, runs through the entire length of the City of Tukwila; and

WHEREAS, due to the presence of the Green River in the City, the 1995 Comprehensive Plan included policies addressing shorelines; and

WHEREAS, as set forth in RCW 90.58.020, the State Legislature has found that shorelines of the State are among the most valuable and fragile of its natural resources and unrestricted construction on privately and publicly-owned shorelines of the State is not in the best public interest; and

WHEREAS, in RCW 90.58.020, the Legislature directed local governments developing Shoreline Master Programs for shorelines of State-wide significance to give preference to the following uses, in order of preference, which: 1) recognize and protect the State-wide 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; and 7) provide for any other element, as defined in RCW 90.58.100, deemed appropriate or necessary; and

WHEREAS, in 2003 the Washington State Department of Ecology (DOE), adopted new rules, pursuant to RCW 90.58.200, to carry out provisions of the Shoreline Management Act; and

WHEREAS, DOE's new rules are set forth in WAC 173-26, and these new rules provide direction to local jurisdictions concerning the regulation of uses on shorelines of the State; and

WHEREAS, RCW 90.58.080 directs local governments to develop or amend their shoreline master programs consistent with the required elements of the guidelines adopted by DOE, in accordance with a schedule established in that section; and

WHEREAS, the timetable set forth in RCW 90.58.080(2)(a)(ii) requires the City of Tukwila to amend its Shoreline Master Program by December 1, 2009; and

WHEREAS, the City of Tukwila's Shoreline Master Program is implemented by regulations codified at TMC Chapter 18.44, which are in turn guided by the Tukwila Comprehensive Plan's Shoreline Goals and Policies; and

WHEREAS, the Tukwila Comprehensive Plan's Shoreline Goals and Policies were adopted in Ordinance No. 1757, specifically, Goals and Policies 5.1-5.10; and

WHEREAS, in order to amend the Tukwila Shoreline Master Program, it is necessary to update the Comprehensive Plan Shoreline Goals and Policies, which have not been updated since 1995, to reflect the updated WAC 173-26 regulations for shoreline master programs; and

WHEREAS, the City began an update of its Shoreline Master Program in 1998, established a Citizens Advisory Panel for initial policy and regulation guidance, prepared background studies and used consultant services to prepare technical documents; and

WHEREAS, the City renewed and continued its updating of the Shoreline Master Program in 2008; and

WHEREAS, an environmental checklist was prepared for the staff draft Shoreline Master Program update, accompanied by a draft "Cumulative Impacts Analysis," an "Inventory and Characterization Report" and draft "Restoration Plan," and a Determination of Non-Significance was issued August 13, 2008; and

WHEREAS, the Planning Commission reviewed a staff draft Shoreline Master Program, held a public hearing on August 27, 2008, continued the hearing to October 9, 2008 to allow additional public input, revised the staff's draft Shoreline Master Program, and in February 2009 recommended the City Council adopt the Planning Commission's revised Shoreline Master Program; and

WHEREAS, the City Council held a public hearing on April 20, 2009, continued the hearing to July 13, 2009 and July 20, 2009 and conducted ten in-depth work sessions to review the Planning Commission Recommended Draft Shoreline Master Program; and

WHEREAS, the City Council reviewed written and verbal testimony and approved revisions to the Planning Commission Recommended Draft Shoreline Master Program to address issues raised by interested parties, individual Councilmembers and the Department of Ecology; and

WHEREAS, throughout the process of updating the Shoreline Master Program, a variety of methods were used to notify the general public and property owners along the shoreline of the proposed Shoreline Master Program update, including mailings to property owners and tenants, notice boards along the Green River Trail, postings on the City's web site, creation of a broadcast email group who received updates of the shoreline review process and articles in the City's newsletter; and

WHEREAS, one of the purposes of the Comprehensive Plan is to protect the natural environment, including shoreline areas, because they are an essential contributor to the overall welfare of the City's residents and businesses; and

WHEREAS, the revisions to the Comprehensive Plan Policies for the shoreline address changes in shoreline character and the need to further protect the shoreline resources for public safety, flood control and habitat improvement; and

WHEREAS, notice has been provided to the Washington State Department of Commerce, pursuant to RCW 36.70A.106;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Goals and Policies 5.1-5.11 of the Shoreline Element of the City of Tukwila's Comprehensive Land Use Plan, are hereby amended to read as shown in "Attachment A" to this ordinance.

Section 2. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 3. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Special Meeting thereof this _____ day of _____, 2009.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, CMC, City Clerk

Jim Haggerton, Mayor

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____

Passed by the City Council: _____

Published: _____

Office of the City Attorney

Effective Date: _____

Ordinance Number: _____

Attachment "Attachment A" - City of Tukwila Comprehensive Plan Policies

ATTACHMENT A
Ordinance No. _____

5.1 Shoreline Environment Designations

Goal: Shoreline Environment designations that meet Washington State Shoreline Management Act requirements, and reflect local conditions and Tukwila's long-term vision for its shoreline. The shoreline jurisdiction generally extends for 200 feet on either side of the Ordinary High Water mark, consistent with the Washington State Shoreline Management Act. In order to implement this goal, the SMP proposes three Environment Designations: Shoreline Residential, Urban Conservancy, and High Intensity (as detailed in the Shoreline Environment Section) that comply with the Washington State Shoreline Management Act and function well for the City.

Policies:

- Policy 5.1.1 -- Shoreline Residential Environment. In the Shoreline Residential Environment, priority shall be given to the following:
 - Uses that preserve or restore the natural character of the shoreline or promote preservation of vegetation, open space, flood plain or sensitive area lands; and
 - Development that is compatible with the natural and biological limitations of the land and water and that will not require extensive alteration of the shoreline or new "hard" structural shoreline stabilization. Where possible the removal of bulkheads, revetments, levees or other "hard" structural shoreline stabilization is required. Hard structural shoreline stabilization may be replaced with alternative bioengineered bank stabilization; and
 - On publicly-owned property, water-dependent or water-related recreational activities that are compatible with the character of the shoreline residential areas.
 - Maintenance of existing single-family residential development patterns and public open space and recreation uses;
 - Residential and recreational development that promotes vegetation conservation and enhancement, sensitive areas protection, and maintenance of water quality to assure no net loss of shoreline ecological functions;
 - Residential and recreational development that contributes to the restoration of ecological functions over time in areas where ecological degradation has occurred.
- Policy 5.1.2 -- Urban Conservancy Environment: In the Urban Conservancy Environment priority shall be given to the following:
 - Development that promotes vegetation conservation and enhancement, sensitive areas protection, and preservation of water quality to assure no net loss of shoreline ecological functions;
 - Water enjoyment uses;
 - Uses that remove shoreline armoring, unless required for a shoreline dependent use, and uses that prevent and/or minimize flood damage;
 - Uses that preserve or restore shoreline ecological functions provided by vegetation, open space, flood plain or sensitive area lands;
 - Uses that minimize interference with navigation and flood control, consider impacts to public views, and allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration;
 - Uses that provide public access and public recreation whenever feasible and when ecological impacts can be mitigated;

- Development that is compatible with the natural and biological limitations of the land and water that do not require extensive alteration of the shoreline or new shoreline stabilization, except for restoration projects.
 - Uses that provide public access and public recreation whenever feasible and ecological impacts can be mitigated;
 - Enhancement and restoration of ecological functions; and
 - Redevelopment of underutilized areas and development of commercial and industrial activities where shoreline impacts are minimized and where there is no net loss of shoreline functions.
- Policy 5.1.3 – High Intensity Shoreline Environment: In the High Intensity Environment, priority shall be given to the following:
 - Water dependent commercial and industrial uses;
 - Development that promotes vegetation conservation and enhancement, sensitive areas protection, and preservation of water quality to assure no net loss of shoreline ecological functions.
 - Uses that remove shoreline armoring, unless required for a shoreline dependent use, and uses that prevent and/or minimize flood damage;
 - Uses that preserve or restore shoreline ecological functions provided by vegetation, open space, flood plain or sensitive area lands;
 - Uses that minimize interference with navigation and flood control, consider impacts to public views, and allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration;
 - Uses that provide public access and public recreation whenever feasible and when ecological impacts can be mitigated;
 - Development that is compatible with the natural and biological limitations of the land and water that do not require extensive alteration of the shoreline or new shoreline stabilization, except for restoration projects.
 - Uses that provide public access and public recreation whenever feasible and ecological impacts can be mitigated;
 - Enhancement and restoration of ecological functions; and
 - Redevelopment of underutilized areas and development of intensive commercial and industrial activities where shoreline impacts are minimized and where there is no net loss of shoreline functions.

5.2 Shoreline Planning and Management

Goal: Expanded value of the river as a community and regional resource through regional coordination of shoreline management programs and through programs that foster river appreciation and awareness, involving partnerships among businesses, schools, government and community organizations.

Policies:

- Policy 5.2.1 – Coordinate shoreline planning and management activities with other local jurisdictions and their plans such as the WRIA 9 Salmon Habitat Plan and the King County Flood Hazard Management Plan to establish region-wide consistency in addressing river issues with regional implications, such as economic development, public access, wildlife habitat, water quality control and flood control.

- Policy 5.2.2 -- Promote river stewardship and increase river awareness through actions which further shoreline goals, such as educational programs, community activities, and partnerships with Tukwila residents, businesses, schools, government, and community organizations.
- Policy 5.2.3 -- Promote and participate in the implementation of the Watershed Resource Inventory Area (WRIA) 9 Plan, including supporting the recommended projects located in Tukwila to improve the habitat functions of the Green/Duwamish River, as well as the Plan policies and goals.

Implementation Strategies:

- WRIA 9 Salmon Habitat Plan
- Tukwila SMP Restoration Plan
- King County Flood Hazard Management Plan

5.3 Land Development Use and Economic Vitality

Goal: Development along the shoreline that fosters the economic vitality of Tukwila while preserving the long-term benefits of the river.

Policies:

- Policy 5.3.1 -- Implement Shoreline Design Guidelines to:
 - Encourage design that views the river as an amenity;
 - Guide the design of multiple shoreline uses;
 - Establish techniques for increasing multiple shoreline use;
 - Prioritize locations for use;
 - Encourage removal of invasive species with nonchemical methods and maintenance of native planted vegetation to minimize the presence of invasive species.
- Policy 5.3.2 -- Design and locate all shoreline development to minimize impacts on areas identified as important for other river uses, such as wildlife and aquatic habitat, river vegetation, public access and recreation, historical resource and flood control.
- Policy 5.3.3 -- When no other feasible alternative exists, allow structures to be placed in the water, or structural reinforcement of the riverbank, only when this provides a significant, long-term public benefit, does not interfere with navigation or flood management, does not cause a loss of shoreline function or is essential to a water-dependent use.
- Policy 5.3.4 -- Prohibit the construction of new flood control facilities unless constructed to incorporate habitat restoration features and work to remove existing shoreline armoring -- where possible-- to restore habitat functions.
- Policy 5.3.5 -- Recognize and promote the river's contribution to the economic vitality of Tukwila, as a valuable amenity for existing and future businesses which depend on or benefit from a shoreline location.
- Policy 5.3.6 -- Ensure that shoreline development does not diminish the commercial navigability of the River.
- Policy 5.3.7 -- Tukwila Urban Center Development Policy: Design and locate shoreline development in the Tukwila Urban Center to encourage water enjoyment uses that:
 - Provide for shoreline multiple uses that are consistent with the underlying zoning;
 - Provide additional benefits, such as riverbank restoration, fishing piers, non-motorized boat launches, river views, or interpretive signs;

- Support public access to and along the shoreline;
- Provide water-enjoyment uses as transitions between the river and non-water dependent uses;
- Encourage efficient use of land, through such techniques as clustering, mixed use projects, cooperative parking or parking located under principal structures, and shared utility and access corridors.
- Ensure that new development and re-development in the Urban Center acknowledges the goal of a continuous street façade along Christensen Road and the riverfront and locates parking facilities to the interior of the lot.

Implementation Strategies for Policy 5.3.7:

- Shoreline Design Guidelines
- Development Standards
- Tukwila Urban Center Plan
- MIC Development Policy 5.3.8 – Ensure that non-water dependent shoreline development in the MIC. provides for shoreline multiple uses to the extent that site security and the success of industrial operations are not jeopardized; ensures no net loss of shoreline function and provides adequate mitigation for the loss of shoreline multiple use opportunities.
- MIC Development Policy 5.3.10 -- Allow opportunities for commercial and recreational marinas to locate in Tukwila downstream of the turning basin, where compatible with existing and future navigability and existing and future ecological restoration projects.
- Policy 5.3.11 -- Development outside the Tukwila Urban Center or MIC: Design and locate shoreline development outside of the Tukwila Urban Center and the MIC to:
 - Provide for multiple shoreline uses;
 - Provide water-enjoyment uses as transitions between the river and non-water dependent uses;
 - Encourage efficient use of land through such techniques as clustering, mixed-use projects, cooperative parking or parking located under principal structures, and shared utility and access corridors;
 - Treat the river as an amenity in the design and location of the project.

5.4 Private Property Rights

Goal: Protect rights of property owners to reasonable use and enjoyment of private property, through appropriate location, access to, and design of shoreline uses.

Policies:

- Policy 5.4.1 -- Design, locate and manage shoreline uses in a manner which maintains reasonable use and enjoyment of private property.
- Policy 5.4.2 -- Design and locate public access in a way that is appropriate for the site, depending on site conditions and private property concerns.
- Policy 5.4.3 -- Special sensitivity is required for residential property; therefore, all single-family residential development of four or fewer single-family residential lots is excluded from requirements to provide private or public access. Single family property owners are not exempt from the responsibility to improve the habitat value of the shoreline environment.

- Policy 5.4.4 -- Maintain flexibility in methods of obtaining public access, to allow for different site conditions and private property concerns that might conflict with public access, such as privacy, safety, and security.
- Policy 5.4.5 -- Obtain additional easement area to permit the improvement of flood control and river habitat by setting back levees or removing revetments and other hard shoreline armoring and replacing with more habitat-friendly flood control levees or other shoreline treatment.

5.5 Shoreline Design Quality

Goal: Enhanced identity of the river as a unique community asset through high quality development and public activities that reflect Tukwila's history and sense of community pride.

Policies:

- Policy 5.5.1 -- Require that shoreline development outside of the MIC:
 - Ensures no net loss of shoreline function;
 - Is designed to be consistent with Tukwila Shoreline Design Guidelines;
 - Reflects principles of high quality design, in such areas as site planning, architecture and landscaping;
 - Includes setbacks, bulk, height, density, landscape buffers and provisions for open space that enhance the shoreline environment.

Implementation Strategies for Policy 5.5.1:

- Shoreline design guidelines
- Shoreline development standards
- Tukwila Urban Center Plan
- Policy 5.5.2 -- Require that shoreline development in the MIC:
 - Is designed to be consistent with Tukwila Shoreline Design Guidelines;
 - Maintains or enhances the existing visual quality along the river;
 - Provides trees and other landscaping to buffer industrial uses that are incompatible with other river uses;
 - Provides amenities that enhance enjoyment of the river by employees.

Implementation Strategies for Policy 5.5.2:

- Shoreline design guidelines
- Shoreline development standards

5.6 Access and Recreational Use

Goal: Increase the amount and diversity of opportunities for public recreation and access to and along the river, including visual and cultural access, access to the water's edge, opportunities for small boat navigation and access, and connections to other neighborhoods, consistent with the shoreline character.

Policies:

- Policy 5.6.1 -- Retain and improve areas identified as important in the network of public access to the river, including cross-town connections, former railroad right-of-ways and unimproved street-end right-of-ways, historic sites, unique natural features or other areas valuable for their interpretive potential.

- Policy 5.6.2 -- Maintain existing parks along the shoreline and acquire additional park land to increase access and recreation opportunities.
- Policy 5.6.3 -- Incorporate river access requirements to guide the design, location and management of shoreline public access in short plats over 4 lots and all subdivisions as well as multi-family, commercial and industrial development; to identify types of access appropriate and feasible for various site conditions and locations; and to establish strategies, funding sources and priorities for acquisition and enhancement of shoreline public access.

Implementation Strategies for Policies 5.6.1-5.6.3:

- Shoreline design guidelines
- Shoreline access guidelines
- Shoreline development standards
- Walk and Roll Plan
- Parks and Open Space Plan
- Policy 5.6.4 -- Design, locate and manage public access for diverse types and variable levels of intensity in order to minimize impacts on vulnerable features of the natural environment and to minimize conflicts with private property uses.
- Policy 5.6.5 -- Where shoreline development provides public access areas, reserve such areas for use by the public through the means most appropriate for the type, scale and impacts of the development, such as dedication, donation or sale of an easement or right-of-way to the City.
- Policy 5.6.6 -- Support the implementation of the King County Green River Trail, per the existing King County Green River Trail Master Plan as well as pedestrian/bicycle connections with the Trail from properties on the opposite bank and the expansion of this trail where appropriate.

Policies for Development outside MIC:

- Policy 5.6.7 -- Require subdivisions, multi-family residential uses and commercial and industrial uses along the shoreline to provide a trail for public access along the river in areas identified for trail connections, consistent with the King County Green River Trail Master Plan, Shoreline Master Program or any other approved access plan.

Implementation Strategies for Policy 5.6.7:

- King County Green River Trail Master Plan
- Shoreline public access standards
- Walk and Roll Plan
- Parks and Open Space Plan
- Policy 5.6.8 -- Where shoreline public access is provided, ensure that it is designed to be safe and convenient and includes access amenities such as benches, drinking fountains, public parking areas, handicapped access, and appropriate lighting, consistent with the shoreline access guidelines.

Implementation Strategies for Policy 5.6.8:

- King County Green River Trail Master Plan
- Shoreline public access standards
- Walk and Roll Plan
- Parks and Open Space Plan
- Policy 5.6.9 -- Except for single-family residential development of four or fewer single-family residential lots, shoreline development shall maintain and encourage views of the water from the shoreline and from upland area, through design of building height, bulk and modulation, and windows, breezeways and outdoor spaces.

Implementation Strategies:

- Shoreline design guidelines
- Policy 5.6.10 -- Public access improvements should be designed and constructed to:
 - Look and "feel" welcoming to the public;
 - Connect to public areas, street ends, and other pedestrian or public throughfares;
 - Enhance the character of Tukwila;
 - Avoid conflicts with water-dependent uses;
 - Provide for public safety and minimize impacts to private property and individual privacy and security;
 - Require a low level of operation and maintenance;
 - Ensure that construction (i.e. structures and access pathways) incorporates environmentally sensitive design and materials (e.g., non-toxic, natural materials)
- Policy 5.6.11 -- Improve pedestrian connections between the river, Green River Trail and the planned Riverwalk and the Urban Center's commercial, office and residential uses.

Policies for Development in MIC:

- Policy 5.6.12 -- For MIC properties included in the King County Green River Trail Master Plan or other approved access plan, require shoreline development to provide a trail for public access along the river.
- Policy 5.6.13 -- Where shoreline public access is provided, ensure that it is designed to be safe and convenient and includes access amenities such as benches, drinking fountains, public parking areas, handicapped access and appropriate lighting, consistent with the shoreline access guidelines.
- Policy 5.6.14 -- For MIC properties not included in the King County Green River Trail Plan, require shoreline development to provide public access or a private natural area in lieu of public access, or otherwise mitigate the loss of public access.

Implementation Strategies for Policies 5.6.12-14:

- Shoreline design guidelines
- Shoreline access guidelines
- Walk and Roll Plan
- Parks and Open Space

5.7 Transportation within the Shoreline Jurisdiction

Goal -- Safe corridors and amenities for pedestrians, cyclists and users of public transportation, allowing more citizens to access and enjoy the river.

Policies:

- Policy 5.7.1 -- Design and locate transportation uses within the shoreline jurisdiction to be compatible with shoreline vegetation or other habitat features, turn-outs or parking areas for public access, bio-filtration swales to protect water quality, public art or interpretive signs.
- Policy 5.7.2 -- Ensure the transportation uses within the shoreline jurisdiction and within those corridors identified as river cross-connections provide safe, convenient and attractive pedestrian, bicycle and boater access and facilities for public transportation.

- Policy 5.7.3 -- Minimize transportation impacts to the natural environment (such as air, noise, odor or water pollution) and enhance the natural environment wherever possible through planting trees and other habitat features.
- Policy 5.7.4 -- Encourage maintenance of the river's navigability up to the Turning Basin, where this achieves a greater public interest and a balance between costs and benefits to the broader community and impacts to the habitat functions of the river, in recognition of the historical significance of navigation and its importance to the economic vitality of water-dependent uses and the MIC

5.8 Historical Resource Use and Archaeological Protection

Goal: Recognition of the river's contribution to Tukwila history and community identity through identification, enhancement, restoration, and protection of sites with historic and cultural value and through development of interpretive and educational programs.

Policies:

- Policy 5.8.1 -- Ensure that shoreline development reflects the river's important role in Tukwila's history and that long-term public use of the river as an historical resource is protected by providing for the identification, protection and interpretation of unique historic and archaeological features.
- Policy 5.8.2 -- Ensure that public shoreline development reflects the river's natural features and community traditions.
- Policy 5.8.3 -- Ensure that archaeological artifacts and sites are protected when development takes place in the shoreline jurisdiction.

5.9 Natural Environment and Habitat Use

Goal: Restored, enhanced, and protected natural environment resources along the river, including trees, wildlife habitat and features with value for long-term public, scientific and educational uses.

