

1 **NORMANDY PARK SHORELINE MASTER PROGRAM UPDATE**
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15 **CHAPTER [16.04](#) INTRODUCTION**

16 **16.04.010 Purpose and responsibility.**

17 (1) ~~The Shoreline Management Act of 1971 was adopted in 1972 (RCW 90.58), is intended to control and~~
18 ~~coordinate shoreline growth and development by encouraging land uses which enhance and conserve~~
19 ~~shorelines rather than detract from them. It is the policy of the state to provide for the management of the~~
20 ~~shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is~~
21 ~~designed to insure the development of these shorelines in a manner which, while allowing for limited~~
22 ~~reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This~~
23 ~~policy contemplates protecting against adverse effects to the public health, the land and its vegetation and~~
24 ~~wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation~~
25 ~~and corollary rights incidental thereto.~~

26 (2) Primary responsibility for shoreline regulation and planning is given to local governments with the
27 Department of Ecology acting in a review and watchdog capacity. Where a local shoreline is part of a
28 designated “shoreline of statewide significance,” as in the case of areas seaward of extreme low tide in
29 Normandy Park, local governments are required to give priority to statewide objectives and goals

30 enumerated in RCW 90.58.020 for that portion of the shoreline so designated. ~~These goals are as follows:~~
31 The department, in adopting guidelines for shorelines of statewide significance, and the local government, in
32 developing master programs for shorelines of statewide significance, shall give priority to uses in the
33 following order of preference which:

34 (a) ~~Preserve~~ Recognize and protect the statewide interest over local interests;

35 (b) Preservation of the natural character of the shoreline;

36 (c) Result in ~~Long-term~~ over short-term benefit;

37 (d) ~~Protection of~~ the resources and ecology of the shoreline;

38 (e) ~~Increased~~ public access to publicly owned areas of the shorelines; ~~and~~

39 (f) ~~Increased~~ recreational opportunities for the public; and

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

41 Shoreline master programs (SMPs) serve as standards for implementation of state policy set forth in Chapter
42 90.58 RCW for regulation of shoreline uses. The master programs articulate local policies and use
43 regulations governing the physical development of land and water resources affecting shorelands. These
44 regulations are in addition to other ordinances, rules and regulations of the city. (Ord. ~~539 § 2, 1994~~).

45 **16.04.020 Area of jurisdiction.**

46 (1) The shoreline area covered by the Normandy Park SMP is approximately three miles along Puget Sound,
47 which is a shoreline of statewide significance (see Figure 1 of the ordinance codified in this title, on file in the
48 office of the city clerk). The entire shoreline area is designated under ~~three~~ five environments: rural ~~shoreline~~
49 residential environment, urban conservancy, beach community, bluff conservancy, and aquatic. ~~† The~~
50 shoreline extends from the Des Moines/Normandy Park city limits on the south to approximately ~~SW 174th~~
51 SW 176th Street on the north at the Burien/Normandy Park border. The eastern (shoreward) boundary is 200
52 feet landward of the ordinary high water mark. The western (seaward) boundary is the minus 100- foot
53 underwater contour (generally, 400 feet seaward of the ordinary high water mark).

54 (2) In accordance with the 1972 Shoreline Management Act as amended in 2006, that portion of the
55 Normandy Park shoreline area between the extreme low water mark and the minus 100-foot contour (which
56 is permanently under water) is a publicly owned area of statewide significance where statewide shoreline
57 interests take precedence over local shoreline interests. Extensive tidelands are exposed at low tide all along
58 the Normandy Park shoreline, which are primarily held by private landowners. Marine View Park is city-owned
59 and provides the only public access to those publicly owned shorelands which by definition remain under water. Private
60 recreational opportunities also exist for property owners living within tract 611750TRCT (referred to as Lot A) at the
61 Normandy Park Cove. (Ord. ~~539 § 2, 1994~~).

62 (3) Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction
63 must conform to chapter 90.58 RCW, the Shoreline Management Act, and this master program, whether or not a permit
64 is required.

65 **16.04.030 Compliance in Normandy Park.**

66 (1) Since 1974 the Normandy Park shoreline area has been controlled by the 1973 Normandy Park shoreline master
67 program. The area extending from SW 208th Street to the city of Des Moines has been regulated by the King County
68 Shoreline Master Program of 1977. The overall goal of the SMP is to control and regulate future development as it affects
69 the shoreline area, ensuring that the private sector's right to use does not infringe upon the public's right to enjoy and use
70 the shoreline of Puget Sound without having to trespass on private uplands or tidelands. In recognition of the limitations
71 of the natural environment, shoreline development activities and uses are to be regulated in a manner that assures
72 shoreline uses with minimal adverse environmental effects and that preserves unique natural resources and shoreline
73 features having historic, cultural, scientific, and educational value.

74 (2) The Shoreline Management Act sets forth three primary tasks to be fulfilled by local governments:

75 (a) Administration of a shoreline permit system for proposed substantial development on wetlands of designated water
76 bodies.

77 (b) Compilation of a comprehensive inventory which includes a survey of natural characteristics, present land uses, and
78 patterns of property ownership.

79 (c) Development of a master program to provide an objective guide for regulating the use of shorelines.

80 (3) The Normandy Park shoreline master program (SMP) refers to the city's comprehensive plan, zoning code and other
81 development plans and ordinances for which this SMP has relevance. SMP use regulations are, however, a legally
82 separate and stand-alone set of regulations enabled by the Shoreline Management Act of 1971 or as amended hereafter
83 (Chapter 90.58 RCW).

84 (4) Development within the shoreline area must conform to the city's general requirements and the SMP. In case of
85 conflict, the stricter requirement applies.

86 (5) Under the SMP, a permit must be obtained from the city for any proposed substantial development within Normandy
87 Park shoreline.

88 (6) "Substantial development," according to the Act, means any development where the total cost or fair market value
89 exceeds ~~\$5,000~~ \$6,400, or the current dollar threshold determined by the state as described in WAC 173-27-040(2)(a),
90 whichever is greater, or any development that would interfere with the normal public use of the water or
91 shorelines.

92 ~~(7) The following, as detailed in WAC 173-27-040, as now exists or as amended hereafter, are general~~
93 ~~exceptions to the requirement that a permit be obtained:~~

94 ~~(a) Normal repair or maintenance of existing structures, or developments, including damage by accident, fire~~
95 ~~or elements;~~

96 ~~(b) Construction of a normal protective bulkhead common to single-family residences;~~

97 ~~(c) Emergency construction necessary to protect property from damage by the elements;~~

98 ~~(d) Construction of and practices normal or necessary for farming, irrigation, and ranching activities, including~~
99 ~~agricultural service roads and utilities on shorelands, construction of barns or similar agricultural buildings as~~
100 ~~further defined by WAC WAC 173-27-040 (2) (e) (however, purely agricultural buildings are not permitted~~
101 ~~under the zoning code);~~

102 ~~(e) Construction or modification of navigational aids;~~

103 ~~(f) Single-family dwellings for use by the owner or his family, and not to exceed a height of 35 feet above the~~
104 ~~average grade of the property (zoning requirements are more restrictive);~~

105 ~~(g) Construction of a dock, including a community dock, designed for pleasure craft only, for the private~~
106 ~~noncommercial use of the owner, lessee, or contract purchaser of a single-family residence, the cost of~~
107 ~~which does not exceed \$2,500.~~

108 (8) However, any development which occurs within the city's shoreline area, as shown on Figure 1 of the
109 ordinance codified in this title and as defined by the Act, whether it requires a permit or not, must be
110 consistent with the intent of the Act. ~~(Ord. 710 § 1, 2003; Ord. 539 § 2, 1994).~~

111 **16.04.040 Citizen Involvement.**

112 (1) With assistance from local residents, the current master program was developed between ~~1987 and 1990~~
113 2009 and 2013 as an update of the previous SMP in order to incorporate shorelines annexed by the city
114 since 1973 and to reflect recent changes in state requirements and community preferences. The program
115 presents a description of natural processes, an enumeration of objectives and policies for shoreline
116 development, designation of shoreline environment(s), use regulations, and provisions for variances,
117 conditional uses, unclassified uses, and updating the SMP.

118 (2) During a three-year period, two a citizen committees, the Technical Advisory Committee and a
119 subcommittee of the city council reviewed and accepted citizen input to this Normandy Park shoreline master
120 program. Citizen input was solicited and received from local newspaper articles, public meetings, phone calls
121 and discussions with residents by the citizen advisory committee, planning commission, and city council
122 meeting discussions. Based on this participation, it is felt that this resulting SMP represents the wishes of the
123 citizens of Normandy Park within the constraints of existing federal, state, and city laws and regulations.
124 (Ord. 539 § 2, 1994).

125 **16.04.045 References to plans, regulations or information sources**

126 Critical areas within the City's shoreline jurisdiction should be managed and protected to ensure no net loss
127 of ecological functions. When feasible, restore degraded ecological functions and ecosystem-wide
128 processes.

129 Where the Critical Areas Regulations or Flood Damage Prevention Regulations conflict with other parts of
130 the SMP, the requirement that most supports the provisions of the SMA as stated in RCW 90.58.020 shall
131 apply, as determined by the Shoreline Administrator.

132 (1) The Normandy Park Critical Areas Ordinance, NPMC 18.36 (Ord. 825 § 3 (Exh. A), 2009) is hereby
133 adopted in whole as a part of this Program, except the following sections shall not apply within shoreline
134 jurisdiction.

135 18.36.100 Partial exemptions:

136 ~~18.36.110 Single family residence administrative exception;~~

137 18.36.120 Reasonable use exception;

138 18.36.160 Mitigation Sequencing;

139 18.36.220 Subdivisions, short subdivisions, planned unit developments and binding site plans;

140 18.36.640 (7) Allowed Uses. The following specific activities may be permitted within a habitat conservation
141 area, pond, lake, water of the state, or associated buffer when the activity complies with the following
142 standards and the adopted shoreline master program and all unavoidable impacts are fully mitigated;

143 18.36.530 (2) B (ii): Allows buffer reduction to 10 feet in geologically hazardous areas; and

144 18.36.640 (8) Coastal Bulkheads.

145 (2) These revisions to the Critical Areas Code apply and supersede the NPMC 18.36:

146 18.36.110 Single-family residence administrative exception, when the single family residence exceptions
147 provisions of 18.36.110 are utilized for a project proposal, a shoreline variance permit is required.

148 18.36.310(1) Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be
149 done in accordance with the approved federal wetland delineation manual and applicable regional
150 supplements. All areas within the City meeting the wetland designation criteria in that procedure are hereby
151 designated critical areas and are subject to the provisions of this Chapter and consistent with WAC 173-22-
152 035.

153 18.36.310(2) Wetlands Classification. Wetlands shall be rated according to the Washington State Wetland
154 Rating System for Western Washington (~~Department of Ecology 2004~~ Hruby 2014; Ecology Publication no.

155 14-06-029), or as revised). Buffer reduction in excess of 25% of the standard buffer width require a shoreline
156 variance permit.

157 18.36.330(3) Buffers on Category IV wetlands will be 40 feet.

158 18.36.330(3)(f) & (g) and 18.36.640 (4) (d) & (e) Buffer width reductions will be allowed to no more than 25
159 percent of the standard buffer width.

160 18.36.330(2)(a) Category III & IV wetlands have no minimum size and no wetlands are exempt from
161 development regulations and this SMP.

162 18.36.340 (3) Mitigation Ratios.

163 (c) Decreased Replacement Ratio

164 ~~(i) Documentation by a qualified professional demonstrates that the proposed mitigation~~
165 ~~actions have a very high likelihood of success;~~

166 ~~(ii) Documentation by a qualified out-of-kind replacement will best meet the provisions of~~
167 ~~this section and the mitigation sequence outlined in NPMC 18.36.160. professional~~
168 ~~demonstrates that the proposed mitigation actions will provide functions and values that are~~
169 ~~significantly greater than the wetland being impacted; or~~

170 ~~(iii) The proposed mitigation actions are conducted at least two years in advance of the~~
171 ~~impact and have been shown to be successful.~~

172 ~~(5) Out of kind compensation (i.e., not of the same aquatic resource type) can be allowed when out of kind~~
173 ~~replacement will best meet the provisions of this section and the mitigation sequence outlined in NPMC~~
174 ~~18.36.160.~~

175 (6) Selecting Compensation Sites. 

176 ~~(b) Where out of kind replacement is accepted, greater restoration/creation ratios may be required.~~

177 (8) Alternative Compensation Projects.

178 ~~(e) Conducting compensation as part of a cooperative process does not reduce or eliminate the~~
179 ~~required replacement ratios outlined above. Exception: where a compensatory mitigation plan~~
180 ~~including a five-year monitoring agreement is included as a condition of approval, such plan shall~~
181 ~~allow for one to one replacement ratios upon successful completion of the monitoring agreement.~~

182 ~~(f) Prior to selling mitigation credits to other parties, the compensation site(s) sponsor must have~~
183 ~~received all of the required state and federal approvals to sell credits as a mitigation bank or in-lieu~~
184 ~~fee site.~~

185 (2) The following sections of the Normandy Park Construction in Flood Hazard Areas, NPMC 9.02 (Ord. 825
186 § 3 (Exh. A), 2009) are hereby adopted in whole as a part of this Program: Flood hazard code 9.02.170
187 (Floodways) and 9.02.180 (Wetlands Management).

188 (3) The following sections of the Flood Hazard Reduction WAC 172-36-221(3)(c) are adopted into this
189 Program:

190 (a) Allow new structural flood hazard reduction measures in shoreline jurisdiction only when it can be
191 demonstrated by a scientific and engineering analysis that they are necessary to protect existing
192 development, that nonstructural measures are not feasible, that impacts on ecological functions and priority
193 species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate
194 vegetation conservation actions are undertaken consistent with WAC 173-26-221(5).

195 (b) Place new structural flood hazard reduction measures landward of the associated wetlands, and
196 designated vegetation conservation areas, except for actions that increase ecological functions, such as
197 wetland restoration, or as noted below. Provided that such flood hazard reduction projects be authorized if it
198 is determined that no other alternative to reduce flood hazard to existing development is feasible. The need
199 for, and analysis of feasible alternatives to, structural improvements shall be documented through a
200 geotechnical analysis.

201 All references to the Critical Area Ordinance NPMC 18.36 (CAO) are for this specific version. Where conflict
202 between this Shoreline Master Program occurs with other regulations, the more restrictive regulation applies.

203 **16.04.050 Master program goals.**

204 The city of Normandy Park, by establishing its master program, intends to control and regulate future
205 development as it affects the shoreline area, ensuring that the private sector's right to use does not infringe
206 upon the public's right to enjoy and use the shorelines of Puget Sound without having to trespass on private
207 uplands or tidelands. Shoreline development, in recognition of the limitations of the natural environment, will
208 be regulated to assure that shoreline uses preserve the quality of the environment for the benefit of existing
209 and future generations and the public interest. (Ord. ~~539 § 2, 1994~~).

210 **16.04.060 Master program organization.**

211 The shoreline master program is documented in Chapter [16.08](#) NPMC through Appendix B and contains:
212 Definitions (16.08), Shoreline Environmental Designation (16.12), Master Program Policy Elements (16.16),
213 Use Regulations (16.20), User's Guide to Program Administration (16.24), and Appendix A: Inventory of
214 Natural and Manmade Conditions Map of Shoreline Designations (Figure 1); and Appendix B: Shoreline
215 Inventory and Characterization (Appendix). (Ord. ~~539 § 2, 1994~~ New ordinance _____).

216 **CHAPTER [16.08](#) DEFINITIONS**

217 **16.08.010 Generally.** As used in this title, unless the context requires otherwise, the definitions and concepts
218 set out in this chapter will apply. (Ord. ~~539 § 2, 1994~~).

219 **16.08.030 Average grade level.**

220 “Average grade level” means the average of the natural or existing topography of the portion of the lot,
221 parcel, or tract of real property that will be directly under the proposed building or structure; provided, in the
222 case of structures to be built over water, average grade level shall be the elevations of ordinary high water.
223 Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior
224 walls of the proposed building or structure. (Ord. ~~539 § 2, 1994~~).

225 **16.08.035 Aquaculture.** “Aquaculture” means the culture or farming of fish, shellfish, or other aquatic plants
226 and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed
227 wildstock geoduck fishery.

228 **16.08.040 Bank.**

229 “Bank” means a steep rise or slope in the land at the edge of a body of water or watercourse. (Ord. 539 § 2,
230 1991).

231 **16.08.050 Beach feeding.**

232 “Beach feeding” means the artificial nourishment/replenishing of a beach by delivery of materials dredged or
233 excavated elsewhere. (Ord. ~~539 § 2, 1994~~).

234 **16.08.060 Bluff.**

235 “Bluff” means a high, steep, board-faced bank or cliff. (Ord. ~~539 § 2, 1994~~).

236 **16.08.070 Boathouse.**

237 “Boathouse” means an accessory building which provides shelter and enclosure for a boat only and is
238 erected on a pier or wharf or over a dock or docking slip or is a floating structure located on the same zoning
239 lot for which the primary use has been established. (Ord. ~~539 § 2, 1994~~).

240 **16.08.080 Breakwater.**

241 “Breakwater” means protective structures usually built offshore to protect harbor areas, moorages,
242 navigation, beaches and bluffs from wave action. Breakwaters may be fixed (e.g., rubble mound or rigid
243 wall), open-pile, or floating. (Ord. ~~539 § 2, 1994~~).

244 **16.08.090 Carrying capacity.**

245 “Carrying capacity” means the ability of a natural or manmade system to absorb population growth or
246 physical development without any significant degradation or breakdown. (Ord. ~~539 § 2, 1994~~).

247 **16.08.100 City.**

248 “City” means the city of Normandy Park. (Ord. ~~539 § 2, 1994~~).

249 **16.08.110 Community dock.**

250 “Community dock” means structures which abut the shoreline and are used as landing or moorage places for
251 watercraft and which serve up to 10 lots or parcels. Docks serving more than 10 lots are considered marinas.
252 (Ord. ~~539 § 2, 1994~~).

253 **16.08.120 Conditional use.**

254 “Conditional use” means a use, development, or substantial development which is classified as a conditional
255 use or is not classified within the master program. (Ord. ~~539 § 2, 1994~~).

256 **16.08.125 Critical saltwater habitat.**

257 Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish,
258 such as herring, smelt and sandlance; mudflats, intertidal habitats with vascular plants, and areas with which
259 priority species have a primary association. Critical saltwater habitats require a higher level of protection due
260 to the important ecological functions they provide. Ecological functions of marine shorelands can affect the
261 viability of critical saltwater habitats. (WAC 173-26-221(2)(iii)(A)).

262 **16.08.130 Department.**

263 “Department” means Washington State Department of Ecology (DOE). (Ord. ~~539 § 2, 1994~~).

264 **16.08.140 Development.**

265 “Development” means a use, consisting of the construction or exterior alteration of structures, clearing,
266 dredging, drilling, dumping, filling, grading, removal of any sand, gravel or minerals; bulkheading; driving of
267 piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the
268 normal public use of the surface of the waters overlying lands subject to the Shoreline Management Act at
269 any state of water level. (Ord. ~~539 § 2, 1994~~).

270 **16.08.150 Dredging.**

271 “Dredging” means the removal of earth from the bottom of a stream, bay, or other water body for the
272 purposes of deepening a navigational channel or to obtain use of the bottom materials for landfill. (Ord. ~~539 §~~
273 ~~2, 1994~~).

274 **16.08.155 Drift cell.** "Drift cell," "drift sector," or "littoral cell" means a particular reach of marine shore in
275 which littoral drift may occur without significant interruption and which contains any natural sources of such
276 drift and also accretion shore forms created by such drift.

277 **16.08.160 E.I.S.**

278 "E.I.S." means environmental impact statement as provided in Chapter 43.21C RCW. (Ord. ~~539 § 2, 1994~~).

279 **16.08.170 Fair market value.**

280 "Fair market value" means the expected price at which the development can be sold to a willing buyer. For
281 developments which involve nonstructural operations such as dredging, drilling, dumping, or filling, the fair
282 market value is the expected cost of hiring a contractor to perform the operation or where no such value can
283 be calculated, the total of labor, equipment use, transportation, and other costs incurred for the duration of
284 the permitted project. (Ord. ~~539 § 2, 1994~~).

285 **16.08.180 Feeder bluff.**

286 "Feeder bluff" means a coastal bluff that, as a result of its natural erosion, delivers sand and gravel to the
287 beach that is subsequently transported by waves and currents along the shoreline to maintain beaches and
288 accretion shoreforms elsewhere within the local drift cell.
289

290 **16.08.185 Fill.** "Fill" means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or
291 other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the
292 elevation or creates dry land.

293 **16.08.190 Groins.**

294 "Groins" means wall-like structures built seaward from the shore to build or preserve an accretion beach by
295 trapping littoral sand drift on the updrift side. Generally narrow and of varying lengths, groins may be built
296 along the shore. (Ord. ~~539 § 2, 1994~~).

297 **16.08.200 Height.**

298 "Height" means the distance measured from average grade level to the highest point of a structure; provided,
299 that appurtenances such as television antennas and chimneys shall not be used in calculating height, except
300 where it obstructs the view of a substantial number of residences on areas adjoining such shorelines. (Ord.
301 ~~539 § 2, 1994~~). Temporary construction equipment is excluded from these calculations.

302 **16.08.210 Jetties.**

303 "Jetties" means structures generally built singly or in pairs perpendicular to the shore at harbor entrances or
304 river mouths to prevent the shoaling or accretion of littoral sand drift. Jetties also protect channels and inlets
305 from storm waves and cross-currents. (Ord. ~~539 § 2, 1994~~).

306 **16.08.220 Marina.**

307 “Marina” means a water-dependent facility that provides wet and/or dry moorage for over 10 boats, and/or
308 includes boat launching facilities and supplies and services for small commercial and/or pleasure crafts.
309 (Ord. ~~539 § 2, 1994~~).

310 **16.08.230 Master program.**

311 “Master program” means the comprehensive use plan for the city of Normandy Park, and the use
312 regulations, together with maps, diagrams, charts, or other descriptive material and text, a statement of
313 desired goals and standards developed in accordance with the policies of RCW 90.58.020. (Ord. ~~539 § 2,~~
314 ~~1994~~).

315 **16.08.240 Natural or existing topography.**

316 “Natural or existing topography” means the topography of the lot, parcel, or tract of real property immediately
317 prior to any site preparation, grading, excavation or filling. (Ord. ~~539 § 2, 1994~~).

318 **16.08.250 Nonconforming use or development.**

319 “Nonconforming use or development” means a shoreline use or ~~structure development~~ which was lawfully
320 constructed or established prior to the effective date of the Act or the applicable master program, or
321 amendments thereto, but which does not conform to present regulations or standards of the program.
322 ~~policies of the Act. (Ord. 539 § 2, 1994) (Ord. XX § X 2013).~~

323 **16.08.260 Ordinary high water mark (OHWM).**

324 “Ordinary high water mark” or “OHWM” means the mark on all tidal waters, lakes, and streams, which will be
325 found by examining the beds and banks and ascertaining where the presence and action of waters are so
326 common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct
327 from that of the abutting upland, in respect to vegetation, as that condition existed on June 1, 1971, as it may
328 naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local
329 government or the Department of Ecology. In any area where the ordinary high water mark cannot be found,
330 the ordinary high water mark adjoining saltwater shall be the line of mean higher high tide, and the ordinary
331 high water mark adjoining freshwater shall be the line of mean high water. (Ord. ~~539 § 2, 1994~~).

332 **16.08.270 Overlay zone.**

333 “Overlay zone” means a set of zoning requirements that are described in the zoning code, are mapped, and
334 subsequently imposed in addition to those of the underlying district. (Ord. ~~539 § 2, 1994~~).

335 **16.08.280 Pier.**

336 “Pier” means a structure built over the water and supported by pillars or piles used as a landing place or
337 viewing or other recreational platform. (Ord. ~~539 § 2, 1994~~).

338 **16.08.290 Private tidelands.**

339 “Private tidelands” means tidelands that were sold by the state to the upland property owners. This practice
340 was terminated by the State Legislature in the early 1970s. (Ord. ~~539 § 2, 1994~~).

