

Title 24 - Edmonds Shoreline Master Program

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Part I. Introduction

24.10.000 Purpose and Intent

This master program, in harmony with the Shoreline Management Act of 1971, is based on the philosophy that the shorelines of the state and our city are among the most valuable and fragile resources that we possess. The Shoreline Management Act made clear that there is a great public concern regarding the use, protection, restoration, and preservation of these shorelines, which concern is the premise of this master program. In recognition of private property rights, local public opinion, existing realities, and the necessary coordination between several levels of government, this program represents an approach toward the enhancement of shorelines rather than the restriction of their use.

The purposes of this Master Program are:

- A. To carry out the responsibilities imposed the City of Edmonds by Washington State Shoreline Management Act (RCW 90.58).
- B. To promote uses and development of the City of Edmonds shoreline consistent with the City of Edmonds Comprehensive Plan while protecting and restoring environmental resources.
- C. To promote the public health, safety, and general welfare by providing a guide and regulation for future development of the shoreline resources of the City of Edmonds.

24.10.010 Authority

Authority for enactment and administration of the program is the shoreline Management Act of 1971, chapter 90.58 RCW, as now or hereafter amended

24.10.020 Applicability

All proposed uses and development occurring within shoreline jurisdiction of the City of Edmonds must conform to the Shoreline Management Act and this Chapter. All uses, even those not meeting the definition of development, are subject to the provisions and development regulations of this chapter, even though a permit may not be required.

24.10.030 Relationship to Other Plans or Regulations

- A. Uses, developments and activities regulated by this Chapter may also be subject to the provisions of the city of Edmonds comprehensive Plan, the Washington State Environmental Policy Act, Edmonds City Code, and various other provisions of local, state, and federal law, as may be amended. Project proponents shall comply with all applicable laws prior to commencing any use, development or activity.
- B. The shoreline master program has been developed as a both a policy and a regulatory program. As such, the shoreline master program is a part of and was developed to be consistent with the city of Edmonds comprehensive plan and its component elements.

- C. The Edmonds Community Development Code establishes specific and detailed regulations for most of the uses, development, and activities regulated in this chapter. The Edmonds Community Development Code and this chapter are intended to operate together to produce coherent and thorough shoreline regulations. Uses, developments and activities must comply with both the Edmonds Community Development Code and the shoreline master program in all cases. If there is a conflict between the two, the shoreline master program shall prevail.

24.10.040 Liberal Construction

As provided for in RCW 90.58.900, the Shoreline Management Act is exempted from the rule of strict construction; the Act and this Master Program shall, therefore, be liberally construed to give full effect to the purposes, goals, policies, and standards for which the Act and this master Program were enacted.

24.10.050 Administrative Procedures

The general administrative procedures for this Title 24 (Edmonds Shoreline Master Program) are not part of this program. They are included with the text of Title 24 for consistency and ease of use. The Department of Ecology will be notified of any changes to the administrative chapters listed below.

The use of separate local administrative and enforcement procedures is consistent with the 2003 Washington State Shoreline Master Program Guidelines (WAC 173-26-191(2)(a)(iii)(C)), Administrative Provisions.

“Local governments may include administrative, enforcement, and permit review procedures in the master program or the procedures may be defined by a local government ordinance separate from the master program. In either case, these procedures shall conform to the Shoreline Management Act, specifically RCW 90.58.140, 90.58.143, 90.58.210 and 90.58.220 and to chapter 173-27 WAC.”

This allows the city of Edmonds to revise local administrative procedures (fees, application meetings, authority of Administrator, etc.) without another formal state amendment process. ECDC 24.80 must still be consistent and remain consistent with the related provisions in the Shoreline Management Act and state shoreline rules (WACs). In the event of a conflict, the state RCW or WAC, as amended, will prevail over the local ordinance.

The following sections are administrative procedures separate from Title 24:

ECDC 24.80.070 Minimum Application Requirements
ECDC 24.80.080 Notice of Application
ECDC 24.80.100 Public Hearings
ECDC 24.80.110 Notice of Decision, Reconsiderations, and Appeals
ECDC 24.80.130 Initiation of Development
ECDC 24.80.160 Administrative Authority and Responsibility

24.10.060Document Organization

This Master Program is divided into the following ten parts, consistent with the material to be included within a master program as established in Chapter 173-26 WAC:

- A. Part I, ECDC 24.10.000 through 24.10.060, contains basic and general information regarding the shoreline master program.
- B. Part II, ECDC 24.20.000 through 24.20.110, contains the city's goals and policies with respect to the program elements established in Chapter 173-26 WAC.
- C. Part III, ECDC 24.30.000 through 24.30.080, contains information regarding the different shoreline environments to be found within the city including goals, policies and regulations specific to each of the shoreline environments.
- D. Part IV, ECDC 24.40.000 through 24.40.060, contains policies and regulations with respect to general master program provisions identified in Chapter 173-26 WAC.
- E. Part V, ECDC 24.50.000 through 24.50.070, contains policies and regulations that apply to specific modifications that are regulated under the shoreline master program.
- F. Part VI, ECDC 24.60.000 through 24.60.090, contains policies and regulations that apply to specific uses that are regulated under the shoreline master program.
- G. Part VII, ECDC 24.70.000 through 24.70.050, contains policies and regulations that apply to nonconforming development with the shoreline jurisdiction of the City of Edmonds.
- H. Part VIII, ECDC 24.80.000 through 24.80.180, contains administrative procedures for shoreline permitting
- I. Part IX, ECDC 24.90.000 through 24.90.060, contains definitions applicable to the shoreline master program
- J. Part X, ECDC 24.100.000 through 24.100.010, contains appendices pertaining to this chapter.

Part II. Master Program Elements: Goals & Policies for the Edmonds Shoreline Master Program

24.20.000Introduction

This section contains goals and policies that form the foundation of Edmonds' Shoreline Master Program which are implemented through the regulations in ECDC chapters 24.40 through 24.60, and apply to all areas of the City of Edmonds shoreline jurisdiction, regardless of the designated shore environment. The Shoreline Management Act requires cities to adopt goals, or "elements," to guide and support major shoreline management issues.

24.20.010 Economic Development Element

A. Purpose.

The economic development element provides for the location and design of industries, industrial projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state in accordance with RCW 90.58.100(2)(a).

B. Economic Development Goal.

It is a goal of the city to encourage port facilities, tourist facilities, mixed use, commercial and light industrial development in specific and limited shoreline areas which enhance the public's access to the shoreline. Water dependent, oriented and water enjoyment development are preferred in shoreline areas. The nature of this economic development should attract, and be open to, the general public and should not unduly interfere with the character of the shoreline area or with nearby shoreline and upland uses.

C. Economic Development Policies.

1. Mixed-use commercial and light industrial uses in the shoreline area should be permitted only where compatible with existing or planned shoreline and upland development, or where legal parcels of land can be aggregated to minimize the impacts from the mixed-use commercial or light industrial use.
2. Mixed-use commercial and light industrial uses should be permitted only where infrastructure, particularly the roadway system, is presently adequate or is made adequate to accommodate the demands generated by commercial or light industrial development.
3. New shoreline light industrial and commercial development should be limited to that which is classified as water-dependent, water-related, or water-enjoyment uses and non-water-oriented uses which are not accessory to a water-oriented use should be discouraged and/or prohibited.
4. Permitted mixed-use commercial and light industrial development in shoreline areas should enhance opportunity for the public to take advantage of shoreline amenities. Uses that support or enhance the opportunity for public access and compliment the cultural arts related to the shoreline should be encouraged. This might include uses wherein the public can view and enjoy the aesthetic qualities of the shoreline and vista beyond.

5. New development or redevelopment should avoid or mitigate additional loss of shoreline ecological functions.
6. Development should be discouraged in any critical area and only allowed where impacts to these areas can be mitigated.
7. In shoreline areas where large tracts of land can be aggregated, some degree of flexibility is appropriate to allow for innovative and planned site design within parameters established by the city.
8. Economic benefits derived from wildlife, marine and fish habitats, public access, recreational scuba diving and tourism should be recognized and retained.
9. Priority should be given to those mixed-use commercial or light industrial uses which are water-dependent.
10. The potential adverse effects of mixed-use commercial and light industrial development on other activities should be minimized through local performance standards.
11. The recreational opportunities along the shoreline should be developed as an economic asset in a manner that will enhance the public enjoyment of the shorelines and in-water-related activities.
12. Commercial activities in shoreline areas should be operated with minimum adverse impact on the quality of the environment of the shoreline and adjacent areas.

24.20.020 Public Access Element

A. Purpose

The public access element provides for public access to publicly owned or privately owned shoreline areas where the public is granted a right of use or access in accordance with RCW 90.58.100(2)(b).

B. Public Access Element Goal 1

It is a goal of the city to provide the maximum reasonable opportunity for the public to view and enjoy the amenities of the shoreline area from public viewpoints, while assuring that such access does not contribute to intrusions upon private property, nuisance, personal danger, or over-burdening of fragile natural resources.

C. Public Access Policies 1

1. The city should use street ends and other publicly owned or controlled land within the shoreline area as a means of providing additional safe public access to shoreline areas. When these types of areas are developed, the city should also provide for some associated limited off-street parking or public transportation connection in order to minimize impacts to surrounding properties.
2. The city should develop signage, public information brochures and publications for distribution which identify all locations for public access to the shorelines, and underwater activities with information about each site location.
3. The city should maintain public shorelines, waterways and tidelands in public ownership for continued public access and use.
4. With principal access to tidelands existing at public beaches to the north and south, the city, where practicable, should acquire and develop safe convenient public access for pedestrian access and water access to and use of public tidelands and beaches.
5. Public pedestrian access for neighborhood use should be encouraged.
6. Public access afforded by shoreline street ends, public utilities and rights-of-way should be preserved, maintained and enhanced.

D. Public Access Goal 2

Incorporate public access into new shoreline development and unify individual public access elements into an organized system.

E. Public Access Policies 2

1. Public access will be considered in the review of all private and public developments (including land division) with the exception of one- and two-family dwelling units when necessary to mitigate significant environmental impacts or through provisions designed to exchange access rights for development bonuses.
2. Developments, uses and activities on or near the shoreline should not impair or detract from the public's access to the water.
3. Public access should be provided as close as possible to the water's edge without adversely affecting a sensitive environment and, if feasible, should be designed with provisions for disabled and physically impaired persons.
4. Public access should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.
5. Assure that public access improvement result in no net loss of shoreline ecological functions.

6. No public access shall be acquired through a taking without just compensation.

24.20.030 Recreational Element

A. Purpose

The recreation element provide for the preservation and enlargement of recreational opportunities including but not limited to parks, tidelands, beaches, and recreational areas in accordance with RCW 90.58.100(2)(c).

B. Recreational Goal

It is the goal of the city to provide substantial recreational opportunities for the public in shoreline areas through the preservation and expansion of these opportunities through programs such as acquisition, development and maintenance.

C. Recreational Policies

1. The city should continue to acquire and develop park land within shoreline areas. The city should also, where feasible, develop street ends within the shoreline area to provide for public recreation. The nature and extent of recreational opportunities provided within the various lands in the shoreline area owned or controlled by the city depends on the nature of the area involved, the amenities and natural resources to be found in that area, the location of the area and the needs of the community.
2. When mitigation requirements or bonus programs permit, large or intensive private developments within the shoreline area should provide some public recreation amenities, in addition to public pedestrian access along the water's edge.
3. The city should consider both active and passive in-water, shoreline and upland recreational needs in development of recreational areas to meet local and regional needs.
4. The city should acquire, develop, expand and maintain public recreation facilities to meet public demand for recreation use and enjoyment of the water and shoreline.
5. Recreation facilities in the shoreline area should be restricted to those dependent upon a shoreline location, or those benefiting from a shoreline or in-water location that are in the public interest.
6. Public recreation facilities should be designed, developed, and maintained to respect the shoreline environment and minimize the degradation of the shoreline and its natural systems.

7. Public information and education programs, and attendant enforcement procedures, should be developed and implemented to help ensure that the public is aware of park regulations and private property rights, and to prevent the abuse of the shoreline and its natural ecological system.
8. Recreational boating facilities including waterway trails and trailheads, terminals, moorage, and service facilities should be provided for on publicly owned land.
9. Recreational boating facilities including waterway trails and trailheads, terminals, moorage, and service facilities should be allowed on private property, except in the Natural Environment.

24.20.040 Circulation Element

A. Purpose

The circulation element provides for the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities in accordance with RCW 90.58.100(2)(d).

B. Circulation Goal

It is the goal of the city to provide for the safe and efficient movement of people, goods, and emergency services within the shoreline area while recognizing and enhancing the unique, fragile and scenic character of the shoreline area with minimum disruption to the shoreline environment and minimum conflict between different users.

C. Circulation Policies

1. Railroad Avenue, Dayton Street, Main Street, Admiral Way, and Sunset Avenue, which provide access to and through the city's accessible downtown shoreline area, should be designed and regulated to safely accommodate the vehicular, bicycle and pedestrian traffic using these corridors, as well as to facilitate egress and ingress from adjacent properties and to enhance the scenic character and recreational use of this corridor, while recognizing that shoreline uses should have primary access to Railroad Avenue and Admiral Way.
2. Whenever practicable, safe pedestrian and bicycle movement on and off roadways in the shoreline area should be encouraged as a means of personal transportation and recreation.
3. Where new streets are needed to serve uses in the shoreline area, these streets should be the minimum size necessary to provide safe and efficient vehicular, pedestrian and bicycle access, including access for emergency vehicles, to the properties to be served.
4. Public waterborne transportation linked to public and private forms of ground transportation should be encouraged to minimize auto usage, and to eliminate barriers

between public waterborne transportation and ground transportation in conformance with the Americans with Disabilities Act.

5. All transportation planning should be coordinated to provide efficient use and transfer between modes while minimizing the adverse environmental impacts of such facilities.
6. Circulation and transportation systems should be located, designed and developed with respect to existing and/or planned rail, highway and ferry facilities.
7. Public transit systems should be linked to the urban waterfront.
8. Pedestrian walkways, trails and bicycle linkages should be provided between the historic downtown and the waterfront, including the train station and ferry terminal.
9. New or expanded non-water oriented transportation facilities should be located outside of shoreline jurisdiction whenever feasible.

24.20.050 Shoreline Use Element

A. Purpose

The shoreline use element considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land in accordance with RCW 90.58.100(2)(d).

B. Shoreline Use Goals

The goals of the city are to:

1. Allow for a diversity of uses within the shoreline area consistent with the dramatically different character of the various shorelines within the city, and to preserve and enhance the natural and aesthetic quality of important shoreline areas while allowing for reasonable development which meet the goals and policies of the Shoreline Management Act.
2. Provide performance and development standards for shoreline uses which achieve compatibility among activities.
3. Reserve shoreline and water areas particularly suited for specific and appropriate uses, especially water-oriented and water-dependent uses, for such uses whether they are existing or potential.

4. Establish and implement policies and regulations for shoreline use consistent with the Shoreline Management Act of 1971. These policies and regulations should insure that the overall land use patterns in shoreline areas are compatible with existing shoreline environment designations and will be sensitive to and not degrade habitat and ecological systems and other shoreline resources.
5. Ensure that proposed shoreline uses are distributed, located and developed in a manner that will maintain or improve the health, safety and welfare of the public.
6. Ensure that proposed shoreline uses do not minimize the rights of others or infringe upon the rights of private ownership.
7. Encourage restoration of shoreline areas that have been degraded or diminished in ecological value and functions as a result of past activities or catastrophic events.
8. Ensure that planning, zoning and other regulatory and non-regulatory programs governing lands adjacent to shoreline jurisdictions are consistent with SMA policies and regulations and the provisions of this SMP.
9. Encourage increased accessibility to the shoreline for a variety of users and activities.
10. Develop adaptive management strategies to increase capacity to respond to future possible impacts on the Edmonds shoreline from climate change in the Puget Sound region.
11. Ensure that residential development in the shoreline area is compatible with adjacent uses and minimizes impacts to shoreline processes and functions.
12. Ensure future shoreline development will achieve no net loss of ecological functions and values.

C. Shoreline Use Policies

1. “Environmentally critical areas” are to be protected and regulated consistent with the city’s environmental review and critical areas regulations contained in Chapters 20.15A and 23.40 through 23.90 ECDC, less the exceptions listed in ECDC 24.40.020.C.
2. New uses and developments in shoreline areas that have established desirable development patterns should be designed to be compatible with those areas; provided the existing uses are consistent with the Shoreline Management Act and the City’s comprehensive plan and shoreline master program.
3. In shoreline areas without established development patterns and which are not unique or fragile, the city should allow for a wide range of development options consistent with the Edmonds Community Development Code within established limits to protect the public interest.

4. Over-water structures other than ferry terminal passenger shelters, docks, piers, walkways, breakwaters and other similar structures should be prohibited with the exception of minor appurtenant buildings, buoys, divers resting floats, and art sculpture.
5. Water-dependent uses should have priority over non-water-dependent uses in the shoreline area. Nonetheless, uses such as dry-docks, boat yards, and similar marine enterprises are incompatible with the character of the majority of the shoreline area and should be limited to specific designated areas.
6. Uses in shoreline areas should not degrade water quality and land disturbances (land covered by water and the land area adjacent to the ordinary high water mark) should be the minimum necessary.
7. The pattern and distribution of land and water uses should be controlled and encouraged in order to enhance the shoreline natural systems, protect against their damage, and provide for their public use and enjoyment.
8. Multiple uses of shorelines should be encouraged. Shoreline uses which allow large numbers of people to enjoy the marine environment should be given a higher priority than uses that lead to the usurpation of the limited urban waterfront by any single use activity.
9. Shoreline use should be compatible with its site, in harmony with adjacent uses, and consistent with long-range comprehensive planning for waterfront use.
10. Uses which adversely alter or degrade the defined shoreline “natural systems” should be prohibited.
11. The City of Edmonds shall stay abreast of scientific information regarding climate change and sea level rise and reevaluate the Shoreline Master Program development standards as soon as adequate scientific information is available.
12. The Edmonds Marsh study identified in the City of Edmonds Capital Improvement Plan is an important study for determining the potential impacts of climate change and sea level rise on the City of Edmonds and should be considered a high priority for completion.
13. All use and development should use low impact development (LID) techniques where appropriate and feasible.
14. The rehabilitation of “natural systems” (e.g., the improvement in water quality, removal of beach obstructions, etc.) should be encouraged.
15. Shoreline Use and Development Review.

- a. Shoreline use and development should be provided for through a process of review and analysis that gives priority to:
 - i. The protection and enhancement of the shoreline natural system;
 - ii. The provision for shoreline-dependent uses;
 - iii. The provision for shoreline-oriented uses; and
 - iv. The accommodation of necessary uses that are neither shoreline-dependent nor shoreline-oriented.

- b. The priority system will recognize, but not be limited to, the following systems and uses:
 - i. Protect and enhance natural systems:
 - A. Biological:
 - 1. Critical areas for fish spawning, rearing, feeding, and migration, including beaches, marshland, aquatic vegetation and nearshore subtidal area;
 - 2. Waterfowl and water associate bird nesting, resting, feeding and nursery areas;
 - 3. Shellfish life – supporting areas;
 - 4. Upland mammal breeding, rearing and feeding areas;
 - 5. Upland plant growth areas (greenbelts, etc.);
 - 6. aquatic (non-fish and non-shell fish) marine organisms life supporting areas; and
 - 7. Other.
 - B. Geological:
 - 1. Bluff and landslide areas;
 - 2. Beaches and tidelands – shoals and coves;
 - 3. Marshland and slough area;
 - 4. Streams and ravines;
 - 5. Below low water submerged lands – canyons, cliffs, rock reefs, sand or mud flat, etc.; and
 - 6. Other.
 - ii. Provide for shoreline-dependent uses, such as:
 - A. Ferry and passenger terminals;
 - B. Terminal and transfer facilities for marine commerce and industry;
 - C. Marine and fresh water construction, dismantling and repair;
 - D. Marinas – boats;
 - E. Intakes and outfalls;
 - F. Boat launch facilities;
 - G. Shoreline recreation – including parks, bike and walking trails, beaches, etc.
 - H. Water-related recreation – including scuba diving, waterway trail system, fishing and small craft boating;
 - I. Marine and limnological research, interpretation and education;
 - J. Piers and related facilities for the loading and unloading of petroleum products; and
 - K. Other uses of like intensity and dependency.

24.20.060 Conservation Element

A. Purpose

The shoreline conservation element provides for protection of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection in accordance with RCW 90.58.100(2)(f).

B. Conservation Goal

It is the goal of the city to preserve, protect, and enhance unique and fragile areas of flora and fauna and scenic vistas to help assure the continued availability of these resources for future generations and to protect the ecological functions of the shoreline to ensure no net loss of functions. This element is concerned with the preservation of the natural shoreline resources, considering such characteristics as scenic vistas, linear park systems, waterway trail systems, estuarine areas for fish and wildlife protection, critical habitat, beaches and other valuable natural or aesthetic features. Assure preservation of the unique, fragile and scenic shoreline resources by carefully preserving the non-renewable resources and managing for the continued utilization of renewable resources.

C. Conservation Policies

1. The City should work to maintain environmentally sensitive and critical areas for present and future generations, such as the Edmonds Marsh, the historically contiguous wetland east of SR-104, the Edmonds Underwater Park and the shoreline sanctuary.
2. Development in shoreline areas should be managed so that any adverse impacts on aquatic and land plants and animals are avoided or mitigated to result in no net loss of ecological function.
3. Where practicable, steps should be taken to enhance the shoreline area as a spawning ground for salmon, forage fish, and other species of fish and aquatic marine life.
4. Irreplaceable shoreline resources should be preserved for their intrinsic value and continued public enjoyment.
5. Beneficial use of shoreline resources should be provided for while respecting the natural shoreline environment.
6. Where practicable, restoration of damaged shoreline features and systems should be encouraged.
7. Limited improvements in public recreation areas should be permitted where such improvements would enhance public access to and public education and understanding of

the value of the shoreline resource (an example of which is the Edmonds Underwater Park).

8. Provide for the preservation of the natural shoreline resources through the protection of existing and the designation of potential public recreational areas.
9. Provide for the preservation of the natural shoreline resources through the continuation and expansion of interpretive and environmental education programs, and public outreach and involvement in stewardship.
10. The city, where practicable, should acquire key shoreline parcels that become available; such parcels are those integral to necessary expansion of existing prime beach areas.

24.20.070 Historic, Cultural, Scientific and Educational Element

A. Purpose

The historic, cultural, scientific and educational element provides for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values in accordance with RCW 90.58.100(2)(g).

B. Historic, Cultural, Scientific and Educational Goal

Identify, protect, preserve and restore important archaeological, historical, art and cultural sites located within the shoreline jurisdiction area for educational and scientific uses and enjoyment of the natural amenities by the general public.

C. Historic, Cultural, Scientific and Educational Policies

1. Wherever practicable, shoreline development should recognize the former and current use of much of the city's shoreline area for such uses as boatyards, railroads, ferry landings, logging, and industrial sites, and recognize the earlier uses of the shoreline by Native American cultures.
2. The large, relatively undisturbed area known as the Edmonds Marsh should be preserved for, among other reasons, its educational and scientific value as well as its role in stormwater management.
3. Educational projects and programs including signage should be encouraged that foster a greater appreciation of the importance of shoreline management, maritime activities, environmental conservation, cultural and maritime history.
4. The city should develop signage and informational programs which identify and explain unique scenic and cultural opportunities.

5. Important archaeological, historical and cultural sites located within the shoreline jurisdiction area should be identified, protected, preserved or restored for educational and scientific uses and enjoyment of the natural amenities by the general public.
6. Historical/cultural sites should be acquired through purchase or gift, so as to insure their protection and preservation.
7. Where practicable, buildings, sites and areas having historic, cultural, educational, or scientific value to the community should be protected and restored.
8. Where practicable, all buildings, sites, and areas which are placed on the State or Federal Historic Register should be preserved, protected and restored.
9. Where practicable, significant archeological features and data should be protected for scientific study and public observation.

24.20.080 Flood Damage Prevention Element

A. Purpose

The flood damage prevention element provides for protection against flood damage and the preservation and restoration of ecosystem wide ecological functions in accordance with RCW 9038.100.

B. Flood Damage Prevention Element Goal

It is a goal of the city to reduce the likelihood of flood damage by locating development away from flood-prone areas and by protecting and restoring shoreline ecological functions and ecosystem-wide processes.

C. Flood Damage Prevention Policies

1. Structural flood control devices should be allowed only after it is demonstrated that nonstructural solutions are not feasible to reduce the hazard.
2. Participate in watershed-wide programs to reduce flood hazards and improve the shoreline ecology.
3. Discourage new development in shoreline areas that are reasonably likely to be harmed by flood conditions, or which would create or intensify flood hazard impacts on other properties.
4. Ensure that flood hazard reduction measures do not result in a net loss of ecological functions in shoreline areas.

24.20.090 Views and Aesthetics Element

A. Purpose

The views and aesthetics element provides for preservation and/or protection of public scenic vistas, public views of the water, and other aesthetic qualities of shorelines for enjoyment by the general public.

B. Views and Aesthetics Goal

It is the goal of the city to assure that the public's ability and opportunity to enjoy shoreline views and aesthetics is protected.

C. Views and Aesthetics Policies

1. The scenic and aesthetic qualities of shorelines and public vistas should be preserved through development standards.
2. Public views from the shoreline upland areas should be enhanced and preserved. Enhancement of views should not be construed to mean excessive removal of vegetation which partially impairs views.
3. Public visual access should be maintained, enhanced and preserved on shoreline street ends, public utilities and rights-of-way and within public "view corridors" as designated by the city.

24.20.100 Urban Design Element

A. Purpose

The urban design element provides for the development between the shoreline and adjacent areas in manner that provides linkages that will enhance the beauty and visual identity of Edmonds.

B. Urban Design Goal

It is a goal of the city to encourage development within the shoreline area that is visually coherent, provides visual and physical linkage to the shoreline, enhances the waterfront, and is consistent with the Streetscape Plan.

C. Urban Design Policies.

1. The shoreline area within and south of the north boundary of the Brackett's Landing North Park, to the south city limits (generally the urban mixed-use shoreline environment) is one of the most scenic areas of the city. It also, to a large extent,

establishes the visual identity of Edmonds. As such, both public and private development in these areas should be controlled and regulated to provide an urban environment which preserves or enhances the opportunity for the public to enjoy the scenic quality of the shoreline.

2. Projects should be encouraged to provide “street furniture,” public art, related interpretative signage, landscaping and other amenities within or adjacent to the right-of-way of Railroad Avenue and Admiral Way to complement a pedestrian promenade along the shoreline consistent with the streetscape plan.
3. Where possible, the owner of uplands abutting pedestrian waterfront activities should be encouraged to incorporate public art elements, public art and cultural amenities that promote aesthetic considerations consistent with the City of Edmonds Arts Commission goals.
4. New and remodeled developments should provide public view corridors adjacent to either the north or south property line to enhance public visual access to the Puget Sound and to provide for a visual link between the downtown and its waterfront roots. The location of the view corridor should be coordinated with the development of adjacent properties in order to maximize public visual access to the Puget Sound. Properties with significant frontage on the shoreline should consider providing view corridors in multiple locations so as to maximize public visual access to the shoreline. In the application of design standards, the preservation of public views shall be given priority over landscaping and fencing requirements.
5. Projects should minimize the amount of vehicular parking in the Urban Mixed-Use I and II shoreline environments through use of joint use parking agreements (where permitted), and by locating employee parking off-site and outside the Urban Mixed-Use I and II shoreline environments.
6. Projects should be designed to locate vehicular parking away from the shoreline, bulkhead, or areas of pedestrian circulation.
7. Developments should provide conveniently situated bicycle parking on site.
8. Projects should be designed to minimize impacts to existing shoreline ecological functions.

24.20.110 Restoration Element

A. Purpose

The restoration element provides for the timely restoration and enhancement of ecologically impaired areas within available economic resources in a manner that achieves a net gain in

shoreline ecological functions and processes above baseline conditions as of the adoption of the city's shoreline master programs.

B. Restoration Goal

It is the goal of the city to improve water quality, restore degraded and lost habitat corridors, and improve connectivity of the shoreline environments through voluntary and incentive-based public and private programs and actions consistent with the City of Edmonds Shoreline Master Program Restoration Plan.

C. Restoration Policies

1. Protect and/or restore freshwater, nearshore, and estuarine habitat and habitat-forming processes.
2. Protect and restore wetland and restore salt marsh habitat to improve shoreline ecological functions.
3. Remove intertidal fill; restore beach deposits and processes and ecological functions.
4. Remove/replace creosote-treated logs, pilings, and debris.
5. Increase availability of large woody debris and opportunities for recruitment in the nearshore zone.
6. Protect and restore native species of vegetation, fish, and wildlife.
7. Remove or improve fish- and wildlife-passage barriers.
8. Manage and treat stormwater to improve water quality, decrease peak flow events, and increase implementation of low impact development (LID) practices.
9. Protect naturally eroding bluffs and associated ecological functions.
10. Protect and restore wildlife corridors.
11. Ensure that shoreline restoration projects do not degrade critical areas and water quality.
12. Establish incentives that could provide opportunities for new development to restore impaired shoreline ecological functions.
13. Work with the Burlington Northern Santa Fe Railway to encourage nearshore restoration projects on the railroad right-of-way.

Part III.Shoreline Environments

24.30.000Introduction

Local governments are required, under the Washington State Shoreline Management Act of 1971 through WAC 173-26, to develop and assign a land use categorization system of shoreline areas as a basis for effective Shoreline Master Programs. The intent of designating shoreline environment is to encourage development that will enhance the present or desired character of the shoreline. To accomplish this, segments of shoreline are given an environment designation based on existing development patterns, natural capabilities and limitations, and the aspiration of the local community.

24.30.010 Adoption Criteria

Shoreline Designations have been determined after consideration of:

- A. The ecological functions and processes that characterize the shoreline, together with the degree of human alteration; and
- B. Existing development patterns together with ECDC Title 16 Zoning designations, the City Comprehensive Plan designations and other officially adopted plans; and
- C. The goals of the City of Edmonds citizens for their shorelines; and
- D. Other state policies in the Act and the Shoreline Master Program Guidelines (RCW 90.58.020 and WAC 173-26, respectively).

24.30.020Shoreline Jurisdiction and Environments Designation Maps

- A. The location and extent of areas under the jurisdiction of the Master Program, and the boundaries of the various shoreline environments affecting the lands and waters of the City are shown in Appendix A of this Master Program. (ECDC 24.100.000)
- B. The purpose of the official shoreline maps in Appendix A is to identify Shoreline area designations. The map does not necessarily identify or depict the lateral extent of shoreline jurisdiction. Where uncertainty or conflict may occur in the exact location of jurisdictional or shoreline designation boundary line, the shoreline Administrator shall rely up the criteria contained in RCW 90.58.030(2) and chapter 173-22 WAC pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map.
- C. In the event that new shoreline areas are discovered (e.g. associated wetlands) that are not mapped and/designated on the official shoreline map, these areas will be designated in the following manner.

1. If a newly discovered shoreline area is adjacent to a single shoreline area environment, then the newly discovered shoreline area will be assigned the same shoreline designation as the adjacent shoreline area.
2. If a newly discovered shoreline area abuts more than one shoreline area environment, the shoreline area environment that is most restrictive shall be assigned to the newly discovered shoreline area.

24.30.030 Aquatic Environment

A. Purpose

The purpose of the aquatic low-intensity environment (Aquatic I) is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.

The purpose of the aquatic high-intensity environment (Aquatic II) is to protect the unique characteristics and resources of the aquatic environment by managing water-dependent use activities to prioritize preservation and restoration of natural resources, navigation, recreation, and commerce, and by assuring compatibility between shoreland and aquatic uses.

B. Classification Criteria

1. General. These are lands waterward of the ordinary high water mark for both saltwater and freshwater bodies of water, including any submerged or inter-tidal areas. The Aquatic I and II environment designations include the water surface together with the underlying lands and the water column. Information from the shoreline inventory and characterization report was used in conjunction with the comprehensive plan and zoning information to determine the appropriate environment designation.
2. Aquatic I (Low Intensity). These areas are mostly characterized by aquatic ecosystems that have been modified by the Burlington Northern Santa Fe railroad bed fill that covers the intertidal and transitional upland zones along the beach. The beach has been altered by seawalls or large-rock riprap. These shoreline areas generally exhibit low-intensity development and few over-water structures. In freshwater areas, there may be a significant number of docks and piers serving residential areas.
3. Aquatic II (High Intensity). These areas are more intensely developed areas with water-dependent uses. The marine nearshore has been significantly modified by commercial waterfront development, including the Port of Edmonds Marina and the Washington State Ferries pier.

C. Area Designated

1. Aquatic I (Low Intensity): Applicable to all marine aquatic environments waterward of the ordinary high water mark between the southern boundary of the City and the old Union Oil dock, between the northern edge of the Edmonds fishing pier and the southern edge of the Main Street ferry terminal, between the northern edge of the Main Street ferry terminal and the northern boundary of the City, and Lake Ballinger.
2. Aquatic II (High Intensity): Applicable to those marine aquatic environments waterward of the ordinary high water mark between the old Union Oil dock and the northern edge of the Edmonds fishing pier, and between the southern and northern edges of the Main Street ferry terminal.

D. Management Policies

1. New over-water structures should be limited and allowed only for water-dependent uses, public access, or ecological restoration.
2. The size of new over-water structures should be limited to the minimum necessary to support a structure's intended use.
3. Uses and activities within the Aquatic I and II environments should be compatible with the adjoining shoreline environments.
4. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of over-water facilities should be encouraged, provided that use conflicts can be avoided.
5. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation and moorage.
6. Uses and activities within Aquatic I shoreline environments should be limited to public access, boat moorage, and necessary utility and transportation facilities.
7. All developments and uses should consider impacts to public views.
8. All developments and uses should allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
9. Restoration opportunities associated with project impacts should be encouraged in the aquatic environment.
10. Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence

described in WAC 173-26-201(2)(e) necessary to achieve no net loss of ecological functions.

11. Dredging and dredge material disposal should be limited to the minimum amount necessary. Dredging operations should minimize impacts to other shoreline uses and functions.
12. Filling should be avoided if practicable and limited to the minimum amount necessary. Filling operations should minimize impacts to other shoreline uses and functions.
13. Ensure that piers and docks are compatible with the shoreline area where they are located and are designed and maintained to minimize adverse impacts to the environment.
14. Ensure that marinas are located, designed, constructed, and operated in a manner that will minimize damage to shoreline processes and functions, be compatible with adjacent uses, and protect the aesthetic qualities of the shoreline environment.
15. All developments and uses on navigable waters should be located and designed to minimize interference to navigation.

24.30.040 Natural Environment

A. Purpose

The purpose of the Natural environment designation is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low-intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes.

B. Designation Criteria

A Natural designation should be considered for shoreline areas if any of the following criteria apply:

1. The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;
2. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or
3. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety;

Such shoreline areas include largely undisturbed portions of shoreline areas such as wetlands, estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats.

Ecologically intact shorelines, as used here, means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of shoreline structural modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

The term “ecologically intact shorelines” applies to all shoreline areas meeting the above criteria ranging from larger reaches that may include multiple properties to small areas located within a single property.

C. Area Designated

The Natural Designation includes all natural diverse wetland and riparian habitat areas within shoreline management jurisdiction. These include, but are not limited to:

1. The Edmonds Marsh and the historically contiguous wetland to the east of State Route 104.
2. The Shell Creek wetland and lower riparian zone, and the wetlands which are now isolated on the east side of the railroad tracks, which are partially or entirely within 200 feet of the ordinary high water mark of Puget Sound.

D. Management Policies

1. Any use that would substantially degrade the ecological functions or natural character of the Natural shoreline area should not be allowed.
2. The following new uses should not be allowed in areas designated Natural:
 - a. Residential
 - b. Commercial uses,
 - c. Industrial uses,
 - d. Non-water-oriented recreation,

- e. Roads, utility corridors, and parking areas that can be located outside Natural-designated shorelines.
3. Scientific, historical, cultural, educational research uses, and low-intensity, water-oriented recreational access uses may be allowed, provided that no significant ecological impact on the area will result.
4. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. Subdivision of property in a configuration that would, to achieve its intended purpose, require significant vegetation removal or shoreline modification that adversely impacts ecological functions should not be allowed.
5. Critical areas within shorelines designated as Natural should be protected pursuant to the Edmonds Critical Areas Ordinance, less the exceptions listed in ECDC 24.40.020.C.
6. Restoration opportunities should be encouraged in areas with a Natural designation.

24.30.050 Urban Conservancy Environment

A. Purpose

The purpose of the Conservancy designation is to protect and restore ecological functions of open space, floodplains, and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

B. Designation Criteria

The Urban Conservancy environment is applied to shoreline areas within the City where any of the following characteristics apply:

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

C. Area Designated

Areas generally lying upland of the ordinary high water mark and in between the southern boundary of the City and the south side of the old Union Oil dock, the Willow Creek outlet

of the Edmonds Marsh, between the southern edge of the area known as Brackett's Landing South and the southern edge of the Main Street ferry terminal, and from the northern edge of the Main Street ferry terminal to the northern boundary of the area known as Brackett's Landing North, including the spit, and to the east as far as the Burlington Northern Santa Fe railroad right-of-way.

D. Management Policies

1. Uses that preserve the natural character of the area or promote preservation of open space or sensitive lands either directly or over the long term should be the primary allowed uses in Conservancy areas.
2. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the Conservancy designation and the setting.
3. Public access and public recreation objectives should be implemented in Conservancy areas whenever feasible.
4. Water-oriented uses should be given priority over non-water-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.
5. New development should be designed and located to preclude the need for shoreline armoring, vegetation removal, flood control, and other shoreline modifications.
6. Restoration opportunities should be encouraged in Conservancy areas.
7. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within Conservancy areas. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

24.30.060 Shoreline Residential

A. Purpose

The purpose of the shoreline residential environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

B. Designation Criteria

1. General. These are areas typified by residential development in areas where topography, transportation systems, and development patterns make it extremely unlikely that more intensive use would be appropriate.

2. Shoreline Residential I: This designation is appropriate for shoreline areas with larger-lot residential development along the marine shoreline.
3. Shoreline Residential II: This designation is appropriate for shoreline areas with smaller-lot residential development along the marine shoreline.
4. Shoreline Residential III: Designation for single-family residential development adjacent to freshwater (e.g., Lake Ballinger).

C. Area Designated

1. General. A shoreline residential environment designation has been assigned to shoreline areas that are predominantly single-family or multifamily residential development or are planned and platted for residential development. There are three levels of shoreline residential environment designations corresponding to the Edmonds zoning and comprehensive plan designations. The areas which are appropriate for this classification are as follows:
2. Shoreline Residential I: The upland area adjacent to the eastern boundary of the Urban Railroad environment designation which is zoned RS-12 and RS-20.
3. Shoreline Residential II: The upland area adjacent to the eastern boundary of the Urban Railroad environment designation which is zoned RS-6.
4. Shoreline Residential III: The upland area adjacent to the shoreline of Lake Ballinger which is zoned RSW-12.

D. Management Policies

1. Multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities when consistent with statutory and constitutional limitations on development exactions.
2. Commercial development within the shoreline residential environment should be limited to water-oriented uses. Commercial development does not include lawful home occupations.
3. Structurally engineered shoreline modifications and stabilization should be prohibited except in cases of emergency as defined.
4. Steep slopes shall be protected per the requirements of ECDC 23.80, the building code, and this SMP.
5. Any new development or redevelopment should utilize low impact development techniques where feasible and appropriate.

6. Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.
7. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

24.30.070 Urban Mixed Use

A. Purpose

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

B. Designation Criteria

1. General. These areas have been intensely developed with a mix of commercial uses, port facilities, multimodal transit facilities, railroad facilities, and limited light industrial uses.

Two very distinct areas make up the three Urban Mixed-Use environments. The Edmonds waterfront area west of the railroad tracks which has the ability to provide direct access to the navigable waters of the Puget Sound and the near waterfront area east of the railroad tracks with no direct access to Puget Sound. A policy of the Shoreline Management Act is to plan for and foster all reasonable and appropriate uses and the shoreline master program rules generally prohibit nonwater-oriented development unless navigability is severely limited. Given these two distinct areas, the Urban Mixed-Use environments west of the railroad tracks is appropriate for water-oriented development, while the area east of the railroad tracks may be appropriate for nonwater-oriented development given its separation from Puget Sound.

The environmental differences between the Urban Mixed-Use environments are further emphasized by the City of Edmonds Comprehensive Plan designation and zoning applied to these areas. West of the railroad tracks the comprehensive plan designation and zoning encourage water-oriented type development and uses, while east of the railroad tracks the comprehensive plan designation and zoning encourage mixed-use type development, including mixed commercial-residential development.

2. Urban Mixed-Use I: This designation is appropriate to water-related and water-enjoyment commercial and recreational uses.

3. Urban Mixed-Use II: This designation is assigned to areas that are suitable and planned for high-intensity, water-dependent uses related to commerce, transportation, and recreation.
4. Urban Mixed-Use III: The designation is appropriate for those areas that have been intensely developed and that have no direct access to navigable waters. This designation is assigned to areas that are suitable and planned for mixed-use development including high-intensity, commerce, transportation, recreation and residential development.
5. Urban Mixed-Use IV: The Urban Mixed-Use IV designation is appropriate for those areas bordering the Edmonds Marsh. The marsh was identified as a shoreline of the state late in the planning process with properties within 200-feet of the salt influenced portions of the marsh now under shoreline jurisdiction (where they had not previously been so designated).

The south side of the marsh has been identified as the future site of the Edmonds Crossing Ferry Terminal which underwent significant environment review with a Final Environmental Impact Statement issued in 2004. On the north side of the Marsh is the Harbor Square commercial development owned by the Port of Edmonds.

The Edmonds Marsh is also being studied for potential restoration projects including the daylighting of the Willow Creek outlet as well as the marshes role in the flooding problem at the Dayton Street/State Route 104 intersection and the role the marsh and play in a solution to the flooding problem.

C. Area Designated

1. Urban Mixed-Use I: The upland area above ordinary high water north of the northern border of the Edmonds fishing pier to the southern edge of the area known as Brackett's Landing South. This area would include the waterfront commercial area.
2. Urban Mixed-Use II: The upland area above ordinary high water between the old Union Oil dock and the northern border of the Edmonds fishing pier and between the southern and northern edges of the Main Street ferry terminal. This area would include the Edmonds Marina and associated facilities, as well as the Main Street ferry terminal.
3. Urban Mixed-Use III: The six parcels near the existing ferry terminal bounded by the railroad right-of-way to the west, Main Street, Sunset Avenue North, Bell Street.
4. Urban Mixed-Use IV: The upland areas beyond the tidally influenced portions of Edmonds Marsh including portions of Harbor Square on the north side of the marsh and portions of the former UNOCAL oil storage facility on the south side of the marsh.

D. Management Policies

1. In regulating uses in the Urban Mixed-Use environments, first priority should be given to water dependent uses. Second priority should be given to water-related and water-enjoyment uses. Non-water oriented uses may be allowed as part of mixed use developments. Non-water oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water oriented uses or on sites where there is no direct access to the shoreline.
2. Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed.
3. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated Urban Mixed-Use. However, consideration should be given to the potential for displacement of non-water-oriented uses with water-oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas.
4. Where feasible, visual and physical public access should be provided.
5. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.
6. Any new development or redevelopment should utilize low impact development techniques where feasible and appropriate.
7. Any new development shall include environmental cleanup, restoration of shoreline or other development techniques where feasible and appropriate to assure no net loss of shoreline ecological functions, and shall comply with any relevant state and federal law.

24.30.080 Urban Railroad

A. Purpose

The purpose of the Urban Railroad environment designation is to identify the 100-foot right-of-way for the Burlington Northern Santa Fe railroad along the Edmonds shoreline. This designation will provide for high-intensity transportation uses while protecting ecological functions.

B. Designation Criteria

This area has been historically developed and used as a dedicated railroad right-of-way and contains limited improvements which are designed to aid in the transportation of goods and passengers by rail. This shoreline environment area generally contains very few areas of undisturbed natural shoreline.

With the exceptions of Lund's Creek estuary, Edmonds Underwater Park, Brackett's landing and part of Marina Beach Park, the entire Edmonds shoreline (more than 90 percent) is armored by the BNSF railroad bed and bulkheads. Most of the BNSF rail bed along the Edmonds shoreline consists of an armored berm with two sets of parallel tracks on top, comprising a top width of at least 24 feet or more and a wider base width. The waterward side of the berm is typically armored with large rock or granite blocks, placed vertically or on a 2:1 slope.

C. Area Designated

The area is defined as that area within the Burlington Northern Santa Fe Railway right-of-way as established on the date of the adoption of this master program, from the northern right-of-way line of Main Street to the northern city limits, and from the southern city limits north approximately 300 feet.

D. Management Policies

1. Restoration opportunities associated with project impacts should be encouraged in areas designated Urban Railroad.
2. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

Part IV General Policies & Regulations

24.40.000 Applicability

The provisions of this chapter shall be applied either generally to all shoreline areas or to shoreline areas that meet the specified criteria of the provision without regard to environment designation.

24.40.010 Archaeological and Historic Resources

- A. Applicability. The following provision apply to archaeological and historic resources whose presence are either recorded at the State Historic Preservation Office and/or by the City of Edmonds or such resources that are uncovered during development activities. Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter 25-48 WAC as well as the provisions of this section.

B. Regulations:

1. Where practicable, consistent with constitutional and statutory limitations, public or private developments shall be prevented from destroying or destructively altering potential or recognizable sites having historic, cultural, scientific, or educational value as identified by appropriate authorities.
2. The city may require that a site be redesigned or that development be postponed for a definite or indefinite period if this is reasonably necessary to protect a historic site or items of historic, archeological or cultural significance
3. Upon receipt of application for a shoreline permit or request for a statement of exemption for development on properties with 500 feet of a site known to contain an historic, cultural or archaeological resource(s), the City shall require a cultural resource site assessment; provided that, this requirement may be waived if the Administrator determines that the proposed development activities do not include any ground disturbing activities and will not impact a known historic cultural or archaeological site. The site assessment shall be conducted by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of significant historic or archaeological resources. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible party.
4. Whenever historic, cultural or archaeological sites or artifacts are discovered in the process of development on shorelines, work on that portion of the development site shall be stopped immediately, the site secured and the find reported as soon as a possible to the Administrator. Upon notification of such find, the property owner shall notify the Washington State Department of Archaeology and Historic Preservation and appropriate Native American Tribes. In such cases, the developer shall allow site inspection and evaluation by a professional archaeologist and tribal representative to ensure that all possible valuable archaeological data are properly salvaged. Work should not resume until approval is obtained from the Shoreline Administrator.

24.40.020 Critical Areas

- A. Applicability. Critical areas include the following areas and ecosystems: wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas.
- B. The City of Edmonds Critical Area Ordinance, as codified in Chapters 23.40 through 23.90 ECDC (dated May 3, 2016, Or. 4026), are herein adopted as a part of this Program, except for the specific subsections list below in ECDC 24.40.020.D. All references to the City of Edmonds Critical Area Ordinance in this Program are for this specific version. As a result of this incorporation of the Edmonds Critical Area Ordinance, the provisions of Chapters 23.40 through 23.90 ECDC, less the exceptions listed in ECDC 24.40.020.D, shall apply to any use, alteration or development within shoreline jurisdiction whether or not a shoreline permit or written statement of exemption is required. In addition to the critical area regulations in Chapters 23.40 through 23.90 ECDC (Appendix B) of this Master Program), the regulations identified in this section also apply to critical areas within shoreline

jurisdiction. Where there are conflicts between the City of Edmonds Critical Area Ordinance and this Shoreline Master Program, provisions of the Shoreline Master Program shall prevail.