Policies:

- Policy 5.9.1 -- Ensure that shoreline development results in no net loss of shoreline ecological function, minimizes impacts on wildlife and that significant vegetation, sandbars, wetlands, watercourses, and other critical areas identified as important for habitat are maintained through the proper location, design, construction, and management of all shoreline uses and activities.
- Policy 5.9.2 -- Ensure that shoreline development and activities protect riverbank vegetation and, where feasible, restore degraded riverbanks in accordance with the vegetation management provisions of the Shoreline Master Program, in order to minimize and compensate for impacts to fish and wildlife habitat.
- Policy 5.9.3 -- Mitigate unavoidable disturbances of significant vegetation or habitat through replacement of habitat and provision of interpretive features consistent with the shoreline access guidelines.
- Policy 5.9.4 -- Support relief from certain shoreline master program requirements for properties affected by habitat restoration projects that result in the movement of the ordinary high water mark.
- Policy 5.9.5 -- Support establishing the Transition Zone as the priority area for habitat restoration projects given its importance for subtidal and intertidal habitats to allow salmonids to gradually adjust to the change between fresh and saltwater conditions.

5.10 Water Quality, Surface Water and Flood Control Use

Goal: Improved water quality and quantity control programs affecting the Green/Duwamish River that improve the river's water quality, provide habitat for fish and wildlife, protect public health and safety, and enhance public enjoyment of the river.

Policies:

- Policy 5.10.1 -- Design, locate, and manage shoreline development including streets, flood control projects, surface water drainage and sewer systems, clearing and grading activities, and landscaping in a manner which minimizes opportunities for pollutants to enter the river, provides erosion control and otherwise protects water quality.
- Policy 5.10.2 -- Design, manage, and mitigate flood control uses to minimize impacts to other shoreline uses such as trees and riverbank vegetation, public access and recreation, and fish habitat; and set them back from the river, where feasible for the project, with land areas between the water and the levee set aside as open space for public recreation or wildlife habitat.
- Policy 5.10.3 -- Consistent with project feasibility, mitigate unavoidable negative impacts on other shoreline uses owing to flood control uses through such measures as restoration of trees and native riverbank vegetation, provision of public access to the water's edge, interpretive features, or other mitigation of loss of opportunities for shoreline multiple uses.
- Policy 5.10.4 -- Obtain additional easements, where needed, from property owners to set back levees to improve flood control and shoreline habitat functions. Where possible, as redevelopment occurs, replace bulkheads, revetments or other hard bank stabilization with more natural levees, riverbanks or other shoreline treatments, to improve flood control, ecological functions and habitat where possible.

Implementation Strategies:

- Increase levee setback to incorporate vegetated mid-slope benches
- Shoreline access guidelines
- Surface Water Management Plan
- WRIA 9 Plan water quality policies
- Shoreline Restoration Plan

5.11 Public Health, Safety and Welfare, Comprehensive Plan Goal 5.11

Goal: Shoreline uses that do not endanger public health, safety and welfare, or the capacity of the river to provide long-term benefits and resources to the community.

Policies:

- Policy 5.11.1 -- Design, locate, and manage shoreline uses, such as capital improvement projects and private development, in a manner that does not endanger public health, safety and welfare, and enhances the capacity of the river to provide long-term flood protection, habitat and other benefits and resources to the community and the environment.

DRAFT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, UPDATING REQUIREMENTS FOR SHORELINE REGULATIONS TO INCORPORATE NEW STATE REQUIREMENTS; REPEALING ORDINANCE NOS. 1796 §3 (PART), 1775 §2, AND 1758 §1 (PART), AS CODIFIED AT TUKWILA MUNICIPAL CODE CHAPTER 18.44, "SHORELINE OVERLAY"; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City adopted a new Comprehensive Plan in 1995 to implement the goals and policies of the Growth Management Act of 1990 and the King County County-wide Planning Policies; and

WHEREAS, the Green/Duwamish River, a shoreline of the State, regulated under RCW 90.58, runs through the entire length of the City of Tukwila; and

WHEREAS, due to the presence of the Green River in the City, the 1995 Comprehensive Plan included policies addressing shorelines; and

WHEREAS, as set forth in RCW 90.58.020, the State Legislature has found that shorelines of the State are among the most valuable and fragile of its natural resources and unrestricted construction on privately-owned and publicly-owned shorelines of the State is not in the best public interest; and

WHEREAS, in RCW 90.58.020, the Legislature directed local governments developing Shoreline Master Programs for shorelines of State-wide significance to give preference to uses in order of preference, which: 1) recognize and protect State-wide interests over local interests; 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 shoreline; 6) increase recreational opportunities for the public in the shoreline; and 7) provide for any other element, as defined in RCW 90.58.100, deemed appropriate or necessary; and

WHEREAS, Puget Sound Chinook Salmon and Bull Trout have been listed as "threatened" under the Federal Endangered Species Act, and the Green/Duwamish River throughout Tukwila is a critical resource for these species, making shoreline habitat protection and restoration crucial, particularly in the Transition Zone portion of the river that extends from the East Marginal Way South bridge through the north City limits; and

WHEREAS, in 2003 the Washington State Department of Ecology (DOE), adopted new rules, pursuant to RCW 90.58.200, to carry out provisions of the Shoreline Management Act; and

WHEREAS, DOE's new rules are set forth in WAC 173-26, and these new rules provide direction to local jurisdictions concerning the regulation of uses on shorelines of the State; and

WHEREAS, RCW 90.58.080 directs local governments to develop or amend their shoreline master programs consistent with the required elements of the guidelines adopted by DOE, in accordance with a schedule established in that section; and

WHEREAS, the timetable set forth in RCW 90.58.080(2)(a)(ii) requires the City of Tukwila to amend its Shoreline Master Program by December 1, 2009; and

WHEREAS, the City began an update of its Shoreline Master Program in 1998, established a Citizens Advisory Panel for initial policy and regulation guidance, prepared background studies and used consultant services to prepare technical documents; and

WHEREAS, the City renewed and continued its updating of the Shoreline Master Program in 2008; and

WHEREAS, an environmental checklist was prepared for the staff draft Shoreline Master Program update, accompanied by a draft "Cumulative Impacts Analysis," an "Inventory and Characterization Report" and draft "Restoration Plan," and a Determination of Non-Significance was issued August 13, 2008; and

WHEREAS, the Planning Commission reviewed a staff draft Shoreline Master Program, held a public hearing on August 27, 2008, continued the hearing to October 9, 2008 to allow additional public input, and recommended adoption of a revised Shoreline Master Program to the City Council in February 2009; and

WHEREAS, the City Council held a public hearing on April 20, 2009, continued the hearing to July 13, 2009 and July 20, 2009 and conducted ten in-depth work sessions to review the Planning Commission Recommended Draft Shoreline Master Program; and

WHEREAS, the City Council reviewed written and verbal testimony and approved revisions to the Planning Commission Recommended Draft Shoreline Master Program to address issues raised by interested parties, individual Councilmembers and the Department of Ecology; and

WHEREAS, throughout the process of updating the Shoreline Master Program, a variety of methods were used to notify the general public and property owners along the shoreline of the proposed Shoreline Master Program update, including: mailings to property owners and tenants; notice boards along the Green River Trail; postings on the City's web site; creation of a broadcast email group who received updates of the shoreline review process; and articles in the City's newsletter; and

WHEREAS, revisions to the City's shoreline regulations, codified in Tukwila Municipal Code Chapter 18.44, are required to implement the updated Shoreline Master Program; and

WHEREAS, new and revised Zoning Code definitions, codified in Chapter 18.06 of the Tukwila Municipal Code, are required to implement the changes to TMC Chapter 18.4 TMC and the updated Shoreline Master Program; and

WHEREAS, notice has been provided to the Washington State Department of Commerce pursuant to RCW 36.70A.106;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Purpose and Definition Adopted. Updated requirements for shoreline regulations are hereby adopted to read as follows:

18.44.010 Purpose and Definition

The purpose of this chapter is to implement the Shoreline Management Act (SMA) of 1971, as amended (referred to in the chapter as "Shoreline Act" (SMA)) and the rules and regulations hereunder (referred to in this chapter as "shoreline regulations"), as codified in the Washington Administrative Code; and to provide for the regulation of development that affects those areas of the City under the jurisdiction of the Shoreline Act.

Section 2. Shoreline Environment Designations Adopted. Updated requirements for shoreline regulations are hereby adopted to read as follows:

18.44.020 Shoreline Environment Designations

All shoreline within the City is designated "urban" and further identified as follows:

1. Shoreline Residential Environment. All lands zoned for residential use as measured 200 feet landward from the Ordinary High Water Mark (OHWM);
2. Urban Conservancy Environment. All lands not zoned for residential use upstream from the Turning Basin as measured 200 feet landward from the OHWM; and
3. High Intensity Environment. All lands downstream from the Turning Basin as measured 200 feet landward from the OHWM.

Section 3. Principally Permitted Uses Adopted. Updated requirements for shoreline regulations are hereby adopted to read as follows:

18.44.030 Principally Permitted Uses

A. This section specifies the uses that are permitted outright, permitted as a Conditional Use or prohibited altogether for each Shoreline Environment. Also included are special conditions and general requirements controlling specific uses. These regulations are intended to implement the purpose of each Shoreline Environment designation.

B. General Use Regulations. All shoreline uses shall meet the requirements listed below.

1. The first priority for City-owned property within the Shoreline Jurisdiction shall be reserved for water-dependent uses including, but not limited to, habitat restoration, followed by water-enjoyment uses, public access, passive recreation, passive open space uses, or public educational purposes.

2. No hazardous waste handling, processing or storage is allowed within the SMA shoreline jurisdiction, unless incidental to a use allowed in the designated shoreline environment and adequate controls are in place to prevent any releases to the shoreline/river.

3. Overwater structures shall not cause a net loss of ecological function, interfere with navigation or flood management, or present potential hazards to downstream properties or facilities. They shall comply with the standards in the Overwater Structures Section of TMC Section 18.44.070(K).

4. Parking as a primary use is not permitted, except for existing Park-and-Ride lots, where adequate stormwater collection and treatment is in place to protect water quality. Parking is permitted only as an accessory to a permitted or conditional use in the Shoreline Jurisdiction.

5. All development, activities or uses unless an approved over-water, flood management structure, or shoreline restoration project shall be prohibited waterward of the OHWM.

Section 4. Shoreline Residential Environment -- Uses Adopted. Updated requirements for shoreline regulations are hereby adopted to read as follows:

TMC 18.44.040 Shoreline Residential Environment -- Uses

A. Shoreline Residential Buffer -- Delineated Uses. The Shoreline Residential River Buffer shall consist of the area needed to achieve a 2.5:1 slope of the river bank, measured from the toe of the bank to the top of the bank, plus 20 linear feet measured from the top of the bank landward; provided, that in no case shall the Shoreline Residential Buffer be less than 50 feet landward of the OHWM.

1. Permitted Uses. No uses or structures are permitted in the Shoreline Residential Buffer except for the following:

a. Shoreline restoration projects;

b. Over-water structures subject to the standards in the Over-water Structures Section associated with water-dependent uses, public access, recreation, flood control or channel management. Private, single residence piers for the sole use of the property owner shall not be considered an outright use on the shoreline. A dock may be allowed when the applicant has demonstrated a need for moorage and that the following alternatives have been investigated and are not available or feasible:

- 1) commercial or marina moorage;
- 2) floating moorage buoys;
- 3) joint use moorage pier/dock.

c. Public parks, recreation and open space;

d. Public pedestrian bridges;

e. Public and/or private promenades, footpaths or trails;

f. Recreation structures such as benches, tables, viewpoints, and picnic shelters, provided no such structure shall exceed 15 feet in height or 25 square feet in area or block views to the shoreline from adjacent properties;

g. Signs conforming to the Sign Code;

h. Construction, maintenance or re-development of levees for flood control purposes, provided that any new or redeveloped levee shall meet the applicable levee requirements of this chapter;

i. Vehicle bridges, only if connecting public rights-of-way;

j. Utility towers and utilities except the provision, distribution, collection, transmission or disposal of refuse;

k. Fire lanes when co-located with levee maintenance roads;

l. New shoreline stabilization utilizing the development standards in TMC Section 18.44.070(F).

m. Water dependent uses and their structures, as long as there is no net loss of shoreline ecological function;

n. Fences, provided the maximum height of a fence along the shoreline is four feet and the fence does not extend waterward beyond the top of the bank. Chain-link fences must be vinyl coated.

o. Existing essential streets, roads and rights-of-way may be maintained or improved;

p. Outdoor storage, only in conjunction with a water-dependent use;

q. Essential public facilities, both above and below ground;

r. Landfill as part of an approved remediation plan for the purpose of capping contaminated sediments; and

s. Patios or decks not exceeding 18 inches in height, limited to a maximum 200 square feet and 50% of the width of the river frontage. Decks or patios must be located landward of the top of the bank and be constructed to be pervious and of environmentally-friendly materials.

t. Support facilities for above or below ground utilities or pollution control, such as runoff ponds, filter systems, detention ponds and outfall facilities, provided they are located at or below grade and as far from the OHWM as technically feasible.

2. Conditional Uses. Only the following may be allowed as a Conditional Use in the shoreline residential river buffer subject to the requirements, procedures and conditions established by TMC Chapter 18.64 and shall be reviewed through a Shoreline Conditional Use Permit:

a. Dredging activities when in compliance with all federal and state regulations, when necessary for navigation or remediation of contaminated sediments.

b. Dredging for navigational purposes is permitted 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 is restricted to maintaining previously dredged and/or existing authorized location, depth and width. Dredging of bottom materials for the purpose of obtaining fill material is prohibited.

c. New private vehicle bridges.

B. Shoreline Residential Environment Outside of Buffer – Permitted Uses. The following uses are permitted within the Shoreline Residential Environment outside of the Shoreline Residential River Buffer. Uses shall meet the purposes and criteria of the Shoreline Residential Development Zone as established in the Shoreline Environment Designation section.

1. Permitted Uses. The Shoreline Residential Environment shall contain residential, recreational and limited commercial uses and accessory uses as allowed in the underlying zoning district. In addition, the Shoreline Residential Environment shall allow the following uses:

a. All uses permitted in the Shoreline Residential River Buffer;

b. For non-residential uses, parking/loading and storage facilities located to the most upland portion of the property and adequately screened and/or landscaped in accordance with the Vegetation Protection and Landscaping section;

c. Railroad tracks; and

d. Public or private roads.

2. Conditional Uses. All uses listed as Conditional Uses in the underlying zone may be allowed subject to the requirements, procedures and conditions established by TMC Chapter 18.64. A Shoreline Conditional Use Permit is required.

Section 5. Urban Conservancy Environment -- Uses Adopted. Updated requirements for shoreline regulations are hereby adopted to read as follows:

TMC 18.44.050 Urban Conservancy Environment -- Uses

A. Urban Conservancy Environment Buffer - Delineated. The Urban Conservancy Environment Buffer shall consist of that area measured 100 feet landward of the OHWM for non-leveed portions of the river, and that area measured 125 feet landward from the OHWM for leveed portions of the river.

B. Urban Conservancy Environment Buffer - Uses.

1. Permitted Uses. The following uses are permitted in the Urban Conservancy River Buffer:

- a. Shoreline restoration projects;
- b. Over-water structures subject to the standards established in the Over-water Structures Section, TMC Section 18.44.070(K), that are associated with water-dependent uses, public access, recreation, flood control, channel management or ecological restoration;
- c. Public parks, recreation and open space;
- d. Public and/or private promenades, footpaths or trails;
- e. Public pedestrian bridges;
- f. Recreation structures such as benches, tables, viewpoints, and picnic shelters, provided no such structure shall exceed 15 feet in height and 25 square feet in area and views of the shoreline are not blocked from adjacent properties;
- g. Signs conforming to the Sign Code;
- h. Construction, maintenance or re-development of levees for flood control purposes, provided that any new or re-developed levee shall meet the applicable levee requirements of this chapter;
 - i. New vehicle bridges: permitted only if connecting public rights-of-way; existing public or private vehicle bridges may be maintained or replaced.
 - j. Utility towers and utilities except the provision, distribution, collection, transmission or disposal of refuse;
 - k. Levee maintenance roads;
 - l. Plaza connectors between buildings and levees, not exceeding the height of the levee, are permitted for the purpose of providing and enhancing pedestrian access along the river and for landscaping purposes;
 - m. New shoreline stabilization utilizing the development standards in the Shoreline Stabilization Section, TMC Section 18.44.070(F);
 - n. Existing essential streets, roads and rights-of-way may be maintained or improved;
 - o. Water-dependent commercial and industrial development, if permitted by the underlying zoning district;
 - p. Support facilities for above or below ground utilities or pollution control, such as runoff ponds, filter systems, detention ponds and outfall facilities, provided they are located at or below grade and as far from the OHWM as technically feasible;
 - q. Outdoor storage, only in conjunction with a water-dependent use;
 - r. Essential public facilities, both above and below ground;
 - s. Landfill as part of an approved remediation plan for the purpose of capping contaminated sediments.
 - t. Regional detention facilities that meet the City's Infrastructure Design and Construction Standards along with their supporting elements such as ponds, piping, filter systems and outfalls. Any regional detention facility located in the buffer shall be designed such that a fence is not required, planted with native vegetation, designed to blend with the surrounding environment, and provide design features that serve both public and private use, such as an access road that can also serve as a trail. The facility shall be designed to locate access roads and other impervious surfaces as far from the river as practical.

2. Conditional Uses. Only the following may be allowed as a Conditional Use in the Shoreline Urban Conservancy Environment buffer, subject to the requirements, procedures and conditions established by TMC Chapter 18.64 and shall be reviewed through a Shoreline Conditional Use Permit:

a. Dredging activities 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.

b. Dredging for remediation of contaminated sediments when mitigation is provided. Dredging of bottom materials for the purpose of obtaining fill material is prohibited. Dredging activities must comply with all federal and state regulations.

c. New private vehicle bridges.

C. Urban Conservancy Environment Outside of Buffer - Uses.

The following uses are permitted in the Urban Conservancy Environment, outside of the Urban Conservancy Environment Buffer. Uses shall meet the purposes and criteria of the Urban Conservancy Environment as established in the Shoreline Environment Designation section.

1. Permitted Uses. All uses permitted in the Urban Conservancy Environment Buffer and/or the underlying zoning district may be allowed.

2. Conditional Uses. All uses listed as Conditional Uses in the underlying zone may be allowed subject to the requirements, procedures and conditions established by TMC Chapter 18.64. A Shoreline Conditional Use Permit shall be required.

D. Urban Conservancy Buffer Width Reduction

The Director may reduce the Urban Conservancy Environment Buffer as follows:

1. For property located within the 100-foot buffer in non-levee portions of the river, the Urban Conservancy Environment Buffer may be reduced to that area occupied by the river bank plus 20 feet measured landward from the top of the bank; provided however, that the applicant must first re-slope the river bank to 2.5:1, provide a 20-foot setback from the top of the new slope and vegetate both the river bank and the 20-foot setback area in accordance with the standards in TMC 18.44.080, and provided that the Director determines that any buffer reduction will not result in direct, indirect or long-term adverse impacts to shoreline ecosystem functions. Further, a buffer enhancement plan, including removal of invasive plants and plantings using a variety of native vegetation that improves the functional attributes of the buffer and provides additional protection for the watercourse functions, must be approved by the Director and implemented by the applicant as a condition of the reduction.

2. For property located within the 125-foot buffer along leveed portions of the river, the Urban Conservancy Environment Buffer may be reduced to that area occupied by levee or river bank improvements meeting the minimum levee profile or other levee standards provided in this chapter, plus 10 feet measured landward from the landward toe of the levee or (if permitted by this chapter) floodwall. In the event that the owner provides the City with a 10-foot levee maintenance easement, measured landward from the landward toe of the levee or levee wall and prohibiting the construction of any structures and allows the City to access the area to inspect the levee, then the buffer shall be reduced to the landward toe of the levee, or landward edge of the levee floodwall, as the case may be.

3. If fill is placed along the back slope of a new levee, the Urban Conservancy Environment Buffer may be reduced to the point where the ground plane intersects the back slope of the levee; provided, that the property owner must grant the City a levee maintenance easement measured 10 feet landward from the landward toe of the levee or levee wall, and which easement prohibits the construction of any structures and allows the City to access the area to inspect the levee and/or wall and make any necessary repairs.

Section 6. High Intensity Environment -- Uses Adopted. Updated requirements for shoreline regulations are hereby adopted to read as follows:

TMC 18.44.060 High Intensity Environment -- Uses

A. High Intensity Environment Buffer - Delineated

The High Intensity Environment Buffer shall consist of an area measured 100 feet landward from the OHWM. The remaining area of shoreline jurisdiction is non-buffer area.