341 **16.08.300 Public access.**

342 “Public access” means the public’s ability to get to and use the state’s public waters, the water/land interface
343 and associated public shoreline area. (Ord. ~~539 § 2, 1994~~).

344 **16.08.310 Public access, community.**

345 “Community public access” means public access limited to the residents of a particular subdivision,
346 condominium, club or other such entity, but where the general public is excluded. (Ord. ~~539 § 2, 1994~~).

347 **16.08.320 Public access, unlimited general.**

348 “Unlimited general public access” means access available for use freely by the general public with no
349 restrictions. (Ord. ~~539 § 2, 1994~~).

350 **16.08.325 Recreational development.**

351 Shoreline recreational development includes facilities for activities such as hiking, fishing, picnicking,
352 swimming, photography and viewing. It also includes facilities for more intensive uses, such as parks. This
353 section applies to both publicly- and privately-owned shoreline facilities intended for use by the public or by a
354 private group, association, or individual.

355 **16.08.330 Riprap.**

356 “Riprap” means a layer, facing, or protective mound of stones randomly placed to prevent erosion, scour, or
357 sloughing of a structure of embankment; also, the stone so used. (Ord. ~~539 § 2, 1994~~).

358 **16.08.340 RCW.**

359 “RCW” means Revised Code of Washington, state statute. (Ord. ~~539 § 2, 1994~~).

360 **16.08.345 Shorelands.**

361 “Shorelands” means those lands extending landward for 200 feet in all directions, as measured on a
362 horizontal plane from the ordinary high water mark; floodways; and including all 100-year floodplain areas;
363 and all marshes, bogs, swamps, and river deltas associated with the streams, lakes, and tidal waters which

364 are subject to the provisions of the Shoreline Management Act; the same to be designated as to location by
365 the Department of Ecology.

366 **16.08.350 Shoreline administrator.**

367 “Shoreline administrator” means the city manager or his/her designee. (Ord. 539 § 2, 1994).

368 **16.08.360 Shoreline permit.**

369 “Shoreline permit” means that required by the Shoreline Management Act for substantial development,
370 conditional use or variance on shorelines, to be issued by the city of Normandy Park and subject to review by
371 the Department of Ecology and the Attorney General. (Ord. 539 § 2, 1994).

372 **16.08.370 Shorelines.**

373 “Shorelines” means all of the water areas of the state, including reservoirs, and their associated wetlands,
374 together with the land underlying them, except:

375 (1) Shorelines of statewide significance;

376 (2) Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per
377 second or less, and the wetlands associated with such upstream segments;

378 (3) Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes. (Ord. 539
379 § 2, 1994).

380 **16.08.380 Shorelines of statewide significance.**

381 “Shorelines of statewide significance” means those areas described in ~~WAC 173-16-030(13) or as hereafter~~
382 ~~amended. (Ord. 539 § 2, 1994). RCW 90.58.030 (2) (f) (iii). (f) “Shorelines of statewide significance” means~~
383 the following shorelines of the state: (iii) Those areas of Puget Sound and the Strait of Juan de Fuca and
384 adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide.
385

386 **16.08.390 Shorelines of the state.**

387 “Shorelines of the state” means the total of all shorelines and shorelines of statewide significance within the
388 state. (Ord. 539 § 2, 1994).

389 **16.08.395 Shoreline stabilization.**

390 “Shoreline stabilization” means structural and nonstructural methods to address erosion impacts to property
391 and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or
392 wave action. WAC 173-26-231(3)(a)(i). Definition of new stabilization measures include enlargement of
393 existing structures. WAC 173-26-231(3)(a)(iii)(C), last bullet; WAC 173-26-231(3)(a)(iii)(B)(I), 5th bullet.

394 **16.08.400 SMP.**

395 “SMP” means shoreline master program. (Ord. ~~539 § 2, 1994~~).

396 **16.08.410 Streambed.**

397 “Streambed” means the channel of a river or other watercourse and adjacent land areas that are inundated
398 with floodwater during a 100-year flood. (Ord. ~~539 § 2, 1994~~).

399 **16.08.420 Substantial development.**

400 “Substantial development” means any development where the total cost or fair market value, whichever is
401 higher, does not exceed ~~\$5,000~~ \$6,400 or the current dollar threshold determined by the state as described
402 in WAC 173-27-040(2)(a) (except for exemptions found in RCW 90.58.030(3)(e)), whichever is greater, and
403 such development does not materially interfere with the normal public use of the water or shorelines of the
404 state; (Ord. 710 § 1, 2003; Ord. ~~539 § 2, 1994~~).

405 **16.08.425 Transportation facilities and parking.**

406 Transportation facilities are those structures and developments that aid in land and water surface movement
407 of people, animals, goods and services. They include streets, bridges, bikeways, trails and other related
408 facilities.

409 **16.08.430 Variance.**

410 “Variance” means a means to grant relief from the specific bulk, dimensional or performance standards set
411 forth in the master program and not a means to vary a use of a shoreline. (Ord. ~~539 § 2, 1994~~).

412 **16.08.440 WAC.**

413 “WAC” or “Washington Administrative Code” means rules and regulations imposed by various state
414 departments with legislative approval that have the force of state law. (Ord. ~~539 § 2, 1994~~).

415 **16.08.450 Water-dependent use.**

416 “Water-dependent use” means a use or portion of a use which cannot exist in any other location and is
417 dependent on the water by reason of the intrinsic nature of its operation. Examples of water-dependent uses
418 may include marinas and sewer outfalls. (Ord. ~~539 § 2, 1994~~).

419 **16.08.460 Water-enjoyment use.**

420 “Water-enjoyment use” means a recreational use such as a park, pier, or other use facilitating public access
421 as a primary character of the use; or, a use that provides for passive and active interaction of a large number
422 of people with the shoreline for leisure and enjoyment as a general character of the use and which, through

423 location, design and operation, assures the public's ability to interact with the shoreline. In order to qualify as
424 a water-enjoyment use, the use must be open to the public and most if not all of the shoreline-oriented space
425 in the facility must be devoted to the specific aspects of the use that foster shoreline interaction. (Ord. 539 §
426 2, 1994).

427 **16.08.470 Water-related use.**

428 "Water-related use" means a use or portion of a use which is not intrinsically dependent on a waterfront
429 location but whose operation cannot occur economically without a shoreline location. Examples of water-
430 related uses may include warehousing of goods transported by water and seafood processing plants. (Ord.
431 539 § 2, 1994).

432 **16.08.480 Wetlands or wetland areas.**

433 ~~"Wetlands or wetland areas" means those lands extending landward for 200 feet in all directions, as~~
434 ~~measured on a horizontal plane from the ordinary high water mark; floodways; and including all 100-year~~
435 ~~floodplain areas; and all marshes, bogs, swamps, and river deltas associated with the streams, lakes, and~~
436 ~~tidal waters which are subject to the provisions of the Shoreline Management Act; the same to be designated~~
437 ~~as to location by the Department of Ecology. (Ord. 539 § 2, 1994).~~ "Wetlands" means areas that are
438 inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support,
439 and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in
440 saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands
441 do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited
442 to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment
443 facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were
444 unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include
445 those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

446 **CHAPTER 16.12 SHORELINE ENVIRONMENTAL DESIGNATION**

447 **16.12.001 Shorelines of statewide significance.**

448 The State of Washington Shoreline Management Act (SMA) designates certain shoreline areas as shorelines
449 of statewide significance. These shorelines are considered important major resources from which all people
450 in the state derive benefit. The SMA states that local shoreline master programs must give preference to
451 uses which favor public and long-term interests of the people of the state. In the City of Normandy Park, only
452 the marine shorelines between the ordinary high water mark and the line waterward of extreme low tide are
453 designated shorelines of statewide significance. The lower portions of Miller and Walker Creeks where flow
454 is equal to or exceeds 20 cubic feet per second are "shorelines of the state" and are not "shorelines of
455 statewide significance." The following policies apply to Normandy Park's shoreline areas:

- 456 • Recognize and protect the statewide interest over local interest.

- 457 • Preserve the natural character of the shoreline.
- 458 • Result in long-term over short-term benefit.
- 459 • Protect the resources and ecology of the shoreline.
- 460 • Increase public access to publicly owned areas of the shoreline.
- 461 • Increase recreational opportunities for the public on the shoreline.

462 **16.12.005 Shoreline environment designation map.**

463 The shoreline designation map, Figure 1, establishes the general locations of each of the shoreline
464 designations within the City of Normandy Park. This map generally illustrates the extent of shoreline
465 jurisdiction, but is only a depiction that will need to be reviewed and determined case by case based on the
466 relevant definitions in the SMA. In the event that there are any undesignated shorelines of the state, they will
467 be automatically designated Urban Conservancy under this SMP. If any part of a proposed development or
468 activity is located within this shoreline designation, the entire proposal must be reviewed for consistency with
469 the City of Normandy Park’s Shoreline Master Program.

470 **16.12.010 Rural residential environment.**

471 (1) Purpose.

472 The purpose of the rural residential environment is to restrict intensive development along single-family
473 residential shorelines and to maintain open spaces and opportunities for recreational uses compatible with
474 residential uses. Protection of the natural shoreline environment and its resources is encouraged. ~~(Ord. 539~~
475 ~~§ 2, 1994).~~

476 (2) Criteria for designation.

477 Rural residential is an area of low to medium density single-family residential development and some public
478 and private recreational uses. The area is free from intensive development and does not include any
479 multifamily residential, commercial, or industrial development. Planned residential developments may be
480 allowed by the city of Normandy Park. The rural residential environment includes sensitive areas such as
481 steep slopes, eroding bluffs, stream deltas, heavily wooded areas, and flood zones.

482 (3) ~~General m~~Management policies.

483 (4a) New developments in the rural residential environment should reflect the character of the surrounding
484 area by limiting residential density, providing permanent open space, and by maintaining adequate building
485 setbacks from the water.

- 486 (2b) Public and private recreational facilities and uses compatible with residential uses should be
487 encouraged.
- 488 (3c) Water-dependent, water-related, or water-enjoyment recreational activities should be encouraged on
489 publicly owned property.
- 490 (4d) Public access opportunities should be encouraged to publicly owned shorelines without having to
491 trespass on private upland or tideland properties.
- 492 (5e) Intensive development such as multifamily residential, commercial, ports, and industrial development
493 should not be permitted.
- 494 (6f) Low density residential development should be allowed when supporting community facilities such as
495 public sewer, water and power are available.
- 496 (7g) Residential developments and recreational uses should be located, sited, designed, and maintained to
497 protect and enhance the shoreline environment.
- 498 (8 h) Construction of structural shoreline stabilization should be permitted for bank protection; provided it is
499 designed so that it will not result in significant damage to neighboring properties. New developments should
500 be designed to preclude the need for such stabilization and should be compatible with existing shoreline
501 characteristics and limitations. (Ord. ~~539~~ § 2, 1994).

502 **16.12.015 Aquatic.**

503 (1) Purpose.

504 The purpose of the “Aquatic” shoreline environment designation is to protect, restore, and manage the
505 unique characteristics and resources of shoreline areas waterward of the ordinary high water mark including
506 the shoreline-designated portions of Miller and Walker Creeks, Puget Sound, and adjacent wetlands. This is
507 accomplished by managing water dependent uses and modifications to:

- 508 ▪ Preserve/restore ecological functions of the nearshore area;
- 509 ▪ Preserve critical saltwater and freshwater habitat;
- 510 ▪ Provide public access and recreation opportunities; and
- 511 ▪ Assure compatibility between shoreland and aquatic uses.

512 (2) Criteria for designation.

513 An “Aquatic” shoreline environment designation is assigned to lands waterward of the ordinary high water
514 mark for both saltwater and freshwater bodies of water, including any submerged or intertidal areas. For the

515 City of Normandy Park, this designation applies to the portions of Miller and Walker Creeks and adjacent
516 wetlands that meet the criteria for a Shoreline of the State (RCW 90.58.030(2)(f)) and marine areas (Puget
517 Sound) waterward of the ordinary high water mark to the 100-foot underwater contour (generally, 400 feet
518 seaward of the ordinary high water mark) half the distance to Vashon Island. The Aquatic shoreline
519 environment designation includes the water surface together with the underlying lands and the water column.

520 (3) Management policies.

521 (a) Shoreline uses and modifications should be compatible with the adjoining shoreline environment and
522 designed and managed to prevent degradation of water quality and alteration of natural hydrographic
523 conditions.

524 (b) New or reconstructed overwater structures should be allowed only for water-dependent uses, public
525 access, or ecological restoration if it can be clearly shown that the cumulative environmental impacts of such
526 structures will not cause significant adverse impacts to protected species.

527 (c) The size of new or reconstructed overwater structures should be limited to the minimum necessary to
528 support the structure's intended use and should support multiple uses.

529 (d) All developments and uses on navigable waters or their beds should be located and designed to minimize
530 interference with surface navigation and moorage.

531 (e) All developments and uses should consider impacts to public views and access and allow for the safe,
532 unobstructed passage of fish and wildlife, particularly those species dependent on migration.

533 (f) Restoration opportunities associated with project impacts should be encouraged in the aquatic
534 environment.

535 (g) Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should
536 not be allowed except where necessary to achieve the objectives of RCW 90.58.020 (Shoreline Management
537 Act), and then only when their impacts are mitigated according to the sequence described in WAC 173-26-
538 201(2)(e) (Environmental Impact Mitigation) necessary to achieve no net loss of ecological functions.

539 (h) Shoreline uses and modifications should be designed and managed to prevent degradation of water
540 quality and alteration of natural hydrographic conditions.

541 **16.12.020 Urban conservancy.**

542 (1) Purpose.

543 The purpose of the "Urban Conservancy" shoreline environment designation is to protect and restore
544 ecological functions of open space, floodplains, and other sensitive lands where they exist in urban and
545 developed settings, while allowing a variety of compatible uses. This designation focuses on providing
546 access for the enjoyment of marine and lake shorelines by allowing the development of recreational facilities.

547 (2) Criteria for designation.

548 An “Urban Conservancy” environment designation is assigned to areas within shoreline jurisdiction that are
549 suitable for public (including community access and unlimited general access) or private access, water-
550 enjoyment recreational uses, and active recreation developments. These are areas that are developed at a
551 low density including outdoor recreation. The Urban Conservancy environment is designated for Marine View
552 Park and a portion of the mouth of Miller and Walker Creeks (see Figure 1).

553 (3) Management policies.

554 (a) Uses that preserve or restore the natural character of the shoreline area or promote preservation of open
555 space and critical areas should be the primary allowed uses.

556 (b) Public and private access and public and private recreation objectives should be implemented if feasible
557 and wherever any significant ecological impacts can be mitigated.

558 (c) Water-oriented uses should be given priority over non-water-oriented uses, with water-dependent uses
559 given the highest priority.

560 (d) New development should be designed and located to preclude the need for shoreline armoring,
561 vegetation removal, flood control, and other shoreline modifications.

562 (e) Standards should be established for shoreline stabilization measures, vegetation conservation, water
563 quality, and shoreline modifications. These standards shall ensure that new development or redevelopment
564 does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

565

566 **16.12.025 Bluff conservancy.**

567 (1) Purpose.

568 The purpose of the “bluff conservancy” environment is to protect those shoreline areas that are steep feeder
569 bluffs that are relatively free of human influence or that include intact or minimally degraded shoreline
570 functions *sensitive* of human use. This designation is meant to be an overlay over rural residential
571 designation where single family residences are on top of feeder bluffs. These systems require that only very
572 low-intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes.

573 **Restoration of the shoreline and shoreline functions, where feasible and permitted under the**
574 **Normandy Park Code, is encouraged in this environment. ~~Where safety to the homeowners above the~~**
575 **bluff may be threatened, shoreline stabilization structures would be allowed above the ordinary high**
576 **water mark in these areas, or In any event, and notwithstanding anything to the contrary in the SMP**
577 **or Normandy Park Code, existing shoreline stabilization structures are allowed to remain and be**
578 **maintained, subject to approval by the City. ~~Soft armoring should be used for shoreline stabilization~~**

579 structures and restoration of degraded shorelines, where feasible as approved by the City. Where
580 feasible, restoration of degraded shorelines within this environment should be implemented.

581 (2) Criteria for designation.

582 (a) “Bluff conservancy” environment designation should be assigned to shoreline areas if any of the following
583 characteristics apply:

584 (i) The shoreline is undeveloped and contains feeder bluff habitat and therefore is currently performing an
585 important, irreplaceable function or ecosystem-wide process that would be impaired by human activity.

586 (ii) The shoreline is unable to support new development or uses without significant adverse impacts to
587 ecological functions or risk to human safety.

588 (iii) Uses in the bluff conservancy include low impact recreation and natural resource-based, low-intensity
589 activities.

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

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

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

605 (3) Management policies.

606 (a) Any use that would degrade the ecological functions or natural character of the shoreline area should not
607 be allowed.

608 (b) The following new uses should not be allowed in the “bluff conservancy” environment:

609 ▪ Residential development.

- 610 ▪ Commercial uses.
- 611 ▪ Nonwater-oriented recreation.
- 612 ▪ Industrial uses.
- 613 ▪ Nonwater-oriented recreation.
- 614 ▪ Roads, utility corridors, and parking areas that can be located outside of “bluff conservancy”
- 615 designated shorelines.
- 616 ▪ All other uses prohibited by this SMP.

617 (c) No development shall be allowed that requires shoreline stabilization structures, except for lots where
 618 existing civil settlements by and between the City require them.

619 (d). **Notwithstanding anything to the contrary in the SMP or Normandy Park Code, existing shoreline**
 620 **stabilization structures may be allowed to remain and be maintained, subject to approval by the City.**
 621 ~~Repair and maintenance Shoreline stabilization measures are allowed as necessary for the protection~~
 622 ~~and safety of residences on top of a bluff as determined through the substantial development permit~~
 623 ~~process. Where existing shoreline stabilization measures are allowed to be repaired or rebuilt, Ssoft-~~
 624 armoring should be used where feasible to protect ecological functions and be consistent with the purpose of
 625 this environment. ~~New or r~~Rebuilt shoreline stabilization measures shall be placed above the ordinary high
 626 water mark, where feasible.

627 (e) Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational
 628 access uses may be allowed provided that no significant ecological impact on the area will result.

629 (f) Development or significant vegetation removal that would reduce the capability of vegetation to perform
 630 normal ecological functions should not be allowed. ~~Do not allow t~~The subdivision of property in a
 631 configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline
 632 modification that adversely impacts ecological functions **is not allowed**. That is, each new parcel must be
 633 able to support its intended development without significant ecological impacts to the shoreline ecological
 634 functions.

635 **16.12.030 Beach community.**

636 (1) Purpose.

637 The purpose of the beach community environment is to recognize the unique community of single-family
 638 residential uses and to protect the safety of the residences while protecting existing ecological functions and
 639 restoring ecological functions in areas that have been previously degraded, where feasible. The beach
 640 community environment would maintain open spaces and opportunities for recreational uses compatible with
 641 the beach residential uses. Protection of the natural shoreline environment and its resources is encouraged.

642 **Due to the potential for damage to structures in this designation and the physical constraints to**
643 **repair and redevelopment, removal of structures, restoration of the natural shoreline, and change of**
644 **use to conservation is encouraged.**

645 The following identifies the objectives for the beach community designation in order of importance:

646 (a) Protect the unique characteristics of these communities while minimizing the impact to critical areas and
647 natural shoreline processes;

648 (b) Accommodate the functional re-use of residential structures and safety of its residences; and

649 (c) Encourage restoration of natural shoreline, **removal of all structures**, or placing properties in
650 conservation where residential structures and property have been substantially damaged ~~(those damaged at~~
651 greater than 75 percent of their value).

652 (2) Criteria for designation.

653 The beach community designation is an area largely occupied by the collection of unique single-family
654 residences and seasonal single-family residences. Some residences are located on the beach and are prone
655 to storm damage. The area is free from intensive development and does not include any multifamily
656 residential, commercial, or industrial development. The beach includes sensitive areas such as beaches,
657 steep slopes, eroding feeder bluffs, heavily wooded areas, and flood zones.

658 (3) Management policies.

659 (a) When substantial redevelopment or development activities occur on parcels in this environment, septic
660 systems must be abandoned and the houses must be connected to the Southwest Suburban Sewer System
661 within the City or the Midway Sewer System in Des Moines, Washington.

662 (b) Public access opportunities should be encouraged to publicly owned shorelines without having to
663 trespass on private upland or tideland properties.

664 (c) Intensive development such as multifamily residential, commercial, ports, and industrial development
665 should not be permitted. Additional residential development in this environment is not encouraged.

666 (d) Construction or reconstruction of shoreline stabilization measures should be permitted for bank protection
667 and residential safety, provided it is designed so that it will not result in significant damage to neighboring
668 properties, and would not result in net loss of ecological functions. New developments should be designed to
669 preclude the need for such stabilization and should be compatible with existing shoreline characteristics and
670 limitations. (Ord.-539 § 2, 1994).

671 (e) Substantially damaged residences ~~(those damaged at greater than 75 percent of their value)~~ are
672 encouraged to change use of their property to conservation instead of rebuilding with the intent of allowing
673 preservation or restoration of ecological functions.

674 (f) For redevelopment activities, the applicant must comply with code section 16.20.185 and 16.20.190 and
675 also establish a covenant per code section 16.20.190(1)(a)(xiv).

676 **CHAPTER 16.16 MASTER PROGRAM POLICY ELEMENTS**

677 **16.16.010 Generally.**

678 (1) The Shoreline Management Act of 1971 that was amended identifies seven land and water use elements
679 to be addressed in the development of area-wide shoreline goals. They include: economic development,
680 public access, circulation, recreation, shoreline use, conservation, and historical/cultural. Master programs
681 are also encouraged to include any other elements which, because of present uses or future needs, are
682 deemed appropriate to effectuate the policy of the Act. Therefore, because of the predominantly residential
683 nature of Normandy Park, a residential element has been incorporated.

684 (2) The following comprehensive set of shoreline goals provides the foundation and framework on which the
685 balance of the master program has been developed. Citizens, administration, and governmental officials of
686 the city have established the following goals and associated objectives and policies which reflect the level of
687 achievement believed to be desirable for all city shoreline uses, needs, and developments. They have also
688 established program policies commensurate with the intent and objectives of the Shoreline Management Act.
689 (Ord. 539 § 2, 1994).

690 **16.16.020 Shoreline use element.**

691 This element addresses the distribution, location, and extent:

692 (1) The use of shorelines and adjacent areas for housing, ~~commerce~~, transportation, public buildings,
693 utilities, ~~agriculture~~, education, and natural resources;

694 (2) The use of the water for aquaculture, recreation, and transportation; and

695 (3) The use of the water, shoreline, and uplands for categories of land and water uses and activities not
696 specified in this master program.

697 Goal: Preserve or develop shorelines in a manner that assures shoreline uses with minimal adverse effect on
698 the quality of the environment. Also, consider the goals, objectives, and policies within this shoreline master
699 program in all land use management actions regarding the use or development of adjacent uplands and all
700 streambeds within the city's jurisdiction where such use or development may have an adverse effect on
701 shorelines.

702 Objective: Provide for the clustering of like water-related and water-dependent shoreline uses.

703 Policy 1. Unique and fragile areas of the shoreline shall be protected from uses or activities that may have an
704 adverse effect on the land or water environment.

705 Policy 2. Nonresidential uses or activities designed for water-related and water-enjoyment uses (which are
706 not shoreline dependent) shall be encouraged to locate or relocate away from the shoreline.

707 Policy 3. Normandy Park shall consider the goals, objectives, and policies within the shoreline master
708 program in all land use management actions regarding the use or development of water areas, adjacent
709 uplands, and associated wetlands or streams, with less than 20 cubic feet per second mean annual flow
710 within its jurisdiction, where such use or development may have an adverse effect on designated shorelines.

711 Policy 4. New construction, except shoreline stabilization structures, shall have a minimum setback of ~~30~~ 115
712 feet landward from the OHWM, except for sensitive areas (e.g., eroding bluffs or shores, marshes, bogs,
713 swamps, and streams) where setbacks shall be managed from the top of the bluff or nearest wetland edge
714 per setbacks defined in NPMC 18.36.