C. Exceptions. The specific provisions of the Critical Area Ordinance listed below shall not apply to development within shoreline jurisdiction.

1. General Provisions:

- a. ECDC 23.40.130.D: Monitoring Program
- b. ECDC 23.40.210: Variance

2. Wetlands:

- a. ECDC 23.50.010.B: Wetland Ratings
- b. ECDC 23.50.040.F.1: Standard Buffer Widths
- c. ECDC 23.50.040.F.2: Required Measures to Minimize Impacts to Wetlands
- d. ECDC 23.50.040.K: Small, Hydrologically Isolated Wetlands

3. Geologically Hazardous Areas:

- a. ECDC 23.80.040.B.1 & .2: Allowed activities in geologically hazardous areas

D. Development limitations.

- 1. All uses, modifications and activities on sites containing marine shorelines, environmentally sensitive areas and/or critical areas must comply with all applicable local, state, and federal laws pertaining to development in these areas unless in conflict with the provisions of this Master Program.
- 2. The site must be specifically designed so that hazards from or impact on the environmentally sensitive area and/or critical areas will be mitigated.
- 3. Mitigation sequencing. In order to comply with ECDC 24.40.020.E.2 above, a shoreline permit applicant or project proponent shall demonstrate all reasonable efforts have been taken to provide sufficient mitigation such that the activity does not have significant adverse impacts. Mitigation shall occur in the following prioritized order:
 - 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, such as project redesign, relocation, or timing to avoid or reduce impacts.
 - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project.
 - d. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action.
 - e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.
4. **Monitoring Program.** Mitigation plans shall include a program for monitoring construction and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 2, 3, 5, 7, and 10 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than ten years.
 5. **Long-term Protection of Mitigation Sites.** The City shall require documentation that a mitigation site has been permanently preserved from future development or alteration that would be inconsistent with the functions of the mitigation. The documentation may include, but is not limited to, a conservation easement, deed restriction or other agreement between the applicant and the owner of a mitigation site. Such documentation shall be recorded with the Snohomish County auditor.
- E. **Wetlands.** Wetlands are those areas, designated in accordance with WAC 173-22-035 that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.
1. Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the *Washington State Wetland Rating System for Western Washington: 2014 Update* (Ecology Publication #14-06-029, or as revised and approved by Ecology), which contains the definitions and methods for determining whether the criteria below are met:

- a. **Category I.** Category I wetlands are: (1) relatively undisturbed estuarine wetlands larger than 1 acre; (2) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (3) bogs; (4) mature and old-growth forested wetlands larger than 1 acre; (5) wetlands in coastal lagoons; (6) interdunal wetlands that score 8 or 9 habitat points and are larger than 1 acre; and (7) wetlands that perform many functions well (scoring 23 points or more). These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (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.
 - b. **Category II.** Category II wetlands are: (1) estuarine wetlands smaller than 1 acre, or disturbed estuarine wetlands larger than 1 acre; (2) interdunal wetlands larger than 1 acre or those found in a mosaic of wetlands; or (3) wetlands with a moderately high level of functions (scoring between 20 and 22 points).
 - c. **Category III.** Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 16 and 19 points); (2) can often be adequately replaced with a well-planned mitigation project; and (3) interdunal wetlands between 0.1 and 1 acre. Wetlands scoring between 16 and 19 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.** Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.
 - e. **Illegal modifications.** Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge.
2. Development in designated wetlands within shoreline jurisdiction shall be regulated in accordance with the following:
 - a. **Buffer Requirements.** The following buffer widths have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the *Washington State Wetland Rating System for Western Washington: 2014 Update* (Ecology Publication #14-06-029, or as revised and approved by Ecology). The adjacent land use intensity is assumed to be high.
 - i. For wetlands that score 5 points or more for habitat function, the buffers in 24.40.020.F.2.b can be used if both of the following criteria are met:
 - a. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife.

The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement.

Presence or absence of a nearby habitat must be confirmed by a qualified biologist. If no option for providing a corridor is available, 24.40.020.F.2.b may be used with the required measures in 24.40.020.F.2.c alone.²

- b. The measures in 24.40.020.F.2.c are implemented, where applicable, to minimize the impacts of the adjacent land uses.
 - ii. For wetlands that score 3-4 habitat points, only the measures in 24.40.020.F.2.c are required for the use of 24.40.020.F.2.b
 - iii. If an applicant chooses **not** to apply the mitigation measures in 24.40.020.F.2.c, or is unable to provide a protected corridor where available, then 24.40.020.F.2.d **must** be used.
 - iv. The buffer widths in 24.40.020.F.2.b and 24.40.020.F.2.d assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.
- b. Wetland Buffer Requirements if the measures in 24.40.020.F.2.c are Implemented and Corridor Provided.

	Buffer width (in feet) based on habitat score			
Wetland Category	3-4	5	6-7	8-9
Category I: Based on total score	75	105	165	225
Category I: Bogs and wetlands of High Conservation Value	190			225
Category I: Coastal Lagoons	150		165	225
Category I: Interdunal				225
Category I: Forested	75	105	165	225

Category I: Estuarine	150 (buffer width not based on habitat score)			
Category II: Based on score	75	105	165	225
Category II: Interdunal wetlands	110		165	225
Category II: Estuarine	110 (buffer width not based on habitat score)			
Category III (all)	60	105	165	225
Category IV (all)	40			

a.

c. Required measures to minimize impacts to wetlands. Measures are required, if applicable to a specific proposal.

Disturbance	Required measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> • Direct lights away from wetland
Noise	<ul style="list-style-type: none"> • Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the out wetland buffer
Toxic runoff	<ul style="list-style-type: none"> • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 feet of wetland • Apply integrated pest management

Stormwater runoff	<ul style="list-style-type: none"> • Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use Low Impact Development techniques (per PSAT publication on LID techniques)
Change in water regime	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	<ul style="list-style-type: none"> • Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	<ul style="list-style-type: none"> • Use best management practices to control dust
	<ul style="list-style-type: none"> •

- d. Wetland Buffer Requirements if the measures in 24.40.020.F.2.c are NOT Implemented or Corridor NOT Provided.

	Buffer width (in feet) based on habitat score			
Wetland Category	3-4	5	6-7	8-9
Category I: Based on total score	100	140	220	300
Category I: Bogs and wetlands of High Conservation Value	250			300
Category I: Coastal Lagoons	200		220	300
Category I: Interdunal				300
Category I: Forested	100	140	220	300
Category I: Estuarine	200 (buffer width not based on habitat scores)			
Category II: Based on score	100	140	220	300
Category II: Interdunal wetlands	150		220	300

Category II: Estuarine	150 (buffer width not based on habitat scores)			
Category III (all)	80	140	220	300
Category IV (all)	50			

- e. Additions to structures existing within wetlands and/or wetland buffers may be permitted pursuant to ECDC 23.50.040.I. Additions to structures within wetlands will also require state and federal approval.

F. Geologically hazardous areas. Development in designated geologically hazardous areas shall be regulated in accordance with the following:

1. New development or the creation of lots should not be allowed that would cause foreseeable risk from geological conditions to people or improvements during the life of the development.
2. New development should not be allowed that would require structural shoreline stabilization over the normal, useful life of the development. Exception may be made for instances where stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result. The stabilization measures shall conform to ECDC 24.50.020, Shoreline stabilization.
3. Where no alternatives, including relocation or reconstruction of existing structures, are found to be feasible, and less expensive than the proposed stabilization measure, stabilization structures or measures to protect existing primary residential structures may be all in conformance with ECDC 24.50.020 requirements and then only if no net loss of ecological functions will result.

G. Critical Saltwater Habitats.

1. Development shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:
 - a. The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;
 - b. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose.
 - c. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.

- d. The project is consistent with the state's interest in resource protection and species recovery.
- 2. Private, non-commercial docks for individual residential or community use may be allowed provided that:
 - a. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible;
 - b. The project, including any required mitigation, will result in not net loss of ecological functions associated with critical saltwater habitat.
- 3. Where inventory of critical saltwater habitat has not been completed, all over water and near-shore developments in marine and estuarine waters shall be required to conduct an a habitat assessment of the site and adjacent beach sections to assess the presence of critical saltwater habitats and functions.

H. Critical Freshwater Habitats.

- 1. Existing hydrological connections into and between water bodies, such as streams and wetlands, shall be maintained. Obstructed channels shall be reestablished as a condition of nonwater-dependent uses, where feasible.

- I. Additional authority. In addition to any other authority the city may have, the city is hereby authorized to condition or deny a proposed use, modification or activity or to require site redesign because of hazards associated with the use, modification or activity on or near an environmentally sensitive and/or critical area, and/or the effect of the proposal on the environmentally sensitive area and/or critical area.

24.40.030 Flood Hazard Reduction

- A. Applicability. The following provisions apply to actions taken to reduce flood damage or hazard and to uses, development, and shoreline modification that may increase flood hazards.

B. Regulations.

- 1. Development and redevelopment shall be located and designed to prevent the need for structural flood hazard reduction measures.
- 2. Nonstructural flood reduction measures shall be given preference over structural measures.
- 3. Flood control works shall be permitted when it is demonstrated by engineering and scientific evaluations that:
 - a. They are necessary to protect health/safety and or existing development;
 - b. Non-structural flood hazard reduction measures are infeasible; and

- c. The flood control work will not result in a net loss of ecological function in the shoreline area.
- 4. New structural flood control works shall be placed landward of associated wetlands, and designated habitat conservation areas, except for works that improve ecological functions, such as wetland restoration.
- 5. Development within the shoreline environment shall meet the standards and provisions for protection of frequently flooded areas as provided to areas of special flood hazard in the current edition of the International Residential Code and International Building Code, as adopted in ECDC Title 19.

24.40.040 Public Access and Views

- A. Applicability. Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. The public access provisions below apply to all shorelines within the City of Edmonds.
- B. Regulations
 - 1. Except as provided in subsections 2 through 4 of this section, shoreline substantial developments or conditional uses shall provide public access where any of the following conditions are present:
 - a. Where the use or modification will create increased demand for public access to the shoreline, the development shall provide public access to mitigate this impact.
 - b. Where the use or modification will interfere with an existing public access way, the development shall provide public access to mitigate this impact.
 - c. Where a use which is not a priority shoreline use under the Shoreline Management Act will locate on a shoreline of the state, the use or modification shall provide public access to mitigate this impact.
 - d. Within the Edmonds shoreline jurisdiction, where a use or modification 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.
 - e. New multifamily residential development.
 - f. Where there is a subdivision of land into more than four parcels.
 - 2. An applicant need not provide public access where one or more the following conditions apply:

- a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
 - b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
 - c. The cost of providing the access, easement or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development;
 - d. Unacceptable environmental harm will result from the public access which cannot be mitigated;
 - e. Significant undue and unavoidable conflict between any access provisions and the proposed use/modification and adjacent uses would occur and cannot be mitigated; or,
 - 6. Statutory or constitutional requirements would prohibit the mandatory dedication of access without just compensation or compliance with statutory criteria.
3. In order to meet any of the conditions in subsection 2.a through 2.e of this section, the applicant must first demonstrate and the city determine in its finds 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 (e.g., fences, terracing, use of one-way glazings, hedges, landscaping, etc.); and
 - c. Developing provisions for access at a site geographically separated from the proposal such as street end, vista or trail system.
4. Exceptions. The following uses, developments, modifications and activities are exempt from providing public pedestrian access under this section:
- a. The construction, repair, remodeling and use of one detached single-family dwelling unit, as well as the construction, remodeling, repair, and use of bulkheads, docks and other uses, modification and activities incidental to the use of the subject property as a detached single-family residence.
 - b. All shoreline uses, modifications and activities in conservancy environments, or environmentally sensitive areas where the city determines that access would create distinct and unavoidable hazards to human safety or be contrary to city policies regarding the protection of unique and fragile environments.
5. Shoreline development by public entities, such as local governments, port districts, state agencies, and public utility districts, should provide public access measures as part of each

development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline.

6. Public Use Facilities.

- a. In addition to the public pedestrian areas required by subsection 1 of this section, the applicant may propose and/or the city may require that benches, picnic tables, a public access pier or boardwalk, or other public use facilities be constructed on the subject property.
- b. If public use facilities are required or proposed, the city will determine the size, location and other regulations (design considerations) on a case-by-case basis.

7. Timing. The public pedestrian access required by this section must be completed and available at the time of occupancy or completion of work; provided, however, that the city may on a case-by-case basis defer the physical availability of public access in the following cases:

- a. If shoreline development without public pedestrian access exists on both sides of the subject property and the city determines that the size, location and topography or the subject property does not warrant making public waterfront access available until additional adjacent waterfront access can be obtained.
- b. If pre-existing legal or nonconforming improvements on the subject property physically preclude the provisions of public waterfront access within a reasonable period of time.

8. Easements recorded. In each case where public pedestrian access is required, whether it is physically available at the end of development or deferred until a later date, all owners of the subject property must record a public pedestrian easement, in a form approved by the city attorney, establishing the right of the public to access, use and traverse that portion of the subject property.

9. Signs. The city shall require the posting of signs, obtained from the city at the city's cost, designating public pedestrian access. The planning manager or his/her designee is authorized to establish reasonable rules and regulations governing the public's use of public pedestrian access and use areas under this chapter. Where appropriate, these rules and regulations shall be included within the document recorded under subsection 8 of this section.

10. Shoreline uses, modifications and activities shall be designed and operated to avoid blocking, reducing or adversely interfering with the public's existing physical and visual access to the water and shorelines.

11. View Protection Regulations.

- a. Within the Urban Mixed Use I, Urban Mixed Use II and adjacent Aquatic I and Aquatic II shoreline designations no building or other major structure may be located within the following required view corridors:
 - i. Landward of the ordinary high water mark, a view corridor must be maintained across 30 percent of the average parcel width. The view corridor must be in one continuous piece. Within the view corridor, structures, parking areas, and landscaping will be allowed; provided, that they do not obscure the view from adjacent public right-of-way to and beyond the Puget Sound. This view corridor must be adjacent to either the north or south property line, whichever will result in the widest view corridor given development on adjacent properties. If the subject property has shoreline frontage in excess of 1,000 feet, the city may require a maximum of one-third of the required view corridor to be placed in a location between the north and south property lines, in a location which will provide for the greatest unobstructed view of the Puget Sound.
 - ii. Waterward of the ordinary high water, view corridors which are required pursuant to this section must be maintained starting at a width equal to the adjacent upland view corridor and expanding in a conical fashion 30 degrees from the prolongation of the view corridor water of the ordinary high water mark.
 - b. Within the Urban Mixed Use IV designation
 - i. Uses and activities must be designed and operated to avoid blocking or adversely interfering with visual access from public areas to the water and shorelines.
12. Public access provided by shoreline street ends, public utilities and rights-of-way shall not be diminished (RCW 35.79.035 and 36.87.130).
13. Public access sites shall be connected directly to the nearest public street and shall include provisions for disabled and physically impaired persons, where feasible.
14. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition running contemporaneous with the authorized land use, at a minimum. Said recording with the county auditor's office shall occur at the time of permit approval (RCW 58.17.110).
15. The minimum width of public access easements shall be 25 feet, unless the administrator determines that undue hardship would result. In such cases, easement width may be reduced only to the minimum extent necessary, as determined by the administrator, to relieve the hardship. Provided the larger easement is not needed for emergency access.
16. Future actions by the applicant successors in interest or other parties shall not diminish the usefulness or value of the public access provided.

17. Visual access shall be maintained, enhanced and preserved on shoreline street ends, public utilities and rights-of-way and within public view corridors as designated by the city.

24.40.050 Shoreline Vegetation Conservation

A. Applicability.

1. Vegetation conservation includes activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species.
2. Unless otherwise stated, vegetation conservation does not include those activities covered under the Washington State Forest Practices Act, except for conversion to other uses and those other forest practice activities over which local governments have authority. Vegetation conservation provisions apply even to those shoreline uses and developments that are exempt from the requirement to obtain permit.
3. Where new developments and/or uses are proposed, native shoreline vegetation should be conserved to maintain shoreline ecological functions and/or processes and mitigate the direct, indirect and/or cumulative impacts of shoreline development, where feasible. Important functions of shoreline vegetation include, but are not limited to:
 - a. Providing shade necessary to maintain water temperatures required by salmonids, forage fish, and other aquatic biota.
 - b. Providing organic inputs critical for aquatic life.
 - c. Providing food in the form of various insects and other benthic macroinvertebrates.
 - d. Stabilizing banks, minimizing erosion, and reducing the occurrence of landslides.
 - e. Reducing fine sediment input into the aquatic environment through stormwater best management practices.
 - f. Filtering and vegetative uptake of nutrients and pollutants from ground water and surface runoff.
 - g. Providing a source of large woody debris into the aquatic system.
 - h. Regulation of microclimate in the stream-riparian and intertidal corridors.
 - i. Providing habitat for wildlife, including connectivity for travel and migration corridors.

B. Regulations.

1. Alteration of native shoreline vegetation shall only be allowed as set forth below:
 - a. Landscaping or maintenance associated with an existing legal use or new permitted shoreline use or development. The use of native plant species shall be encouraged.
 - b. Removal of noxious weeds as listed by the state in WAC 16-750, provided such activity shall be conducted in a manner consistent with best management practices and native vegetation is promptly reestablish in the disturbed area.
 - c. Modification of vegetation in association with a legal, nonconforming use provided that said modification is conducted in a manner consistent with this Master Program and results in no net loss to ecological functions or critical fish and wildlife conservation areas.
 - d. Restoration activities conducted in accordance with an approved plan designed to improve ecological functions and values.
2. The removal or disturbance of existing vegetation and the alteration of topography shall be limited to the minimum necessary to accommodate approved shoreline development.
3. Exposed soils shall be immediately developed or revegetated to prevent erosion.
4. Revegetation must be planted such that complete coverage of exposed soils is attained within one growing season.
5. In all cases where clearing is followed by revegetation, native plants shall be preferred.

24.40.060 Water Quality, Stormwater, and Nonpoint pollution

A. Applicability. The following provisions applies to all development and uses within shoreline jurisdiction that may affect water quality.

B. Regulations.

1. An erosion and sedimentation control plan shall be submitted with a permit application for activities that involve the removal of vegetation, stockpiling of earth or other materials, or any activity that could result in shoreline erosion or siltation. Said program shall conform to the City of Edmonds' stormwater code requirements, Engineering Design Standards and shall at a minimum, utilize Best management Practices (BMPs) to prevent shoreline erosion and siltation.

2. The bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or permanent basis, shall not occur in shoreline without adequate secondary containment and an emergency spill response plan in place.
3. All development approved under this Shoreline Master Program shall be designed and maintained consistent with the City's Stormwater Comprehensive Plan, all codes related to stormwater, and Engineering Design Standards.
4. New development is encouraged to employ Low Impact Development principles and practices such as setbacks, retaining land cover, and reducing impervious areas, and use special caution to avoid infiltration of stormwater in shoreline areas along marine bluffs.

24.40.070Shoreline Development Table: User Guide

SDP	Listed shoreline development permitted as a Shoreline Substantial Development Permit and subject to the policies and regulations of this Master Program. Pursuant to WAC 173-27-040 and ECDC 24.80.010, certain shoreline uses and modifications may be exempt from the requirements of the substantial development permit process. These exemptions shall be construed narrowly and only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process. Developments meeting the exemption from the requirements of the substantial development permit process are still subject to the policies and regulations of this Master Program.
SCUP	Listed shoreline development may be permitted as Shoreline Conditional Use Permit subject to the policies and regulations of this Master Program. Shoreline developments requiring Shoreline Conditional Use Permits are not subject to the exemptions in WAC 173-27-040 or ECDC 24.80.010.
X	Listed shoreline development is prohibited.
*	Prohibited shoreline development is subject to specific exceptions. See Shoreline Area Regulations section for the listed shoreline development.
+	Permitted shoreline development is subject to specific limitations on where and/or when development may be permitted. See Shoreline Area Regulations for the listed shoreline development.

24.40.080 Shoreline Development Table: Shoreline Development Permitted by Area Designation¹

Shoreline Development	Shoreline Area Designation											
	Urban Railroad	Urban Mixed Use I	Urban Mixed Use II	Urban Mixed Use III	Urban Mixed Use IV	Shoreline Residential I	Shoreline Residential II	Shoreline Residential III	Aquatic I	Aquatic II	Conservancy	Natural
Aquaculture	X	SCUP	SCUP	X	SCUP	X	X	X	SCUP	SCUP	SCUP	SCUP
Artwork	SDP	SDP	SDP	SDP	SDP ³	SDP	SDP	SDP	X ^{*2}	X ^{*2}	SDP	SDP
Boating Facilities												
Launch Ramps	X	SDP	SDP	X	X	X	X	X	X	X	X	X
Marinas	X	SDP	SDP	X	X	X	X	X	X	X	X	X
Covered Over-water structures	X	X	X	X	X	X	X	X	X	X	X	X

Shoreline Development	Shoreline Area Designation											
	Urban Railroad	Urban Mixed Use I	Urban Mixed Use II	Urban Mixed Use III	Urban Mixed Use IV	Shoreline Residential I	Shoreline Residential II	Shoreline Residential III	Aquatic I	Aquatic II	Conservancy	Natural
Commercial and Light Industrial												
Water-oriented	X	SDP	SDP	SDP	SDP ³	X	X	X	X*	X*	X	X
Nonwater-oriented	X	SDP ⁺	SDP ⁺	SDP [±]	SDP ³	X	X	X	X*	X*	X	X
Dredging												
	SCUP	SCUP	SCUP	X*	X*	X*	X*	SCUP	SCUP	SCUP	SCUP	X*
Landfill												
	SCUP	SDP	SDP	SDP	SDP ³	SDP	SDP	SDP	SCUP	SCUP	SCUP	SCUP ⁺
Moorage: Piers, Docks, and Floats												
Commercial	X	SDP	SDP	X	X	X	X	X	X	SDP	X	X
Private, Public, and Shared	X	SDP	SDP	X	X	SDP	SDP	SDP	SDP	SDP	SDP	X*
Aircraft	X	X*	X*	X*	X*	X*	X*	X*	X*	X*	X*	X*
Recreation												
	X	SDP	SDP	SDP	SDP ³	SDP	SDP	SDP	SDP	SDP	SDP	SDP
Residential												
Detached Residential (Single-family)	X	X	X	SDP	X	SDP	SDP	SDP	X	X	X	X
Attached or stacked Residential (Multi-family)	X	X	X	SDP	X	X	X	X	X	X	X	X
Shoreline Stabilization												
Groins	SDP	SDP	SDP	X	X	X	X	X	SCUP	SCUP	SCUP	X*
Breakwaters and jetties	SDP	SDP	SDP	X	X	X	X	X	SCUP	SCUP	SCUP	X*
Bulkheads and similar structures	SDP	SDP	SDP	X	SCUP	X	X	SDP	X*	X*	SCUP	X*
Bioengineering	SDP	SDP	SDP	X	SDP ³	X	X	SDP	SDP ⁺	SDP ⁺	SDP	X*
Gabions	X	X	X	X	X	X	X	X	X	X	X	X

Shoreline Development	Shoreline Area Designation											
	Urban Railroad	Urban Mixed Use I	Urban Mixed Use II	Urban Mixed Use III	Urban Mixed Use IV	Shoreline Residential I	Shoreline Residential II	Shoreline Residential III	Aquatic I	Aquatic II	Conservancy	Natural
Signs												
	SDP	SDP	SDP	SDP	SDP ³	SDP	SDP	SDP	SDP	SDP	SDP	SDP
Transportation												
Railroads	SDP	SDP	SDP	X	X	X	X	X	X [*]	X [*]	X	X
Ferry Terminals	SCUP	SDP	SDP	SDP	SDP ³	X	X	X	SCUP	SCUP	X	X
Parking – supporting associated water-dependent use	SDP	SDP	SDP	SDP	SDP ³	X	X	X	X	X	SCUP ⁺	X
Parking – not supporting an associated water-dependent use	SDP	SCUP ⁺	SCUP ⁺	SDP	SDP ³	X	X	X	X	X	SCUP ⁺	X
Other	SCUP	SDP	SDP	SDP	SDP ³	SDP	SDP	SDP	SDP	SDP	SCUP ⁺	SCUP ⁺
Utilities												
	SDP	SDP	SDP	SDP	SDP ³	SDP	SDP	SDP	SDP	SDP	SDP	SCUP

¹: In the event that there is a conflict between the development(s) identified in this Table 24.40.080 and the policies and/or regulations with the text of this Master Program, the policies and regulations within the text shall apply.

²: Artwork associate with a permitted use in the Aquatic I or Aquatic II designation may be permitted; otherwise it is a prohibited use.

³: Where an alternate buffer width is proposed as provided in Footnote 18 of section 24.40.090, then a Shoreline Conditional Use (SCUP) is required.

24.40.090 Shoreline Bulk and Dimensional Standards

The following table establishes shoreline-specific development standards in the different shoreline environment designations. Setbacks represent minimum distances and may be larger if a critical area is present consistent with ECDC 24.40.020 and Title 23 ECDC.

Shoreline Development	Shoreline Area Designation											
	Urban Railroad	Urban Mixed Use I	Urban Mixed Use II	Urban Mixed Use III	Urban Mixed Use IV	Shoreline Residential I	Shoreline Residential II	Shoreline Residential III	Aquatic I	Aquatic II	Conservancy	Natural
Aquaculture – Over Water Structures												
Shore Setback ¹ (waterward ordinary high)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Maximum Height above deck of overwater structure	3ft	3ft	3ft	3ft	3ft	N/A	N/A	N/A	3ft	3 ft.	N/A	3ft
Commercial and Light Industrial Development												
Water Dependent Commercial Use												
Shore Setback	N/A	0'	0'	0'	0'	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Side Setback ¹⁵	N/A	0' ²	0' ²	Varies	0'	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Maximum Height ¹⁶	N/A	30'	30'	25'	35'	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Maximum Coverage	N/A	None	None	None	None	N/A	N/A	N/A	N/A	N/A	N/A	N/A
All Other Commercial and Light Industrial Development												
Shore Setback	N/A	15'	15'	50'	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Building Setback	N/A	N/A	N/A	N/A	15'	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Buffer	N/A	N/A	N/A	N/A	110' ^{18,19}	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Side Setback (commercial/residential) ¹⁵	N/A	0'/15' ^{2, 3}	0'/15' ^{2, 3}	Varies	0'	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Maximum Height ¹⁶	N/A	30'	30'	25'	35'	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Maximum Coverage	N/A	None	None	None	Varies	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Shoreline Development	Shoreline Area Designation											
	Urban Railroad	Urban Mixed Use I	Urban Mixed Use II	Urban Mixed Use III	Urban Mixed Use IV	Shoreline Residential I	Shoreline Residential II	Shoreline Residential III	Aquatic I	Aquatic II	Conservancy	Natural
Recreation												
Shore Setback	N/A	15'	15'	15'	N/A	N/A	N/A	35'	N/A	N/A	50'	N/A ¹⁴
Building Setback	N/A	N/A	N/A	N/A	15'	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Buffer	N/A	N/A	N/A	N/A	110 ^{18,19}	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Maximum Height ¹⁶	N/A	30'	30'	25'	35'	25'	25'	25'	15' ⁴	15' ⁴	25'	25'
Maximum Coverage	N/A	None	None	None	None	35%	35%	35%	N/A	N/A	10% or 4,000 square feet	N/A
Maximum impervious	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	20% or 10,000 square feet	N/A
Residential Development												
Shore Setback	N/A	N/A	N/A	50' ¹⁷	N/A	N/A	N/A	35'	N/A	N/A	N/A	N/A
Building Setback	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Buffer	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Bluff Setback	N/A	N/A	N/A	N/A	N/A	50'	N/A	N/A	N/A	N/A	N/A	N/A
Maximum Height ¹⁶	N/A	N/A	N/A	25'	35'	25'	25'	25'	N/A	N/A	N/A	N/A
Minimum Lot Area (Sq. Ft.)	N/A	N/A	N/A	N/A	N/A	Varies ¹¹	6,000 sq. ft.	12,000 sq. ft.	N/A	N/A	N/A	N/A
Maximum Density ⁶	N/A	N/A	N/A	N/A	N/A	Varies ¹²	7.3	3.7	N/A	N/A	N/A	N/A
Maximum Coverage	N/A	N/A	N/A	N/A	N/A	35%	35%	35%	N/A	N/A	N/A	N/A
Transportation and Parking												
Parking												
Uncovered Parking												
Shore Setback	60'	60' ⁷	60' ⁷	50' ¹⁷	N/A	N/A	N/A	N/A	N/A	N/A	60'	N/A
Building Setback	N/A	N/A	N/A	N/A	15'	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Buffer	N/A	N/A	N/A	N/A	110' ^{18,19}	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Structured Parking												

Shore Setback	N/A	N/A	N/A	50' ¹⁷	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Building Setback	N/A	N/A	N/A	N/A	15'	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Buffer	N/A	N/A	N/A	N/A	110' ^{18,19}	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Maximum Height ¹⁶	N/A	N/A	N/A	25'	35'	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Ferry Terminals												
Maximum Height ⁸	30'	30'	30'	30'	30'	N/A	N/A	N/A	35'	35'	N/A	N/A
Railroads												
Maximum Height	25' ⁹	30' ⁹	30' ⁹	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Property line setbacks	5'	5'	5'	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Shoreline Development	Shoreline Area Designation											
	Urban railroad	Urban Mixed Use I	Urban Mixed Use II	Urban Mixed Use III	Urban Mixed Use IV	Shoreline Residential I	Shoreline Residential II	Shoreline Residential III	Aquatic I	Aquatic II	Conservancy	Natural
All Other Development												
Shore Setback	N/A	15'	15'	50' ¹⁷		N/A	N/A	35'	N/A	N/A	50'	N/A ¹⁴
Building Setback	N/A	N/A	N/A	N/A	15'	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Buffer	N/A	N/A	N/A	N/A	110' ^{18,19}	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Maximum Height ¹⁶	25'	30'	30'	25'	35'	25'	25'	25'	25'	35'/15' ¹⁰	25'	25'
Minimum Lot Area (Sq. Ft.)	N/A	None	None	None	None	Varies ¹¹	6,000 sq. ft.	12,000 sq. ft.	N/A	N/A	N/A	N/A
Maximum Density	N/A	N/A	N/A	N/A	N/A	Varies ¹²	7.3	3.7	N/A	N/A	N/A	N/A
Maximum Coverage	None	None	None	None	Varies ²⁰	35%	35%	35%	N/A	N/A	10%	10%

¹ :Aquaculture pens shall be no closer to the shoreline than the identified distance.

² :See ECDC 24.40.040.B.11 for view corridor requirements.

³ : No side setback is required from adjacent commercial property. A minimum 15-foot setback is required from lot line adjacent to shoreline residential environments. The area must be fully landscaped and include a minimum six-foot high fence or hedge.

⁴ :Above ordinary high water mark.

⁵ : Thirty-five feet total of both sides, 10 feet minimum on either side.

⁶ : Density means “dwelling units per acre” determined by dividing the total lot area by the density allowed by the underlying zoning; the number of lots or units permitted shall be rounded down to the nearest whole number.

⁷ :In the Urban Mixed Use I and II environment, the 60-foot setback for parking may be reduced by a maximum of 20 feet. See ECDC 24.60.080.D.2.c. and 24.60.080.D.3.c

⁸ :Subject to exceptions, see ECDC 24.60.070.C.10.

⁹ :Subject to exceptions, see ECDC 24.60.080.D.1.b.xiii.1 through ECDC 24.60.080.D.1.b.xiii.4.

¹⁰ :Accessory structures for the sale of gas, oil and live bait, shall not exceed 15 feet above the height of the dock or pier.

¹¹ :Varies between 12,000 and 20,000 square feet per site depending on the underlying zoning.

¹² : Varies between 3.7 and 2.2 dwelling units per acre depending on the underlying zoning. Density means “dwelling units per acre” determined by dividing the total lot area by the density allowed by the underlying zoning; the number of lots or units permitted shall be rounded down to the nearest whole number.

¹⁴ : Three areas within the City of Edmonds have the natural environment designation: Edmonds Marsh, Shell Creek Wetland, and Perrinville Creek Wetland. All three areas are separated from the Puget Sound by the railroad right-of-way.

¹⁵ : Side setback determined by the underlying zoning. No required side setback in the BD2, CG, or MP2 zones. Five foot side setback in the OR zone,

¹⁶ : The maximum height limit shall be determined by the underlying comprehensive planning document and zoning designation. Height limits greater than 35 feet shall be supported by view analysis and structures designed to minimize impacts on public views.

¹⁷ : Fences within the shore setback of the Urban Mixed Use ~~III~~ IV zone that create separate areas for public and private uses should not be allowed.

¹⁸ : The Urban Mixed-Use IV environment has a default 110-foot buffer that starts at the outer edge of the Edmonds Marsh where the presence and action of waters are common and usual or at the wetland/upland edge.

An alternate buffer width may be established at the project stage through a shoreline conditional use permit if a site-specific scientific study determines that the default buffer is not necessary to protect and maintain the baseline functions of this wetland/tideland habitat and its other associated ecological functions from being adversely impacted by the proposed project.

The site-specific scientific study must be peer reviewed by an independent scientific consulting firm having relevant wetland/wildlife expertise before consideration of a master plan or shoreline conditional use permit may proceed to a hearing.

The site-specific scientific study must analyze the impacts of the proposed project upon at least these three broad ecological functions of wetlands and marshes: 1) Biogeochemical functions, which are related to trapping and transforming chemicals and include functions that improve water quality in the watershed; 2) Hydrologic functions, which are related to maintaining the water regime in a watershed including functions such as reducing flooding; and 3) Food web and habitat functions.

Any decision to approve an alternate buffer must be consistent with the legal standards of the Shoreline Management Act and State guidelines and would only apply to the portion of the Urban Mixed Use IV environment that is the subject of the application. In other words, the buffer on the north side of the Marsh might ultimately differ from the buffer on the south side of the Marsh if different buffers are necessary to mitigate the respective impacts of those two development areas.

Regardless of the buffer width, upon development of the project, the approved buffer area shall be vegetated, used, and maintained as necessary to protect existing ecological functions and mitigate project impacts as contemplated by the site-specific scientific study that supported the approved width of the buffer.

¹⁹ : The approved buffers in the Urban Mixed Use IV environment may not be further reduced or exempt from the normal buffer use limitations through ECDC 24.40.020 (F)(2)(e) [Additions to structures] or any of the provisions in Appendix B, including but not limited to, sections 23.50.040 (G)(1) to (4) [Wetland Buffer Modifications], 23.50.040 (I) [Additions to structures], and 23.40.220 (C)(4) [Interrupted wetland buffer], PROVIDED that ECDC 23.40.215 may be applied to implement a restoration project within the Urban Mixed Use IV notwithstanding the language in this footnote.

²⁰ : Varies between 75% and no maximum coverage requirement per site depending on the underlying zoning.

Part V Specific Modification Policies & Regulations.

24.50.000 Applicability.

Shoreline modification activities are structures or actions that permanently change the physical configuration or quality of the shoreline, particularly at the point where land and water meet. Shoreline modifications include but are not limited to structures such as bulkheads and piers and actions such as clearing, grading and removing vegetation. Generally, shoreline modifications are undertaken to prepare for a shoreline use, to support and upland use, or to provide shoreline stabilization or defense from erosion.

24.50.010 General Modification Policies and Regulations

A. General Modification Policies.

1. Locate and design all new development in a manner that prevents or minimizes the need for shoreline modifications.
2. Ensure that shoreline modification, where permitted, are as compatible as possible with natural shoreline processes and character.
3. Regulate shoreline modifications to assure that modifications individually and cumulatively do not result in a net loss of ecological functions. Mitigation may be required to meet the no net loss standard.
4. Give preference to those types of shoreline modifications that have a less impact on ecological functions and require mitigation of identified impacts resulting from shoreline modifications.
5. Incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes in the placement and design of shoreline modifications. To avoid and reduce ecological impacts, the mitigation sequence in ECDC 24.40.020.E.3 shall be utilized.

B. General Shoreline Modification Regulations

1. Shoreline modification activities that do not support a permitted shoreline use are considered “speculative” and are prohibited by this Master Program, unless it can be demonstrated to the satisfaction of the Shoreline Administrator that such activities are in the public interest and necessary and for the maintenance of shoreline environmental resource values.

2. Structural shoreline modification measures shall be permitted only if nonstructural measures are unable to achieve the same purpose. Nonstructural measures considered shall include alternative site designs, increased setbacks, relocation, and bioengineering.
3. Shoreline modification activities, with the exception of restoration or enhancement efforts, are prohibited in wetlands, and undeveloped spits, hooks, bars, barrier beaches, or similar accretion terminals or accretion shore forms.
4. Proponents of shoreline modification projects shall obtain all applicable federal and state permits and shall meet all permit requirements.
5. Best Available Science. All reports prepared in support of a shoreline modification shall use scientifically valid methods and studies in the analysis of shoreline environment and field reconnaissance and reference the source of science used.

24.50.020 Shoreline stabilization

- A. Applicability. Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures cause by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods.

Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, planning and regulatory measures to avoid the need for structural stabilization.

Structural methods can be “hard” or “soft”. “Hard” structural stabilization measures structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads. These are static structures traditionally constructed of rock, concrete, wood, metal, or other materials that deflect, rather than absorb, wave energy. “Soft” structural measures rely on softer materials, such as vegetation, drift logs, and gravel. They are intended to absorb wave energy, mimicking the function of a natural beach. The following methods of shoreline stabilization are organized from “soft” to “hard”:

“Soft”

- Vegetation enhancement;
- Upland drainage control;
- Biotechnical measures;
- Beach enhancement;
- Anchor tree; and
- Gravel placement;

“Hard”

- Rock revetments;
- Gabions;

- Groins;
- Retaining walls and bluff walls;
- Bulkheads; and
- Seawalls.

The following policies and regulations apply to all actions and developments that modify the shoreline for the purposes of preventing shore erosion.

B. Shoreline Stabilization Policies

1. Discourage new development requiring structural shoreline defense works.
2. Relocating existing structures out of harm's way is preferable to construction of structural defense works.
3. Allow structural stabilization methods only:
 - a. After it is demonstrated that nonstructural solutions would not be able to reduce the potential damage sufficiently, and
 - b. Where it has been demonstrated to be necessary to support or protect a new use consistent with this Master program, a legally established, inhabited structure or ongoing shoreline use that is in danger of loss or substantial damage or when necessary for reconfiguration of the shoreline for hazardous substance remediation or restoration of ecological functions.
 - c. Structural stabilization will not be permitted for the indirect purpose of creating land by filling.
4. Encourage "soft" stabilization and protection works over "hard" structural means. Furthermore, designs that do not interrupt net drift or migration of anadromous fish are preferred (for example, open poling construction is preferable to solid walls, and floating breakwaters are preferable to solid landfills.)
5. Consider the effect that proposed shore defense works have on ecosystem-wide processes (e.g. sand movement) and functions (e.g. habitat). Make provisions to avoid and minimize impacts where feasible. Mitigation must be provided to achieve no net loss.
6. Give special attention to the effect these structures will have on aesthetic qualities of the shoreline, public access, and use of the water.

C. Shoreline Stabilization Regulations

1. For the purposes of this section, standards on shoreline stabilization, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately service its purpose. Addition to or

increases in size of existing shoreline stabilization measures shall be considered new structures.

2. Structural stabilization methods shall be permitted when necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.
3. New development that would require shoreline stabilization which causes significant negative impacts to adjacent or down-current properties and shoreline areas should not be allowed.
4. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the normal, useful life of the structure, as demonstrated by a geotechnical analysis.
5. New structural stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:
 - a. To protect existing primary structures:
 - i. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.
 - ii. The erosion control structure will not result in a net loss of shoreline ecological functions.
 - b. In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:
 - i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
 - ii. Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal action, currents, and waves.
 - iv. The erosion control structure will not result in a net loss of shoreline ecological functions.

- c. In support of water-dependent development when all of the conditions below apply:
 - i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
 - ii. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.
 - iv. The erosion control structure will not result in a net loss of shoreline ecological functions.
- d. To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to chapter 70.105D RCW when all of the conditions below apply:
 - i. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - ii. The erosion control structure will not result in a net loss of shoreline ecological functions.
- 6. Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

D. Shoreline Stabilization Siting and Design Regulations.

- 1. When any structural shoreline stabilization measures are demonstrated to be necessary, pursuant to above provisions.
 - a. Limit the size of stabilization measures to the minimum necessary. Use measures designed to assure no net loss of shoreline ecological functions. Soft approaches shall

be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.

- b. Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. Where feasible, incorporate ecological restoration and public access improvements into the project.
 - c. Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems.
2. Bulkheads and other shoreline protective structures may not be constructed within a marsh, bog, or swamp or between a marsh, bog or swamp and the primary body of water (Puget Sound or Lake Ballinger).
3. Bulkheads and other shoreline protective structures may not be placed waterward of the ordinary height water mark, unless:
 - a. It is to stabilize a fill approved under ECDC 24.50.040; or
 - b. There has been severe and unusual erosion within one year immediately preceding the application for the bulkhead or other similar protective structure. In this event, the city may allow the placement of the bulkhead or other similar protective structure to recover the dry land area lost by this erosion.
4. Bulkheads and other shoreline protect structures shall be located landward of the ordinary high water mark and generally parallel to the natural shoreline unless geotechnical evaluation demonstrates the necessity for alternative design. In addition:
 - a. Where no other bulkheads are adjacent, the construction of a bulkhead shall be as close to the eroding bank as possible and in no case shall it be more than six (6) feet from the toe of the bank.
 - b. A bulkhead for a permitted landfill shall be located at the toe of the fill.
 - c. Where permitted, a bulkhead must tie in flush with existing bulkheads on adjoining properties, except where the adjoining bulkheads extend waterward of the ordinary high water mark.
5. An existing bulkhead or other shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves.

- a. The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.
 - b. Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residential structure to which it is appurtenant was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure may abut the existing shoreline stabilization structure.
 - c. Where a net loss of ecological functions associated with critical saltwater habitats would occur by leaving the existing structure, remove it as part of the replacement measure.
 - d. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.
 - e. For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.
6. Materials used in bulkhead construction shall meet the following standards:
- a. Bulkheads shall utilize stable, non-erodable materials such as concrete, wood, and rock that are consistent with the preservation and protection of the ecological habitat.
 - b. Shore materials shall not be used for fill behind bulkheads, except clean dredge spoil from a permitted off-site dredge and fill operation.
 - c. The extent and nature of any backfill proposed landward of a bulkhead or other shoreline protective structure shall comply with adopted City standards.
7. If hard stabilization methods are employed the following design criteria shall be met:
- a. The size and quantity of the material shall be limited to that the minimum necessary to withstand the estimated energy intensity of the hydraulic system;
 - b. Filter cloth must be used to aid drainage and help prevent settling;
 - c. The toe reinforcement or protection must be adequate to prevent a collapse of the system wave action; and
 - d. Fish habitat components shall be considered in the design subject to Hydraulic Project Approval by the Washington Department of Fish and Wildlife.

8. When hard stabilization measures are required at a public access site, provision for safe pedestrian access to the water shall be incorporated into bulkhead design.
9. Stairs or other permitted structures may be built into a hard stabilization structure but shall not extend waterward of it.

E. Geotechnical Reports.

Geotechnical reports required pursuant to this section shall address the need for shoreline stabilization and shall include the following.

1. A scaled site plan showing:
 - a. The location of existing and proposed shore stabilization, structures, fill, and vegetation, with dimensions indicated distances to the ordinary high water mark.
 - b. Existing site topography with two foot contours.
2. A description of the processes affecting the site, and surrounding areas that influence or could be influenced by the site, including areas in which lake or marine geomorphic processes affect the site, including, but not limited to:
 - a. Soil erosion, deposition, or accretion;
 - b. Evidence of past or potential erosion due to tidal action and/or waves;
 - c. Littoral drift; and
 - d. An estimate of shoreline erosion rates.
3. A description and analysis of the urgency and risk associated with the specific site characteristics.

F. Shoreline Stabilization – Shoreline Area Regulations

1. Urban Railroad
 - a. Bulkheads, revetments, and bioengineering approaches are permitted subject to policies and regulations of this Program.
 - b. Gabions are prohibited.
2. Urban Mixed Use I
 - a. Bulkheads, revetments, and bioengineering approaches are permitted subject to policies and regulations of this Program.

- b. Gabions are prohibited.
- 3. Urban Mixed Use II
 - a. Bulkheads, revetments, and bioengineering approaches are permitted subject to policies and regulations of this Program.
 - b. Gabions are prohibited.
- 4. Urban Mixed Use III
 - a. Bulkheads, revetments, and bioengineering approaches are permitted subject to policies and regulations of this Program.
 - b. Gabions are prohibited.
- 5. Urban Mixed Use IV
 - a. Bulkheads, revetments, and bioengineering approaches are permitted subject to policies and regulations of this Program.
 - b. Gabions are prohibited.
- 6. Shoreline Residential I
 - a. Bulkheads, revetments, and bioengineering approaches are permitted subject to policies and regulations of this Program.
 - b. Gabions are prohibited.
- 7. Shoreline Residential II
 - a. Bulkheads, revetments, and bioengineering approaches are permitted subject to policies and regulations of this Program.
 - b. Gabions are prohibited.
- 8. Shoreline Residential III
 - a. Bulkheads, revetments, and bioengineering approaches are permitted subject to policies and regulations of this Program.
 - b. Gabions are prohibited.
- 9. Aquatic I

- a. Bioengineering approaches are permitted on tidelands and shorelands when necessary to restore an eroding accretion shoreform or to retard erosion elsewhere subject to policies and regulations of this program.
- b. Bulkheads or revetments are prohibited except for an approved water-dependent development subject to policies and regulations of this Program.
- c. Gabions are prohibited.

10. Aquatic II

- a. Bioengineering approaches are permitted on tidelands and shorelands when necessary to restore an eroding accretion shoreform or to retard erosion elsewhere subject to policies and regulations of this program.
- b. Bulkheads or revetments are prohibited except for an approved water-dependent development subject to policies and regulations of this Program.
- c. Gabions are prohibited.

11. Conservancy

- a. Bulkheads, revetments, and bioengineering approaches are permitted subject to policies and regulations of this Program
- b. Gabions are prohibited.

12. Natural: Shoreline stabilization is prohibited; except that, bioengineering approaches may be permitted as a conditional use when necessary to restore and eroding accretion shoreform or to retard erosion elsewhere.

24.50.030 Moorage: Piers, Docks, and Floats

A. Applicability

Docks are fixed structures floating upon water bodies. Piers are fixed, pile-supported structures. Floats are floating structures that are moored, anchored, or otherwise secured in the water that are not connected to the shoreline. Docks, piers, and floats that serve four or fewer boats regularly moored are reviewed as recreational facilities. Proposals for five or more boats are considered marinas and are regulated under ECDC 24.60.020, Boating Facilities.