B. High Intensity Environment Buffer - Uses.

1. Permitted Uses. The following uses are permitted in the High Intensity River Buffer:

a. Shoreline restoration projects;

b. Over-water structures subject to the standards established in the Over-water Structures Section that are associated with water-dependent uses, public access, recreation, flood control, channel management or ecological restoration;

c. Public parks, recreation and open space;

d. Public and/or private promenades, footpaths or trails;

e. Public pedestrian bridges;

f. Recreation structures such as benches, tables, viewpoints, and picnic shelters, provided no such structure shall exceed 15 feet in height and 25 square feet in area and no views of the shoreline are blocked from adjacent properties;

g. Signs conforming to the Sign Code;

h. Construction, maintenance or re-development of levees for flood control purposes, provided that any new or re-developed levee shall meet the applicable levee requirements of this chapter;

i. New vehicle bridges: permitted only if connecting public rights-of-way; existing public or private vehicle bridges may be maintained or replaced;

j. Utility towers and utilities except the provision, distribution, collection, transmission or disposal of refuse;

k. Levee maintenance roads;

l. Plaza connectors between buildings and levees, not exceeding the height of the levee, are permitted for the purpose of providing and enhancing pedestrian access along the river and for landscaping purposes;

m. New shoreline stabilization utilizing the development standards in the Shoreline Stabilization Section, TMC Section 18.44.070(F);

n. Existing essential streets, roads and rights-of-way may be maintained or improved;

o. Water-dependent commercial and industrial development, if permitted by the underlying zoning district;

p. Support facilities for above or below ground utilities or pollution control, such as runoff ponds, filter systems, detention ponds and outfall facilities, provided they are located at or below grade and as far from the OHWM as technically feasible;

q. Outdoor storage, only in conjunction with a water-dependent use;

r. Essential public facilities, both above and below ground; and

s. Landfill as part of an approved remediation plan for the purpose of capping contaminated sediments.

t. Regional detention facilities that meet the City's Infrastructure Design and Construction Standards along with their supporting elements such as ponds, piping, filter systems and outfalls. Any regional detention facility located in the buffer shall be designed such that a fence is not required, planted with native vegetation, designed to blend with the surrounding environment, and provide design features that serve both public and private use, such as an access road that can also serve as a trail. The facility shall be designed to locate access roads and other impervious surfaces as far from the river as practical.

2. Conditional Uses. Only the following may be allowed as a Conditional Use in the Shoreline High Intensity Environment Buffer subject to the requirements, procedures and conditions established by TMC Chapter 18.64. A Shoreline Conditional Use Permit shall be required.

a. Dredging activities 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.

b. Dredging for remediation of contaminated sediments when mitigation is provided. Dredging of bottom materials for the purpose of obtaining fill material is prohibited. Dredging activities must comply with all federal and state regulations.

c. New private vehicle bridges.

C. Shoreline Urban High Intensity Environment - Uses. The Shoreline High Intensity Environment shall consist of the remaining area within the 200 foot Shoreline Jurisdiction that

is not within the Shoreline High Intensity Environment Buffer area. Uses shall meet the purposes and criteria of the Shoreline Environment Designations section.

1. Permitted Uses. All uses permitted in the High Intensity Environment Buffer and/or the underlying zoning district may be allowed.

2. Conditional Uses. All uses listed as Conditional Uses in the underlying zone may be allowed subject to the requirements, procedures and conditions established by TMC Chapter 18.64. A Shoreline Conditional Use Permit shall be required.

D. Shoreline High Intensity Environment Buffer Reduction.

The Director may reduce the High Intensity Environment Buffer where the applicant re-slopes the river bank to be no steeper than 3:1 above the OHWM, provides a 20-foot setback from the top of the new slope, vegetates both the river bank and the 20-foot setback area in accordance with the standards in the Vegetation Protection and Landscaping Section, and the Director determines that there will be no net loss of shoreline ecological functions. On properties where the bank slope currently is no steeper than 3:1 or where the property owner has already re-sloped the river bank, provided a 20-foot setback and vegetated the bank and setback as provided in this chapter, the buffer width will be the distance measured from the OHWM to the top of the bank, plus 20 feet.

Section 7. Development Standards Adopted. Updated requirements for shoreline regulations are hereby adopted to read as follows:

TMC 18.44.070 Development Standards

A. Applicability. The development standards of this chapter apply to work that meets the definition of substantial development except for vegetation removal per TMC Section 18.44.080, which applies to all shoreline development. The term "substantial development" applies to non-conforming, new or re-development. Non-conforming uses, structures, parking lots and landscape areas will be governed by the standards in TMC Section 18.44.130E, "Non-conforming Development."

B. Shoreline Residential Development Standards. A shoreline substantial development permit is not required for construction within the Shoreline Residential Environment by an owner, lessee or contract purchaser of a single family residence for his/her own use or for the use of a family member. Such construction and all normal appurtenant structures must otherwise conform to this Chapter. Short subdivisions and subdivisions are not exempt from obtaining a Shoreline Substantial Development Permit.

1. Shoreline Residential Environment Standards. The following standards apply to the Shoreline Residential Environment:

a. The development standards of the applicable underlying zoning district (Title 18, Tukwila Municipal Code) shall apply.

b. New development and uses must be sited so as to allow natural bank inclination of 2.5:1 slope with a 20-foot setback from the top of the bank. The Director may require a riverbank analysis as part of any development proposal.

c. Utilities such as pumps, pipes, etc., shall be suitably screened with native vegetation per the standards in the Vegetation Protection and Landscaping Section.

d. New shoreline stabilization, repair of existing stabilization or modifications to the river bank must comply with the standards in the Shoreline Stabilization Section, TMC Section 18.44.070(F).

e. Short plats of five to nine lots or formal subdivisions must be designed to provide public access to the river in accordance with the Public Access Section, TMC Section 18.44.100. Signage is required to identify the public access point(s).

f. Parking facilities associated with single family residential development or public recreational facilities are subject to the specific performance standards set forth in the Off-Street Parking Section, TMC Section 18.44.070(I).

g. Fences, freestanding walls or other structures normally accessory to residences must not block views of the river from adjacent residences or extend waterward beyond the top of the bank. Chain link fencing must be vinyl coated.

h. Recreational structures permitted in the buffer must provide buffer mitigation.

i. The outside edge of surface transportation facilities, such as railroad tracks, streets, or public transit shall be located no closer than 50 feet from the OHWM, except where the surface transportation facility is bridging the river.

j. Except for bridges, approved above ground utility structures, and water-dependent uses and their structures, the maximum height for structures shall be as established by the underlying zone.

2. Design Review. Design review is required for non-residential development in the Shoreline Residential Environment.

C. High Intensity and Urban Conservancy Environment Development Standards.

1. Standards. The following standards apply in the High Intensity and Urban Conservancy Environment.

a. The development standards for the applicable underlying zoning district (Title 18, Tukwila Municipal Code) shall apply.

b. All new development performed by public agencies, or new multi-family, commercial, or industrial development shall provide public access in accordance with the standards in the Public Access Section.

c. Development or re-development of properties in areas of the shoreline armored with revetments or other hard armoring other than levees, or with non-armored river banks, must comply with the Vegetation Protection and Landscaping Section, TMC Section 18.44.080.

d. Any new shoreline stabilization or repairs to existing stabilization must comply with Shoreline Stabilization Section, TMC Section 18.44.070(F).

e. Over-water structures shall be allowed only for water-dependent uses and the size limited to the minimum necessary to support the structure's intended use and shall result in no net loss to shoreline ecological function. Over-water structures must comply with the standards in the Over-water Structures Section, TMC Section 18.44.070(K).

2. Setbacks and Site Configuration.

a. The yard setback adjacent to the river is the buffer width established for the applicable shoreline environment.

b. A fishing pier, viewing platform or other outdoor feature that provides access to the shoreline is not required to meet a setback from the OHWM.

3. Height Restrictions. Except for bridges, approved above ground utility structures, and water-dependent uses and their structures, to preserve visual access to the shoreline and avoid massing of tall buildings within the shoreline jurisdiction, the maximum height for structures shall be as follows:

a. 15 feet where located within the River Buffer;

b. 45 feet between the outside landward edge of the River Buffer and 200 feet of the OHWM.

Provided, no permit shall be issued for any new or expanded building or structure of more than 35 feet above average grade level on shorelines of the State that will obstruct the view of a substantial number of residences on areas adjoining such shorelines. The Director may approve a 15% increase in height if the project proponent provides additional restoration and/or enhancement of the shoreline buffer, beyond what may otherwise be required in accordance with the standards of TMC Section 18.44.080, Vegetation Protection and Landscaping. If the required buffer has already been restored, the project proponent may provide a 20% wider buffer, and/or enhanced in order to obtain the 15% increase in height in accordance with TMC Section 18.44.080, Vegetation Protection and Landscaping.

4. Lighting. In addition to the lighting standards in TMC Chapter 18.60, "Board of Architectural Review," lighting for the site or development shall be designed and located so that:

a. The minimum light levels in parking areas and paths between the building and street shall be one-foot candle;

b. Lighting shall be designed to prevent light spillover and glare on adjacent properties and on the river channel, be directed downward so as to illuminate only the immediate area, and be shielded to eliminate direct off-site illumination;

c. The general grounds need not be lighted;

d. The lighting is incorporated into a unified landscape and/or site plan.

D. Surface Water and Water Quality. The following standards apply to all shoreline development.

1. New surface water systems may not discharge directly into the river or streams tributary to the river without pre-treatment to reduce pollutants and meet State water quality standards.

2. Such pre-treatment may consist of biofiltration, oil/water separators, or other methods approved by the City of Tukwila Public Works Department.

3. Shoreline development, uses and activities shall not cause any increase in surface runoff, and shall have adequate provisions for stormwater detention/ infiltration.

4. Stormwater outfalls must be designed so as to cause no net loss of shoreline ecological functions or adverse impacts where functions are impaired. New stormwater outfalls or maintenance of existing outfalls must include shoreline restoration as part of the project.

5. Shoreline development and activities shall have adequate provisions for sanitary sewer.

6. Solid and liquid wastes and untreated effluents shall not be allowed to enter any bodies of water or to be discharged onto shorelands.

7. The use of low impact development techniques is required, unless such techniques conflict with other provisions of this chapter or are shown to not be feasible due to site conditions.

E. Flood Hazard Reduction. The following standards apply to all shoreline development.

1. New flood hazard structures must incorporate appropriate vegetation restoration and conservation actions consistent with the standards of the Vegetation Protection and Landscaping Section.

2. New structural flood hazard reduction structures shall be allowed only when it can be demonstrated by a riverbank analysis that:

a. They are necessary to protect existing development;

b. Non-structural measures are not feasible; and

c. Impacts to ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss.

3. Levees, berms and similar flood control structures, whether new or redeveloped, shall be designed to meet the minimum levee profile, except as provided in Section 18.44.070(E)10 below.

4. Publicly-funded structural measures to reduce flood hazards shall improve public access or dedicate and provide public access unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, or significant ecological impacts that cannot be mitigated.

5. Rehabilitation or replacement of existing flood control structures such as levees, with a primary purpose of containing the 1% annual chance flood event, shall be allowed where it can be demonstrated by an engineering analysis that the existing structure:

a. Does not provide an appropriate level of protection for surrounding lands; or

b. Does not meet the minimum levee profile or other appropriate engineering design standards for stability (e.g., over-steepened side slopes for existing soil and/or flow conditions); and

c. Repair of the existing structure will not cause or increase significant adverse ecological impacts to the shoreline.

6. Rehabilitated or replaced flood hazard reduction structures shall not extend the toe of slope any further waterward of the OHWM than the existing structure.

7. New structural flood hazard reduction measures, such as levees, berms and similar flood control structures shall be placed landward of the floodway as determined by the best available information.

8. New, redeveloped or replaced structural flood hazard reduction measures shall be placed landward of associated wetlands, and designated fish and wildlife habitat conservation areas.

9. No commercial, industrial, office or residential development shall be located within a floodplain without a Flood Control Zone Permit issued by the City. No development shall be located within a floodway, except as otherwise permitted.

10. New, redeveloped or replaced flood hazard reduction structures may deviate from the minimum levee profile only as follows. A floodwall may be substituted for all or a portion of a levee back slope only where necessary to avoid encroachment or damage to a structure legally constructed prior to the date of adoption of this subsection, and which structure has not lost its nonconforming status. The floodwall shall be designed to be the minimum necessary to provide 10 feet of clearance between the levee and the building, or the minimum necessary to preserve access needed for building functionality while meeting all engineering safety standards. A floodwall may also be used where necessary to prevent the levee from encroaching upon a railroad easement recorded prior to the date of adoption of this subsection. If a floodwall is permitted under this subsection the levee slope must be 2.5H:1V unless it is not physically possible to achieve such a slope; in that instance, the levee slope must be as close to 2.5H:1V as physically possible.

F. Shoreline Stabilization. The provisions of this section apply to those structures or actions intended to minimize or prevent erosion of adjacent uplands and/or failure of riverbanks resulting from waves, tidal fluctuations or river currents. Shoreline stabilization or armoring involves the placement of erosion-resistant materials (e.g., large rocks and boulders, cement, pilings and/or LWD (LWD)) or the use of bioengineering techniques to reduce or eliminate erosion of shorelines and risk to human infrastructure. This form of shoreline stabilization is distinct from flood control structures and flood hazard reduction measures (such as levees). The terms "shoreline stabilization," "shoreline protection" and "shoreline armoring" are used interchangeably.

1. Shoreline protection shall not be considered an outright permitted use and shall be permitted only when it has been demonstrated through a riverbank analysis and report that shoreline protection is necessary for the protection of existing legally established structures and public improvements.

2. New development and re-development shall be designed and configured on the lot to avoid the need for new shoreline stabilization. Removal of failing shoreline stabilization shall be incorporated into re-development design proposals wherever feasible.

3. Replacement of lawfully established, existing bulkheads or revetments are subject to the following priority system:

a. The first priority for replacement of bulkheads or revetments shall be landward of the existing bulkhead.

b. The second priority for replacement of existing bulkheads or revetments shall be to replace in place (at the bulkhead's existing location).

4. When evaluating a proposal against the above priority system, at a minimum the following criteria shall be considered:

a. Existing topography;

b. Existing development;

c. Location of abutting bulkheads;

d. Impact to shoreline ecological functions; and

e. Impact to river hydraulics, potential changes in geomorphology, and to other areas of the shoreline.

5. Proponents of new or replacement hard shoreline stabilization (e.g. bulkheads or revetments) must demonstrate through a documented riverbank analysis that bioengineered shoreline protection measures or bioengineering erosion control designs will not provide adequate upland protection of existing structures or would pose a threat or risk to adjacent property. The study must also demonstrate that the proposed hard shoreline stabilization will not adversely affect other infrastructure or adjacent shorelines.

6. Where allowed, shoreline armoring shall be designed, constructed and maintained in a manner that does not result in a net loss of ecological function, including fish habitat, and shall conform to the requirements of the 2004 Washington State Department of Fish and

Wildlife (or as amended) criteria and guidelines for integrated stream bank protection (Washington State Department of Fish and Wildlife, Washington Department of Ecology and U.S. Fish and Wildlife Service, Olympia, Washington), U.S. Army Corps of Engineers and other regulatory requirements. The hard shoreline stabilization must be designed and approved by an engineer licensed in the State of Washington and qualified to design shoreline stabilization structures.

7. Shoreline armoring shall be designed to the minimum size, height, bulk and extent necessary to remedy the identified hazard.

8. An applicant must demonstrate the following in order to qualify for the RCW Section 90.58.030.30(e)(iii)(ii) exemption from the requirement to obtain a Shoreline Substantial Development Permit for a proposed single family bulkhead and to insure that the bulkhead will be consistent with the SMP:

a. Erosion from currents or waves is imminently threatening a legally established single family detached dwelling unit or one or more appurtenant structures; and

b. The proposed bulkhead is more consistent with the City's Master Program in protecting the site and adjoining shorelines and non-structural alternatives such as slope drainage systems, bioengineering or vegetative growth stabilization are not feasible or will not adequately protect a legally established residence or appurtenant structure; and

c. The proposed bulkhead is located landward of the OHWM or it connects to adjacent, legally established bulkheads; and

d. The maximum height of the proposed bulkhead is no more than one foot above the elevation of extreme high water on tidal waters as determined by the National Ocean Survey published by the National Oceanic and Atmospheric Administration.

9. Bulkheads or revetments shall be constructed of suitable materials that will serve to accomplish the desired end with maximum preservation of natural characteristics. Materials with the potential for water quality degradation shall not be used. Design and construction methods shall consider aesthetics and habitat protection. Automobile bodies, tires or other junk or waste material that may release undesirable chemicals or other material shall not be used for shoreline protection.

10. The builder of any bulkhead or revetment shall be financially responsible for determining the nature and the extent of probable adverse effects on fish and wildlife or on the property of others caused by his/her construction and shall propose and implement solutions approved by the City to minimize such effects.

11. When shoreline stabilization is required at a public access site, provision for safe access to the water shall be incorporated in the design whenever possible.

12. Placement of bank protection material shall occur from the top of the bank and shall be supervised by the property owner or contractor to ensure material is not dumped directly onto the bank face.

13. Bank protection material shall be clean and shall be of a sufficient size to prevent its being washed away by high water flows.

14. When riprap is washed out and presents a hazard to the safety of recreational users of the river, it shall be removed by the owner of such material.

15. Bank protection associated with bridge construction and maintenance may be permitted subject to the provisions of this chapter and shall conform to provisions of the State Hydraulics Code (RCW 77.55) and U.S. Army Corps of Engineer regulations.

G. **Archaeological, Cultural and Historical Resources.** In addition to the requirements of TMC Section 18.50.110, Archaeological/Paleontological Information Preservation Requirements, the following regulations apply:

1. All land use permits for projects within the shoreline jurisdiction shall be coordinated with affected tribes.

2. If the City determines that a site has significant archaeological, natural scientific or historical value, a substantial development that would pose a threat to the resources of the site, shall not be approved.

3. Permits issued in areas documented to contain archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes. The City may require that development be postponed in such areas to allow

investigation of public acquisition potential, retrieval and preservation of significant artifacts and/or development of a mitigation plan. Areas of known or suspected archaeological middens shall not be disturbed and shall be fenced and identified during construction projects on the site.

4. Developers and property owners shall immediately stop work and notify the City of Tukwila, the Washington Department of Archaeology and Historic Preservation and affected Indian tribes if archaeological resources are uncovered during excavation.

5. In the event unforeseen factors constituting an emergency, as defined in RCW 90.58.030, necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from any shoreline permit requirements. The City shall notify the Washington State Department of Ecology, the State Attorney General's Office and the State Department of Archaeology and Historic Preservation Office of such an exemption in a timely manner.

6. Archaeological excavations may be permitted subject to the provision of this chapter.

7. On sites where historical or archaeological resources have been identified and will be preserved in situ, public access to such areas shall be designed and managed so as to give maximum protection to the resource and surrounding environment.

8. Interpretive signs of historical and archaeological features shall be provided subject to the requirements of the Public Access Section when such signage does not compromise the protection of these features from tampering, damage and/or destruction.

H. Environmental Impact Mitigation.

1. All shoreline development and uses shall occur in a manner that results in no net loss of shoreline ecological functions through the careful location and design of all allowed development and uses. In cases where impacts to shoreline ecological functions from allowed development and uses are unavoidable, those impacts shall be mitigated according to the provisions of this section; in that event, the "no net loss" standard is met.

2. To the extent Washington's State Environmental Policy Act of 1971 (SEPA), chapter 43.21C RCW, is applicable, the analysis of environmental impacts from proposed shoreline uses or developments shall be conducted consistent with the rules implementing SEPA (TMC Chapter 21.04 and WAC 197-11).

3. Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority:

- a. Avoiding the impact altogether by not taking a certain action or parts of an action;
- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
- c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- d. Reducing or eliminating the impact over time by preservation and maintenance operations;
- e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
- f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

4. In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined by the City to be infeasible or inapplicable.

5. When mitigation measures are appropriate pursuant to the priority of mitigation sequencing above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, if mitigation in the immediate vicinity is not scientifically feasible due to problems with hydrology, soils, waves or other factors, then off-site mitigation within the Shoreline Jurisdiction may be allowed if consistent with the Shoreline Restoration Plan. Mitigation for projects in the Transition Zone must take place in the Transition Zone. In the event a site is not available in the Transition Zone

to carry out required mitigation, the project proponent may contribute funds equivalent to the value of the required mitigation to an existing or future restoration project identified in the CIP to be carried out by a public agency in the Transition Zone.

I. Off Street Parking and Loading Requirements. In addition to the parking requirements in TMC Chapter 18.56, the following requirements apply to all development in the Shoreline Jurisdiction.

1. Any parking, loading, or storage facilities located between the river and any building must incorporate additional landscaping in accordance with the Vegetation Protection and Landscaping Section, or berming or other site planning or design techniques to reduce visual and/or environmental impacts from the parking areas utilizing the following screening techniques:

- a. A solid evergreen screen of trees and shrubs a minimum of six feet high; or
- b. Decorative fence a maximum of six feet high with landscaping. Chain link fence, where allowed, shall be vinyl coated and landscaped with native trailing vine or an approved non-native vine other than ivy, except where a security or safety hazard may exist; or
- c. Earth berms at a minimum of four feet high, planted with native plants in accordance with the Vegetation Protection and Landscaping Section.

2. Where a parking area is located in the Shoreline Jurisdiction and adjacent to a public access feature, the parking area shall be screened by a vegetative screen or a built structure that runs the entire length of the parking area adjacent to the amenity. The landscape screening shall comply with the Vegetation Protection and Landscaping Section.

3. Where public access to or along the shoreline exists or is proposed, parking areas shall provide pedestrian access from the parking area to the shoreline.

4. Parking facilities, loading areas and paved areas shall incorporate low impact development techniques wherever feasible, adequate stormwater retention areas, oil/water separators and biofiltration swales or other treatment techniques and shall comply with the standards and practices formally adopted by the City of Tukwila Public Works Department.

J. Land Altering Activities. All land altering activities in the Shoreline Jurisdiction shall be in conjunction with an underlying land development permit, except for shoreline restoration projects. All activities shall meet the following standards:

1. Clearing, Grading and Landfill.
 - a. Land altering shall be permitted only where it meets the following criteria:
 - 1) The work is the minimum necessary to accomplish an allowed shoreline use;
 - 2) Impacts to the natural environment are minimized and mitigated;
 - 3) Water quality, river flows and/or fish habitat are not adversely affected;
 - 4) Public access and river navigation are not diminished;
 - 5) The project complies with all federal and state requirements;
 - 6) The project complies with the vegetation protection criteria of the Vegetation Protection and Landscaping Section; and
 - 7) The project will achieve no net loss of shoreline ecological functions or processes. In cases where impacts to shoreline ecological functions from an otherwise allowed land altering project are unavoidable, those impacts shall be mitigated according to the provisions of this chapter. In that event, the "no net loss" standard is met; and
 - 8) Documentation is provided to demonstrate the fill comes from a clean source.
 - b. Clearing, grading and landfill activities, where allowed, shall include erosion control mechanisms, and any reasonable restriction on equipment, methods or timing necessary to minimize the introduction of suspended solids or leaching of contaminants into the river, or the disturbance of wildlife or fish habitats in accordance with the standards in TMC Chapter 16.54, "Grading."