715 Policy 5. No new construction, except a shoreline stabilization structure, which significantly reduces the flood
716 storage capacity of the streambed or increases flood hazards to upstream properties or otherwise endangers
717 public safety, shall be allowed within the limits of the 100-year floodplain, unless reasonable flood and
718 ecological protection is provided.

719 ~~**Policy 6. Piers, docks, and boathouses should be discouraged where conflicts with recreational**~~
720 ~~**boaters and other recreational water activities would be created by pier construction.**~~

721 Policy ~~6~~ 7. Accessory uses exempt from the shoreline permit requirement such as existing bulkheads for
722 single-family residential development shall conform to the policies and intent of the Shoreline Management
723 Act and the policies and use regulations of this master program. (Ord. ~~539 § 2, 1994~~).

724 **16.16.030 Residential element.**

725 This is an element for the protection and enhancement of residential shoreline areas.

726 Goal: Residential development should reflect the goals and objectives of the master program.

727 Objective 1: Preserve the character of single-family residential areas.

728 Policy 1. Single-family residential areas should be protected from encroachment by commercial or
729 multifamily residential uses.

730 Objective 2: Ensure that residential construction is considerate of shoreline features and consistent with this
731 shoreline master plan.

732 Policy 1. Both formal plats and short subdivisions shall comply with the shoreline master program objectives
733 and policies.

734 Policy 2. New developments should minimize visual and physical obstruction of the water from shoreline
735 roads and upland owners.

736 Policy 3. Building permit applications for single-family residences and accessory structures shall be reviewed
737 for compliance with the shoreline master program, although a shoreline permit is not required.

738 ~~**Policy 4. Priority shall be given to the use of community piers and docks in all new major waterfront**~~
739 ~~**subdivisions or planned residential developments. In general, the cooperative use of piers and docks**~~
740 ~~**shall be encouraged. (Ord. 539 § 2, 1991).**~~

741 **16.16.040 Conservation element.**

742 This is an element for the preservation of the natural shoreline resources, considering such characteristics as
743 scenic vistas, parkways, estuarine areas for fish and wildlife protection, beaches, and other valuable natural
744 or aesthetic features.

745 Goal: Assure preservation and enhancement of unique and nonrenewable natural resources and assure
746 conservation of renewable natural resources for the benefit of existing and future generations and the public
747 interest.

748 Objective 1: Prevent further deterioration of water quality and encourage water quality improvement.

749 Policy 1. Recognize that the saltwaters of Normandy Park are important fish habitat and resting places,
750 feeding, and wintering areas for migratory fowl (particularly the near shore eelgrass beds and near fresh
751 water streams), and that the quality of this marine habitat should be protected.

752 Policy 2. Encourage the development of programs and projects that will enhance marine life.

753 Policy 3. Encourage the development and implementation of a comprehensive storm sewer system in the
754 greater Normandy Park area.

755 Policy 4. Encourage the use of appropriate natural herbicides and pesticides, and encourage the convenient
756 location of hazardous waste disposal sites outside of shoreline areas.

757 Objective 2: Development on shorelines should sustain a minimum adverse impact on the quality of the
758 environment.

759 Policy 1. Shoreline structures should be sited and designed to minimize view obstruction and should be
760 visually compatible with the shoreline character.

761 Policy 2. The city should consider the impact of any proposed shoreline development on the water quality of
762 Miller, Walker, and Normandy Creeks.

763 Objective 3: Scenic, aesthetic, and ecological qualities of natural and developed shorelines should be
764 recognized and preserved.

765 Policy 1. When appropriate, the natural flora should be preserved, restored, or enhanced.

766 Policy 2. Along the shorelines, the natural topography should not be substantially altered. (Ord. 539 § 2,
767 4994).

768 **16.16.050 Public access element.**

769 This is an element making provision for public access to publicly owned shorelines and assessing the need
770 for providing public access to shoreline areas.

771 Goals: Increase public access to shoreline areas; provided, that private rights, public safety, municipal
772 liability, and the natural shoreline character are not adversely affected.

773 Objective 1: Public access development should respect and protect the enjoyment of private rights in
774 shoreline property.

775 Policy 1. Shoreline access areas should be planned to include ancillary facilities such as parking and
776 sanitation when appropriate.

777 Policy 2. Shoreline access and ancillary facilities should be designed and developed to provide adequate
778 protection for adjacent private properties.

779 Objective 2: Public access should be maintained and regulated.

780 Policy 1. Public access should be policed and improved consistent with intensity of use.

781 Policy 2. The provision to restrict access as to nature, time, number of people, and area may be appropriate
782 for public pedestrian easements and other public access areas where there are spawning grounds, fragile
783 aquatic life habitats, or potential hazard for pedestrian safety.

784 Policy 3. Facilities in public shoreline access area should be properly maintained and operated.

785 Objective 3: Access design should provide for the public health, safety, and enjoyment and minimize liability
786 risks.

787 Policy 1. Appropriate signs should be used to designate developed, publicly owned shorelines.

788 Policy 2. Public access to and along the water's edge should be available within publicly owned shorelines
789 that are tolerant of human activity where municipal liability is an acceptable risk.

790 Objective 4: Priority for access acquisition should consider resource desirability, availability and proximity of
791 population.

792 Policy 1. A shoreline element should be encouraged in the city's park and recreation plan so that future
793 shoreline access is acquired and developed as part of an overall master plan.

794 Policy 2. The city should make every effort to preserve creek deltas within the boundaries of Normandy Park
795 for future generations' recreation needs and in recognition of their environmental quality values and
796 associated benefits.

797 Objective 5: Access to public shorelines of the city should be available to all people when possible.

798 Policy 1. Viewpoints, lookouts, and vistas of shorelines and wetlands should be publicly accessible where
799 possible and when private properties are adequately protected.

800 Policy 2. New developments should minimize visual and physical obstruction of the water from shoreline
801 roads and upland owners.

802 Objective 6: General policies.

803 Policy 1. Where appropriate, utility and transportation rights-of-way on the shoreline should be made
804 available for public access and use.

805 Policy 2. Publicly owned street ends, which abut the shoreline, should be retained.

806 Policy 3. Where appropriate, recreational facilities and other public access points should be connected by
807 trails, bicycle pathways and other access links.

808 Policy 4. Public pedestrian easements and access points should be of a nature and scale that will be
809 compatible with the abutting and adjacent land use, as well as natural features, including aquatic life.

810 Policy 5. Access development should respect and protect ecological and aesthetic values in the shorelines of
811 the state.

812 Policy 6. None of the above policies should be construed to take precedence over the city's obligation to
813 provide for the public safety, to maintain publicly owned properties, or to protect the assets of the city from
814 unacceptable municipal liability.

815 Policy 7. Emergency access to the shoreline should be provided through public access points and on private
816 properties that have agreements with the City to allow emergency access.

817 **16.16.060 Recreation element.**

818 This is an element for the preservation and expansion of recreational opportunities through programs of
819 acquisition/development, and various means of less-than-fee acquisition.

820 Goal: Provide water-dependent and shoreline-oriented recreation opportunities for city residents.

821 Objective: Maximize public recreational, historical, and educational opportunities in the shoreline area, to the
822 extent that it does not interfere with private property.

- 823 Policy 1. Provide recreational opportunities on publicly owned shorelines which attract all people.
- 824 Policy 2. Encourage the acquisition of prime recreational lands prior to their commitment to other uses.
- 825 Policy 3. Examine additional recreational, historical, and educational opportunities offered by Marine View
826 Park.
- 827 Policy 4. Effective interpretation should be provided to enhance visitor understanding of the natural resource.
- 828 Policy 5. Shoreline recreational use and development should enhance environmental qualities with minimal
829 adverse effect on the natural environment.
- 830 Policy 6. Shoreline recreational areas should be sited and designed to facilitate adequate monitoring of
831 activity and maintenance.
- 832 Policy 7. Bicycle path planning should take into consideration opportunities for shoreline views. (Ord. ~~539 §~~
833 ~~2, 1994~~).
- 834 **16.16.070 Circulation element.**
- 835 This is an element for assessing the location and extent of existing and proposed major thoroughfares,
836 transportation routes, terminals, and other public facilities, and correlating those facilities with the shoreline
837 use elements.
- 838 Goal: Circulation systems in shoreline areas should be limited to those which are water-dependent or water-
839 related, and would serve water-dependent uses.
- 840 Objective 1: Restrict motor vehicle traffic in the shoreline area.
- 841 Policy 1. Motorized vehicles should be prohibited on all beaches, except for residential service access and
842 existing prescriptive easement.
- 843 Policy 2. Nonwater-related parking facilities should be discouraged from locating in the shoreline area.
- 844 Policy 3. All transportation facilities in shoreline areas should be constructed and maintained to cause the
845 least possible adverse impacts on the land and water environments, should respect the natural character of
846 the shoreline, and should make every effort to preserve wildlife, aquatic life, and their habitats. (Ord. ~~539 § 2,~~
847 ~~1994~~).
- 848 Objective 2: Encourage citizens to use non-motorized means of transportation by enhancing and expanding
849 pedestrian and bicycle routes, including enhancing direct access to public transit routes per the
850 Comprehensive Plan.

851 Objective 3: Encourage and support the development of a fully accessible public transportation system that
852 will accommodate the present and future travel demands of the community per the Comprehensive Plan.

853 **16.16.080 Historical/cultural element.**

854 This is an element for the protection and restoration of buildings, sites, and areas having historic, cultural,
855 educational, or scientific value.

856 Goal: Shoreline features having historic, cultural, scientific or educational value locally or regionally, should
857 be designated and then retained and protected.

858 Objective: Encourage the restoration, development, and interpretation of historical, cultural, and educational
859 sites. (Ord. ~~539 § 2, 1994~~).

860 **16.16.090 Economic development element.**

861 This is an element for the location and design of industries, transportation, port, tourist, and commercial
862 facilities, and other developments dependent on shoreline locations and/or water access.

863 Goal: No industries or transportation, port, marinas, tourist or commercial facilities should be located within
864 Normandy Park's designated shoreline environment.

865 Objective: Commercial and industrial developments should be located inland and only as provided by the
866 comprehensive plan of the city of Normandy Park. (Ord. ~~539 § 2, 1994~~).

867 **16.16.100 Shoreline Restoration.**

868 This is an element for the preservation and restoration of the natural character and functions of the shoreline
869 as identified in the restoration plan that has been adopted along with this Shoreline Master Program.

870 Goal: This element is to foster habitat and natural system enhancement projects, provided the primary
871 purpose is restoration of the natural character and functions of the shoreline and only when consistent with
872 implementation of the restoration plan that has been adopted with this Shoreline Master Program pursuant to
873 WAC 173-26-201(2)(f).

874 Objective 1: Improve water quality within the City's surface waters.

875 Policy 1: Improve water quality and reduce the level of effective impervious surface coverage by
876 implementing LID techniques on public projects within the City and encouraging and incentivizing property
877 owners to reduce impervious surface coverage.

878 Policy 2: Target public streets and private access drives in areas within and draining to the shoreline
879 jurisdiction for focused improvements to stormwater systems to improve water quality. Prioritize based on
880 potential for positive impact and support of local residents.

881 Policy 3: Encourage the use of appropriate natural herbicides and pesticides, and encourage the convenient
882 location of hazardous waste disposal sites outside of shoreline areas.

883 Policy 4: The City and community can work with the Southwest Sewer District to determine if opportunities
884 for cleaner discharge into Puget Sound at the mouth of Miller Creek is needed and possible. If needed,
885 stormwater discharge to the sanitary sewer could be disconnected to prevent more frequent sewer
886 overflows.

887 Objective 2: Protect and improve vegetation and habitat functions in upland and wetland areas.

888 Policy 1: At Marine View Park, use both planned limited improvements and more long term redevelopment
889 as opportunities to improve vegetation, hydrologic, and habitat functions. Obtain input from resource experts,
890 agencies, and residents on balancing restoration with human use. Continue to encourage and/or incentivize
891 residents to work with King County Conservation District to improve vegetation, habitat, hydrologic functions
892 along their shoreline properties.

893 Policy 2: Continue to maintain and improve wetland and riparian habitat within Miller and Walker Creeks.

894 Objective 3: Enhance and restore shorelines that have been modified through installation of bulkheads and
895 other forms of hard armoring.

896 Policy 1: Where feasible and safe for residents, incentivize the removal of bulkheads and other forms of hard
897 shoreline armoring on private properties and restore to natural shoreline.

898 Policy 2: Encourage the coordinated implementation of soft shoreline stabilization measures across multiple
899 adjacent properties.

900 Policy 3: Provide education, permitting assistance, and other work with Beachwatchers, King County, WRIA
901 9 groups and other stewards to provide outreach.

902 Policy 4: Incentivize the use of alternative soft armoring for shoreline stabilization design in currently armored
903 areas where armoring is being reconstructed or repaired.

904 Objective 4: Remove regulatory impediments to restoration and enhancement projects, and introduce
905 incentive programs to encourage private restoration actions.

906 Policy 1: The City should, and private entities are encouraged to, seek funding from State, Federal, private, and other
907 sources to implement restoration, enhancement, and acquisition projects.

908

909 Policy 2: Develop processing guidelines that will streamline review of restoration-only projects.

910 Policy 3: Allow for the use of tax incentive programs, mitigation banking, grants, land swaps, or other
911 programs, as they are developed, to encourage restoration and enhancement of shoreline ecological
912 functions and to protect habitat for fish, wildlife, and plants.

913 **CHAPTER 16.20 USE REGULATIONS**

914 **Article I. Purpose and Intent**

915 **16.20.010 Purpose and intent.**

916 (1) Use regulations derive from the goals and policies set forth in the previous chapter and are
917 implementation tools intended to carry out the policies of this master program and the Shoreline
918 Management Act. They represent the major criteria to be used in evaluating proposed developments and
919 alterations to the shoreline environment.

920 (2) Shoreline uses and activities not specifically identified, or for which policies have not been developed,
921 shall be evaluated on a case by case basis and are required to:

922 (a) Meet the intent of the goals and objectives of this master program;

923 (b) Comply with the Shoreline Management Act of ~~1974~~ 1972;

924 (c) Be consistent with management policies and character of the rural residential shoreline
925 environment; and

926 (d) Secure a conditional use permit. (~~Ord. 539 § 2, 1991~~).

927 **16.20.015 Shoreline permit matrix.**

928 The types of permits required for new shoreline uses and modifications are provided in the permit matrix in
929 Figure 2. Shoreline Permit Matrix.

930

931 **Figure 2. Shoreline Permit Matrix**

Type of Shoreline Permit Required for New Shoreline Uses and Modifications*					
Uses/Modifications	Shoreline Designations (See Chapter 16.12 for shoreline designation descriptions and Figure 1 for a map of the shoreline designations)				
	Rural Residential	Urban Conservancy	Aquatic	Bluff Conservancy	Beach Community
Commercial Agriculture (16.20.030)	X	X	X	X	X
Commercial Aquaculture (personal consumption with structures) (16.20.040)	X	X	CU	X	X
Subsistence Aquaculture with structures; restoration and research activities (16.20.040)	CU	X ^f	CU	X ^f	CU
Subsistence Aquaculture - no structures; restoration and research activities (16.20.040)	P	X ^f	P	X ^f	P
Boating Facilities					
-Commercial boating facilities (16.20.070)	X	X	X	X	X
Docks and Piers Residential (16.20.200(1) & (2))	<u>X</u> CU	X	<u>X</u> CU	X	<u>X</u> CU
Floats-Residential ((16.20.200(3))	CU	X	CU	X	CU
Non-commercial launching ramps, rails, and lift stations (16.20.200(4))	CU	CU	CU	X	CU
Boat Mooring Buoys (16.20.175)	N/A	N/A	P	N/A	N/A

932

Uses/Modifications*	Shoreline Designations (See Chapter 16.12 for shoreline designation descriptions and Figure 1 for a map of the shoreline designations)				
	Rural Residential	Urban Conservancy	Aquatic	Bluff Conservancy	Beach Community
Shoreline Stabilization Structures and Modifications					
- Breakwater, jetties, & other in-water structures except groins (16.20.170 & (16.20.120))	X	X	X	X	X
- New bulkheads not including repair and maintenance (16.20.190)	CU	X	X	X	CU
- Bulkhead repair and replacement (16.20.190)	P	X	X	X	P
Groins (16.20.200(4))	CU	X	CU	X	CU
- Upland Structures residential (retaining walls and bluff walls) ^d	P	X	X	X	P
-All other stabilization structures	CU	CU	X	CU	CU
-Development on accretion beach (16.20.140)	X	X	X	X	X
-Dredging (16.20.200(5)(a)) ^e	CU	CU	CU	X	CU
-Fill (16.20.200(5)(b)) ^e	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>
Residential development over water (Floating home) (16.20.160)	X	X	X	X	X
Commercial Forest practices (16.20.050)	X	X	X	X	X
Land Clearing and Grading (16.20.220) ^g	P	X	N/A	X	P
Shoreline Vegetation Conservation (16.20.195)	P	P	N/A	P	P

Uses/Modifications	Shoreline Designations (See Chapter 16.12 for shoreline designation descriptions and Figure 1 for a map of the shoreline designations)				
	Rural Residential	Urban Conservancy	Aquatic	Bluff Conservancy	Beach Community
Industrial & Ports (16.20.090)	N/A	X	X	X	N/A
Mining (16.20.060)	X	X	X	X	X
Public park and recreation facilities ^b (16.20.250)	P	P	P	P	P
Recreation (16.20.250)	P	P	P	X ^h	P
Residential - Single family ^d (16.20.120)	P	X	N/A	X	P
Residential - Multi family (16.20.120)	X	X	N/A	X	X
Commercial Use and Development (16.20.080)	X	X	X	X	X
Sewage and Solid Waste Treatment Facilities (16.20.100) & (16.20.110)	X	X	X	X	X
Monitoring stations or devices (16.20.115)	CU	CU	CU	CU	CU
Transportation Facilities & Parking ^c (16.20.270)	P	X	X	X	P
Utilities (16.20.280 & 285)	P	P	X	X	P
Preservation of archeological resources and historic buildings (16.20.290)	P	P	P	P	P
Wireless Service Facility or communication tower ^a	X	X	X	X	X

934 **P Permitted** – Allowed when meeting the requirements for the given use. A shoreline substantial
935 development permit (SDP) or shoreline exemption may be needed. See WAC 197-26-040 for a complete list
936 of development exempt from a substantial development permit.

937 **CU Shoreline conditional use permit** (Requires a Department of Ecology Decision if locally
938 approved.) – See Chapter 16.24 for specific procedures. A SDP may also be required.

939 **X** Prohibited
940 **N/A** Not applicable
941 ^a Wireless Service Facility is a tower for cell phone service networks and communication towers are for radio,
942 cable or other communications.
943 ^b This category does not include minor repair or maintenance and picnic tables.
944 ^c This category does not include minor repair or maintenance of roads and parking areas
945 ^d Exempt from shoreline substantial development permit requirements if this is for construction of
946 only one detached unit built by an owner, lessee, or contract purchaser who will be occupying the
947 residence, in accordance with WAC 173-27-040.
948 ^e Permitted for ecological restoration projects and purposes in the bluff conservancy environment.
949 ^f Aquaculture for the purposes of research and/or restoration may be allowed under a CU in the bluff
950 conservancy and urban conservancy environments.
951 ^g All land clearing activities are subject to NPMC 16.20.195 Shoreline Vegetation Conservation.
952 ^h Low-impact passive recreation is permitted in the Bluff Conservancy designation, but structures for the
953 purposes of recreation are prohibited.
954 * Shoreline uses not listed in the matrix above are subject to a shoreline conditional use permit. Note: work in
955 wetlands and waterward of the OHWM may require separate state and federal authorization and it is the
956 applicant's responsibility to obtain all necessary approvals before beginning work.
957

958
959

Article II. General Regulations
Regarding Prohibited and Partially Prohibited Uses

960 **16.20.020 Generally.**

961 Based upon the shoreline goals and policies in this program, the following regulations are established for all
962 shoreline use and use elements. (Ord. ~~539 § 2, 1994~~).

963 **16.20.030 Agriculture.**

964 For the purposes of the Normandy Park master program, agricultural practices refer to all methods of
965 livestock, crop, vegetation and soil management. Essentially, all agricultural activities include some source of
966 nonpoint water pollution. Eight characteristic pollution types require special controls: sediment, nutrient,
967 additives, pesticides, herbicides, salt loads, organic loads, and microbial (pathogens).

968 (1) Commercial agriculture is prohibited. (Ord. ~~539 § 2, 1994~~).

969 **16.20.040 Aquaculture.**

970 ~~(1) For the purpose of the Normandy Park master program, aquaculture refers to the culture or~~
971 ~~farming of food fish, shellfish, or other aquatic plants and animals. Forms of aquaculture also~~
972 ~~include artificial fish stocking, fish rearing activities, and facilities for commercial purposes.~~

973 ~~(2) Commercial aquaculture is prohibited.~~

974 Aquaculture means the culture, harvesting or farming of food fish, shellfish, or other aquatic plants and
975 animals. Sport fishing is not considered an aquaculture activity. Aquaculture activities include the hatching,
976 cultivating, planting, feeding, raising, harvesting, and processing of aquatic plants and animals and the
977 maintenance and construction of necessary equipment, buildings and growing areas. Aquaculture also
978 includes restoration activities that support life of fish and shellfish including, but not limited to, restoration of
979 eelgrass beds and forage fish habitat. Aquaculture does not include the harvest of wild geoduck associated
980 with the state managed wildstock geoduck fishery.

981 (1) Policies.

982 (a) Future commercial aquaculture uses are not anticipated within the City's shoreline jurisdiction
983 due to poor water quality and potential conflicts with navigation, and shall be considered on a case-
984 by-case basis through a Shoreline Conditional Use Permit.

985 (b). Aquaculture should not be permitted in areas where it would result in a net loss of ecological
986 functions, adversely impact critical saltwater habitats eelgrass and macroalgae, or significantly
987 conflict with existing adjacent uses.

988 (c) Aquacultural facilities, if permitted within the Normandy Park shoreline, must be designed and
989 located so as not to spread disease to native aquatic life, establish new nonnative species which
990 cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.

991 (d) Aquaculture for the purpose of research or restoration and enhancement of native species are
992 encouraged and shall be considered on a case-by-case basis through a Shoreline Conditional Use
993 Permit.

994 (e) Non-commercial aquaculture for the purposes of personal consumption may be allowed on a
995 case by case basis and must comply with all applicable elements of the SMP and state and federal
996 regulations, and does not require a permit unless structures are used. When structures are used, a
997 conditional use permit may be required.

998 (2) Management policies.

999 (a) Aquatic environment – Commercial aquaculture is allowed with a CUP. Aquaculture for the
1000 purposes of personal consumption (subsistence) is allowed when no structures are involved. A
1001 conditional use permit shall be required when structures are used for aquaculture for personal
1002 consumption.

1003 (b) Urban and Bluff Conservancy environments – Commercial aquaculture is prohibited. Aquaculture
1004 for the purposes of research and restoration and enhancement is allowed with a CUP. Aquaculture
1005 for the purposes of personal consumption is prohibited.

1006 (c) Rural Residential and Beach Community environments – Commercial aquaculture is prohibited.
1007 Aquaculture for the purposes of research and restoration and enhancement is allowed with a
1008 conditional use permit. Aquaculture for the purposes of personal consumption is allowed when no
1009 structures are used. A conditional use permit shall be required when structures are used for
1010 aquaculture for personal consumption.

1011 (3) Regulations.

1012 (a) Aquaculture is not permitted in areas where it would result in a net loss of ecological functions in
1013 or damage to critical saltwater habitats (e.g., eelgrass) as defined in NPMC 16.08.125, or
1014 significantly conflict with navigation and other water-dependent uses.

1015 (b) No aquatic organism shall be introduced into City of Normandy Park shoreline areas without the
1016 prior written approval of the Washington State Department of Fish and Wildlife or the appropriate
1017 regulatory agency for the specific organism.

1018 (c) Aquaculture for the purposes of restoration of in support of fish, shellfish, and/or other aquatic
1019 animals, and/or aquatic plants may be allowed if a conditional use permit is granted by Normandy

1020 Park and written approval has been provided by Washington State Department of Fish and Wildlife
1021 or the appropriate regulatory agency for the specific activity.