B. Moorage: Piers, Docks, and Floats Policies

1. A dock associated with a single family residence is considered a water-dependent use provided that it is designed and intended as a facility for access to watercraft and otherwise complies with the provisions of this section.
2. New pier or dock construction, excluding docks accessory to single-family residences, should be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent use.
3. Shared pier and dock facilities are preferred over single-user moorage where feasible. New subdivisions of more than two (2) lots should provide joint shared moorage.
4. Piers and docks, including those accessory to single-family residences, shall be designed and constructed to avoid or to minimize and mitigate the impacts to ecological functions, critical areas resources such as eelgrass beds and fish habitats and processes such as currents and littoral drift.

C. Moorage: Piers, Docks, and Floats Regulations

1. The following piers, docks, and floating developments are prohibited in the shoreline jurisdiction:
 - a. Aircraft moorage is prohibited, except that aircraft may be temporarily moored (not to exceed 36 hours) in the event of severe weather conditions.
 - b. Covered moorage.
2. Size of Piers and Docks. Piers and docks may not be larger than is necessary to provide safe and reasonable moorage for the boats which can reasonably be expected to be moored. The city will specifically review the size and configuration of each proposed pier or dock to ensure that:
 - a. The pier or dock does not extend waterward beyond the point necessary to provide reasonable draft for the boats to be moored and shall not extend beyond the outer harbor line; and
 - b. The pier or dock is not larger than is necessary to moor the specified number of boats; and
 - c. The pier or dock will not interfere with the public use and enjoyment of the water or create a hazard to navigation; and
 - d. The pier or dock will not adversely affect nearby uses; and

- e. The pier or dock will not have a significant long-term adverse effect on aquatic habitats.
3. In order to minimize impacts on nearshore areas and avoid reduction in ambient light level:
 - a. The width of piers, docks and floats shall be the minimum necessary and shall not exceed 4 feet in width, except where specific information on use patterns justifies a greater width. Marine floats shall not exceed 8 feet in width not more than 40 feet in length and freshwater floats shall not exceed 6 feet in width and 20 feet in length unless authorized by a variance. Exceptionally large vessels or vessels that require a relatively deep draft may be required to use a buoy, other alternative mooring scheme, or to moor in a marina. Materials that will allow light to pass through the deck may be required where width exceeds 4 feet.
 - b. Dock surfaces designed to allow maximum light penetration shall be used on walkways or gangplanks in nearshore areas.
 - c. Piers, docks and floats shall be located along a north/south orientation to the maximum extent feasible.
 - d. The surface of new piers, docks and floats shall provide at least 50% functional grating.
 4. Waterward of the ordinary high water mark, pier and dock height may not exceed a height of five feet above water level, except that pilings may extend a reasonable amount above dock height to provide for tidal conditions.
 5. Prohibited substances. No part of a pier, dock or other components that may come in contact with the water may be treated with or consist, in whole or in part, of creosote, oil based paints, toxic chemicals, or other substances that would be harmful to the aquatic environment, unless specifically permitted and authorized by appropriate state and federal regulatory agencies.
 6. If the pier, dock or float will extend waterward of the inner harbor line, the applicant must obtain a lease from the Department of Natural Resources prior to proposing this use.
 7. No structure regulated under this section, other than moorage structures and sheds associated with gas and oil sales for boats, may be waterward of the ordinary high water mark.

D. Moorage: Piers, Docks, and Floats - Shoreline Area Regulations

1. Urban Railroad: Moorage structures are prohibited.
2. Urban Mixed Use I:

- a. Private, shared, public and commercial moorage structures are permitted subject to the policies and regulations of this Master Program.
- b. Aircraft moorage is prohibited, except that aircraft may be temporarily moored (not to exceed 36 hours) in the event of severe weather conditions.
- c. Moorage structures and facilities located may not be located waterward of public parks, public beaches, or public facilities, nor may they be located so as to obstruct waterward view from these public uses.
- d. Permitted Accessory Uses:
 - i. Boat and motor sales
 - ii. Boat repair and service, including dry docks, boat yards and similar activities
 - iii. Boat motor/engine repair and service; provided, that commercial boat motor/engine repair involving complete engine overhaul or rebuilding shall take place within a building or be screened from public view.
 - iv. Pumping facilities to remove effluent from boat holding tanks
 - v. Dry land boat storage; provided, however, that stacked storage shall not be permitted to exceed the maximum permitted height in the Urban Mixed Use I shoreline environment.
 - vi. Meeting and special event rooms.
 - vii. Gas and oil sales for boats, if;
 - A. All storage tanks are underground and located upland of the ordinary high water mark; and
 - B. The use has facilities to contain and clean up gas and oil spills.
 - C. Gas and oil sales may be conducted with an Overwater shed that is not more than 150 square feet in area and 15 feet in height as measured from the top of the deck.
 - viii. Waste oil storage tanks not to exceed 500 gallons may be located above ground. Hazardous waste may be stored temporarily above ground in not more than nine 55-gallon drums. Such drums shall have secondary containment. Waste oil and hazardous storage tanks for the temporary storage of wastes and hazardous substances which exceed these standards, shall be placed underground. No tank

of any kind intended for the permanent storage of waste or hazardous substances shall be permitted.

3. Urban Mixed Use II

- a. Private, shared, public and commercial moorage structures are permitted subject to the policies and regulations of this Master Program.
- b. Aircraft moorage, except that aircraft may be temporarily moored (not to exceed 36 hours) in the event of severe weather conditions.
- c. Moorage structures and facilities located may not be located waterward of public parks, public beaches, or public facilities, nor may they be located so as to obstruct waterward view from these public uses.
- d. Permitted Accessory Uses:
 - i. Boat and motor sales
 - ii. Boat repair and service, including dry docks, boat yards and similar activities
 - iii. Boat motor/engine repair and service; provided, that commercial boat motor/engine repair involving complete engine overhaul or rebuilding shall take place within a building or be screened from public view.
 - iv. Pumping facilities to remove effluent from boat holding tanks
 - v. Dry land boat storage; provided, however, that stacked storage shall not be permitted to exceed the maximum permitted height in the Urban Mixed Use I shoreline environment.
 - vi. Meeting and special event rooms.
 - vii. Gas and oil sales for boats, if;
 - A. All storage tanks are underground and located upland of the ordinary high water mark; and
 - B. The use has facilities to contain and clean up gas and oil spills.
 - C. Gas and oil sales may be conducted with an Overwater shed that is not more than 150 square feet in area and 15 feet in height as measured from the top of the deck.
 - viii. Waste oil storage tanks not to exceed 500 gallons may be located above ground. Hazardous waste may be stored temporarily above ground in not more than nine

55-gallon drums. Such drums shall have secondary containment. Waste oil and hazardous storage tanks for the temporary storage of wastes and hazardous substances which exceed these standards, shall be placed underground. No tank of any kind intended for permanent storage of waste or hazardous substances shall be permitted.

4. Urban Mixed Use III: Moorage structures are prohibited.
5. Urban Mixed Use IV: Moorage structures are prohibited.
6. Shoreline Residential I: Moorage structures are prohibited.
7. Shoreline Residential II: Moorage structures are prohibited.
8. Shoreline Residential III
 - a. Moorage structures and facilities may only be permitted and used accessory to detached dwelling units on waterfront lots. Use of the moorage structure and facilities is limited to the residents and guests of the waterfront lots to which the moorage is accessory. Moorage space may not be leased, rented, sold, or otherwise made available to other than the residents and guests of the waterfront lots to which the moorage is accessory.
 - b. Accessory uses are not permitted in conjunction with moorage structure.
 - c. Residential Moorage Structure Development Standards:
 - i. Height. The height of a residential dock or pier shall not exceed five feet above the ordinary high water mark. The height of attendant pilings shall not exceed five feet above the ordinary high water mark or that height necessary to provide for temporary emergency protection of floating docks as determined in accord with generally accepted engineering practices.
 - ii. Length. The length of any residential dock or pier shall not exceed the lesser of 35 feet or the average length of existing docks or piers within 300 feet of the subject dock or pier.
 - iii. Width. The width of any residential dock or pier shall not exceed 25 percent of the lot width when measured parallel to the shoreline. A joint use dock located at the property line with another lot which shares the joint use dock may not exceed 25% the total of both lots.
 - iv. Setbacks. All residential docks or piers shall observe a minimum 10-foot side yard setback from a property line or a storm drainage outfall. Joint use docks or piers may be located on the side property line; provided, that the abutting waterfront property owners shall file a joint use maintenance agreement with the

Snohomish County auditor in conjunction with, and as a condition of, the issuance of a building permit. Joint use docks or piers shall observe all other regulations of this subsection. If such joint maintenance agreement is terminated, the dock or pier shall be brought into compliance with the bulk and set back provisions of this Master Program.

- v. Number. No lot shall have more than one dock or pier or portion thereof located on the lot.
- vi. Size. No residential dock or pier shall exceed 400 square feet.
- vii. Floats. Offshore recreational floats are prohibited.
- viii. Covered Buildings. No covered building shall be allowed on any residential dock or pier.

9. Aquatic I

- a. Private, shared, and public moorage structures are permitted subject to the policies and regulations of this Master Program.
- b. If the subject property provides moorage for not more than two boats, the following setbacks apply:
 - i. No moorage structure on private property may be within 25 feet of a public park.
 - ii. No moorage structure may be within 25 feet of another moorage structure not on the subject property.
 - iii. The side property line setback is 10 feet for moorage structures, provided that joint or shared moorage facilities may be located within the setback from the lot with whom the facility is shared.
- c. If the subject property provides moorage for more than two boats, the following setbacks apply:
 - i. No moorage structure on private property may be within 100 feet of a public park.
 - ii. No moorage structure may be within 25 feet of another moorage structure not on the subject property.
 - iii. The side property line setback is 10 feet.

10. Aquatic II

- a. Private, shared, public and commercial moorage structures are permitted subject to the policies and regulations of this Master Program.
- b. No moorage structure on private property may be within 100 feet of a public park.
- c. No moorage structure may be within 25 feet of another moorage structure not on the subject property.
- d. The side property line setback is 10 feet.

11. Conservancy

- a. Moorage structures and facilities may only be permitted and used accessory to detached dwelling units on waterfront lots. Use of the moorage structure and facilities is limited to the residents and guests of the waterfront lots to which the moorage is accessory. Moorage space may not be leased, rented, sold, or otherwise made available to other than the residents and guests of the waterfront lots to which the moorage is accessory.
- b. Moorage structures and facilities may not provide moorage for more than two boats; provided, however, that waterfront lots are encourage to develop joint or shared moorage facilities. If this occurs, the joint or shared moorage facility may contain up to two moorages for each waterfront lot participating in the joint or shared moorage facility.
- c. Accessory uses are not permitted in conjunction with moorage structure.
- d. If the subject property provides moorage for not more than two boats, the following setbacks apply:
 - i. No moorage structure on private property may be within 25 feet of a public park.
 - ii. No moorage structure may be within 25 feet of another moorage structure not on the subject property.
 - iii. The side property line setback is 10 feet.
- e. If the subject property provides moorage for more than two boats, the following setbacks apply:
 - i. No moorage structure on private property may be within 100 feet of a public park.
 - ii. No moorage structure may be with 25 feet of another moorage structure not on the subject property.

- iii. The side property line setback is 10 feet for moorage structures, provided that joint or shared moorage facilities may be located within the setback from the lot with whom the facility is shared.

12. Natural. Moorage structures are prohibited.

24.50.040 Landfill

A. Applicability.

1. Landfill is the creation of or addition to the surface of the land by the filling, placement or depositing of sand, soil, or gravel, or other material on land covered by water, or in a wetland, march, bog, swamp, or similar water detention area. Landfill is normally done for and, in this Master Program, must be associated with a specific purpose or use such as the development of a commercial site, construction of roadways or a jetty.
2. When backfill of bulkhead involves over one cubic yard per lineal foot, such bulkheads shall be evaluated under both this section and ECDC 24.50.020, Shoreline stabilization.

B. Fill Policies

1. Landfill should only be permitted to the minimum extent necessary to accommodate an approved shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes. Enhancement and voluntary restoration of landforms and habitat are encouraged.
2. Allow landfills waterward of the ordinary high water mark, in those limited circumstances where permitted, only when necessary to facilitate water-dependent uses or ecological restoration projects that are consistent with this program and the City of Edmonds Comprehensive Plans. Where feasible, public access to the shoreline and the water should be incorporated into the design.

C. Landfill Regulations

1. Landfill water ward of the ordinary high water mark may be permitted as a conditional use in limited instances for the following purposes only, with due consideration given to specific site conditions, and only in conjunction with approved shoreline use and development activities that are consistent with this program:
 - a. Water-dependent use permitted under this Master Program.
 - b. To create public use or public recreation areas.
 - c. Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan.

- d. Disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the Department of Natural Resources.
 - e. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible.
 - f. Mitigation action, environmental restoration, beach nourishment or enhancement projects.
2. Landfills shall be permitted only where it is demonstrated that:
- a. The project has been located, designed, and constructed in a manner that minimizes impacts to ecological processes and functions and where impacts cannot be avoided, mitigation is provided to achieve no net loss.
 - b. The fill will not result in erosion of the shoreline or undermine stability of neighboring properties.
 - c. The fill is the minimum necessary to reasonably accomplish the purpose for the fill under subsection C.1 of this section.
 - d. Where existing public access will be reduced, equivalent public access has been provided on or off site as part of the project.
 - e. Fill material consists only of soil, sand, rock, or gravel. The fill material must not contain organic or inorganic materials that would be detrimental to water quality or existing habitats.
 - f. Placement of landfill will be timed so as to minimize damage to water quality and aquatic life.
3. The applicant must stabilize exposed fill areas with vegetation.
4. Landfills, beach nourishment and excavation shall be designed to blend physically and visually with existing topography whenever possible, so as not to interfere with long term appropriate use including lawful access and enjoyment of scenery.
5. A temporary erosion and sediment control (TESC) plan shall be provided for all proposed landfill and excavation activities.
6. The fill shall be designed and supervised by a civil engineer or similarly qualified professional. The professional shall certify that the fill meets the following requirements:

- a. The fill is designed and executed to minimize adverse impacts on neighboring properties and the environment, and is fully integrated into an otherwise approved facility.
- b. The fill is designed and executed to provide permanent structural integrity for the fill and surrounding areas.

D. Applications for landfill projects shall include the following information:

1. Proposed use of the landfill area.
2. Analysis of the physical, chemical, and biological characteristics of the fill material demonstrating that the fill is of such quality that significant water quality, ecological impacts, and public health problems would not occur from its placement.
3. Fill must meet all state standards. Assessment of water quality impacts shall be included as an attachment.
4. Source of the landfill material.
5. Location of the landfill relating to natural or existing drainage patterns.
6. Location of the perimeter of the landfill relating to the ordinary high water mark and critical areas. The applicant should consult with the Department of Ecology in determining the location of the ordinary high water mark. For development proposals at or water ward of the ordinary high water mark, an OHWM field determination by a qualified professional shall be provided with the application. The field determination shall be consistent with guidance development by the Department of Ecology and is subject to verification by the city of Edmonds and the Department of Ecology.
7. Perimeter erosion control or stabilization means, and schedule for implementation.
8. Type of surfacing and run-off control and treatment devices.

E. Shoreline Area Regulations

1. Urban Railroad: Landfill may be allowed as a conditional use subject to the policies and regulations of this Program.
2. Urban Mixed Use I: Landfill is permitted subject to the policies and regulations of this program.
3. Urban Mixed Use II: Landfill is permitted subject to the policies and regulations of this program.

4. Urban Mixed Use III: Landfill is permitted subject to the policies and regulations of this program.
5. Urban Mixed Use IV: Landfill is permitted subject to the policies and regulations of this program.
6. Shoreline Residential I: Landfill is permitted subject to the policies and regulations of this program.
7. Shoreline Residential II: Landfill is permitted subject to the policies and regulations of this program.
8. Shoreline Residential III: Landfill is permitted subject to the policies and regulations of this program.
9. Aquatic I: Landfill may be allowed as a conditional use subject to the policies and regulations of this Program.
10. Aquatic II: Landfill may be allowed as a conditional use subject to the policies and regulations of this Program.
11. Conservancy: Landfill may be allowed as a conditional use subject to the policies and regulations of this Program.
12. Natural: Landfill may be allowed as a conditional use when necessary to protect or restore shoreline ecological functions subject to policies and regulations of this program.

24.50.050 Breakwaters, jetties, groins, and weirs

A. Applicability:

A breakwater is a protective structure usually built offshore to protect harbor areas, moorage, navigation or beaches from wave action. A jetty, groin or weir is a structure usually built singly or in pairs perpendicular to the shore to prevent shoaling or accretion of sediment drift. Projects the requiring fill must also meet the requirements of ECDC 24.50.040, Landfill.

B. Breakwaters, Jetties, Groins, and Weirs Policies

1. Breakwaters, jetties, groins, and weirs located waterward of the ordinary high water mark shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.
2. Open pile or floating breakwater designs are preferred.

3. Solid rock or fill-based weirs, groins and jetties should not be constructed unless it can be demonstrated that they are part of a larger system that will reduce the need for overall shoreline modification and that they are intended to prevent damage to existing structures. They should not be proposed to protect new structures.

C. Breakwaters, Jetties, Groins, and Weirs Regulations

1. Breakwaters, Jetties, Groins and Weirs may be allowed provided that:
 - a. Jetties and breakwaters are permitted where they are an integral component of a professionally designed harbor, marina, or port. Where permitted, floating portable or submerged breakwater structures, or small discontinuous structures are preferred where physical conditions make such alternatives with less impact feasible.
 - b. Groins are permitted as a component of a professionally designed community or public beach management program that encompasses an entire drift sector or reach for which alternatives are infeasible. Or where installed to protect or restore shoreline ecological functions.
 - c. The breakwater is essential to the safe operation of a moorage facility.
 - d. The city determines that the location, size, design and accessory components of the moorage facility to be protected by the breakwater provide a public benefit and are within the public interest.
 - e. The breakwater, jetty, groin, or weir is designed to protect critical areas and where impacts are unavoidable, mitigation will be provided to ensure no net loss of ecological functions and processes.
2. Public Access:
 - a. Where appropriate projects shall be required to maintain, replace or enhance existing public access opportunities by incorporating physical or visual access areas and/or facilities into the design of the project.
 - b. Publicly financed or subsidized projects shall not restrict appropriate public access to the shoreline and shall provide new public access except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to shoreline ecological functions.
3. All breakwaters, jetties, groins, or weirs must be designed and constructed under the supervision of a civil engineer or similarly qualified professional. As part of the application, the engineer or other professional designing the project must certify that:
 - a. The project is designed to meet the requirements of this Program and accomplish the purpose of the project using the best available science.

- b. The project is designed to be the minimum necessary to accommodate the proposed purpose.
- c. The project is designed to have the minimum feasible adverse impacts upon the environment, nearby waterfront properties, and navigation.
- d. Any unavoidable impacts have been mitigated to ensure no net loss of ecological functions and processes.

D. Breakwaters, Jetties, Groins, and Weirs – Shoreline Area Regulations.

- 1. Urban Railroad: Breakwaters, jetties, groins, and weirs are permitted subject to the policies and regulations of this Program.
- 2. Urban Mixed Use I: Breakwaters, jetties, groins, and weirs are permitted subject to the policies and regulations of this Program.
- 3. Urban Mixed Use II: Breakwaters, jetties, groins, and weirs are permitted subject to the policies and regulations of this Program.
- 4. Urban Mixed Use III: Breakwaters, jetties, groins, and weirs are prohibited.
- 5. Urban Mixed Use IV: Breakwaters, jetties, groins, and weirs are permitted subject to the policies and regulations of this Program.
- 6. Shoreline Residential I: Breakwaters, jetties, groins, and weirs are prohibited.
- 7. Shoreline Residential II: Breakwaters, jetties, groins, and weirs are prohibited.
- 8. Shoreline Residential III:
 - a. Bulkheads are permitted subject to the policies and regulations of this Program.
 - b. Jetties, groins, and weirs are prohibited.
- 9. Aquatic I: Breakwaters, jetties, groins, and weirs may be permitted as a conditional use subject to the policies and regulations of this Program.
- 10. Aquatic II: Breakwaters, jetties, groins, and weirs may be permitted as a conditional use subject to the policies and regulations of this Program.
- 11. Conservancy:
 - a. Breakwaters and jetties may be permitted as a conditional use if accessory to a water-dependent use and littoral sediment transport is not significantly disrupted.

- b. Groins may be permitted as a conditional use when necessary to protect or restore shoreline ecological functions subject to policies and regulations of this program.

12. Natural: Breakwaters, jetties, groins, and weirs may be permitted as a conditional use when necessary to protect or restore shoreline ecological functions subject to policies and regulations of this program.

24.50.060 Dredging and dredge material disposal

A. Applicability.

Dredging is the removal or displacement of earth such as gravel, sand, mud, or silt from lands covered by water. Lands covered by water include tidelands, marinas, and wetlands. Dredging is normally done for, and in this Master Program must be associated with, a specific purpose or use such as maintaining navigation channels, developing/expanding marinas, constructing bridge footings, laying submarine cable and in some cases aquaculture (See Aquaculture Section ECDC 24.60.010).

Dredging to restore preexisting contours within a designated and authorized navigation channel, marina or basin is considered normal maintenance and is exempt from the requirement for a substantial development permit. Dredging is only maintenance where there is a designated and authorized facility such as a marina, federal navigation channel or berth authorized by permit. If an operation expands an existing the channel or basin, a permit is required even if the marina or similar project has been operation for years.

Dredge spoil is the material removed by dredging. Dredge spoil disposal is the depositing of dredge materials on land or into water bodies for the purpose of either creating new or additional lands or for disposing of the dredge material (See also, Landfill Section, ECDC 24.50.040).

B. Dredging and dredge material policies

1. Site and design new development to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
2. Dredging waterward of the ordinary high water mark for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of ecological functions.
3. Dredging should be permitted for water-dependent uses of economic importance to the region and/or essential public facilities only when necessary and when alternatives are infeasible or less consistent with this Program.

4. Plan and conduct dredge and dredge disposal operations in a manner that avoids or minimizes interference with navigation and significant ecological impacts. Impacts which cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.
5. Minor dredging for fill materials as part of ecological restoration or enhancement, beach nourishment, public access or public recreation should be permitted if consistent with this Program.

C. Dredging and dredge material regulations

1. Dredging shall only be permitted for the following activities:
 - a. Development of approved wet moorages, harbors, ports and water-dependent industries of economic importance to the region only when there are no feasible alternatives.
 - b. Maintenance dredging for the purpose of restoring a lawfully established development.
 - c. Establishing, expanding, relocating or reconfiguring navigation channels where necessary to assure safe and efficient accommodation of existing navigational uses. Maintenance dredging of established navigation channels and basins shall be restricted to maintaining previously dredge and/or existing authorized location, depth, and width.
 - d. To remove silt or sediment deposited because of severe and unusual erosion or resulting from the existence of a bulkhead on nearby property.
 - e. To provide sufficient draft for boat moorage.
 - f. Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat.
 - g. Dredging waterward of the ordinary high water mark for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high water mark. The project must be either associated with a MRCA or CERCLA habitat restoration project or, if approved through a shoreline conditional use permit, any other significant habitat enhancement project.
2. The existing physical alignment and ecological function and processes shall be maintained, except to improve hydraulic function, water quality, fish or wildlife habitat, or fish passage.

3. New development shall be sited and designed avoid or, if that is not possible, to minimize the need for new and/or maintenance dredging.
4. Dredge Spoils.
 - a. Dredge spoil disposal in open waters may be approved only in accordance with the Puget Sound Dredged Disposal Analysis (PSDDA) evaluation procedures for managing in-water disposal of dredge material; when approved by applicable agencies, which may include the U.S. Army Corps of Engineers pursuant to section 109 Rivers and harbors Act and Section 404 (Clean Water Act) permits, and Washington State Department of fish and Wildlife hydraulic Project approval (HPA); and when found to meet the following conditions.
 - i. Land disposal is infeasible, less consistent with this Program, or prohibited by law.
 - ii. Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible.
 - iii. Offshore habitat will be protected, restored, or enhanced.
 - iv. Adverse effects on water quality or biologic resources from contaminated materials will be mitigated.
 - v. Shifting and dispersal of spoil will be minimal.
 - vi. Water quality will not be adversely affected.
 - b. Dredging spoils may be used as fill or landscape material for a development in the shoreline areas that is otherwise approved by the city under this Program (ECDC 24.50.040).
 - c. The city may permit dredging spoils to be temporarily deposited in the shoreline area for transfer and removal to an approved disposal site. The dredging spoils may not be stored in the shoreline area longer than is reasonably necessary and must be stored in a manner that will protect the environment and neighboring properties from undesirable effect and adverse impacts.
 - d. Dredge spoil disposal is prohibited on marine shorelines between the line of extreme low tide and the ordinary high water mark, and on Lake Ballinger shorelines or beds; except that, dredge spoil may be used in approved projects for the restoration or enhancement of shoreline ecological functions and processes, such as beach nourishment.
 - e. The City may impose reasonable limitation on dredge disposal operating periods and hours and may require provision for buffer strips at land disposal sites.

5. Proposals for dredging and dredge spoil disposal, when permitted, shall:

- a. Be kept to the minimum necessary to accommodate the proposed use.
- b. Include all feasible mitigating measures to protect habitats and to minimize adverse impacts such as turbidity, release of nutrients, heavy metals, sulfides, organic materials, or toxic substances, depletion of oxygen, disruption of food chains, loss of benthic productivity, and disturbance of fish runs and important localized biological communities.
- c. Be scheduled so as to not materially interfere with the migratory movements of anadromous fish.
- d. Utilize techniques that cause minimum dispersal and broadcast of bottom material.
- e. Not interfere with geohydraulic processes.
- f. Be found, through analysis by qualified professional, to be nonpolluting or shall have no significant negative pollution impact.
- g. Meet all requirements of applicable regulatory agencies.
- h. Not result in erosion of the shoreline or undermine the stability of neighboring properties.

D. Dredging and Dredge Material Application. Applications for shoreline dredging and dredge spoil disposal shall provide, at a minimum, the following information:

- 1. A description of the purpose of the proposed dredging and an analysis of compliance with the policies and regulations of this Program.
- 2. A detailed description of the existing physical character, shoreline geomorphology and biological resources provided by the area proposed to be dredged, including:
 - a. A site plan map outlining the perimeter of the proposed dredge area. The map must also include the existing bathymetry depths based on Mean Lower Low Water (MLLW) and have data points at a minimum of 2-foot depth increments.
 - b. A habitat survey must be conducted and WDFW must be contacted to ensure the survey is conducted according to the most recent WDFW eelgrass/macroalgae survey guidelines.
 - c. Information on stability of bedlands adjacent to proposed dredging and spoils disposal areas.

3. A detailed description of the physical, chemical and biological characteristics of the dredge spoils to be removed, including:
 - a. Physical analysis of material to be dredged: material composition and amount, grain size, organic materials present, source of material, etc.
 - b. Chemical analysis of material to be dredged: volatile solids, chemical oxygen demand (COD), grease and oil content, mercury, lead and zinc content, etc.
 - c. Biological analysis of material to be dredged.
4. A description of the method of materials removal, including facilities for settlement and movement.
 - a. Dredging procedure: length of time it will take to complete dredging, method of dredging and amount of materials removed.
 - b. Frequency and quantity of project maintenance dredging.
5. Detailed plans for dredge spoil disposal, including specific land disposal sites and relevant information on the disposal site, including but not limited to:
 - a. Spoils disposal area:
 - i. Physical characteristics including location, topography, existing drainage patterns, surface and ground water;
 - ii. Size and capacity of disposal site;
 - iii. Means of transportation to the disposal site;
 - iv. Proposed dewatering and stabilization of spoils;
 - v. Methods of controlling erosion and sedimentation; and
 - vi. Future use of the site and conformance with land use policies and regulations.
 - b. Total initial spoils volume.
 - c. Plan for disposal of maintenance spoils.
6. Hydraulic modeling studies sufficient to identify existing geo-hydraulic patterns and probable effects of dredging.

E. Dredging and dredge material disposal – Shoreline Area Regulations

1. Urban Railroad: Dredging may be permitted as a conditional use subject to policies and regulations of this Program.
2. Urban Mixed Use I: Dredging may be permitted as a conditional use subject to policies and regulations of this Program.
3. Urban Mixed Use II: Dredging may be permitted as a conditional use subject to policies and regulations of this Program.
4. Urban Mixed Use III: Dredging is prohibited except that dredging is permitted as an essential element of an approved shore restoration or enhancement plan, subject to the policies and regulations of this Program.
5. Urban Mixed Use IV: Dredging is prohibited except that dredging is permitted as an essential element of an approved shore restoration or enhancement plan, subject to the policies and regulations of this Program.
6. Shoreline Residential I: Dredging is prohibited except that dredging is permitted as an essential element of an approved shore restoration or enhancement plan, subject to the policies and regulations of this Program.
7. Shoreline Residential II: Dredging is prohibited except that dredging is permitted as an essential element of an approved shore restoration or enhancement plan, subject to the policies and regulations of this Program.
8. Shoreline Residential III: Dredging may be permitted as a conditional use subject to policies and regulations of this Program.
9. Aquatic I: Dredging may be permitted as a conditional use subject to policies and regulations of this Program. Maintenance dredging pursuant to ECDC 24.50.060.C.1.b and .c is permitted subject to the policies and regulations of this Program without a conditional use permit provided the original constructed bottom contours have been established and documented in a prior shoreline permit authorization.
10. Aquatic II: Dredging may be permitted as a conditional use subject to policies and regulations of this Program. Maintenance dredging pursuant to ECDC 24.50.060.C.1.b and .c is permitted subject to the policies and regulations of this Program without a conditional use permit provided the original constructed bottom contours have been established and documented in a prior shoreline permit authorization.
11. Conservancy: Dredging may be permitted as a conditional use subject to the policies and regulations of this Program.
12. Natural: Dredging is prohibited except that dredging is permitted as an essential element of an approved shore restoration or enhancement plan, subject to the policies and regulations of this Program.

24.50.070 Shoreline habitat and natural systems restoration and enhancement projects

- A. Applicability. Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines.
- B. Shoreline Habitat and Natural Systems Restoration and Enhancement Projects Policies
1. This program recognizes the importance of the restoration of shoreline ecological functions and processes and encourages cooperative restoration efforts and programs between local, state and federal agencies, tribes, non-profit organizations, and landowners to address shorelines with impaired ecological functions and/or processes.
 2. Restoration and enhancement actions should restore shoreline ecological functions and processes as well as shoreline features and should be targeted towards meeting the needs of sensitive and/or locally important plant, fish and wildlife species.
 3. Priority should be given to restoration and enhancement actions that:
 - a. Create dynamic and sustainable ecosystems.
 - b. Improve water quality.
 - c. Restore native vegetation and natural hydrologic functions of degraded and former wetlands.
 - d. Restore nearshore ecosystems processes, such as sediment transport and delivery and tidal currents that create and sustain habitat.
 - e. Restore freshwater, nearshore, and estuarine habitat and habitat-forming processes.
 - f. Mitigate erosive and associated impacts caused by stormwater runoff.
 - g. Protect and restore wildlife corridors.
 - h. Protect and restore native species of vegetation, fish, and wildlife.
- C. Shoreline Habitat and Natural Systems Restoration and Enhancement Projects Regulations.
- Restoration shall be carried out in accordance with the approved shoreline restoration plan and in accordance with the policies and regulation of this Program.
- D. Shoreline Habitat and Natural Systems Restoration and Enhancement Projects – Shoreline Area Regulations

1. Urban Railroad: Restoration activities are permitted subject to policies and regulations of this Program.
2. Urban Mixed Use I: Restoration activities are permitted subject to policies and regulations of this Program.
3. Urban Mixed Use II: Restoration activities are permitted subject to policies and regulations of this Program.
4. Urban Mixed Use III: Restoration activities are permitted subject to policies and regulations of this Program.
5. Urban Mixed Use IV: Restoration activities are permitted subject to policies and regulations of this Program.
6. Shoreline Residential I: Restoration activities are permitted subject to policies and regulations of this Program.
7. Shoreline Residential II: Restoration activities are permitted subject to policies and regulations of this Program.
8. Shoreline Residential III: Restoration activities are permitted subject to policies and regulations of this Program.
9. Aquatic I: Restoration activities are permitted subject to policies and regulations of this Program.
10. Aquatic II: Restoration activities are permitted subject to policies and regulations of this Program.
11. Conservancy: Restoration activities are permitted subject to policies and regulations of this Program.
12. Natural: Restoration activities are permitted subject to policies and regulations of this Program.

Part VI Specific Use Policies & Regulations

24.60.000 Applicability

Shoreline use and development shall be classified by the Administrator and regulated under one or more of the following applicable sections of this Chapter. Unless otherwise stated, all use and

development shall also comply with all of the General Policy and Regulations in Part IV of this Program and all of the Specific Modification Policies and Regulations in Part V of this Program.

24.60.010 Aquaculture

A. Applicability

Aquaculture is the farming or culture of food fish, shellfish, or other aquatic plants or animals any may require development such as fish hatcheries, rearing pens and structures, and shellfish rafts, as well as use of natural spawning and rearing areas. Aquaculture does not include the harvest of free-swimming fish or the harvest of shellfish not artificially planted or maintained.

B. Aquaculture Policies

1. Aquaculture is a water-dependent use and, when consistent with control of pollution and avoidance of adverse impacts to the environment and preservation of habitat for resident native species, is a preferred use of the shoreline.
2. Potential locations for aquaculture activities are relatively restricted because of specific requirements related to water quality, temperature, oxygen content, currents, adjacent land use, wind protection, commercial navigation, and salinity. The technology associated with some forms of aquaculture is still experimental and in formative states. Therefore, some latitude should be given when implementing the regulations of this section, provided that potential impacts on existing uses and shoreline ecological functions and processes should be given due consideration.
3. Preference should be given to those forms of aquaculture that involve lesser environmental and visual impacts and lesser impacts to native plant and animal species. In general, projects that require no structures, submerged structures or intertidal structures are preferred over those that involve substantial floating structures. Projects the involve little or no substrate modification are preferred over those that involve substantial modification. Projects that involve little or no supplemental food sources, pesticides, herbicides or antibiotic application are preferred over those that involve such practices.
4. Aquaculture activities should be designed, located and operated in a manner that supports long term beneficial use of the shoreline and protects and maintains shoreline ecological functions and processes.
5. Aquaculture should not be permitted where it would resulting a net loss of shoreline ecological functions; adversely affect the quality or extent of habitat of native species including eelgrass, kelp, and other macroalgae; adversely impact other habitat conservation areas; or interfere with navigation or other water-dependent uses.

6. Aquaculture facilities should be designed and located so as not to spread disease to native aquatic life, establish new nonnative species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.
7. The City should actively seek substantive comment on any shoreline permit application for aquaculture from all appropriate Federal, State, and local agencies; affected tribes; and the general public regarding potential adverse impacts. Comments of nearby residents or property owners directly affected by a proposal should be considered and evaluated, especially in regard to use compatibility and aesthetics.

C. Aquaculture Regulations

1. Aquaculture that involves little or no substrate modification shall be given preference over those that involve substantial modification. The application/proponent shall demonstrate that the degree of proposed substrate modification is the minimum necessary for feasible aquaculture operations at the site.
2. The installation of submerged structures, intertidal structures, and floating structures shall be allowed only when the applicant/proponent demonstrates that no alternative method of operation is feasible.
3. Aquaculture proposals that involve substantial substrate modification or sedimentation through dredging, trenching, digging, mechanical harvesting, or other similar mechanisms, shall not be permitted in areas where the proposal would adversely impact existing kelp beds or other macroalgae, eelgrass beds or habitat conservation areas.
4. Aquaculture activities, which would have a significant adverse impact on natural dynamic shoreline processes or which would result in a net loss of shoreline ecological functions, shall be prohibited.
5. Aquaculture practices shall be designed to minimize use of artificial substances and shall use chemical compounds that are least persistent and have the least impact on plants and animals.
6. If uncertainty exists regarding potential impacts of a proposed aquaculture activity, and for all experimental aquaculture activities, baseline and periodic operational monitoring by a City-approved consultant (unless otherwise provided for) may be required, at the applicant's/proponent's expense, and shall continue until adequate information is available to determine the success of the project and/or the magnitude of any probable significant adverse environmental impacts. Permits for such activities shall include specific performance measures and provisions for adjustment or termination of the project at any time if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.
7. New aquatic species that have not previously been cultivated in Washington State shall not be introduced into City of Edmonds waters without prior written approval of the

Director of the Washington State Department of Fish and Wildlife and the Director of the Washington Department of Health.

8. For aquaculture projects using over-water structures, storage of necessary tools and apparatus waterward of the ordinary high water mark shall be limited to containers of not more than 3 feet in height, as measured from the surface of the raft or dock.
9. No processing of any aquaculture product, except for the sorting or culling of the cultured organism and the washing or removal of surface materials or organisms after harvest, shall occur in or over the water unless specifically approved by permit. All other processing and processing facilities shall be located on land and shall be subject to the policies and regulations of this Master Program.
10. Aquaculture wastes shall be disposed of in a manner that will ensure strict compliance with all applicable governmental waste disposal standards, including but not limited to the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (RCW 90.480). No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation.
11. Predator control shall not involve the killing or harassment of birds or mammals. Approved controls include, but are not limited to, double netting for seals, overhead netting for birds, and 3-foot high fencing or netting for otters. The use of other non-lethal, non-abusive predator control measures shall be contingent upon receipt of written approval from the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service, as required.
12. All floating and submerged aquaculture structures and facilities in navigable waters shall be marked in accordance with U.S. Coast Guard requirements.

D. Aquaculture Application Requirements

1. Applications for aquaculture use or development shall include in their applications all information necessary to conduct a thorough evaluation of the proposed aquaculture activity, including but not limited to the following:
 - a. A site plan map including:
 - i. The perimeter of the proposed aquaculture operations area.
 - ii. Existing bathymetry depths based on Mean Lower Low Water (MLLW datum).
 - iii. Adjacent upland use, vegetation, presence of structures, docks, bulkheads and other modifications. If there are shore stabilization structures, provide the beach elevation at the toe of the structure and the top of the structure (MLLW datum).

- iv. Areas where specific substrate modification will take place or structures will be constructed or installed.
 - v. Access provisions for barges or track equipment.
 - vi. Location of storage or processing structures or facilities.
- b. A baseline description of existing conditions, including best available information on;
- i. Water quality.
 - ii. Tidal variations.
 - iii. Prevailing storm wind conditions.
 - iv. Current flows.
 - v. Flushing rates.
 - vi. Littoral drift.
 - vii. Areas of differing substrate composition.
 - viii. Areas of aquatic, intertidal, and upland vegetation complexes.
 - ix. Existing shoreline or water uses and structures.
 - x. Aquatic and benthic organisms.
 - xi. A vegetation habitat survey must be conducted. The WDFW must be contacted prior to the survey to ensure it is conducted according to the most current WDFW eelgrass/macroalgae survey guidelines.
 - xii. Further baseline studies including surveys and sampling may be required depending upon the adequacy of available information, existing conditions, and the nature of the proposal.
- c. A detailed description of the project proposal including:
- i. Species to be reared.
 - ii. Substrate modification or vegetation removal.
 - iii. Planting, harvest and processing location, method and timing, including work proposal and construction techniques proposed, type of work, frequency, and duration.

- d. Anticipated use of any feed, pesticides, herbicides, antibiotics, vaccines, growth stimulants, antifouling agents, or other chemicals, and an assessment of predicted impacts. No such materials shall be used until approval is obtained from all appropriate State and Federal agencies, including but not limited to the U.S. Food and Drug Administration, and the Washington State Departments of Ecology, Fish and Wildlife, and Agriculture, as required, and proof thereof is submitted to the City. Compounds with the least persistence shall be used.
 - e. Number of employees/workers necessary for the project, including average and peak employment.
 - f. Methods of waste disposal and predator control.
 - g. Methods to address pollutant loading, including biological oxygen demand (BOD).
 - h. Assessment of potential impacts on shoreline ecological functions and processes addressing the baseline conditions identified, including but not limited to indirect cumulative effects.
 - i. For floating culture facilities or other structures, the City may require a visual impact analysis. Depending on the size and complexity of the proposal, such analysis may be prepared by the applicant/proponent, without professional assistance, provided that it includes an adequate assessment of impacts.
 - j. Information demonstrating that the site has natural potential for the type(s) of aquaculture proposed, due to necessary substrate or other conditions, as well as water quality suitable for the type(s) of aquaculture proposed.
 - k. Information demonstrating that the proposed aquaculture activities will not result in a net loss of shoreline ecological functions or processes or adversely affect habitat conservation areas.
 - l. Information demonstrating that the proposed aquaculture activities will not substantially and materially conflict with areas devoted to established uses of the aquatic environment. Such uses include but are not limited to navigation, moorage, sport or commercial fishing, log rafting, underwater utilities, and scientific research. Existing public opportunities for gather wild stock aquatic resources on public lands shall be address in any application for aquaculture on public tidelands or bedlands. Compensation for loss of public access to public aquatic resources may be required.
2. Application for aquaculture activities must demonstrate that the proposed activity will be compatible with surrounding existing and planned uses.

- a. Aquaculture activities shall comply with all applicable noise, air, and water quality standards. All projects shall be designed, operated and maintained to minimize odor and noise.
- b. Aquaculture activities shall be restricted to reasonable hours and/or days of operation when necessary to minimize substantial, adverse impact from noise, light, and/or glare on nearby residents, other sensitive uses or critical habitat.
- c. Aquaculture facilities shall not introduce incompatible visual elements or substantially degrade the aesthetic qualities of the shoreline. Aquaculture structures and equipment, except navigation aids, shall be designed, operated and maintained to blend into their surroundings through the use of appropriate colors and materials.

E. Aquaculture – Shoreline Area Regulations

- 1. Urban Railroad: Aquaculture is prohibited.
- 2. Urban Mixed Use I: Aquaculture may be permitted as a conditional use subject to policies and regulations of this Program.
- 3. Urban Mixed Use II: Aquaculture may be permitted as a conditional use subject to policies and regulations of this Program.
- 4. Urban Mixed Use III: Aquaculture is prohibited.
- 5. Urban Mixed Use IV: Aquaculture may be permitted as a conditional use subject to policies and regulations of this Program.
- 6. Shoreline Residential I: Aquaculture is prohibited.
- 7. Shoreline Residential II: Aquaculture is prohibited.
- 8. Shoreline Residential III: Aquaculture is prohibited.
- 9. Aquatic I: Aquaculture may be permitted as a conditional use subject to policies and regulations of this Program.
- 10. Aquatic II: Aquaculture may be permitted as a conditional use subject to policies and regulations of this Program.
- 11. Conservancy: Aquaculture may be permitted as a conditional use subject to policies and regulations of this Program.
- 12. Natural: Aquaculture activities that do not require structures, facilities, or mechanized harvest practices, and that will not result in the alteration of natural systems or features may be permitted as a conditional use subject to policies and regulations of this Program.

24.60.020 Boating Facilities

A. Applicability

The section applies to facilities that provide launching, storage, supplies, moorage, and other services for five or more pleasure and/or commercial watercraft. Commercial development, not accessory to the operation of a marina, shall comply with ECDC 24.60.030, Commercial Development. For the purposes of this section, boating facilities excludes docks serving four or fewer single family residences which are subject to the policies and regulations of ECDC 24.50.030, Piers, Docks and Floats.

B. Boating Facilities Policies

1. Boating facilities, including marinas and launch ramps, are water-dependent uses and should be given priority for shoreline location. Boating facilities should contribute to public access and enjoyment of waters of the state.
2. Boating facilities should provide physical and visual public shoreline access and provide for multiple use, including water-related use, to the extent compatible with shoreline ecological functions and processes and adjacent shoreline use.
3. Accessory uses to boating facilities should be limited to water-oriented uses, or uses that provide physical or visual shoreline access for substantial number of the general public.
4. Boating facilities shall be located, designed, constructed and operated in a manner that will minimize damage to shoreline processes and functions. When impacts cannot be avoided, impacts must be mitigated to assure no net loss of ecological function necessary to sustain shoreline resources.
5. Boating facilities should be located, designed and operated so that other appropriate water-dependent uses are not adversely affected.
6. Location and design of boating facilities should not unduly obstruct navigable waters and should avoid adverse effects to recreation opportunities such as fishing, pleasure boating, commercial aquaculture, swimming, beach walking, picnicking and shoreline viewing.
7. Boating facilities should be located, designed, constructed and maintained to avoid adverse proximity impacts such as noise, light and glare; aesthetic impacts to adjacent land uses; impacts to public visual access to the shoreline.

C. Boating Facilities Regulations

1. The following moorage structures are prohibited in the shoreline jurisdiction:

- a. Aircraft moorage, except that aircraft may be temporarily moored (not to exceed 36 hours) in the event of severe weather conditions.
 - b. Covered moorage.
2. Marinas or launch ramps shall not be permitted within the following marine shoreline habitats because of their scarcity, biological productivity and sensitivity unless no alternative location is feasible, the project would not result in a net loss of shoreline ecological functions, and the proposal is otherwise consistent with this Program.
 - a. Marshes, estuaries and other wetlands;
 - b. Tidal pools and rock shores;
 - c. Kelp beds, eelgrass beds, spawning and holding areas for forage fish(such as herring, surf smelt and sand lance);
 - d. Subsistence, commercial and recreational shellfish beds; and
 - e. Other critical saltwater habitats
3. Boating facilities and accessory uses shall be designed so that lawfully existing or planned public shoreline access and/or navigation rights are not unnecessarily blocked, obstructed or made dangerous.
4. The boating facility shall be designed to avoid the need for maintenance dredging.
5. Boat Storage:
 - a. Marinas shall provide dry upland boat storage with a launch mechanism to protect shoreline ecological functions and processes, efficient use shoreline space and minimize consumption of public water surface area unless:
 - i. No suitable upland locations exist for such facilities; or
 - ii. It can be demonstrated that wet moorage would result in fewer impacts to ecological functions and processes; or
 - iii. It can be demonstrated that wet moorage would enhance public use of the shoreline.
 - b. Dry moorage and other storage areas should be located away from the shoreline and be landscaped with native vegetation to provide a visual and noise buffer for adjoining uses.
6. Waste Disposal.

- a. Marinas shall provide pump out, holding, and/or treatment facilities for sewage contained on boats or vessels.
 - b. Discharge of solid waste of sewage into a water body is prohibited. Marinas and boat launch ramps shall provide adequate restroom and sewage disposal facilities in compliance with applicable health regulations.
 - c. Garbage or litter receptacles shall be provided and maintained by the operator at several locations convenient to users.
 - d. Marina operators shall post all BMP's pertaining to handling, disposal and reporting of waste, sewage, fuel, oil or toxic materials where all users may easily read them.
7. Oil Product Handling, Spills, and Wastes. Fail safe facilities and procedures for receiving, storing, dispensing, and disposing of oil or hazardous projects, as well as a spill response plan for oil and other products, shall be required of new marinas and expansion or substantial alteration of existing marinas. Compliance with Federal or State law may fulfill this requirement. Handling of fuels, chemicals or other toxic materials must be in compliance with all applicable Federal and State water quality laws as well as health, safety and engineering requirements. Spill prevention and response, including report requirements, follow applicable Federal and State requirements.
 8. Public Access. Marinas and boat launches shall provide public access for as many water-dependent recreational uses as possible, commensurate with the scale of the proposal. Features for such access could include but are not limited to docks and piers, pedestrian bridges to offshore structures, fishing platforms, artificial pocket beaches, and underwater diving and viewing platforms.
 9. Prohibited substances. No part of a boating facility that may come in contact with the water may be treated with or consist of creosote, oil based paints, toxic chemicals, or other substances that would be harmful to the aquatic environment, unless specifically permitted and authorized by appropriate State and Federal regulatory agencies.
 10. If the boating facility will extend waterward of the inner harbor line or extended mooring on waters of the state is proposed, the applicant must obtain a lease from the Department of Natural Resources prior to proposing this use.
 11. No structure regulated under this section, other than moorage structures, boat gear storage lockers, and sheds associated with gas and oil sales for boats, may be waterward of the ordinary high water mark.