2. Dredging.
 - a. Dredging activities must comply with all federal and state regulations. Maintenance dredging of established navigation channels and basins must be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.

b. Where allowed, dredging operations must be designed and scheduled so as to ensure no net loss to shoreline ecological functions or processes. In cases where impacts to shoreline ecological functions from allowed dredging are unavoidable, those impacts shall be mitigated according to the provisions of this chapter; in that event, the "no net loss" standard is met.

K. Marinas, Boat Yards, Dry Docks, Boat Launches, Piers, Docks and Other Over-water Structures.

1. General Requirements.

a. Prior to issuance of a Shoreline Substantial Development Permit for construction of piers, docks, wharves or other over-water structures, the applicant shall present approvals from State or Federal agencies, as applicable.

b. Structures must be designed by a qualified engineer and must demonstrate the project will result in no net loss of shoreline ecological function and will be stable against the forces of flowing water, wave action and the wakes of passing vessels.

c. In-water structures shall be designed and located to minimize shading of native aquatic vegetation and fish passage areas. Removal of shoreline, riparian and aquatic vegetation shall be limited to the minimum extent necessary to construct the project. All areas disturbed by construction shall be replanted with native vegetation as part of the project.

d. New or replacement in-water structures shall be designed and located such that natural hydraulic and geologic processes, such as erosion, wave action or floods will not necessitate the following:

- 1) reinforcement of the shoreline or stream bank with new bulkheads or similar artificial structures to protect the in-water structure; or
- 2) dredging.

e. No structures are allowed on top of over-water structures except for properties located north of the Turning Basin.

f. Pilings or other associated structures in direct contact with water shall not be treated with preservatives unless the applicant can demonstrate that no feasible alternative to protect the materials exists and that non-wood alternatives are not economically feasible. In that case, only compounds approved for marine use may be used and must be applied by the manufacturer per current best management practices of the Western Wood Preservers Institute. The applicant must present verification that the best management practices were followed. The preservatives must also be approved by the Washington Department of Fish and Wildlife.

g. All over-water structures shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe over-water structures shall be removed or repaired promptly by the owner. Accumulated debris shall be regularly removed and disposed of properly so as not to jeopardize the integrity of the structure. Replacement of in-water structures shall include proper removal of abandoned or other man-made structures and debris.

h. Boat owners who store motorized boats on-site are encouraged to use best management practices to avoid fuel and other fluid spills.

2. Marinas, Boat Yards and Dry Docks.

a. All uses under this category shall be designed to achieve no net loss of shoreline ecological functions. In cases where impacts to shoreline ecological functions from uses allowed under this category are unavoidable, those impacts shall be mitigated according to the provisions of this chapter; in that event, the "no net loss" standard is met.

b. Commercial/industrial marinas and dry docks shall be located no further upriver than Turning Basin #3.

c. Marinas shall be located, designed, constructed and operated to avoid or minimize adverse impacts on fish, wildlife, water quality, native shoreline vegetation, navigation, public access, existing in-water recreational activities and adjacent water uses.

d. Marinas shall submit a fuel spill prevention and contingency plan to the City for approval. Haul-out and boat maintenance facilities must meet the City's stormwater management requirements and not allow the release of chemicals, petroleum or suspended solids to the river.

e. Marinas, boat yards and dry docks must be located a minimum of 100 feet from fish and wildlife habitat areas (see "Sensitive Areas in the Shoreline" Map 5).

f. New marinas, launch ramps and accessory uses must be located where water depths are adequate to avoid the need for dredging.

3. Boat Launches and Boat Lifts.

a. Boat launch ramps and vehicle access to the ramps shall be designed to not cause erosion; the use of pervious paving materials, such as grasscrete, are encouraged.

b. Boat launch ramps shall be designed to minimize areas of landfill or the need for shoreline protective structures.

c. Access to the boat ramp and parking for the ramp shall be located a sufficient distance from any frontage road to provide safe maneuvering of boats and trailers.

d. Launching rails shall be adequately anchored to the ground.

e. Launch ramps and boat lifts shall extend waterward past the OHWM only as far as necessary to achieve their purpose.

f. Boat lifts and canopies must meet the standards of the U.S. Army Corps of Engineers Regional General Permit Number 1 for Watercraft Lifts in Fresh and Marine/Estuarine Waters within the State of Washington.

4. Over-water Structures. Where allowed, over-water structures such as piers, wharves and docks shall meet the following standards:

a. The size of new over-water structures shall be limited to the minimum necessary to support the structure's intended use and to provide stability in the case of floating docks. Structures must be compatible with any existing channel control or flood management structures.

b. Over-water structures shall not extend waterward of the OHWM any more than necessary to permit launching of watercraft, while also ensuring that watercraft do not rest on tidal substrate at any time.

c. Adverse impacts of over-water structures on water quality, river flows, fish habitat, shoreline vegetation, and public access shall be minimized and mitigated. Mitigation measures may include joint use of existing structures, open decking or piers, replacement of non-native vegetation, installation of in-water habitat features or restoration of shallow water habitat.

d. Any proposals for in-water or over-water structures shall provide a pre-construction habitat evaluation, including an evaluation of salmonid and bull trout habitat and shoreline ecological functions, and demonstrate how the project achieves no net loss of shoreline ecological functions.

e. Over-water structures shall obtain all necessary state and federal permits prior to construction or repair.

f. All over-water structures must be designed by a qualified engineer to ensure they are adequately anchored to the bank in a manner so as not to cause future downstream hazards or significant modifications to the river geomorphology and are able to withstand high flows.

g. Over-water structures shall not obstruct normal public use of the river for navigation or recreational purposes.

h. Shading impacts to fish shall be minimized by using grating on at least 30% of the surface area of the over-water structure on residential areas and at least 50% of the over-water structure on all other properties. The use of skirting is not permitted.

i. If floats are used, the flotation shall be fully enclosed and contained in a shell (such as polystyrene) that prevents breakup or loss of the flotation material into the water, damage from ultraviolet radiation, and damage from rubbing against pilings or waterborne debris.

j. Floats may not rest on the tidal substrate at any time and stoppers on the piling anchoring the floats must be installed to ensure at least 1 foot of clearance above the substrate. Anchor lines may not rest on the substrate at any time.

k. The number of pilings to support over-water structures, including floats, shall be limited to the minimum necessary. Pilings shall conform to the pilings standards contained in the US Army Corps of Engineers Regional General Permit No. 6.

l. No over-water structure shall be located closer than five feet from the side property line extended, except that such structures may abut property lines for the common use of adjacent property owners when mutually agreed upon by the property owners in an easement recorded with King County. A copy of this agreement shall be submitted to the Department of Community Development and accompany an application for a development permit and/or Shoreline Permit.

Section 8. Vegetation Protection and Landscaping Adopted. Updated requirements for shoreline regulations are hereby adopted to read as follows:

TMC 18.44.080 Vegetation Protection and Landscaping

A. Purpose, Objectives and Applicability.

1. The purpose of this section is to:

- a. Regulate the protection of existing trees and native vegetation in the Shoreline Jurisdiction;
- b. Establish requirements for removal of invasive plants at the time of development or re-development of sites;
- c. Establish requirements for landscaping for new development or re-development; and
- d. Establish requirements for the long-term maintenance of native vegetation to prevent establishment of invasive species and promote shoreline ecosystem processes.

2. The City's goal is to:

a. Preserve as many existing trees as possible and increase the number of native trees, shrubs and other vegetation in the shoreline because of their importance to shoreline ecosystem functions as listed below:

- 1) Overhead tree canopy to provide shade for water temperature control;
- 2) Habitat for birds, insects and small mammals;
- 3) Vegetation that overhangs the river to provide places for fish to shelter;
- 4) Source of insects for fish;
- 5) Filtering of pollutants and slowing of stormwater prior to its entering the river; and
- 6) A long-term source of woody debris for the river.

b. In addition, trees and other native vegetation are important for aesthetics. It is the City's goal that unsightly invasive vegetation, such as blackberries, be removed from the shoreline and be replaced with native vegetation to promote greater enjoyment of and access to the river.

c. The City will provide information and technical assistance to property owners for improving vegetation in the Shoreline Jurisdiction and will work collaboratively with local citizen groups to assist property owners in the removal of invasive vegetation and planting of native vegetation, particularly for residential areas.

3. With the exception of residential development/re-development of four or fewer residential units, all activities and developments within the Shoreline Environment must comply with the landscaping and maintenance requirements of this section, whether or not a shoreline substantial development permit is required. Single-family residential projects are not exempt if implementing a shoreline stabilization project on the shoreline.

4. The tree protection and retention requirements apply to existing uses as well as new or re-development.

B. Tree Protection, Retention and Replacement.

1. As many significant trees and as much native vegetation as possible are to be retained on a site proposed for development or re-development, taking into account the condition and age of the trees. As part of design review, the Director of Community Development or the Board of Architectural Review may require alterations in the arrangement of buildings, parking or other elements of proposed development in order to retain significant

non-invasive trees, particularly those that provide shading to the river. Trees located on properties not undergoing development or re-development may not be removed except those that interfere with access and passage on public trails or that present an imminent hazard to existing structures or the public. If the hazard is not readily apparent, the City may require an evaluation by an International Society of Arborists (ISA)-certified arborist.

2. To protect the ecological functions that trees and native vegetation provide to the shoreline, removal of any significant tree or native vegetation in the Shoreline Jurisdiction requires a Shoreline Tree Removal and Vegetation Clearing Permit and is generally only allowed on sites undergoing development or re-development. Only trees that interfere with access and passage on public trails or trees that present an imminent hazard to existing structures or the public may be removed from sites without an issued building permit or Federal approval. Factors that will be considered in approving tree removal include, but are not limited to: tree condition and health, age, risks to structures, and potential for root or canopy interference with utilities.

3. Prior to any tree removal or site clearing, a Type 2 Shoreline Tree Removal and Vegetation Clearing Permit application must be submitted to the Department of Community Development (DCD) containing the following information:

- a. A vegetation survey on a site plan that shows the diameter, species and location of all significant trees and all existing native vegetation;
- b. A site plan that shows trees and native vegetation to be retained and trees to be removed and provides a table showing the number of significant trees to be removed and the number of replacement trees required;
- c. Tree protection zones and other measures to protect any trees or native vegetation that are to be retained for sites undergoing development or re-development;
- d. Location of the OHWM, river buffer, Shoreline Jurisdiction boundary and any sensitive areas with their buffers;
- e. A landscape plan that shows diameter, species name, spacing and planting location for any required replacement trees and other proposed vegetation;
- f. An arborist evaluation justifying the removal of hazardous trees if required by DCD; and
- g. An application fee per the current Land Use Permit Fee resolution.

4. Where permitted, significant trees that are removed from the shoreline shall be replaced pursuant to the tree replacement requirements shown below, up to a density of 100 trees per acre (including existing trees). The Director or Planning Commission may require additional trees or shrubs to be installed to mitigate any potential impact from the loss of this vegetation as a result of new development.

Tree Replacement Requirements

| Diameter* of Tree Removed (*measured at height of 4 feet from the ground) | Number of Replacement Trees Required |
|---|--------------------------------------|
| 4-6 inches (single trunk); 2 inches (any trunk of a multi-trunk tree) | 3 |
| Over 6-8 inches | 4 |
| Over 8-20 inches | 6 |
| Over 20 inches | 8 |

5. The property owner is required to ensure the viability and long-term health of trees planted for replacement through proper care and maintenance for the life of the project. Replaced trees that do not survive must be replanted in the next appropriate season for planting.

6. If all required replacement trees cannot be reasonably accommodated on the site, off-site tree replacement within the shoreline jurisdiction may be allowed at a site approved by the City. Priority for off-site tree planting will be at locations within the Transition Zone. If no suitable off-site location is available, the applicant shall pay into a tree replacement fund. The fee shall be based on the value of the replacement trees and their delivery, labor for site preparation and plant installation, soil amendments, mulch, and staking supplies.

7. When a tree suitable for use as LWD is permitted to be removed from the shoreline buffer, the tree trunk and root ball (where possible) will be saved for use in a restoration project

elsewhere in the shoreline jurisdiction. The applicant will be responsible for the cost of moving the removed tree(s) to a location designated by the City. If no restoration project or storage location is available at the time, the Director may waive this requirement. Trees removed in the shoreline jurisdiction outside the buffer shall be placed as LWD in the buffer (not on the bank), if feasible. Priority for LWD placement projects will be in the Transition Zone.

8. Dead or dying trees located within the buffer or undeveloped upland portion of the Shoreline Jurisdiction shall be left in place as wildlife snags, unless they present a hazard to structures, facilities or the public.

9. Topping of trees is prohibited unless absolutely necessary to protect overhead utility lines. Topping of trees will be regulated as removal and tree replacement will be required.

10. For new development or re-development where trees are proposed for retention, tree protection zones shall be indicated on site plans and shall be established in the field prior to commencement of any construction or site clearing activity. A minimum 4 feet high construction barrier shall be installed around significant trees and stands of native trees or vegetation to be retained. Minimum distances from the trunk for the construction barriers shall be based on the approximate age of the tree (height and canopy) as follows:

- a. Young trees (have reached less than 20% of life expectancy): 0.75 feet per inch of trunk diameter
- b. Mature trees (have reached 20-80% of life expectancy): 1 foot per inch of trunk diameter.
- c. Over mature trees (have reached greater than 80% of life expectancy): 1.5 feet per inch of trunk diameter.

C. Landscaping. This section presents landscaping standards for the Shoreline Jurisdiction and is divided into a general section and separate sections for the River Buffer and for the remaining part of the Shoreline Jurisdiction for each environment designation.

1. General Requirements. For any new development or re-development in the Shoreline Jurisdiction, except single-family residential development of four or fewer lots, invasive vegetation must be removed and native vegetation planted and maintained in the River Buffer, including the riverbank.

a. The landscaping requirements of this subsection apply for any new development or redevelopment in the Shoreline Jurisdiction, except: single-family residential development of 4 or fewer lots. The extent of landscaping required will depend on the size of the proposed project. New development or full redevelopment of a site will require landscaping of the entire site. For smaller projects, the Director will review the intent of this section and the scope of the project to determine a reasonable amount of landscaping to be carried out. Trees and other vegetation shading the river shall be retained or replanted when riprap is placed per the approved tree permit, if required.

b. Invasive vegetation must be removed as part of site preparation and native vegetation planted, including the river bank.

c. On properties located behind publicly maintained levees, an applicant is not required to remove invasive vegetation, or plant native vegetation within the buffer.

d. Removal of invasive species shall be done by hand or with hand-held power tools. Where not feasible and mechanized equipment is needed, the applicant must obtain a Shoreline Tree Removal and Vegetation Clearing Permit and show how the slope stability of the bank will be maintained and a plan must be submitted indicating how the work will be done and what erosion control and tree protection features will be utilized. Federal and State permits may be required for vegetation removal with mechanized equipment.

e. Trees and other vegetation shading the river shall be retained or replanted when riprap is placed as specified in the approved tree permit, if a permit is required.

f. Removal of invasive vegetation may be phased over several years prior to planting if such phasing is provided for by a plan approved by the Director to allow for alternative approaches, such as sheet mulching and goat grazing. The method selected shall not destabilize the bank or cause erosion.

g. A combination of native trees, shrubs and groundcovers (including grasses, sedges, rushes and vines) shall be planted. The plants listed in the Riparian Restoration and Management Table of the 2004 Washington Stream Habitat Restoration Guidelines (Washington Department of Fish and Wildlife, Washington Department of Ecology, and U.S.

Fish and Wildlife Service, Olympia, Washington, as amended) shall provide the basis for plant selection. Site conditions, such as topography, exposure, and hydrology shall be taken into account for plant selection. Other species may be approved if there is adequate justification.

h. Non-native trees may be used as street trees in cases where conditions are not appropriate for native trees (for example where there are space or height limitations or conflicts with utilities).

i. Plants shall meet the current American Standard for Nursery Stock (American Nursery and Landscape Association - ANLA).

j. Plant sizes in the non-buffer areas of all Shoreline Environments shall meet the following minimum size standards:

| | |
|----------------------|--------------------------------|
| Deciduous trees: | 2 inch caliper |
| Conifers: | 6-8 foot height |
| Shrubs: | 24 inch height |
| Groundcover/grasses: | 4 inch or one gallon container |

k. Smaller plant sizes (generally one gallon, bareroot, plugs, or stakes, depending on plant species) are preferred for buffer plantings. Willow stakes must be at least 1/2-inch in diameter.

l. Site preparation and planting of vegetation shall be in accordance with best management practices for ensuring the vegetation's long-term health and survival.

m. Plants may be selected and placed to allow for public and private view corridors and/or access to the water's edge.

n. Native vegetation in the shoreline installed in accordance with the preceding standards shall be maintained by the property owner to promote healthy growth and prevent establishment of invasive species. Invasive plants (such as blackberry, ivy, knotweed, bindweed) shall be removed on a regular basis, according to the approved maintenance plan.

o. Areas disturbed by removal of invasive plants shall be replanted with native vegetation where necessary to maintain the density shown in TMC Section 18.44.080B4, and must be replanted in a timely manner, except where a long-term removal and re-vegetation plan, as approved by the City, is being implemented.

p. The following standards apply to utilities and loading docks located in the Shoreline Jurisdiction:

- 1) Utilities such as pumps, pipes, etc. shall be suitably screened with native vegetation;
- 2) Utility easements shall be landscaped with native groundcover, grasses or other low-growing plants as appropriate to the shoreline environment and site conditions;
- 3) Allowed loading docks and service areas located waterward of the development shall have landscaping that provides extensive visual separation from the river.

2. River Buffer Landscaping Requirements in all Shoreline Environments. The River Buffer in all shoreline environments shall function, in part, as a vegetation management area to filter sediment, capture contaminants in surface water run-off, reduce the velocity of water run-off, and provide fish and wildlife habitat.

a. A planting plan prepared by a licensed landscape architect or an approved biologist shall be submitted to the City for approval showing plant species, size, number and spacing. The requirement for a landscape architect or biologist may be waived by the Director for single-family property owners (when planting is being required as mitigation for construction of overwater structures or shoreline stabilization), if the property owner accepts technical assistance from City staff.

b. Plants shall be installed from the OHWM to the upland edge of the River Buffer unless site conditions would make planting unsafe.

c. Plantings close to and on the bank shall include native willows, red osier dogwood and other native vegetation that will extend out over the water, to provide shade and habitat functions when mature. Species selected must be able to withstand seasonal water level fluctuations.

d. Minimum plant spacing in the buffer shall follow the River Buffer Vegetation Planting Densities Table, shown in TMC Section 18.44.080(C)(2). Existing non-invasive plants may be included in the density calculations.

e. Irrigation for buffer plantings is required for at least two dry seasons or until plants are established. An irrigation plan is to be included as part of the planting plan.

f. In the event a development project allows for setback and benching of the shoreline along an existing levee or revetment, the newly-created mid-slope bench area shall be planted and maintained with a variety of native vegetation appropriate for site conditions.

River Buffer Vegetation Planting Densities

| Plant Material Type | Planting Density |
|--|---|
| Stakes/cuttings along riverbank (willows, red osier dogwood) | 1-2 feet on center or per bioengineering method |
| Shrubs | 3-5 feet on center, depending on species |
| Trees | 15-20 feet on center, depending on species |
| Groundcovers, grasses, sedges, rushes, other herbaceous plants | 1-1.5 feet on center, depending on species |
| Native seed mixes | 5-25 pounds per acre, depending on species |

3. Landscaping Requirements for the Urban Conservancy and High Intensity Environments – Outside of the River Buffer. For the portions of property within the Shoreline Jurisdiction landward of the River Buffer, the landscape requirements in the “General” section of this chapter and the requirements for the underlying zoning as established in TMC Chapter 18.52 shall apply except as indicated below.

a. Parking Lot Landscape Perimeters. One native tree for each 20 lineal feet of required perimeter landscaping, one shrub for each four lineal feet of required perimeter landscaping, and native groundcovers to cover 90% of the landscape area within three years, planted at a minimum spacing of 12 inches on-center.

b. Interior Parking Lot Landscaping. Every 300 square feet of paved surface requires ten square feet of interior landscaping within landscape islands separated by no more than 150 feet between islands.

c. Landscaping shall be provided at yards not adjacent to the river, with the same width as required in the underlying zoning district. This standard may be reduced as follows:

1) Where development provides public access corridor between off-site public area(s) and public shoreline areas, side yard landscaping may be reduced by 25% to no less than 3 feet; or

2) Where development provides additional public access area(s) (as allowed by the High Intensity and Urban Conservancy Environment Development Standards) equal in area to at least 2.5% of total building area, front yard landscaping may be reduced by 25%.

D. Vegetation Management in the Shoreline Jurisdiction. The requirements of this section apply to all existing and new development within the Shoreline Jurisdiction.

1. Trees and shrubs may only be pruned for safety, to maintain view or access corridors and trails by pruning up or on the sides of trees, to maintain clearance for utility lines, and/or for improving shoreline ecological function. This type of pruning is exempt from any permit requirements. Topping of trees is prohibited except where absolutely necessary to avoid interference with existing utilities.