1022 (d) A wastewater plant is operated by the Southwest Sewer District and discharges into the
1023 combined mouths of Miller and Walker Creeks. Another wastewater plant is operated by Midway
1024 Sewer District and is located in Des Moines, Washington. These plants frequently discharges raw
1025 sewage into the creeks and Puget Sound during large storm events or power failures. This discharge
1026 is not compatible with aquaculture due to the levels of contaminants discharged into Puget Sound.
1027 Any aquaculture that would provide a food source for humans except for the purposes of restoration
1028 is prohibited within 0.5 miles of wastewater treatment plant outfall in order to protect the safety of the
1029 public from contamination due to the wastewater effluent.

1030 (e) The rights of treaty tribes to aquatic resources within their usual and accustomed areas shall be
1031 addressed through direct coordination between the project proponent and the Affected Tribes(s).

1032 (f) All aquaculture must comply with all state and federal policies, regulations and permits, including
1033 Chapter 173-26 WAC, Part III and Chapter 173-27 WAC, and all applicable policies and provisions of
1034 this SMP.

1035 (g) All aquaculture must comply with the City's noise, litter, and nuisance ordinances.

1036 (h) All aquaculture that are allowed within the shoreline must avoid or mitigate impacts and comply
1037 with the mitigation sequencing in NPMC 18.36.160 and 18.36.170 and WAC 173-26-201(2)(e).

1038 (4) Application requirements and permits administration.

1039 (a) Aquaculture permits shall expire 5 years after approval and apply to all subsequent planting,
1040 harvesting, restocking and ongoing operations during that time period. Renewals shall expire 10
1041 years after approval and shall be administered consistent with WAC 173-27-100.

1042 (b). Geoduck application requirements and administration of permits shall be consistent with WAC
1043 173-26-241(3)(b)(ii), (iii), and (iv).

1044 **16.20.050 Forest practices.**

1045 (1) Forest practices are activities relating to the growing, harvesting or processing of timber, including but not
1046 limited to:

1047 (a) Site preparation for regeneration;

1048 (b) Protection from insects, fire and disease;

1049 (c) Silvicultural practices such as thinning, release from competing vegetation, and fertilization; and

- 1050 (d) Harvesting, including the engineering and road construction necessary for logging and
1051 administrative access.
- 1052 (2) Commercial forest practices are prohibited. (Ord. ~~539 § 2, 1994~~).
- 1053 **16.20.060 Mining.**
- 1054 For the purposes of the Normandy Park master program, mining is the removal of naturally occurring
1055 materials from the earth for economic use. Many valuable deposits of sand and gravel are located on the
1056 marine shoreline. The conflicts between economic interest and environmental concern in these situations is
1057 obvious.
- 1058 (1) Mining is prohibited. (Ord. ~~539 § 2, 1994~~).
- 1059 **16.20.070 Commercial Boating facilities.**
- 1060 Boating facilities include marinas, boat launch ramps, and other commercial boating facilities. Commercial
1061 Boating facilities provide launching, storage, moorage, supplies, or service for pleasure boats as well as
1062 parking areas for automobiles. They also serve as fueling stops, havens of refuge, and destination points for
1063 boaters.
- 1064 (1) Commercial marinas and other commercial boating facilities are prohibited.
- 1065 ~~(2) Noncommercial boat launch ramps shall require a shoreline conditional use permit.~~
- 1066 ~~(3) Construction of Piers or docks for all development (residential and commercial) or usage are~~
1067 ~~prohibited. (Ord. ~~539 § 2, 1994~~).~~
- 1068 **16.20.080 Commercial development.**
- 1069 Commercial developments are those involved in wholesale, retail, service and business trade.
- 1070 (1) Commercial development is prohibited. (Ord. ~~539 § 2, 1994~~).
- 1071 **16.20.090 Ports and industrial development.**
- 1072 Ports are centers for waterborne traffic and, as such, attract industrial/manufacturing firms.
- 1073 (1) Port facilities and industrial developments are prohibited. (Ord. ~~539 § 2, 1994~~).
- 1074 **16.20.100 Sewage treatment plants.**
- 1075 Sewage treatment plants treat sewage prior to disposal of same.
- 1076 (1) Sewage treatment plants are prohibited in the shoreline. (Ord. ~~539 § 2, 1994~~).

1077 **16.20.110 Solid waste disposal.**

1078 (1) Disposal means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or
1079 hazardous waste on any land area or in the water. Solid waste includes all putrescible and nonputrescible
1080 solid and semi-solid wastes, including garbage, rubbish, ashes, industrial wastes, wood wastes, demolition
1081 and construction wastes, abandoned vehicles and parts of vehicles and other discarded commodities. Solid
1082 waste does not include composting, sewage, dredge spoil, or common residential gardening practices (see
1083 use regulations for landfill, dredging, etc.).

1084 (2) Solid waste disposal can be a threat to health and safety wherever it occurs, but it poses particular
1085 problems in shoreline areas. Not only is it a physical and visual blight, but leachate from solid waste disposal
1086 can contaminate waters, thus endangering public health and wildlife.

1087 (a) No solid waste disposal is permitted on the shorelines of Normandy Park. (Ord. 539 § 2, 1994).

1088 **16.20.115 Monitoring devices.**

1089 (1) "Monitoring devices" means devices used within the aquatic designation or shoreline above the OHWM
1090 for restoration, restoration monitoring, water quality monitoring, or improvement of ecological functions.

1091 (a) Use of devices for monitoring is subject to a conditional use permit.

1092 **16.20.120 Breakwaters.**

1093 Breakwaters are off-shore structures often linked to the shore, designed to absorb and reflect the energy of
1094 waves so as to protect the shore behind them. They are generally constructed either as solid walls which
1095 tend to be most effective in reducing wave energy behind the structure, or as floating structures which often
1096 are not sufficient to withstand waves of high energy. Because beach accumulation and general sand mobility
1097 is caused by wave, current and tidal action, breakwaters may have dramatic effects on beach formation and
1098 sand movement. Solid breakwaters generally have a greater impact on sand movement than floating
1099 breakwaters.

1100 (1) Breakwaters are prohibited. (Ord. 539 § 2, 1994).

1101 ~~**16.20.130 Dredging.**~~

1102 ~~Dredging is the removal of earth from the bottom of a stream, bay, or other water body for the purposes of~~
1103 ~~deepening a navigational channel or to obtain use of the bottom materials for landfill.~~

1104 ~~(1) Dredging of bottom materials for the sole purpose of obtaining fill material is prohibited.~~

1105 ~~(2) Dredging and excavation in unique and fragile areas is prohibited.~~

1106 ~~(3) Dredge disposal is prohibited seaward of the OHWM. (Ord. 539 § 2, 1991).~~

1107 **16.20.140 Accretion beach-~~Accretion~~ (beach that accretes sediment).**

1108 An accretion beach is a beach that has been created or is growing by a process that involves the accretion
1109 or gradual deposition of sand.

1110 (1) Development ~~of~~ on accreted beaches is prohibited. (Ord. ~~539 § 2, 1994~~).

1111 **16.20.150 Transportation facilities.**

1112 Transportation facilities include roads, driveways, and bridges.

1113 (1) Transportation facilities are prohibited in the following areas:

1114 (a) Steep slopes, eroding bluffs or areas subject to severe erosion or landslide hazard;

1115 (b) In front of feeder bluffs, over driftways, or on accretion shoreforms.

1116 (c) In the aquatic, bluff conservancy, and urban conservancy environments.

1117 (2) Sidcastings of excess road materials are prohibited within the shoreline area of Normandy Park. (Ord.
1118 ~~539 § 2, 1994~~).

1119 **16.20.160 Residential development over water.**

1120 Development of residences over water or within floodways.

1121 (1) Residential development over water, including floating homes, is prohibited in Normandy Park.

1122 (2) Nonresidential development is prohibited within floodways. (Ord. ~~539 § 2, 1994~~).

1123 (3) Any development over water or within floodways is also subject to NPMC Chapter 9.02
1124 Construction in Flood Hazard Areas. In the event of any conflict between the SMP and these
1125 regulations, the regulations with that provide the greatest protection of shorelines shall prevail.

1126 **16.20.170 Jetties.**

1127 Jetties are structures constructed primarily to affect the movement of sand. Jetties are constructed of rock,
1128 steel, or concrete and located at the mouths of streams to prevent sand from blocking channels and
1129 hindering navigation. The effect of jetties is to obstruct the sand contained in the littoral drift. Jetties direct it
1130 away from navigation routes. Where there is a relatively small amount of sand available in the littoral drift,
1131 this type of structure may tend to starve areas down drift.

1132 (1) Jetties are prohibited. (Ord. ~~539 § 2, 1994~~).

1133 **16.20.175 Mooring buoys.**

1134 A recreational mooring buoy is a device used to tie up a boat and typically consists of a line from the boat
1135 attached to a float at the water's surface with a cable or line fixed underwater to the submerged ground. The
1136 anchor line allows the boat to float and swing around the fixed buoy anchor.

1137 (1) Mooring buoys are permitted in the aquatic environment and only if they comply with the Washington
1138 Department of Natural Resources regulations.

1139 (2) Only one mooring buoy per residence is permitted.

1140 **Article III. General Regulations**

1141 **16.20.180 Generally.**

1142 Based upon the shoreline goals and policies in Chapter 16.16 NPMC and this chapter, the following
1143 regulations are established for all shoreline use activities. (Ord. ~~539 § 2, 1994~~).

1144 **16.20.185 General development standards.**

1145 The following general development standards apply to all uses and activities in all shoreline environments:

1146 (1) Impact mitigation.

1147 (a) To the extent Washington State Environmental Policy Act of 1971 (SEPA), chapter 43.21C RCW, is
1148 applicable, the analysis of environmental impacts from proposed shoreline uses or developments shall be
1149 conducted consistent with the rules implementing SEPA (NPMC 13.12 and WAC 197-11). Mitigation for
1150 adverse impacts to shoreline functions will be triggered during the SEPA review, shoreline land use
1151 permit process, or exemption approval process.

1152 (b) Where required, mitigation measures shall be applied in the following sequence of steps listed in order
1153 of priority:

1154 (i) Avoid the impact altogether by not taking a certain action or parts of an action;

1155 (ii) Minimize impacts by limiting the degree or magnitude of the action and its implementation by
1156 using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

1157 (iii) Rectify the impact by repairing, rehabilitating, or restoring the affected environment;

1158 (iv) Reduce or eliminate the impact over time by preservation and maintenance operations;

1159 (v) Compensate for the impact by replacing, enhancing, or providing substitute resources or
1160 environments; and

1161 (vi) Monitor the impact and the compensation projects and take appropriate corrective measures.

1162 c) In determining appropriate mitigation measures applicable to shoreline development, lower priority
1163 measures shall be applied only where higher priority measures are determined to be infeasible or
1164 inapplicable.

1165 (d) Required mitigation shall not be in excess of that necessary to assure that proposed uses or
1166 development will result in no net loss of shoreline ecological functions.

1167 (e) Mitigation actions shall not have a significant adverse impact on other shoreline functions fostered by
1168 the policy of the Shoreline Management Act.

1169 (f) When compensatory measures are appropriate pursuant to the mitigation priority sequence above,
1170 preferential consideration shall be given to measures that replace the impacted functions directly and are
1171 located in the immediate vicinity of the impact. However, alternative compensatory mitigation may be
1172 authorized if said mitigation occurs within the watershed and addresses limiting factors or identified
1173 critical needs for shoreline conservation based on watershed or comprehensive management plans.
1174 Authorization of compensatory mitigation measures may require appropriate safeguards, terms, or
1175 conditions as necessary to ensure no net loss of ecological functions.

1176 (2) Water quality/stormwater. All activities and development within the shoreline jurisdiction shall incorporate
1177 water pollution control measures and best management practices (BMPs) for stormwater management. Such
1178 measures shall address both temporary impacts to water quality from construction activities as well as the
1179 need for permanent stormwater management facilities in compliance with the requirements and restrictions
1180 of all applicable city and state regulations.

1181 (3) Critical areas. Activities and development in critical areas found within shoreline jurisdiction are required
1182 to comply with the development standards outlined in Chapter 18.36 NPMC – Critical Areas (Ordinance #825
1183 (April 2009)) and Chapter 9.02 NPMC – Construction in Flood Hazard Areas.

1184 (a) Any conflict between the standards outlined in Chapter 18.36 NPMC or Chapter 9.02 and the SMP
1185 shall be resolved in favor of the standard that is most protective of the shoreline ecological functions.

1186 (4) Critical salmonid habitats. All saltwater shorelines in Normandy Park are critical salmonid habitats.
1187 Activities and development in critical salmonid habitats found within the shoreline jurisdiction are required to
1188 comply with the following development standards, in addition to those contained in other sections of this
1189 chapter:

1190 (a) Structures which prevent the migration of salmon and steelhead are prohibited. Fish bypass facilities
1191 shall allow the upstream migration of adult fish. Fish bypass facilities shall prevent fry and juveniles
1192 migrating downstream from being trapped or harmed.

1193 (b) Shoreline modification structures may intrude into critical salmonid habitats only where the proponent
1194 demonstrates all of the following conditions are met:

- 1195 (i) An alternative alignment or location is not feasible.
- 1196 (ii) The project is designed to minimize its impacts on the environment.
- 1197 (iii) If the project will create unavoidable adverse impacts, the impacts are mitigated by creating in-
1198 kind replacement habitat near the project. Where in-kind replacement mitigation is not feasible,
1199 rehabilitating degraded habitat may be required as a substitute.
- 1200 (iv) The project satisfies all provisions of NPMC 16.20.200 Shoreline modification activities.
- 1201 (c) Open pile bridges are the preferred water crossing structures over critical salmonid habitats. If a bridge
1202 is not feasible, one of the following water crossing structures may be approved if the impacts can be
1203 mitigated: temporary culverts, bottomless arch culverts, elliptical culverts, or other fish-passable round
1204 culverts. These structures are listed in priority order, with the first having the highest preference and the
1205 last the lowest preference. In order for a lower priority structure to be permitted, the applicant must show
1206 the higher priority structures are not feasible. The project shall be designed to minimize its impacts on the
1207 environment.
- 1208 (d) Dredging in critical salmonid habitats shall not be allowed unless the proponent demonstrates all of
1209 the following conditions are met:
- 1210 (i) The dredging is for a water-dependent or water-related use.
- 1211 (ii) An alternative alignment or location is not feasible.
- 1212 (iii) The project is designed to minimize its impacts on the environment.
- 1213 (iv) The project is in the public interest.
- 1214 (v) The project is for ecological and salmon habitat restoration purposes.
- 1215 (vi) If the project will create significant unavoidable adverse impacts, then the impacts are mitigated
1216 by creating in-kind replacement habitat near the project. Where in-kind replacement mitigation is not
1217 feasible, rehabilitating degraded habitat may be required as a substitute.
- 1218 (e) In-water dredge spoil disposal sites shall not be located in critical salmonid habitats.
- 1219 (f) Filling, dumping, discharging commercial or industrial waste water (including discharging of
1220 stormwater), dredging, channelization, draining, flooding, disturbing the water level or duration of
1221 inundation or water tables, and other activities which negatively impact habitat are prohibited in wetlands,
1222 ponds, and side channels which are associated with critical salmonid habitats.
- 1223 (g) Within critical salmonid habitats, permanent channel changes and realignments are prohibited, unless
1224 approved by WDFW for restoration purposes.

1225 (h) The removal of aquatic and riparian vegetation within or adjacent to critical salmonid habitats shall be
1226 minimized. Trees which shade side channels, streams, estuaries, ponds, and wetlands associated with
1227 critical salmonid habitats shall be maintained consistent with the provisions of this chapter. Areas of
1228 disturbed earth shall be revegetated.

1229 (i) Unless removal is needed to prevent hazards to life and property or to enhance critical salmonid
1230 habitats, large woody debris below the ordinary high water mark shall be left in the water to provide
1231 salmon and steelhead habitat.

1232 (5) Restoration projects.

1233 (a) Restoration projects within the shoreline environment consistent with WAC 173-27-080(2)(o) shall be
1234 allowed without a shoreline substantial development permit; be reviewed through the shoreline exemption
1235 review process; and be designed consistent with the development standards outlined in Chapter 18.36
1236 NPMC – Critical Areas and Chapter 9.02 NPMC – Construction in Flood Hazard Areas and the provisions
1237 of this chapter.

1238 (b) Approval of restoration projects shall be based on a review of a plan containing, at a minimum, an
1239 analysis of existing conditions, identification of the area to be restored, proposed corrective actions,
1240 including installation of native species, performance standards, monitoring schedule, planting plans,
1241 erosion and sedimentation control plans, and grading plans, as necessary.

1242 (c) The shoreline administrator shall require an applicant to retain the services of a qualified professional
1243 in preparing the restoration plan. Intrusions into regulated steep slopes and associated setbacks will be
1244 allowed for purposes of approved restoration projects.

1245 ~~**16.20.190 Shoreline Protection and Stabilization.**~~

1246 ~~(1) Shoreline protection is action taken to reduce adverse impacts caused by current, flood, wake, or wave~~
1247 ~~action. This includes all structural and nonstructural means to reduce impacts due to flooding, erosion, and~~
1248 ~~accretion. Specific structural and nonstructural means included in this use activity are riprap, bank~~
1249 ~~stabilization, and other revetments, dikes, levees, flood control dams, berms, and other means of shoreline~~
1250 ~~protection.~~

1251 ~~Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water~~
1252 ~~management, planning and regulatory measures to avoid the need for structural stabilization.~~

1253 ~~(2) Excluded from this section are bulkheads, breakwaters, jetties, and groins which are treated as separate~~
1254 ~~use activities. Recommend including bulkheads under this section.~~

1255 ~~(3) The means taken to reduce damage caused by erosion, accretion, and flooding must recognize the~~
1256 ~~positive aspects of each, so that the benefits of these natural occurrences will be retained, as the problems~~

1257 are addressed. Erosion does not exist without accretion of material eroded, whether it be a beach or a
1258 sandbar. Likewise, accretion cannot occur unless material has been eroded.

1259 (4) Shoreline protection structures shall be permitted within the shoreline area only when the following
1260 regulations and standards are met:

1261 (a) Any shoreline protection structure shall require a shoreline conditional use permit.

1262 (b) Shoreline structures shall be constructed in such a way as to minimize damage to fish and shellfish
1263 habitats. When some benthic community loss is unavoidable, the project shall provide adequate food
1264 fish habitat to mitigate such loss.

1265 (c) All shoreline stabilization and flood protection measures shall be designed and constructed so that
1266 downstream banks will not be adversely affected. Shoreline stabilization measures, including soft
1267 armoring measures (as described in W riprap, shall be designed and constructed in a manner
1268 consistent with guidelines from Washington State Department of Fish and Wildlife and Washington
1269 State Department of Ecology Soil Conservation Service, Department of Fisheries, Corps of Engineers
1270 and/or other engineering and design specifications deemed appropriate by the city engineer, and said
1271 designs shall be reviewed and confirmed by the city engineer as being consistent therewith.

1272 (d) Location, design, and construction of riprapping and other bank stabilization measures or flood
1273 protection measures shall protect adjacent properties from adverse effects and protect the natural
1274 character of the stream or beach.

1275 (e) Shoreline vegetation shall be preserved per the 20.16.195 Vegetation Conservation to the
1276 maximum extent feasible consistent with safe construction practices.

1277 (f) Cut-and-fill slopes and backfill areas shall be revegetated with native grasses, shrubs, and/or trees
1278 in order to provide stabilization.

1279 (g) Whenever shoreline protection is needed, soft shoreline stabilization measures including, but not
1280 limited to, those in WDFW (2104) Marine Shoreline Design Guidelines or Washington State
1281 Department of Ecology (2014) Soft Shoreline Stabilization: Shoreline Master Program Planning and
1282 Implementation Guidance natural berms and vegetation should be favored over artificial means hard
1283 armoring.

1284 (h) The burden of proof for the need for shoreline protection to protect existing or proposed
1285 developments rests on the applicant(s).

1286 (i) Shoreline protection activities which may necessitate new or increased shoreline protection on the
1287 same or other affected properties where there has been no previous need for protection shall be
1288 prohibited.

1289 ~~(j) New development that is not shoreline dependent shall be encouraged to locate so that shoreline~~
1290 ~~protection is not needed.~~

1291 ~~(k) Where shoreline protection measures are required, contiguous property owners shall be~~
1292 ~~encouraged to participate.~~

1293 ~~(l) Structural solutions to reduce shoreline damage should be allowed only after it is demonstrated that~~
1294 ~~nonstructural solutions are not practical. Non-structural stabilization measures including relocating~~
1295 ~~structures, increasing buffers, enhancing vegetation, managing drainage and runoff and other~~
1296 ~~measures are preferred over new structural shoreline armoring.~~

1297 ~~(m) Where feasible, any failing, harmful, unnecessary, or ineffective structural shoreline armoring that cannot~~
1298 ~~be repaired or replaced should be removed, and shoreline ecological functions and processes should be~~
1299 ~~restored using non-structural methods.~~

1300 ~~(Ord. 539 § 2, 1991).~~

1301 **16.20.190 Shoreline protection and stabilization.**

1302 (1) Shoreline stabilization. Shoreline stabilization may be permitted in the shoreline as follows: Hard armoring
1303 (e.g. bulkheads and riprap) is subject to a shoreline conditional use permit in the rural residential and beach
1304 community environments. Soft-shore stabilization may be permitted in the rural residential and beach
1305 community environments under a conditional use permit. Shoreline stabilization proposals shall address the
1306 following:

1307 (a) Shoreline stabilization, including bulkheads, shall not be considered an outright permitted use on the
1308 city's shorelines. In order for shoreline stabilization to be permitted, the city must find that:

1309 (i) The applicant shall provide a geotechnical report, prepared by a qualified professional, that
1310 estimates the rate of erosion and evaluates alternative solutions and the urgency associated with the
1311 specific situation;

1312 (ii) Soft-shore stabilization alternatives such as slope drainage systems, vegetative growth
1313 stabilization, gravel berms, and beach nourishment shall be prioritized over structural options such
1314 as bulkheads and riprap;.the "softest" effective alternative shall be utilized;

1315 (iii) In the case of proposed hard armoring stabilization solutions (e.g. bulkheads and riprap), erosion
1316 from waves or currents presents a clear and imminent (damage within 3 years) threat to a legally
1317 established primary structure, one or more substantial accessory structures, water-dependent
1318 development, ecological restoration/toxic clean-up remediation projects, or public improvements;

1319 (iv) In the case of bulkheads and riprap, the proposed shoreline stabilization is located landward of
1320 the ordinary high water mark as determined through a site visit;

- 1321 (v) The proposed shoreline stabilization is the minimum size necessary to protect existing
1322 improvements;
- 1323 (vi) The applicant shall demonstrate that impacts to sediment transport are minimized to the greatest
1324 extent possible;
- 1325 (vii) Shoreline stabilization shall not have an adverse impact on the property of others and shall be
1326 designed so as not to create the need for shoreline stabilization elsewhere;
- 1327 (viii) Shoreline stabilization shall not significantly interfere with normal surface and/or subsurface
1328 drainage into the water body and shall be constructed using an approved filter cloth or other suitable
1329 means to allow passage of surface and groundwater without internal erosion of fine material;
- 1330 (ix) Shoreline stabilization shall not be used to create new lands;
- 1331 (x) Use of chemically treated wood is prohibited for any shoreline stabilization proposal within
1332 freshwater stream shorelines;
- 1333 (xi) Use of creosote treated wood is prohibited within marine shorelines; and
- 1334 (xii) Re-vegetation with native plants is required as part of the shoreline stabilization project; and
- 1335 (xiii) Shoreline stabilization shall not otherwise result in a net loss of ecological functions.
- 1336 (xiv) As a condition of any permit for development on a slope or at the base of slope on which soil
1337 movement may potentially occur, the property owner will be required to grant and record a covenant
1338 running with the land releasing the City from liability for damages caused by soil movement, except
1339 for damages caused by the City's sole negligence. The covenant shall also require the owner to
1340 inform his/her successors and assigns that the property is located in a potential slide area, that
1341 successors and assigns are required to comply with any conditions or prohibitions on development
1342 set forth in the permit or in the City's regulations, and that successors and assigns are required to
1343 maintain any feature described in the permit that is necessary to address potential soil movement.
- 1344 (b) When a bulkhead or other structural alternative is permitted subject to subsection (a) above, the
1345 following standards shall apply:
- 1346 (i) The maximum height of the proposed bulkhead or other stabilization structure is no more than
1347 three feet above the elevation of the ordinary high water mark ~~mean higher high water~~ on tidal
1348 waters measured from grade on the waterward side of the bulkhead or structure.
- 1349 (ii) When a bulkhead or other stabilization structure has deteriorated such that the ordinary high
1350 water mark has been established by the presence and action of water landward of the existing
1351 bulkhead, then the replacement bulkhead or structure must be located at or landward of the ordinary
1352 high water mark.