D. Boating Facilities – Shoreline Area Regulations

1. Urban Railroad: Boating facilities are prohibited.

2. Urban Mixed Use I

- a. Boating facilities are permitted subject to the policies and regulations of this Master Program.
- b. Permitted Accessory Uses:
 - i. Boat and motor sales
 - ii. Boat repair and service, including dry docks, boat yards and similar activities
 - iii. Boat motor/engine repair and service; provided, that commercial boat motor/engine repair involving complete engine overhaul or rebuilding shall take place within a building or be screened from public view.
 - iv. Pumping facilities to remove effluent from boat holding tanks
 - v. Dry land boat storage; provided, however, that stacked storage shall not be permitted to exceed the maximum permitted height in the Urban Mixed Use I shoreline environment.
 - vi. Meeting and special event rooms.
 - vii. Gas and oil sales for boats, if;
 - A. All storage tanks are underground and located upland of the ordinary high water mark; and
 - B. The use has facilities to contain and clean up gas and oil spills.
 - C. Gas and oil sales may be conducted with an Overwater shed that is not more than 150 square feet in area and 15 feet in height as measured from the top of the deck.
 - viii. Boat launch ramps that meet the following requirements:
 - A. The ramp is paved with concrete.
 - B. There is sufficient room on the subject property for maneuvering and parking so that traffic impact on the adjacent public right-of-way will not be significant.
 - C. Access to the ramp is not directly from the adjacent public right-of-way.
 - D. The design of the site is specifically approved by the city.

- ix. Waste oil storage tanks not to exceed 500 gallons may be located above ground. Hazardous waste may be stored temporarily above ground in not more than nine 55-gallon drums. Such drums shall have secondary containment. Waste oil and hazardous storage tanks for the temporary storage of waste or hazardous substances which exceed these standards must be placed underground. No tank of any kind intended for the permanent storage of waste or hazardous substances shall be permitted

3. Urban Mixed Use II

- a. Boating facilities are permitted subject to the policies and regulations of this Master Program.
- b. Moorage structures and boating facilities may not be located waterward of public parks, public beaches, or public facilities, nor may they be located so as to obstruct waterward view from these public uses.
- c. Permitted Accessory Uses:
 - i. Boat and motor sales
 - ii. Boat repair and service, including dry docks, boat yards and similar activities
 - iii. Boat motor/engine repair and service; provided, that commercial boat motor/engine repair involving complete engine overhaul or rebuilding shall take place within a building or be screened from public view.
 - iv. Pumping facilities to remove effluent from boat holding tanks
 - v. Meeting and special event rooms.
 - vi. Gas and oil sales for boats, if;
 - 1. All storage tanks are underground and located upland of the ordinary high water mark; and
 - 2. The use has facilities to contain and clean up gas and oil spills.
 - 3. Gas and oil sales may be conducted with an Overwater shed that is not more than 150 square feet in area and 15 feet in height as measured from the top of the deck.
 - vii. Boat launch ramps that meet the following requirements:
 - 1. The ramp is paved with concrete.

2. There is sufficient room on the subject property for maneuvering and parking so that traffic impact on the adjacent public right-of-way will not be significant.
 3. Access to the ramp is not directly from the adjacent public right-of-way.
 4. The design of the site is specifically approved by the city.
- viii. Waste oil storage tanks not to exceed 500 gallons may be located above ground. Hazardous waste may be stored temporarily above ground in not more than nine 55-gallon drums. Such drums shall have secondary containment. Waste oil and hazardous storage tanks for the temporary storage of waste or hazardous substances which exceed these standards must be placed underground. No tank of any kind intended for the permanent storage of waste or hazardous substances shall be permitted.
4. Urban Mixed Use III: Boating facilities are prohibited.
 5. Urban Mixed Use IV: Boating facilities are prohibited.
 6. Shoreline Residential I. Boating facilities are prohibited.
 7. Shoreline Residential II. Boating facilities are prohibited.
 8. Shoreline Residential III
 - a. Boating facilities are permitted subject to the policies and regulations of this Master Program.
 - b. Accessory uses are not permitted in conjunction with moorage structure.
 - c. Moorage structures and boating facilities may only be developed and used accessory to detached dwelling units on waterfront lots. Use of the moorage structure and facilities is limited to the residents and guests of the waterfront lots to which the moorage is accessory. Moorage space may not be leased, rented, sold, or otherwise made available to other than the residents and guests of the waterfront lots to which the moorage is accessory.
 9. Aquatic I
 - a. Boating facilities are permitted subject to the policies and regulations of this Master Program.
 - b. If the subject property provides moorage for not more than two boats, the following setbacks apply:

- i. No moorage structure on private property may be within 25 feet of a public park.
 - ii. No moorage structure may be within 25 feet of another moorage structure not on the subject property.
 - iii. The side property line setback is 10 feet, provided however that joint use moorage facilities may be located within the setback with the lot which shares the facility.
- c. If the subject property provides moorage for more than two boats, the following setbacks apply:
 - i. No moorage structure on private property may be within 100 feet of a public park.
 - ii. No moorage structure may be within 25 feet of another moorage structure not on the subject property.
 - iii. The side property line setback is 10 feet, provided however that joint use moorage facilities may be located within the setback with the lot which shares the facility.
- d. Boat gear storage lockers shall not exceed 18 square feet in area and three feet in height as measured from the top of the deck. Only one storage locker is permitted per boat slip.

10. Aquatic II

- a. Boating facilities are permitted subject to the policies and regulations of this Master Program.
- b. No moorage structure on private property may be within 100 feet of a public park.
- c. No moorage structure may be within 25 feet of another moorage structure not on the subject property.
- d. The side property line setback is 10 feet, provided however that joint use moorage facilities may be located within the setback with the lot which shares the facility.
- e. Boat gear storage lockers shall not exceed 18 square feet in area and three feet in height as measured from the top of the deck. Only one storage locker is permitted per boat slip. This provision does not apply to under covered moorage structures.

11. Conservancy

- a. Boating facilities are permitted subject to the policies and regulations of this Master Program.
- b. Accessory uses are not permitted in conjunction with boating facilities.

- c. Moorage structures and boating facilities may only be developed and used accessory to detached dwelling units on waterfront lots. Use of the moorage structure and facilities is limited to the residents and guests of the waterfront lots to which the moorage is accessory. Moorage space may not be leased, rented, sold, or otherwise made available to other than the residents and guests of the waterfront lots to which the moorage is accessory.
- d. Moorage structures and boating facilities may not provide moorage for more than two boats; provided, however, that waterfront lots are encourage to develop joint or shared moorage facilities. If this occurs, the joint or shared moorage facility may contain up to two moorages for each waterfront lot participating in the joint or shared moorage facility.
- e. If the subject property provides moorage for not more than two boats, the following setbacks apply:
 - i. No moorage structure on private property may be within 25 feet of a public park.
 - ii. No moorage structure may be within 25 feet of another moorage structure not on the subject property.
 - iii. The side property line setback is 10 feet, provided however that joint use moorage facilities may be located within the setback with the lot which shares the facility.
- f. If the subject property provides moorage for more than two boats, the following setbacks apply:
 - i. No moorage structure on private property may be within 100 feet of a public park.
 - ii. No moorage structure may be with 25 feet of another moorage structure not on the subject property.
 - iii. The side property line setback is 10 feet, provided however that joint use moorage facilities may be located within the setback with the lot which shares the facility.

12. Natural. Boating facilities are prohibited.

24.60.030 Commercial Development and Light Industrial

A. Applicability

Commercial development means those uses and facilities that are involved in wholesale or retail trade or business activities. Examples include but are not limited to restaurants, hotels, shops, offices, and recreation facilities. Industry applies to those businesses or uses involved in the production, processing, manufacturing, or fabrication of goods. Warehousing and

storage of materials or products is considered part of the industrial process. This is a broad category that mostly applies to the downtown Commercial Waterfront (CW) where development must also comply with ECDC 16.55. Uses and activities associated with commercial development that are identified as separate use activities in this Master Program, such as Boating Facilities, Piers and Docks, Utilities, etc. are subject to the regulations established for those uses in addition to the standards for commercial development.

The design, layout and operation of certain commercial uses directly affects their classification with regard to whether or not they qualify as water related or water enjoyment uses.

B. Commercial Development and Light Industrial Policies

1. In securing shoreline locations for commercial and light industrial use, preference should be given first to water-dependent commercial uses, then to water-related, water-enjoyment commercial uses.
2. Restoration of impaired shoreline ecological functions and processes should be encouraged as part of commercial and light industrial development.
3. Commercial and light industrial development should ensure visual compatibility with adjacent noncommercial properties.
4. Commercial and light industrial uses located in the shoreline should provide public access in accordance with constitutional or other legal limitations unless such improvements are demonstrated to be infeasible or present hazards to life and property.
5. Commercial and light industrial development should be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.

C. Commercial Development and Light Industrial Regulations

1. Commercial and light industrial uses are allowed subject to the policies and regulations of ECDC 24.40.020 and the specific criteria below:
 - a. Water-dependent commercial and light industrial uses shall be given preference over water-related and water-enjoyment commercial uses. Prior to approval of water dependent uses, the Administrator shall review a proposal for design, layout and operation of the use and shall make specific findings that the use qualifies as a water-dependent use.
 - b. Water-related commercial and light industrial uses may not be approved if the use displaces existing water-dependent uses. Prior to approval of water-related commercial uses, the Administrator shall review a proposal for design, layout and operation of the use and shall make specific findings that the use qualifies as a water-related use.

- c. Water-enjoyment commercial uses may not be approved if they displace existing water-dependent or water-related uses. Prior to approval of water-enjoyment uses, the Administrator shall review a proposal for design, layout and operation of the use and shall make specific findings that the use qualifies as a water-enjoyment use.
 - d. Nonwater-oriented commercial and light industrial uses may be permitted where located on a site physically separated from the shoreline by another property in separate ownership or a public right-of-way such that access for water-oriented use is precluded. All other nonwater-oriented uses are prohibited in the shoreline unless the use provides significant public benefit with respect to the objectives of this Master Program and the Shoreline Management Act and is:
 - i. Part of a mixed use project that includes a water-oriented use; or
 - ii. Proposed on a site where navigability is severely limited.
2. Over-water construction of commercial and light industrial uses is prohibited except as follows:
- a. Only those portions of water-dependent commercial and light industrial uses that require over-water facilities shall be permitted to locate waterward of the ordinary high-water mark.
 - b. Nonwater-dependent commercial and light industrial uses shall not be allowed over water except in limited instances where they are appurtenant to and necessary in support of water-dependent uses.

D. Commercial Development and Light Industrial– Shoreline Area Regulations

- 1. Urban Railroad: Commercial and light industrial use and development is prohibited.
- 2. Urban Mixed Use I:
 - a. Water-oriented commercial and light industrial use and development is permitted subject to the policies and regulations of this Master Program. Nonwater-oriented commercial use and development may be permitted subject to the criteria for such uses in ECDC 24.60.030.C.1.d.
 - b. A minimum of 15-foot setback is required from lot lines adjacent to shoreline residential environments. This area must be fully landscaped and include a minimum six-foot high fence or hedge.
- 3. Urban Mixed Use II:

- a. Water-oriented commercial and light industrial use and development is permitted subject to the policies and regulations of this Master Program. Nonwater-oriented commercial use and development may be permitted subject to the criteria for such uses in ECDC 24.60.030.C.1.d.
 - b. A minimum of 15-foot setback is required from lot lines adjacent to shoreline residential environments. This area must be fully landscaped and include a minimum six-foot high fence or hedge.
4. Urban Mixed Use III: Commercial use is permitted subject to the policies and regulations of this Master Program. Nonwater-oriented commercial use and development shall be permitted.
5. Urban Mixed Use IV: Commercial and light industrial use is permitted subject to the policies and regulations of this Master Program. Nonwater-oriented commercial use and development shall be permitted.
6. Shoreline Residential I: Commercial and light industrial use and development is prohibited.
7. Shoreline Residential II: Commercial and light industrial use and development is prohibited.
8. Shoreline Residential III: Commercial and light industrial use and development is prohibited.
9. Aquatic I: Commercial and light industrial use and development is prohibited, except that water-dependent uses and appurtenant structures may be permitted subject to the use and development regulations of the abutting upland shoreline area designation.
10. Aquatic II: Commercial and light industrial use and development is prohibited, except that water-dependent uses and appurtenant structures may be permitted subject to the use and development regulations of the abutting upland shoreline area designation.
11. Conservancy: Commercial and light industrial use and development is prohibited.
12. Natural: Commercial and light industrial use and development is prohibited.

24.60.040 Forest Practices

- A. For the purposes of this Master Program, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered forest practices and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this Master Program, including vegetation conservation, and shall be limited to the minimum necessary.

- B. All forest practices undertaken on shorelines shall comply with the applicable policies and provisions of the Forest Practices Act, Chapter 76.09 RCW as amended, and any regulations adopted pursuant thereto (WAC 222), as administered by the Department of Natural Resources and local provisions contained in Title 20 ECDC.

24.60.050 In-stream Structures

A. Applicability.

“In-Stream structure” means a structure placed by humans within a stream or river waterward of the ordinary high water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow.

B. In-stream Structure Policies

1. In-stream structures should provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.

C. In-stream Structure Regulations.

1. The location and planning of in-stream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns.
2. In-stream structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters.
3. In-stream structures shall allow for normal ground water movement and surface runoff.
4. In-stream structures shall preserve valuable recreation resources and aesthetics values.

24.60.060 Recreational Development

A. Applicability

Recreational development provides opportunities for play, sports, relaxation, amusement, or contemplation. It includes facilities for passive recreational activities, such as hiking, photography, viewing, and fishing. It also includes facilities for active or more intensive uses such as parks, campgrounds, and golf courses. This section applies to both publicly and privately owned shoreline facilities intended for use by the public or a private club, group, association, or individual. Commercial recreational development must be consistent with the provisions of this section and the provisions of ECDC 24.60.030 for commercial uses.

This Master Program gives priority to recreational development that is primarily related to access to, enjoyment and use of the water and shorelines of the state.

B. Recreational Development Policies

1. Encourage the coordination of local, state, and federal recreation planning so as to mutually address recreational needs. Shoreline recreational development should be consistent with all adopted park, recreation, and open space plans.
2. Encourage the linkage of shoreline parks, recreation areas, and public access points in a linear system, such as hiking paths, bicycle paths, and scenic drives.
3. Locate and design recreational developments in a manner that preserves, enhances, or creates scenic views and vistas.
4. Locate and design recreational facilities to minimize adverse impacts including those related to stormwater runoff, water quality, visual qualities, public access, and vegetation and habitat maintenance.
5. Encourage physical and visual access to shorelines and surface waters.
6. Locate golf courses outside of the shoreline area.
7. Prohibit use of recreational off-road vehicles within the shoreline area, except by public agencies for maintenance operations and emergency services.

C. Recreational Development Regulations

Where significant adverse impacts are adequately mitigated resulting in no net loss of ecological processes or functions, recreational development is a priority use for shoreline location, subject to the following:

1. The following recreational uses and developments are prohibited:
 - a. Golf courses;
 - b. Use of recreational off-road vehicles is prohibited within the shoreline, except by public agencies for maintenance operations and emergency services;
 - c. Campgrounds; and
 - d. Overnight recreational spaces or sites located within the shoreline.
2. Recreational facilities shall make adequate provisions for:
 - a. Vehicular and pedestrian access, both on-site and off-site;

- b. Vehicular traffic, both inside and outside the facility;
 - c. Vehicular parking;
 - d. Water supply, sewage disposal, and garbage collection;
 - e. The prevention of overflows and trespasses onto adjacent properties;
 - f. Screening, buffer strips, fences, and signs to prevent park overflow and to protect the value and enjoyment of adjacent or nearby private or public properties;
 - g. Security; and
 - h. Maintenance.
3. Valuable shoreline resources and fragile or unique areas, such as wetlands and accretion shore forms, shall be used only for non-intensive recreation activities.
 4. Encourage recreational facilities to provide signage and enforce regulations that prohibit tree cutting and limit the taking of marine life, driftwood, and the like.
 5. Signs associated with recreational facilities shall be kept to a minimum in number and size and shall be erected as informational or directional aids only.
 6. Stairways and landings shall be located upland of existing bulkheads, banks, and the ordinary high water mark unless integral to a water-dependent use or Overwater structure permitted by this Master Program.

D. Recreational Development – Shoreline Area Regulations

1. Urban Railroad: Recreational development prohibited.
2. Urban Mixed Use I: Water-oriented recreational use and development is permitted subject to the policies and regulations of this Master Program.
3. Urban Mixed Use II: Water-oriented recreational use and development is permitted subject to the policies and regulations of this Master Program.
4. Urban Mixed Use III: Water-oriented recreational use and development is permitted subject to the policies and regulations of this Master Program.
5. Urban Mixed Use IV: Water-oriented recreational use and development is permitted subject to the policies and regulations of this Master Program.
6. Shoreline Residential I: Water-oriented recreational use and development is permitted subject to the policies and regulations of this Master Program.

7. Shoreline Residential II: Water-oriented recreational use and development is permitted subject to the policies and regulations of this Master Program.
8. Shoreline Residential III: Water-oriented recreational use and development is permitted subject to the policies and regulations of this Master Program.
9. Aquatic I: Water-oriented recreational use and development is permitted, subject to the use and development regulations of the abutting upland shoreline area designation; provided that, underwater parks may be permitted as a conditional use.
10. Aquatic II: Water-oriented recreational use and development is permitted, subject to the use and development regulations of the abutting upland shoreline area designation; provided that, underwater parks may be permitted as a conditional use.
11. Conservancy: Low intensity water-oriented recreational use and development is permitted subject to the policies and regulations of the Master Program and the following criteria:
 - a. Structures will not result in more than ten percent (10%) building coverage or 4,000 square feet, whichever is greater and total impervious surface will not exceed twenty percent (20%), or 10,000 square feet, whichever is greater.
 - b. Alteration of topography shall be limited to the minimum necessary to accommodate allowed development.
 - c. Use of areas or facilities will not result in use patterns that lead to degradation of shoreline ecological functions and processes.
12. Natural: Low intensity water-oriented recreational use and development consisting of primitive trails may be permitted as a conditional use subject to the policies and regulations of this Master Program and the following criteria:
 - a. Essential minor structures such as trails, boardwalks, piers, stairs, small picnic areas, viewpoints, restrooms, interpretive facilities, or development that will not result in a net loss of shoreline ecological functions and processes are permitted, subject to the policies and regulations of this Master Program.
 - b. Any necessary landscaping shall use native or similar self-maintaining vegetation.
 - c. Recreational development requiring extensive structures or substantial alterations to topography or native vegetation is prohibited.

24.60.070 Residential Development

A. Applicability

Residential development refers to one or more buildings, structures, lots, parcels, or portions of parcels that are used or intended to be used to provide a dwelling for human beings. Residential development includes single-family residences, duplexes, other detached dwellings, multifamily residences, apartments, townhouses, mobile home parks, group housing, condominiums, subdivisions, planned unit developments, and short subdivisions. Residential development also includes accessory uses and structures such as garages, sheds, tennis courts, swimming pools, driveways, parking areas, fences, cabanas, saunas, and guest cottages, when allowed by the underlying zoning. Single-family residential development is identified as a priority use the shoreline area when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.

A Substantial Development Permit is not required for construction of a single-family residence by an owner, lessee, or contract purchaser for his own use or the use of his family. However, such construction and all normal appurtenant structures must otherwise conform to this Master Program. In addition, when applicable, all residential development is subject to the variance and conditional use requirements of this Master Program.

Uses and facilities associated with residential development, which are identified as separate use activities or modifications in this Master Program, such as clearing, grading and landfill are subject to the regulations established for those uses in this Master Program.

B. Residential Development Policies

1. Discourage residential structures or accessory structures in areas waterward of the ordinary high water mark, within nearshore management areas, or within wetlands, habitat conservation areas, flood hazard areas or their respective buffers.
2. Allowable density of new residential development should comply with applicable comprehensive plan goals and policies, zoning restrictions, and shoreline area designation standards. The density of development should be appropriate to the local natural and cultural features.
3. Structures or development for uses accessory to residential use should preserve shoreline open space, be visually and physically compatible with adjacent shoreline features, be reasonable in size and purpose, and result in no net loss of shoreline ecological functions and processes.
4. New residential development should be planned and built in accordance with the policies and regulations in ECDC 24.50.020 and to minimize the need for shoreline stabilization and flood hazard reduction measures.

5. Measures to conserve native vegetation along shorelines should be required for all residential development. Vegetation conservation may include avoidance or minimization of clearing or grading, restoration of areas of native vegetation, and/or control of invasive species.
6. Consider additional design features for new Planned Residential Developments, subdivisions and short subdivisions that:
 - a. Cluster dwelling units in order to preserve natural features, minimize physical impacts, and provide for public access to the shoreline.
 - b. Maintain usable waterfront areas for the common use of all property owners with the development.
7. Encourage joint use of shoreline facilities, including access stairs.

C. Residential Development Regulations

1. Clearing and grading associated with a single-family residence may be exempted from the shoreline substantial development permit requirement, provided the following conditions are met:
 - a. The clearing and grading activity is confined to the construction site; and
 - b. Grading does not exceed 250 cubic yards.
2. New over-water residences, including floating homes, are prohibited.
3. Residential development shall be:
 - a. Located and designed to avoid the need for structural shore defense and flood protection works in the foreseeable future.
 - b. Designed to minimize potential conflicts with the use of adjacent public lands and areas of public access. This may include providing a physical separation to reinforce the distinction between public and private space, achieved by providing adequate space, through screening with landscape planting or fences, or other means.
4. Subdivisions:
 - a. Shall comply with local plans, codes, and ordinances.
 - b. Shall be designed to exemplify the definition and policy of the applicable shoreline designation as well as the environmental and physical capabilities of the subject site.

- c. Shall be designed, configured and developed in a manner that assures no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.
 - d. Shall be prohibited if flood control or shoreline protection measures are necessary to create a residential lot or site area.
 - e. Shall provide a community recreation and/or open space area for the benefit of all residents or property owners in the development; provided that such provisions shall not apply to lot line adjustments or lot consolidation.
 - f. Public access for the subdivision of a property into 4 or more lots shall be considered in accordance with ECDC 24.40.040 Public Access and Views.
 - g. May be required to cluster residential units and structures to avoid wetlands, habitat conservation areas or landslide hazards that are located on the development site.
 - h. Shall be designed to minimize potential conflicts with the use of adjacent public lands and areas of public access. This may include providing a physical separation to reinforce the distinction between public and private space, achieved by providing adequate space, through screening with landscape planting or fences, or other means.
 - i. Shall comply with the applicable policies and performance standards of this Master Program, with regard to roads, utilities, and other improvements.
5. New multifamily residential development should provide community and/or public access in accordance with ECDC 24.40.040 Public Access and Views.

D. Residential Development – Shoreline Area Regulations

- 1. Urban Railroad: Residential development is prohibited.
- 2. Urban Mixed Use I: Residential development is prohibited.
- 3. Urban Mixed Use II: Residential development is prohibited.
- 4. Urban Mixed Use III: Single family and multifamily residential development is permitted subject to the policies and regulations of this Master Program.
- 5. Urban Mixed Use IV: Residential development is prohibited.
- 6. Shoreline Residential I: Single family residential development is permitted subject to the policies and regulations of this Master Program.
- 7. Shoreline Residential II: Single family residential development is permitted subject to the policies and regulations of this Master Program.

8. Shoreline Residential III: Single family residential development is permitted subject to the policies and regulations of this Master Program.
9. Aquatic I: Residential development is prohibited.
10. Aquatic II: Residential development is prohibited.
11. Conservancy: Residential development is prohibited.
12. Natural: Residential development is prohibited.

24.60.080 Transportation and Parking

A. Applicability

Transportation facilities are those structures and developments that aid in land and water surface movement of people, goods, and services. They include roads and highways, bridges and causeways, bikeways, trails, railroad facilities, ferry terminals, float plane terminals, airports, heliports, and other related facilities.

B. Transportation and Parking Policies

1. New or expanded public transportation facility route selection and development should be coordinated with related local and state government land use and circulation planning.
2. Transportation system plans and transportation projects within shorelines should provide safe travel ways for non-motorized traffic such as pedestrians and bicyclists. Space for such uses should be required along roads on shorelines, where appropriate, and should be considered when rights-of-way are being vacated.
3. Transportation system route planning, acquisition, and design within the shoreline should provide, where possible, for compatible uses such as utility lines, pedestrian shore access or view points, or recreational trails.
4. Avoid unnecessary duplication of roads by making use of existing roads where practicable.
5. Public transportation routes, particularly arterial highways and railways, should be located, designed, and maintained to permit safe enjoyment of adjacent shore areas and properties by other appropriate uses such as recreation or residences. Vegetative screening or other buffering should be considered.
6. Parking is not a preferred use in shorelines and should only be allowed to support authorized uses where no feasible alternatives exist.

C. Transportation and Parking Regulations

1. Transportation and parking facilities shall be planned, located, and designed so that routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.
2. Roads shall be located to avoid critical areas. Landfills for transportation facility development are prohibited in water bodies, wetlands, and on accretion beaches, except when all structural and upland alternatives have been proven infeasible and the transportation facilities are necessary to support uses consistent with this program. Such landfill may be permit as a Conditional Use Permit and must comply with the provisions of ECDC 24.50.040. Where impacts cannot be avoided, impacts must be mitigated to assure no net loss of ecological function necessary to sustain shoreline resources.
3. Culverts, bridges and similar devices shall be designed to pass water, sediment, and debris loads anticipated under appropriate hydraulic analysis.
4. All roads and drainage systems shall be maintained to prevent erosion and/or water quality degradation.
5. Road routes shall make provisions for pedestrian, bicycle, and other non-motorized modes of travel whenever feasible.
6. Parking facilities are not a water-dependent use and shall only be permitted within the shoreline to support an authorized use where it can be demonstrated that there are no feasible alternative locations away from the shoreline.
7. All uses must provide sufficient off-street parking spaces in order to accommodate the reasonably anticipated number of vehicles that will be coming to the subject property. Specific parking standards for uses are identified in the ECDC 17.50, as now or hereafter mended.
8. Parking layouts must be designed efficiently to use the minimum amount of space necessary to provide the required parking and safe and reasonable access. Parking should not be located between the building(s) on the subject property and the shoreline. Exterior parking areas, other than for detached dwelling units, must be attractively landscaped with vegetation that will not obstruct view of the shoreline from adjacent public areas or adjacent public rights-of-way.
9. Transportation facilities shall be constructed of materials that will preclude or minimize adverse affects on water quality or aquatic plants and animals over the long term. Elements within or over water shall be constructed of materials approved by applicable state agencies for use in water for both submerged portions and other components to avoid discharge of pollutants from splash, rain or runoff. No part of a transportation facility that may come in contact with the water may be treated with or consist, in whole or in part, of creosote, oil based paints, toxic chemicals or other substances that would be

harmful to the aquatic environment, unless specifically permitted and authorized by appropriate state and federal regulatory agencies.

10. Maintenance activity including vegetation control and erosion control shall be carried out consistent with this Master Program. Necessary minor resurfacing of existing roadways and replacement of culverts that improve shoreline ecological functions may be exempt from substantial development permit requirements as provided by ECDC 24.80.010.

11. Ferry Terminals:

- a. The maximum permitted height of structures waterward of the ordinary high water mark shall not exceed 35 above the OHWM, except as provided below:
 - i. Structures related to the loading of pedestrian passengers shall be permitted to exceed the maximum permitted height limit when necessary to perform the intended function.
 - ii. Buildings and structures which house pedestrian passengers, employees and equipment storage shall be permitted to be 20 feet above the height of the ferry loading dock.
 - iii. View analysis shall be conducted for ferry structures exceeding 35 feet above the OHWM and structures designed to minimize impacts on view corridors.
- b. The maximum permitted height of structures landward of the ordinary high water mark shall not exceed 30 feet above the average grade level except that bridge and overpasses may exceed the maximum height limit when necessary to perform their intended function.

12. Railroads:

- a. Overwater Structures are prohibited.
- b. Accessory buildings shall be located on the landward side of the railroad tracks and a minimum of five feet from the property line.
- c. The size and configuration of structures shall conform to this program unless federal safety standards require a different size or configuration.

D. Transportation and Parking – Shoreline Area Regulations

1. Urban Railroad

- a. The principal use permitted in this shoreline area is the use of the subject property by the railroad for its tracks (i.e., single main track, double main tracks and team tracks), yards and buildings.

- b. The following accessory uses structures and facilities are permitted subject to the policies and regulations of this Master Program:
- i. Subgrade and road bed;
 - ii. Railroad track/road crossing signals;
 - iii. Slide fences;
 - iv. Railroad signals;
 - v. Bridges (i.e. pedestrian overpass bridges, vehicular overpass bridges and pipeline overpass bridges);
 - vi. Railroad signage (i.e., speed, track, whistle, etc.);
 - vii. Drainage facilities, including culverts;
 - viii. Railroad crossings;
 - ix. Buildings for housing of maintenance people not to exceed 600 square feet in area;
 - x. Storage of items for maintaining the area;
 - xi. Railway loading platforms;
 - xii. Underpasses; and
 - xiii. Pedestrian safety fencing provided it does not exceed six feet in height above grade and is not constructed of solid sight-obscuring material. If the proposed fence is to exceed either six feet in height, or is constructed of solid sight obscuring material, then a shoreline conditional use permit is required.
 - xiv. The Maximum permitted height of structures is 25 feet above grade level, except as specified below:
 - 1. Accessory buildings shall not exceed 15 feet in height above average grade level.
 - 2. Bridges and overpasses may exceed the maximum height limit when necessary to perform their intended function.
 - 3. Slide fences shall not exceed fix feet in height.

4. Signal devices and signage shall be determined on a case-by-case basis according to the goals and policies of this Shoreline Master Program and the Shoreline Management Act and when required by federal law or regulation.
 - c. Ferry terminals may be permitted as a conditional use subject to the policies and regulations of this Master Program.
2. Urban Mixed Use I:
- a. Railroads are permitted subject to the policies and regulations of this Master Program consistent with ECDC 24.60.070.D.1, except that the maximum permitted height of structures is 30 feet, subjects to the same exception listed in ECDC 24.60.070.D.1.b.xiii.1 through ECDC 24.60.070.D.1.b.xiii.4.
 - b. Transportation facilities (including ferry terminals and railroads) are permitted subject to the policies and regulations of this Master Program. Parking areas not serving a specific approved water dependent use may be permitted as a conditional use, provided there is no feasible location outside of the shoreline.
 - c. Parking facilities. In the Urban Mixed Use I environment, the 60-foot setback for parking established in ECDC 24.40.090 may be reduced by a maximum of 20 feet if a public walkway or publicly accessible open space is provided waterward of the bulkhead. The parking setback may be reduced by one foot for every one foot of public walkway or publicly accessible open space that is provided waterward of the OHWM, to a maximum of 20 feet. The minimum setback for parking facilities shall be no less than 40 feet from the bulkhead.
3. Urban Mixed Use II:
- a. Railroads are permitted subject to the policies and regulations of this Master Program consistent with ECDC 24.60.070.D.1, except that the maximum permitted height of structures is 30 feet, subjects to the same exception listed in ECDC 24.60.070.D.1.b.xiii.1 through ECDC 24.60.070.D.1.b.xiii.4.
 - b. Transportation facilities (including ferry terminals and railroads) are permitted subject to the policies and regulations of this Master Program. Parking areas not serving specific approved water dependent uses may be permitted as a conditional use, provided there is no feasible location outside of the shoreline.
 - c. Parking facilities. In the Urban Mixed Use II environment, the 60-foot setback for parking established in ECDC 24.40.090 may be reduced by a maximum of 20 feet if a public walkway or publicly accessible open space is provided waterward of the bulkhead. The parking setback may be reduced by one foot for every one foot of public walkway or publicly accessible open space that is provided waterward of the OHWM, to a maximum of 20 feet. The minimum setback for parking facilities shall be no less than 40 feet from the bulkhead.

4. Urban Mixed Use III:

- a. Unless permitted as an essential public facility, the following transportation facilities are prohibited in this shoreline area designation:
 - i. Railroads.
- b. Transportation facilities not specifically prohibited above are permitted subject to the policies and regulations of this Master Program.

5. Urban Mixed Use IV:

- a. Unless permitted as an essential public facility, the following transportation facilities are prohibited in this shoreline area designation:
 - i. Railroads.
- b. Transportation facilities not specifically prohibited above are permitted subject to the policies and regulations of this Master Program.

6. Shoreline Residential I

- a. Unless permitted as an essential public facility, the following transportation facilities are prohibited in this shoreline area designation:
 - i. Railroads;
 - ii. Ferry Terminals; and
 - iii. Parking.
- b. Transportation facilities not specifically prohibited above are permitted subject to the policies and regulations of this Master Program.

7. Shoreline Residential II

- a. The following transportation facilities are prohibited in this shoreline area designation:
 - i. Railroads;
 - ii. Ferry Terminals; and

- iii. Parking.

- b. Transportation facilities not specifically prohibited above are permitted subject to the policies and regulations of this Master Program.

8. Shoreline Residential III

- a. The following transportation facilities are prohibited in this shoreline area designation:

- i. Railroads;

- ii. Ferry Terminals; and

- iii. Parking.

- b. Transportation facilities not specifically prohibited above are permitted subject to the policies and regulations of this Master Program.

9. Aquatic I

- a. The following transportation facilities are prohibited in this shoreline area designation:

- i. Parking.

- b. Transportation facilities not specifically prohibited above are permitted subject to the policies and regulations of this Master Program.

- c. Ferry terminals may be permitted as a conditional use subject to the policies and regulations of this Master Program.

- d. Transportation facilities of statewide significance currently located on the shoreline may be expanded or altered as a conditional use upon demonstration that alternatives to expanding in or alteration of the Aquatic I environment are not feasible.

10. Aquatic II

- a. The following transportation facilities are prohibited in this shoreline area designation:

- i. Parking.

- b. Transportation facilities not specifically prohibited above are permitted subject to the policies and regulations of this Master Program.
- c. Ferry terminals may be permitted as a conditional use subject to the policies and regulations of this Master Program.
- d. Transportation facilities of statewide significance currently located on the shoreline may be expanded or altered as a conditional use upon demonstration that alternatives to expanding in or alteration of the Aquatic II environment are not feasible.

11. Conservancy

- a. The following transportation facilities are prohibited in this shoreline area designation:
 - i. Railroads; and
 - ii. Ferry terminals.
- b. Transportation facilities not specifically prohibited above may be permitted as a conditional use subject to the policies and regulations of this Master Program, provided there is no feasible location outside of the shoreline.
- c. Parking facilities may be permitted as a conditional use subject to the policies and regulations of this Master Program.

12. Natural

- a. The following transportation facilities are prohibited in this shoreline area designation:
 - i. Railroads;
 - ii. Ferry terminals; and
 - iii. Parking.
- b. Transportation facilities not specifically prohibited above are may be permitted as a conditional use subject to the policies and regulations of this Master Program, provided there is no feasible location outside of the shoreline.

24.60.090Utilities

A. Applicability

Utilities are services and facilities that produce, convey, store, or process power, gas, sewage, communications, oil, waste, and the like. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence, are “accessory utilities” and shall be considered a part of the primary use.

B. Utilities Policies

1. Solid waste disposal activities and facilities are prohibited in shoreline areas.
2. New public or private utilities should be located inland from the land/water interface, preferably out of the shoreline jurisdiction, unless this location is reasonably necessary for the efficient operation of the utility facility or service.
3. Utilities should be located and designed to avoid negative impacts to public recreation and public access areas and significant natural, historic, archaeological or cultural resources.
4. Utilities should be located such that shoreline defense works will not be required for the life of the project.
5. All utility development should be consistent with and coordinated with all local government and state planning, including comprehensive plans and single purpose plans to meet the needs of future populations in areas planned to accommodate growth. Site planning and rights-of-way for utility development should provide for compatible multiple uses such as shore access, trails, and recreation or other appropriate use whenever possible; utility right-of-way acquisition should also be coordinated with transportation and recreation planning.
6. Utilities should be located in existing rights-of-way and corridors whenever feasible.
7. Utilities serving new development should be located underground, wherever feasible.
8. Development of pipelines and cables on aquatic lands and tidelands, particularly those running roughly parallel to the shoreline and development of facilities that may require periodic maintenance which would disrupt shoreline ecological functions should be discouraged except where no other feasible alternative exists. When permitted, provisions shall assure that the facilities do not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.
9. Utilities should be designed and development to preserve scenic views and aesthetic qualities of the shoreline area.

C. Utilities Regulations

1. Prohibited Pipelines. Except for gas or oil pipelines, city-approved sanitary sewer, stormwater outfall lines, or other conveyance systems for on-site drainage collection

systems for approved boat wash-down to special on-site treatment facilities otherwise permitted in this section, no pipeline for the transmission of any substance that would be hazardous to the aquatic environment may be constructed within the shoreline area.

2. Except where infeasible, all utility lines, pipes, conduits, meters, vaults and similar infrastructures and appurtenances must be placed underground consistent with the standards of the serving utility.
3. Utilities may not be located waterward of the ordinary high water mark unless no practicable alternative exists and this location is essential to the operation of the utility.
4. Utilities shall be located adjacent to or within existing utility or circulation easements or rights-of-way whenever feasible. Joint use of rights-of-way and corridors is encouraged.
5. Utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities, that are not water-dependent shall be located outside of shoreline jurisdiction unless alternative locations are demonstrated to be infeasible and it is demonstrated that the facilities do not result in a net loss of shoreline ecological functions and processes or significant adverse impact to other shoreline resources and values such as parks and recreation facilities, public access and aesthetic resources.
6. Outfall pipelines and diffusers are water-dependent, but should be located only where there will be no net loss in shoreline ecological functions and processes or adverse impacts upon shoreline resources and values.
7. Facilities for processing, storage and disposal of solid waste are not normally water-dependent. Components that are not water-dependent shall not be permitted in shoreline jurisdiction.
8. Temporary storage of solid waste in suitable receptacles is permitted as an accessory use to a primary permitted use, or for litter control.
9. When feasible, utility development shall include public access to the shoreline, trail systems, and other forms of recreation, providing such uses will not unduly interfere with utility operations, endanger the public health, safety, and welfare, or create a significant and disproportionate liability for the owner.
10. Utility developments shall be located and designed so as to avoid, to the extent practicable, the need for any structural or artificial shoreline modification works for the life of the project.

D. Utilities Application Requirements

Applications for new or expanded shall be accompanied by adequate documentation that the proposal meets the policies and regulations of this Master Program, including but not limited to:

1. Description of the proposed facilities;
2. Reasons why the utility facility requires a shoreline location;
3. Alternative locations considered and reasons for their elimination;
4. Location of other utility facilities in the vicinity of the proposed project and any plans to include the other types of utilities in the project;
5. Plans for reclamation of areas disturbed both during construction and following decommissioning and/or completion of the useful life of the utility;
6. Plans for control of erosion and turbidity during construction and operation; and
7. Identification of any possibility for locating the proposed facility at another existing utility facility site or within an existing utility right-of-way.

E. Utilities – Shoreline Area Regulations

1. Urban Railroad: Utility development is permitted subject to the policies and regulations of this Master Program.
2. Urban Mixed Use I: Utility development is permitted subject to the policies and regulations of this Master Program.
3. Urban Mixed Use II: Utility development is permitted subject to the policies and regulations of this Master Program.
4. Urban Mixed Use III: Utility development is permitted subject to the policies and regulations of this Master Program.
5. Urban Mixed Use IV: Utility development is permitted subject to the policies and regulations of this Master Program.
6. Shoreline Residential I: Utility development is permitted subject to the policies and regulations of this Master Program.
7. Shoreline Residential II: Utility development is permitted subject to the policies and regulations of this Master Program.
8. Shoreline Residential III: Utility development is permitted subject to the policies and regulations of this Master Program.
9. Aquatic I: Utility development is permitted subject to the policies and regulations of this Master Program.

10. Aquatic II: Utility development is permitted subject to the policies and regulations of this Master Program.
11. Conservancy: Utility development is permitted subject to the policies and regulations of this Master Program.
12. Natural: Utility development may be permitted as a conditional use subject to the policies and regulations of this Master Program.

Part VII Nonconforming Development

24.70.000 Purpose

The purpose of this section is to allow certain nonconforming uses, buildings, signs and lots within shoreline jurisdiction to continue while limiting the continuation of certain aspects of nonconformity. Other nonconforming uses, buildings, signs and lots, which are declared to be nuisances, are required to be eliminated.

24.70.010 Nonconforming Uses

- A. Nonconforming uses are shoreline uses which were lawfully established prior to the effective date of the Shoreline Management Act or this Master Program, or amendments thereto, but which do not conform to present regulations or standards of this Master Program or policies of the act.
- B. A use which is listed as a conditional use but which existed prior to adoption of this Master Program or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use. A use which is listed as a conditional use but which existed prior to the applicability of this Master Program to the site and for which a conditional use permit has not been obtained shall be considered a nonconforming use.
- C. A nonconforming use may continue, unless required to be abated by subsection (D) of this section, but it may not be expanded in any way, including additional lot areas, floor area, height, number of employees, equipment, or hours of operation, except as otherwise provided in ECDC 24.70.050.
- D. Lapse of Time.
 1. If a nonconforming use is discontinued for 6 consecutive months or for 12 months during any two-year period, any subsequent use shall be conforming. It shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire. Uses such as agricultural or aquaculture, which

vary seasonally, shall be deemed abandoned if the seasonal use is not utilized during one full season consistent with the traditional use.

2. If a nonconforming uses ceases because its building is damaged in excess of 75 percent of its replacement cost, the use may be reestablished if, but only if, an application for a building permit which vests as provided in ECDC 19.00.015, et seq., is filed within six months of the date such damage occurred. After the application has been filed, only one 180-day extension may be granted.
3. The right of reestablishment of use described in subsection D.2 of this section shall not apply if:
 - a. The building or structure was damaged or destroyed due to the unlawful act of the owner or the owner's agent; or
 - b. The building is damaged or destroyed due to the ongoing neglect or gross negligence of the owner or the owner's agent.
 - c. In the event that subsection D.3.a or .b of this section apply, the nonconforming use shall be abated if damage exceeds 25 percent of replacement cost. "Replacement cost" shall be determined as proved in ECDC 24.70.020.
- E. A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming or nonconforming status of the building or structure in which it is housed.

24.70.020 Nonconforming development, building and/or structure

- A. Nonconforming development means a shoreline development which was lawfully constructed or established prior to the effective date of the Shoreline Management Act or this Master Program, or amendments thereto, but which does not conform to present regulations or standards of the program.
- B. A nonconforming building is one which once met bulk zoning standards and the site development standards applicable to its construction, but which no longer conforms to such standards due to the enactment or amendment of the zoning ordinance of the city of Edmonds or the application of such ordinance in the case of a structure annexed to the city. Subject to the other provisions of this section, an accessory building that is not an accessory dwelling unit shall be presumptively nonconforming if photographic or other substantial evidence conclusively demonstrates that the accessory building existed on or before January 1, 1981. In the case of a property that was annexed after January 1, 1981, then the date shall be that of the effective date of the annexation of the city of Edmonds. Such presumption may be overcome only by clear and convincing evidence.

- C. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.
- D. A nonconforming development, building and/or structure which is moved any distance must be brought into conformance with this Master Program.
- E. Nonconforming development, building and/or structure may be maintained and continued, unless required to be abated elsewhere in this chapter or section; provided, that it is not enlarged, intensified, increased, or altered in any way which increases its nonconformity except as expressly provided in subsection F through L of this section.
- F. Historic Buildings and Structures. Nothing in this section shall prevent the full restoration by reconstruction of a building or structure which is either listed on the National Register of Historic Places, the Washington State Register of Historic Places, the Washington State Cultural Resource Inventory, or the Edmonds Register of Historic Places, or is listed in a council-approved historical survey meeting the standards of the State Department of Archaeology and Historic Preservation. "Restoration" means reconstruction of the historic building or structure with as nearly the same visual design appearance and materials as is consistent with full compliance with the State Building Code and consistent with the requirements of Chapter 20.45 ECDC, Edmonds Register of Historic Places. The reconstruction of all such historic buildings and structures shall comply with the life safety provisions of the State Building Code.
- G. If a nonconforming development, building and/or structure is destroyed or damaged to an extent not exceeding 75 percent replacement cost at the time of destruction, it may be restored to its former size, shape and lot location as existing immediately prior to the time the structure was damaged, so long as restoration is either:
 - 1. Completed within one year of the date of damage; or
 - 2. Completed within one year of the date of issuance of all required permits, so long as applications for such permits are vested within six months of the date of damage and are pursued in a timely manner.
- H. Determination of replacement costs and the level of destruction shall be made by the building official and shall be appealable as Type II staff decision under the provisions of Chapter 20.06 ECDC.
- I. The right of restoration described in subsection E of this section shall not apply if:
 - 1. The development, building and/or structure was damaged or destroyed due to the unlawful act of the owner or the owner's agent; or
 - 2. The development, building and/or structure is damaged or destroyed due to the ongoing neglect or gross negligence of the owner or the owner's agents.

- J. Residential Buildings in Commercial Zones. Existing nonconforming buildings in commercial zones in use solely for residential purposes, or structures attendant to such residential use, may be remodeled or reconstructed without regard to the limitations of subsections D, E and G of this section, if, but only if, the following conditions are met:
1. The remodel or reconstruction takes place within the footprint of the original building or structure. "Footprint" shall mean an area equal to the smallest rectangular area in a plane parallel to the ground in which the existing building could be placed, exclusive of uncovered decks, steps, porches, and similar features; and provided, that the new footprint of the building or structure shall not be expanded by more than 10 percent and is found by the city staff to be substantially similar to the original style and construction after complying with current codes.
 2. All provisions of the State Building and Electrical Codes can be complied with entirely on the site. No nonconforming residential building may be remodeled or reconstructed if, by so doing, the full use under state law or city ordinance of a conforming neighboring lot or building would be limited by such remodel or reconstruction.
 3. These provisions shall apply only to the primary residential use on site and shall not apply to nonconforming accessory buildings or structures.
 4. A nonconforming residential single-family building may be rebuilt within the defined building envelope if it is rebuilt with materials and design which are substantially similar to the original style and structure after complying with current codes. "Substantial compliance" shall be determined by the city as a Type II staff decision, except that any appeal of the staff decision shall be to the ADB rather than the hearing examiner. The decision of the ADB shall be final and appealable only as provided in ECDC 20.07.006.
- K. Subject to the other provisions of this section, an accessory building that is not an accessory dwelling unit shall be presumptively nonconforming if photographic or other substantial evidence conclusively demonstrates that the accessory building existed on or before January 1, 1981. In the case of a property that was annexed after January 1, 1981, then the date shall be that of the effective date of the annexation to the city of Edmonds. Such presumption may be overcome only by clear and convincing evidence.
- L. BD5 Zone. The BD5 zone was created in part to encourage the adoption and reuse of existing residential structures for live/work and commercial use as set forth in ECDC 16.43.030.B.5. In the BD5 zone, conforming and nonconforming buildings may be converted to commercial or other uses permitted by ECDC 16.43.020 and this Master Program without being required to come into compliance with the ground floor elevation requirements of ECDC 16.43.030.B.