2. Plant debris from removal of invasive plants or pruning shall be removed from the site and disposed of properly.

3. Use of pesticides:

a. Pesticides (including herbicides, insecticides, and fungicides) shall not be used in the Shoreline Jurisdiction except where:

1) Alternatives such as manual removal, biological control, and cultural control are not feasible given the size of the infestation, site characteristics, or the characteristics of the invasive plant species;

2) The use of pesticides has been approved through a comprehensive vegetation or pest management and monitoring plan;

3) The pesticide is applied in accordance with State regulations;

4) The proposed herbicide is approved for aquatic use by the U.S. Environmental Protection Agency; and

5) The use of pesticides in the Shoreline Jurisdiction is approved in writing by the City and the applicant presents a copy of the Aquatic Pesticide Permit issued by the Department of Ecology or Washington Department of Agriculture.

b. Self-contained rodent bait boxes designed to prevent access by other animals are allowed.

c. Sports fields, parks, golf courses and other outdoor recreational uses that involve maintenance of extensive areas of turf shall provide and implement an integrated turf management program or integrated pest management plan designed to ensure that water quality in the river is not adversely impacted.

Section 9. Environmentally Sensitive Areas within the Shoreline Jurisdiction Adopted.
Updated requirements for shoreline regulations are hereby adopted to read as follows:

TMC 18.44.090 Environmentally Sensitive Areas within the Shoreline Jurisdiction.

A. Purpose.

1. The Growth Management Act (RCW 36.70A) requires protection of critical areas (sensitive areas), defined as wetlands, watercourses, frequently flooded areas, geologically hazardous areas, critical aquifer recharge areas, fish and wildlife conservation areas, and abandoned mine areas.

2. The purpose of protecting environmentally sensitive areas within the Shoreline Jurisdiction is to:

a. Minimize developmental impacts on the natural functions and values of these areas.

b. Protect quantity and quality of water resources.

c. Minimize turbidity and pollution of wetlands and fish-bearing waters and maintain wildlife habitat.

d. Prevent erosion and the loss of slope and soil stability caused by the removal of trees, shrubs, and the root systems of vegetative cover.

e. Protect the public against avoidable losses, public emergency rescue and relief operations cost, and subsidy cost of public mitigation from landslide, subsidence, erosion and flooding.

f. Protect the community's aesthetic resources and distinctive features of natural lands and wooded hillsides.

g. Balance the private rights of individual property owners with the preservation of environmentally sensitive areas.

h. Prevent the loss of wetland and watercourse function and acreage, and strive for a gain over present conditions.

i. Give special consideration to conservation or protection measures necessary to protect or enhance anadromous fisheries.

j. Incorporate the use of best available science in the regulation and protection of sensitive areas as required by the State Growth Management Act, according to WAC 365-195-900 through 365-195-925 and WAC 365-190-080.

3. The goal of these sensitive area regulations is to achieve no net loss of wetland, watercourse, or fish and wildlife conservation area or their functions.

B. Applicability, Maps and Inventories.

1. Sensitive areas located in the Shoreline Jurisdiction are regulated by the SMP and this chapter. However, the level of protection for the sensitive areas located in the shoreline jurisdiction shall be at least equal to that provided in the Sensitive Areas section of the Zoning Code (TMC Chapter 18.45).

2. Sensitive areas currently identified in the Shoreline Jurisdiction are discussed in the Shoreline Inventory and Characterization Report, which forms part of the City's SMP. The locations are mapped on the "Sensitive Areas in the Shoreline Jurisdiction," Map 5. This map is based on assessment of current conditions and review of the best available information. However, additional sensitive areas may exist within the Shoreline Jurisdiction and the boundaries of the sensitive areas shown are not exact. It is the responsibility of the property owner to determine the presence of sensitive areas on the property and to verify the boundaries

in the field. Sensitive area provisions for abandoned mine areas do not apply as none of these areas is located in the Shoreline Jurisdiction.

3. Sensitive areas comprised of frequently flooded areas and areas of seismic instability are regulated by the Flood Zone Management Code (TMC Chapter 16.52) and the Washington State Building Code, rather than by Section 18.44.090 of this chapter.

C. **Best Available Science.** Policies, regulations and decisions concerning sensitive areas shall rely on Best Available Science to protect the sensitive areas functions and values. Special consideration must be given to the conservation or protection measures necessary to preserve or enhance anadromous fish and their habitats. Nonscientific information may supplement scientific information, but is not an adequate substitution for valid and available scientific information.

D. **Sensitive Area Studies.** An applicant for a development proposal that may include a sensitive area and/or its buffer shall submit those studies as required by the City and specified below to adequately identify and evaluate the sensitive area and its buffers.

1. General Requirements

a. A required sensitive areas study shall be prepared by a person with experience and training in the scientific discipline appropriate for the relevant sensitive area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in ecology or related science, engineering, environmental studies, fisheries, geotechnical or related field, and at least two years of related work experience.

b. The sensitive areas study shall use scientifically valid methods and studies in the analysis of sensitive area data and shall use field reconnaissance and reference the source of science used. The sensitive areas study shall evaluate the proposal and all probable impacts to sensitive areas.

c. It is intended that sensitive areas studies and information be utilized by applicants in preparation of their proposals and therefore shall be undertaken early in the design stages of a project.

2. Wetland, Watercourse and Fish and Wildlife Conservation Area - Sensitive Area Studies. At a minimum, the sensitive areas study shall contain the following information, as applicable:

a. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;

b. A copy of the site plan for the development proposal showing: sensitive areas and buffers and the development proposal with dimensions, clearing limits, proposed stormwater management plan, and mitigation plan for impacts due to drainage alterations;

c. The dates, names and qualifications of the persons preparing the study and documentation of any fieldwork performed on the site;

d. Identification and characterization of all sensitive areas, water bodies, and buffers adjacent to the proposed project area or potentially impacted by the proposed project;

e. A statement specifying the accuracy of the study and assumptions used in the study;

f. Determination of the degree of impact and risk from the proposal both on the site and on adjacent properties;

g. An assessment of the probable cumulative impacts to sensitive areas, their buffers and other properties resulting from the proposal;

h. A description of reasonable efforts made to apply mitigation sequencing in order to avoid, minimize and mitigate impacts to sensitive areas;

i. Plans for adequate mitigation to offset any impacts;

j. Recommendations for maintenance, short-term and long-term monitoring, contingency plans and bonding measures; and

k. Any technical information required by the director to assist in determining compliance.

3. Geotechnical Studies.

a. A geotechnical study appropriate both to the site conditions and the proposed development shall be required for development in Class 2, Class 3, and Class 4 Areas.

b. All studies shall include at a minimum a site evaluation, review of available information regarding the site and a surface reconnaissance of the site and adjacent areas. For Class 2 areas, subsurface exploration of site conditions is at the discretion of the geotechnical consultant. In addition, for Class 3 and Class 4 Areas, the study shall include a feasibility analysis for the use of infiltration on-site and a subsurface exploration of soils and hydrology conditions. Detailed slope stability analysis shall be done if the geotechnical engineer recommends it in Class 3 areas, and must be done in Class 4 areas.

c. Applicants shall retain a geotechnical engineer to prepare the reports and evaluations required in this subsection. The geotechnical report and completed site evaluation checklist shall be prepared in accordance with generally accepted geotechnical practices, under the supervision of and signed and stamped by the geotechnical engineer. The report shall be prepared in consultation with the appropriate City department. Where appropriate, a geologist must be included as part of the geotechnical consulting team. The report shall make specific recommendations concerning development of the site.

d. The opinions and recommendations contained in the report shall be supported by field observations and, where appropriate or applicable, by literature review conducted by the geotechnical engineer, which shall include appropriate explorations such as borings or test pits, and an analysis of soil characteristics conducted by or under the supervision of the engineer in accordance with standards of the American Society of Testing and Materials or other applicable standards. If the evaluation involves geologic evaluations or interpretations, the report shall be reviewed and approved by a geotechnical engineer.

4. Modifications or Waivers to Sensitive Area Study Requirements.

a. The Director may limit the required geographic area of the sensitive area study as appropriate if:

1) The applicant, with assistance from the City, cannot obtain permission to access properties adjacent to the project area; or

2) The proposed activity will affect only a limited part of the site.

b. The Director may allow modifications to the required contents of the study where, in the judgment of a qualified professional, more or less information is required to adequately address the potential sensitive area impacts and required mitigation.

c. If there is written agreement between the Director and the applicant concerning the sensitive area classification and type, the Director may waive the requirement for sensitive area studies provided that no adverse impacts to sensitive areas or buffers will result. There must be substantial evidence that the sensitive areas delineation and classification are correct, that there will be no detrimental impact to the sensitive areas or buffers, and that the goals, purposes, objectives and requirements of the SMP will be followed.

E. Procedures. When an applicant submits an application for any building permit, subdivision, short subdivision or any other land use review that approves a use, development or future construction, the location and dimensions of all sensitive areas and buffers on the site shall be indicated on the plans submitted. When a sensitive area is identified, the following procedures apply.

1. The applicant shall submit the relevant sensitive area study as required by this chapter.

2. The Department of Community Development will review the information submitted in the sensitive area studies to verify the information, confirm the nature and type of the sensitive area, and ensure the study is consistent with the Shoreline Master Program (SMP). At the discretion of the Director, sensitive area studies may undergo peer review, at the expense of the applicant.

3. Denial of use or development: A use or development will be denied if the Director determines the applicant cannot ensure that potential dangers and costs to future inhabitants of the development, adjacent properties, and Tukwila are minimized and mitigated to an acceptable level.

4. Preconstruction meeting: The applicant, specialist(s) of record, contractor, and department representatives will be required to attend pre-construction meetings prior to any work on the site.

5. Construction monitoring: The specialist(s) of record shall be retained to monitor the site during construction.

6. On-site Identification: The Director may require the boundary between a sensitive area and its buffer or between the buffer and any development or use to be permanently identified with fencing, or with a wood or metal sign with treated wood, concrete or metal posts. Size will be determined at the time of permitting, and wording shall be as follows: "Protection of this natural area is in your care. Do not alter or disturb. Please call the City of Tukwila (206-431-3670) for more information."

F. Wetland Determinations and Classifications.

1. Wetlands and their boundaries are established by using the Washington State Wetland and Delineation Manual, as required by RCW 36.70A.175 (Ecology Publication #96-94) and consistent with the 1987 Corps of Engineers Wetland Delineation Manual.

2. Wetland determinations shall be made by a qualified professional (certified Wetland Scientist or non-certified with at least two years of full-time work experience as a wetland professional).

3. Wetland areas within the City of Tukwila have certain characteristics, functions and values and have been influenced by urbanization and related disturbances. Wetland functions include, but are not limited to the following: improving water quality; maintaining hydrologic functions (reducing peak flows, decreasing erosion, groundwater); and providing habitat for plants, mammals, fish, birds, and amphibians. Wetland functions shall be evaluated using the Washington State Functional Assessment Method.

4. Wetlands shall be designated in accordance with the Washington State Wetlands Rating system (Washington Department of Ecology, August 2004, Publication #93-74) as Category I, II, III or IV as listed below:

a. Category I wetlands are those that:

- 1) represent a unique or rare wetland type; or
- 2) are more sensitive to disturbance than most wetlands; or
- 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or
- 4) provide a high level of functions. The following types of wetlands listed by Washington Department of Ecology and potentially found in Tukwila's Shoreline Jurisdiction are Category I:

a) Estuarine wetlands (deepwater tidal habitats with a range of fresh-brackish-marine water chemistry and daily tidal cycles, salt and brackish marshes, intertidal mudflats, mangrove swamps, bays, sounds, and coastal rivers).

b) Wetlands that perform many functions well and score at least 70 points in the Western Washington Wetlands Rating System.

c) Waterfowl or shorebird areas designated by the State Department of Fish and Wildlife.

b. Category II wetlands are difficult, though not impossible to replace and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection. Category II wetlands potentially in Tukwila's Shoreline Jurisdiction include:

1) Estuarine Wetlands - Any estuarine wetland smaller than an acre, or those that are disturbed and larger than 1 acre are category II wetlands.

2) Wetlands that Perform Functions Well - Wetlands scoring between 51-69 points (out of 100) on the questions related to the functions present are Category II wetlands.

c. Category III wetlands have a moderate level of functions (scores between 30-50 points). Wetlands scoring between 30-50 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

d. Category IV wetlands have the lowest levels of functions (scores less than 30 points) and are often heavily disturbed. While these are wetlands that should be able to be replaced or improved, they still need protection because they may provide some important functions. Any disturbance of these wetlands must be considered on a case by case basis.

G. Watercourse Designation and Ratings.

1. Watercourse ratings are based on the existing habitat functions and are rated as follows:

a. Type 1 Watercourse: Watercourses inventoried as Shorelines of the State under RCW 90.58 (Green/Duwamish River).

b. Type 2 Watercourse: Those watercourses that have either perennial (year-round) or intermittent flows and support salmonid fish use.

c. Type 3 Watercourse: Those watercourses that have perennial flows and are not used by salmonid fish.

d. Type 4 Watercourse: Those watercourses that have intermittent flows and are not used by salmonid fish.

2. Watercourse sensitive area studies shall be performed by a qualified professional (hydrologist, geologist, engineer or other scientist with experience in preparing watercourse assessments).

H. Fish and Wildlife Habitat Conservation Areas.

1. Fish and wildlife habitat conservation areas within the Shoreline Jurisdiction include the habitats listed below:

a. Areas with which endangered, threatened, and sensitive species have a primary association;

b. Habitats and species of local importance, including but not limited to bald eagle habitat, heron rookeries, and osprey nesting areas;

c. Waters of the State (i.e., the Green/Duwamish River itself);

d. State natural area preserves and natural resource conservation areas; and

e. Areas critical for habitat connectivity.

2. The approximate location and extent of known fish and wildlife habitat conservation areas are identified in the Shoreline Inventory and Characterization Report and are shown on the Sensitive Areas in the Shoreline Jurisdiction map. Only the salmon habitat enhancement project sites completed or underway are shown as Fish and Wildlife Conservation Areas on the Sensitive Areas in the Shoreline Jurisdiction Map. Streams are shown as watercourses. The river is not shown as a Fish and Wildlife Habitat Conservation Area for the sake of simplicity. Fish and Wildlife Habitat Conservation Areas correlate closely with the areas identified as regulated watercourses and wetlands and their buffers, as well as off-channel habitat areas created to improve salmon habitat (shown on the Sensitive Areas Map) in the Shoreline Jurisdiction. The Green/Duwamish River is recognized as the most significant fish and wildlife habitat corridor. In addition, Gilliam Creek, Riverton Creek, Southgate Creek, Hamm Creek (in the North Potential Annexation Area (PAA)), and Johnson Creek (South PAA) all provide salmonid habitat.

I. Wetland Watercourse and Fish and Wildlife Habitat Conservation Area Buffers.

1. Purpose and Intent of Buffer Establishment.

a. A buffer area shall be established adjacent to designated sensitive areas. The purpose of the buffer area shall be to protect the integrity, functions and values of the sensitive areas. Any land alteration must be located out of the buffer areas as required by this section.

b. Buffers are intended in general to:

1) Minimize long-term impacts of development on properties containing sensitive areas;

2) Protect sensitive areas from adverse impacts during development;

3) Preserve the edges of wetlands and the banks of watercourses and fish and wildlife habitat conservation areas for their critical habitat value;

4) Provide an area to stabilize banks, to absorb overflow during high water events and to allow for slight variation of aquatic system boundaries over time due to hydrologic or climatic effects;

5) Provide shading to watercourses and fish and wildlife habitat conservation areas to maintain stable water temperatures and provide vegetative cover for additional wildlife habitat;

- 6) Provide input of organic debris and nutrient transport in watercourses;
 - 7) Reduce erosion and increased surface water run-off;
 - 8) Reduce loss of or damage to property;
 - 9) Intercept fine sediments from surface water run-off and serve to minimize water quality impacts; and
 - 10) Protect the sensitive area from human and domestic animal disturbances.
2. Establishment of Buffer Widths. The following standard buffers shall be established:
- a. Wetland buffers (measured from the wetland edge):
 - 1) Category I and II Wetland: 100-foot buffer.
 - 2) Category III Wetland: 80-foot buffer.
 - 3) Category IV Wetland: 50-foot buffer.
 - b. Watercourse buffers (measured from the OHWM):
 - 1) Type 1 Watercourse: The buffer width for the Green/Duwamish River is established in the Shoreline Environment Designations of this SMP for the three designated shoreline environments.
 - 2) Type 2 Watercourse: 100-foot-wide buffer.
 - 3) Type 3 Watercourse: 80-foot-wide buffer.
 - 4) Type 4 Watercourse: 50-foot-wide buffer.
 - c. Fish and Wildlife Habitat Conservation Areas: The buffer will be the same as the river buffer established for each Shoreline Environment measured from the OHWM, unless an alternate buffer is established and approved at the time a fish and wildlife habitat restoration project is undertaken.

3. Sensitive Area Buffer Setbacks. All commercial and industrial buildings shall be set back 15 feet and all other development shall be set back ten feet from the sensitive area buffer's edge. The building setbacks shall be measured from the foundation to the buffer's edge. Building plans shall also identify a 20-foot area beyond the buffer setback within which the impacts of development will be reviewed. The Director may waive setback requirements when a site plan demonstrates there will be no adverse impacts to the buffer from construction or occasional maintenance activities.

4. Reduction of Standard Buffer Width. Except for the Green/Duwamish River (Type 1 watercourse for which any variation in the buffer shall be regulated under the shoreline provisions of this program), the buffer width may be reduced on a case-by-case basis, provided the reduced buffer area does not contain slopes 15% or greater. In no case shall the approved buffer width result in greater than a 50% reduction in width. Buffer reduction with enhancement may be allowed as part of a Substantial Development Permit if:

- a. Additional protection to wetlands or watercourses will be provided through the implementation of a buffer enhancement plan;
- b. The existing condition of the buffer is degraded;
- c. Buffer enhancement includes, but is not limited to, the following:
 - 1) Planting vegetation that would increase value for fish and wildlife habitat or improve water quality;
 - 2) Enhancement of wildlife habitat by incorporating structures that are likely to be used by wildlife, including wood duck boxes, bat boxes, snags, root wads/stumps, birdhouses and heron nesting areas; or
 - 3) Removing non-native plant species and noxious weeds from the buffer area and replanting the area.

5. Increase in Standard Buffer Width. Buffers for sensitive areas will be increased when they are determined to be particularly sensitive to disturbance or the proposed development will create unusually adverse impacts. Any increase in the width of the buffer shall be required only after completion of a sensitive areas study by a qualified biologist that documents the basis for such increased width. An increase in buffer width may be appropriate when:

- a. The development proposal has the demonstrated potential for significant adverse impacts upon the sensitive area that can be mitigated by an increased buffer width; or

b. The area serves as habitat for endangered, threatened, sensitive or monitor species listed by the federal government or the State.

6. Maintenance of Vegetation in Buffers. Every reasonable effort shall be made to maintain any existing viable native plant life in the buffers. Vegetation may be removed from the buffer as part of an enhancement plan approved by the Director. Enhancements will ensure that slope stability and wetland or watercourse quality will be maintained or improved. Any disturbance of the buffers shall be replanted with a diverse plant community of native northwest species that are appropriate for the specific site as determined by the Director. If the vegetation must be removed, or the vegetation becomes damaged or dies because of the alterations of the landscape, then the applicant for a permit must replace existing vegetation with comparable specimens, approved by the Director, which will restore buffer functions within five years.

J. Areas of Potential Geologic Instability.

1. Classification. Areas of potential geologic instability are classified as follows:

- a. Class 1 areas, where landslide potential is low, and which slope is less than 15%;
- b. Class 2 areas, where landslide potential is moderate, which slope is between 15% and 40%, and which are underlain by relatively permeable soils;
- c. Class 3 areas, where landslide potential is high, which include areas sloping between 15% and 40%, and which are underlain by relatively impermeable soils or by bedrock, and which also include all areas sloping more steeply than 40%;
- d. Class 4 areas, where landslide potential is very high, which include sloping areas with mappable zones of groundwater seepage, and which also include existing mappable landslide deposits regardless of slope.

2. Exemptions. The following areas are exempt from regulation as geologically hazardous areas:

- a. Temporary stockpiles of topsoil, gravel, beauty bark or other similar landscaping or construction materials.
- b. Slopes related to materials used as an engineered pre-load for a building pad.
- c. Any temporary slope that has been created through legal grading activities under an approved permit may be re-graded.
- d. Roadway embankments within right-of-way or road easements.
- e. Slopes retained by approved engineered structures, except riverbank structures and armoring.

3. Geotechnical Study Required.

a. Development or alterations to areas of potential geologic instability that form the riverbanks shall be governed by the policies and requirements of the Shoreline Stabilization Section of this chapter. Development proposals on all other lands containing or threatened by an area of potential geologic instability Class 2 or higher shall be subject to a geotechnical study. The geotechnical report shall analyze and make recommendations on the need for and width of any setbacks or buffers necessary to insure slope stability. Development proposals shall then include the buffer distances as defined within the geotechnical report. The geotechnical study shall be performed by a qualified professional geotechnical engineer, licensed in the State of Washington.

b. Prior to permitting alteration of an area of potential geologic instability, the applicant must demonstrate one of the following:

- 1) There is no evidence of past instability or earth movement in the vicinity of the proposed development and, where appropriate, quantitative analysis of slope stability indicates no significant risk to the proposed development or surrounding properties; or
- 2) The area of potential geologic instability can be modified or the project can be designed so any potential impact to the project and surrounding properties is eliminated, slope stability is not decreased, and the increase in surface water discharge or sedimentation shall not decrease slope stability.