1353 (iii) Repair of an existing bulkhead or other stabilization structure is permitted under a substantial
1354 development permit provided that the repaired bulkhead or structure is not relocated further
1355 waterward or increased in height and is subject to subsection (a) above.

1356 (iv) If an existing bulkhead or other stabilization structure is destroyed it may be replaced as it
1357 existed prior to destruction, provided application for required permits is made within two years of
1358 destruction and the applicant has demonstrated that soft shoreline armoring is not feasible and the
1359 applicant has demonstrated the need to protect principle uses or structures from tidal action or
1360 waves. Additions to or increases in size of existing shoreline stabilization measures shall be
1361 considered new structures.

1362 (v) Soft shoreline stabilization measures that provide restoration of shoreline ecological functions
1363 may be permitted waterward of the ordinary high water mark and is subject to subsection (a) above.

1364 (vi) The project satisfies the provisions of NPMC 18.36 Critical Areas Development Regulations and
1365 WAC 172-26-231(3)(a)(iii)(C).

1366 (vii) Mitigate new erosion control measures, including replacement structures, on feeder bluffs or
1367 other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to
1368 minimize adverse impacts to sediment conveyance systems per WAC 172-26-231(3)(a)(iii)(C).

1369 (viii) Existing unpermitted bulkheads constructed since 1991 that need repair and replacement must
1370 comply with current Shoreline Master Program regulations and would be considered new bulkheads
1371 for the purposes of this Program.

1372 (c) Creation of new lots shall be prohibited where development and use on new lots would require structural
1373 shoreline stabilization over the life of the development. The following standards shall apply to new
1374 development.

1375 (i) New development that would require shoreline stabilization which causes significant impacts to
1376 adjacent or down-current properties and shoreline areas should not be allowed.

1377 (ii) New development, including newly created parcels, are required to be designed and located to
1378 prevent the need for future shoreline stabilization as documented by a geotechnical analysis.

1379 (iii) New development on steep slopes and bluffs is required to be set back sufficiently to ensure that
1380 shoreline stabilization is unlikely to be necessary during the life of the project as demonstrated by a
1381 geotechnical analysis and must comply with NPMC 18.36.

1382 **16.20.195 Shoreline vegetation conservation.**

1383 (1) Policies.

1384 (a) Design uses and developments to preserve native shoreline vegetation to maintain shoreline
1385 ecological functions and processes and prevent direct, indirect and/or cumulative impacts of shoreline
1386 development.

1387 (b) Establish native shoreline vegetation through new uses and developments such that the
1388 composition, structure, and density of the plant community resemble a natural, unaltered shoreline as
1389 much as possible.

1390 (c) Limit removal of native vegetation to the minimum necessary to accommodate shoreline
1391 development.

1392 (d) Restrict native vegetation removal within shoreline jurisdiction in order to maintain shoreline
1393 functions, including protection of habitat and shoreline bluffs.

1394 (e) Maintaining well-vegetated shorelines is preferred over clearing vegetation to create views or
1395 provide lawns. Limited and selective clearing for views and lawns may be allowed when slope stability
1396 and ecological functions are not compromised, but landowners should not assume that creating an
1397 unobstructed view of the water will be allowed. Trimming and pruning are generally preferred over
1398 removal of native vegetation.

1399 (f) Property owners should be encouraged to avoid or minimize the use of fertilizers, herbicides and
1400 pesticides.

1401 (g) Shoreline landowners are encouraged to preserve and enhance native woody vegetation and
1402 native groundcovers to stabilize soils and provide habitat.

1403 (h) Non-native vegetation that requires use of fertilizers, herbicides, and/or pesticides is discouraged.

1404 (2) Regulations.

1405 (a) Unless otherwise specified, all shoreline use and development, including preferred uses and uses
1406 exempt from permit requirements, shall comply with the buffer provisions of this Program and NPMC
1407 18.36 and NPMC 902 to protect and maintain shoreline vegetation and habitat.

1408 (b) Removal of native vegetation shall be avoided, where feasible. Where removal of native vegetation
1409 cannot be avoided, it shall be minimized to protect ecological functions. If non-native vegetation is to
1410 be removed, then it shall be replaced with native vegetation within the shoreline jurisdiction.

1411 (c) Native plant materials that are equivalent to those which would typically occur with respect to size,
1412 structure, and diversity at maturation shall be used in restoration, rehabilitation, or enhancement
1413 projects.

1414 (d) Proponents of all new shoreline uses or developments shall demonstrate that site designs and
1415 layouts are consistent with the policies of this section to ensure shoreline functions, values, and

1416 processes are maintained and preserved. A shoreline permit or written statement of exemption shall
1417 not mandate, nor guarantee, unobstructed horizontal or lateral visibility of the water, shoreline or any
1418 specific feature near or far.

1419 (e) Trimming of trees and vegetation is allowed within shoreline setback areas without a landscape
1420 plan, provided that:

1421 (i) This provision is not interpreted to allow clearing of vegetation;

1422 (ii) Trimming does not include topping, stripping or imbalances; a minimum of 60 percent of the
1423 original crown shall be retained to maintain tree health;

1424 (iii) Trimming does not directly impact shoreline functions including fish and wildlife habitat;

1425 (iv) Trimming is not within a wetland or wetland buffer or fish and wildlife habitat conservation area
1426 (FWHCA) stream buffer; and

1427 (v) Trimming in landslide and erosion hazard areas does not impact soil stability.

1428 (f) The Shoreline Administrator may deny a request or condition approval of vegetation management
1429 or removal proposals for view maintenance if it is determined the action will result in an adverse effect
1430 to any of the following:

1431 (i) Slope stability;

1432 (ii) Habitat value;

1433 (iii) Health of surrounding vegetation;

1434 (iv) Risk of wind damage to surrounding vegetation;

1435 (v) Nearby surface or ground water; or

1436 (vi) Water quality of a nearby water body.

1437 (g) Clearing by hand-held equipment of invasive or non-native shoreline vegetation or plants listed on
1438 the State Noxious Weed List is permitted in shoreline locations if native vegetation is promptly re-
1439 established in the disturbed area.

1440 (h) Aquatic weed control shall only occur to protect native plant communities and associated habitats
1441 or where an existing water-dependent use is restricted by the presence of weeds. Aquatic weed control
1442 shall occur in compliance with all other applicable laws and standards and shall be done by a qualified
1443 professional.

1444 **16.20.200 Shoreline modification activities.**

1445 ~~(1) Piers and docks.~~

1446 ~~(a) A pier or dock is a structure abutting the shoreline built over or floating on the water, used~~
1447 ~~as a landing place for marine transport or for recreational purposes for private, non-~~
1448 ~~commercial pleasure craft. Piers are built on fixed platforms above the water, while docks float~~
1449 ~~upon the water.~~

1450 ~~(b) Docks for private, noncommercial pleasure craft and common to single-family residences,~~
1451 ~~and costing less than \$2,500 are exempt from the requirement for a shoreline substantial~~
1452 ~~development permit. Although these structures are exempt from obtaining a substantial~~
1453 ~~development permit, compliance with the prohibitions, regulations and development standards~~
1454 ~~of this shoreline master program is still required.~~

1455 ~~(b) Piers and docks used for commercial purposes are prohibited.~~

1456 ~~(c) Pier and dock construction requires regulation to protect navigation rights, to preserve~~
1457 ~~shoreline aesthetics, and to maintain the usable water surface and aquatic lands for life forms~~
1458 ~~characteristic and important to those areas.~~

1459 ~~(d) Piers and docks shall be permitted within the shoreline area only if the following regulations~~
1460 ~~and standards are met:~~

1461 ~~(i) Any pier or dock, except as exempted above, shall require a shoreline conditional use~~
1462 ~~permit.~~

1463 ~~(ii) A permit to construct a pier or dock must be obtained from the U.S. Army Corps of~~
1464 ~~Engineers.~~

1465 ~~(iii) Piers, docks, and other moorages shall only be permitted after consideration of:~~

1466 ~~(A) The effect of such structures on wildlife, aquatic life, water quality, scenic and~~
1467 ~~aesthetic values, unique and fragile areas, submerged lands, and shoreline~~
1468 ~~vegetation;~~

1469 ~~(B) The effect of such structures on navigation, water circulation, recreational and~~
1470 ~~commercial boating, sediment movement and littoral drift, and shoreline access.~~

1471 ~~(iv) Open pile pier construction shall be preferred where there is significant littoral drift,~~
1472 ~~where scenic values will not be impaired, and where minimal alteration to the shoreline~~
1473 ~~and minimal damage to aquatic resources can be assured.~~

1474 ~~(v) Floating pier construction shall be preferred in areas where scenic values are high.~~

1475 ~~(vi) Piers or docks that are abandoned or structurally unsafe shall be abated.~~

1476 ~~(vii) Where joint-use community piers or docks are provided in accordance with waterfront~~
1477 ~~subdivision approval, single-use piers or docks serving individual lots shall be prohibited.~~

1478 (e) Pier and dock dimensions and grating, marine shorelines.

1479 ~~(i) Where authorized by NPMC, piers and docks located on marine shorelines shall be~~
1480 ~~the minimum size required to provide for moorage. Single-family piers or docks shall~~
1481 ~~not exceed 50 feet in length measured perpendicularly from the OHWM. Shared~~
1482 ~~moorage may extend up to 75 feet in length if demonstrated to be necessary to~~
1483 ~~provide adequate moorage. Docks that cannot meet this standard may request a~~
1484 ~~review under the variance provisions of this Program.~~

1485 ~~(ii) The maximum width of each pier or dock shall be six feet.~~

1486 ~~(iii) The maximum width of walkway ramps shall be four feet and shall be fully grated.~~

1487 ~~(iv) The decking of all piers and docks shall be designed to allow a minimum of 45~~
1488 ~~percent light passage. This may be accomplished through grated decks, space~~
1489 ~~between decking, light prisms, or other means.~~

1490 (f) Pier skirting is not permitted.

1491 (g) Commercial floats are prohibited.

1492 (h). Residential floats may be permitted under a conditional use permit. One float is permitted per
1493 residence.

1494 (2) Floats – residential.

1495 (a) Floats are structures that are floating and attached by mooring to the surface below water.

1496 (b) One float is allowed per residence.

1497 (c) Floats cannot be larger than 120 square feet in size and must be constructed from materials that
1498 are based on best available science and least harmful to the environment. Styrofoam floats may not
1499 be used.

1500 (d) Floats are subject to a conditional use permit.

1501 (3) Non-commercial launching ramps, rails, and lift stations.

1502 (a) Launching ramps, rails, and lift stations are permitted the rural residential environment subject to
1503 a shoreline conditional use permit. The following conditions shall apply:

1504 (i) No portion of a launching ramp, rail, or lift station shall be placed more than 60 feet
1505 waterward of the ordinary high water mark.

1506 (ii) All portions of a launching ramp, rail, or lift station shall be placed at a depth not to
1507 exceed eight feet below the ordinary high water mark.

1508 (iii) Launching rails or ramps shall be anchored to the ground through the use of tie-type
1509 construction. Asphalt, concrete, or other ramps, which solidly cover the bottom or bed of a
1510 waterbody, are prohibited.

1511 (iv) No more than one launching ramp, rail, or lift station per shoreline development shall be
1512 permitted.

1513 (v) Launching ramps, rails, or lift stations shall not be permitted for shoreline developments
1514 that have an existing pier, dock, mooring buoy, or other functional moorage. Piers, docks, or
1515 other forms of moorage shall not be permitted for shoreline developments that have existing
1516 launching ramps, rails, or lift stations.

1517 (vi) Launching ramps, rails, and lift stations shall be sited and designed to ensure protection
1518 of navigation routes and access; they shall be aesthetically compatible with or enhance
1519 existing shoreline features, and shall be clearly marked and separated from nearby
1520 swimming areas.

1521 ~~(2) (4) Bulkheads.~~

1522 ~~(a) Bulkheads or seawalls are structures erected parallel to and near the high water mark for the~~
1523 ~~purpose of protecting adjacent uplands from the action of waves or current. Bulkheads are constructed~~
1524 ~~of steel, timber, rock, or concrete and may be either of solid or open-piling construction.~~

1525 ~~(b) While bulkheads and seawalls may protect the uplands, they do not protect the adjacent beaches,~~
1526 ~~and in many cases are detrimental to the beaches by speeding up the erosion of the sand in front of~~
1527 ~~the structures.~~

1528 ~~(c) WAC 173-27-040, as now exists or as hereafter amended, exempts the Construction or~~
1529 ~~reconstruction of a normal protective bulkhead common to single-family residences from the requires a~~
1530 ~~shoreline substantial development permit. However, these structures are required to comply with all~~
1531 ~~the prohibitions, regulations, and development standards of this shoreline master program and the~~
1532 ~~State of Washington.~~

1533 ~~(d) The following regulations and standards apply to the construction of bulkheads and seawalls~~
1534 ~~designed to protect the immediate upland area:~~

1535 ~~(i) Bulkheads other than for residential use shall require a shoreline conditional use permit.~~

- 1536 ~~(ii) Construction of bulkheads shall be permitted only where they provide protection to upland~~
1537 ~~areas or facilities, not for the indirect purpose of creating land by filling behind the bulkhead.~~
- 1538 ~~(iii) Bulkheads and seawalls shall be constructed in such a way so as to minimize damage to fish~~
1539 ~~and shellfish habitats.~~
- 1540 ~~(iv) Bulkheads and seawalls shall be located and constructed in such a manner that will minimize~~
1541 ~~adverse effects on nearby beaches and alterations of the natural shoreline.~~
- 1542 ~~(v) Adequate toe protection shall be provided to ensure bulkhead stability.~~
- 1543 ~~(vi) Bulkheads shall be designed to permit the passage of surface or ground water without~~
1544 ~~causing ponding or saturation.~~
- 1545 ~~(vii) Bulkheads shall be sited and designed consistent with appropriate engineering principles.~~
1546 ~~Professional geologic site studies or design may be are required for any proposed bulkhead for~~
1547 ~~which a building permit is necessary per the critical areas code XX.XX.XX if the city engineer~~
1548 ~~determines additional information is necessary. Grounds for such determination shall be~~
1549 ~~inadequate information on local physical features and/or potential damage to other shoreline~~
1550 ~~properties and features. The geotechnical analysis should evaluate on-site drainage issues and~~
1551 ~~address drainage problems away from the shoreline edge before considering structural shoreline~~
1552 ~~stabilization.~~
- 1553 ~~(viii) To receive permit approval for bulkhead construction, the applicant shall agree to grant~~
1554 ~~adjacent property owners the right to tie in with adjacent bulkheads.~~
- 1555 ~~(ix) Bulkheads are to be permitted only where local physical conditions such as foundation~~
1556 ~~bearing material, surface and sub-surface drainage are suitable for such construction.~~
- 1557 ~~(x) Bulkheads are to be located landward of the ordinary high water mark, foreshore of protective~~
1558 ~~berms (artificial or natural), and generally parallel to the natural shoreline; except:~~
- 1559 ~~(A) On marine accretion beaches and along driftways, bulkheads shall be set back a~~
1560 ~~minimum of 20 feet landward of the OHWM and shall parallel the natural shoreline or per~~
1561 ~~Critical Areas Code in Section (18.36).~~
- 1562 ~~(B) On bluff or bank shorelines where no other bulkheads are adjacent, the construction of~~
1563 ~~a bulkhead shall be as close to the foot of the natural bank as practical.~~
- 1564 ~~(C) Where shoreline protection structures are required, contiguous property owners needing~~
1565 ~~protection shall be encouraged to participate.~~
- 1566 ~~(D) Soft shoreline stabilization measures that provide restoration of shoreline ecological~~
1567 ~~functions may be permitted waterward of the ordinary high water mark.~~

1568 (xi) Bulkhead design and development shall conform to all other applicable state agency policies and
1569 regulations, including the Washington State Department of Fish and Wildlife, governing bulkhead design.

1570 ~~(xii) All new and replacement shoreline structures shall be designed to minimize the transmission of wave~~
1571 ~~energy.~~

1572 ~~(Xiii) All new shoreline development and uses, including the replacement of a destroyed home, shall be~~
1573 ~~located and designed to prevent the need for new or expanded shoreline stabilization measures for the life of~~
1574 ~~the development. Exceptions may be made for the limited instances where shoreline stabilization measures~~
1575 ~~are necessary to protect allowed uses, where no alternative locations are available, and where no net loss of~~
1576 ~~ecological functions will result.~~

1577 ~~(3)~~ (4) Groins.

1578 (a) Groins are barrier-type structures extending from the backshore seaward across the beach. The
1579 basic purpose of a groin is to interrupt the sand movement along the shore.

1580 (b) Trapping of sand by a groin is done at the expense of the adjacent downdrift shore, unless the
1581 groin system is filled with sand to its entrapment capacity.

1582 (c) Construction or reconstruction of groins will be permitted to preserve, protect, or restore an area of
1583 the shoreline where the effects of natural forces indicate a need for corrective action and if unsafe
1584 conditions for property would occur otherwise.

1585 (i) Construction of groins shall require a shoreline conditional use permit.

1586 ~~(ii) The applicant must provide evidence that a groin is necessary for protection of property and~~
1587 ~~that soft armoring will not provide adequate protection.~~

1588 (d) Approval of the permit must consider the effects of the proposed installation on adjacent properties.

1589 (e) Structures waterward of the ordinary high-water mark are allowed only for water-dependent uses,
1590 public access, shoreline stabilization, or other specific public purpose. WAC 173-26-231(3)(d).

1591 (f) Construction of groins must comply with NPMC 16.20.185, 16.20.190, and NPMC 18.36.

1592 ~~(4)~~ ~~(6)~~ Dredging.

1593 (a) Dredging is the removal of earth from the bottom of a stream, bay, or other water body for the
1594 purposes of deepening a navigational channel or to obtain use of the bottom materials for landfill.

1595 (b) ~~Of all activities on shorelines, dredging poses one of the greatest threats to water quality and~~
1596 ~~aquatic life. In most cases, dredging occurs in shallow areas and may disturb the aquatic environment~~
1597 ~~in the following ways:~~

- 1598 (i) ~~Temporary reduction of water clarity from suspended sediments;~~
- 1599 (ii) ~~Loss of aquatic plants and animals by direct removal or from the sedimentation of suspended~~
1600 ~~materials;~~
- 1601 (iii) ~~Alteration of the nutrient and oxygen levels of the water column; and~~
- 1602 (iv) ~~Suspension of toxic materials from the sediments into the water column.~~
- 1603 (c) ~~Dredging shall be permitted within the shoreline area only when the following regulations and~~
1604 ~~standards are met:~~
- 1605 (i) ~~Any dredging shall require a shoreline conditional use permit.~~
- 1606 (ii) ~~Dredging of bottom materials for the sole purpose of obtaining fill material is prohibited.~~
- 1607 (iii) ~~All dredging activities shall minimize damage to existing ecological and natural resources of~~
1608 ~~the area to be dredged and the area where dredged materials are to be deposited.~~
- 1609 (iv) ~~Dredging and excavation in unique and fragile areas shall be prohibited.~~
- 1610 (v) ~~In all cases, dredging and excavation operations should be conducted to minimize adverse~~
1611 ~~effects on the shoreline environment.~~
- 1612 (vi) ~~Dredging operations should be scheduled so as to not materially interfere with the movement~~
1613 ~~of fish.~~
- 1614 (vii) ~~When dredge spoils have suitable organic and physical properties, dredging operators~~
1615 ~~should be encouraged to recycle dredged material into areas of the city suitable for those~~
1616 ~~materials.~~
- 1617 (viii) ~~Dredge disposal is prohibited seaward of OHWM.~~
- 1618 (ix) ~~Dredging of bottom materials shall conform to state and federal policies and regulations~~
1619 ~~including the State Department of Fisheries.~~
- 1620 ~~(5) (7) Landfill Fill:~~
- 1621 (a) ~~Fill is the placement by man of sediment or other material (excluding solid waste) in an aquatic~~
1622 ~~area to create new shorelands or on shorelands to raise the elevation of the land. Beach feeding is~~
1623 ~~included as a landfill use activity.~~
- 1624 (b) ~~Landfill Fill (not to be confused with solid waste landfills) has been used within Normandy Park to~~
1625 ~~create usable land by adding or displacing material in order to remove obstructions for development.~~
1626 ~~Since the purpose has been to create land usable for specific developments from land not previously~~

1627 usable for such developments, natural systems were seldom considered. Fill commonly destroys
1628 vegetation, subsequently eliminating habitat. It may also cover animal life or breeding and spawning
1629 grounds. The following principles and standards are intended to focus on these and other aspects of
1630 natural systems affected by landfill, cuts, excavations and site grading actions, while at the same time
1631 recognizing human needs.

1632 (c) Landfill Fill shall be permitted within the shoreline area only when the following regulations and
1633 standards are met:

1634 (i) Any landfill shall require a shoreline conditional use permit.

1635 (ii) Dredging for fill materials only is prohibited.

1636 (iii) Fill material shall be of such quality that it will not adversely affect water quality.

1637 (iv) Landfill Fill shall be deposited so as to minimize disruption of normal surface and ground
1638 water passage.

1639 (v) Landfill Fill shall allow surface water penetration into the groundwater supply, where such
1640 conditions existed prior to the fill.

1641 (vi) Landfill Fill shall be accomplished at such time as to minimize damage to water quality and
1642 aquatic life.

1643 (vii) Landfill Fill, except for beach feeding, shall be discouraged in areas of high shoreline erosion
1644 potential.

1645 (viii) Landfill Fill shall be located landward of the ordinary high water mark and associated
1646 wetlands, except for beach feeding. Such landfill shall be allowed only after full consideration is
1647 given to factors such as total water surface reduction, impediment to water flow and circulation,
1648 reduction of water quality and destruction of habitat. Landfill within the 100-year floodplain shall
1649 not reduce the floodplain water storage capacity or in any way increase flood hazard so as to
1650 endanger public safety or private property.

1651 (ix) Beach feeding areas on the shorelines may be established and approved by the city with a
1652 shoreline permit.

1653 (x) Landfill Fill shall be permitted only for water dependent or public uses.

1654 (5) Dredging and filling.

1655 (a) Dredging.

1656 (i) Dredging activities may occur in the Aquatic, Rural Residential, Urban Conservancy, and Beach
1657 Community environments and are subject to a conditional use permit. Dredging is not permitted in
1658 the Bluff Conservancy and Aquatic environments.

1659 (ii) Dredging activities are allowed only where necessary to protect public safety or for shoreline
1660 restoration activities.

1661 (iii) Dredging is allowed only where an alternative alignment that would not require dredging is not
1662 feasible.

1663 (iv) Where allowed, dredging operations must be scheduled so as to not damage shoreline
1664 ecological functions or processes.

1665 (v) Where allowed, dredging operations shall avoid and minimize significant ecological impacts to the
1666 greatest extent feasible, and shall be mitigated as required by this chapter.

1667 (vi) Siting and design of new development shall avoid the need for new and maintenance dredging.

1668 (vii) Dredging for fill materials shall be prohibited, except for projects associated with MTCA or
1669 CERCLA remediation actions, habitat restoration, or any other significant restoration effort approved
1670 by a shoreline conditional use permit. In such instances, placement of dredged fill material must be
1671 waterward of the OHWM.

1672 (viii) If applicable, uses of dredge material that benefit shoreline resources should be addressed
1673 through implementation of regional interagency dredge material management plans or watershed
1674 plan as per WAC 173-26-231(3)(f).

1675 (b) Filling.

1676 (i). Fill waterward of the ordinary high water mark associated with non-water dependent uses shall be
1677 prohibited.