24.70.030 Nonconforming Lots

- A. A nonconforming lot is one which met applicable zoning ordinance standards as to size, width, depth and other dimensional regulations at the date on which it was created but which, due to the passage of a zoning ordinance, the amendment thereof or the annexation of property to the city, no longer conforms to the current provisions of the zoning ordinance. A lot which was not legally created in accordance with the laws of the local governmental entity in which it was located at the date of the creation is an illegal lot and will not be recognized for development.
- B. Continuation. A nonconforming lot may be developed for any use allowed by the zoning district in which it is located, so long as such development conforms to other requirements of this Master Program, the Shoreline Management Act, and all other applicable site use and development standards are met or a variance from such site use or development standards has been obtained. In order to be developed a nonconforming lot must meet minimum lot size standards established by the provisions of this code, subject to the provisions of subsection D of this section.
- C. Combination. If, since the date on which it became nonconforming due to its failure to meet minimum lot size or width criteria, an undeveloped nonconforming lot has been in the same ownership as a contiguous lot or lots, the nonconforming lot is to be and shall be deemed to have been combined with such contiguous lot or lots to the extent necessary to create a conforming lot and thereafter may only be used in accordance with the provisions of this Master Program, the Shoreline Management Act, and the Edmonds Community Development Code, except as specifically provided in subsection D of this section.
- D. Exception for Single-Family Dwelling Units. An applicant may build on single-family residence consisting of no more than one dwelling unit on a lot or parcel regardless of the size of the lot or parcel if, but only if, one of the following exceptions applies:
1. In a Shoreline Residential environment, such nonconforming lot may be sold or otherwise developed as any other nonconforming lot pursuant to the following conditions and standards:
 - a. The lot area of the nonconforming lot is not less than the minimum lot areas specified in the table below for the zoning district in which the subject property is located; and
 - b. Community facilities, public utilities and roads required to serve the nonconforming lot are available concurrently with the proposed development; and
 - c. Existing housing stock will not be destroyed in order to create a new buildable lot.

Lot Area Table			
	Zone	% Needed for Legal Lot	Lot Size Needed for legal lot
(1)	RS-20	60%	12,000

(2)	RS-12	70%	8,400
(3)	RS-10	75%	7,500
(4)	RS-8	80%	6,400
(5)	RS-6	90%	5,400

2. An applicant applies for necessary permits to construct the unit within five years of the date the lot or parcel was annexed into the city and the lot or parcel was lawfully created under provisions of Snohomish County subdivision and zoning laws as well as the laws of the state of Washington; or
3. An applicant may remodel or rebuild on residence on a nonconforming lot without regard to the 75 percent destruction requirement of ECDC 24.70.020.G if a fully completed building permit application is vested within six months of the destruction of the residence and all other development requirements of this Master Program, the Shoreline Management Act, and the Edmonds Community Development Code are complied with; or
4. The lot lines defining the lot or parcel were recorded in the Snohomish county recorder's office prior to December 31, 1972, and the lot or parcel has not at any time been simultaneously owned by the owner of a contiguous lot or parcel which fronts on the same access right-of-way subsequent to December 31, 1972, and the lot or parcel has access to an access right-of-way which meets the minimum requirements established by the Edmonds Community Development Code.

24.70.040 Nonconforming Signs

Nonconforming signs are injurious to health, safety and welfare and destructive of the aesthetic and environmental living conditions which this Master Program and zoning ordinances are intended to preserve and enhance. Nonconforming signs shall be brought in to compliance with the provisions of Chapter 20.60 ECDC under the following terms and conditions:

- A. No nonconforming sign shall be expanded, extended, rebuilt, reconstructed or altered in any way, except as provided below. The following acts are specifically permitted and shall not in and of themselves require conformance with the provisions of this Master Program of Chapter 20.60 ECDC
 1. Normal maintenance of the sign;
 2. A change in the name of the business designated on the sign; or
 3. Any action necessary to preserve the public safety in the event of damage to the sign brought about by an accident an act of God.
- B. Any nonconforming sign shall be brought into immediate compliance with the code in the event that it is expanded in violation of subsection A of this section.

- C. None of the forgoing provisions relating to permitted maintenance, name change or preservation of the sign under subsection A of this section shall be construed so as to permit the continuation or preservation of any nonconforming off-premises sign.

24.70.050 Nonconforming local public facilities

Existing legal nonconforming local public facility uses, buildings, and/or signs, owned and/or operated by local, state, or federal governmental entities, public service corporations, or common carriers (including agencies, districts, governmental corporations, public utilities, or similar entities) may be expanded, enlarged, altered, or modified, subject to the policies and provisions of this Master Program and review under Chapter 20.16 ECDC, Essential Public Facilities.

Part VIII Administration – Shoreline Permits

24.80.000 Purpose

This chapter establishes the permit review procedure for shoreline permits, in accordance with the Shorelines Management Act, Chapter 90.58 RCW and Chapter 173-27 WAC. All proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act, and this Master Program, regardless of whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.

24.80.010 Exemptions from Shoreline Substantial Development Permit Process

A. Application and interpretation

1. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.
2. An exemption from the substantial development permit process is not an exemption from compliance with the Shoreline Management Act or the City of Edmonds' Shoreline Master Program, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this Master Program and the Shoreline Management Act.
3. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development or use can only be authorized by approval of a variance.
4. A development or use that is listed as a conditional use pursuant to this Master Program or is an unlisted use, must obtain a conditional use permit even though the development or use does not require a substantial development permit.

5. The burden of proof that a development or use is exempt from the permit process is on the applicant.
6. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.
7. The City of Edmonds may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Shoreline Management Act and this Master Program.

B. Exemptions Listed. The following developments shall not require substantial development permits:

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand seven hundred eighteen dollars (\$5718), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation every five years consistent with WAC 173-27-040(2)(a). For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.
2. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.
3. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall

fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the department of fish and wildlife.

4. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.
5. Construction or modification of navigational aids such as channel markers and anchor buoys.
6. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of twenty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance as defined in 24.90.010.F. Construction authorized under this exemption shall be located landward of the ordinary high water mark.
7. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if either:
 - a. In salt waters (Puget Sound), the fair market value of the dock does not exceed two thousand five hundred dollars; or

- b. In fresh waters (Lake Ballinger) the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.
- 8. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands.
- 9. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.
- 10. Operation and maintenance of any system of dikes, ditches, drains, or other similar drainage or utility facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system.
- 11. Any project with a certification from the governor pursuant to chapter 80.50 RCW.
- 12. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
 - a. The activity does not interfere with the normal public use of the surface waters;
 - b. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - c. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
 - d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and
 - e. The activity is not subject to the permit requirements of RCW 90.58.550.
- 13. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department of ecology jointly with other state agencies under chapter 43.21C RCW.

14. Watershed restoration projects as defined in WAC 173-27-040(2)(o). The administrator shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.
15. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:
 - a. The project has been approved in writing by the department of fish and wildlife; ;
 - b. The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 77.55 RCW; and ;
 - c. The City has determined that the project is substantially consistent with the local shoreline master program. The City shall make such determination that in a timely manner and provide it by letter to the project proponent. .

24.80.020 Letter of Exemption

- A. The Administrator is hereby authorized to grant or deny requests for letters of exemption from the shoreline substantial development permit requirement for uses and developments with shorelines that are specifically listed in ECDC 24.80.010.B. The letter of exemption shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the Administrator's analysis of the consistency of the project with this Master Program and the Shoreline Management Act. As appropriate, such letters of exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of this Master Program and the Shoreline Management Act. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial. The Administrator's actions on the issuance of a letter of exemption or a denial are subject to appeal pursuant to ECDC 24.80.110.C.
- B. A letter of exemption shall be prepared addressed to the applicant/proponent and the Washington State Department of Ecology, pursuant to the requirement of WAC 173-27-050 when the project is subject to one or more of the following Federal permitting requirements:
 1. A U.S. Army Corps of Engineers section 10 permit under the Rivers and Harbors Act of 1899; (The provisions of section 10 of the Rivers and Harbors Act generally apply to any project occurring on or over navigable waters. Specific applicability information should be obtained from the Corps of Engineers.); or
 2. A section 404 permit under the Federal Water Pollution Control Act of 1972. (The provisions of section 404 of the Federal Water Pollution Control Act generally apply to any project which may involve discharge of dredge or fill material to any water or

wetland area. Specific applicability information should be obtained from the Corps of Engineers.)

- C. Apart from the activities listed in ECDC 24.80.020.B, no letter of exemption shall be required for other uses or developments exempt pursuant to ECDC 24.80.010 unless the Administrator has cause to believe a substantial question exists as to qualification of the specific use or development for the exemption, an applicant requests a letter of exemption, or the Administrator determines there is a likelihood of adverse impacts to shoreline ecological functions.

24.80.030 Review Criteria for All Development

No authorization to undertake use or development on shorelines of the state shall be granted unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the City of Edmonds Shoreline Master Program.

24.80.040 Substantial Development Permit Criteria

- A. A substantial development permit shall be required for all proposed use and development of shorelines unless the proposal is specifically exempt pursuant to ECDC 24.80.010.
- B. In order for a substantial development permit to be approved, the decision maker must find that the proposal is consistent with the following criteria:
 - 1. All regulations of the City of Edmonds Shoreline Master Program appropriate to the shoreline designation and the type of use or development proposed shall be met, except those bulk and dimensional standards that have been modified by an approval of a shoreline variance under ECDC 24.80.060.
 - 2. All policies of the City of Edmonds Shoreline Master Program appropriate to the shoreline designation and the type of use or development proposed shall be considered and substantial compliance demonstrated.

24.80.050 Conditional Use Permit Criteria

- A. The purpose of a conditional use permit is to provide greater flexibility in the administering of use regulations of this Master Program in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the City or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Shoreline Management Act and this Master Program.

- B. Uses specifically classified or set forth in the Master Program as conditional uses may be authorized provided that the applicant demonstrates all of the following:
 - 1. That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;
 - 2. That the proposed use will not interfere with the normal public use of public shorelines;
 - 3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;
 - 4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
 - 5. That the public interest suffers no substantial detrimental effect.
- C. Uses which are not specifically identified as an allowed use or uses which are specifically prohibited by this Master Program may not be authorized pursuant to either subsection B of this section.
- D. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

24.80.060 Variance Permit Criteria

- A. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in this Master Program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of this Master Program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of this Master Program are prohibited.
- B. Variances will be granted in circumstances where the 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 that the public interest shall suffer no substantial detrimental effect.
- C. Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM) may be authorized provided the applicant can demonstrate all of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with lawful, reasonable use of the property;
 2. That the hardship described in 1 of this subsection 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 Master Program, and not, for example, from deed restrictions or the applicant's own actions or those of a predecessor in title;
 3. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;
 4. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 5. That the variance requested is the minimum necessary to afford relief; and
 6. That the public interest will suffer no substantial detrimental effect.
- D. Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM) may be authorized provided the applicant can demonstrate all of the following:
1. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;
 2. That the proposal is consistent with the criteria established under subsection ECDC 24.80.060.C.1 through 6 of this section; and
 3. That the public rights of navigation and use of the shorelines will not be adversely affected.
- E. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

24.80.070 Minimum Application Requirements

A complete application for substantial development, conditional use, or variance permit shall contain as a minimum, the following information:

- A. The name, address and phone number of the applicant. The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.
- B. The name, address and phone number of the applicant's representative if other than the applicant.
- C. The name, address and phone number of the property owner, if other than the applicant.
- D. Location of the property. This shall, at a minimum, include the property address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location.
- E. Identification of the name of the shoreline (water body) that the site of the proposal is associated with. This should be the water body from which jurisdiction of the act over the project is derived.
- F. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.
- G. A general description of the property as it now exists including its physical characteristics and improvements and structures.
- H. A general description of the vicinity of the proposed project including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics.
- I. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:
 - 1. The boundary of the parcel(s) of land upon which the development is proposed.
 - 2. The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline. The precise location of the ordinary high water mark shall be field verified by the City of Edmonds and/or the Department of Ecology.
 - 3. Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed

change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.

4. Existing critical areas as together with any supporting information consistent with the reporting requirements of ECDC 23.40.090.
5. A general indication of the character of vegetation found on the site.
6. The dimensions and locations of all existing and proposed structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.
7. Where applicable, a landscaping plan for the project.
8. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.
9. Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.
10. Quantity, composition and destination of any excavated or dredged material.
11. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.
12. Where applicable, a depiction of the impacts to views from existing residential uses and public areas.
13. On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

24.80.080 Notice of Application

- A. Upon receipt of a fully completed shoreline substantial development permit, shoreline conditional use permit, or shoreline variance application, the City shall issue a Notice of Application in the manner set forth in ECDC 20.90.010.E.
- B. The public comment period for a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance shall be thirty (30) days following the date of notice of application. Public comments may be submitted at any time prior to the closing of

the record of an open record predecision hearing or, if no open record public hearing is required, prior to the decision on the project permit.

- C. If an open record predecision hearing, as define in RCW 36.70B.020, is required for the requested project permits, the notice of application shall be provided at least fifteen (15) days prior to the open record hearing. The public hearing shall not be closed to the receipt of written comments prior to thirty (30) days following the date of the notice.

24.80.090 Special Procedures for Limited Utility Extensions and Bulkheads

- A. An application for a substantial development permit for a limited utility extension or for the construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion shall be subject to all of the requirements of this chapter except that the following time periods and procedures shall be used:
 - 1. The public comment period shall be twenty days. The notice provided shall state the manner in which the public may obtain a copy of the local government decision on the application no later than two days following its issuance;
 - 2. The local government shall issue its decision to grant or deny the permit within twenty-one days of the last day of the comment period specified in subsection (2)(a) of this section; and
 - 3. If there is an appeal of the decision to grant or deny the permit to the local government legislative authority, the appeal shall be finally determined by the legislative authority within thirty days.
- B. For purposes of this section, a limited utility extension means the extension of a utility service that:
 - 1. Is categorically exempt under chapter 43.21C RCW for one or more of the following:
Natural gas, electricity, telephone, water, or sewer;
 - 2. Will serve an existing use in compliance with this chapter; and
 - 3. Will not extend more than two thousand five hundred linear feet within the shorelines of the state.

24.80.100 Public Hearings

- A. The Administrator shall determine whether an application requires a public hearing pursuant to the criteria below no later than fifteen (15) days after the minimum public comment period provided by ECDC 24.80.080.B. An open record public hearing shall be required for all of the following:

1. One or more interested persons has submitted to the administrator, with 15 days of the final publication notice of the application, a written request for such a hearing together with a statement of the reasons for the request; or
2. The proposal is determined to have a significant adverse impact on the environment and an Environmental Impact Statement is required in accordance with the State Environmental Policy Act; or
3. The proposal requires a variance and/or conditional use approval pursuant to this Master Program; or
4. The use or development requires an open record public hearing for other City of Edmonds approvals or permits.

24.80.110 Notice of Decision, Reconsideration, and Appeals

A. Notice of Decision

1. Within five days of a decision for action on a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance, the Administrator shall mail or hand deliver a copy of the final decision to the following:
 - a. The applicant/proponent;
 - b. Any person(s) who have filed a written request for a copy of the decision;
 - c. All persons who submitted substantive written comments on the application.; and
 - d. The Department of Ecology.
2. The notice of decision to ECDC 24.80.110.A.1.a through c shall include findings and conclusions, and a statement of the SEPA threshold determination and the procedures for an appeal (if any) of the permit decision or recommendation.
3. Decisions filed with the Department of Ecology shall contain the following information:
 1. A copy of the complete application;
 2. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation(s), applicable Master Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s).
 3. The final decision of reached by the City of Edmonds on the proposal;

4. A completed permit data sheet in the form provided in WAC 173-27-990 or hereafter amended.
 5. Where applicable, the City of Edmonds shall also file the applicable documents required by SEPA, or in lieu thereof, a statement summarizing the actions and dates of such actions taken under RCW 43.21C.
- B. Reconsideration. The applicant/proponent or any party of record may request reconsideration of any final action by the decision maker within (10) days of the decision. Grounds for reconsideration must be based upon the content of the written decision. The decision maker is not required to provide a written response or modify his/her original decision. He/she may initiate such action as he/she deems appropriate. The procedure of reconsideration shall not pre-empt or extend the appeal period for a permit or affect the date of filing with the Department of Ecology, unless the applicant/proponent requests the abeyance of said permit appeal period in writing with ten (10) days of a final action.
- C. Appeals
1. Local appeals of decision by the Shoreline Administrator or the Hearing Examiner shall be pursuant to the procedure and timelines of ECDC 20.01, ECDC 20.06, and ECDC 20.07..
 2. Appeals of a final decision of the City of Edmonds or the Department of Ecology shall be filed within 21 days of the date of filing of the final permit and shall be heard by the Shorelines Hearings Board pursuant to the procedures and timelines of RCW 90.58.180.

24.80.120 Initiation of Development

- A. Development pursuant to a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance shall not begin and shall not be authorized until twenty-one (21) days after the “date of filing” or until all review proceeding before the Shoreline Hearings Board have terminated.
- B. Date of filing:
1. “Date of filing” of a substantial development permit is the date of actual receipt of the decision by the Department of Ecology.
 2. The “date of filing” for a shoreline conditional use permit or a shoreline variance shall mean the date the permit decision rendered by the Department of Ecology is transmitted by the Department to the City of Edmonds and the applicant/proponent.

24.80.130 Revisions

- A. A revision is required when an applicant proposes substantive changes to the design, terms, or conditions of an approved permit. Changes are “substantive” if they materially alter the

project in a manner that relates to its conformance to the terms and conditions of the permit, this Master Program, or the Shoreline Management Act. Changes, which the Administrator determines are not substantive, do not require approval of a revision.

- B. When a permit revision is required, the applicant shall submit detailed plans and text describing the proposed changes. If the Administrator determines that the revisions proposed are within the scope and intent of the original permit, the Administrator may approve the revision as a Type II decision.
- C. “Within the scope and intent of the original permit” means all of the following:
 - 1. No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet (500) or ten percent (10%) from the provisions of the original permit, whichever is less;
 - 2. Ground area coverage and height may be increased a maximum of ten percent (10%) from the provisions of the original permit;
 - 3. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under a variance granted as the original permit or a part thereof;
 - 4. Additional or revised landscaping is consistent with any conditions attached to the original permit and with the applicable master program;
 - 5. The use authorized pursuant to the original permit is not changed; and
 - 6. No adverse environmental impact will be caused by the project revision.
- D. If the sum of the proposed revision and any previously approved revisions do not meet the criteria in ECDC 24.80.130.C, an application for a new Shoreline Permit must be submitted.
- E. If the revision involves a Shoreline Conditional Use Permit or Shoreline Variance, which was conditioned by the Department of Ecology, the revision also must be reviewed and approved by the Department of Ecology. Under the requirements of WAC 173-27-110(6), the Department of Ecology shall render and transmit to the City of Edmonds and the applicant its final decision with fifteen (15) days of the date of the department’s receipt of the submittal from the City of Edmonds. The City of Edmonds shall notify parties of record of the department’s final decision.
- F. Revision approvals, including the revised site plans, a detailed description of the authorized changes, and the final ruling on consistency with this section shall be filed with the Department of Ecology. In addition, the City of Edmonds shall notify parties of record of the revision.

- G. Revisions to shoreline permits may be authorized after the original authorization has expired. Revisions made after the expiration of the original permit shall be limited to changes that are consistent with this Master Program and that would not require a permit under this Master Program. If the proposed change is a substantial development as defined by this Master Program, then a new permit is required. The provisions of this paragraph shall not be used to extend the time requirements or to authorize substantial development beyond the time limits or scope of the original permit.
- H. Appeals on revisions shall be in accordance with RCW 90.58.180 and shall be filed within twenty-one days from the date of receipt of the City of Edmonds' action by the Department of Ecology or, when appropriate under subsection E of this section, the date the Department of Ecology's final decision is transmitted to local government and the applicant. Appeals shall be based only upon contentions of noncompliance with the provisions of subsection C of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

24.80.140 Time requirements of Shoreline Permits

- A. The following time requirements shall apply to all substantial development permits and to any development authorized pursuant to a shoreline conditional use permit or shoreline variance:
1. Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two (2) years of the effective date of a substantial development permit. However, the City of Edmonds may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the substantial development permit and to the Department of Ecology
 2. Authorization to conduct development activities shall terminate five (5) years after the effective date of a substantial development permit. However, the City of Edmonds may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the Department of Ecology.
 3. The effective date of a substantial development permit shall be the date of filing as provided in ECDC 24.80.120.B. The permit time periods in subsections 1 and 2 of this section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

4. Authorization to conduct development activities pursuant to a shoreline permit issued by the City of Edmonds shall expire five (5) years after the date of issuance provided the activity was not pursued due to the pendency of administrative appeals or legal action. However, the City of Edmonds may authorize a single extension for a period not to exceed one (1) year based on reasonable factors.
- B. Notwithstanding the time limits established in ECDC 24.80.140.A.1 and .2, upon finding of good cause based on the requirements and circumstances of the proposed project and consistent with the policies and provisions of this Master Program and the Shoreline Management Act, the Administrator or Hearing Examiner as appropriate may set different time limits for a particular substantial development permit as part of the action to approve the permit. The Hearing Examiner may also set different time limits on specific conditional use permits or variances with the approval of the Department of Ecology. The different time limits may be longer or shorter than those established in ECDC 24.80.140.A.1 and .2 but shall be appropriate to the shoreline development or used under review. “Good cause based on the requirements and circumstances of the proposed project” shall mean that the time limits established for the project are reasonably related to the time actually necessary to perform the development on the ground and complete the project that is being permitted, and/or are necessary for the protection of shoreline resources.
 - C. The Administrator or Hearing Examiner as appropriate shall notify the Department of Ecology in writing of any change to the effective date of a permit with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized ECDC 24.80.150.A and .B shall require a new permit application.

24.80.150 Administrative Authority and Responsibility

A. Shoreline Administrator

The Shoreline Administrator shall be the planning manager or his/her designee and is vested with the following authority and responsibility to:

1. Have overall administrative responsibility for this Master Program;
2. Determine if a public hearing should be held on a shoreline permit application by the Hearing Examiner pursuant to ECDC 24.80.100;
3. Grant or deny written Permit Exemptions from shoreline Substantial Development Permit requirements of this Master Program;
4. Authorize, approve or deny shoreline Substantial Development Permits, except for those for which a public hearing is required pursuant to ECDC 24.80.100;
5. Make written recommendation to the Hearing Examiner or City Council as appropriate and insofar as possible, in order to assure that all relevant information, testimony, and

questions regarding a specific matter are made available during their respective reviews of such matter.

6. Review and evaluate the records of project review actions (permits and exemptions) in shoreline areas and report on the cumulative effects of authorized development of shoreline conditions at a minimum every seven years when this Master Program is updated. The administrator shall coordinate such review with the Washington State Department of Ecology, Washington State Department of Fish and Wildlife, and other interested parties.
7. Advise interested citizens and project proponents of the goals, policies, regulations and procedures of this Master Program; and
8. Make administrative decisions and interpretations of the policies and regulations of this Master Programs and the Shoreline Management Act.

B. Hearing Examiner

The Hearing Examiner is vested with the following authority:

1. To grant or deny shoreline Substantial Development Permits requiring public hearings pursuant to ECDC 24.80.100;
2. To grant or deny shoreline Conditional Use Permits under this Master Program;
3. To grant or deny variances form this Master Program; and
4. To decide on appeals of administrative decisions issued by the Administrator of this Master Program in accord with procedures set forth in Title 20 of this code.

C. City Council

1. The Edmonds City Council is vested with the authority to approve any revisions or amendments to this Master Program in accordance with the applicable requirements of the Shoreline Management Act and the Washington Administrative Code.
2. To become effective any amendment to this Master Program must be reviewed and adopted by the Department of Ecology pursuant to RCW 90.58.190 and Chapter 173-26 WAC.

24.80.160 Compliance

Failure to comply with the conditions of approval associated with a shoreline permit shall cause the permit to immediately become void and any continuation of the use activity shall be

considered a violation of this Master Program and a public nuisance subject to enforcement proceedings.

24.80.170 Enforcement

Procedures for investigation and notice of violation, compliance, and the imposition of penalties for the violation of any requirements of this Master Program shall be consistent with provisions in ECDC 20.110.040, Part II 173-27 WAC, RCW 90.58.210, and RCW 90.58.220.

Part IX Definitions

24.90.000 General Information

- A. For the purpose of this Master Program, certain terms and their derivations shall be construed as specified in this section. Some terms used in this Master Program may have a different definition and application under other City of Edmonds regulations. Words in the singular include the plural, the plural the singular. The words “shall”, “will” and “must” are mandatory; the word “may” is permissive. “Should” means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this Master Program, against taking the action. Additional definitions applicable to this master Program and adopted by reference herein, are found in RCW 90.58 and Chapters 173-26 and 173-27 WAC. The following definitions apply throughout this Program, unless otherwise indicated.
- B. If a definition is not included here, the city shall rely on definitions found in applicable citations in the Revised Code of Washington (RCW), Washington Administrative Code (WAC), the Edmonds Community Development Code (ECDC), and finally a standard dictionary, in that order. In case of conflict with the ECDC, the definition within the RCW, WAC, and/or this Master Program shall prevail.

24.90.010 Definitions: A to B

- A. “Abandoned” means knowing relinquishment of right or claim to the subject property or structure on that property.
- B. “Accessory” means a use, activity, structure or part of a structure which is demonstrably subordinate and incidental to the main activity or structure on the subject property.
- C. “Accessory building” means one which is subordinate to the main building, and is incidental to the use of the main building on the same lot.

- D. "Alteration(s)" means a change or rearrangement of the structural parts of existing facilities or an enlargement by extending the sides or increasing the height or depth or the moving from one location to another.
- E. "Applicant" means a person who applies for any permit or approval to do anything governed by this code and who is either the owner of the subject property, the authorized agent of the owner, or the city.
- F. "Appurtenance" means a structure or development which is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and also of the perimeter of any marsh, bog, or swamp. See also "Normal appurtenances."
- G. "Aquaculture" means the farming or culture of food fish, shellfish, or other aquatic plants or animals any may require development such as fish hatcheries, rearing pens and structures, and shellfish rafts, as well as use of natural spawning and rearing areas. Aquaculture does not include the harvest of free-swimming fish or the harvest of shellfish not artificially planted or maintained.
- H. "Aquaculture practices" means any activity directly pertaining to growing, handling, or harvesting or aquaculture produce, including, but not limited to, propagation, stocking, feeding, disease treatment, waste disposal, water use, development of habitat and structures. Excluded from this definition are related commercial or industrial uses such as wholesale and retail sales, or final processing and freezing.
- I. "Average grade level" means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure: In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.
- J. "Average parcel depth" means the average of the distances from the ordinary high water mark to the street providing direct access to the subject property as measured along the side property lines or the extension of those lines where the water frontage of the subject property ends, the center of the ordinary high water mark of the subject property and the quarter points of the ordinary high water mark of the subject property.
- K. "Average parcel width" means the average of the distances between side property lines as measured along the ordinary high water mark and the front property line.
- L. "Backfill" means material placed into an excavated area, pit, trench or behind a constructed retaining wall, rockery or foundation.
- M. "Boat launch or ramp" means graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

- N. “Buoy” means a floating object anchored to the bottom of a water body.
- O. “Breakwater” means an offshore structure generally aligned parallel to shore, sometimes shore-connected, that provides protection from waves.
- P. “Buffer” means the area adjacent to a critical area and/or shoreline that is required for the continued maintenance, function, and/or structural stability of the critical area and/or shoreline. Buffer widths vary depending on the relative quality and sensitivity of the area being protected. Unlike zoning or shore setbacks, buffer areas are intended to be left undisturbed, or may need to be enhanced to support natural processes, functions and values.
- Q. “Building” means any structure having a roof, excluding all forms of vehicles even though immobilized.
- R. “Building setback” means the distance all buildings, uses and other structures shall be set back from the outer or upland edge of the approved buffer. The following may be allowed in the building setback area:
 - A. Landscaping;
 - B. Building overhangs, if such overhangs do not extend more than 30 inches into the setback area.
- S. “Bulkhead” means a retaining wall whose primary purpose is to hold or prevent the backfill from sliding while providing protection against light-to-moderate wave action.

24.90.020 Definitions: C to F

- A. “City” means the City of Edmonds, a municipal corporation.
- B. “Commercial use” means an activity with goods, merchandise, or services offered for sale or rent.
- C. “Comprehensive plan” means the comprehensive Plan of the City of Edmonds and all elements thereof as amended or, if repealed, its successor document, listing the goals and policies regarding land use within the city.
- D. “Contour line” means a line on a map or on the earth representing a specific elevation above sea level or an elevation relative to a specific datum point.
- E. “Coverage” means the total ground coverage of all buildings or structures on a site measured from the outside of external walls or supporting members or from a point two and one-half feet in from the outside edge of a cantilevered roof, whichever covers the greatest area.

- F. "Critical areas" include the following areas and ecosystems: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas designated through the Edmonds Critical Area Ordinance.
- G. "Cross-section (drawing)" means a visual representation of a vertical cut through a structure or any other three-dimensional form.
- H. "Dedication" means the deliberate granting of an interest in land by an owner for public use or purpose, reserving no other rights than those that are compatible with the full exercise and enjoyment of the public use or purpose to which the property has been devoted.
- I. "Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; grading; filling; removal of any sand, gravel, or minerals; bulk heading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level.
- J. "Development permit" means any permit or approval under this code or the ECDC that must be issued before initiating a use or development activity.
- K. "Dock" means a structure designed to protrude overwater or float upon the water, and which is attached to the shoreline and is used for moorage or other water-related activity such as swimming or diving.
- L. "Dredging" means removal of earth and other materials from the bottom of a body of water or from a wetland.
- M. "Dredging spoils" means the earth and other materials removed from the floor of a body of water or wetland by the dredging process.
- N. "Drift cell," "drift sector," or "littoral cell" means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.
- O. "Dry land" means the area of the subject property landward of the ordinary high water mark.
- P. "Dwelling unit" means a building providing complete housekeeping facilities for one family. Dwelling unit does not include recreational vehicles or mobile homes.
- Q. "Dwelling unit, attached" means a dwelling unit that has one or more vertical walls in common with or attached to one or more other dwelling units or other uses and does not have other dwelling units or uses above or below it, excluding lawfully permitted accessory dwelling units.

- R. "Dwelling unit, detached" means a dwelling unit that is not attached or physically connected to any other dwelling unit or other use.
- S. "Dwelling unit, stacked" means a dwelling unit that has one or more horizontal walls in common with or adjacent to one or more other dwelling units or other uses and may have one or more vertical walls in common with or adjacent to one or more other dwelling units or other uses, excluding lawfully permitted accessory dwelling units.
- T. "ECDC" means the "Edmonds Community Development Code."
- U. "Easement" means land which has specific air, surface or subsurface rights conveyed for use by an entity other than the owner of the subject property or to benefit some property other than the subject property.
- V. "Ecological functions" or "shoreline functions" means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-200 (2)(c).
- W. "Edmonds Community Development Code (ECDC)" means Ordinance 2182 as amended or, if repealed, its successor document.
- X. "Enhancement" means alteration of an existing resource to improve or increase its characteristics and processes without degrading other existing functions. Enhancements are to be distinguished from resource creation or restoration projects.
- Y. "Environmentally sensitive areas" means an area designated and mapped by a city under WAC 197-11-908, as now or hereafter amended. Certain categorical exemptions do not apply within environmentally sensitive areas (WAC 197-11-305 and 197-11-908, as now or hereafter amended).
- Z. "Erosion and deposition" means the removal of soils and the placement of these removed soils elsewhere by natural forces such as wind or water.
- AA. "Excavate(tion)" means the mechanical removal of soils and/or underlying strata.
- BB. "Feasible" means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:
1. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or test have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
 2. The action provides a reasonable likelihood of achieving its intended purpose; and

3. The action does not physically preclude achieve the project's primary intended legal use.

In cases where this Master Program requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the City of Edmonds may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

CC. "Ferry terminal" means a combination of waterward and upland improvements providing the interface between public/private waterborne transportation and public/private ground transportation.

DD. "Fill" means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material (excluding solid waste) to an area waterward of the OHWM, in wetlands, or on shoreland in a manner that raises the elevation or creates dry land.

EE. "Fill material" means dirt, structural rock or gravel, broken concrete and similar structural substances customarily used to raise the level of the ground, but excluding topsoil, bark, ornamental rocks or gravel placed on the surface of the ground.

FF. "Float, recreational" means an offshore platform/buoy used for water-dependent activities such as, but not limited to, swimming and diving.

24.90.030 Definitions: G to O

- A. "Gabions" means structures composed of masses of rocks, rubble or masonry held tightly together, usually by wire mesh, so as to form blocks or walls; sometimes used on heavy erosion areas to retard wave action or as foundations for breakwaters or jetties.
- B. "Geotechnical report" or "geotechnical analysis" means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development; including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise in both regional and local shoreline geology and processes.
- C. "Government facility" means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

- D. “Grading” means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.
- E. “Haines Wharf” means Lots 7 through 11 in the plat of Meadowdale Tidelands.
- F. “Hotel” means any building containing five or more separately occupied rooms that are rented out for sleeping purposes. A central kitchen and dining room and interior accessory shops and services catering to the general public can be provided. Not included are institutions housing persons under legal restraint or requiring medical attention or care.
- G. “Improvement” means any structure or manmade feature.
- H. “Inner harbor line” means the line designated as such by the State Harbor Line Commission pursuant to Article XV, Washington State Constitution.
- I. “Land surface modification” means the clearing or removal of trees, shrubs, ground cover and other vegetation, and all grading, excavation and filling of materials. The removal of overhanging vegetation and fire hazards as specified in ECDC 18.45.030(E) shall not be deemed to be land surface modifications.
- J. “Landscaping” means the planting, removal and maintenance of vegetation along with the movement and displacement of earth, topsoil, rock, bark and similar substances done in conjunction with the planting, removal and maintenance of vegetation.
- K. “Landward” means upland from the ordinary high water mark.
- L. “Lot” means a single tract of land legally created as a separate building site with frontage on a street or access easement. For purposes of this code the area of the lot used to calculate lot area shall be the area of the lot which is upland of the OHWM and adjoining lots under common ownership which were created without subdivision or short subdivision approval from applicable city or county governments. This lot area shall be considered as one lot and subject to the regulations contained herein. The terms of this section shall apply regardless of whether the individual adjoining lots meet current zoning requirements.
- M. “Low Impact Development (LID)” means a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.
- N. “LID Principles” means land use management strategies that emphasize conservation, use of on-site natural features, and site planning to minimize impervious surfaces, native vegetation loss, and stormwater runoff.
- O. “Low impact development best management practices” means distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID

BMPs include, but are not limited to, bioretention/rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, vegetated roofs, minimum excavation foundations, and water re-use.

- P. “Marine launcher” means a mechanical device that can hoist vessels off trailers and transport them into the water and often is associated with dry land moorage facilities.
- Q. “Master plan” means a complete development plan for the subject property showing placement, dimensions and uses of all structures as well as streets and other areas used for vehicular circulation.
- R. “Mean sea level” means the level of Puget Sound at zero tide as established by the U.S. Army Corps of Engineers.
- S. “Minor appurtenant building” means minor buildings associated with overwater structures including but not limited to the following: storage buildings less than 150 square feet in area, ferry terminal passenger shelter, covered moorage, etc.
- T. “Mixed-use developments” are shoreline developments which combine more than one separate but related activity into a coordinated package. Activities usually include one or more water-dependent uses with non-water-dependent uses. Drive-in businesses are not permitted.
- U. “Modification” means an action undertaken in support of or in preparation for a shoreline use that modifies the physical configuration or qualities of the shoreline area.
- V. “Moorage” means a place to tie up or to anchor a waterborne craft.
- W. “Mooring buoy” means a floating object anchored to the bottom of a water body that provides tie up capabilities for waterborne craft.
- X. “Moorage facility” means a pier, dock, dolphin, buoy or other structure providing docking or moorage space for waterborne craft.
- Y. “Motel” means a building containing units which are used as individual sleeping units having their own private toilet facilities and sometimes their own kitchen facilities, designed primarily for the accommodation of transient automobile travelers. Accommodations for trailers are not included. This term includes tourist court, motor lodge, auto court, cabin court, motor hotel, motor inn and similar names.
- Z. “Multimodal terminal (facility)” means a terminal (facility) designed for the co-location of transportation loading and unloading by multiple forms of transportation including land, water or rail.
- AA. “Nonconformance” means any use, structure, lot, condition, activity, or any other feature or element of private property or the use or utilization of private property that does not conform

to any of the provisions of this code or that was not approved by the city through the appropriate decision-making process required under this code and/or was established prior to the original Edmonds shoreline master program.

BB. “Normal appurtenances” normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program.

CC. “Office (use)” means a place of employment in a building or separately defined space within a building providing services other than production, distribution or sale or repair of goods or commodities. The following is a nonexclusive list of office uses: accounting, architectural, engineering, consulting or other similar professional services; management, administrative, secretarial, marketing, advertising, personnel or other similar personnel services; sales offices where no inventories or goods are available on the premises; real estate, insurance, travel agent, brokerage or other similar services. The following uses are specifically excluded from the definition of office: medical, dental, or other health care; veterinary; banks, loan companies and similar financial institutions.

DD. “Off-street parking” means motor vehicle parking facilities within the lot area of a private lot or public lot established for that purpose.

EE. “Official newspaper of the city” means the publication designated by ordinance or resolution to contain official newspaper publications for the city government.

FF. “Official notification boards of the city” means the bulletin boards in the public areas of the city of Edmonds Community Services Building, the Edmonds Main Post Office Branch, and the Edmonds Public Library.

GG. “OHWM” means ordinary high water mark (see ECDC 24.90.030.II).

HH. “Open space” means land not covered by buildings, roadways, parking areas or other surfaces through which water cannot percolate into the underlying soils.

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

JJ. “Oriented” means facing or directed toward.

KK. “Outer harbor line” means the line designated as such by the State Harbor Line Commission pursuant to Article XV, Washington State

24.90.040 Definitions: P to R

- A. “Parking area” means any area designed and/or used for parking of vehicles.
- B. “Parking space” means an area which is improved, maintained and used for the sole purpose of temporarily accommodating a motor vehicle that is not in use.
- C. “Pedestrian orientation” pertains to facilities which encourage pedestrian movement and are designed and oriented toward use by pedestrians.
- D. “Pier” means a fixed structure which abuts the shoreline and is used for moorage or other water-related activities such as fishing, swimming and diving.
- E. “Planning division” means the planning division of the community services department of the City of Edmonds.
- F. “Planning manager” means the manager of the planning division of the City of Edmonds or the acting manager of that division.
- G. “Planning official” means the manager of the planning division or his/her designee.
- H. “Port” means a special purpose unit of local government created for the purpose of managing port-related lands, facilities and activities. For the purposes of this document, “port” refers to the port of Edmonds and its facilities and operation.
- I. “Property line” means those lines enclosing a lot, its developable area and those lines defining a recorded vehicular access easement. The following are categories of property lines:
 - 1. “Front property line” is any property line that is adjacent to a street or easement more than 20 feet in width, except that the Burlington Northern right-of-way shall not be considered a front property line.
 - 2. “Rear property line” is any property line that is farthest from and essentially parallel to a front property line except on a lot which contains two or more front property lines.
 - 3. “Side property line” is any property line other than a front property line or a rear property line.

- J. "Public access" is the physical ability of the general public to reach and touch the water's edge and/or the ability to have a view of the water and the shoreline from upland locations. There are a variety of types of public access including picnic areas, pathways and trails (including disabled), floats and docks, promenades, viewing towers, bridges, boat launches, street ends, ingress and egress, parking and other similar facilities or locations.
- K. "Public access pier or boardwalk" means an elevated structure or floating structure which is constructed waterward of the ordinary high water mark and intended for public use.
- L. "Public park" means an area provided by a unit of government to meet the active or passive recreational needs of people in the water and on the upland shoreline.
- M. "Public right-of-way" means land dedicated to the movement of vehicles and pedestrians and providing for primary access to adjacent parcels and or public waterborne transportation. Secondly, the land provides space for utility lines and appurtenances and other publicly owned devices.
- N. "Public use area" means a portion of private property that is dedicated to public use and which contains one or more of the following elements: benches, tables, lawns, gardens, piers, exercise or play equipment or similar improvements or features. These elements are to provide the public with recreational opportunities in addition to the right to traverse or stand in this area.
- O. "Public utility" means a private business organization such as a public service corporation, including physical plant facilities, performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include but are not limited to: water supply, waste water treatment, stormwater treatment, electric power, telephone, cablevision, gas, and transportation for persons and freight.
- P. "Railroad right-of-way" means the land occupied by a railroad for its tracks, yard, buildings, and related structures.
- Q. "Restaurant" means a building where food is sold to the public for on-premises consumption or to go. It may include alcoholic beverage service only pursuant to a Class "C," "D," or "H" state liquor license.
- R. "Restore," restoration" or "ecological restoration" means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.
- S. "Retail establishment" means a commercial enterprise which provides goods or services directly to the consumer and whose goods are available for immediate purchase and removal

from the premises by the purchaser or whose services are traditionally not permitted within an office use.

24.90.050 Definitions: S to T

- A. “Shore setback” means the minimum distance between a structure or use and the shoreline ordinary high water mark.
- B. “Shoreline areas” and “shoreline jurisdiction” means all “shorelines of the state” and “shorelands” as defined in RCW 90.58.030.
- C. “Shoreline conditional use” means a use or development which is specifically listed by this master program as a conditional use within a particular shoreline environment or a use which is not addressed by this master program within any shoreline environment.
- D. “Shoreline Management Act (SMA)” means Chapter 90.58 RCW as now or hereafter amended.
- E. “Shoreline master program (SMP)” means the ordinance of the City of Edmonds adopted under authority of Chapter 90.58 RCW.
- F. “Shoreline modifications” means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.
- G. “Shoreline variance” means a procedure to grant relief from the specific bulk, dimensional or performance standards set forth in this master program, and not a means to allow a use not otherwise permitted within a shoreline environment.
- H. “Silt or sediment” means the soil particles mobilized and deposited by the processes of erosion and deposition.
- I. “Street” means the public or private right-of-way or access easement which provides vehicular access to more than three lots.
- J. “Structure” means anything which is built or constructed; an edifice or building of any kind, or any piece of work artificially built-up or composed of parts joined together in some definite manner. Not included are fences less than six feet in height, retaining wall, rockeries, and similar improvements of a minor character less than three feet in height.
- K. “Structural alterations” means any change in a supporting member of a building or structure.
- L. “Subject property” means the entire lot, series of lots or parcels on which a development or use is or will locate and that is otherwise subject to the provisions of this code. For the

purposes of this chapter, land leased from the Department of Natural Resources, which is contiguous to the applicant's property, shall also be considered the "subject property."

24.90.060 Definitions: U to Z

- A. "Use, development and/or activity" means "development" as that term is defined in Chapter 90.58 RCW. "Use" also means the nature of the activities taking place on private property or within structures thereon.
- B. "Vehicle holding area" means any area designated by the city or state for holding vehicles prior to loading onto a ferry.
- C. "Water-dependent use" means a use or a portion of a use which is dependent on the water by reason of the intrinsic nature of its operations and cannot exist in any other location. Examples of water-dependent uses may include ferry and passenger terminals, marinas and sewer outfalls.
- D. "Water-enjoyment use" means a recreational use, or other use facilitating public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through the location, design and operation assures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to, parks, piers, scuba diving facilities and other improvements facilitating public access to shorelines of the state; and general water-enjoyment uses may include but are not limited to, restaurants, museums, aquariums, scientific/ecological reserves, resorts and mixed-use commercial; provided, that such uses conform to the above water-enjoyment specifications and the provisions of the master program.
- E. "Water-oriented use" refers to any combination of water-dependent, water-related, and/or water-enjoyment uses and serves as an all-encompassing definition for priority under the SMA. "Non-water-oriented" serves to describe those uses which have little or no relationship to the shoreline and are not considered priority uses under the SMA. Examples include professional offices, automobile sales or repair shops, mini-storage facilities, multifamily residential development, department stores and gas stations.
- F. "Water-related use" means a use or a portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:
 - 1. Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

2. The use provides a necessary service supportive of the water-dependent commercial activities and that the proximity of the use to its customers makes its services less expensive and/or more convenient.
- G. “Waterward” means toward the body of water on the waterside of the ordinary high water mark.
- H. “Wetlands” means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

Part X Appendices

24.100.000 Appendix A - Maps of Shoreline Environments and Jurisdictions

24.100.010 Appendix B – Shoreline Master Program Version of Edmonds Critical Area Regulations



Legend

SMP Designations

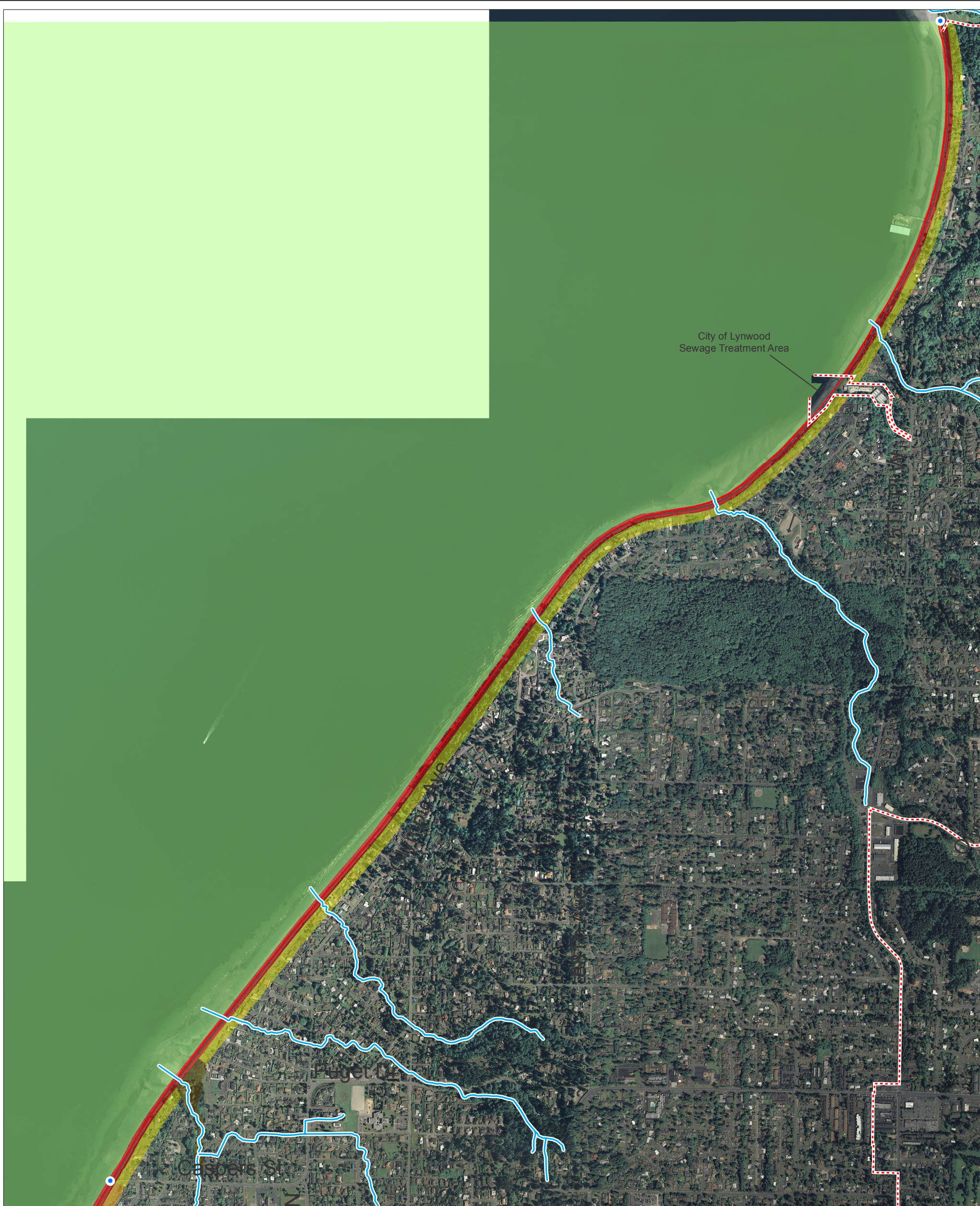
- | | | |
|--------------------------|---------------------------|------------------------|
| Aquatic I | Shoreline Residential III | Planning Segment Break |
| Aquatic II | Urban Mixed Use I | OHW |
| Conservancy | Urban Mixed Use II | Edmonds City Limits |
| Natural | Urban Mixed Use III | Railroad |
| Shoreline Residential I | Urban Mixed Use IV | Stream |
| Shoreline Residential II | Urban Railroad | |



City of Edmonds
Shoreline Master Program Update

Environmental Designations: City-Wide
Figure 1

Date of Last Revision: 08-25-2014



Legend

SMP Designations

Legend:

- Aquatic I
- Aquatic II
- Conservancy
- Natural
- Shoreline Residential I
- Shoreline Residential II
- Shoreline Residential III
- Urban Mixed Use I
- Urban Mixed Use II
- Urban Mixed Use III
- Urban Mixed Use IV
- Urban Railroad
- Planning Segment Break
- OHW
- Edmonds City Limits
- Railroad
- Stream



City of Edmonds
Shoreline Master Program Update

Environmental Designations: Marine Shoreline (North)

Figure 2

Date of Last Revision: 08-25-2014



Legend

SMP Designations

- | | | |
|---|---|---|
|  Aquatic I |  Shoreline Residential III |  Planning Segement Break |
|  Aquatic II |  Urban Mixed Use I |  OHW |
|  Conservancy |  Urban Mixed Use II |  Edmonds City Limits |
|  Natural |  Urban Mixed Use III |  Railroad |
|  Shoreline Residential I |  Urban Mixed Use IV |  Stream |
|  Shoreline Residential II |  Urban Railroad | |



City of Edmonds
Shoreline Master Program Update

Environmental Designations: Marine Shoreline (South)

Figure 3

Date of Last Revision: 08-25-2014

Appendix B – Critical Area Regulations Applicable to Shoreline Jurisdiction

The Edmonds Shoreline Master Program adopts this version of the City’s critical area ordinance for inclusion into the Shoreline Master Program except for certain sections which are specifically excepted pursuant to ECDC 24.40.020.C. Those provisions that have been excepted by the Shoreline Master Program are shown in this appendix with a ~~strike through~~.