4. Buffers for Areas of Potential Geologic Instability.

a. Buffers are intended to:

- 1) Minimize long-term impacts of development on properties containing sensitive areas;
- 2) Protect sensitive areas from adverse impacts during development;
- 3) Prevent loading of potentially unstable slope formations;
- 4) Protect slope stability;
- 5) Provide erosion control and attenuation of precipitation, surface water and stormwater runoff;
- 6) Reduce loss of or damage to property; and
- 7) Prevent the need for future shoreline armoring.

b. Buffers may be increased by the Director when an area is determined to be particularly sensitive to the disturbance created by a development. Such a decision will be based on a City review of the report as prepared by a qualified geotechnical engineer and by a site visit.

5. Additional Requirements.

a. Where any portion of an area of potential geologic instability is cleared for development, a landscaping plan for the site shall include tree replanting in accordance with the Vegetation Protection and Landscaping Section of this SMP. Vegetation shall be sufficient to provide erosion and stabilization protection.

b. It shall be the responsibility of the applicant to submit, consistent with the findings of the geotechnical report, structural plans that were prepared and stamped by a structural engineer. The plans and specifications shall be accompanied by a letter from the geotechnical engineer who prepared the geotechnical report stating that in his/her judgment, the plans and specifications conform to the recommendations in the geotechnical report, the risk of damage to the proposed development site from soil instability will be minimal subject to the conditions set forth in the report, and the proposed development will not increase the potential for soil movement.

c. Further recommendations signed and sealed by the geotechnical engineer shall be provided should there be additions or exceptions to the original recommendations based on the plans, site conditions or other supporting data. If the geotechnical engineer who reviews the plans and specifications is not the same engineer who prepared the geotechnical report, the new engineer shall, in a letter to the City accompanying the plans and specifications, express his or her agreement or disagreement with the recommendations in the geotechnical report and state that the plans and specifications conform to his or her recommendations.

d. The architect or structural engineer shall submit to the City, with the plans and specifications, a letter or notation on the design drawings at the time of permit application stating that he or she has reviewed the geotechnical report, understands its recommendations, has explained or has had explained to the owner the risks of loss due to slides on the site, and has incorporated into the design the recommendations of the report and established measures to reduce the potential risk of injury or damage that might be caused by any earth movement predicted in the report.

e. The owner shall execute a Sensitive Areas Covenant and Hold Harmless Agreement running with the land, on a form provided by the City. The City will file the completed covenant with the King County Department of Records and Elections at the expense of the applicant or owner. A copy of the recorded covenant will be forwarded to the owner.

f. Whenever the City determines that the public interest would not be served by the issuance of a permit in an area of potential geologic instability without assurance of a means of providing for restoration of areas disturbed by, and repair of property damage caused by, slides arising out of or occurring during construction, the Director may require assurance devices.

g. Where recommended by the geotechnical report, the applicant shall retain a geotechnical engineer (preferably retain the geotechnical engineer who prepared the final geotechnical recommendations and reviewed the plans and specifications) to monitor the site during construction. If a different geotechnical engineer is retained, the new geotechnical engineer shall submit a letter to the City stating whether or not he/she agrees with the opinions and recommendations of the original study. Further recommendations, signed and sealed by the geotechnical engineer, and supporting data shall be provided should there be exceptions to the original recommendations.

h. During construction the geotechnical engineer shall monitor compliance with the recommendations in the geotechnical report, particularly site excavation, shoring, soil support for foundations including piles, subdrainage installations, soil compaction and any other geotechnical aspects of the construction. Unless otherwise approved by the City, the specific recommendations contained in the soils report must be implemented. The geotechnical engineer shall provide to the City written, dated monitoring reports on the progress of the construction at such timely intervals as shall be specified. Omissions or deviations from the approved plans and specifications shall be immediately reported to the City. The final construction monitoring report shall contain a statement from the geotechnical engineer that, based upon his or her professional opinion, site observations and testing during the monitoring of the construction, the completed development substantially complies with the recommendations in the geotechnical report and with all geotechnical-related permit requirements. Occupancy of the project will not be approved until the report has been reviewed and accepted by the Director.

i. Substantial weight shall be given to ensuring continued slope stability and the resulting public health, safety and welfare in determining whether a development should be allowed.

j. The City may impose conditions that address site-work problems which could include, but are not limited to, limiting all excavation and drainage installation to the dry season, or sequencing activities such as installing erosion control and drainage systems well in advance of construction. A permit will be denied if it is determined by the Director that the development will increase the potential of soil movement that results in an unacceptable risk of damage to the proposed development, its site or adjacent properties.

K. Sensitive Areas Permitted Uses and Alterations.

1. General Sensitive Areas Permitted Uses. All uses permitted in the Shoreline Jurisdiction buffers are allowed in sensitive areas within the jurisdiction except:

- a. Promenades
- b. Recreational structures
- c. Public pedestrian bridges
- d. Vehicle bridges
- e. New utilities
- f. Plaza connectors
- g. Water-dependent uses and their structures
- h. Essential streets, roads and rights-of-way
- i. Essential public facilities
- j. Outdoor storage

2. In addition, the following uses are allowed:

a. Maintenance activities of existing landscaping and gardens in a sensitive area buffer including, but not limited to, mowing lawns, weeding, harvesting and replanting of garden crops and pruning and planting of vegetation. The removal of established native trees and shrubs is not permitted. Herbicide use in sensitive areas or their buffers is not allowed without written permission of the City.

b. Vegetation maintenance as part of sensitive area enhancement, creation or restoration. Herbicide use in sensitive areas or their buffers is not allowed without written permission of the City.

3. Uses Requiring a Type II permit.

a. Maintenance and repair of existing uses and facilities where alteration or additional fill materials will be placed or heavy construction equipment used.

b. Construction of new essential streets and roads, rights-of-way and utilities.

c. New surface water discharges to sensitive areas or their buffers from detention facilities, presettlement ponds or other surface water management structures may be allowed provided the discharge meets the clean water standards of RCW 90.48 and WAC 173.200 and 173.201 as amended, and does not adversely affect water level fluctuations in the wetland or adversely affect watercourse habitat and watercourse flow conditions relative to the existing rate.

- d. Plaza connectors.
- e. Essential public facilities.
- f. Overwater structures.

g. Recreation structures.

4. Conditional Uses. Dredging, where necessary to remediate contaminated sediments, if adverse impacts are mitigated, may be permitted.

5. Wetland Alterations. Alterations to wetlands are discouraged, are limited to the minimum necessary for project feasibility, and must have an approved mitigation plan developed in accordance with the standards in this chapter.

a. Mitigation for wetlands shall follow the mitigation sequencing steps in this chapter and may include the following types of actions:

1) Creation - the manipulation of the physical, chemical or biological characteristics to develop a wetland on an upland or deepwater site, where a biological wetland did not previously exist;

2) Re-establishment - the manipulation of the physical, chemical or biological characteristics of a site with the goal of restoring wetland functions to a former wetland, resulting in a net increase in wetland acres and functions;

3) Rehabilitation - the manipulation of the physical, chemical, or biological characteristics with the goal of repairing historic functions and processes of a degraded wetland, resulting in a gain in wetland function but not acreage;

4) Enhancement - the manipulation of the physical, chemical or biological characteristics to heighten, intensify, or improve specific functions (such as vegetation) or to change the growth stage or composition of the vegetation present, resulting in a change in wetland functions but not in a gain in wetland acreage; or

5) A combination of the three types.

b. Allowed alterations per wetland type and mitigation ratios are as follows:

1) Alterations are not permitted to Category I or II wetlands unless specifically exempted under the provisions of this Program. Mitigation will still be required at a rate of 3:1 for creation or re-establishment, 4:1 for rehabilitation, and 6:1 for enhancement.

2) Alterations to Category III wetlands are prohibited except where the location or configuration of the wetland provides practical difficulties that can be resolved by modifying up to .10 (one-tenth) of an acre of wetland. Mitigation for any alteration to a Category III wetland must be located contiguous to the altered wetland. Mitigation for any alteration to a Category III wetland must be provided at a ratio of 2:1 for creation or re-establishment, 4:1 for rehabilitation and 8:1 for enhancement alone.

3) Alterations to Category IV wetlands are allowed, where unavoidable and adequate mitigation is carried out in accordance with the standards of this section. Mitigation for alteration to a Category IV wetland will be 1.5:1 for creation or re-establishment and 3:1 for rehabilitation or enhancement.

4) Isolated wetlands formed on fill material in highly disturbed environmental conditions and assessed as having low overall wetland functions (scoring below 20 points) may be altered and/or relocated with the permission of the Director. These wetlands may include artificial hydrology or wetlands unintentionally created as the result of construction activities. The determination that a wetland is isolated is made by the US Army Corps of Engineers.

6. Watercourse Alterations. All impacts to a watercourse that degrade the functions and values of the watercourse shall be avoided. If alteration to the watercourse is unavoidable, all adverse impacts shall be mitigated in accordance with the approved mitigation plan as described in this chapter. Mitigation shall take place on-site or as close as possible to the impact location, and compensation shall be at a minimum 1:1 ratio. Any mitigation shall result in improved watercourse functions over existing conditions.

a. Diverting or rerouting may only occur with the permission of the Director and an approved mitigation plan. Any watercourse that has critical wildlife habitat or is necessary for the life cycle or spawning of salmonids shall not be rerouted, unless it can be shown that the habitat will be improved for the benefit of the species. A watercourse may be rerouted or daylighted as a mitigation measure to improve watercourse function.

b. Piping of any watercourse should be avoided. Relocation of a watercourse is preferred to piping; if piping occurs in a watercourse sensitive area, it shall be limited and shall require approval of the Director. Piping of Type 1 watercourses shall not be permitted. Piping may be allowed in Type 2, 3 or 4 watercourses if it is necessary for access purposes. Piping may be allowed in Type 4 watercourses if the watercourse has a degraded buffer, is located in a

highly-developed area and does not provide shade, temperature control, etc. for habitat. The applicant must comply with the conditions of this section, including: providing excess capacity to meet needs of the system during a 100-year flood event, and providing flow restrictors and complying with water quality and existing habitat enhancement procedures.

c. No process that requires maintenance on a regular basis will be acceptable unless this maintenance process is part of the regular and normal facilities maintenance process or unless the applicant can show funding for this maintenance is ensured for as long as the use remains.

d. Piping projects shall be performed pursuant to the following applicable standards:

1) The conveyance system shall be designed to comply with the standards in current use and recommended by the Department of Public Works.

2) Where allowed, piping shall be limited to the shortest length possible as determined by the Director to allow access onto a property.

3) Where water is piped for an access point, those driveways or entrances shall be consolidated to serve multiple properties where possible, and to minimize the length of piping.

4) When required by the Director, watercourses under drivable surfaces shall be contained in an arch culvert using oversize or super span culverts for rebuilding of a streambed. These shall be provided with check dams to reduce flows, and shall be replanted and enhanced according to a plan approved by the Director.

5) All watercourse crossing shall be designed to accommodate fish passage. Watercourse crossings shall not block fish passage where the streams are fish bearing.

6) Stormwater run-off shall be detained and infiltrated to preserve the watercourse channel's dominant discharge.

7) All construction shall be designed to have the least adverse impact on the watercourse, buffer and surrounding environment.

8) Piping shall be constructed during periods of low flow, or as allowed by the State Department of Fish and Wildlife.

9) Water quality must be as good or better for any water exiting the pipe as for the water entering the pipe, and flow must be comparable.

7. Fish and Wildlife Conservation Area Alterations. Alterations to the Green/Duwamish River are regulated by the shoreline provisions of this SMP. Alterations to Fish and Wildlife Conservation Areas that have been created as restoration or habitat enhancement sites and are shown on the Sensitive Areas in the Shoreline Jurisdiction Map are prohibited and may only be authorized through a shoreline variance procedure.

L. Sensitive Areas Mitigation. Mitigation shall be required for any proposals for dredging, filling, piping, diverting, relocation or other alterations of sensitive areas as allowed in this chapter and in accordance with mitigation sequencing and the established mitigation ratios. The mitigation plan shall be developed as part of a sensitive area study by a qualified specialist.

1. Mitigation Sequencing. Applicants shall demonstrate that reasonable efforts have been examined with the intent to avoid and minimize impacts to sensitive areas and buffers. When an alteration to a sensitive area or its required buffer is proposed, such alteration shall be avoided, minimized or compensated for in the following order of preference:

a. Avoidance of sensitive area and buffer impacts, whether by finding another site or changing the location of the proposed activity on-site;

b. Minimizing sensitive area and buffer impacts by limiting the degree of impact on site;

c. Mitigation actions that require compensation by replacing, enhancing, or substitution.

2. Criteria for Approval of Alterations and Mitigation. Alterations and mitigation plans are subject to Director approval and may be approved only if the following findings are made:

a. The alteration will not adversely affect water quality;

b. The alteration will not adversely affect fish, wildlife, or their habitat;

- c. The alteration will not have an adverse effect on drainage and/or stormwater detention capabilities;
- d. The alteration will not lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions;
- e. The alteration will not be materially detrimental to any other property;
- f. The alteration will not have adverse effects on any other sensitive areas or the shoreline; and
- g. The mitigation will result in improved functions such as water quality, erosion control, and wildlife and fish habitat.

3. Mitigation Location.

- a. On-site mitigation shall be provided, except where it can be demonstrated that:
 - 1) On-site mitigation is not scientifically feasible due to problems with hydrology, soils, or other factors; or
 - 2) Mitigation is not practical due to potentially adverse impacts from surrounding land uses; or
 - 3) Existing functional values created at the site of the proposed restoration are significantly greater than lost sensitive area functions; or
 - 4) Established regional goals for flood storage, flood conveyance, habitat or other sensitive area functions have been established and strongly justify location of mitigation at another site.
- b. Off-site mitigation shall occur within the Shoreline Jurisdiction in a location where the sensitive area functions can be restored. Buffer impacts must be mitigated at or as close as possible to the location of the impact.
- c. Wetland creation, relocation of a watercourse, or creation of a new fish and wildlife habitat shall not result in the new sensitive area or buffer extending beyond the development site and onto adjacent property without the agreement of the affected property owners, unless otherwise exempted by this SMP.

4. Mitigation Plan Content and Standards. The scope and content of a mitigation plan shall be decided on a case-by-case basis. As the impacts to the sensitive area increase, the mitigation measures to offset these impacts will increase in number and complexity. The minimum components of a complete mitigation plan are listed below. For wetland mitigation plans, the format should follow that established in "[Wetland Mitigation in Washington State, Part 2 – Developing Mitigation Plans](#) (Washington Department of Ecology, Corps of Engineers, EPA, March 2006, as amended)."

- a. Baseline information of quantitative data collection or a review and synthesis of existing data for both the project impact zone and the proposed mitigation site.
- b. Environmental goals and objectives that describe the purposes of the mitigation measures. This should include a description of site-selection criteria, identification of target evaluation species, and resource functions.
- c. Performance standards for the specific criteria for fulfilling environmental goals and for beginning remedial action or contingency measures. They may include water quality standards, species richness and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria. The following shall be considered the minimum performance standards for approved sensitive area alterations:
 - 1) Sensitive area functions and improved habitat for fish and wildlife are improved over those of the original conditions.
 - 2) Hydrologic conditions, hydroperiods and watercourse channels are improved over existing conditions and the specific performance standards specified in the approved mitigation plan are achieved.
 - 3) Acreage requirements for enhancement or creation are met.
 - 4) Vegetation native to the Pacific Northwest is installed and vegetation survival and coverage standards over time are met and maintained.
 - 5) Buffer and bank conditions and functions exceed the original state.

6) Stream channel habitat and dimensions are maintained or improved such that the fisheries habitat functions of the compensatory stream reach, meet or exceed that of the original stream.

d. A detailed construction plan of the written specifications and descriptions of mitigation techniques. This plan should include the proposed construction sequence and construction management, and be accompanied by detailed site diagrams and blueprints that are an integral requirement of any development proposal.

e. Monitoring and/or evaluation program that outlines the approach and frequency for assessing progress of the completed project. An outline shall be included that spells out how the monitoring data will be evaluated and reported.

f. Maintenance plan that outlines the activities and frequency of maintenance to ensure compliance with performance standards.

g. Contingency plan identifying potential courses of action and any corrective measures to be taken when monitoring or evaluation indicates project performance standards have not been met.

h. Performance security or other assurance devices.

5. Mitigation Timing.

a. Mitigation projects shall be completed prior to activities that will permanently disturb sensitive areas or their buffers and either prior to or immediately after activities that will temporarily disturb sensitive areas.

b. Construction of mitigation projects shall be timed to reduce impacts to existing wildlife, flora and water quality, and shall be completed prior to use or occupancy of the activity or development. The Director may allow activities that permanently disturb wetlands or watercourses prior to implementation of the mitigation plan under the following circumstances:

1) To allow planting or re-vegetation to occur during optimal weather conditions;

2) To avoid disturbance during critical wildlife periods; or

3) To account for unique site constraints that dictate construction timing or phasing.

c. Monitoring of buffer alterations shall be required for three to five years. All other alterations shall be monitored for a minimum of five years.

6. Corrective Actions and Monitoring. The Director shall require subsequent corrective actions and long-term monitoring of the project if adverse impacts to regulated sensitive areas or their buffers are identified.

7. Recording. The property owner receiving approval of a use or development pursuant to the SMP shall record the City-approved site plan clearly delineating the sensitive area and its buffer with the King County Division of Records and Elections. The face of the site plan must include a statement that the provisions of this chapter, as of the effective date of the ordinance from which the SMP derives or is thereafter amended, control use and development of the subject property and provide for any responsibility of the latent defects or deficiencies.

8. Assurance Device.

a. The Director may require a letter of credit or other security device acceptable to the City to guarantee performance and maintenance requirements. All assurances shall be on a form approved by the City Attorney.

b. When alteration of a sensitive area is approved, the Director may require an assurance device, on a form approved by the City Attorney, to cover the monitoring costs and correction of possible deficiencies for the term of the approved monitoring and maintenance program.

c. The assurance device shall be released by the Director upon receipt of written confirmation submitted to the Department from the applicant's qualified professional that the mitigation or restoration has met its performance standards and is successfully established. Should the mitigation or restoration meet performance standards and be successfully established in the third or fourth year of monitoring, the City may release the assurance device early. The assurance device may be held for a longer period, if at the end of the monitoring

period if, the performance standards have not been met or the mitigation has not been successfully established.

d. Release of the security does not absolve the property owner of responsibility for maintenance or correcting latent defects or deficiencies or other duties under law.

Section 10. Public Access to the Shoreline Adopted. Updated requirements for shoreline regulations are hereby adopted to read as follows:

TMC 18.44.100 Public Access to the Shoreline

A. Applicability.

1. Public access shall be provided on all property that abuts the Green/Duwamish River shoreline in accordance with this section as further discussed below where any of the following conditions are present:

a. Where a development or use will create increased demand for public access to the shoreline, the development or use shall provide public access to mitigate this impact. For the purposes of this section, an "increase in demand for public access" is determined by evaluating whether the development reflects an increase in the land use intensity (for example converting a warehouse to office or retail use), or a significant increase in the square footage of an existing building. A significant increase is defined as an increase of 3,000 square feet.

b. Where a development or use will interfere with an existing public access way, the development or use shall provide public access to mitigate this impact. Impacts to public access may include blocking access or discouraging use of existing on-site or nearby accesses.

c. Where a use or development will interfere with a public use of lands or waters subject to the public trust doctrine, the development shall provide public access to mitigate this impact.

d. Where the development is proposed by a public entity or on public lands.

e. Where identified on the Shoreline Public Access Map.

2. For the purposes of this section, an "increase in demand for public access" is determined by evaluating whether the development reflects an increase in the land use intensity, for example converting a warehouse to office or retail use, or a significant increase in the square footage of an existing building. A significant increase is defined as an increase of 3,000 square feet. The extent of public access required will be proportional to the amount of increase in the demand for public access. For smaller projects, the Director will review the intent of this section and the scope of the project to determine a reasonable amount of public access to be carried out. Depending on the amount of increase, the project may utilize the alternative provisions for meeting public access in 18.44.100(F). The terms and conditions of 18.44.100(A) and (B) shall be deemed satisfied if the applicant and the City agree upon a master trail plan providing for public paths and trails within a parcel or group of parcels.

3. The provisions of this section do not apply to the following:

a. Short plats of four or fewer lots;

b. Where providing such access would cause unavoidable health or safety hazards;

c. Where providing such access would create inherent and unavoidable security problems; or

d. Where providing such access would cause significant ecological impacts that cannot be mitigated.

An applicant claiming an exemption under items 2(b)-(d) above must comply with the procedures in TMC Section 18.44.100(F).

B. General Standards.

1. To improve public access to the Green/Duwamish River, sites shall be designed to provide:

a. Safe, visible and accessible pedestrian and non-motorized vehicle connections between proposed development and the river's edge, particularly when the site is adjacent to the Green River Trail or other approved trail system; and

b. Public pathway entrances that are clearly visible from the street edge; and

c. Clearly identified pathways that are separate from vehicular circulation areas. This may be accomplished through the use of special paving materials such as precast pavers, bomonite, changes in color or distinct and detailed scoring patterns and textures.

d. Site elements that are organized to clearly distinguish between public and private access and circulation systems.

2. Required public access shall be fully developed and available for public use at the time of occupancy in accordance with development permit conditions except where the decision maker determines an appropriate mechanism for delayed public access implementation is necessary for practical reasons. Where appropriate, a bond or cash assignment may be approved, on review and approval by the Director of Community Development, to extend this requirement for 90 days from the date the Certificate of Occupancy is issued.