1678 (ii) Fill waterward of ordinary high water mark needed to support the following water-dependent uses
1679 may be allowed through a conditional use permit in all environments, except it is allowed only for
1680 restoration purposes in the bluff conservancy and urban conservancy environments.

1681 (A) Public access;

1682 (B) Expansion, alteration, or repair of transportation facilities currently located within the
1683 shoreline;

1684 (C) Mitigation actions;

1685 (D) Environmental, ecological, or watershed restoration projects;

- 1686 (E) Beach nourishment or enhancement projects;
- 1687 (F) Soft shore bank stabilization projects; and
- 1688 (G) Disposal of dredged material in accordance with DNR Dredged Material Management
1689 Program.
- 1690 (iii) Permitted fill activities must comply with the following standards:
- 1691 (A) Demonstration that alternatives to fill are not feasible;
- 1692 (B) Demonstration that fill shall be deposited so as to minimize disruption of normal surface
1693 and ground water passage;
- 1694 (C) Demonstration that fill materials shall be of such quality that it will not adversely affect
1695 water quality;
- 1696 (D) Demonstration that fill shall allow surface water penetration into the ground water supply,
1697 where such conditions existed prior to the fill; and
- 1698 (E) Demonstration that fill timing will minimize damage to water quality and aquatic life.
- 1699 (iv) Fill, except for beach nourishment, shall be prohibited in areas of high shoreline erosion
1700 potential.
- 1701 (v) Fill located waterward of the ordinary high water mark that results in a net loss of shoreline
1702 function is prohibited.
- 1703 (6) Signs.
- 1704 (a) Signs are publicly displayed messages designed to provide information, direction or advertising,
1705 and may be pleasing or distracting depending upon their number, design, and location. Uncontrolled
1706 use of signs can be detrimental to surrounding property values and may seriously detract from the
1707 enjoyment, pleasure, and the natural beauty of the shoreline. Shoreline character and attractiveness
1708 should be protected to the greatest extent possible from the ill effects of signs. Any new sign codes for
1709 the city should recognize the unique aesthetic character and ecological qualities of shoreline areas.
- 1710 (b) When permitted by the zoning ordinance, NPMC Title [18](#), signs shall be permitted within the
1711 shoreline area only when the following standards are met:
- 1712 (i) Any sign except those that deal with public access or public safety shall require a shoreline
1713 conditional use permit.

- 1714 (ii) No signs shall be of the flashing or animated type, except those required by law or necessary
1715 for the safety of land, water, or air navigation and circulation.
- 1716 (iii) Signs shall be designed and constructed in a manner that minimizes visual obstruction of the
1717 shoreline. Vistas and viewpoints shall be free from unnecessary signs.
- 1718 (iv) Signs, when permitted, shall be placed so as not to impair views of the shoreline or impair
1719 views upland from the water except where dangerous conditions require warning signs.
- 1720 (v) Warning signs shall be installed by the city or by other appropriate entities where hazardous
1721 conditions exist on public properties.
- 1722 (vi) Signs in shoreline areas shall be maintained in a state of security, safety, and repair. (Ord.
1723 710 § 1, 2003; Ord. ~~539 § 2, 1991~~).

1724 **16.20.210 Residential element.**

1725 (1) Residential development means one or more buildings or structures or portions thereof designed for and
1726 used for human habitation. Residential development includes one- and two-family detached dwellings,
1727 multifamily residence.20.120s, townhouses, and other similar group housing, together with accessory uses
1728 and structures common to residential uses, including but not limited to garages, sheds, tennis courts,
1729 swimming pools, parking areas, fences, and guest cottages. The only type of residential development
1730 permitted within Normandy Park’s shoreline environment is single-family residential use, except for planned
1731 residential developments. Both short subdivisions and formal plats are forms of residential development.

1732 (2) Uses and facilities associated with residential development that are identified as separate use activities in
1733 this shoreline master program, including piers and docks, bulkheads, shoreline protection, utilities, landfill,
1734 and land clearing and grading practices, are subject to the regulations established for those uses in addition
1735 to any special conditions relating to residential areas established in this section.

1736 (3) Pressure to develop shorelines for residential uses has resulted in property subdivision and escalating
1737 waterfront land values. Residential development of shorelines is accomplished in a variety of ways from large
1738 plats and subdivisions for multifamily dwellings to single lot development for recreational housing, any of
1739 which, if poorly planned, can result in the degradation of the shoreline environment and water resources.

1740 (4) Although the Shoreline Management Act specifically exempts “construction on wetlands by an owner,
1741 lessee or contract purchaser of a single-family residence for his(/her) own use or the use of his(/her) family
1742 ...” from shoreline substantial development permit requirements, residential developments must conform to
1743 the policies of the Shoreline Management Act and the policies and use regulations of this shoreline master
1744 program.

1745 (5) Residential development, when permitted by the zoning code, shall be permitted within the shoreline area
1746 only when the following regulations and standards are met:

- 1747 (a) Only when developed in a manner consistent with control of pollution and prevention of damage to
1748 the natural environment.
- 1749 ~~(a)~~ Residential development in shoreline areas shall comply with all applicable policies and
1750 requirements of the city including those in the comprehensive plan, zoning code, and subdivision
1751 ordinance. Refer to 16.20.215 Figure 3 – Figure 3 – Development Standards In Shoreline
1752 Designations.
- 1753 ~~(b)~~ Sewage disposal facilities, as well as water supply facilities, shall be provided for all residential
1754 development in accordance with appropriate state and local health regulations.
- 1755 ~~(c)~~ Residential development over water including floating homes is prohibited, except accessory
1756 docks for pleasure craft.
- 1757 ~~(d)~~ Subdivisions should be designed at a level of density, site coverage, and occupancy compatible
1758 with the physical capabilities of the shoreline and site.
- 1759 ~~(e)~~ Site coverage shall include all impermeable surfaces.
- 1760 ~~(f)~~ Minimum building setbacks from the OHWM and sensitive areas (e.g., eroding bluffs or shores,
1761 wetlands, marshes, bogs, swamps, and streams where setbacks shall be measured from the top of the
1762 bluff or nearest wetland edge) shall be no less than setbacks specified in NPMC 18.36 Critical Areas
1763 Development Regulations (see 16.20.215 Figure 3 – Development Standards In Shoreline
1764 Designations). Actual building setbacks shall be determined on a case by case basis. The following
1765 factors shall be taken into account: underlying zoning requirements, height of bluff or bank, soils and
1766 groundwater characteristics and other factors affecting slope stability and environmental effects on
1767 sensitive areas such as streams and wetlands.
- 1768 ~~(g)~~ Boathouses or other buildings or structures for the storage or shelter of boats may be permitted
1769 when set back at least five feet landward of the OHWM and when installed so that no sight-obscuring
1770 portion thereof extends 12 feet above the average grade level.
- 1771 ~~(h)~~ Residential development should protect the natural vegetation of the shoreline area.
- 1772 ~~(i)~~ Residential subdivisions and planned residential developments should be designed to protect
1773 water quality, shoreline aesthetic characteristics, vistas, and normal public use of the water.
- 1774 ~~(j)~~ Residential development plans submitted for approval should contain provisions for protection of
1775 groundwater supplies, erosion control, landscaping, and maintenance of the shoreline integrity.
- 1776 ~~(k)~~ The established velocity, quantity, and quality of stormwater discharge should consider the
1777 sensitivity of the proposed receiving environment. The disposal mode selected should mitigate impacts
1778 to infiltration, runoff, and groundwater recharge.

1779 (~~f~~m) Residential development shall not be located nor designed to require structural shore defense or
 1780 flood protection works.

1781 (~~m~~n) Residential development is prohibited within the 100-year floodplain, except when it can be
 1782 demonstrated that the reduced storage capacity of the floodplain will not significantly increase the flood
 1783 hazard to other properties nor otherwise endanger public safety.

1784 (~~n~~o) Residential development is prohibited within floodways.

1785 (~~o~~p) Residential development within other hazardous areas such as steep slopes and areas with
 1786 unstable soils or geologic conditions shall be sited and designed consistent with appropriate
 1787 engineering principles. Professional geotechnical site studies or design may be required by the city
 1788 engineer.

1789 (~~p~~q) Accreted beach shall not be developed. (Ord. 539 § 2, 1994).

1790 **16.20.215 Summary of Shoreline Development Standards**

1791 The shoreline buffer and vegetation conservation buffers shown in Figure 3 in 16.20.015 Development
 1792 Standards In Shoreline Designations apply to new development, new structures, and additions/expansion of
 1793 legally existing structures.

1794 **Figure 3. Development Standards In Shoreline Designations**
 1795

<u>Development Standard</u>	<u>Shoreline Designations</u>				
	<u>(See Chapter 16.12 for shoreline designation descriptions and Figure 1 for a map of the shoreline designations)</u>				
	<u>Rural Residential</u>	<u>Urban Conservancy</u>	<u>Bluff Conservancy</u>	<u>Beach Community</u>	<u>Aquatic</u>
<u>Maximum height limit of single-family residence (16.24.040(2)(f))</u>	<u>35 feet</u>	<u>35 feet</u>	<u>35 feet</u>	<u>35 feet</u>	<u>N/A</u>
<u>Maximum non-commercial boathouse height limit² (16.20.210(5)(h))</u>	<u>Site obscuring portion, no more than 12 feet above average grade level</u>	<u>Site obscuring portion, no more than 12 feet above average grade level</u>	<u>N/A</u>	<u>Site obscuring portion, no more than 12 feet above average grade level</u>	<u>Site obscuring portion, no more than 12 feet above average grade level</u>
<u>Maximum height limit of a new and repaired bulkhead (16.20.190(b)(i))</u>	<u>3 feet above the OHWM</u>	<u>N/A</u>	<u>N/A</u>	<u>3 feet above the OHWM</u>	<u>N/A</u>

<u>New single-family residence shoreline setback¹ (18.36.640(4), 16.20.210(5)(g))</u>	<u>115 feet from OHWM</u>	<u>N/A</u>	<u>N/A</u>	<u>115 feet from OHWM</u>	<u>N/A</u>
<u>Density (dwelling units per acre)</u>	<u>R-20, 2 units/acre</u>	<u>R-20, 2 units/acre</u>	<u>N/A</u>	<u>R-15, 2.7 units/acre</u>	<u>N/A</u>
<u>Minimum lot size (18.15.020)</u>	<u>20,000 square feet</u>	<u>20,000 square feet</u>	<u>N/A</u>	<u>15,000 square feet</u>	<u>N/A</u>
<u>Gross floor area ratio (GFAR)³ (18.15.020)</u>	<u>0.25</u>	<u>0.25</u>	<u>N/A</u>	<u>0.25</u>	<u>N/A</u>
<u>Single-family residence front, back, and side-yard setback (18.15.020)</u>	<u>20, 25, 5 feet</u>	<u>20, 25, 5 feet</u>	<u>N/A</u>	<u>20, 25, 5 feet</u>	<u>N/A</u>
<u>Single-family residence setback from top of bluff in landslide hazard areas</u>	<u>50 feet</u>	<u>50 feet</u>	<u>50 feet</u>	<u>50 feet</u>	<u>N/A</u>
<u>Impervious surface limits</u>	<u>35%</u>	<u>35%</u>	<u>35%</u>	<u>35%</u>	<u>N/A</u>

1796 ¹ Minimum building setbacks from the OHWM and sensitive areas (e.g., eroding bluffs or shores, wetlands,
1797 and streams where setbacks shall be measured from the top of the bluff or nearest wetland edge) shall be no
1798 less than setbacks specified in NPMC 18.36 Critical Areas Development Regulations. Actual building
1799 setbacks shall be determined on a case by case basis. The following factors shall be taken into account:
1800 underlying zoning requirements, height of bluff or bank, soils and groundwater characteristics and other
1801 factors affecting slope stability and environmental effects on sensitive areas such as streams and wetlands.
1802 ²Boathouses or other buildings or structures for the storage or shelter of boats may be permitted when set
1803 back at least five feet landward of the OHWM and when installed so that no sight-obscuring portion thereof
1804 extends 12 feet above the average grade level.
1805 ³ GFAR – “Gross floor area ratio (GFAR)” means the floor area of the building or buildings divided by the area
1806 of the zoning lot.
1807

1808 **16.20.220 Land clearing and grading activities.**

1809 (1) Land clearing and grading practices are those methods used for the cutting and/or removal of trees,
1810 brush, and other vegetation and for grading activities. The following use regulations are aimed at controlling
1811 the activities of land clearing and grading for the protection of forest and fish resources for present and future
1812 use and for all the residents of the city, county, and state.

1813 (2) For land clearing and grading practices, the following regulations shall apply:

- 1814 (a) All land clearing and grading practices in shoreline areas shall be conducted to cause the least
1815 possible adverse impacts on the land and water environment, shall respect the natural character of the
1816 shoreline, and should make every effort to preserve wildlife, aquatic life, and their habitats.
- 1817 (b) Minimum land clearing and grading activity setbacks from the OHWM and sensitive areas (e.g.,
1818 eroding bluffs, or shores, wetlands, marshes, bogs, swamps, and streams where setbacks shall be
1819 measured from the top of the bluff or nearest wetland edge) shall be at least the size specified in
1820 NPMC 18.36.
- 1821 (c) Tree, brush, and vine removal in steep slopes and fragile areas shall be prohibited, except as
1822 required for public safety and to protect public or private property. ~~Normal nondestructive pruning and~~
1823 ~~trimming of vegetation for maintenance purposes shall not be subject to these clearing and grading~~
1824 ~~regulations. In addition, non-mechanized clearing of invasive nonnative shoreline vegetation is~~
1825 ~~permitted in shoreline areas if native vegetation is promptly reestablished in all disturbed areas.~~
- 1826 (d) All land clearing and grading shall be accomplished in a manner which minimizes erosion.
- 1827 (e) All cut, fill, and side cast slopes shall be planted or seeded with appropriate ground cover or
1828 otherwise treated to prevent erosion of the slope.
- 1829 (f) All ruts and erodible soil conditions caused by timber harvesting, brush cutting, or any land clearing
1830 and grading operations shall be water-barred or planted with appropriate ground cover.
- 1831 (g) Whenever seeding, planting, or other soil stabilizing measures are specified, such measures shall
1832 be performed as soon as practical.
- 1833 (h) Land being cleared or graded need not be revegetated if the new use is to be substantially
1834 completed within one year of the clearing or grading. However, proper erosion control shall be
1835 required.
- 1836 (i) Replanted vegetation shall be of a similar type and concentration as existing in the general vicinity
1837 of the site or per landscape plan approved by the city engineer. ~~(Ord. 539 § 2, 1991).~~
- 1838 (j) All vegetation removal or modification must also comply with NPMC 16.20.195 shoreline vegetation
1839 conservation.
- 1840 (k) Vegetation clearing except for the purposes of restoration and enhancement is prohibited in the
1841 urban conservancy and bluff conservancy environments or as permitted under a variance from this
1842 shoreline master program.

1843 **~~16.20.230 Conservation.~~**

1844 This is an element for preservation of the natural shoreline resources, considering such characteristics as
1845 scenic vistas, parkways, estuarine areas for fish and wildlife protection, wetlands, beaches, and other
1846 valuable natural or aesthetic features.

1847 ~~(1) Shoreline structures shall be sited and designed to minimize view obstruction.~~

1848 ~~(2) Where appropriate, the natural flora shall be preserved, restored, and enhanced. (Ord. 539 § 2, 1994).~~

1849 **16.20.240 Public access.**

1850 (1) Public access shall be required for all shoreline development and uses, except for a single family
1851 residence or residential projects containing less than four (4) dwelling units when the development would
1852 generate demand for one or more forms of public shoreline access. Public access provisions shall be
1853 required for all new public shoreline development and uses, unless such access is shown to be incompatible
1854 due to reasons of safety, security or impact to the shoreline.

1855 ~~Public access is the public's ability to get to and use public shoreline.~~ Because of private property ownership
1856 patterns, including privately owned tidelands and steep bluffs, the public has access to the beach only at
1857 Marine View Park in Normandy Park.

1858 ~~(1) (a)~~ Public access to and along the water's edge shall be available within publicly owned shorelines that
1859 are tolerant of human activity where municipal liability is an acceptable risk.

1860 ~~(2) (b)~~ Shoreline access areas shall be planned to include ancillary facilities such as parking and sanitation
1861 and shall be designed and developed to provide adequate protection for adjacent private properties.

1862 ~~(3) (c)~~ Appropriate signs shall be used to delineate publicly owned shoreline areas.

1863 ~~(4) (d)~~ The rights of the individual property owners of shoreline, tidelands, clam beds and uplands shall be
1864 respected and protected.

1865 ~~(5) (e)~~ Public access shall be policed and improved consistent with the intensity of use. (Ord. 539 § 2, 1994).

1866

1867 (2) Public access shall consist of a dedication of land or a physical improvement in the form of a walkway
1868 trail bikeway corridor viewpoint park or other area serving as a means of view and or physical approach to
1869 shorelines of the state and may include interpretive centers and displays.

1870 (a) Developments, uses, and activities shall be designed and operated to avoid blocking, reducing,
1871 or adversely interfering with the public's visual or physical access to the water and the shorelines. In
1872 providing visual access to the shoreline, natural vegetation shall not be excessively removed either
1873 by clearing or by topping.

1874 (b) Public access sites shall be connected directly to the nearest public street through a parcel
1875 boundary, tract, or easement.

1876 (c) Public access sites shall be made barrier free for the physically disabled where feasible.

1877 (d) Required public access sites shall be fully developed and available for public use at the time of
1878 occupancy or use of the development or activity.

1879 (3) A shoreline development or use that does not provide public access may be authorized provided it is
1880 demonstrated by the applicant and determined by the City that one or more of the following provisions apply.

1881 (a) Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical
1882 means;

1883 (b) Inherent security requirements of the use cannot be satisfied through the application of
1884 alternative design features or other solutions;

1885 (c) The cost of providing the access, easement, alternative amenity, or mitigating the impacts of
1886 public access is unreasonably disproportionate to the total long term cost of the proposed
1887 development;

1888 (d) Unacceptable environmental harm will result from the public access which cannot be mitigated; or

1889 (e) Significant undue and unavoidable conflict between the proposed access and adjacent uses
1890 would occur and cannot be mitigated.

1891

1892 **16.20.250 Recreation.**

1893 (1) Recreation is the passive or active refreshment of body and mind through forms of play, amusement, or
1894 relaxation. This section applies to both publicly and privately owned shoreline facilities intended for use by
1895 the public or a private club, group, or association.

1896 (2) Priority will be given to recreational development for access to and use of the water. Recreational
1897 experiences that depend on or use the shoreline include: harvesting of fish, shellfish, fowl, minerals and
1898 driftwood; various forms of boating, swimming and walking; and watching or recording activities such as
1899 photography, painting, or the viewing of water-dependent activities. Principal focal points are parks,
1900 viewpoints, features of special interest, water-access points, and destination points for boaters. Facilities at
1901 these focal points may include ~~fish~~ **fish**ing piers, swimming floats, paths, parking areas, boat ramps, mooring
1902 and marinas, and accessory recreational facilities.

1903 (3) Uses and activities associated with recreational developments which are identified as separate use
1904 activities in this program, such as boating facilities; ~~piers and docks;~~ residential development and

1905 commercial development, are subject to the regulations established for those uses in addition to the
1906 standards for recreation established in this section.

1907 (4) Recreational development shall be permitted within the shoreline area only when the following regulations
1908 and standards are met:

1909 (a) To avoid wasteful use of the limited supply of recreational shoreland, parking areas shall be located
1910 a minimum of ~~50~~115 feet landward from the OHWM and must comply with NPMC 18.36. Access shall
1911 be provided by walkways or other facilities for nonmotorized conveyance.

1912 (b) Recreational developments shall not create significant adverse effects on residential uses of private
1913 property, environmental quality, or natural resources of the shoreline area.

1914 (c) All recreational developments shall be sited to protect neighboring uses.

1915 (d) Structural forms should harmonize with the topography, reinforce use areas, minimize damage to
1916 natural resources, and support recreation with minimal human or resource conflict.

1917 (e) New construction should be sympathetic to the scale, form, and proportion of neighboring
1918 development, to promote harmony in visual relationships and transitions between new and older
1919 buildings.

1920 (f) Whenever possible, natural nonreflective materials (e.g., wood, stone, gravel, etc.) shall be used in
1921 developing shoreline recreational areas.

1922 (g) Valuable shoreline resources and fragile or unique areas such as marshes, estuaries, and
1923 accretion beaches shall be used only for nonintensive and nonstructural recreation activities.

1924 (h) All permanent recreational structures and facilities which are not water-dependent shall be set back
1925 a minimum of ~~50~~115 feet landward from the OHWM and shall be located outside the 100-year
1926 floodplain, although the city may grant exceptions for nonintensive accessory uses (e.g., picnic tables,
1927 play areas, etc.), and must also comply with NPMC 18.36 and NPMC 9.02.

1928 (i) Accessory use facilities such as restrooms, recreation halls and gymnasiums, commercial services,
1929 access roads, and parking areas shall be located a minimum of ~~50~~115 feet inland from the OHWM,
1930 unless such facilities are water-dependent. These areas shall be linked to the shoreline by walkways.

1931 (j) In approving shoreline recreational developments, the city shall ensure that the development will
1932 maintain, enhance or restore desirable shoreline features, including unique and fragile areas, scenic
1933 views, and aesthetic values. To this end, the city may adjust and/or prescribe project dimensions,
1934 location of project components on the site, intensity of use, screening, parking requirements, and
1935 setbacks, as deemed appropriate to achieve the intent of this shoreline master program.

1936 (k) Proposals for recreational developments shall include a landscape plan, in which native, self-
1937 sustaining vegetation is preferred.

1938 (l) The removal of on-site native vegetation shall be limited to the minimum necessary for the
1939 development of picnic areas, selected views, or other permitted structures or facilities. (~~Ord. 539 § 2,~~
1940 ~~1991~~).

1941 (m) Low impact passive recreation is permitted in the bluff conservancy environment, however, no
1942 structures are permitted for recreational purposes.

1943 **16.20.260 Circulation.**

1944 This is an element for assessing the location and extent of existing and proposed transportation routes, and
1945 other public facilities, and correlating those facilities with shoreline use elements. (~~Ord. 539 § 2, 1991~~).

1946 **16.20.270 Transportation facilities.**

1947 (1) Transportation facilities are those structures and developments that aid in land and water surface
1948 movement of people, goods, and services. They include roads and highways, bridges and causeways,
1949 bikeways, trails, ferry terminals, and other related facilities.

1950 (2) Transportation facility construction shall be permitted within the ~~shoreline area~~ rural residential and beach
1951 community environments only when the following regulations and standards are met:

1952 (a) New surface transportation facilities not related to and necessary for the support of shoreline
1953 dependent activities shall be set back from the ordinary high water mark a minimum of ~~50~~ 115 feet to
1954 make protective measures, such as riprap or other bank stabilization, landfill, bulkheads, groins, jetties
1955 or substantial site regrading unnecessary.

1956 (b) Transportation and utility facilities shall be required to make joint use of rights-of-way and to
1957 consolidate crossing of water bodies in order to mitigate adverse impacts to the shoreline.

1958 (c) No vehicles shall be allowed on Normandy Park beach areas except for residential service access
1959 and by existing prescriptive easement.

1960 (d) Landfills for transportation facility development are not permitted in water bodies or associated
1961 wetlands and beaches, except when all structural or upland alternatives have proven infeasible and
1962 the transportation facilities are necessary to support uses consistent with this program.

1963 (e) Transportation facilities that are allowed to cross over water bodies and associated wetlands shall
1964 use elevated, open pile, or pier structures whenever feasible. All bridges must be built high enough to
1965 allow the passage of debris and anticipated high water flows.

1966 (f) All roads shall be set back at least 115 50 feet from the OHWM and water bodies and shall comply
1967 with NPMC 18.36 and NPMC 9.02. shall provide buffer areas of compatible, self-sustaining vegetation.
1968 ~~Shoreline scenic drives and viewpoints may provide breaks in the vegetative buffer to allow open~~
1969 ~~views of the water.~~

1970 (g) The city shall give preference to mechanical means for roadside brush control rather than the use
1971 of herbicides on city roads in shoreline areas. If herbicides are used, they shall be applied so that
1972 chemicals do not enter water bodies or stream ways and all permits for their use must be obtained
1973 prior to their use. (Ord. 539 § 2, 1994).