Chapter 23.40

ENVIRONMENTALLY CRITICAL AREAS GENERAL PROVISIONS

Sections:

Part I. Purpose and General Provisions

- 23.40.000 Purpose.
- 23.40.005 Definitions pertaining to critical areas.
- 23.40.010 Authority.
- 23.40.020 Relationship to other regulations.
- 23.40.030 Severability.
- 23.40.040 Jurisdiction – Critical areas.
- 23.40.050 Protection of critical areas.
- 23.40.055 City council reports.

Part II. Critical Areas Review Process

- 23.40.060 General requirements.
- 23.40.070 Critical areas preapplication consultation.
- 23.40.080 Notice of initial determination.
- 23.40.090 Critical areas report – Requirements.
- 23.40.100 Critical areas report – Modifications to requirements.
- 23.40.110 Mitigation requirements.
- 23.40.120 Mitigation sequencing.
- 23.40.130 Mitigation plan requirements.
- 23.40.140 Innovative mitigation.
- 23.40.150 Critical areas decision.
- 23.40.160 Review criteria.
- 23.40.170 Favorable critical areas decision.
- 23.40.180 Unfavorable critical areas decision.
- 23.40.190 Completion of the critical areas review.
- 23.40.195 Contingent review procedure for certain types of development.
- 23.40.200 Appeals.
- 23.40.210 Variances.
- 23.40.215 Critical area restoration projects.

Part III. Allowed Activities, Exemptions and Noncompliance Penalties

- 23.40.220 Allowed activities.
- 23.40.230 Exemptions.
- 23.40.240 Unauthorized critical area alterations and enforcement.

Part IV. General Critical Areas Protective Measures

- 23.40.250 Critical areas markers and signs.
- 23.40.270 Critical areas tracts and easements.

- 23.40.280 Building setbacks.
- 23.40.290 Bonds to ensure mitigation, maintenance, and monitoring.
- 23.40.300 Critical area inspections.

Part V. Incorporation of Best Available Science

- 23.40.310 Best available science.

Part I. Purpose and General Provisions

23.40.000 Purpose.

A. The purpose of this title is to designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values, while also allowing for reasonable use of private property.

B. This title is to implement the goals, policies, guidelines, and requirements of the comprehensive plan and the Washington State Growth Management Act.

C. The city of Edmonds finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit Edmonds and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation of flood waters, ground water recharge and discharge, erosion control, wave attenuation, protection from hazards, historical, archaeological, and aesthetic value protection, and recreation. These beneficial functions are not listed in order of priority.

D. Goals. By limiting development and alteration of critical areas, this title seeks to:

1. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, or flooding;
2. Maintain healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species;
3. Direct activities not dependent on critical areas resources to less ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas; and
4. Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and fish and wildlife habitat conservation areas.

E. The regulations of this title are intended to protect critical areas in accordance with the Growth Management Act and through the application of the best available science, as determined according to WAC 365-195-900 through 365-195-925 and RCW 36.70A.172, and in consultation with state and federal agencies and other qualified professionals.

F. This title is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this title to make a parcel of property unusable by denying its owner reasonable economic use of the property nor to prevent the provision of public facilities and services necessary to support existing development.

G. The city of Edmonds' enactment or enforcement of this title shall not be construed to benefit any individual person or group of persons other than the general public. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.005 Definitions pertaining to critical areas.

For the purposes of this chapter and the chapters on the five specific critical area types (Chapters 23.50, 23.60, 23.70, 23.80 and 23.90 EDCD) the following definitions shall apply:

“Adjacent” means those activities located on site immediately adjoining a critical area; or distance equal to or less than 225 feet of a development proposal or subject parcel.

“Alteration” means any human-induced action which changes the existing condition of a critical area or its buffer. Alterations include, but are not limited to: grading; filling; dredging; draining; channelizing; cutting, pruning, limbing or topping, clearing, relocating or removing vegetation; applying herbicides or pesticides or any hazardous or toxic substance; discharging pollutants; paving, construction, application of gravel; modifying for surface water management purposes; or any other human activity that changes the existing landforms, vegetation, hydrology, wildlife or wildlife habitat value of critical areas.

Best Available Science. See ECDC 23.40.310.

“Best management practices” means a system of practices and management measures that:

1. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, and toxics;
2. Control the movement of sediment and erosion caused by land alteration activities;
3. Minimize adverse impacts to surface and ground water quality, flow, and circulation patterns; and
4. Minimize adverse impacts to the chemical, physical, and biological characteristics of critical areas.

“Buffer” means the designated area immediately next to and a part of a steep slope or landslide hazard area and which protects slope stability, attenuation of surface water flows and landslide hazards reasonably necessary to minimize risks to persons or property; or a designated area immediately next to and part of a stream or wetland that is an integral part of the stream or wetland ecosystem.

“Chapter” means those sections of this title sharing the same third and fourth digits.

“City” means the city of Edmonds.

City Council or Council. See ECDC 21.15.030.

“Class” or “wetland class” means descriptive categories of wetland vegetation communities within the wetlands taxonomic classification system of the U.S. Fish and Wildlife Service (Cowardin, et al., 1979).

“Clearing” means the act of cutting and/or removing vegetation. This definition shall include grubbing vegetation and the use or application of herbicide.

“Compensation project” means an action(s) specifically designed to replace project-induced critical area or buffer losses. Compensation project design elements may include, but are not limited to: land acquisition procedures and detailed plans including functional value assessments, detailed landscaping designs, construction drawings, and monitoring and contingency plans.

“Compensatory mitigation” means replacing project-induced losses or impacts to a critical area, and includes, but is not limited to, the following:

1. “Creation” means actions performed to intentionally establish a wetland at a site where it did not formerly exist.
2. “Reestablishment” means actions performed to restore processes and functions to an area that was formerly a critical area, where the former critical area was lost by past alterations and activities.
3. “Rehabilitation” means improving or repairing processes and functions to an area that is an existing critical area that is highly degraded because one or more environmental processes supporting the critical area have been disrupted.
4. “Enhancement” means actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality.
5. “Preservation” means actions taken to ensure the permanent protection of existing high-quality wetlands.

“Creation” means a compensation project performed to intentionally establish a wetland or stream at a site where one did not formerly exist.

“Critical areas” for the city of Edmonds means wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas as defined in Chapters 23.50, 23.60, 23.70, 23.80 and 23.90 ECDC, respectively.

“Development proposal” means any activity relating to the use and/or development of land requiring a permit or approval from the city, including, but not limited to: commercial or residential building permit; binding site plan; conditional use permit; franchise; right-of-way permit; grading and clearing permit; mixed use approval; planned residential development; shoreline conditional use permit; shoreline substantial development permit; shoreline variance; short subdivision; special use permit; subdivision; flood hazard permit; unclassified use permit; utility and other use permit; variance; rezone; or any required permit or approval not expressly exempted by this title.

“Director” means the city of Edmonds development services director or his/her designee.

“Division” means the planning division of the city of Edmonds development services department.

“Enhancement” means an action taken to improve the condition and function of a critical area. In the case of wetland or stream, the term includes a compensation project performed to improve the conditions of an existing degraded wetland or stream to increase its functional value.

“Erosion” means the process in which soil particles are mobilized and transported by natural agents such as wind, rain, frost action, or stream flow.

Erosion Hazard Areas. See ECDC 23.80.020(A).

Fish and Wildlife Habitat Conservation Areas. See Chapter 23.90 ECDC.

“Floodplain” means the total area subject to inundation by a “100-year flood.” “100-year flood” means a flood having a one percent chance of being equaled or exceeded in any given year.

“Footprint of existing development” or “footprint of development” means the area of a site that contains legally established: buildings; roads, driveways, parking lots, storage areas, walkways or other areas paved with concrete, asphalt or compacted gravel; outdoor swimming pools; patios.

Frequently Flooded Areas. See Chapter 23.70 ECDC.

“Functions” means the roles served by critical areas including, but not limited to: water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; ground water recharge and discharge; erosion control; wave attenuation; aesthetic value protection; and recreation. These roles are not listed in order of priority.

Geologically Hazardous Areas. See Chapter 23.80 ECDC.

“Geologist” means a person licensed as a geologist, engineering geologist, or hydrologist in the state of Washington. For geologically hazardous areas, an applicant may choose a geologist or engineering geologist licensed in the state of Washington to assess the potential hazard.

“Geotechnical engineer” means a practicing geotechnical/civil engineer licensed as a professional civil engineer in the state of Washington who has at least five years of professional employment as a geotechnical engineer in responsible charge including experience with landslide evaluation.

“Grading” means any one or a combination of excavating, filling, or disturbance of that portion of the soil profile which contains decaying organic matter.

“Habitats of local importance” means areas that include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce

over the long term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alterations such as cliffs, talus, and wetlands. In urban areas like the city of Edmonds, habitats of local importance include biodiversity areas and corridors, which are characterized by a framework of ecological components which provides the physical conditions necessary for ecosystems and species populations to survive in a human-dominated landscape.

“In-lieu fee program” means a program which sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu program sponsor, a governmental or nonprofit natural resource management entity.

Landslide Hazard Areas. See ECDC 23.80.020(B).

“Mitigation” means the use of any or all of the following actions, which are listed in descending order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps such as project redesign, relocation, or timing to avoid or reduce impacts;
3. Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;
4. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;
5. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
6. Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and
7. Monitoring the hazard or other required mitigation and taking remedial action when necessary.

“Native vegetation” means vegetation comprised of plant species which are indigenous to the Puget Sound region and which reasonably could have been expected to naturally occur on the site. “Native vegetation” does not include noxious weeds as defined by the state of Washington or federal agencies.

“Normal maintenance of vegetation” means removal of shrubs/nonwoody vegetation and trees (less than four-inch diameter at breast height) that occurs at least every other year. Maintenance also may include tree topping that has been previously approved by the city in the past five years.

“Noxious weeds” means any plant that is highly destructive, competitive or difficult to control by cultural or chemical practices, limited to those plants on the state noxious weed list contained in Chapter 16-750 WAC.

“Planning staff” means those employed in the planning division of the city of Edmonds development services department.

“Qualified critical areas consultant” or “qualified professional” means a person who has the qualifications specified below to conduct critical areas studies pursuant to this title, and to make recommendations for critical areas mitigation. For geologically hazardous areas, the qualified critical areas consultant shall be a geologist or engineering geologist licensed in the state of Washington to assess the potential hazard. If development is to take place within a geologically hazardous area, the qualified critical areas consultant developing mitigation plans and design shall be a professional engineer licensed in the state of Washington and familiar with landslide and slope stability mitigation. For wetlands and streams, the qualified critical areas consultant shall be a specialist in botany, fisheries, wetland biology, and/or hydrology with a minimum of five years’ field experience with wetlands and/or streams in the Pacific Northwest.

Requirements defining a qualified critical areas consultant or qualified professional are contained within the chapter on each critical area type.

“Reasonable economic use(s)” means the minimum use to which a property owner is entitled under applicable state and federal constitutional provisions in order to avoid a taking and/or violation of substantive due process.

“Redeveloped land(s)” means those lands on which existing structures are demolished in their entirety to allow for new development. The director shall maintain discretion to determine if the demolition of a majority of existing structures or portions thereof constitute the redevelopment of a property or subject parcel.

“Restoration” means the actions necessary to return a stream, wetland or other critical area to a state in which its stability, functions and values approach its unaltered state as closely as possible. For wetlands, restoration as compensatory mitigation may include reestablishment or rehabilitation.

Seismic Hazard Areas. See ECDC 23.80.020(C).

“Species of local importance” means those species that are of local concern due to their population status, their sensitivity to habitat manipulation, or that are game (hunted) species. (See ECDC 23.90.010(A)(4).)

“Storm Water Management Manual” means the storm water manual specified in Chapter 18.30 ECDC.

“Streams” means any area where surface waters produce a defined channel or bed which demonstrates clear evidence, such as the sorting of sediments, of the passage of water. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices (drainage ditches) or other entirely artificial watercourses unless they are used by salmonids or used to convey streams naturally occurring prior to construction of such watercourse. Streams are further classified into Categories S, F, Np and Ns and fishbearing or nonfishbearing 1, 2 and 3. (See ECDC 23.90.010(A)(1).)

“Title” means all chapters of the city of Edmonds Development Code beginning with the digits 23.

“Undeveloped land(s)” means land(s) on which manmade structures or land modifications (clearing, grading, etc.) do not exist. The director retains discretion to identify undeveloped land(s) in those instances where historical modifications and structures may have existed on a property or subject parcel in the past.

“Wetland functions” means those natural processes performed by wetlands, such as facilitating food chain production; providing habitat for nesting, rearing and resting sites for aquatic, terrestrial or avian species; maintaining the availability and quality of water; acting as recharge and/or discharge areas for ground water aquifers; and moderating surface water and storm water flows.

“Wetland mitigation bank” means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

“Wetlands” means those areas that are inundated or saturated by ground or surface water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street or highway. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands if permitted by the city (WAC 365-190-030(22)). Wetlands are further classified into Categories 1, 2, 3 and 4. (See ECDC 23.50.010(B).) [Ord. 4026 § 1 (Att. A), 2016; Ord. 3952 § 1, 2013; Ord. 3931 § 2, 2013; Ord. 3527 § 2, 2004. Formerly 23.40.320].

23.40.010 Authority.

A. As provided herein, the Edmonds development services director or his/her designee (hereafter referred to as “the director”) is given the authority to interpret and apply, and the responsibility to enforce, this title to accomplish the stated purpose.

B. The director may withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with this title. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.020 Relationship to other regulations.

A. These critical areas regulations shall apply as an overlay and in addition to zoning, site development, storm water management, building and other regulations adopted by the city of Edmonds.

B. Any individual critical area adjoined or overlain by another type of critical area shall have the buffer and meet the requirements that provide the most protection to the critical areas involved. When any provision of this title or any existing land use regulation conflicts with this title, that which provides more protection to the critical area shall apply.

C. These critical areas regulations shall be coordinated with review conducted under the State Environmental Policy Act (SEPA), as necessary and locally adopted.

D. Compliance with the provisions of this title does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, shoreline substantial development permits, Hydraulic Permit Act (HPA) permits, Section 106 of the National Historic Preservation Act, U.S. Army Corps of Engineers Section 404 permits, and National Pollution Discharge Elimination System permits). The applicant is responsible for complying with these requirements, apart from the process established in this title. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.030 Severability.

If any clause, sentence, paragraph, section, or part of this title or the application thereof to any person or circumstances shall be judged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered. The decision shall not affect or invalidate the remainder of any part thereof and to this end the provisions of each clause, sentence, paragraph, section, or part of this law are hereby declared to be severable. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.040 Jurisdiction – Critical areas.

A. The director shall regulate all uses, activities, and developments within, adjacent to, or likely to affect one or more critical areas, consistent with the best available science and the provisions herein.

B. Critical areas regulated by this title include:

1. Wetlands as designated in Chapter 23.50 ECDC, Wetlands;
2. Critical aquifer recharge areas as designated in Chapter 23.60 ECDC, Critical Aquifer Recharge Areas;
3. Frequently flooded areas as designated in Chapter 23.70 ECDC, Frequently Flooded Areas;
4. Geologically hazardous areas as designated in Chapter 23.80 ECDC, Geologically Hazardous Areas; and
5. Fish and wildlife habitat conservation areas as designated in Chapter 23.90 ECDC, Fish and Wildlife Habitat Conservation Areas.

C. All areas within the city of Edmonds meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this title.

D. Areas Adjacent to Critical Areas Subject to Regulation. Areas adjacent to critical areas shall be considered to be within the jurisdiction of these requirements and regulations to support the intent of this title and ensure protection of the functions and values of critical areas. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.050 Protection of critical areas.

Any action taken pursuant to this title shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science. All actions and developments shall be designed and constructed in accordance with ECDC 23.40.120, Mitigation sequencing, to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts before the use of actions

to mitigate potential impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.055 City council reports.

The director will provide a report to the city council during the first and third quarter each year, summarizing critical area decisions that have been made since the previous report. The report will include information such as the number and type of critical area decisions that have been made, including information on buffers and enhancements approved for each applicable decision, a description of each approved restoration project, and other information specifically requested by the council following the previous report. [Ord. 4026 § 1 (Att. A), 2016].

Part II. Critical Areas Review Process

23.40.060 General requirements.

A. As part of this review, the director shall:

1. Verify the information submitted by the applicant;
2. Evaluate the project area and vicinity for critical areas;
3. Determine whether the proposed project is likely to impact the functions or values of critical areas; and
4. Determine if the proposed project adequately assesses all impacts, avoids impacts, and/or mitigates impacts to the critical area associated with the project.

B. If the proposed project is within, adjacent to, or is likely to impact a critical area, the director shall:

1. Require a critical areas report from the applicant that has been prepared by a qualified professional;
2. Review and evaluate the critical areas report;
3. Determine whether the development proposal conforms to the purposes and performance standards of this title, including the criteria in ECDC 23.40.160, Review criteria;
4. Assess the potential impacts to the critical area and determine if they can be avoided or minimized; and
5. Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this title. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.070 Critical areas preapplication consultation.

Any person preparing to submit an application for development or use of land that may be regulated by the provisions of this title may request a preapplication meeting with the director prior to submitting an application for development or other approval. At this meeting, the director shall discuss the requirements of this title; provide critical areas maps, scientific information, and other source materials; outline the review process; and work with the activity proponent to identify any potential concerns that might arise during the review process, in addition to discussing other permit procedures and requirements. All applicants, regardless of participation in a preapplication meeting, are held fully responsible for knowledge and disclosure of critical areas on, adjacent to, or associated with a subject parcel and full compliance with the specific provisions and goals, purposes, objectives, and requirements of this title. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.080 Notice of initial determination.

A. If the director determines that no critical areas report is necessary, the director shall state this in the notice of application issued for the proposal.

B. If the director determines that there are critical areas on the site that the proposed project is unlikely to impact and the project meets the requirements for and has been granted a waiver from the requirement to complete a critical areas report, this shall be stated in the notice of application for the proposal. A waiver may be granted if the director determines that all of the following requirements will be met:

1. There will be no alteration of the critical area or buffer;
2. The development proposal will not affect the critical area in a manner contrary to the purpose, intent, and requirements of this title.

C. If the director determines that critical areas may be affected by the proposal and a critical areas report is required, public notice of the application shall include a description of the critical area that might be affected and state that a critical areas report(s) is required.

D. Critical areas determinations shall be considered valid for five years from the date in which the determination was made; after such date the city shall require a new determination, or at minimum documentation of a new assessment verifying the accuracy of the previous determination. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.090 Critical areas report – Requirements.

A. Preparation by Qualified Professional. The applicant shall submit a critical areas report prepared by a qualified professional as defined herein. For wetlands, frequently flooded areas and fish and wildlife habitat conservation areas, an applicant may choose one of the qualified technical consultants on the city's approved list to prepare critical areas reports per the requirements of this title or may apply to utilize an alternative consultant. Critical areas studies and reports developed by an alternative consultant may be subject to independent review pursuant to subsection (B) of this section. All costs associated with the critical areas study shall be borne by the applicant.

B. Independent Review of Critical Areas Reports. Critical areas studies and reports on geologically hazardous areas and those developed by an applicant representative or consultant not as part of a three-party contract may, at the discretion of the director, be subject to independent review. This independent review shall be performed by a qualified technical consultant selected by the city with all costs borne by the applicant. The purpose of such independent review is to provide the city with objective technical assistance in evaluating the accuracy of submitted reports and/or the effects on critical areas which may be caused by a development proposal and to facilitate the decision-making process. The director may also have technical assistance provided by appropriate resource agency staff if such assistance is available in a timely manner.

C. Best Available Science. The critical areas report shall use scientifically valid methods and studies in the analysis of critical areas data and field reconnaissance and reference the source of science used. The critical areas report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this title.

D. Minimum Report Contents. At a minimum, the report shall contain the following:

1. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
2. A copy of the site plan for the development proposal including:
 - a. A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and
 - b. A description of the proposed storm water management plan for the development and consideration of impacts to drainage alterations;
 - c. The site plan shall identify the location of all native and nonnative vegetation of six inches dbh or larger;
3. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
4. Identification and characterization of all critical areas, wetlands, water bodies, shorelines, and buffers adjacent to the proposed project area;
5. A description of reasonable efforts made to apply mitigation sequencing pursuant to ECDC 23.40.120, Mitigation sequencing, to avoid, minimize, and mitigate impacts to critical areas;
6. Report requirements specific to each critical area type as indicated in the corresponding chapters of this title;

7. A statement specifying the accuracy of the report and all assumptions made and relied upon;
8. A description of the methodologies used to conduct the critical areas study, including references; and
9. Plans for adequate mitigation, as needed to offset any critical areas impacts, in accordance with the mitigation plan requirements in ECDC 23.40.130.

E. Unless otherwise provided, a critical areas report may incorporate, be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the director. At the discretion of the director, reports previously compiled or submitted as part of a proposal for development may be used as a critical areas report to the extent that the requirements of this section and the report requirements for each specific critical area type are met.

F. Critical areas reports shall be considered valid for five years; after such date the city shall determine whether a revision or additional assessment is necessary. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.100 Critical areas report – Modifications to requirements.

A. Limitations to Study Area. The director may limit the required geographic area of the critical areas report as appropriate if:

1. The applicant, with assistance from the city of Edmonds, cannot obtain permission to access properties adjacent to the project area; or
2. The proposed activity will affect only a limited part of the subject site.

B. Modifications to Required Contents. The applicant may consult with the director prior to or during preparation of the critical areas report to obtain approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

C. Additional Information Requirements. The director may require additional information to be included in the critical areas report when determined to be necessary to the review of the proposed activity in accordance with this title. Additional information that may be required includes, but is not limited to:

1. Historical data, including original and subsequent mapping, aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site;
2. Grading and drainage plans; and
3. Information specific to the type, location, and nature of the critical area. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.110 Mitigation requirements.

A. The applicant shall avoid all impacts that degrade the functions and values of critical areas. Unless otherwise provided in this title, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the best available science in accordance with an approved critical areas report and SEPA documents, so as to result in no net loss of critical area functions and values.

B. Mitigation shall be sufficient to maintain or compensate for the functions and values of the impacted critical area and to prevent risk from a hazard posed by a critical area.

C. Mitigation shall not be implemented until after the director has provided approval of a critical areas report that includes a mitigation plan. Mitigation shall be implemented in accordance with the provisions of the approved critical areas report. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.120 Mitigation sequencing.

A. Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas.

B. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following sequential order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
3. Rectifying the impact to wetlands, frequently flooded areas, and fish and wildlife habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;
4. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineering or other methods;
5. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
6. Compensating for the impact to wetlands, frequently flooded areas, and fish and wildlife habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and/or
7. Monitoring the hazard or other required mitigation and taking remedial action when necessary.

C. Mitigation for individual actions may include a combination of the above measures. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.130 Mitigation plan requirements.

When mitigation is required, the applicant shall submit for approval by the director a mitigation plan as part of the critical areas report. The mitigation plan shall include:

A. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

1. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;
2. A review of the best available science supporting the proposed mitigation;
3. An analysis of the likelihood of success of the compensation project; and
4. Specific mitigation plan and report requirements for each critical area type as indicated in this title.

B. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this title have been met.

C. Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

1. The proposed construction sequence, timing, and duration;

2. Areas of proposed impacts on critical areas or buffers;
3. Grading and excavation details;
4. Erosion and sediment control features;
5. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
6. Measures to protect and maintain plants until established.

These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

~~D. Monitoring Program. The mitigation plan shall include a program for monitoring construction and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years one, three, and five after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years without approval from the director.~~

E. Contingency Plan. The mitigation plan shall include identification of potential courses of action and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

F. Financial Guarantees. The mitigation plan shall include financial guarantees, as necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with ECDC 23.40.290, Bonds to ensure mitigation, maintenance, and monitoring. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.140 Innovative mitigation.

A. The city of Edmonds may encourage, facilitate, and approve innovative mitigation projects that are based on the best available science. Advance mitigation, in-lieu fee programs, or mitigation banking are examples of alternative mitigation approaches allowed under the provisions of this section if it is demonstrated that all of the following circumstances exist:

1. There are no reasonable opportunities on site or within the same subdrainage basin, or opportunities on site or within the subdrainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate fish and wildlife impacts (such as connectivity);
2. The off-site mitigation has a greater likelihood of providing equal or improved critical areas functions than the altered critical area, and there is a clear potential for success of the proposed mitigation at the identified mitigation site;
3. Off-site locations shall be in the same basin and within the city unless:
 - a. Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the city and strongly justify location of mitigation at another site; or
 - b. Credits from an approved (state-certified) wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the approved bank instrument;
 - c. Fees are paid to an approved in-lieu fee program to compensate for the impacts.

B. Development proposals impacting critical areas and/or associated buffers may contribute payment towards an identified city of Edmonds mitigation project with approval from the director; provided, that the mitigation approach meets all state and federal permit requirements, where required. Such mitigation actions shall be consistent with subsections (A)(1) and (A)(2) of this section, and with all other applicable provisions of Chapters 23.50 and 23.90 ECDC.

C. Conducting mitigation as part of a cooperative process provides for retention or an increase in the beneficial functions and values of critical areas within the Edmonds jurisdiction. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.150 Critical areas decision.

The city of Edmonds development services director shall make a decision as to whether the proposed activity and mitigation, if any, is consistent with the provisions of this title. The decision shall be based on the criteria of ECDC 23.40.160, Review criteria, and shall affect and be incorporated within the larger project decision. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.160 Review criteria.

A. Any alteration to a critical area, unless otherwise provided for in this title, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

1. The proposal minimizes the impact on critical areas in accordance with ECDC 23.40.120, Mitigation sequencing;
2. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
3. The proposal is consistent with the general purposes of this title and the public interest;
4. Any alterations permitted to the critical area are mitigated in accordance with ECDC 23.40.110, Mitigation requirements;
5. The proposal protects the critical area functions and values consistent with the best available science and results in no net loss of critical area functions and values; and
6. The proposal is consistent with other applicable regulations and standards.

B. The director may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this title. Except as provided for by this title, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences in ECDC 23.40.120 shall be denied. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.170 Favorable critical areas decision.

If the director determines that the proposed activity meets or is exempt from the criteria in ECDC 23.40.160, Review criteria, and complies with the applicable provisions of this title, the development services director shall prepare a written notice of decision for the applicant and identify any required conditions of approval as part of the larger project decision. The notice of decision and conditions of approval shall be included in the project file and be considered in the next phase of the city's review of the proposed activity in accordance with any other applicable codes or regulations.

Any conditions of approval included in a notice of decision shall be attached to the underlying permit or approval. Any subsequent changes to the conditions of approval shall void the previous decision pending re-review of the proposal and conditions of approval previously set by the director.

A favorable decision should not be construed as endorsement or approval of any underlying permit or approval. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.180 Unfavorable critical areas decision.

If the director determines that a proposed activity is not exempt or does not adequately mitigate its impacts on critical areas and/or does not comply with the criteria in ECDC 23.40.160, Review criteria, and the provisions of this title, the director shall prepare a written decision for the applicant that includes findings of noncompliance.

No proposed activity or permit shall be approved or issued if it is determined that the proposed activity does not adequately mitigate its impacts on the critical areas and/or does not comply with the provisions of this title.

Following notice of decision that the proposed activity does not meet the review criteria and/or does not comply with the applicable provisions of this title, the applicant may request consideration of a revised critical area report. If the revision is found to be substantial and relevant to the critical area review, the director may reopen the critical area review and make a new decision based on the revised report. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.190 Completion of the critical areas review.

The director's decision regarding critical areas pursuant to this title shall be final concurrent with the final project decision to approve, condition, or deny the development proposal or other activity involved. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.195 Contingent review procedure for certain types of development.

A. Scope. The procedures set forth in this section shall apply to the following types of critical area restoration projects as allowed by ECDC 23.40.215:

1. Restoration projects involving anadromous fish streams;
2. Restoration projects involving Category I or Category II wetlands;
3. Restoration projects involving Category I or Category II estuarine wetlands.

B. Notice of Application. Development activity within the scope of subsection (A) of this section shall be processed as a Type II application, unless the process is altered according to subsection (D) of this section. In addition to the notice provided pursuant to ECDC Title 20, notice of application for all such development shall also be sent to the city council by email.

C. Contingent Review Process. Development activity within the scope of subsection (A) of this section shall be escalated to a Type III-A process when:

1. The city receives a request from any person for a public hearing within 14 days of the date of the notice of application; and
2. The public hearing request is accompanied by a hearing fee in the amount of 50 percent of the difference between the Type II and Type III-A application fee.

D. Effect of Contingent Review. When the contingent review process is triggered pursuant to subsection (C) of this section, the project applicant shall pay the other 50 percent of the difference between the Type II and Type III-A application fee, on top of the previously paid Type II application fee. The applicant shall pay this fee within 30 days of notice from the city that the fee is due. If the applicant fails to pay the additional fee within the required 30-day period, the application for the project shall be deemed withdrawn. The city shall not schedule the public hearing until the additional fee has been paid. For these public hearings, the cost of the hearing examiner shall be borne by the city.

E. Notice of Decision. Whether development activity within the scope of subsection (A) of this section is processed as a Type II application or escalated to a Type III-A application, notice of decision shall be sent by email to the city council in addition to any other notice that may be required by ECDC Title 20. [Ord. 4026 § 1 (Att. A), 2016].

23.40.200 Appeals.

Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this title may be appealed according to, and as part of, the appeal procedure, if any, for the permit or approval involved. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3736 § 71, 2009; Ord. 3527 § 2, 2004].

~~23.40.210 — Variances.~~

~~A. Variances from the standards of this title may be authorized through the process of hearing examiner review in accordance with the procedures set forth in Chapter 20.85 ECDC only if an applicant demonstrates that one or more of the following two conditions exist:~~

~~1. The application of this title would prohibit a development proposal by a public agency or public utility. A public agency and utility exception may be granted as a variance if:~~

- ~~a. There is no other practical alternative to the proposed development with less impact on the critical areas;~~
- ~~b. The application of this title would unreasonably restrict the ability to provide utility services to the public;~~
- ~~c. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;~~
- ~~d. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and~~
- ~~e. The proposal is consistent with other applicable regulations and standards.~~

~~2. The application of this title would deny all reasonable economic use (see the definition of “reasonable economic use(s)” in ECDC 23.40.005) of the subject property. A reasonable use exception may be authorized as a variance only if an applicant demonstrates that:~~

- ~~a. The application of this title would deny all reasonable economic use of a property or subject parcel;~~
- ~~b. No other reasonable economic use of the property consistent with the underlying zoning and the city-comprehensive plan has less impact on the critical area;~~
- ~~c. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;~~
- ~~d. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of the ordinance codified in this title or its predecessor;~~
- ~~e. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;~~
- ~~f. The proposal minimizes net loss of critical area functions and values consistent with the best available science; and~~
- ~~g. The proposal is consistent with other applicable regulations and standards.~~

~~B. Specific Variance Criteria. A variance may be granted if the applicant demonstrates that the requested action conforms to all of the following specific criteria:~~

- ~~1. Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands in the same district;~~
- ~~2. The special conditions and circumstances do not result from the actions of the applicant;~~
- ~~3. A literal interpretation of the provisions of this title would deprive the applicant of all reasonable economic uses and privileges permitted to other properties in the vicinity and zone of the subject property under the terms of this title, and the variance requested is the minimum necessary to provide the applicant with such rights;~~
- ~~4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, structures, or buildings under similar circumstances;~~

~~5. The granting of the variance is consistent with the general purpose and intent of this title, and will not further degrade the functions or values of the associated critical areas or otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property; and~~

~~6. The decision to grant the variance is based upon the best available science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat.~~

~~C. Hearing Examiner Review. The city hearing examiner shall, as a Type III A decision (see Chapter 20.01 ECDC), review variance applications and conduct a public hearing. The hearing examiner shall approve, approve with conditions, or deny variance applications based on a proposal's ability to comply with general and specific variance criteria provided in subsections (A) and (B) of this section.~~

~~D. Conditions May Be Required. The director retains the right to prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this title for variances granted through hearing examiner review.~~

~~E. Time Limit. The director shall prescribe a time limit within which the action for which the variance is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the variance, unless the applicant files an application for an extension of time before the expiration. An application for an extension of time shall be reviewed by the director as a Type II decision (see Chapter 20.01 ECDC).~~

~~F. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of a variance application and upon which any decision has to be made on the application. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3783 § 15, 2010; Ord. 3775 § 15, 2010; Ord. 3736 §§ 72, 73, 2009; Ord. 3527 § 2, 2004].~~

23.40.215 Critical area restoration projects.

A. When a critical area restoration project is proposed that is not required as mitigation for a development proposal, the director or hearing examiner (as applicable) may grant relief from standard critical area buffer requirements if the restoration project involves:

1. The daylighting of a stream or tidal channel; or
2. Expansion of a wetland that would cause a landward expansion of the wetland buffer.

B. The restoration project proposal will include a proposed buffer width for the project that is developed from an assessment by a qualified critical area consultant on the buffer width necessary to ensure that the restoration project is successful and the ecological functions of the areas adjacent to the stream or wetland will be enhanced.

C. The director or hearing examiner (as applicable) will consider the proposed buffer width along with hydrologic, geologic, and other habitat data for the site to determine if the project warrants a buffer width that deviates from the standard critical area buffer widths.

D. If the director or hearing examiner (as applicable) determines that a reduced buffer width is appropriate for the proposed restoration project, the director may approve the reduced buffer width for the proposed restoration site. [Ord. 4026 § 1 (Att. A), 2016].

Part III. Allowed Activities, Exemptions and Noncompliance Penalties

23.40.220 Allowed activities.

A. Critical Area Report. Activities allowed under this title shall have been reviewed and permitted or approved by the city of Edmonds or other agency with jurisdiction, but do not require submittal of a critical area report, unless such submittal was required previously for the underlying permit. The director may apply conditions to the underlying permit or approval to ensure that the allowed activity is consistent with the provisions of this title to protect critical areas.

B. Required Use of Best Management Practices. All allowed activities shall be conducted using the best management practices that result in the least amount of impact to the critical areas. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and

regulation of chemical applications. The city may observe or require independent inspection of the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area shall be restored, rehabilitated, or replaced at the responsible party's expense.

C. Allowed Activities. The following activities are allowed:

1. Permit Requests Subsequent to Previous Critical Areas Review. Development permits and approvals that involve both discretionary land use approvals (such as subdivisions, rezones, or conditional use permits) and construction approvals (such as building permits) if all of the following conditions have been met:

- a. The provisions of this title have been previously addressed as part of another approval;
- b. There have been no material changes in the potential impact to the critical area or buffer since the prior review;
- c. The permit or approval has not expired or, if no expiration date, no more than five years have elapsed since the issuance of that permit or approval;
- d. There is no new information available that is applicable to any critical area review of the site or particular critical area; and
- e. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured;

2. Modification to Structures Existing Outside of Critical Areas and/or Buffers. Structural modification of, addition to, or replacement of a legally constructed structure existing outside of a critical area or its buffer that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement;

3. Modifications to Existing Structures within Critical Areas and/or Buffers. Modification to a legally constructed structure existing within a critical area or buffer shall be allowed when the modification:

- a. Does not increase the footprint of the structure; and
- b. Does not increase the impact to the critical area or buffer; and
- c. Does not increase risk to life or property as a result of the proposed modification or replacement.

Additions to legally constructed structures existing within a critical area or buffer that do increase the existing footprint of development shall be subject to and permitted in accordance with the development standards of the associated critical area type (see ECDC 23.50.040 and 23.90.040). This provision shall be interpreted to supplement the provisions of the Edmonds Community Development Code relating to nonconforming structures in order to permit the full reconstruction of a legal nonconforming building within its footprint;

4. Development Proposals within Interrupted Stream or Wetland Buffers. Adjacent areas that may be physically separated from a stream or wetland due to existing, legally established structures or paved areas may be exempted from the prescribed buffer widths if proven scientifically to be functionally isolated from the stream or wetland. The director will require the applicant to provide a site assessment and functional analysis documentation report by a qualified critical area consultant that demonstrates the interrupted buffer area is functionally isolated. The director shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the physical separation;

5. Activities within the Improved Right-of-Way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, when such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway, except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased storm water;

6. Minor Utility Projects. Utility projects that have minor or short-duration impacts to critical areas, as determined by the director in accordance with the criteria below, and which do not significantly impact the function or values of a critical area(s); provided, that such projects are constructed with best management practices and additional restoration measures are provided. Minor activities shall not result in the transport of sediment or increased storm water. Such allowed minor utility projects shall meet the following criteria:

- a. There is no practical alternative to the proposed activity with less impact on critical areas;
- b. The activity involves the placement of utility pole(s), street sign(s), anchor(s), or vault(s) or other small component(s) of a utility facility; and
- c. The activity involves disturbance of an area less than 75 square feet;

7. Public and Private Pedestrian Trails. New public and private pedestrian trails subject to the following:

- a. The trail surface shall be limited to pervious surfaces and meet all other requirements, including water quality standards set forth in the current editions of the International Residential Code and International Building Code, as adopted in ECDC Title 19;
- b. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas;
- c. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report; and
- d. Trails located only in the outer 25 percent of critical areas buffers, and located to avoid removal of significant trees. Where existing legally established development has reduced the width of the critical areas buffer, trails may be placed in the outer 25 percent of the remaining critical area buffer. The trail shall be no more than five feet in width and for pedestrian use only. Raised boardwalks utilizing nontreated pilings may be acceptable.

Allowances for trails within the inner 75 percent of critical areas buffers are provided within applicable sections of Chapters 23.50 through 23.90 ECDC;

8. Select Vegetation Removal Activities. The following vegetation removal activities:

- a. The removal of the following vegetation with hand labor and hand-held equipment when the area of work is under 1,500 square feet in area as calculated cumulatively over three years:
 - i. Invasive and noxious weeds;
 - ii. English ivy (*Hedera helix*);
 - iii. Himalayan blackberry (*Rubus discolor*, *R. procerus*);
 - iv. Evergreen blackberry (*Rubus laciniatus*);
 - v. Scot's broom (*Cytisus scoparius*); and
 - vi. Hedge and field bindweed (*Convolvulus sepium* and *C. arvensis*);

Removal of these invasive and noxious plant species shall be restricted to hand removal unless permits or approval from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments or other removal techniques. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species;

b. The removal of trees from critical areas and buffers that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property; provided, that:

- i. The applicant submits a report from an ISA- or ASCA-certified arborist or registered landscape architect that documents the hazard and provides a replanting schedule for the replacement trees;
- ii. Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees should be removed or converted to wildlife snags;
- iii. All vegetation cut (tree stems, branches, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for disease or pest transmittal to other healthy vegetation or unless removal is warranted to improve slope stability;
- iv. The land owner shall replace any trees that are removed with new trees at a ratio of two replacement trees for each tree removed (2:1) within one year in accordance with an approved restoration plan. Replacement trees may be planted at a different, nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area. Replacement trees shall be species that are native and indigenous to the site and a minimum of one to two inches in diameter at breast height (dbh) for deciduous trees and a minimum of six feet in height for evergreen trees as measured from the top of the root ball;
- v. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods of removal that will minimize impacts; and
- vi. Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the land owner prior to receiving written approval from the city; provided, that within 14 days following such action, the land owner shall submit a restoration plan that demonstrates compliance with the provisions of this title;

c. Measures to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act, Chapter 76.09 RCW; provided, that the removed vegetation shall be replaced in kind or with similar native species within one year in accordance with an approved restoration plan;

d. Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the city; provided, that their use shall be restricted in accordance with State Department of Fish and Wildlife Management Recommendations and the regulations of the State Department of Agriculture, the U.S. Environmental Protection Agency, and Department of Ecology; and

e. Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a fish and wildlife habitat conservation area or wetland shall be prohibited;

9. Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored; and

10. Navigational Aids and Boundary Markers. Construction or modification of navigational aids and boundary markers. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.230 Exemptions.

A. Exemption Request and Review Process. The proponent of the activity may submit a written request for exemption to the director that describes the activity and states the exemption listed in this section that applies.

The director shall review the exemption request to verify that it complies with this title and approve or deny the exemption. If the exemption is approved, it shall be placed on file with the city of Edmonds. If the exemption is denied, the proponent may continue in the review process and shall be subject to the requirements of this title.

B. Exempt Activities and Impacts to Critical Areas. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas. To be exempt from this title does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense.

C. Exempt Activities. The following developments, activities, and associated uses shall be exempt from the provisions of this title; provided, that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements:

1. Emergencies. Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this title.

Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify the director within one working day following commencement of the emergency activity. Within 30 days, the director shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the director determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of ECDC 23.40.240, Unauthorized critical area alterations and enforcement, shall apply.

After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical areas report and mitigation plan. The person or agency undertaking the action shall apply for review, and the alteration, critical area report, and mitigation plan shall be reviewed by the director in accordance with the review procedures contained herein. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency and completed in a timely manner;

2. Operation, Maintenance, or Repair. Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees, or drainage systems that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair. Operation and maintenance also includes normal maintenance of vegetation performed in accordance with best management practices; provided, that such management actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility, and do not directly impact an endangered or threatened species; and

3. Passive Outdoor Activities. Recreation, education, and scientific research activities that do not degrade the critical area, including fishing, hiking, and bird watching. Trails must be constructed pursuant to ECDC 23.40.220(C)(7), Public and Private Pedestrian Trails. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.240 Unauthorized critical area alterations and enforcement.

A. When a critical area or its buffer has been altered in violation of this title or the provisions of Chapter 7.200 ECC, all ongoing development work shall stop and the critical area shall be restored. The director shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of the provisions of this title. The director may also require an applicant or property owner to take immediate action to ensure site stabilization and/or erosion control as needed.

B. Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared and approved by the director. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in subsection (C) of this section. The director shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

C. Minimum Performance Standards for Restoration.

1. For alterations to frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area; provided, that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

- a. The historic structural and functional values shall be restored, including water quality and habitat functions;
- b. The historic soil types and configuration shall be replicated;
- c. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and
- d. Information demonstrating compliance with the requirements in ECDC 23.40.130, Mitigation plan requirements, shall be submitted to the city planning division.

2. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area; provided, that if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

- a. The hazard shall be reduced to a level equal to, or less than, the predevelopment hazard;
- b. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and
- c. The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.

D. Site Investigations. The director is authorized to make site inspections and take such actions as are necessary to enforce this title. The director shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

E. Penalties. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this title shall be guilty of a misdemeanor and subject to penalties not to exceed a square footage cost of \$3.00 per square foot of impacted critical area and critical area buffer and/or a per tree penalty consistent with ECDC 18.45.070(B) and (C). Any development carried out contrary to the provisions of this title shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The city of Edmonds may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this title. The civil penalty shall be assessed as prescribed in ECDC 18.45.070 and 18.45.075. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3828 § 2, 2010; Ord. 3527 § 2, 2004].

Part IV. General Critical Areas Protective Measures

23.40.250 Critical areas markers and signs.

A. The boundary at the outer edge of a critical area, critical area buffer or critical area tract may, at the discretion of the director, be required to be delineated with wood fencing.

B. The boundary at the outer edge of the critical area or buffer may be identified with temporary signs prior to any site alteration. Such temporary signs may be replaced with permanent signs prior to occupancy or use of the site.

C. These provisions may be modified by the director as necessary to ensure protection of sensitive features or wildlife needs. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.270 Critical areas tracts and easements.

A. At the discretion of the director, critical areas tracts and/or easements may be required in development proposals for developments that include critical areas. These critical areas tracts and/or easements shall delineate and protect those contiguous critical areas and buffers greater than 5,000 square feet including:

1. Landslide hazard areas and buffers;

2. Wetlands and buffers;
3. Fish and wildlife habitat conservation areas; and
4. Other lands to be protected from alterations as conditioned by project approval.

B. Notice on Title. The owner of any property with field-verified presence of critical areas and/or critical areas buffers, except critical aquifer recharge areas, for which a permit application is submitted shall, as a condition of permit issuance, record a notice of the existence of such critical area and/or critical area buffer against the property with the Snohomish County auditor's office. The notice shall be approved by the director and the city attorney for compliance with this provision. The titleholder will have the right to challenge this notice and to have it released if the critical area designation no longer applies; however, the titleholder shall be responsible for completing a critical areas report, subject to approval by the director, before the notice on title can be released.