3. Public access easements and related permit conditions shall be recorded on the deed of title or the face of the plat, short plat or approved site plan as a condition tied to the use of the land. Recording with the County shall occur prior to the issuance of an Occupancy Permit or final plat approval. Upon re-development of such a site, the easement may be relocated to facilitate the continued public access to the shoreline.

4. Approved signs indicating the public's right of access and hours of access, if restricted, shall be constructed, installed and maintained by the applicant in conspicuous locations at public access sites. Signs should be designed to distinguish between public and private areas. Signs controlling or restricting public access may be approved as a condition of permit approval.

5. Required access must be maintained throughout the life of the project.

6. Public access features shall be separated from residential uses through the use of setbacks, low walls, berms, landscaping, or other device of a scale and materials appropriate to the site.

7. Shared public access between developments is encouraged. Where access is to be shared between adjacent developments, the minimum width for the individual access easement may be reduced, provided the total width of easements contributed by each adjacent development equals a width that complies with Fire Department requirements and/or exceeds the minimum for an individual access.

8. Public access sites shall be connected directly to the nearest public area (e.g., street, public park, or adjoining public access easement). Where connections are not currently possible, the site shall be designed to accommodate logical future connections.

C. Requirements for Shoreline Trails.

Where public access is required under TMC Section 18.44.100(A)1 above, the requirement will be met by provision of a shoreline trail as follows:

1. Development on Properties Abutting Existing Green River Trail. An applicant seeking to develop property abutting the existing trail ~~may~~shall meet public access requirements by upgrading the trail along the property frontage to meet the standards of a 14-foot-wide trail with 2-foot shoulders on each side.

2. Development on Properties Where New Trails are Planned. An applicant seeking to develop property abutting the river in areas identified for new shoreline trail segments ~~may~~shall meet public access requirements by dedicating an 18-foot-wide trail easement to the City for public access along the river.

D. Publicly-Owned Shorelines.

1. Shoreline development by any public entities, including but not limited to the City of Tukwila, King County, port districts, state agencies, or public utility districts, shall include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, impact to the shoreline environment or other provisions listed in this section.

2. The following requirements apply to street ends and City-owned property adjacent to the river.

a. Public right-of-way and "road-ends," or portions thereof, shall not be vacated and shall be maintained for future public access.

b. Unimproved right-of-ways and portions of right-of-ways, such as street ends and turn-outs, shall be dedicated to public access uses until such time as the portion becomes improved right-of-way. Uses shall be limited to passive outdoor recreation, car top boat launching, fishing, interpretive/educational uses, and/or parking, which accommodates these uses, and shall be designed so as to not interfere with the privacy of adjacent residential uses.

c. City-owned facilities within the Shoreline Jurisdiction shall provide new trails and trail connections to the Green River Trail in accordance with approved plans and this SMP.

d. All City-owned recreational facilities within the Shoreline Jurisdiction, unless qualifying for an exemption as specified in this chapter, shall make adequate provisions for:

- 1) Non-motorized and pedestrian access;
- 2) The prevention of trespass onto adjacent properties through landscaping, fencing or other appropriate measures;
- 3) Signage indicating the public right-of-way to shoreline areas; and
- 4) Mechanisms to prevent environmental degradation of the shoreline from public use.

E. Public Access Incentives.

1. The minimum yard setback for buildings, uses, utilities or development from non-riverfront lot lines may be reduced as follows:

a. Where a development provides a public access corridor between off-site areas, or public shoreline areas to public shoreline areas, one side yard may be reduced to a zero lot line placement; or

b. Where a development provides additional public access area(s) equal in area to at least 2.5% of total building area, the front yard (the landward side of the development) may be reduced by 50%.

2. The maximum height for structures may be increased by 15% when:

a. Development devotes at least 5% of its building or land area to public shoreline access; or

b. Development devotes at least 10% of its land area to employee shoreline access.

3. The maximum height for structures under 18.44.070(C)3 and this section may be increased by a maximum of 25% when:

a. One of the criteria in 18.44.100(E)2 is met; and

b. The applicant restores or enhances the entire shoreline buffer, including, but not limited to, paved areas no longer in use on the property to offset the impact of the increase in height. Buffer restoration/enhancement projects undertaken to meet the requirements of TMC Section 18.44.100(F) do not qualify as restoration or enhancement for purposes of the height incentive provided in this subsection.

c. No combination of incentives may be used to gain more than a 25% total height increase for a structure.

4. The maximum height for structures may be increased to the height permitted in the underlying zoning district for properties that construct a 14-foot-wide paved trail with a 2-foot-wide shoulder on each side for public access along the river in areas identified as new shoreline trail segments, or where, in the case of properties containing or abutting existing public access trails, the existing trail either meets the standard of a 14-foot-wide trail with 2-foot-wide shoulders on either side or the property owner provides any necessary easements and improvements to upgrade the existing trail to that standard along the property frontage.

F. Exemptions from Provision of On-Site Public Access.

1. Requirements for providing on-site general public access, as distinguished from employee access, will not apply if the applicant can demonstrate one or more of the following:

a. Unavoidable health or safety hazards to the public exist related to the primary use that cannot be prevented by any practical means.

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

c. The cost of providing the access, easement or other public amenity on or off the development site is unreasonably disproportionate to the total long-term cost of the proposed development.

d. Unavoidable environmental harm or net loss of shoreline ecological functions that cannot be adequately mitigated will result from the public access.

e. Access is not feasible due to the configuration of existing parcels and structures, such that access areas are blocked in a way that cannot be remedied reasonably by the proposed development.

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

g. Space is needed for water-dependent uses or navigation.

2. In order to meet any of the above-referenced conditions, the applicant must first demonstrate, and the City determine in its findings through a Type II decision, that all reasonable alternatives have been exhausted including, but not limited to:

a. Regulating access by such means as maintaining a gate and/or limiting hours of use;

b. Designing separation of uses and activities through fencing, terracing, hedges or other design features; or

c. Providing access on a site geographically separate from the proposal such as a street end cannot be accomplished.

3. If the above conditions are demonstrated, and the proposed development is not subject to the Parks Impact Fee, alternative provisions for meeting public access are required and include:

a. Development of public access at an adjacent street end; or

b. Protection through easement or setbacks of landmarks, unique natural features or other areas valuable for their interpretive potential; or

c. Contribution of materials and/or labor toward projects identified in the Parks and Recreation Master Plan, the Shoreline Restoration Plan, or other City adopted plan; or

d. In lieu of providing public access under this section, at the Director's discretion, the applicant may provide restoration/enhancement of the shoreline jurisdiction to a scale commensurate with the foregone public access.

Section 11. Shoreline Design Guidelines Adopted. Updated requirements for shoreline regulations are hereby adopted to read as follows:

TMC 18.44.110 Shoreline Design Guidelines

The Green/Duwamish River is an amenity that should be valued and celebrated when designing projects that will be located along its length. If any portion of a project falls within the Shoreline Jurisdiction, the entire project will be reviewed under these guidelines as well as the relevant sections of the Design Review Chapter of the Zoning Code (TMC Chapter 18.60). The standards of TMC Chapter 18.60 shall guide the type of review, whether administrative or by the Board of Architectural Review.

A. The following standards apply to development, uses and activities in the Urban Conservancy and High Intensity Environments and non-residential development in the Shoreline Residential Environment:

1. Relationship of Structure to Site. Development within the Shoreline Jurisdiction shall demonstrate compliance with the following:

a. Respect and reflect the shape of the shoreline.

b. Orient building elements to site such that public river access, both visual and physical, is enhanced.

c. Orient buildings to allow for casual observation of pedestrian and trail activity from interior spaces.

d. Site and orient buildings to provide maximum views from building interiors toward the river and the shoreline.

e. Orient public use areas and private amenities to the river.

f. Clearly allocate spaces, accommodating parking, vehicular circulation and buildings, to preserve existing stands of vegetation or trees so that natural areas can be set aside, improved, or integrated into site organization and planning.

g. Clearly define and separate public from non-public spaces with the use of paving, signage, and landscaping.

2. Building Design. Development within the Shoreline Jurisdiction shall demonstrate compliance with the following:

a. To prevent building mass and shape from overwhelming the desired human scale along the river, development shall avoid blank walls on the public and river sides of buildings.

b. Buildings should be designed to follow the curve of the river and respond to changes in topography; buildings must not "turn their back" to the river.

c. Design common areas in buildings to take advantage of shoreline views and access; incorporate outdoor seating areas that are compatible with shoreline access.

d. Consider the height and scale of each building in relation to the site.

e. Extend site features such as plazas that allow pedestrian access and enjoyment of the river to the landward side of the buffer's edge.

f. Locate lunchrooms and other common areas to open out onto the water-ward side of the site to maximize enjoyment of the river.

g. Design structures to take advantage of the river frontage location by incorporating features such as:

- 1) plazas and landscaped open space that connect with a shoreline trail system;
- 2) windows that offer views of the river; or
- 3) pedestrian entrances that face the river.

h. View-obscuring fencing is permitted only when necessary for documentable use requirements and must be designed with landscaping per the Vegetation Protection and Landscaping Section. Other fencing, when allowed, must be designed to complement the proposed and/or existing development materials and design.

i. Where there are public trails, locate any fencing between the site and the landward side of the shoreline trail.

3. Design of Public Access. Development within the Shoreline Jurisdiction shall demonstrate compliance with the following:

a. Public access shall be barrier free, where feasible, and designed consistent with the Americans with Disabilities Act.

b. Public access landscape design shall use native vegetation, in accordance with the standards in the Vegetation Protection and Landscaping Section. Additional landscape features may be required where desirable to provide public/private space separation and screening of utility, service and parking areas.

c. Furniture used in public access areas shall be appropriate for the proposed level of development and the character of the surrounding area. For example, large urban projects should provide formal benches; for smaller projects in less-developed areas, simpler, less formal benches or suitable alternatives are appropriate.

d. Materials used in public access furniture, structures or sites shall be:

- 1) Durable and capable of withstanding exposure to the elements;
- 2) Environmentally friendly and take advantage of technology in building materials, lighting, paved surfaces, porous pavement, etc, wherever practical; and
- 3) Consistent with the character of the shoreline and the anticipated use.

e. Public-Private Separation:

1) Public access facilities shall look and feel welcoming to the public, and not appear as an intrusion into private property.

2) Natural elements such as logs, grass, shrubs, and elevation separations are encouraged as means to define the separation between public and private space.

Section 12. Shoreline Restoration Adopted. Updated requirements for shoreline regulations are hereby adopted to read as follows:

TMC 18.44.120 Shoreline Restoration

A. Shoreline Substantial Development Permit Not Required. Shoreline restoration projects shall be allowed without a Shoreline Substantial Development Permit when these projects meet the criteria established by WAC 173-27-040(o) and (p) and HB 2199.

B. Changes in Shoreline Jurisdiction Due to Restoration.

1. In cases where shoreline restoration projects result in a change in the location of the OHWM and associated Shoreline Jurisdiction on the subject property and/or adjacent properties, and where application of this chapter regulations would preclude or interfere with the uses permitted by the underlying zoning thus presenting a hardship to the project proponent.

a. Applications for relief, as specified below, must meet the following criteria:

- 1) The proposed relief is the minimum necessary to relieve the hardship;
- 2) After granting the proposed relief, there is net environmental benefit from the restoration project; and
- 3) Granting the proposed relief is consistent with the objectives of the shoreline restoration project and with the Shoreline Master Program.
- 4) 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 the provisions of this section.

b. The portion of property that moves from outside Shoreline Jurisdiction to inside Shoreline Jurisdiction as a result of the shoreline restoration project:

- 1) may be developed for the full range of uses of the underlying zoning consistent with the Zoning Code, including uses that are not water-oriented;
- 2) is not required to obtain a shoreline substantial development permit;
- 3) is not subject to provisions for public access;
- 4) is not subject to shoreline design review; and
- 5) is not subject to the development standards set forth in this chapter.

c. The intent of the exemptions identified above in a(1) to a(4) is to implement the restoration projects of the Shoreline Master Program Restoration Plan, which reflects the projects identified in the Water Resource Inventory Area (WRIA) 9 Plan pursuant to Policy 5.2 of the SMP.

2. Consistent with the provisions of (1)(a) and (1)(b) above, the Shoreline Residential Environment Buffer, High Intensity or Urban Conservancy Environment Buffer width may be reduced to no less than 25 feet measured from the new location of the OHWM for the portion of the property that moves from outside the Shoreline Jurisdiction to inside Shoreline Jurisdiction as a result of the shoreline restoration project, subject to the following standards:

- a. The 25-foot buffer area must be vegetated according to the requirements of the Vegetation Protection and Landscaping Section or as otherwise approved by the City; and
- b. The proponents of the restoration project are responsible for the installation and maintenance of the vegetation.

3. The habitat restoration project proponents must record with King County a survey that identifies the location of the OHWM location prior to implementation of the shoreline restoration project, any structures that fall within the Shoreline Jurisdiction, and the new location of the OHWM once construction of the shoreline restoration project is completed.

4. Shoreline restoration projects must obtain all U.S. Army Corps of Engineers and Washington State Department of Fish and Wildlife approvals as well as written approval from the City.

Section 13. Administration Requirements Adopted. Updated requirements for shoreline regulations are hereby adopted to read as follows:

TMC 18.44.130 Administration

A. Applicability of Shoreline Master Program and Substantial Development Permit.

1. Development in the Shoreline Jurisdiction. Based on guidelines in the SMA for a Minimum Shoreline Jurisdiction, Tukwila's Shoreline Jurisdiction is defined as follows: The Tukwila Shoreline Jurisdiction includes the channel of the Green/Duwamish River, its banks, the upland area which extends from the OHWM landward for 200 feet on each side of the river, floodways and all associated wetlands within its floodplain. The floodway shall not include those lands that have historically been protected by flood control devices and therefore have not been subject to flooding with reasonable regularity.

2. Applicability. The Tukwila SMP applies to uses, change of uses, activities or development that occurs within the above-defined Shoreline Jurisdiction. All proposed uses and development occurring within the Shoreline Jurisdiction must conform to Chapter 90.58 RCW, the SMA, and this chapter whether or not a permit is required.

B. Substantial Development Permit Requirements.

1. Permit Application Procedures. Applicants for a Shoreline Substantial Development Permit shall comply with permit application procedures in TMC Chapter 18.104.

2. Exemptions.

a. To qualify for an exemption, the proposed use, activity or development must meet the requirements for an exemption as described in WAC 173-27-040, except for properties that meet the requirements of the Shoreline Restoration Section, TMC Section 18.44.120. The purpose of a shoreline exemption is to provide a process for uses and activities which do not trigger the need for a Substantial Development Permit, but require compliance with all provisions of the City's SMP and overlay district.

b. The Director may impose conditions to the approval of exempted developments and/or uses as necessary to assure compliance of the project with the SMA and the Tukwila SMP, per WAC 173-27-040(e). For example, in the case of development subject to a building permit but exempt from the shoreline permit process, the Building Official or other permit authorizing official, through consultation with the Director, may attach shoreline management terms and conditions to building permits and other permit approvals pursuant to RCW 90.58.140.

C. Shoreline Conditional Use Permit.

1. Purpose. As stated in WAC 173-27-160, the purpose of a Conditional Use Permit (CUP) is to allow greater flexibility in the application of use regulations of this chapter in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the City or the Department of Ecology to prevent undesirable effects of the proposed use and/or assure consistency of the project with the SMA and the City's SMP. Uses which are specifically prohibited by the SMP may not be authorized with approval of a CUP.

2. Application. Shoreline Conditional Use Permits are a Type 4 permit processed under TMC Chapter 18.104.

3. Application Requirements. Applicants must meet all requirements for permit application and approvals indicated in TMC Chapter 18.104 and this chapter.

4. Approval Criteria.

a. Uses classified as shoreline conditional uses may be authorized, provided that the applicant can demonstrate all of the following:

1) The proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the Tukwila SMP;

2) The proposed use will not interfere with the normal public use of public shorelines;

3) The proposed use of the site and design of the project will be compatible with other permitted uses within the area and with uses planned for the area under the Comprehensive Plan and this chapter;

4) The proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

5) The public interest suffers no substantial detrimental effect.

b. In the granting of all Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Conditional Use Permits were granted to other developments in the area where similar

circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58 and all local ordinances and shall not produce substantial adverse effects to the shoreline environment.

D. Shoreline Variance Permits.

1. Purpose. The purpose of a Shoreline Variance Permit is strictly limited to granting relief from specific bulk, dimensional, or performance standards set forth in this chapter where there are extraordinary or unique circumstances relating to the physical character or configuration of property such that the strict implementation of this chapter will impose unnecessary hardships on the applicant or thwart the SMA policies as stated in RCW 90.58.020. Reasonable use requests that are located in the shoreline must be processed as a variance until such time as the SMA is amended to establish a process for reasonable uses.

2. Application Requirements. Applicants must meet all requirements for a Type 3 permit application and approvals indicated in TMC Chapter 18.104.

3. Shoreline Variance Permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances exist and the public interest will suffer no substantial detrimental effect.

4. Approval Criteria. A Shoreline Variance Permit for a use, activity or development that will be located landward of the OHWM and/or landward of any wetland may be authorized provided the applicant can demonstrate all of the following:

a. The strict application of the bulk, dimensional, or performance standards set forth in this chapter preclude or significantly interfere with a reasonable use of the property not otherwise prohibited by this chapter.

b. The hardship described in TMC Section 18.44.130.D(4)a is specifically related to the property and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this chapter, and not from the owner's own actions or deed restrictions; and the variance is necessary because of these conditions in order to provide the owner with use rights and privileges permitted to other properties in the vicinity and zone in which the property is situated.

c. The design of the project will be compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and SMP and will not cause adverse impacts to adjacent properties or the shoreline environment.

d. The variance will not constitute a grant of special privilege not enjoyed by other properties in the area.

e. The variance is the minimum necessary to afford relief.

f. The public interest will suffer no substantial detrimental effect.

5. Shoreline Variance Permits Waterward of OHWM.

a. Shoreline Variance Permits for development and/or uses that will be located either waterward of the OHWM or within any sensitive area may be authorized only if the applicant can demonstrate all of the following:

1) The strict application of the bulk, dimensional or performance standards set forth in this chapter preclude all reasonable permitted use of the property.

2) The proposal is consistent with the criteria established under TMC Section 18.44.130.D(4), "Approval Criteria."

3) The public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance.

b. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area such that the total of the variances would remain consistent with RCW 90.58.020 and not cause substantial adverse effects to the shoreline environment.

c. Variances from the use regulations of this chapter are prohibited.

E. Non-Conforming Development.

1. Non-Conforming Uses. Any non-conforming lawful use of land that would not be allowed under the terms of this chapter may be continued as an allowed, legal, non-conforming

use, defined in TMC Chapter 18.06 or as hereafter amended, so long as that use remains lawful, subject to the following:

a. No such non-conforming use shall be enlarged, intensified, increased or extended to occupy a greater use of the land, structure or combination of the two, than was occupied at the effective date of adoption of this chapter unless TMC Section 18.66.120 applies.

b. No non-conforming use shall be moved or extended in whole or in part to any other portion of the lot or parcel occupied by such use on the effective date of adoption of this chapter.

c. If any such non-conforming use ceases for any reason for a period of more than 24 consecutive months, any subsequent use shall conform to the regulations specified by in this chapter for the shoreline environment in which such use is located. Upon request of the owner, prior to the end of the 24 consecutive months and upon reasonable cause shown, the City Council may grant an extension of time beyond the 24 consecutive months using the criteria set forth in TMC Section 18.44.130(E)4.

d. If a change of use is proposed to a use determined to be non-conforming by application of provisions in this chapter, the proposed new use must be a permitted use in this chapter or a use approved under a ~~Conditional Use Permit~~ Type 2 permit with public notice process. For purposes of implementing this section, a change of use constitutes a change from one permitted or conditional use category to another such use category as listed within the Zoning Code.

e. A structure that is being or has been used for a non-conforming use may be used for a different non-conforming use only upon the approval of a ~~Shoreline Conditional Use permit. In addition to the conditional use criteria in TMC 18.44.130(c),~~ Type 2 permit subject to public notice. Before approving a change in non-conforming use, the following findings must be made:

- 1) No reasonable alternative conforming use is practical;
- 2) The proposed use will be at least as consistent with the policies and provisions of the SMP and as compatible with the uses in the area as the non-conforming use;
- 3) the use or activity is enlarged, intensified, increased or altered only to the minimum amount necessary to achieve the intended functional purpose;
- 4) The structure(s) associated with the non-conforming use shall not be expanded in a manner that increases the extent of the non-conformity;
- 5) The change in use will not create adverse impacts to shoreline ecological functions and/or processes;
- 6) The applicant restores and/or enhances the entire shoreline buffer, including but not limited to, paved areas no longer in use on the property, to offset the impact of the change of use per the vegetation management standards of this chapter. This may include the restoration of paved areas to vegetated area if no longer in use;
- 7) The use complies with the ~~conditional use permit criteria of this Program~~ Type 2 permit process of TMC Chapter 18.104; and
- 8) The preference is to reduce exterior uses in the buffer to the maximum extent possible.