1974 (h) Proposed transportation and parking facilities must be designed and located where they will have
1975 the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of
1976 shoreline ecological functions, or adversely impact existing or planned water dependent uses.

1977 (h) Parking facilities in shorelines are not a preferred use and shall only be allowed as necessary to
1978 support an authorized use.

1979

1980 **16.20.280 Utilities (primary).**

1981 Utilities are services and facilities that produce, transmit, store, process or dispose of electric power, gas,
1982 water, sewage, and communications. Utilities in this SMP are divided into primary and accessory based on
1983 type and scale. The provisions of this section apply to primary use and activities such as solid waste
1984 handling and disposal, water transmission lines, sewage treatment facilities and mains, power generating or
1985 high voltage transmission facilities, gas distribution lines and storage facilities, stormwater mains and
1986 regional stormwater treatment facilities.

1987 (1) Policies.

1988 Policy 1: New primary utilities should be located outside of the SMA unless no other feasible option exists.
1989 Where allowed they should utilize existing transportation and utility sites, rights-of-way and corridors
1990 whenever possible, rather than creating new corridors. Joint use of rights-of-way and corridors should be
1991 encouraged.

1992 Policy 2: Solid waste disposal activities and facilities should be prohibited in shoreline areas. "Solid waste
1993 facilities" are not to be construed as storage of recyclable materials.

1994 Policy 3: Primary utilities should avoid locating in environmentally sensitive areas unless no feasible
1995 alternatives exist.

1996 Policy 4: Wherever primary utility facilities and corridors must be placed in a shoreline area, they should be
1997 located so as to protect scenic views. Whenever possible, such facilities should be placed underground or
1998 designed to minimize impacts on the aesthetic qualities of the shoreline area.

- 1999 (2) Regulations.
- 2000 Regulation 1: Primary utilities shall be located outside of SMA jurisdiction unless no other feasible option
2001 exists.
- 2002 Regulation 2: Primary utilities shall be located landward of the ordinary high water mark unless such location
2003 is not feasible or would result in potentially greater environmental impacts.
- 2004 Regulation 3: Primary utility facilities shall avoid disturbance of unique and fragile areas, as well as wildlife
2005 spawning, nesting and rearing areas. Utility facility development shall result in no net loss of shoreline
2006 ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this
2007 standard will result in permit denial.
- 2008 Regulation 4: Utility development shall, through coordination with local government agencies, provide for
2009 compatible, multiple use of sites and rights-of-way. Such uses include shoreline access points, trail systems
2010 and other forms of recreation and transportation, providing such uses will not unduly interfere with utility
2011 operations, endanger public health and safety or create a significant and disproportionate liability for the
2012 owner.
- 2013 Regulation 5: Utility lines shall utilize existing rights-of-way, corridors and/or bridge crossings whenever
2014 possible, and shall avoid duplication and construction of new corridors in all shoreline areas. Proposals for
2015 new corridors or water crossings must fully substantiate the infeasibility of existing routes.
- 2016 Regulation 6: Solid waste disposal sites and facilities are prohibited in the shoreline environment.
- 2017 Regulation 7: Where major facilities must be placed in a shoreline area, the location and design shall be
2018 chosen so as not to destroy or obstruct scenic views.
- 2019 Regulation 8: Primary utility development shall provide screening of facilities from water bodies and adjacent
2020 properties. Screening, including landscaping and fencing, shall be designed to constitute a dense “full
2021 screen.”
- 2022 Regulation 9: Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum,
2023 and upon project completion, any disturbed areas shall be restored to their pre-project condition.
- 2024 Regulation 10: The City shall hold public meetings prior to the issuance of a Substantial Development Permit
2025 for a major primary utility project in accordance with the administrative procedures outlined in this Master
2026 Program to allow for the greatest amount of public input to help guide utility-related decisions.
- 2027 Regulation 11: Utilities are prohibited in aquatic and bluff conservancy environments.
- 2028
- 2029 **16.20.085 Utilities (accessory).**

2030 (1) Applicability.

2031 Utilities have been split into the categories “accessory” and “primary with accessory,” meaning utilities that
2032 affect small-scale distribution services connected directly to the uses along the shoreline. For example,
2033 power distribution, telephone, cable, water and sewer service lines, stormwater collection and conveyance,
2034 are all considered as utilities accessory to shoreline uses. They are covered in this section because they
2035 concern all types of development and have the potential of impacting the ecological condition and visual
2036 quality of the shoreline and its waters.

2037 (2) Policies.

2038 Policy 1: Utilities are necessary to serve shoreline uses and should be properly installed to protect the
2039 shoreline and water from contamination and degradation.

2040 Policy 2: Utility facilities and rights-of-way should be located outside of the shoreline area to the maximum
2041 extent possible. When utility lines require a shoreline location, they should be placed underground, where
2042 feasible.

2043 Policy 3: Utility facilities should be designed and located in a manner which preserves the natural landscape
2044 and shoreline ecology and minimizes conflicts with present and planned land uses.

2045 (3) Regulations.

2046 Regulation 1: Utility developments shall, through coordination with local government agencies, provide for
2047 compatible, multiple use of sites and rights-of-way. Such uses include shoreline access points, trail systems,
2048 and other forms of recreation and transportation, providing such uses will not unduly interfere with utility
2049 operations, or endanger public health and safety.

2050 Regulation 2: In shoreline areas, accessory utilities shall be placed underground unless demonstrated to be
2051 infeasible. Further, such lines shall utilize existing rights-of-way, and existing corridors whenever possible.

2052 Regulation 3: Utility facilities shall be located and designed to avoid destruction of, or damage to, important
2053 wildlife areas, and other unique and fragile areas. Utility facility development shall result in no net loss of
2054 shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to
2055 meet this standard will result in permit denial.

2056 Regulation 4: Clearing for the installation or maintenance of utilities shall be kept to a minimum, and upon
2057 project completion, any disturbed area shall be restored, to the greatest extent feasible, to pre-project
2058 conditions, including replanting with native species, or other species as approved by the City, and
2059 maintenance care. If the previous condition is identified as being undesirable for shoreline function, then
2060 landscaping and other improvements shall be undertaken.

2061 Regulation 5: The location and construction of outfalls shall comply with all appropriate federal, state, county
2062 and city regulations.

2063 Regulation 6: The City of Normandy Park shall maintain, enhance and restore public natural drainage
2064 systems to protect water quality, reduce flooding, reduce public costs and prevent associated environmental
2065 degradation for a no net loss of shoreline ecological functions.

2066 Regulation 7: New utility lines including electricity, communications, and fuel lines shall be located
2067 underground. Existing above ground lines shall be moved underground when properties are redeveloped or
2068 in conjunction with major system upgrades or replacements.

2069 Regulation 8: Utility development shall include public access to the shoreline, trail systems, and other forms
2070 of recreation, providing such uses will not unduly interfere with utility operations, endanger the public health,
2071 safety, and welfare, or create a significant and disproportionate liability for the owner.

2072 Regulation 9: Proposals for new utility corridors shall fully substantiate the infeasibility of existing routes.

2073 ~~(1) Utilities are services which produce and carry electric power, gas, sewage, communications, and oil.~~

2074 ~~(2) Utilities shall be permitted within the shoreline area only when the following regulations and standards are~~
2075 ~~met:~~

2076 ~~(a) All transmission lines for power, gas, sewage, communications, oil, water, etc., shall be~~
2077 ~~underground except where the presence of bedrock or other obstruction makes such placement~~
2078 ~~infeasible.~~

2079 ~~(b) Utilities shall be designed and installed in such a way as to minimize damage to the scenic or~~
2080 ~~aesthetic qualities of the shoreline area.~~

2081 ~~(c) Utility installations shall be set back a minimum of 50-115 feet from the OHWM and water bodies,~~
2082 ~~except where water crossings are required. (Ord. 539 § 2, 1991).~~

2083 **16.20.290 Archaeological resources and historic sites.**

2084 The following regulations shall apply to any structure or area designated or considered an archaeological or
2085 historical site that is located within the shoreline environment:

2086 (1) Any project that would disturb an area designated or considered an archaeological or historical site shall
2087 require a shoreline conditional use permit.

2088 (2) If archaeological resources are discovered during excavation or construction within the shoreline
2089 environment, a work stoppage is required and a shoreline conditional use permit shall be obtained. The
2090 applicant shall notify the local government, state office of archaeology and historic preservation, and affected
2091 Indian tribes if archaeological resources are uncovered during excavation.

2092 (3) The preservation of archaeological resources and historic buildings shall be encouraged within the
2093 shoreline environment. (Ord. 539 § 2, 1991).

2094 **16.20.300 Economic development.**

2095 This element is for the location and design of industries, transportation, port, tourist, commercial facilities,
2096 and other developments dependent on shoreline locations and/or water access.

2097 (1) Economic development is prohibited along the shoreline of Normandy Park. (Ord. ~~539 § 2, 1994~~).

2098 **CHAPTER 16.24 USER'S GUIDE TO PROGRAM ADMINISTRATION**

2099 **16.24.010 Generally.**

2100 No substantial development shall be undertaken on shorelines of the state without first obtaining a
2101 substantial development, variance, or conditional use permit from the city. "Substantial development" means
2102 any development of which the total cost or fair market value exceeds ~~\$5,000~~ \$6,400 or the current dollar
2103 threshold determined by the state, whichever is greater, or any development that materially interferes with
2104 the normal public use of the water or shorelines of the state, except those exempted developments set forth
2105 in WAC 173-27-040, as now exists or as amended hereafter.

2106 Exemption from substantial development permit requirements does not constitute exemption from the
2107 policies and use regulations of the Shoreline Management Act, the provisions of this master program, and
2108 other applicable city, state or federal permit requirements. (Ord. 710 § 1, 2003; Ord. ~~539 § 2, 1994~~).

2109 **16.24.010 Federal Project compliance.**

2110 Pursuant to WAC 173-27-060 the following will apply to federal and non-federal activities:

2111 (1) Direct federal agency activities in or affecting Washington's coastal zone shall be consistent to the
2112 maximum extent practicable with the enforceable policies of the most recent federally approved Washington
2113 state coastal zone management program pursuant to the Federal Coastal Zone Management Act, 16 U.S.C.
2114 1451 et seq. (CZMA) and federal regulations adopted pursuant thereto.

2115 Washington's coastal zone, as established in the state's approved coastal zone management program,
2116 includes the following coastal counties: Whatcom, Skagit, San Juan, Island, Snohomish, King, Pierce,
2117 Thurston, Mason, Kitsap, Jefferson, Clallam, Grays Harbor, Pacific and Wahkiakum.

2118 The Shoreline Management Act is incorporated into the Washington state coastal zone management
2119 program and, thereby, those direct federal agency activities affecting the uses or resources subject to the act
2120 must be consistent to the maximum extent practicable with the enforceable provisions of the act, regulations
2121 adopted pursuant to the act and the local master program.

2122 (a) When the department receives a consistency determination for an activity proposed by the federal
2123 government, it shall request that local government review the proposal and provide the department with its
2124 views regarding the consistency of the activity or development project with the enforceable policies of the
2125 local master program.

2126 (b) The CZMA federal consistency decision-making process for federal agency activities is prescribed in the
2127 Coastal Zone Management Act (16 U.S.C. 1456 (c)(1) and (2), in federal regulations at 15 C.F.R. part 930,
2128 subpart C, and in Washington's most recent federally approved CZM program document.

2129 (2) Federal agency activities may be required by other federal laws to meet the permitting requirements of
2130 chapter 90.58 RCW.

2131 (3) The policies and provisions of chapter 90.58 RCW, including the permit system, shall apply statewide to
2132 all nonfederal developments and uses undertaken on federal lands and on lands subject to nonfederal
2133 ownership, lease or easement, even though such lands may fall within the external boundaries of a federal
2134 ownership.

2135 **16.24.020 SMP administration.**

2136 The Shoreline Act requires that local government shall have primary responsibility for initiating and
2137 administering this shoreline master program. This chapter establishes the policies for the application and
2138 enforcement of the provisions of this shoreline master program. (Ord. ~~539 § 2, 1994~~).

2139 **16.24.030 Shoreline administrator.**

2140 (1) The SMP administrator for Normandy Park shall be the city manager or his designee.

2141 (2) The administrator shall receive all applications for substantial development permits, conditional use and
2142 variance permits, and exemptions pertinent to the shoreline area of the city. The administrator has the
2143 authority for and the responsibility to:

2144 (a) Approve or deny statements of exemption, pursuant to the exemptions from substantial
2145 development permits section of this master program.

2146 (b) Review applications for conformity to the rules and regulations of this master program.

2147 (c) Provide the applicant with a checklist of other authority approvals potentially required in addition to
2148 the city's.

2149 (d) Ensure that the required publication/posting/mailing of public notices, described in the user's guide
2150 section of this master program, is accomplished.

2151 (e) Approve, approve with conditions, or deny substantial development permits, including conditional
2152 use and variance permits, and exemptions; provided, that city approval of conditional use and variance
2153 permits must be submitted to the Department of Ecology for approval/disapproval (RCW
2154 90.58.140(10)).

2155 (f) Issue regulatory orders pursuant to the enforcement and penalties section of this master program.
2156 (Ord. 710 § 1, 2003; Ord. ~~539 § 2, 1994~~).

2157 **16.24.040 Exemptions from substantial development permit requirements.**

2158 (1) Application and interpretation of exemptions:

2159 (a) Certain development activities are exempt from the requirement to secure a shoreline substantial
2160 development permit. Exemptions are itemized below. Note, however, that applications for development
2161 permits must include a written statement of exemption as provided for in WAC 173-27-050, as now exists or
2162 as amended hereafter. Interpretations of exemption status shall be narrowly construed. Exemption from
2163 shoreline permits does not exempt activities from other state and federal permits that may be required. Only
2164 those developments that meet the precise terms of one or more of the listed exemptions may be granted
2165 exemption from the substantial development permit process.

2166 (b) An exemption from the substantial development permit process is not an exemption from compliance with
2167 the act or the local master program, nor from any other regulatory requirements. To be authorized, all uses
2168 and developments must be consistent with the policies and provisions of the applicable master program and
2169 the Shoreline Management Act. A development or use that is listed as a conditional use pursuant to the local
2170 master program, or is an unlisted use, must obtain a conditional use permit even though the development or
2171 use does not require a substantial development permit. When a development or use is proposed that does
2172 not comply with the bulk, dimensional and performance standards of the master program, such development
2173 or use can only be authorized by approval of a variance.

2174 (c) The burden of proof that a development or use is exempt from the permit process is on the applicant.

2175 (d) If any part of a proposed development is not eligible for exemption, then a substantial development permit
2176 is required for the entire proposed development project.

2177 (e) Local government may attach conditions to the approval of exempted developments and/or uses as
2178 necessary to assure consistency of the project with the act and the local master program.

2179 (2) The following developments shall not require substantial development permits:

2180 ~~(1)~~(a) Any development where the total cost or fair market value, whichever is higher, does not
2181 exceed \$5,000 \$6,400 or the current dollar threshold determined by the state as described in WAC
2182 173-27-040(2)(a), whichever is greater, and such development does not materially interfere with the
2183 normal public use of the water or shorelines of the state.

2184 ~~(2)~~(b) Normal maintenance or repair of existing structures or developments, including damage by
2185 accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline,
2186 lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a
2187 development to a state comparable to its original condition within a reasonable period of decay or
2188 partial destruction except where repair involves total replacement which is not common practice or
2189 causes substantial adverse effects to the shoreline resource or environment including but not limited
2190 to its size, shape, configuration, location and external appearance, within a reasonable period after

2191 decay or partial destruction, except where repair causes substantial adverse effects to shoreline
2192 resource or environment. Replacement of a structure or development may be authorized as repair
2193 where such replacement is the common method of repair for the type of structure or development
2194 and the replacement structure or development is comparable to the original structure or development
2195 including but not limited to its size, shape, configuration, location and external appearance and the
2196 replacement does not cause substantial adverse effects to shoreline resources or environment;

2197 ~~(3)~~(c) Construction of a normal protective bulkhead common to single-family residences. A “normal
2198 protective” bulkhead is constructed at or near the ordinary high water mark to protect a single-family
2199 residence and is for protecting land from erosion, not for the purpose of creating land. Where an
2200 existing bulkhead is being replaced, it shall be constructed not further waterward of the existing
2201 bulkhead than is necessary for construction of new footings (includes those structural and
2202 nonstructural developments installed at or landward of, and parallel to, the ordinary high water mark
2203 for the sole purpose of protecting an existing single-family residence and appurtenant structures from
2204 loss or damage by erosion). A normal protective bulkhead is not exempt if constructed for the
2205 purpose of creating dry land. When a vertical or near-vertical wall is being constructed or
2206 reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When
2207 an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it
2208 shall be constructed no further waterward of the existing bulkhead than is necessary for construction
2209 of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been
2210 established by the presence and action of water landward of the bulkhead, then the replacement
2211 bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and
2212 bioengineered erosion control projects may be considered a normal protective bulkhead when any
2213 structural elements are consistent with the above requirements and when the project has been
2214 approved by the Washington State Department of Fish and Wildlife.

2215 ~~(4)~~ (d) Emergency construction necessary to protect property from damage by the elements. An
2216 “emergency” is an unanticipated and imminent threat to public health, safety, or the environment
2217 which requires immediate action within a time frame too short to allow full compliance with this
2218 chapter. Emergency construction does not include development of new, permanent, protective
2219 structures where none previously existed. Where new protective structures are deemed by the
2220 administrator to be the appropriate means to address the emergency situation, upon abatement of
2221 the emergency situation, either the new structure shall be removed, or any permit which would have
2222 been required, absent an emergency pursuant to chapter 90.58 RCW, these regulations, or the local
2223 master program shall be obtained. All emergency construction shall be consistent with the policies of
2224 chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal
2225 events that can be anticipated and may occur, but are not imminent, are not an emergency.

2226 ~~(5)~~ (e) ~~Construction and practices normal and necessary to farming, irrigation, and ranching~~
2227 ~~activities, including agricultural service roads and utilities on wetlands shorelands, construction of a~~
2228 ~~barn or similar agricultural structure, and the construction and maintenance of irrigation structures~~
2229 ~~including but not limited to head gates, pumping facilities, and irrigation channels; provided, that a~~

2230 feed lot of any size, all processing plants, other activities of a commercial nature, alteration of the
2231 contour of the wetlands shorelands by leveling or filling other than what results from normal
2232 cultivation, shall not be considered normal or necessary farming or ranching activities. A feed lot
2233 shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage,
2234 or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding
2235 and/or grazing, nor shall it include normal livestock wintering operations;

2236 ~~(6)~~ (e) Construction or modification of navigational aids such as channel markers and anchor buoys.

2237 ~~(7)~~ (f) Construction on ~~wetlands~~ shorelands by an owner, lessee, or contract purchaser of a single-
2238 family residence for his ~~his~~ their own use or for the use of his ~~his~~ their family, which residence does not
2239 exceed a height of 35 feet above average grade level and which meets all requirements of the state
2240 agencies having jurisdiction and the city, other than requirements imposed by this chapter. "Single-
2241 family residence" means a detached dwelling designed for and occupied by one family including
2242 those structures and developments within a contiguous ownership which are normal appurtenances.
2243 An "appurtenance" is necessarily connected to the use and enjoyment of the single-family residence
2244 and is located landward of the ordinary high water mark and the perimeter of a marsh, bog, or
2245 ~~swamp~~ wetland. On a statewide basis, normal appurtenances include a garage, deck, driveway,
2246 utilities; fences; installation of a conventional septic tank and drainfield; and grading which does not
2247 exceed 250 cubic yards ~~(except to construct a conventional drainfield) and which does not involve~~
2248 placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances
2249 may dictate additional interpretation of normal appurtenances which shall be set forth and regulated
2250 within the applicable master program. Construction authorized under this exemption shall be located
2251 landward of the ordinary high water mark.

2252 ~~(8)~~ (g) Construction of a dock, including a community dock, designed for pleasure craft only, for the
2253 private noncommercial use of the owners, lessee, or contract purchaser of a single-family and
2254 multiple-family residences, for which the cost or fair market value, whichever is higher, does not
2255 exceed \$2,500. A dock is a landing and moorage facility for watercraft and does not include
2256 recreational decks, storage facilities or other appurtenances. This exception applies if either:

2257 (i) In salt waters, the fair market value of the dock does not exceed two thousand five
2258 hundred dollars; or

2259 (ii) In fresh waters the fair market value of the dock does not exceed ten thousand dollars,
2260 but if subsequent construction having a fair market value exceeding two thousand five
2261 hundred dollars occurs within five years of completion of the prior construction, the
2262 subsequent construction shall be considered a substantial development for the purpose of
2263 this chapter.

2264 For purposes of this section, "salt water" shall include the tidally influenced marine and estuarine water areas
2265 of the state including the Pacific Ocean, Strait of Juan de Fuca, Strait of Georgia, Puget Sound, and all bays
2266 and inlets associated with any of the above:

2267 ~~(9)~~ (h) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other
2268 facilities that now exist or are hereafter created or developed as part of an irrigation system for the
2269 primary purpose of making use of system waters, including return flow and artificially stored
2270 groundwater from the irrigation of lands;

2271 ~~(10)~~ (i) The marking of property lines or corners on state-owned lands, when such marking does not
2272 significantly interfere with normal public use of the surface of the water;

2273 ~~(11)~~ (j) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing
2274 on the effective date of the 1975 Amendatory Act (September 8, 1975) which were created,
2275 developed, or utilized primarily as a part of an agricultural drainage or diking system;

2276 ~~(12)~~ (k) Any project with a certification from the Governor pursuant to Chapter 80.50 RCW;

2277 (l) Site exploration and investigation activities that are prerequisite to preparation of an application for
2278 development authorization under this chapter, if:

2279 (i) The activity does not interfere with the normal public use of the surface waters;

2280 (ii) The activity will have no significant adverse impact on the environment, including but not
2281 limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

2282 (iii) The activity does not involve the installation of any structure, and upon completion of the
2283 activity the vegetation and land configuration of the site are restored to conditions existing
2284 before the activity;

2285 (iv) A private entity seeking development authorization under this section first posts a
2286 performance bond or provides other evidence of financial responsibility to the local
2287 jurisdiction to ensure that the site is restored to preexisting conditions; and

2288 (v) The activity is not subject to the permit requirements of RCW [90.58.550](#).

2289 (n) The process of removing or controlling aquatic noxious weeds, as defined in RCW [17.26.020](#),
2290 through the use of an herbicide or other treatment methods applicable to weed control that are
2291 recommended by a final environmental impact statement published by the Washington State
2292 Departments of Agriculture or Ecology jointly with other state agencies under chapter [43.21C](#) RCW.
2293 Aquatic herbicides shall only be used by applicators licensed for their use;

2294 (o) Watershed restoration projects as defined herein. Local government shall review the projects for
2295 consistency with the shoreline master program in an expeditious manner and shall issue its decision

2296 along with any conditions within forty-five days of receiving all materials necessary to review the
2297 request for exemption from the applicant. No fee may be charged for accepting and processing
2298 requests for exemption for watershed restoration projects as used in this section.

2299 (i) "Watershed restoration project" means a public or private project authorized by the
2300 sponsor of a watershed restoration plan that implements the plan or a part of the plan and
2301 consists of one or more of the following activities:

2302 (A) A project that involves less than 10 miles of stream reach, in which less than 25
2303 cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged,
2304 and in which no existing vegetation is removed except as minimally necessary to
2305 facilitate additional plantings;

2306 (B) A project for the restoration of an eroded or unstable stream bank that employs
2307 the principles of bioengineering, including limited use of rock as a stabilization only
2308 at the toe of the bank, and with primary emphasis on using native vegetation to
2309 control the erosive forces of flowing water; or

2310 (C) A project primarily designed to improve fish and wildlife habitat, remove or
2311 reduce impediments to migration of fish, or enhance the fishery resource available
2312 for use by all of the citizens of the state, provided that any structure, other than a
2313 bridge or culvert or instream habitat enhancement structure associated with the
2314 project, is less than 200 square feet in floor area and is located above the ordinary
2315 high water mark of the stream.