C. Critical areas tracts or easements shall be designated on the face of the plat or recorded drawing in a format approved by the director. The designation shall include the following restrictions:

1. An assurance that native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and
2. The right of the director to enforce the terms of the restriction.

D. The director may require that critical areas tracts be dedicated to the city, to be held in an undivided interest by each owner of a building lot within the development with the ownership interest passing with the ownership of the lot, or held by an incorporated homeowner's association or other legal entity (such as a land trust), which ensures the ownership, maintenance, and protection of the tract and contains a process to assess costs associated therewith.

E. The use of herbicides within critical areas tracts or easements is prohibited except use of aquatic approved herbicides where recommended by the Noxious Weed Control Board and where otherwise consistent with the provisions of this title. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.280 Building setbacks.

Except for geologically hazardous areas where setbacks are determined by a geotechnical report, buildings and other structures shall be set back a distance of 15 feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. In addition to other allowances provided by this title, the following may be allowed in the building setback area:

- A. Landscaping;
- B. Uncovered decks;
- C. Building overhangs, if such overhangs do not extend more than 30 inches into the setback area; and
- D. Impervious ground surfaces, such as driveways and patios; provided, that such improvements may be subject to water quality regulations as adopted in the current editions of the International Residential Code and International Building Code, as adopted in ECDC Title 19. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.290 Bonds to ensure mitigation, maintenance, and monitoring.

A. When mitigation required pursuant to a development proposal is not completed prior to final permit approval, such as final plat approval or final building inspection, the applicant shall be required to post a performance bond or other security in a form and amount deemed acceptable by the director. If the development proposal is subject to mitigation, the applicant shall post a mitigation bond or other security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional.

B. The bond shall be in the amount of 120 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater. The amount of the

performance bond shall include a reasonable allocation for inflation based on the length of anticipated delay and the provisions of subsection (D) of this section.

C. The bond shall be in the form of a surety bond, performance bond, and/or maintenance bond from an acceptable financial institution, with terms and conditions acceptable to the city of Edmonds' attorney.

D. Bonds or other security authorized by this section shall remain in effect until the director determines, in writing, that the standards bonded for have been met. Bonds or other security shall be held by the city for a minimum of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary to achieve these goals.

E. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

F. Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

G. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized under this title or any other law.

H. Any funds recovered pursuant to this section shall be used to complete the required mitigation. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.40.300 Critical area inspections.

Reasonable access to the site shall be provided to the city, state, and/or federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period. Failure to provide access shall constitute grounds for issuance of a stop work order. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Part V. Incorporation of Best Available Science

23.40.310 Best available science.

A. Protect Functions and Values of Critical Areas with Special Consideration to Anadromous Fish. Critical areas reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish, such as salmon and bull trout, and their habitat, where applicable.

B. Best Available Science to Be Consistent with Criteria. The best available science is that scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific professional, or a team of qualified scientific professionals that is consistent with criteria established in WAC 365-195-900 through 365-195-925 and RCW 36.70A.172.

C. Characteristics of a Valid Scientific Process. In the context of critical areas protection, a valid scientific process is one that produces reliable information useful in understanding the consequences of a local government's regulatory decisions, and in developing critical areas policies and development regulations that will be effective in protecting the functions and values of critical areas. To determine whether information received during the permit review process is reliable scientific information, the director shall determine whether the source of the information displays the characteristics of a valid scientific process. Such characteristics are as follows:

1. Peer Review. The information has been critically reviewed by other persons who are qualified scientific experts in that scientific discipline. The proponents of the information have addressed the criticism of the peer reviewers. Publication in a refereed scientific journal usually indicates that the information has been appropriately peer-reviewed;

2. Methods. The methods used to obtain the information are clearly stated and reproducible. The methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer-reviewed to ensure their reliability and validity;

3. Logical Conclusions and Reasonable Inferences. The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions. The conclusions are logically and reasonably derived from the assumptions and supported by the data presented. Any gaps in information and inconsistencies with other pertinent scientific information are adequately explained;
4. Quantitative Analysis. The data have been analyzed using appropriate statistical or quantitative methods;
5. Context. The information is placed in proper context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge; and
6. References. The assumptions, analytical techniques, and conclusions are well referenced with citations to relevant, credible literature and other pertinent existing information.

D. Nonscientific Information. Nonscientific information, such as anecdotal observations, nonexpert opinion, and hearsay, may supplement scientific information, but it is not an adequate substitute for valid and available scientific information.

E. Absence of Valid Scientific Information. Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area leading to uncertainty about the risk to critical area function of permitting an alteration of or impact to the critical area, the director shall:

1. Take a “precautionary or a no-risk approach” that strictly limits development and land use activities until the uncertainty is sufficiently resolved; and
2. Require application of an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. An adaptive management program shall:
 - a. Address funding for the research component of the adaptive management program;
 - b. Change course based on the results and interpretation of new information that resolves uncertainties; and
 - c. Commit to the appropriate time frame and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting protection of critical areas and anadromous fisheries. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Chapter 23.50

WETLANDS

Sections:

Part I. Designation, Rating and Mapping

23.50.000 Wetlands compliance requirements flowchart.

23.50.010 Designation, rating and mapping – Wetlands.

Part II. Allowed Activities – Wetlands

23.50.020 Allowed activities – Wetlands.

Part III. Additional Report Requirements – Wetlands

23.50.030 Special study and report requirements – Wetlands.

Part IV. Development Standards – Wetlands

23.50.040 Development standards – Wetlands.

23.50.050 Mitigation requirements – Wetlands.

23.50.060 Performance standards – Subdivisions.

Part V. City of Edmonds Wetland Field Data Form

23.50.070 Wetland field data form.

Part I. Designation, Rating and Mapping

23.50.000 Wetlands compliance requirements flowchart.

See Figure 23.50.000 at the end of this chapter. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.50.010 Designation, rating and mapping – Wetlands.

A. Designating Wetlands. Wetlands are those areas, designated in accordance with the approved federal delineation manual and applicable regional supplements as set forth in WAC 173-22-035, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. All areas within the city of Edmonds meeting the wetland designation criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this title.

~~B. Wetland Ratings. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system found in the 2014 Washington State Wetland Rating System for Western Washington Ecology Publication No. 14-06-029. Consistent with the wetland rating system criteria and parameters within this document, wetlands that are rated for ecological functions with highest point totals (23 points or higher) perform ecological functions associated with water flow, water quality and habitat at highest levels, whereas wetlands that are rated with lowest point totals (15 points or lower) perform ecological functions at lowest levels. Wetlands that are rated with points between 16 and 22 points perform ecological functions at moderate to high levels.~~

~~1. The City of Edmonds Wetland Rating Categories:~~

~~a. Category I Wetlands. Category I wetlands are those that represent a unique or rare wetland type; are more sensitive to disturbance than most wetlands; are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or provide a high level of function. The following types of wetlands are Category I:~~

~~i. Relatively undisturbed estuarine wetlands larger than one acre;~~

~~ii. Wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR;~~

~~iii. Bogs;~~

~~iv. Wetlands with mature and old-growth forests larger than one acre;~~

- ~~v. Wetlands in coastal lagoons;~~
 - ~~vi. Wetlands that perform functions at high levels as indicated by a score of 23 points or more based on functions.~~
 - ~~b. Category II Wetlands. Category II wetlands are those that are difficult, though not impossible, to replace, and provide high levels of some functions. The following types of wetlands are Category II:~~
 - ~~i. Estuarine wetlands smaller than one acre, or disturbed estuarine wetlands larger than one acre;~~
 - ~~ii. Wetlands with a moderately high level of functions as indicated by a score of 20 to 22 points based on functions.~~
 - ~~c. Category III Wetlands. Category III wetlands are wetlands with a moderate level of functions as indicated by a score of 16 to 19 points based on functions.~~
 - ~~d. Category IV Wetlands. Category IV wetlands are those with the lowest levels of functions as indicated by scores below 16 points based on functions.~~
- ~~All wetlands should be rated consistent with the 2014 Washington State Wetland Rating System for Western Washington using the 2014 Western Washington Rating Form.~~

C. Date of Wetland Rating. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the local government, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications.

D. Mapping. The approximate location and extent of wetlands are shown on the city of Edmonds critical areas inventory. In addition, the National Wetlands Inventory and Soil Maps produced by the U.S. Department of Agriculture, National Resources Conservation Service may be useful in helping to identify potential wetland areas. The inventory and cited resources are to be used as a guide for the city of Edmonds, project applicants, and/or property owners, and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

E. Delineation. The exact location of a wetland's boundary shall be determined through the performance of a field investigation by a qualified professional wetland scientist applying the approved federal wetland delineation manual and applicable regional supplements. Wetland delineations are valid for five years; after such date the city shall determine whether a revision or additional assessment is necessary.

F. Lake Ballinger. Lake Ballinger is designated on the U.S. National Wetlands Inventory as a lacustrine (lake) environment and should not be delineated as a wetland in its entirety. Lake fringe wetlands existing along the periphery of Lake Ballinger shall be identified according to specific criteria provided in this section. Consistent with guidance for delineating lake fringe wetlands provided in these resources, the existence of jurisdictional wetlands along Lake Ballinger shorelines shall be largely based upon the presence of persistent emergent vegetation in shoreline areas less than 6.6 feet in depth. Provisions for protection of Lake Ballinger shorelines not meeting criteria for jurisdictional wetlands are provided in the city of Edmonds shoreline master program.

G. Edmonds Marsh. The city has a 23-acre Edmonds marsh wetland which in addition to a wildlife habitat and natural resource sanctuary is also classified by the state as a priority habitat.

H. Other Significant Wetland.

1. Good Hope Pond.
2. Mouth of Shell Creek. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Part II. Allowed Activities – Wetlands

23.50.020 Allowed activities – Wetlands.

The activities listed below are allowed in wetlands in addition to those activities listed in, and consistent with, the provisions established in ECDC 23.40.220, and do not require submission of a critical areas report, except where such activities result in a loss to the functions and values of a wetland or wetland buffer. These activities include:

- A. Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing wetland.
- B. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
- C. Drilling for utilities under a wetland; provided, that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column could be disturbed.
- D. Enhancement of a wetland through the removal of nonnative invasive species. Weeding shall be restricted to hand removal and weed material shall be removed from the site. Bare areas that remain after weed removal shall be revegetated with native shrubs and trees at natural densities. Some hand seeding may also be done over the bare areas with native herbs. Noxious weeds listed on the Washington State Noxious Weed Control Board list must be handled and disposed of according to a noxious weed control plan appropriate to that species.
- E. Permitted alteration to a legally constructed structure existing within a wetland or wetland buffer that does not increase the footprint of development or impervious surfacing or increase the impact to a wetland or wetland buffer. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Part III. Additional Report Requirements – Wetlands

23.50.030 Special study and report requirements – Wetlands.

A. Additional Requirements for Wetlands. In addition to the general critical areas report requirements of ECDC 23.40.090, critical areas reports for wetlands must meet the requirements of this section. Critical areas reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

B. Critical areas report requirements for wetlands may be met in “stages” or through multiple reports. The typical sequence of potentially required reports that may in part or in combination fulfill the requirements of this section include:

1. Wetland reconnaissance report documenting the existence and general location of wetlands in the vicinity of a project area;
2. Wetland delineation report documenting the extent and boundary of a jurisdictional wetland per RCW 36.70A.175; and
3. Wetland mitigation report documenting potential wetland impacts and mitigation measures designed to retain or increase the functions and values of a wetland in accordance with ECDC 23.50.050 and the general provisions of this title.

C. A wetland critical areas report may include one or more of the above three report types, depending on the information required by the director and the extent of potential wetland impacts. The Edmonds development services director maintains the authority and discretion to determine which report(s) alone or combined are sufficient to meet the requirements outlined below and to waive report requirements based upon site conditions and the potential for project impacts.

D. Preparation by a Qualified Professional. A critical area report for wetlands shall be prepared by a qualified professional who is a certified professional wetland scientist or a noncertified professional wetland scientist with a

minimum of five years of experience in the field of wetland science and with experience preparing wetland reports. Pursuant to ECDC 23.40.090(A), applicants may choose one of the qualified technical consultants on the city's approved list in preparing critical areas reports for wetlands, or may utilize an alternative consultant. Critical areas studies and reports developed by an alternative consultant shall be subject to independent review pursuant to ECDC 23.40.090(B).

E. Area Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for wetlands:

1. The project area of the proposed activity;
2. All wetlands and recommended buffers within 200 feet of the project area; and
3. All shoreline areas, water features, floodplains, and other critical areas, and related buffers within 200 feet of the project area. The location and extent of wetlands and other critical areas existing outside of the project area or subject parcel boundary may be shown in approximation as practical and necessary to provide an assessment of potential project effects.

F. Wetland Analysis. In addition to the minimum required contents of ECDC 23.40.090, Critical areas report – Requirements, a critical areas report for wetlands shall contain an analysis of the wetlands, including the following site- and proposal-related information at a minimum:

1. A written assessment and accompanying maps of the wetlands and buffers within 200 feet of the project area, including the following information at a minimum:
 - a. Wetland delineation and required buffers;
 - b. Existing wetland acreage;
 - c. Wetland category;
 - d. Vegetative, faunal, and hydrologic characteristics;
 - e. Soil and substrate conditions;
 - f. Topographic elevations, at two-foot contours; and
 - g. A discussion of the water sources supplying the wetland and documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, and evidence of recharge or discharge, evidence of water depths throughout the year: drift lines, algal layers, moss lines, and sediment deposits).

The location, extent and analyses of wetlands not contiguous with the subject parcel existing outside of the immediate project area may be described in approximation as practical and necessary to provide an assessment of potential project effects and hydrologic/ecological connectivity to on-site wetlands and other critical areas.

2. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land use activity.
3. A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and wetland functions.
4. Functional evaluation for the wetland and adjacent buffer using a local or state agency staff-recognized method and including the reference of the method and all data sheets.
5. Proposed mitigation, if needed, including a written assessment and accompanying maps of the mitigation area, including the following information at a minimum:

- a. Existing and proposed wetland acreage;
 - b. Vegetative and faunal conditions;
 - c. Surface and subsurface hydrologic conditions including an analysis of existing and future hydrologic regime and proposed hydrologic regime for enhanced, created, or restored mitigation areas;
 - d. Relationship to the watershed and existing waterbodies;
 - e. Soil and substrate conditions, topographic elevations;
 - f. Existing and proposed adjacent site conditions;
 - g. Required wetland buffers; and
 - h. Property ownership.
6. A scale map of the development proposal site and adjacent area. A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs.
7. A bond estimate for the installation (including site preparation, plant materials and installation, fertilizers, mulch, and stakes) and the proposed monitoring and maintenance work for the required number of years. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Part IV. Development Standards – Wetlands

23.50.040 Development standards – Wetlands.

- A. Activities may only be permitted in a wetland buffer if the applicant can show that the proposed activity will not degrade the functions and functional performance of the wetland and other critical areas.
- B. Activities and uses shall be prohibited in wetlands and wetland buffers, except as provided for in this title.
- C. Category I Wetlands. Activities and uses shall be prohibited from Category I wetlands, except as provided for in the public agency and utility exception, reasonable use exception, and variance sections of this title.
- D. Category II Wetlands. With respect to activities proposed in Category II wetlands, the following standards shall apply:
1. Water-dependent activities may be allowed where there are no practicable alternatives that would have a less adverse impact on the wetland, its buffers and other critical areas.
 2. Where non-water-dependent activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited, unless the applicant demonstrates that:
 - a. The basic project purpose cannot be accomplished as proposed and successfully avoid, or result in less adverse impact on, a wetland on another site or sites in the general region; and
 - b. All alternative designs of the project as proposed, such as a reduction in the size, scope, configuration, or density of the project, would not avoid or result in less of an adverse impact on a wetland or its buffer.
- E. Category III and IV Wetlands. Activities and uses that result in unavoidable and necessary impacts may be permitted in Category III and IV wetlands and associated buffers in accordance with an approved critical areas report and mitigation plan.
- F. Wetland Buffers.

~~1. Standard Buffer Widths. The standard buffer widths in subsection (F)(1)(d) of this section have been established in accordance with best available science. The buffers are based on the category of wetland and the~~

habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington.

a. The use of the standard buffer widths requires the implementation of the measures in subsection (F)(2) of this section, where applicable, to minimize the impacts of the adjacent land uses.

b. If an applicant chooses not to apply the mitigation measures in subsection (F)(2) of this section, then a 33 percent increase in the width of all buffers is required.

c. The standard buffer widths presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the buffer is composed of nonnative vegetation, lawn, or bare ground, then, at the discretion of the director, the buffer width may be increased or an applicant may be required to either develop and implement a wetland buffer enhancement plan to maintain the standard width or widen the standard width to ensure that adequate functions of the buffer are provided.

d. Standard Wetland Buffer Widths Table.

Wetland Category	Minimum Buffer Width (Wetland scores 3 – 4 habitat points)	Buffer Width (Wetland scores 5- habitat points)	Buffer Width (Wetland scores 6 – 7- habitat points)	Buffer Width (Wetland scores 8 – 9- habitat points)
Category I: Based on total score	75 ft	105 ft	165 ft	225 ft
Category I: Bogs and wetlands of high- conservation value	190 ft	190 ft	190 ft	225 ft
Category I: Forested	75 ft	105 ft	165 ft	225 ft
Category I: Estuarine	150 ft	150 ft	150 ft	150 ft
Category II: Based on score	75 ft	105 ft	165 ft	225 ft
Category III (all)	60 ft	105 ft	165 ft	165 ft
Category IV (all)	40 ft	40 ft	40 ft	40 ft

2. Required Measures to Minimize Impacts to Wetlands. The standard wetland buffer widths in subsection (F)(1)(d) of this section assumes implementation of the following measures, where applicable to a specific proposal:

<i>Disturbance</i>	<i>Required Measures to Minimize Impacts</i>
Lights	<ul style="list-style-type: none"> • Direct lights away from wetland
Noise	<ul style="list-style-type: none"> • Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10 ft heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	<ul style="list-style-type: none"> • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 ft of wetland • Apply integrated pest management
Storm water runoff	<ul style="list-style-type: none"> • Retrofit storm water detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use low impact development techniques (per Puget Sound Action Team publication on LID techniques)
Change in water regime	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns

<i>Disturbance</i>	<i>Required Measures to Minimize Impacts</i>
Pets and human disturbance	<ul style="list-style-type: none"> • Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	<ul style="list-style-type: none"> • Use best management practices to control dust
Disruption of corridors or connections	<ul style="list-style-type: none"> • Maintain connections to off-site areas that are undisturbed • Restore corridors or connections to off-site habitats by replanting

3. Increased Wetland Buffer Widths. The director shall require increased buffer widths in accordance with the recommendations of an experienced, qualified professional wetland scientist and the best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:

- a. A larger buffer is needed to protect other critical areas;
- b. The buffer or adjacent uplands has a slope greater than 15 percent or is susceptible to erosion and standard erosion control measures will not prevent adverse impacts to the wetland; or
- c. The buffer area has minimal vegetative cover. In lieu of increasing the buffer width where existing buffer vegetation is inadequate to protect the wetland functions and values, development and implementation of a wetland buffer enhancement plan in accordance with this subsection (F)(3) may substitute.
- d. The wetland and/or buffer is occupied by a federally listed threatened or endangered species, a bald eagle nest, a great blue heron rookery, or a species of local importance; and it is determined by the director that an increased buffer width is necessary to protect the species.

4. Measurement of Wetland Buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland.

5. Buffer Consistency. All mitigation sites shall have buffers consistent with the buffer requirements of this chapter.

6. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this title, wetland buffers shall be retained in an undisturbed or enhanced condition. Removal of invasive nonnative weeds is required for the duration of the mitigation bond.

G. Wetland Buffer Modifications and Uses.

1. Where wetland or buffer alterations are permitted by the city of Edmonds, the applicant shall mitigate impacts to achieve no net loss of wetland acreage and functions consistent with ECDC 23.50.050 and other applicable provisions of this title.

2. At the discretion of the director, standard wetland buffers may be averaged or reduced when consistent with all criteria in this subsection (G). Wetland buffer averaging with enhancement shall be preferred over wetland buffer reduction with enhancement. Wetland buffer reduction shall only be approved by the director when buffer averaging cannot be accomplished on site.

3. Wetland Buffer Width Averaging with Buffer Enhancement. The director may allow modification of a standard wetland buffer width in accordance with an approved critical areas report and the best available science on a case-by-case basis by averaging buffer widths. Any allowance for averaging buffer widths shall only be granted concomitant to the development and implementation of a wetland buffer enhancement plan for areas of buffer degradation. Only those portions of a wetland buffer existing within the project area or subject parcel shall be considered the total standard buffer for buffer averaging. Averaging of buffer widths may only be allowed where a qualified professional wetland scientist demonstrates that:

- a. The buffer averaging and enhancement plan provides evidence that wetland functions and values will be:
 - i. Increased or retained through plan implementation for those wetlands where existing buffer vegetation is generally intact; or
 - ii. Increased through plan implementation for those wetlands where existing buffer vegetation is inadequate to protect the functions and values of the wetland;
- b. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;
- c. The total area contained in the buffer area, or the total buffer area existing on a subject parcel for wetlands extending off site, after averaging is no less than that which would be contained within a standard buffer; and
- d. The buffer width at any single location is not reduced by more than 25 percent to less than 50 percent of the standard buffer width.

4. Buffer Width Reductions through Buffer Enhancement. At the discretion of the director, and only when buffer averaging cannot be accomplished on site, wetland buffer width reductions (or approval of standard buffer widths for wetlands where existing buffer conditions require increased buffer widths) may be granted concomitant to the development and implementation of a wetland buffer enhancement plan for Category III and IV wetlands only. Approval of a wetland buffer enhancement plan shall, at the discretion of the director, allow for wetland buffer width reductions by no more than 25 percent of the standard width; provided, that:

- a. The plan provides evidence that wetland functions and values will be:
 - i. Increased or retained through plan implementation for those wetlands where existing buffer vegetation is generally intact; or
 - ii. Increased through plan implementation for those wetlands where existing buffer vegetation is inadequate to protect the functions and values of the wetland;
- b. The plan documents existing native plant densities and provides for increases in buffer native plant densities to no less than three feet on center for shrubs and eight feet on center for trees;
- c. The plan requires monitoring and maintenance to ensure success in accordance with ECDC 23.40.130(D); and
- d. The plan specifically documents methodology and provides performance standards including but not limited to:
 - i. Percent vegetative cover;
 - ii. Percent invasive species cover;
 - iii. Species richness; and
 - iv. Amount of large woody debris.

5. Buffer Uses. The following uses may be permitted within a wetland buffer in accordance with the review procedures of this title; provided, they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

- a. All activities allowed by ECDC 23.50.020, Allowed activities – Wetlands.

b. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

c. Passive Recreation. Passive recreation facilities designed and in accordance with an approved critical area report, including:

i. Walkways and trails; provided, that those pathways are generally constructed with a surface that does not interfere with substrate permeability, are generally located only in the outer 25 percent of wetland buffers, and are located to avoid removal of significant trees. Where existing legally established development has reduced the width of the wetland buffer, trails may be placed in the outer 25 percent of the remaining wetland buffer. The trail shall be no more than five feet in width and for pedestrian use only. Raised boardwalks utilizing nontreated pilings may be acceptable. The director may allow trails within the inner 25 percent of wetland buffers when required to provide access to wildlife viewing structures, fishing access areas, or connections to other trail facilities;

ii. Wildlife viewing structures; and

iii. Fishing access areas down to the water's edge that shall be no larger than six feet.

d. Storm Water Management Facilities. Storm water management facilities, limited to outfalls, pipes and conveyance systems, storm water dispersion outfalls and bioswales, may be allowed within the outer 25 percent of a standard or modified buffer for Category III or IV wetlands only; provided, that:

i. No other location is feasible; and

ii. The location and function of such facilities will not degrade the functions or values of the wetland.

iii. Storm water management facilities are not allowed in buffers of Category I or II wetlands.

iv. Projects shall also comply with all applicable requirements in Chapter 18.30 ECDC, Storm Water Management, including Minimum Requirement No. 8, Wetland Protection.

H. Signs and Fencing of Wetlands.

1. Temporary Markers. The outer perimeter of the wetland or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and is subject to inspection by the director prior to the commencement of permitted activities. The director may require the use of fencing to protect wetlands from disturbance and intrusion. Temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

2. Permanent Signs. As a condition of any permit or authorization issued pursuant to this chapter, the director may require the applicant to install permanent signs along the boundary of a wetland or buffer.

a. Permanent signs shall be made of an enamel-coated metal face and attached to a metal post or another nontreated material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the director:

Protected Wetland Area

Do Not Disturb

Contact the City of Edmonds

Regarding Uses and Restrictions

- b. The provisions of subsection (H)(2)(a) of this section may be modified as necessary to assure protection of sensitive features or wildlife.

3. Permanent Fencing. Permanent fencing shall be required at the outer edge of the critical area buffer under the following circumstances; provided, that the director may waive this requirement:

- a. As part of any development proposal for single-family plats, single-family short plats, multifamily, mixed use, and commercial development where the director determines that such fencing is necessary to protect the functions of the critical area; provided, that breaks in permanent fencing may be allowed for access to permitted buffer uses (subsection (G)(5) of this section);
- b. As part of development proposals for parks where the adjacent proposed use is active recreation and the director determines that such fencing is necessary to protect the functions of the critical area;
- c. When buffer averaging is employed as part of a development proposal;
- d. When buffer reductions are employed as part of a development proposal; or
- e. At the director's discretion to protect the values and functions of a critical area.

I. Additions to Structures Existing within Wetlands and/or Wetland Buffers.

1. Additions to legally constructed structures existing within wetlands or wetland buffers that increase the footprint of development or impervious surfacing shall be permitted consistent with the development standards of this section; provided, that a wetland and/or buffer enhancement plan is provided to mitigate for impacts consistent with this title; and provided, that all impacts from temporary disturbances within the critical area buffer shall be addressed through use of best management plans and buffer enhancement plantings during and following construction of the allowed alteration. Provisions for standard wetland buffers, wetland buffer averaging with enhancement, and buffer reductions with enhancement require applicants to locate such additions in accordance with the following sequencing:

- a. Outside of the standard wetland buffer;
- b. Outside of a wetland buffer averaged (with enhancement) per subsection (G)(3) of this section;
- c. Outside of a wetland buffer reduced (with enhancement) per subsection (G)(4) of this section;
- d. Outside of the inner 25 percent of the standard wetland buffer width with no more than 300 square feet of structure addition footprint within the inner 50 percent of the standard wetland buffer width; provided, that enhancement is provided at a minimum three-to-one (3:1) ratio (enhancement-to-impact);
- e. Outside of the inner 25 percent of the standard wetland buffer width with no more than 500 square feet of new footprint within the inner 50 percent of the standard wetland buffer width; provided, that enhancement is provided at a minimum five-to-one (5:1) ratio (enhancement-to-impact), and that storm water low impact development (LID) techniques and other measures are included as part of the wetland/buffer enhancement plan.

2. Where meeting wetland buffer enhancement requirements required by subsection (I)(1) of this section would result in enhancement that is separated from the critical area due to uncommon property ownership, alternative enhancement approaches may be approved by the director. Alternative approaches could include a vegetated rain garden that receives storm runoff, replacement of existing impervious surfaces with pervious materials, or other approaches that provide ecological benefits to the adjacent critical area.

3. Additions to legally constructed structures existing within wetlands or wetland buffers that cannot be accommodated in accordance with the sequencing in subsection (I)(1) of this section (i.e., additions proposed within a wetland or the inner 25 percent of a standard buffer width) may be permitted at the director's discretion as a variance subject to review by the city hearing examiner and the provisions of ECDC 23.40.210.

J. Development Proposals within the Footprint of Existing Development. New development shall be allowed within the footprint of existing development occurring within a wetland buffer; provided, that the following conditions are met:

1. The footprint of existing development was legally established, and is consistent with the definition provided in ECDC 23.40.005;
2. The proposed development within the footprint of existing development is sited as far away from the wetland edge as is feasible;
3. As part of the development proposal, opportunities to reduce the footprint of existing development are implemented where such reduction would increase the buffer width adjacent to the wetland and not represent an undue burden given the scale of the proposed development;
4. The proposed development includes enhancement to the adjacent wetland and associated buffer in order to improve functions degraded by previous development;
5. Enhancement is provided as wetland or buffer enhancement for an equivalent area of the footprint of the newly proposed development within the footprint of existing development occurring in a wetland buffer, or through an alternative approach approved by the director that restores degraded functions of the wetland and remaining buffer; and
6. Impacts from temporary disturbances within the wetland buffer shall be addressed through use of best management plans and buffer enhancement plantings during and following construction of the allowed alteration.

~~K. Small, Hydrologically Isolated Wetlands. The director may allow small, hydrologically isolated Category III or IV wetlands under 1,000 square feet in area to be exempt from the avoidance sequencing provisions of ECDC 23.40.120 and the wetland development standards provisions of subsection (F) of this section. At the discretion of the director such wetlands may be altered; provided, that a submitted critical areas report and mitigation plan provides evidence that all of the following conditions are met:~~

- ~~1. The wetland is less than 1,000 square feet in area;~~
- ~~2. The wetland does not provide significant habitat value for wildlife;~~
- ~~3. The wetland is not adjacent to a riparian area;~~
- ~~4. The wetland has a score of three to four points for habitat in the adopted Western Washington rating system; and~~
- ~~5. A mitigation plan to replace lost wetland functions and values is developed, approved and implemented consistent with ECDC 23.50.050. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].~~

23.50.050 Mitigation requirements – Wetlands.

Compensatory mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions. Wetland mitigation plans shall be consistent with guidelines in Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Ecology, 2006) and Selecting Wetland Mitigation Sites Using a Watershed Approach (Ecology, 2009), as revised.

A. Mitigation for Lost or Affected Functions. Compensatory mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement and shall provide similar wetland functions as those lost, except when:

1. The lost wetland provides minimal functions as determined by a site-specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington State watershed assessment plan or protocol; or

2. Out-of-kind replacement will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.

B. Preference of Mitigation Actions. Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:

1. Implementing compensatory restoration through purchase of credits at an approved mitigation bank or through payment into an approved in-lieu fee program.
2. Restoring (reestablishing) wetlands on upland sites that were formerly wetlands.
3. Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of nonnative, introduced species. This should only be attempted when there is a consistent source of hydrology and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is being designed.
4. Enhancing significantly degraded wetlands in combination with restoration or creation. Such enhancement should be part of a mitigation package that includes replacing the impacted area meeting appropriate ratio requirements.

C. Type and Location of Mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, compensatory mitigation for ecological functions shall be in kind and conducted on the site or in the vicinity of the alteration except when all of the following apply:

1. On-site opportunities do not have a high likelihood of success, after a determination of the natural capacity of the site to mitigate for the impacts. Consideration should include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydrogeomorphic classes of on-site wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);
2. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland;
3. Off-site mitigation incorporates guidance from Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington (Ecology Publication No. 10-06-011, Hruby 2012); and
4. Off-site locations for compensatory mitigation are consistent with city of Edmonds goals for watershed-wide ecological restoration. Off-site locations are selected with a preference for sites within the same basin as the impact, followed by other sites within the city. Specific areas targeted for restoration efforts include:
 - a. Lake-fringe wetlands and habitat areas associated with Lake Ballinger;
 - b. Edmonds marsh;
 - c. Yost Park wetlands;
 - d. Good Hope wetlands;
 - e. Wetlands and habitat areas peripheral to anadromous fish-bearing streams; and
 - f. Sites available through an approved mitigation bank or in-lieu fee program.

This list is not comprehensive and may change as the city of Edmonds identifies areas suitable for restoration and capital improvement projects consistent with goals for jurisdiction-wide habitat retention and enhancement provided in the city's comprehensive plan.

D. Mitigation Timing. Mitigation projects shall be completed with an approved monitoring plan prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and prior to

use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

E. Mitigation Ratios.

1. Acreage Replacement Ratios. The ratios in the table below shall apply to creation or reestablishment, rehabilitation, or enhancement that is in kind, is on site, is timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered. Ratios for rehabilitation and enhancement may be reduced when combined with 1:1 replacement through creation or reestablishment pursuant to Table 1a, Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance – Version 1 (Ecology Publication No. 06-06-11a, or as revised). Creation, reestablishment, rehabilitation, and enhancement definitions are provided in ECDC 23.40.005 (see definition for “compensatory mitigation”), and shall be additionally consistent with intent pursuant to Ecology Publication No. 06-06-11a.

Category and Type of Wetland	Creation or Reestablishment	Rehabilitation only	Enhancement only
Category IV	1.5:1	3:1	6:1
Category III	2:1	4:1	8:1
Category II	3:1	6:1	12:1
Category I: Based on functions	4:1	8:1	16:1
Category I: Mature and old-growth forest	6:1	12:1	24:1
Category I: High conservation value/bog	Not considered possible	Not considered possible	Not considered possible

Mitigation requirements may also be determined using the credit/debit tool described in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report (Ecology Publication No. 10-06-011, Olympia, WA, March 2012, or as revised) if approved by the director.

2. Off-Site Mitigation. The ratios provided in subsection (E)(1) of this section do not apply to off-site mitigation, including use of credits from a state-certified wetland mitigation bank or payment to a certified in-lieu fee program. When off-site mitigation is proposed, or when a mitigation bank or in-lieu fee program is used, replacement ratios may incorporate guidance from Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington (Ecology Publication No. 10-06-011, Hruby 2012), and for mitigation banks or in-lieu fee programs should be consistent with the certification requirements. Use of mitigation banks shall meet all requirements of subsection (G) of this section.

3. Increased Replacement Ratio. The director may require increased compensatory mitigation ratios under the following circumstances:

- a. Uncertainty exists as to the probable success of the proposed restoration or creation;
- b. A significant period of time will elapse between impact and replication of wetland functions;
- c. Proposed mitigation will result in a lower-category wetland or reduced functions relative to the wetland being impacted; or
- d. The impact was an unauthorized impact.

F. Wetlands Enhancement as Mitigation.

1. Impacts to wetland functions may be mitigated by enhancement of existing significantly degraded wetlands, but may, at the discretion of the director, be used in conjunction with restoration and/or creation. Applicants

proposing to enhance wetlands must produce a critical areas report that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.

2. At a minimum, enhancement acreage shall be double the acreage required for creation or restoration under subsection (E) of this section. The ratios shall be greater than double the required acreage where the enhancement proposal would result in minimal gain in the performance of wetland functions and/or result in the reduction of other wetland functions currently being provided in the wetland.

3. Mitigation ratios for enhancement in combination with other forms of mitigation shall range from six-to-one to three-to-one and be limited to Class III and IV wetlands.

G. Wetland Mitigation Banks and In-Lieu Fee Programs.

1. Wetland Mitigation Banks. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

- a. The bank is certified under state rules;
- b. The director determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts;
- c. The proposed use of credits is consistent with the terms and conditions of the bank's certification instrument;
- d. Replacement ratios for projects using bank credits are consistent with replacement ratios specified in the bank's certification; and
- e. Credits from a certified wetland mitigation bank are used to compensate for impacts located within the service area specified in the certified bank instrument. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

2. In-Lieu Fee Programs. As an alternative to on-site or other off-site mitigation approaches, the director may approve purchase of credit for compensatory mitigation from an in-lieu fee program. Any such program used to compensate for direct wetland impacts shall be developed and approved through a public process and be consistent with federal rules, state policy on in-lieu fee mitigation and state water quality regulations. Determining credit purchase necessary to compensate for wetland impacts shall incorporate guidance from Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington (Ecology Publication No. 10-06-011, Hruby 2012). Development proposals impacting critical areas and/or associated buffers may contribute payment towards an identified city of Edmonds mitigation project with approval from the director; provided, that the mitigation approach meets all state and federal permit requirements, where required. Applicant provision of funds for compensatory mitigation shall only be approved if:

- a. The director determines that it would provide environmentally appropriate compensation for the proposed wetland impacts;
- b. The mitigation will occur on a site identified using the site selection and prioritization process in the approved in-lieu fee program instrument or at a city-identified restoration site consistent with ECDC 23.40.140;
- c. A restoration area and plan have been identified and shall be implemented within three years of project development;
- d. Restoration efforts are focused in areas identified as suitable for restoration by the director; and

e. Credits from an approved in-lieu fee program may be used to compensate for impacts located within the service area specified in the approved in-lieu fee instrument. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.50.060 Performance standards – Subdivisions.

The subdivision and short subdivision of land in wetlands and associated buffers is subject to the following:

A. Land that is located wholly within a wetland or its buffer may not be subdivided.

B. Land that is located partially within a wetland or its buffer may be subdivided; provided, that an accessible and buildable contiguous portion of each new lot is located outside of the wetland and its buffer.

C. Access roads and utilities serving the proposed subdivision may be permitted within the wetland and associated buffers only at the discretion of the director. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

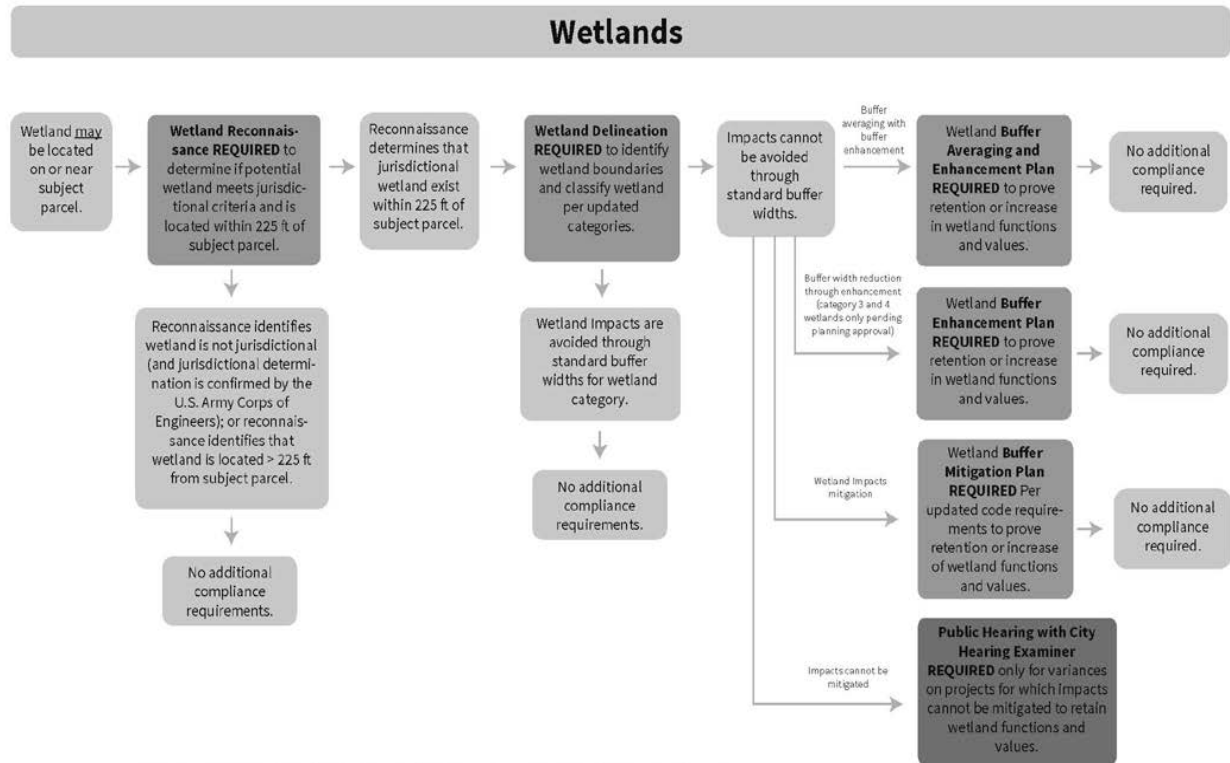
Part V. City of Edmonds Wetland Field Data Form

23.50.070 Wetland field data form.

The wetland field data used for completion of wetland ratings shall be consistent with the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication No. 14-06-029, Hraby 2014). [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Figure 23.50.000

CITY OF EDMONDS CRITICAL AREAS
Critical Areas Compliance Requirements*



*Report requirements may be met through submission of a single critical area report or multiple reports in combination.

Chapter 23.60

CRITICAL AQUIFER RECHARGE AREAS

Sections:

Part I. Designation, Rating and Mapping

23.60.010 Critical aquifer recharge areas designation.

Part I. Designation, Rating and Mapping

23.60.010 Critical aquifer recharge areas designation.

Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water. CARAs are protected as critical areas under the Washington State Growth Management Act. However, no areas meeting criteria for CARAs exist in the vicinity of the city of Edmonds. Thus, additional specific provisions for protection of this critical area type are not provided within this title. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Chapter 23.70

FREQUENTLY FLOODED AREAS

Sections:

Part I. Designation, Rating and Mapping

23.70.010 Designation, rating and mapping – Frequently flooded areas.

Part II. Additional Report Requirements – Frequently Flooded Areas

23.70.020 Special study and report requirements – Frequently flooded areas.

23.70.030 Warning and disclaimer of liability.

Part III. Development Standards – Frequently Flooded Areas

23.70.040 Development standards – Frequently flooded areas.

Part I. Designation, Rating and Mapping

23.70.010 Designation, rating and mapping – Frequently flooded areas.

A. Frequently Flooded Areas. Frequently flooded areas shall include:

1. Those areas identified on FEMA flood insurance maps as areas of special flood hazard, which include those lands in the floodplain subject to a one percent or greater chance of flooding in any given year. For the purposes of this title, areas of special flood hazard for the city of Edmonds are hereby declared generally to be those areas shown as Zone A (including Zones A, AE, A1–A30, AH, AO, AR and A99) and Zone V (including Zones V and VE) on the following FEMA maps or panels: 53061C00; 53061C1292 E, Panel 1292; 53061C1285 E, Panel 1285; 53061C1315 E, Panel 1315; and 53061C1305 E, Panel 1305. The city will use the most currently adopted FEMA maps in determining whether a property is located within a frequently flooded area. Base flood elevations and flood hazard factors for those areas shown as Zone A on the map have not been determined and the local flood management administrator shall utilize such other data as may be reasonably available from federal, state or other sources in administering this chapter as provided in the current editions of the International Residential Code and International Building Code, as adopted in ECDC Title 19.
2. Those areas identified as frequently flooded areas on the city of Edmonds critical areas inventory. Identified frequently flooded areas are consistent with and based upon designation of areas of special flood hazard on FEMA flood insurance maps as indicated above.

B. City Discretion and Designation. Flood insurance maps and the city's critical areas inventory are to be used as a guide for the city of Edmonds development services department, project applicants and/or property owners, and the public and should be considered a minimum designation of frequently flooded areas. As flood insurance maps may be continuously updated as areas are reexamined or new areas are identified, newer and more restrictive information for flood hazard area identification shall be the basis for regulation. The city of Edmonds shall retain the right to designate and identify areas known to be prone to flooding outside of the 100-year floodplain and subject them to the provisions and protections of this title and the current editions of the International Residential Code and International Building Code, as adopted in ECDC Title 19. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Part II. Additional Report Requirements – Frequently Flooded Areas

23.70.020 Special study and report requirements – Frequently flooded areas.

In addition to the general critical areas report requirements of ECDC 23.40.090, critical areas reports for frequently flooded areas must meet the requirements of this section and the current editions of the International Residential Code and International Building Code, as adopted in ECDC Title 19. Critical areas reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

A. Preparation by a Qualified Professional. A frequently flooded areas report shall be prepared by a qualified professional who is a hydrologist or engineer, licensed in the state of Washington, with experience in preparing flood hazard assessments. Pursuant to ECDC 23.40.090(A), applicants may choose one of the qualified technical consultants on the city's approved list in preparing critical areas reports for frequently flooded areas, or may utilize an

alternative consultant. Critical areas studies and reports developed by an alternative consultant shall be subject to independent review pursuant to ECDC 23.40.090(B).

B. Areas to Be Addressed. The following areas shall be addressed in a critical areas report for frequently flooded areas:

1. The site area of the proposed activity;
2. All areas of a special flood hazard area, as indicated on the flood insurance map(s), within 200 feet of the project area; and
3. All other flood areas indicated on the flood insurance map(s) within 200 feet of the project area.

C. Flood Hazard Assessment. A critical area report for a proposed activity within a frequently flooded area shall contain a flood hazard assessment including the following site- and proposal-related information at a minimum:

1. Site and Construction Plans. A copy of the site and construction plans for the development proposal showing:
 - a. Floodplain (100-year flood elevation), 10- and 50-year flood elevations, floodway, other critical areas, buffers, and shoreline areas;
 - b. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain;
 - c. Clearing limits; and
 - d. Elevation of the lowest floor (including basement) of all structures, and the level to which any nonresidential structure has been floodproofed.
2. Watercourse Alteration. Alteration of natural watercourses shall be avoided, if feasible. If unavoidable, a critical areas report shall include:
 - a. Extent of Watercourse Alteration. A description of and plan showing the extent to which a watercourse will be altered or relocated as a result of a proposal;
 - b. Maintenance Program Required for Watercourse Alterations. A maintenance program that provides maintenance practices for the altered or relocated portion of the watercourse to ensure that the flood-carrying capacity is not diminished.

D. Information Regarding Other Critical Areas. Potential impacts to wetlands, fish and wildlife habitat, and other critical areas shall be addressed in accordance with the applicable sections of this title. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.70.030 Warning and disclaimer of liability.

The degree of flood protection required by this chapter and the current editions of the International Residential Code and International Building Code, as adopted in ECDC Title 19, is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside frequently flooded areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of Edmonds, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Part III. Development Standards – Frequently Flooded Areas

23.70.040 Development standards – Frequently flooded areas.

Development standards and provisions for protection of frequently flooded areas are provided as applicable to areas of special flood hazard in the current editions of the International Residential Code and International Building Code, as adopted in ECDC Title 19. Conformance with the provisions for flood hazard reduction of the current editions of the

International Residential Code and International Building Code, as adopted in ECDC Title 19, shall constitute conformance with ECDC 23.40.050, Protection of critical areas, per the mandates of the Washington Growth Management Act and the purposes and objectives of this title. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Chapter 23.80

GEOLOGICALLY HAZARDOUS AREAS

Sections:

Part I. Designation, Rating and Mapping

- 23.80.000 Geologically hazardous areas compliance requirements flowchart.
- 23.80.010 Designation, rating and mapping – Geologically hazardous areas.
- 23.80.020 Designation of specific hazard areas.
- 23.80.030 Mapping of geologically hazardous areas.

Part II. Allowed Activities – Geologically Hazardous Areas

- 23.80.040 Allowed activities – Geologically hazardous areas.

Part III. Additional Report Requirements – Geologically Hazardous Areas

- 23.80.050 Special study and report requirements – Geologically hazardous areas.

Part IV. Development Standards – Geologically Hazardous Areas

- 23.80.060 Development standards – General requirements.
- 23.80.070 Development standards – Specific hazards.

Part I. Designation, Rating and Mapping

23.80.000 Geologically hazardous areas compliance requirements flowchart.

See Figure 23.80.000 at the end of this chapter. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.80.010 Designation, rating and mapping – Geologically hazardous areas.

Geologically hazardous areas include areas susceptible to erosion, land sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at risk, but also may increase the hazard to surrounding development and use. Areas susceptible to one or more of the following types of hazards shall be designated as a geologically hazardous area:

- A. Erosion hazard;
- B. Landslide hazard; and
- C. Seismic hazard. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.80.020 Designation of specific hazard areas.