2. Non-Conforming Structures. Where a lawful structure exists on the effective date of adoption of this chapter that could not be built under the terms of this chapter by reason of restrictions on height, buffers or other characteristics of the structure, it may be continued as an allowed, legal structure so long as the structure remains otherwise lawful subject to the following provisions:

a. No such structure may be enlarged or altered in such a way that increases its degree of nonconformity or increases its impacts to the functions and values of the shoreline environment. Ordinary maintenance and repair of and upgrades to a non-conforming structure are permitted, including but not limited to, painting, roof repair and replacement, plumbing, wiring, mechanical equipment repair/replacement, repaving and weatherization. These and other alterations, additions or enlargements may be allowed as long as the work done does not extend further into any required buffer, increase the amount of impervious surface, or increase the impacts to the functions and values of the shoreline environment. Complete plans shall be required of all work contemplated under this section.

b. Should such structure be destroyed by any accidental means, the structure may be reconstructed to its original dimensions and location on the lot provided application is made for permits within 12 months of the date the damage occurred and all reconstruction is completed within two years of permit issuance. In the event the property is redeveloped, such re-development must be in conformity with the provisions of this chapter.

c. Should such structure be moved for any reason or any distance whatsoever, it shall thereafter conform to the regulations of this chapter after it is moved.

d. When a non-conforming structure, or structure and premises in combination, is vacated or abandoned for 24 consecutive months, the structure, or structure and premises in combination, shall thereafter be required to be in conformance with the regulations of this chapter. Upon request of the owner, prior to the end of the 24 consecutive months and upon reasonable cause shown, the City Council may grant an extension of time beyond the 24 consecutive months using the criteria in TMC Section 18.44.130(E)4.

e. Residential structures and uses located in any single-family or multiple-family residential zoning district and in existence at the time of adoption of this chapter shall not be deemed nonconforming in terms of height, use, or location provisions of this title. Such buildings may be rebuilt after a fire or other natural disaster to their original dimensions, location and height, but may not be changed except as provided in the non-conforming uses section of this chapter.

f. Single-family structures in single- or multiple-family residential zoning districts, which have legally non-conforming setbacks from the OHWM per the SMP buffer, shall be allowed to expand the ground floor only along the existing building line(s) as long as the existing distance from the nearest point of the structure to the OHWM is not reduced and the square footage of new intrusion into the buffer does not exceed 50% of the square footage of the current intrusion. As a condition of building permit approval, a landscape plan showing removal of invasive plant species within the entire shoreline buffer and replanting with appropriate native species must be submitted to the City. Plantings should be maintained through the establishment period.

g. Within the Shoreline Jurisdiction, existing structures that do not meet the requirements of the SMP may be ~~remodeled~~ altered, reconstructed or replaced, provided that:

1) The new construction is within the original dimensions and location on the lot;

2) The new construction does not further intrude into or adversely impact the required buffer;

3) The use or activity is enlarged, intensified, increased or altered only to the minimum amount necessary to achieve the intended functional purpose;

4) The reconstruction will not create adverse impacts to shoreline ecological functions and/or processes;

5) For properties in non-leveed portions of the river, the applicant re-slopes the bank to a 2.5:1 or 3:1 angle as applicable depending on the property's shoreline environment designation and restores and/or enhances the entire shoreline buffer, including but not limited to, paved areas no longer in use on the property. Where an existing building would prevent the re-sloping of the bank to 2.5:1 or 3:1 as applicable, the applicant must re-slope to the extent possible, remove invasive vegetation and re-vegetate according to the provisions of this chapter. For properties behind levees that do not meet the minimum profile, restore and/or enhance the remaining buffer area and remove invasive vegetation and plant with native vegetation on the levee prism as permitted by the COE; and

6) The property owner applies for and is granted approval of a ~~Shoreline Conditional Use Type 2~~ permit.

h. A non-conforming use, within a non-conforming structure, shall not be allowed to expand into any other portion of the structure.

3. For the purposes of this section, alteration is defined as work that exceeds 50% of the assessed valuation of the building over a three-year period.

43. Requests for Time Extension - Non-conforming Uses and Structures

a. A property owner may request, prior to the end of the 24 consecutive months, an extension of time beyond the 24 consecutive months. Such a request shall be considered as a ~~Conditional Use Type 2~~ permit under TMC Chapter 18.64-104 and may be approved only when:

1) For a non-conforming use, a finding is made that no reasonable alternative conforming use is practical;

2) For a non-conforming structure, special economic circumstances prevent the lease or sale of said structure within 24 months; and

3) The applicant restores and/or enhances the shoreline buffer on the property to offset the impact of the continuation of the non-conforming use. For non-conforming uses, the amount of buffer to be restored and/or enhanced will be determined based on the percentage of the existing building used by the non-conforming use for which a time extension is being requested. Depending on the size of the area to be restored and/or enhanced, the Director may require targeted plantings rather than a linear planting arrangement. The vegetation management standards of this program shall be used for guidance on any restoration/enhancement. For non-conforming structures, for each six-month extension of time requested, 15% of the available buffer must be restored/enhanced.

b. Conditions may be attached to the permit that 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.

54. Building Safety. Nothing in this SMP shall be deemed to prevent the strengthening or restoring to a safe condition of any non-conforming building or part thereof declared to be unsafe by order of any City official charged with protecting the public safety.

a. Alterations or expansion of a non-conforming ~~use-structure~~ that are required by law or a public agency in order to comply with public health or safety regulations are the only alterations or expansions allowed.

b. Alterations or expansions permitted under this section shall be the minimum necessary to meet the public safety concerns.

65. Non-Conforming Parking Lots.

a. Nothing contained in this chapter shall be construed to require a change in any aspect of a structure or facility covered thereunder including, without limitation, parking lot layout, loading space requirements and curb-cuts, for any structure or facility which existed on the date of adoption of this chapter.

b. If a change of use takes place or an addition is proposed, that requires an increase in the parking area by an increment less than 100%, the requirements of this chapter shall be complied with for the additional parking area.

c. If a change of use takes place or an addition is proposed, that requires an increase in the parking area by an increment greater than 100%, the requirements of this chapter shall be complied with for the entire parking area.

76. Non-Conforming Landscape Areas.

a. Adoption of the vegetation protection and landscaping regulations contained in this chapter shall not be construed to require a change in the landscape improvements for any legal landscape area that existed on the date of adoption of this chapter, unless and until the property is redeveloped or alteration of the existing structure is made beyond the thresholds provided herein.

b. At such time as the property is redeveloped or the existing structure is altered beyond the thresholds provided herein and the associated premises does not comply with the vegetation protection and landscaping requirements of this chapter, a landscape plan that conforms to the requirements of this chapter shall be submitted to the Director for approval.

Section 14. Appeals Adopted. Updated requirements for shoreline regulations are hereby adopted to read as follows:

TMC 18.44.140 Appeals

Any appeal of a decision by the City on a Shoreline Substantial Development Permit, Shoreline Conditional Use or Shoreline Variance must be appealed to the Washington State Shorelines Hearing Board.

Section 15. Enforcement and Penalties Adopted. Updated requirements for shoreline regulations are hereby adopted to read as follows:

TMC 18.44.150 Enforcement and Penalties

A. Violations. The following actions shall be considered violations of this chapter:

1. To use, construct or demolish any structure, or to conduct clearing, earth-moving, construction or other development not authorized under a Substantial Development Permit, Conditional Use Permit or Variance Permit, where such permit is required by this chapter.

2. Any work that is not conducted in accordance with the plans, conditions, or other requirements in a permit approved pursuant to this chapter, provided the terms or conditions are stated in the permit or the approved plans.

3. To remove or deface any sign, notice, complaint or order required by or posted in accordance with this chapter.

4. To misrepresent any material fact in any application, plans or other information submitted to obtain any shoreline use or development authorization.

5. To fail to comply with the requirements of this chapter.

B. Enforcement. It shall be the duty of the Director to enforce this chapter subject to the terms and conditions of TMC Chapter 8.45.

C. Inspection Access.

1. For the purpose of inspection for compliance with the provisions of a permit or this chapter, authorized representatives of the Director may enter all sites for which a permit has been issued.

2. Upon completion of all requirements of a permit, the applicant shall request a final inspection by contacting the planner of record. The permit process is complete upon final approval by the planner.

D. Penalties.

1. Any violation of any provision of the SMP, or failure to comply with any of the requirements of this chapter, shall be subject to the penalties prescribed in TMC Chapter 8.45, "Enforcement" and shall be imposed pursuant to the procedures and conditions set forth in that chapter.

2. Penalties assessed for violations of the SMP shall be determined by TMC Section 8.45.100, "Penalties."

3. It shall not be a defense to the prosecution for failure to obtain a permit required by this chapter that a contractor, subcontractor, person with responsibility on the site, or person authorizing or directing the work erroneously believed a permit had been issued to the property owner or any other person.

E. Remedial Measures Required. In addition to penalties provided in TMC Chapter 8.45, the Director may require any person conducting work in violation of this chapter to mitigate the impacts of unauthorized work by carrying out remedial measures.

1. Remedial measures must conform to the policies and guidelines of this chapter and the SMA.

2. The cost of any remedial measures necessary to correct violation(s) of this chapter shall be borne by the property owner and/or applicant.

F. Injunctive Relief.

1. Whenever the City has reasonable cause to believe that any person is violating or threatening to violate this chapter or any rule or other provisions adopted or issued pursuant to this chapter, it may, either before or after the institution of any other action or proceeding authorized by this ordinance, institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. Such action shall be brought in King County Superior Court.

2. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this chapter.

G. Abatement. Any use, structure, development or work that occurs in violation of this chapter or in violation of any lawful order or requirement of the Director pursuant to this section, shall be deemed to be a public nuisance and may be abated in the manner provided by TMC Section 8.45.105.

~~Section 16. Shoreline Master Program Review and Amendments Adopted. Updated requirements for shoreline regulations are hereby adopted to read as follows:~~

~~TMC 18.44.160 Shoreline Master Program Review and Amendments~~

~~A. The SMP 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 WAC 173-26 and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.~~

~~B. Any provision of this chapter may be amended as provided for in RCW 90.58 and WAC 173-26. Amendments or revisions to the Master Program, as provided by law, do not become effective until approved by the Washington State Department of Ecology.~~

~~C. Proposals for shoreline environment re-designations (i.e. amendments to the shoreline maps and descriptions) must demonstrate consistency with the criteria set forth in WAC 173-26-040 and this program.~~

~~Section 17. Liability Adopted.~~ Updated requirements for shoreline regulations are hereby adopted to read as follows:

18.44.170 Liability

A. Liability for any adverse impacts or damages resulting from work performed in accordance with a permit issued on behalf of the City within the City limits shall be the sole responsibility of the owner of the site for which the permit was issued.

B. No provision of or term used in this chapter is intended to impose any duty upon the City or any of its officers or employees that would subject them to damages in a civil action.

~~Section 178. Applicability of Amended Zoning Code.~~ After the effective date of this ordinance, Chapter 18.44 of the Zoning Code, as hereby amended shall apply to all properties subject to the shoreline overlay, provided that nothing contained herein shall be deemed to override any vested rights or require any alteration of a non-conforming use or non-conforming structure, except as specifically provided in Chapter 18.44 of the Zoning Code, as amended.

~~Section 189. Repealer.~~ Ordinance Nos. 1796 §3 (part), 1775 §2 (part), and 1758 §1 (part), as codified at Tukwila Municipal Code Chapter 18.44, are hereby repealed.

~~Section 1920. Severability.~~ If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

~~Section 201. Effective Date.~~ This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force upon approval of the Shoreline Master Program by the Washington State Department of Ecology and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Special Meeting thereof this _____ day of _____, 2009.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, CMC, City Clerk

Jim Haggerton, Mayor

APPROVED AS TO FORM BY:

Office of the City Attorney

Filed with the City Clerk: _____
Passed by the City Council: _____
Published: _____
Effective Date: _____
Ordinance Number: _____

Revisions to Ordinance #3 – Shoreline Overlay District

| 11/23/09 COW PACKET PAGE # | REVISION | RATIONALE |
|-------------------------------|---|---|
| 418 18.44.100 C.1. and 2. | The ordinance incorrectly uses the less stringent term “may” rather than “shall.” | The introductory paragraph before 1 and 2 uses “will” which requires either 1 or 2 as the circumstances dictate – the terminology in 1 and 2 should match that of the introductory paragraph. |
| 423 18.44.130 B.2.a. | End of last sentence: insert “and overlay district” | Add these words to link the SMP with the implementing regulations. |
| 425 18.44.130 F.1.d. | Replace Conditional Use Permit with Type 2 permit with public notice | Council action 11/23/09 |
| 425 18.44.130 F.1.e. | Delete: “ <i>Shoreline Conditional Use Permit. In addition to the conditional use criteria in TMC 18.44.130(c)</i> ” and replace with “Type 2 subject to public notice” | Council action 11/23/09 |
| 425 18.44.130 F.1.e.7) | Revise this subsection to be consistent with Council decision to make a change of nonconforming use a Type 2 decision rather than a conditional use | Council action 11/23/09 |
| 426 18.44.130 F.2.g. | Replace “remodeled” with “altered” to be consistent with terminology in Building Code. | Council action 11/23/09 |
| 426 18.44.130 F.2.g.5) | Insert new second sentence: “ <i>Where an existing building would prevent the re-sloping of the bank to 2.5:1 or 3:1 as applicable, the applicant must re-slope to the extent possible, remove invasive vegetation and re-vegetate according to the provisions of this chapter.</i> ” | This addresses a concern from several property owners who testified during the Council review process. |
| 426 18.44.130 F.2.g.6) | Revise permit process from conditional use permit to Type 2 permit | Council action 11/23/09 |

Revisions to Ordinance #3 – Shoreline Overlay District

| | | |
|------------------------|--|--|
| 426 18.44.130 F.2.g.6) | Insert new paragraph after 6): <i>“For the purposes of this section, alteration is defined as work that exceeds 50% of the assessed valuation of the building over a three year period.”</i> | Council action 11/23/09: this adds a definition for what is meant by “altered” under 18.44.130 F.2.g. |
| 426 18.44.130 F.3.a. | Revise permit process from conditional use to Type 2, consistent with previous actions 11/23/09 and correct reference in TMC to 18.104? | Staff needs clarification from the Council on whether it intended to require a Type 2 permit for requesting a time extension for a non-conforming use or structure or whether the Council wants to keep the process as a conditional use permit. |
| 427 18.44.130 F 4.a. | Replace “use” with “structure.” | This appears to be a typographical error – the term “use” does not make sense in the context of the section it is in – Building Safety |
| 428 18.44.160 | Delete Section 16 and renumber | The Shoreline Overlay district does not address amendments to the Shoreline Master Program. |



MEMORANDUM

TO: Tukwila City Council
FROM: Carol Lumb, Senior Planner
CC: Mayor Haggerton
Rhonda Berry, City Administrator
Bob Sterbank, City Attorney
DATE: December 2, 2009
SUBJECT: Comments Received at 11/23/09 Committee of the Whole Meeting

Verbal comments were provided by eight individuals at the November 23, 2009 Committee of the Whole meeting. Staff was requested to compile the comments in a brief summary and provide a response to the key points made, which is provided below. Several of the individuals provided written comments (Jeff Weber, R.W. Thorpe and Lara Fowler) – please reference these documents as well to ensure staff has captured the issue completely.

| SPEAKER | REPRESENTING | COMMENT SUMMARY | STAFF RESPONSE |
|---------------|---------------------|---|---|
| 1. Jeff Weber | Campbell properties | Despite changes to-date, clients unable to accept SMP – issues: 1) requiring CUP for change of use; 2) Glacier Bldg. levee almost meets minimum levee profile – won't be reconstructed soon since reconstructed in late 1990's – buffer should be reduced until levee is reconstructed in future. | 1) Council revised permit process 11/23/09 to require a Type 2 permit with public notice rather than a CUP; 2) This is a policy issue for the Council - staff believes nonconforming section has been revised substantially to ease compliance for non-conforming uses and structures – if Council wishes to revise the SMP, staff recommends revising the language provided November 20, 2009 by Mr. Weber as follows: "Where a levee has been reconstructed after 1997 and before adoption of this Master Program <u>December, 2009</u> and the reconstruction included creation of a mid-slope bench...." |

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| <p>2. Robert Thorpe</p> | <p>Desimone Trust</p> | <p>Submitted letter: 1) buffer reduction process – propose allowing a 35% reduction for levee and non-levee river banks with enhancement plan required; 2) propose revising SMP and 18.44 under nonconforming development, provisions that allow a new nonconforming use to replace an existing nonconforming use; 3) issue of bank loans for nonconforming uses/structures.</p> | <p>1) This is a policy issue for the Council – conditions along Auburn’s shoreline are very different from Tukwila’s. So far the Council has not revised the process in the SMP which permits up to a 50% reduction of the buffer based on re-sloping the bank or reconstructing the levee and planting native vegetation. Use of Mr. Thorpe’s proposed language would not address the life/safety issues for the leveed portion of the river. 2) This is also a policy issue for Council. The revisions proposed by Mr. Thorpe drastically change the mitigation required for changing one nonconforming use for another. Providing the flexibility he suggests will indefinitely delay achievement of conformance with setback requirements, because property owners will substitute a new tenant rather than redevelop the site to comply with buffer requirements; 3) See memo in 10/27/09 Council work session packet from Kenyon Disend on non-conformities and banking regulations.</p> |
| <p>3. Lee Michaelis, R.W. Thorpe and Associates</p> | <p>Desimone Trust</p> | <p>Need to define what is meant by “remodel”</p> | <p>Council revised term from “remodel” to “altered” and agreed to language on what is meant by “altered” at the 11/23/09 COW meeting. This language is included in the 12/7/09 Council packet.</p> |
| <p>4. Jack McCullough</p> | <p>La Pianta</p> | <p>1) Take more time to consider revisions to the SMP; 2) the levees they are constructing south of S. 196th St. will immediately</p> | <p>1) the Council must determine if taking additional time is needed to resolve any outstanding issues – staff believes that all issues have been discussed so no additional meetings are</p> |

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| | | <p>be non-conforming – the Tukwila South project should get credit for the off-channel habitat and be given a buffer reduction for the new levees that will not meet the City's minimum profile.</p> | <p>necessary. We need to move forward to show Ecology we are making progress in meeting the 12/1/09 adoption deadline; 2) Staff met with La Pianta at least six times after the public hearing was closed to discuss issues of concern to La Pianta and their proposed SMP language changes. The City's minimum levee profile has been identified for several years, and was articulated by the former Public Works Director during negotiations on the Development Agreement – La Pianta chose to use a profile that did not incorporate the plantable bench desired by the City. Administration does not believe that credit should be given for the off-channel habitat to obtain the buffer reduction for levees that do not meet the minimum profile, because the minimum profile provides for flood protection as well as fish habitat. La Pianta's off-channel habitat addresses only one of these elements – fish habitat and provides minimal flood storage.</p> |
| <p>5. Daniel Tempkin</p> | <p>Self – property is adjacent to the Duwamish Gardens restoration site on East Marginal Way South</p> | <p>1) Concerned about impacts of SMP; 2) documents for 11/23/09 COW meeting weren't posted on City's web site until the afternoon of the meeting; 3) take more time – heard Council's concerns earlier in the meeting about the loss of assessed value in the City.</p> | <p>1) concerns about impact of adjacent restoration project have been addressed through HB 2199, reflected in Section 13 of SMP – legislation allows some regulatory flexibility for property owners adjacent to a restoration site; 2) documents were posted as soon as possible; 3) see comment under #4 above on taking more time; SMP tries to balance SMA requirements and private property rights.</p> |

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| <p>6. Lara Fowler</p> | <p>Baker Commodities</p> | <p>1) Additional time is needed for public to review changes made through 11/17/09 work session and provide feedback to Council; 2) Remaining issues include: a) impact of 100 ft. buffer; b) expanded definition of shoreline to include floodways; c) vegetation requirements; d) public access – burden still shifted to Baker Commodities to prove health/safety concerns; e) issues litigated in 1990’s – want to make sure these are addressed in SMP; f) nonconforming development – related to litigation in 1990’s.</p> | <p>1) see comment under #4 above; 2) a) reducing the buffer width for non-levée areas is a policy decision for the Council – see memos from former Public Works Director on rationale for 100 ft. buffer width (see tab in SMP Notebook, under “Buffers”); b) new flood maps show additional flood plain, not floodway on the Baker Commodities site – as a result, the revision to the shoreline jurisdiction definition does not affect this site; c) vegetation provisions are proportional to type of development occurring in the property – staff does not believe additional changes to this section are warranted; d) requiring an applicant to show there is a health/safety issue with providing public access is a typical permit requirement – staff does not anticipate that a great deal of narrative would be needed to make this showing for the Baker Commodities site; e) and f) both relate to the litigation from the 1990’s after adoption of the City’s new Comprehensive Plan. Reference has been added to TMC 18.44 to the specific section of the TMC that addresses one of the litigated issues – the SMP cannot make this reference without Ecology then needing to review and approve the underlying zoning code reference. Staff believes the issue has been addressed.</p> |
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| 7. Chuck Maduell | Inn Keepers of America, Residence by Marriott, and Desimone Trust | Continue to have a number of concerns about SMP, but will focus on one key concern – under 18.44.130 F. 2.g.5. which requires re-sloping of river bank if the structure is altered, reconstructed or replaced – Inn Keepers' site does not have room to re-slope the river bank as the buildings are too close to permit. | Council considered wording revisions at 11/23/09 COW meeting that would address this concern: where an existing building would prevent the re-sloping of the bank to 2.5:1 or 3;1 as applicable, the applicant must re-slope to the extent possible, remove invasive vegetation and re-vegetate according to the provisions of this chapter.” |
| 8. Louie Sanft | Self and parents who own property along the river | Mr. Sanft provided a letter at the Council's public hearing with nine items of concern. The letter was originally submitted to the Planning Commission during its review of the SMP. | See Matrix B, comment #25 and staff responses. |

Please let me know if you have any questions or would like to schedule time with staff to go over any questions. I can be reached at 206-431-3661.