A. Erosion Hazard Areas. Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard. Erosion hazard areas are also those areas impacted by shoreland and/or stream bank erosion. Within the city of Edmonds erosion hazard areas include:

1. Those areas of the city of Edmonds containing soils that may experience severe to very severe erosion hazard. This group of soils includes, but is not limited to, the following when they occur on slopes of 15 percent or greater:
 - a. Alderwood soils (15 to 25 percent slopes);
 - b. Alderwood/Everett series (25 to 70 percent slopes);
 - c. Everett series (15 to 25 percent slopes);
2. Coastal and stream erosion areas which are subject to the impacts from lateral erosion related to moving water such as stream channel migration and shoreline retreat;

3. Any area with slopes of 15 percent or greater and impermeable soils interbedded with granular soils and springs or ground water seepage; and
4. Areas with significant visible evidence of ground water seepage, and which also include existing landslide deposits regardless of slope.

B. Landslide Hazard Areas. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Within the city of Edmonds potential landslide hazard areas include:

1. Areas of ancient or historic failures in Edmonds which include all areas within the earth subsidence and landslide hazard area as identified in the 1979 report of Robert Lowe Associates and amended by the 1985 report of GeoEngineers, Inc., and further discussed in the 2007 report by Landau Associates;
2. Coastal areas mapped as class u (unstable), uos (unstable old slides), and urs (unstable recent slides) in the Department of Ecology Washington coastal atlas;
3. Areas designated as quaternary slumps, earthflows, mudflows, or landslides on maps published by the United States Geological Survey or Washington State Department of Natural Resources;

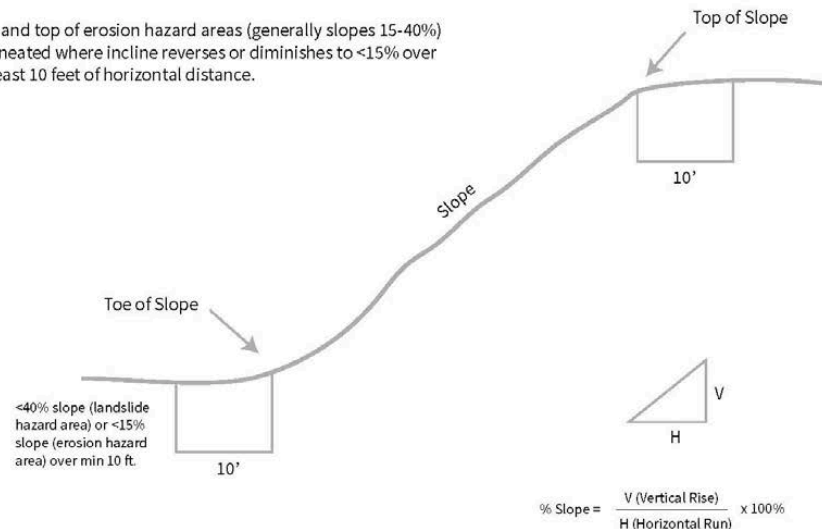
Figure 1

Simple Slope Calculation

The slope calculation guidance shall be used to determine the toe and top of % slope for slopes that are potentially landslide hazard areas or potentially erosion hazard areas.

Toe and top of landslide hazard areas (generally slopes of 40% or greater) delineated where incline reverses or diminishes to <40% over at least 10 feet of horizontal distance.

Toe and top of erosion hazard areas (generally slopes 15-40%) delineated where incline reverses or diminishes to <15% over at least 10 feet of horizontal distance.



Note: Steps, gradient changes, and incline reversals or breaks below percent slopes defining landslide hazard areas (40%) and erosion hazard areas (15%) shall be included as part of the larger slope.

4. Any slope of 40 percent or steeper that exceeds a vertical height of 10 feet over a 25-foot horizontal run. Except for rockeries that have been engineered and approved by the engineer as having been built according to the

engineered design, all other modified slopes (including slopes where there are breaks in slopes) meeting overall average steepness and height criteria should be considered potential landslide hazard areas);

5. Any slope with all three of the following characteristics:

- a. Slopes steeper than 15 percent;
- b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment; and
- c. Springs or ground water seepage;

6. Any area potentially unstable as a result of rapid stream incision or stream bank erosion;

7. Any area located on an alluvial fan, presently subject to, or potentially subject to, inundation by debris flow or deposition of stream-transported sediments; and

8. Any slopes that have been modified by past development activity that still meet the slope criteria.

C. Seismic Hazard Areas. Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. These areas are designated as having a “high” and “moderate to high” risk of liquefaction as mapped on the Liquefaction Susceptibility Map of Snohomish County by the Washington State Department of Natural Resources or areas located within landslide hazard areas. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.80.030 Mapping of geologically hazardous areas.

A. The approximate location and extent of geologically hazardous areas are shown on the city of Edmonds critical areas inventory. In addition, resources providing information on the location and extent of geologically hazardous areas in Edmonds include:

1. Washington Department of Ecology coastal zone atlas (for marine bluffs);
2. U.S. Geological Survey geologic maps, landslide hazard maps, and seismic hazard maps;
3. Washington State Department of Natural Resources seismic hazard maps for Western Washington;
4. Washington State Department of Natural Resources slope stability maps;
5. National Oceanic and Atmospheric Administration tsunami hazard maps; and
6. Federal Emergency Management Agency flood insurance maps.

B. The critical areas inventory and the resources cited above are to be used as a guide for the city of Edmonds development services department, project applicants and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Part II. Allowed Activities – Geologically Hazardous Areas

23.80.040 Allowed activities – Geologically hazardous areas.

The following activities are allowed in geologically hazardous areas as consistent with ECDC 23.40.220, Allowed activities, Chapter 19.10 ECDC, Building Permits – Earth Subsidence and Landslide Hazard Areas, and Chapter 18.30 ECDC, Storm Water Management, and do not require submission of a critical area report:

A. Erosion and Landslide Hazard Areas. Except for installation of fences and as otherwise provided for in this title, only those activities approved and permitted consistent with an approved critical areas report in accordance with this title shall be allowed in erosion or landslide hazard areas.

B. Seismic Hazard Areas. The following activities are allowed within seismic hazard areas:

- ~~1. Construction of new buildings with less than 2,500 square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;~~
- ~~2. Additions to existing single story residences that are 250 square feet or less; and~~
3. Installation of fences. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Part III. Additional Report Requirements – Geologically Hazardous Areas

23.80.050 Special study and report requirements – Geologically hazardous areas.

Critical area report requirements for geologically hazardous areas are generally met through submission to the director of one or more geotechnical reports. In addition to the general critical areas report requirements of ECDC 23.40.090, critical areas reports for geologically hazardous areas must meet the requirements of this section and Chapters 18.30 and 19.10 ECDC as applicable. Critical areas reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area. Geotechnical report(s) submitted for the purpose of critical areas review are required as necessary in addition to reports, data and other information mandated per ECDC Titles 18 and 19. Geotechnical report(s) shall be required: whenever a potential erosion hazard area or potential landslide hazard area, as mapped by Edmonds critical areas inventory or shown on other information consistent with ECDC 23.80.030, is located within 50 feet of the proposed development site; whenever a development site is located within a seismic hazard area; or when otherwise determined warranted by the director (e.g., a distance equal to the height of the slope).

A. Preparation by a Qualified Professional. A critical areas report for assessing a potential geologically hazardous area shall be prepared by a geologist licensed in the state of Washington, with experience analyzing geologic, hydrologic, and ground water flow systems, and who has experience preparing reports for the relevant type of hazard. If mitigation measures are necessary, the report detailing the mitigation measures and design of the mitigation shall be prepared by an engineer licensed in the state of Washington, with experience stabilizing slopes with similar geotechnical properties. Critical areas studies and reports on geologically hazardous areas shall be subject to independent review pursuant to ECDC 23.40.090(B).

B. Area Addressed in Critical Areas Report. The following areas shall be addressed in a critical areas report for geologically hazardous areas:

1. The project area of the proposed activity; and
2. All geologically hazardous areas within 200 feet of the project area or that have the potential to be affected by the proposal.

C. Geological Hazards Assessment. A geology hazard assessment report for a geologically hazardous area shall include a field investigation and contain an assessment of whether or not each type of geologic hazard identified in ECDC 20.80.020 is present or not present and if development of the site will increase the risk of landslides or erosion on or off the site. Geotechnical reports shall be prepared, stamped and signed by a qualified professional. These reports must:

1. Be appropriate for the scale and scope of the project;
2. Include a discussion of all geologically hazardous areas on the site and any geologically hazardous areas off site potentially impacted by the proposed project. If the affected area extends beyond the subject property, the geology hazard assessment may utilize existing data sources pertaining to that area;
3. Clearly state that the proposed project will not decrease slope stability or pose an unreasonable threat to persons or property either on or off site and provide a rationale as to those conclusions based on geologic conditions and interpretations specific to the project;
4. Provide adequate information to determine compliance with the requirements of this chapter;

5. Generally follow the guidelines set forth in the Washington State Department of Licensing Guidelines for Preparing Engineering Geology Reports in Washington (2006). In some cases, such as when it is determined that no landslide or erosion risk is present, a full report may not be necessary to determine compliance with this chapter, and in those cases a letter or abbreviated report may be provided.

6. If a landslide or erosion hazard is identified, provide minimum setback recommendations for avoiding the landslide or erosion hazard, other recommendations for site development so that the frequency or magnitude of landsliding or erosion on or off the site is not altered, and recommendations consistent with ECDC 23.80.060 and 23.80.070.

D. Incorporation of Previous Study. Where a valid critical areas report has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required critical areas report. The applicant shall submit a hazards assessment detailing any changed environmental conditions associated with the site.

E. Mitigation of Long-Term Impacts. When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the preexisting level of risk to the site and all other properties potentially impacted on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the preexisting conditions following abandonment of the activity.

F. Additional Technical Information Requirements for Projects within Erosion and Landslide Hazard Areas. In addition to the basic critical areas report requirements for geologically hazardous areas provided in subsections (A) through (E) of this section, technical information for any development within earth subsidence and landslide hazard areas shall meet the requirements of Chapter 19.10 ECDC and include the following information at a minimum:

1. Site Plan. The critical areas report shall include a copy of the site plan for the proposal showing:
 - a. The height of slope, slope gradient, and cross-section of the project area;
 - b. The location of springs, seeps, or other surface expressions of ground water on or within 200 feet of the project area or that have the potential to be affected by the proposal; and
 - c. The location and description of surface water runoff features;
2. Hazards Analysis. The hazards analysis component of the critical areas report shall specifically include:
 - a. A description of the extent and type of vegetative cover;
 - b. A description of subsurface conditions based on data from site-specific explorations;
 - c. Descriptions of surface and ground water conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;
 - d. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;
 - e. An estimate of the bluff retreat rate or an estimate of the percent risk of landslide area expansion that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event;
 - f. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on downslope properties;
 - g. A study of slope stability including an analysis of proposed cuts, fills, and other site grading;
 - h. Recommendations for building siting limitations; and

- i. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion;
3. Geotechnical Engineering Report. The technical information for a project within a landslide hazard area shall include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:
 - a. Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;
 - b. Recommendations for drainage and subdrainage improvements;
 - c. Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and
 - d. Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate;
4. Erosion and Sediment Control Plan. For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan shall be required. The erosion and sediment control plan shall be prepared in compliance with requirements set forth in Chapter 18.30 ECDC.

G. Limited Report Requirements for Stable Erosion Hazard Areas. At the director's discretion, detailed critical areas report requirements may be waived for erosion hazard areas with suitable slope stability. Report requirements for stable erosion hazard areas may be met through construction documents that shall include at a minimum an erosion and sediment control plan prepared in compliance with requirements set forth in Chapter 18.30 ECDC.

H. Seismic Hazard Areas. In addition to the basic critical areas report requirements for geologically hazardous areas provided in subsections (A) through (E) of this section, a critical areas report for a seismic hazard area shall also meet the following requirements:

1. The hazards analysis shall include a complete discussion of the potential impacts of seismic activity on the site (for example, forces generated and fault displacement).
2. A geotechnical engineering report shall evaluate the physical properties of the subsurface soils, especially the thickness of unconsolidated deposits and their liquefaction potential. If it is determined that the site is subject to liquefaction, mitigation measures appropriate to the scale of the development shall be recommended and implemented. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Part IV. Development Standards – Geologically Hazardous Areas

23.80.060 Development standards – General requirements.

A. Alterations of geologically hazardous areas or associated buffers may only occur for activities that:

1. Will not increase the threat of the geological hazard to adjacent properties beyond predevelopment conditions;
2. Will not adversely impact other critical areas;
3. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than predevelopment conditions; and
4. Are certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.

B. Critical Facilities Prohibited. Critical facilities shall not be sited within geologically hazardous areas unless there is no other practical alternative. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.80.070 Development standards – Specific hazards.

A. Erosion and Landslide Hazard Areas. Activities on sites containing erosion or landslide hazards shall meet the requirements of ECDC 23.80.060, Development standards – General requirements, and the specific following requirements:

1. Minimum Building Setback. The minimum setback shall be the distance required to ensure the proposed structure will not be at risk from landslides for the life of the structure, considered to be 120 years, and will not cause an increased risk of landslides taking place on or off the site. A setback shall be established from all edges of landslide hazard areas. The size of the setback shall be determined by the director consistent with recommendations provided in the geotechnical report to eliminate or minimize the risk of property damage, death, or injury resulting from landslides caused in whole or part by the development, based upon review of and concurrence with a critical areas report prepared by a qualified professional;

2. Buffer Requirements. A buffer may be established with specific requirements and limitations, including but not limited to, drainage, grading, irrigation, and vegetation. Buffer requirements shall be determined by the director consistent with recommendations provided in the geotechnical report to eliminate or minimize the risk of property damage, death, or injury resulting from landslides caused in whole or part by activities within the buffer area, based upon review of and concurrence with a critical areas report prepared by a qualified professional;

3. Alterations. Alterations of an erosion or landslide hazard area, minimum building setback and/or buffer may only occur for activities for which a hazards analysis is submitted and certifies that:

- a. The alteration will not increase surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions;
- b. The alteration will not decrease slope stability on adjacent properties; and
- c. Such alterations will not adversely impact other critical areas;

4. Design Standards within Erosion and Landslide Hazard Areas. Development within an erosion or landslide hazard area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of this title. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

- a. The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. If stability at the proposed development site is below these limits, the proposed development shall provide practicable approaches to reduce risk to human safety and improve the factor of safety for landsliding. In no case shall the existing factor of safety be reduced for the subject property or adjacent properties;
- b. Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;
- c. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography;
- d. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;
- e. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;
- f. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and
- g. Development shall be designed to minimize impervious lot coverage;

5. Vegetation Retention. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited;

6. Seasonal Restriction. Clearing shall be allowed only from May 1st to October 1st of each year; provided, that the director may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practice permit issued by the city of Edmonds or the Washington State Department of Natural Resources;

7. Point Discharges. Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area shall be prohibited except as follows:

- a. Conveyed via continuous storm pipe downslope to a point where there are no erosion hazard areas downstream from the discharge;
- b. Discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed storm water runoff in the predeveloped state; or
- c. Dispersed discharge upslope of the steep slope onto a low-gradient, undisturbed buffer demonstrated to be adequate to infiltrate all surface and storm water runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope; and

8. Prohibited Development. On-site sewage disposal systems, including drain fields, shall be prohibited within erosion and landslide hazard areas and related buffers.

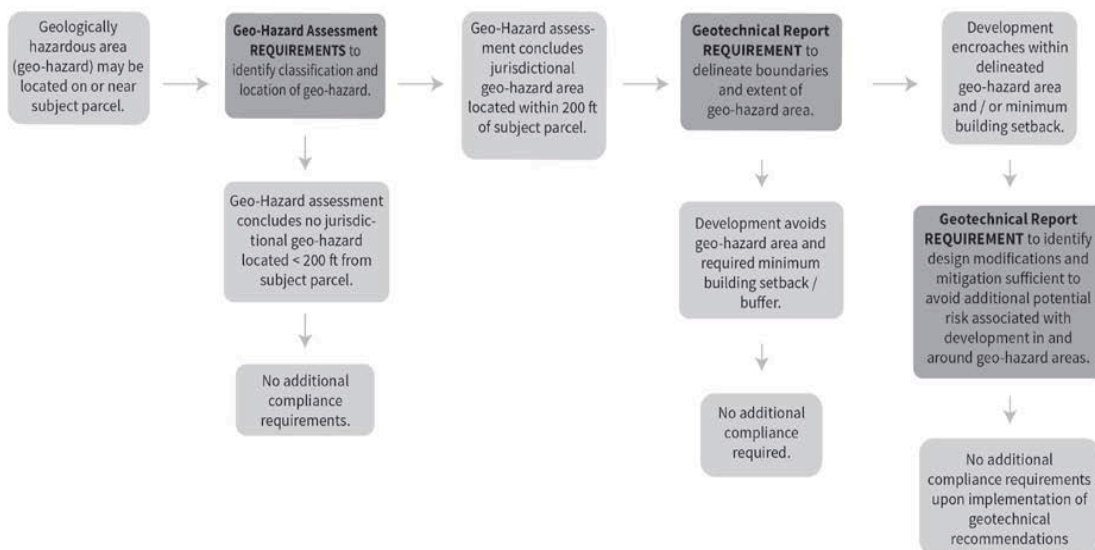
B. Earth Subsidence and Landslide Hazard Area. In addition to the requirements of this chapter, development proposals for lands located within the earth subsidence and landslide hazard area as indicated on the critical areas inventory shall be subject to the provisions of Chapter 19.10 ECDC.

C. Seismic Hazard Areas. Activities proposed to be located in seismic hazard areas shall meet the standards of ECDC 23.80.060, Development standards – General requirements. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Figure 23.80.000

CITY OF EDMONDS CRITICAL AREAS Critical Areas Compliance Requirements*

Geologically Hazardous Areas



*Report requirements may be met through submission of a single critical area report or multiple reports in combination.

Chapter 23.90

FISH AND WILDLIFE HABITAT CONSERVATION AREAS

Sections:

Part I. Designation, Rating and Mapping

23.90.000 Fish and wildlife habitat conservation areas compliance requirements flowchart.

23.90.010 Designation, rating and mapping – Fish and wildlife habitat conservation areas.

Part II. Additional Report Requirements – Fish and Wildlife Habitat Conservation Areas

23.90.020 Special study and report requirements – Fish and wildlife habitat conservation areas.

Part III. Development Standards – Fish and Wildlife Habitat Conservation Areas

23.90.030 Development standards – General requirements.

23.90.040 Development standards – Specific habitats.

Part I. Designation, Rating and Mapping

23.90.000 Fish and wildlife habitat conservation areas compliance requirements flowchart.

See Figure 23.90.000 at the end of this chapter. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.90.010 Designation, rating and mapping – Fish and wildlife habitat conservation areas.

A. Fish and wildlife habitat conservation areas in the city of Edmonds include:

1. Streams. Within the city of Edmonds streams shall include those areas where surface waters produce a defined channel or bed which demonstrates clear evidence, such as the sorting of sediments, of the passage of water. The channel or bed need not contain water year-round. Streams shall be classified in accordance with the Washington Department of Natural Resources water typing system (WAC 222-16-030) hereby adopted in its entirety by reference and summarized as follows:

- a. Type S: streams inventoried as “shorelines of the state” under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW;
- b. Type F: streams which contain fish habitat;
- c. Type Np: perennial nonfish habitat streams; and
- d. Type Ns: seasonal nonfish habitat streams.

All streams included on the inventory that are known to exist within the city of Edmonds do not meet criteria for “shorelines of the state” but contain fish habitat and, thus, meet designation criteria for Type F waters pursuant to WAC 222-16-030. However, not all Edmonds streams support anadromous fish populations or have the potential for anadromous fish occurrence because of obstructions, blockages or access restrictions resulting from existing conditions. Therefore, in order to provide special consideration of and increased protection for anadromous fish in the application of development standards, Edmonds streams shall be further classified as follows:

Anadromous fishbearing streams: streams existing in whole or in part within the city of Edmonds in which anadromous fish are known to occur. As of 2004, Edmonds fishbearing streams are known to include Willow Creek, Shellabarger Creek, Shell Creek, Hindley Creek, Perrinville Creek, and Lunds Creek; and

Nonanadromous fishbearing streams: streams existing in whole or in part within the city of Edmonds which do not support anadromous fish populations and do not have the potential for anadromous fish occurrence because of barriers to fish passage or lack of suitable habitat.

Streams with anadromous fish occurrence were identified in the Edmonds Stream Inventory and Assessment, a 2002 report of Pentec Environmental which is incorporated by this reference as if herein set forth. The city of Edmonds advocates and encourages the removal of barriers to anadromous fish passage consistent with the

purposes and objectives of this title. The director may provide updated information on the occurrence of anadromous fish in Edmonds streams consistent with changes in existing environmental conditions.

2. Areas with Which State or Federally Designated Endangered, Threatened, and Sensitive Species Have a Primary Association, or Offer Important Fish and Wildlife Habitat within the Urban Environment.

a. Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the NOAA Fisheries that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listing status.

b. State-designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the Washington Department of Fish and Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State-designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (state endangered species) and WAC 232-12-011 (state threatened and sensitive species). The State Department of Fish and Wildlife maintains the most current listing and should be consulted for current listing status.

3. State Priority Habitats and Areas Associated with State Priority Species. Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the State Department of Fish and Wildlife.

4. Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the city of Edmonds, including but not limited to those habitats and species that, due to their population status or sensitivity to habitat manipulation, warrant protection. Habitats may include a seasonal range or habitat element with which a species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

5. Commercial and Recreational Shellfish Areas. These areas include all public and private tidelands or bedlands suitable for shellfish harvest, including shellfish protection districts established pursuant to Chapter 90.72 RCW.

6. Kelp and eelgrass beds and herring and smelt spawning areas.

7. Naturally Occurring Ponds Under 20 Acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

8. Waters of the State. Waters of the state include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-031 (or WAC 222-16-030, depending on classification used).

B. All areas within the city of Edmonds meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this title and shall be managed consistent with the best available science, such as the Washington Department of Fish and Wildlife's Management Recommendations for Priority Habitat and Species.

C. Mapping. The approximate location and extent of fish and wildlife habitat conservation areas are shown on the city of Edmonds critical areas inventory. Resources providing information on the location and extent of fish and wildlife habitat conservation areas incorporated into the inventory include:

1. Washington Department of Fish and Wildlife priority habitat and species maps;
2. Washington State Department of Natural Resources official water type reference maps, as amended;
3. Washington State Department of Natural Resources Puget Sound intertidal habitat inventory maps;
4. Washington State Department of Natural Resources shorezone inventory;
5. Washington State Department of Natural Resources Natural Heritage Program mapping data;
6. Washington State Department of Health annual inventory of shellfish harvest areas;
7. Anadromous and resident salmonid distribution maps contained in the habitat limiting factors reports published by the Washington Conservation Commission; and
8. Washington State Department of Natural Resources state natural area preserves and natural resource conservation area maps.

The critical areas inventory and the resources cited above are to be used as a guide for the city of Edmonds development services department, project applicants, and/or property owners and should be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical areas designation. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Part II. Additional Report Requirements – Fish and Wildlife Habitat Conservation Areas

23.90.020 Special study and report requirements – Fish and wildlife habitat conservation areas.

In addition to the general critical areas report requirements of ECDC 23.40.090, critical area reports for fish and wildlife habitat conservation areas must meet the requirements of this section. Critical areas reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

A. Preparation by a Qualified Professional. A critical areas report for a fish and wildlife habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat. Pursuant to ECDC 23.40.090(A), applicants may choose one of the qualified technical consultants on the city's approved list in preparing critical areas reports for fish and wildlife habitat conservation areas, or may utilize an alternative consultant. Critical areas studies and reports developed by an alternative consultant shall be subject to independent review pursuant to ECDC 23.40.090(B).

B. Areas Addressed in Critical Areas Report. The following areas shall be addressed in a critical areas report for fish and wildlife habitat conservation areas:

1. The project area of the proposed activity;
2. All fish and wildlife habitat conservation areas and recommended buffers within 200 feet of the project area;
3. All shoreline areas, floodplains, other critical areas, and related buffers within 200 feet of the project area; and
4. A discussion of the efforts to avoid and minimize potential effects to these resources and the implementation of mitigation/enhancement measures as required.

C. Habitat Assessment. A habitat assessment is an investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. A critical areas report for a fish and wildlife habitat conservation area shall contain an assessment of habitats, including the following site- and proposal-related information at a minimum:

1. Detailed description of vegetation on and adjacent to the project area and its associated buffer;
2. Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;
3. A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area.

D. Additional Technical Information Requirements for Streams. Consistent with specific development standards for Edmonds streams (ECDC 23.90.040(D)), critical areas report requirements for streams may be met, at the discretion of the director, through submission of one or more specific report types. If stream buffer enhancement is proposed to reduce a standard stream buffer width or as part of project mitigation required by the director, a stream buffer enhancement plan may be submitted to fulfill the requirements of this section. If no project impacts are anticipated and standard stream buffer widths are retained, a stream survey report, general critical areas report or other reports alone or in combination may be submitted as consistent with the specific requirements of this section. In addition to the basic critical areas report requirements for fish and wildlife habitat conservation areas provided in subsections (A) through (C) of this section, technical information on streams shall include the following information at a minimum:

1. A written assessment and accompanying maps of the stream and associated hydrologic features within 200 feet of the project area, including the following information at a minimum:
 - a. Stream survey showing the ordinary high water mark(s);
 - b. Standard stream buffer boundary;
 - c. Boundary for proposed reduced stream buffers;
 - d. Vegetative, faunal, and hydrologic characteristics;
 - e. Soil and substrate conditions; and
 - f. Topographic elevations, at two-foot contours;
2. A detailed description and functional assessment of the stream buffer under existing conditions pertaining to the protection of stream functions, fish habitat and, in particular, potential anadromous fisheries;
3. A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and stream functions;
4. Proposed buffer enhancement, if needed, including a written assessment and accompanying maps and planting plans for buffer areas to be enhanced, including the following information at a minimum:
 - a. A description of existing buffer conditions;
 - b. A description of proposed buffer conditions and how proposed conditions will increase buffer functioning in terms of stream and fish habitat protection;
 - c. Performance standards for measuring enhancement success through a monitoring period of at least three years; and
 - d. Provisions for monitoring and submission of monitoring reports documenting buffer conditions as compared to performance standards for enhancement success;
5. A discussion of ongoing management practices that will protect stream functions and habitat value through maintenance of vegetation density within the stream buffer. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Part III. Development Standards – Fish and Wildlife Habitat Conservation Areas

23.90.030 Development standards – General requirements.

A. Alterations. A fish and wildlife habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the quantitative and qualitative functions and values of the habitat. There are no specific development standards for upland habitats of local importance unless these areas include another critical area (streams, heron rookeries, steep slopes, etc.). City staff will review the critical areas report (ECDC 23.90.020) and work with the applicant to minimize effects or improve conditions to upland habitat.

B. Approvals of Activities. The director shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers as necessary to minimize or mitigate any potential adverse impacts. Conditions shall be based on the best available science and may include, but are not limited to, the following:

1. Establishment of buffer zones;
2. Preservation of critically important vegetation and/or habitat features such as snags and downed wood;
3. Limitation of access to the habitat area, including fencing to deter unauthorized access;
4. Seasonal restriction of construction activities;
5. Establishment of a duration and timetable for periodic review of mitigation activities; and
6. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

C. Mitigation and Equivalent or Greater Biological Functions. Mitigation of alterations to fish and wildlife habitat conservation areas shall achieve equivalent or greater biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis. Mitigation shall be located on site except when demonstrated that a higher level of ecological functioning would result from an off-site location. Mitigation shall be detailed in a fish and wildlife habitat conservation area mitigation plan, which may include the following as necessary:

1. A native vegetation planting plan;
2. Plans for retention, enhancement or restoration of specific habitat features;
3. Plans for control of nonnative invasive plant or wildlife species; and
4. Stipulations for use of innovative, sustainable building practices.

D. Approvals and the Best Available Science. Any approval of alterations or impacts to a fish and wildlife habitat conservation area shall be supported by the best available science.

E. Buffers.

1. Establishment of Buffers. The director shall require the establishment of temporary or permanent buffer areas for permitted activities adjacent to fish and wildlife habitat conservation areas which may result in fish or wildlife disturbance (e.g., construction, grading, etc.) when needed to protect fish and wildlife habitat conservation areas. Establishment of buffers shall follow recommendations set forth by a qualified biologist in the project critical areas report. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby and shall be consistent with the management recommendations issued by the Washington Department of Fish and Wildlife.

2. Seasonal and Daily Timing Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year or day, seasonal restrictions on permitted activities within or adjacent to fish and wildlife

habitat conservation areas may be required at the discretion of the director pursuant to recommendations set forth in a critical areas report.

F. Signs and Fencing of Fish and Wildlife Habitat Conservation Areas.

1. Temporary Markers. The outer perimeter of the fish and wildlife habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field as required by the director in such a way as to ensure that no unauthorized intrusion will occur. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

2. Permanent Signs. As a condition of any permit or authorization issued pursuant to this chapter, the director may require the applicant to install permanent signs along the boundary of a fish and wildlife habitat conservation area or buffer.

a. Permanent signs shall be made of a metal face and attached to a metal post or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the director:

Fish and Wildlife Habitat

Conservation Area

Do Not Disturb

Contact the City of Edmonds

Regarding Uses and Restriction

b. The provisions of subsection (F)(2)(a) of this section may be modified by the director as necessary to assure protection of sensitive features or wildlife.

3. Fencing.

a. The director shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the director shall condition any permit or authorization issued pursuant to this chapter to require the applicant to install a permanent fence at the edge of the fish and wildlife habitat conservation area or buffer, when fencing will prevent future impacts to the fish and wildlife habitat conservation area.

b. The applicant shall be required to install a permanent fence around the fish and wildlife habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.

c. Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

23.90.040 Development standards – Specific habitats.

A. Endangered, Threatened, and Sensitive Species.

1. No development shall be allowed within a fish and wildlife habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by the Washington Department of Fish and Wildlife or applicable state or federal agency.

2. Whenever activities are proposed adjacent to a fish and wildlife habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected

through the application of protection measures in accordance with a critical areas report prepared by a qualified professional and approved by the director. Approval for alteration of land adjacent to the fish and wildlife habitat conservation area or its buffer shall not occur prior to consultation with the Washington Department of Fish and Wildlife for animal species, the Washington State Department of Natural Resources for plant species, and other appropriate federal or state agencies.

3. Bald eagle habitat is subject to the Federal Bald and Golden Eagle Protection Act. Washington State bald eagle protection rules (WAC 232-12-292) shall not be required as long as bald eagles are not listed as a state endangered or threatened species.

B. Anadromous Fish.

1. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:

- a. Activities shall be timed to occur only during the allowable work window as designated by the Washington Department of Fish and Wildlife for the applicable species;
- b. An alternative alignment or location for the activity is not feasible;
- c. The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas;
- d. Shoreline erosion control measures shall be designed to use bioengineering methods or soft armoring techniques, according to an approved critical areas report; and
- e. Any impacts to the functions or values of the fish and wildlife habitat conservation area are mitigated in accordance with an approved critical areas report.

2. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

3. Fills, when authorized, shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts and shall only be allowed for a water-dependent use.

C. Retention of Vegetation on Subdividable, Undeveloped Parcels. As a provision of this title, the director shall require retention of a minimum of 30 percent of native vegetation on undeveloped (or redeveloped), subdividable lands zoned as RS-12 or RS-20 per Chapter 16.10 ECDC. This standard for development shall apply to all undeveloped (or redeveloped), subdividable lands zoned RS-12 or RS-20 that contain a landslide hazard area as defined by ECDC 23.80.020(B); a stream or stream buffer; or a wetland or wetland buffer, except for as provided in subsection (C)(4) of this section. This provision for native vegetation retention will provide increased protection of fish and wildlife habitat throughout the Edmonds jurisdiction, and shall be applied consistent with the following criteria:

1. Achieving the minimum 30 percent retention requirement for native vegetation shall be determined by assessing the existing site area that supports native vegetation. For purposes of this provision, areas that support native vegetation shall include areas dominated by plant species which are indigenous to the Puget Sound region, which reasonably could have been expected to naturally occur on the site, and within which native trees over six inches in diameter at breast height (dbh) make up more than 40 percent of the canopy cover.
2. The goal of 30 percent native vegetation can be met through maintaining existing native vegetation, establishing native vegetation, or a combination of both.
3. A vegetation management plan, subject to the approval of the director, is required for approval of the proposed development.

4. For undeveloped (or redeveloped), subdividable lands zoned as RS-12 or RS-20 that currently do not support any native vegetation areas meeting minimum requirements in subsection (C)(1) of this section, the director may waive the requirements of this provision.

D. Streams. No alteration to a stream or stream buffer shall be permitted unless consistent with the provisions of this title and the specific standards for development outlined below.

1. Standard Stream Buffer Widths. Buffers for streams shall be measured on each side of the stream, from the ordinary high water mark. The following shall be the standard buffer widths for streams based upon the Washington State Department of Natural Resources water typing system and further classification based upon fish presence (fishbearing vs. nonfishbearing) for the Type F streams existing in the city of Edmonds:

- a. Type S: 150 feet;
- b. Type F anadromous fishbearing stream adjacent to reaches with anadromous fish access: 100 feet;
- c. Type F anadromous fishbearing stream adjacent to reaches without anadromous fish access: 75 feet;
- d. Type F nonanadromous fishbearing stream: 75 feet;
- e. Type Np: 50 feet;
- f. Type Ns: 40 feet.

General areas and stream reaches with access for anadromous fish are indicated on the city of Edmonds critical areas inventory. The potential for anadromous fish access shall be confirmed in the field by a qualified biologist as part of critical areas review and determination of standard stream buffer widths.

2. Reduced Stream Buffer Widths. Standard stream buffer widths may be reduced by no more than 25 percent of the standard stream buffer width concomitant to development and implementation of a stream buffer enhancement plan approved by the director. Reduced stream buffer widths shall only be approved by the director if a stream buffer enhancement plan conclusively demonstrates that enhancement of the reduced buffer area will not degrade the quantitative and qualitative functions and values of the buffer area in terms of fish and stream protection and the provision of wildlife habitat. Stream buffer enhancement plans must meet the specific requirements of ECDC 23.40.110, 23.40.120 and 23.40.130 and:

- a. The buffer enhancement plan proposed as part of buffer reduction provides evidence that functions and values in terms of stream and wildlife protections will be:
 - i. Increased or retained through plan implementation for those streams where existing buffer vegetation is generally intact; or
 - ii. Increased through plan implementation for those streams where existing buffer vegetation is inadequate to protect the functions and values of the stream;
- b. The plan documents existing native plant densities and provides for increases in buffer native plant densities to no less than three feet on center for shrubs and eight feet on center for trees;
- c. The plan requires monitoring and maintenance to ensure success for a minimum of five years in accordance with ECDC 23.40.130(D) and (E); and
- d. The plan specifically documents methodology and provides performance standards for assessing increases in stream buffer functioning as related to:
 - i. Water quality protection;
 - ii. Provision of wildlife habitat;

- iii. Protection of anadromous fisheries;
- iv. Enhancement of fish habitat; and
- v. Restricting intrusion and disturbance.

3. Stream Buffer Width Averaging with Enhancement. The director may allow modification of a standard stream buffer width in accordance with an approved critical areas report and the best available science on a case-by-case basis by averaging buffer widths. Any allowance for averaging buffer widths shall only be granted concomitant to the development and implementation of a buffer enhancement plan for areas of buffer degradation. Only those portions of a stream buffer existing within the project area or subject parcel shall be considered in the total buffer area for buffer averaging. Averaging of buffer widths may only be allowed where a qualified professional demonstrates that:

- a. The buffer enhancement plan proposed as part of buffer averaging provides evidence that functions and values in terms of stream and wildlife protections will be:
 - i. Increased or retained through plan implementation for those streams where existing buffer vegetation is generally intact; or
 - ii. Increased through plan implementation for those streams where existing buffer vegetation is inadequate to protect the functions and values of the stream;
- b. The total area contained in the buffer area, or the total buffer area existing on a subject parcel for a stream extending off site, after averaging is no less than that which would be contained within the standard buffer; and
- c. The buffer width at any single location is not reduced by more than 25 percent of standard width.

4. Additions to Structures Existing within Stream Buffers.

- a. Additions to legally constructed structures existing within stream buffers that increase the footprint of development or impervious surfacing shall be permitted consistent with the development standards of this chapter (ECDC 23.90.030 and this section); provided, that a buffer enhancement plan is provided to mitigate for impacts consistent with this title; and provided, that all impacts from temporary disturbances within the critical area buffer shall be addressed through use of best management plans and buffer enhancement plantings during and following construction of the allowed alteration. Provisions for standard stream buffers, stream buffer averaging with enhancement, and buffer reductions through enhancement require applicants to locate such additions in accordance with the following sequencing:
 - i. Outside of the standard stream buffer;
 - ii. Outside of a stream buffer averaged (with enhancement) per subsection (D)(3) of this section;
 - iii. Outside of a stream buffer reduced (with enhancement) per subsection (D)(2) of this section;
 - iv. Outside of the inner 25 percent of the standard stream buffer width with no more than 300 square feet of structure addition footprint within the inner 50 percent of the standard stream buffer width; provided, that enhancement is provided at a minimum three-to-one (3:1) ratio (enhancement-to-impact); or
 - v. Outside of the inner 25 percent of the standard stream buffer width with no more than 500 square feet of new footprint within the inner 50 percent of the standard stream buffer width; provided, that enhancement is provided at a minimum five-to-one (5:1) ratio (enhancement-to-impact), and that storm water low impact development (LID) techniques or other measures that enhance existing buffer condition are included as part of the stream buffer enhancement plan.
- b. Where meeting stream buffer enhancement requirements required by subsection (D)(4)(a) of this section would result in enhancement that is separated from the critical area due to uncommon property ownership, alternative enhancement approaches may be approved by the director. Alternative approaches could include

a vegetated rain garden that receives storm runoff, replacement of existing impervious surfaces with pervious materials, or other approaches that provide ecological benefits to the adjacent critical area.

c. Additions to legally constructed structures existing within stream buffers that cannot be accommodated in accordance with the above sequencing (i.e., additions proposed within the inner 25 percent of a standard buffer width) may be permitted at the director's discretion as a variance subject to review by the city hearing examiner and the provisions of ECDC 23.40.210.

5. Development Proposals within the Footprint of Existing Development. New development shall be allowed within the footprint of existing development occurring within a stream buffer; provided, that the following conditions are met:

a. The footprint of existing development was legally established, and is consistent with the definition provided in ECDC 23.40.005;

b. The proposed development within the footprint of existing development is sited as far away from the stream edge as is feasible;

c. As part of the development proposal, opportunities to reduce the footprint of existing development are implemented where such reduction would increase the buffer width adjacent to the stream and not represent an undue burden given the scale of the proposed development;

d. The proposed development includes enhancement to the adjacent remaining stream buffer in order to improve functions degraded by previous development;

e. Enhancement is provided as buffer enhancement for an equivalent area of the footprint of the newly proposed development within the footprint of existing development occurring in stream buffer, or through an alternative approach approved by the director that restores degraded functions of the wetland and remaining buffer; and

f. Impacts from temporary disturbances within the stream buffer shall be addressed through use of best management plans and buffer enhancement plantings during and following construction of the allowed alteration.

6. Stream Crossings. Stream crossings may be allowed only if all reasonable construction techniques and best management practices are used to avoid disturbance to the stream bed or bank. Upon completion of construction, the area affected shall be restored to an appropriate grade, replanted with native species and/or otherwise protected according to a stream mitigation and buffer enhancement plan approved by the director, and maintained and monitored per the requirements of ECDC 23.40.110, 23.40.120 and 23.40.130 and providing for buffer enhancement in accordance with the requirements of subsection (D)(2) of this section. In addition, the applicant must demonstrate that best management practices will be used during construction to provide the following:

a. Fisheries protection, including no interference with fish migration or spawning;

b. All crossings shall be constructed during summer low flow periods and shall be timed to avoid stream disturbance during periods when stream use is critical to salmonids;

c. Crossings shall not occur over salmonid spawning areas unless no other possible crossing site exists;

d. Crossings and culverted portions of the stream shall be minimized to the extent feasible and serve multiple purposes and multiple lots whenever possible;

e. Roads may cross streams only on previously approved rights-of-way, provided no practical alternative exists and adequate provision is made to protect and/or enhance the stream through appropriate mitigation. Roads shall be designed and located to conform to topography, and maintained to prevent erosion and restriction of the natural movement of ground water as it affects the stream;

f. Roads and utilities shall be designed in conjunction to minimize the area of disturbance to the stream;

- g. Roads shall be constructed so as to minimize adverse impacts on the hydrologic quality of the stream or associated habitat to a degree acceptable to the city;
- h. An alternative alignment or location with less impact is not feasible; and
- i. The crossing will be designed as near as perpendicular with the water body as possible.

7. Trails. After reviewing the proposed development and technical reports, the director may determine that a pedestrian-only trail may be allowed in a stream buffer; provided, pervious materials are used, all appropriate provision is made to protect water quality, and all applicable permit requirements have been met. No motorized vehicles shall be allowed within a stream or its buffer except as required for necessary maintenance or security. Vegetative edges, structural barriers, signs or other measures must be provided wherever necessary to protect streams by limiting vehicular access to designated public use or interpretive areas.

8. Storm Water Management Facilities. Storm water management facilities, limited to outfalls, pipes and conveyance systems, storm water dispersion outfalls and bioswales, may be allowed within stream buffers; provided, that:

- a. No other location is feasible;
- b. Pipes and conveyance facilities will be in the outer 25 percent of the buffer;
- c. Storm water dispersion outfalls, bioswales, and bioretention facilities may be allowed anywhere within stream buffers;
- d. Such facilities are designed consistent with requirements of Chapter 18.30 ECDC; and
- e. The location and function of such facilities will not degrade the functions or values of the stream or stream buffer.

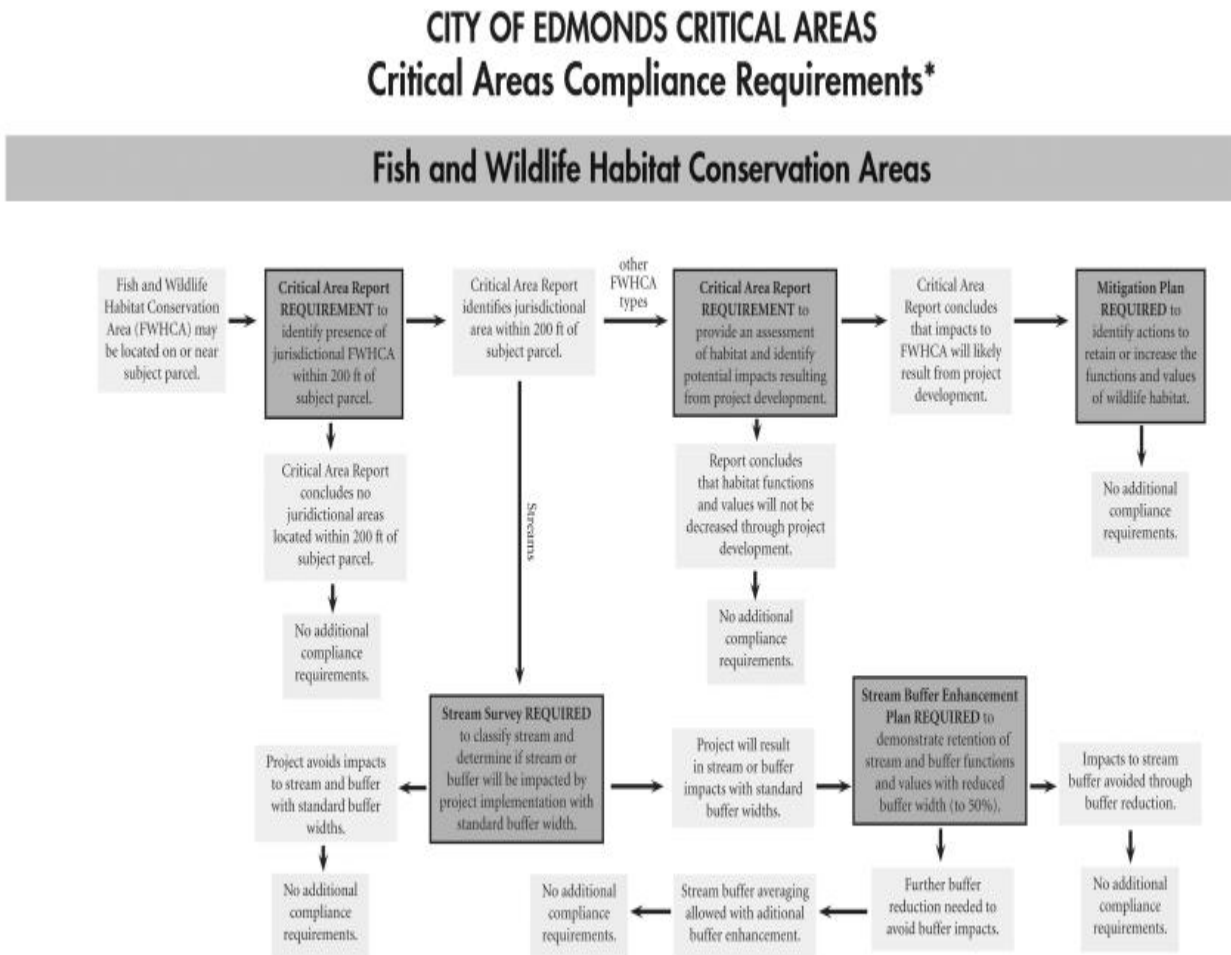
9. City Discretion in Protection, Enhancement and Preservation of Streams. The city of Edmonds is unique within the state of Washington as a built-out community with streams that have been incorporated within, and often located immediately adjacent to, residential development. This title allows the director full discretion to condition proposals for development on parcels containing, adjacent to, or potentially impacting streams to enhance conditions consistent with ECDC 23.40.050 and the purposes and objectives of this title. Conditions on development shall be required to enhance streams and stream buffers as fish and wildlife habitat conservation areas to provide increased protection of anadromous fisheries and potential fish habitat in accordance with best available science and the recommendations of an approved critical areas report and may include:

- a. Removal of stream bank armoring;
- b. In-stream habitat modification;
- c. Native planting;
- d. Relocation of stream channel portions to create contiguous riparian corridors or wildlife habitat;
- e. Planting of stream bank native vegetation to increase stream shading;
- f. Removal and control of nonnative, invasive weed species;
- g. Requiring additional building setbacks or modified buffers; and
- h. Limiting or reducing the types or densities of particular uses.

The right of discretion in provisioning development in regard to streams is maintained in order to provide for the creation of enhanced conditions over those currently existing around streams in the city of Edmonds. In all instances where an applicant cannot demonstrate that standard stream buffer widths as provided in subsection

(D)(1) of this section can be accommodated by project development, the applicant shall be required to submit a stream buffer enhancement plan or a stream mitigation and buffer enhancement plan as part of a critical areas report indicating that post-project site conditions will provide equivalent or greater protection of stream functions and fish habitat over a standard stream buffer and existing site conditions. [Ord. 4026 § 1 (Att. A), 2016; Ord. 3527 § 2, 2004].

Figure 23.90.000



*Report requirements may be met through submission of a single critical area report or multiple reports in combination.