2316 (ii) "Watershed restoration plan" means a plan, developed or sponsored by the
2317 Washington State Departments of Fish and Wildlife, Ecology, Natural Resources, or
2318 Transportation; a federally recognized Indian tribe acting within and pursuant to its authority;
2319 a city; a county; or a conservation district; that provides a general program and
2320 implementation measures or actions for the preservation, restoration, re-creation, or
2321 enhancement of the natural resources, character, and ecology of a stream, stream segment,
2322 drainage area, or watershed for which agency and public review has been conducted
2323 pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

2324 (p) A public or private project that is designed to improve fish or wildlife habitat or fish passage, when
2325 all of the following apply:

2326 (i) The project has been approved in writing by the Washington State department of Fish and
2327 Wildlife and has obtained all other required state and federal approvals;

2328 (ii) The project has received hydraulic project approval by the Washington State Department
2329 of Fish and Wildlife pursuant to chapter 77.55 RCW; and

2330 (iii) The city has determined that the project is substantially consistent with the local
2331 shoreline master program. The city shall make such determination in a timely manner and
2332 provide it by letter to the project proponent.

2333 (iv) Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are
2334 determined to be consistent with local shoreline master programs, as follows:

2335 (A) In order to receive the permit review and approval process created in this
2336 section, a fish habitat enhancement project must meet the criteria under (p)(iv)(A)(I)
2337 and (II) of this subsection:

2338 (I) A fish habitat enhancement project must be a project to accomplish one
2339 or more of the following tasks:

2340 • Elimination of human-made fish passage barriers, including culvert repair
2341 and replacement;

2342 • Restoration of an eroded or unstable streambank employing the principle
2343 of bioengineering, including limited use of rock as a stabilization only at the
2344 toe of the bank, and with primary emphasis on using native vegetation to
2345 control the erosive forces of flowing water; or

2346 • Placement of woody debris or other instream structures that benefit
2347 naturally reproducing fish stocks.

2348 The Washington State Department of Fish and Wildlife shall develop size or
2349 scale threshold tests to determine if projects accomplishing any of these
2350 tasks should be evaluated under the process created in this section or under
2351 other project review and approval processes. A project proposal shall not be
2352 reviewed under the process created in this section if the department
2353 determines that the scale of the project raises concerns regarding public
2354 health and safety,

2355 (II) A fish habitat enhancement project must be approved in one of the
2356 following ways:

2357 • By the Washington State Department of Fish and Wildlife pursuant to
2358 chapter 77.95 or 77.100 RCW;

2359 • By the sponsor of a watershed restoration plan as provided in chapter
2360 89.08 RCW;

2361 • By the department as a Washington State Department of Fish and Wildlife-
2362 sponsored fish habitat enhancement or restoration project;

2363 • Through the review and approval process for the jobs for the environment
2364 program;

2365 • Through the review and approval process for conservation district-
2366 sponsored projects, where the project complies with design standards
2367 established by the conservation commission through interagency agreement
2368 with the United States Fish and Wildlife Service and the natural resource
2369 conservation service;

2370 • Through a formal grant program established by the legislature or the
2371 Washington State Department of Fish and Wildlife for fish habitat
2372 enhancement or restoration; and

2373 • Through other formal review and approval processes established by the
2374 legislature.

2375 (B) Fish habitat enhancement projects meeting the criteria of (p)(iv)(A) of this
2376 subsection are expected to result in beneficial impacts to the environment. Decisions
2377 pertaining to fish habitat enhancement projects meeting the criteria of (p)(iv)(A) of
2378 this subsection and being reviewed and approved according to the provisions of this
2379 section are not subject to the requirements of RCW 43.21C.030 (2)(c).

2380 (C) A hydraulic project approval permit is required for projects that meet the criteria
2381 of (p)(iv)(A) of this subsection and are being reviewed and approved under this
2382 section. An applicant shall use a joint aquatic resource permit application (JARPA)
2383 form developed by the office of regulatory assistance to apply for approval under this
2384 chapter. On the same day, the applicant shall provide copies of the completed
2385 application form to the Washington State Department of Fish and Wildlife and to
2386 each appropriate local government including the city. Local governments shall
2387 accept the application as notice of the proposed project. The Washington State
2388 Department of Fish and Wildlife shall provide a 15-day comment period during which
2389 it will receive comments regarding environmental impacts. Within 45 days, the
2390 department shall either issue a permit, with or without conditions, deny approval, or
2391 make a determination that the review and approval process created by this section
2392 is not appropriate for the proposed project. The department shall base this
2393 determination on identification during the comment period of adverse impacts that
2394 cannot be mitigated by the conditioning of a permit. If the department determines
2395 that the review and approval process created by this section is not appropriate for
2396 the proposed project, the department shall notify the applicant and the appropriate
2397 local governments of its determination. The applicant may reapply for approval of
2398 the project under other review and approval processes.

2399 (l) Any person aggrieved by the approval, denial, conditioning, or
2400 modification of a permit under this section may formally appeal the decision
2401 to the hydraulic appeals board pursuant to the provisions of this chapter.

2402

2403 Statutory Authority: RCW 90.58.030(3)(e), 90.58.045, 90.58.065, 90.58.140(9), 90.58.143, 90.58.147,
2404 90.58.200, 90.58.355, 90.58.390, 90.58.515, 43.21K.080, 71.09.250, 71.09.342, 77.55.181, 89.08.460,
2405 chapters 70.105D, 80.50 RCW. 07-02-086 (Order 05-12), § 173-27-040, filed 1/2/07, effective 2/2/07.
2406 Statutory Authority: RCW 90.58.140(3) and [90.58].200. 96-20-075 (Order 95-17), § 173-27-040, filed
2407 9/30/96, effective 10/31/96.]

2408 ~~(13)~~ (q) Exceptions shall be construed narrowly;

2409 ~~(14)~~ (r) Exempted developments authorized by local government shall be consistent with the policies and
2410 provisions of the Act and the applicable master program. (Ord. 710 § 1, 2003; Ord. ~~539 § 2, 1994~~).

2411 **16.24.050 Statement of exemption.**

2412 Applicants for all other permits or approvals within the shoreline area must obtain a written “statement of
2413 exemption” from securing a substantial development permit. The process provides for verifying that the
2414 action is exempt and offers an applicant an itemization of SMP and other requirements applicable to the
2415 proposed project. In the case of development subject to the policies and regulations of this master program
2416 but exempt from the substantial development permit process, the building official or other permit authorizing
2417 official shall attach shoreline management terms and conditions to the building permits and other permits and
2418 approval pursuant to RCW 90.58.140. For example, the approval of a building permit for a single-family
2419 residence can be conditioned with provisions from the master program. Other permit approvals may be
2420 conditioned on the basis of SMP policy and use regulations as well. (Ord. ~~539 § 2, 1994~~).

2421 **16.24.060 Application for substantial development, conditional use or variance permit.**

2422 (1) Pursuant to WAC 173-27-150, a substantial development permit shall be granted only when the
2423 development proposed is consistent with:
2424

2425 (a) The policies and procedures of the Shoreline Management Act; and

2426 (b) The provisions of this regulation.

2427 ~~(4 2)~~ Completed applications for a substantial development, conditional use, or variance permit shall be
2428 submitted to the shoreline administrator accompanied by the following information and diagrams.

2429 ~~(2-3)~~ Project Diagrams. All site plans and maps shall be drawn to scale and shall clearly indicate scale on the
2430 lower right-hand corner and be attached to the application.

- 2431 (a) Site plan, showing the following data:
- 2432 (i) Site boundary;
- 2433 (ii) Property dimensions in vicinity of project;
- 2434 (iii) Ordinary high water mark;
- 2435 (iv) Typical cross-section or sections showing:
- 2436 (A) Existing ground contours,
- 2437 (B) Proposed ground contours,
- 2438 (C) Height of existing structures,
- 2439 (D) Height of proposed structures;
- 2440 (v) Where appropriate, proposed land contours using five-foot intervals, if development involves
- 2441 grading, cutting, filling or other alteration of land contours;
- 2442 (vi) Show dimensions and locations of existing structures which will be maintained;
- 2443 (vii) Show dimensions and locations of proposed structures;
- 2444 (viii) Identify composition and volume of fill material;
- 2445 (ix) Identify sources, composition, and volume of any extracted materials and identify proposed
- 2446 disposal area;
- 2447 (x) Location of proposed utilities, such as sewer, septic tanks and drain fields, water, gas and
- 2448 electricity;
- 2449 (xi) If the development proposes septic tanks, compliance with local and state health regulations;
- 2450 (xii) Shoreline designation according to master program;
- 2451 (xiii) Show which areas are shorelines and which are shorelines of statewide significance.
- 2452 (b) Vicinity map.
- 2453 (i) Indicate site location using natural points of reference (roads, state highways, prominent
- 2454 landmarks, etc.).
- 2455 (ii) If the development involves the removal of any soils by dredging or otherwise, please identify
- 2456 the proposed disposal site on the map. If the disposal site is beyond the confines of the vicinity

2457 map, provide another vicinity map showing the precise location of the disposal site and its
2458 distance to the nearest city or town.

2459 (iii) Give a brief narrative description of the general nature of the improvements and land use
2460 within 1,000 feet in all directions from the development site.

2461 (iv) A copy of completed environmental checklist, declaration of nonsignificance or
2462 environmental impact statement as is appropriate. Note that if the environmental review has not
2463 occurred prior to application for a shoreline permit, the time period for application review may be
2464 extended.

2465 (v) The names, addresses, and legal description for each parcel of property within 300 feet of the
2466 exterior boundary of the subject property as shown by the records of the King County assessor.

2467 (vi) Other information, plans, data and diagrams as required by the shoreline administrator. (Ord.
2468 ~~539~~ § 2, 1994).

2469 **16.24.070 Public notice required – Application.**

2470 (1) Applicants are responsible for providing the following information to the Normandy Park shoreline
2471 administrator:

2472 (a) Type of permit applied for;

2473 (b) Brief description of proposed use;

2474 (c) Address of subject property;

2475 (d) Applicant's name;

2476 (e) Public hearing time and date; and

2477 (f) Invitation to express views on proposal at the public hearing or in writing to the shoreline
2478 administrator one week prior to the public hearing (date to be specified).

2479 (2) The city shall be responsible for the following:

2480 (a) Posting of a 16-square-foot sign on the subject property, presenting the following information:

2481 (i) Notification to the property owners, who are within 300 feet of the exterior boundaries of the
2482 property being developed, by regular mail no less than 20 days prior to permit issuance or a
2483 public hearing on the proposed improvement. The form of such notice shall be provided by the
2484 city and the content shall be approved by the shoreline administrator prior to mailing.

2485 (ii) Public notice publication in the official newspaper of the city no less than once a week on the
2486 same day of the week for two consecutive weeks, with the last publication date not less than 10
2487 days prior to the public hearing date. (Ord. ~~539 § 2, 1994~~).

2488 **16.24.080 Permit procedure.**

2489 (1) Application submitted and public notice given in accordance with NPMC [16.24.070](#).

2490 (2) A public hearing shall be held before the shoreline administrator. The shoreline administrator shall
2491 determine the application's compliance with the "Review Criteria for Substantial Development Permits" or as
2492 specified for conditional use or variance permits. Upon a finding of compliance with such criteria, the
2493 shoreline administrator shall issue the permit, issue the permit with conditions, or deny the application.

2494 (3) Within eight days of the final decision of the city, the shoreline administrator shall file the following with
2495 the Washington State Department of Ecology and the Attorney General:

2496 (a) Copies of the original application;

2497 (b) Affidavit of public notice;

2498 (c) Site plan;

2499 (d) Vicinity map;

2500 (e) Permit;

2501 (f) Final order of the city;

2502 (g) All materials required by Chapter 43.21C RCW, the State Environmental Policy Act.

2503 (4) Construction pursuant to a substantial development, conditional use, or variance permit shall not begin
2504 and is not authorized until 30 days from the date of filing with the Department of Ecology or until all review
2505 proceedings (appeals) have been terminated; except as provided in RCW 90.58.140(5)(a), (b), and (c). The
2506 date of filing is the date of actual receipt of materials as provided above. For conditional use and variance
2507 permits, the date of filing is the date DOE's final decision on the conditional use or variance permit is
2508 transmitted to the shoreline administrator.

2509 (5) The time requirements for shoreline permits are as set forth in WAC 173-27-090, as now exists or as
2510 hereafter amended. (Ord. 710 § 1, 2003; Ord. ~~539 § 2, 1994~~).

2511 ~~(6) The Muckleshoot Indian Tribe Fisheries Division shall be allowed to comment on shoreline permits and~~
2512 ~~will receive public notice of permit proposals.~~

2513 **16.24.081 Permit tracking procedure.**

2514 City staff will develop a tracking system to track all land use and development activity, including
2515 exemptions, within shoreline jurisdiction for the purposes of assessing cumulative effects of all
2516 development activities and how the City is meeting no net loss. A staff report will be assembled that
2517 provides basic project information, including location, permit type issued (including exemptions), project
2518 description, impacts, mitigation (if any), and monitoring outcomes as appropriate. Electronic records of
2519 tracked project information will be kept by the City and will be provided to Washington Department of
2520 Ecology upon request.

2522 **16.24.08590 Review criteria.**

2523 A substantial development permit, conditional use permit, or variance shall be granted only when the
2524 development proposed is consistent with the following:

- 2525 (1) The policies of the Shoreline Management Act (Chapter 90.58 RCW);
- 2526 (2) Goals, objectives, policies, and use regulations of the Normandy Park shoreline master program;
- 2527 (3) Chapter 173-27 WAC, as now exists or as amended hereafter, Department of Ecology rules regarding
2528 permits for developments of shorelines;
- 2529 (4) Normandy Park comprehensive plan; and
- 2530 (5) NPMC Title 18, zoning code. (Ord. 710 § 1, 2003; Ord. ~~539 § 2, 1994~~).

2531 **16.24.090 Review criteria for conditional use permits.**

2532 Conditional use permits shall be granted only when the development proposed is consistent with WAC 173-
2533 27-160, as stated below or as amended hereafter:

2534 (1) Uses which are classified or set forth in a master program as conditional uses may be authorized
2535 provided that the applicant demonstrates all of the following:

2536 (a) That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;

2537 (b) That the proposed use will not interfere with the normal public use of public shorelines;

2538 (c) That the proposed use of the site and design of the project is compatible with other authorized
2539 uses within the area and with uses planned for the area under the comprehensive plan and shoreline
2540 master program;

2541 (d) That the proposed use will cause no significant adverse effects to the shoreline environment in
2542 which it is to be located; and

2543 (e) That the public interest suffers no substantial detrimental effect.

2544 (2) In the granting of all conditional use permits, consideration shall be given to the cumulative impact of
2545 additional requests for like actions in the area. For example, if conditional use permits were granted for other
2546 developments in the area where similar circumstances exist, the total of the conditional uses shall also
2547 remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to
2548 the shoreline environment.

2549 (3) Other uses which are not classified or set forth in the applicable master program may be authorized as
2550 conditional uses provided the applicant can demonstrate consistency with the requirements of this section
2551 and the requirements for conditional uses contained in the master program.

2552 (4) Uses which are specifically prohibited by the master program may not be authorized pursuant to either
2553 subsection (1) or (2) of this section.

2554 **16.24.095 Review criteria for variance permits.**

2555 The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or
2556 performance standards set forth in the master program where there are extraordinary circumstances relating
2557 to the physical character or configuration of property such that the strict implementation of the master
2558 program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW
2559 90.58.020.

2560 Variance permits shall be granted only when the development proposed is consistent with WAC 173-27-170,
2561 as stated below or as amended hereafter.

2562 (1) Variance permits should be granted in circumstances where denial of the permit would result in a
2563 thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that
2564 extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental
2565 effect.

2566 (2) Variance permits for development and/or uses that will be located landward of the ordinary high water
2567 mark (OHWM), as defined in RCW 90.58.030 (2)(b), and/or landward of any wetland as defined in RCW
2568 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

2569 (a) That the strict application of the bulk, dimensional or performance standards set forth in the
2570 applicable master program precludes, or significantly interferes with, reasonable use of the property;

2571 (b) That the hardship described in (a) of this subsection is specifically related to the property, and is
2572 the result of unique conditions such as irregular lot shape, size, or natural features and the
2573 application of the master program, and not, for example, from deed restrictions or the applicant's
2574 own actions;

2575 (c) That the design of the project is compatible with other authorized uses within the area and with
2576 uses planned for the area under the comprehensive plan and shoreline master program and will not
2577 cause adverse impacts to the shoreline environment;

2578 (d) That the variance will not constitute a grant of special privilege not enjoyed by the other
2579 properties in the area;

2580 (e) That the variance requested is the minimum necessary to afford relief; and

2581 (f) That the public interest will suffer no substantial detrimental effect.

2582 (3) Variance permits for development and/or uses that will be located waterward of the ordinary high water
2583 mark (OHWM), as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030
2584 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

2585 (a) That the strict application of the bulk, dimensional or performance standards set forth in the
2586 applicable master program precludes all reasonable use of the property;

2587 (b) That the proposal is consistent with the criteria established under subsection (2)(b) through (f) of
2588 this section; and

2589 (c) That the public rights of navigation and use of the shorelines will not be adversely affected.

2590 (4) In the granting of all variance permits, consideration shall be given to the cumulative impact of additional
2591 requests for like actions in the area. For example if variances were granted to other developments and/or
2592 uses in the area where similar circumstances exist the total of the variances shall also remain consistent with
2593 the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

2594 (5) Variances from the use regulations of the master program are prohibited.

2595

2596 **16.24.100 Local appeal – Process.**

2597 (1) Appellant Action. Any person aggrieved by any interpretation, decision or action of the administrator may
2598 request review of that interpretation, decision or action by the Normandy Park hearing examiner. Such
2599 requests shall be made in writing to the administrator within 15 days of the interpretation, decision or action.
2600 The written request shall state clearly the basis for appeal.

2601 (2) Administrator Action. Within seven working days of the administrator’s receipt of a request for appeal, the
2602 administrator shall forward to the hearing examiner the request for review, all pertinent documents and the
2603 administrator’s written analysis of the issues involved in the appeal. The administrator shall also send one
2604 copy of the analysis to the appellant and one copy to applicant, if different than the appellant.

2605 (3) Shoreline Appeals Board Action. Within 30 days of receipt of the required materials for an appeal, the
2606 hearing examiner shall take one of the following actions at a public meeting:

2607 (a) Grant the appeal, with or without conditions; or

2608 (b) Deny the appeal, stating the reasons for the denial. (Ord. 833 § 6, 2009; Ord. ~~539 § 2, 1994~~).

2609 **16.24.110 State appeal – Process.**

2610 (1) State Shorelines Hearing Board Action.

2611 (a) All appeals of any final permit decision are governed by the procedures established in RCW
2612 90.58.180 and Chapter 461-08 WAC, the rules and procedures of the State Shorelines Hearing Board.

2613 (b) All requests for review filed with the Department of Ecology must contain the items required by
2614 WAC 461-08-055. Such requests shall be filed with the Department of Ecology within 30 days of the
2615 date of filing in accordance with WAC 173-27-220, as now exists or as amended hereafter. DOE will
2616 certify the request for review to the Shorelines Hearing Board within 30 days of receipt of the request if
2617 it appears the request has set forth valid reasons to seek review. Failure of DOE to provide such
2618 certification does not preclude the requestor from obtaining certification from the Attorney General or
2619 from obtaining a review in the superior court under any right to review otherwise available. (Ord. 710
2620 § 1, 2003; Ord. ~~539 § 2, 1994~~).

2621 **16.24.120 Revisions to substantial development, conditional use, and variance permits.**

2622 When a revision of a substantial development, conditional use or variance permit is sought, the applicant
2623 shall submit detailed plans and text describing the proposed changes in the permit and demonstrating
2624 compliance with the scope and intent of the original permit pursuant to WAC 173-27-100, as now exists or as
2625 amended hereafter:

2626 (1) If the city determines that the proposed changes are within the scope and intent of the original permit, the
2627 city may approve a revision. “Within the scope and intent of the original permit” means all of the following:

2628 (a) No additional over-water construction will be involved except that pier, dock, or float construction may be
2629 increased by 500 square feet or 10 percent from the provisions of the original permit, whichever is less;

2630 (b) Ground area coverage and height of each structure may be increased a maximum of 10 percent from the
2631 provisions of the original permit;

2632 (c) Additional separate structures may not exceed a total 250 square feet;

2633 (d) The revised permit does not authorize development to exceed height, lot coverage, setback, or any other
2634 requirements of the applicable master program except as authorized under the original permit;

- 2635 (e) Additional landscaping is consistent with conditions (if any) attached to the original permit and with the
2636 applicable master program;
- 2637 (f) The use authorized pursuant to the original permit is not changed; and
- 2638 (g) No substantial adverse environmental impact will be caused by the project revision.
- 2639 (2) If the revision or the sum of the revision and any previously approved revisions violate the terms of one or
2640 more of the provisions itemized above, the applicant shall apply for a new shoreline permit in the manner
2641 provided herein.
- 2642 (3) Within eight days of the date of final city action the revised site plan, text, and the approved revisions
2643 shall be submitted to the Department of Ecology and the Attorney General for their files. A notice of revision
2644 approval shall be forwarded to persons who have notified the shoreline administrator of their desire to
2645 receive a copy of the action on a permit pursuant to WAC 173-27-100, as now exists or as amended
2646 hereafter.
- 2647 (4) If the revision to the original permit involves a conditional use or variance that was conditioned by the
2648 Department of Ecology, the city shall submit the revision to the Department of Ecology for the Department's
2649 approval, approval with conditions, or denial. The revision shall indicate that it is being submitted under the
2650 requirements of WAC 173-27-100(6), as now exists or as amended hereafter. The Department of Ecology
2651 shall render and transmit to the city and the applicant its final decision within 15 days of the date of the
2652 Department's receipt of the submittal from the city. The city shall notify parties of record of the Department's
2653 final decision.
- 2654 (5) The revised permit shall become effective immediately upon final action by the city or, when appropriate
2655 under WAC 173-27-100(7), as now exists or as amended hereafter, by the Department of Ecology.
- 2656 (6) Appeals shall be in accordance with RCW 90.58.180 and shall be filed within 21 days from the date of
2657 receipt of the city's action by the Department of Ecology or, when appropriate under WAC 173-27-100(7), as
2658 now exists or as amended hereafter, the date the Department's final decision is transmitted to the city and
2659 the applicant. Appeals shall be based only upon contentions of noncompliance with the provisions of WAC
2660 173-27-100(2), as now exists or as amended hereafter. Construction undertaken pursuant to that portion of a
2661 revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the
2662 appeals deadline. If an appeal is successful in proving the revision is not within the scope and intent of the
2663 original permit, the decision shall have no bearing on the original permit. (Ord. 710 § 1, 2003; Ord. ~~539 § 2,~~
2664 ~~1994~~).
- 2665 **16.24.130 Nonconforming development.**
- 2666 Nonconforming development is a shoreline use or structure which was lawfully constructed or established
2667 prior to the effective date of the Act or the master program, or amendments thereto, but which does not

2668 conform to present regulations or standards of the master program or policies of the Act. In such cases, the
2669 following standards shall apply:

2670 (1) Nonconforming development may be continued; provided, that it is not enlarged, intensified, increased, or
2671 altered in any way which increases nonconformity;

2672 (2) A nonconforming development which is moved any distance must be brought into conformance with the
2673 master program and the Act;

2674 ~~(3) If a nonconforming development is damaged, it may be reconstructed up to 100 percent of replacement
2675 cost to those configurations existing immediately prior to the time the structure was damaged, so long as
2676 restoration is completed within one year of the date of damage;~~

2677 ~~(4) Except in the case of seasonal occupancy, which shall be considered less than six months in a calendar
2678 year, if a nonconforming use is discontinued for 12 consecutive months or for 12 months during any two-year
2679 period, any subsequent use shall be changed to conforming; it shall be necessary to show that the owner of
2680 the property has abandoned such nonconforming use in order for the nonconforming rights to expire;~~

2681 (3) If a nonconforming development is damaged to the extent not exceeding seventy-five percent of the
2682 replacement cost of the original development, it may be reconstructed to those configurations existing
2683 immediately prior to the time the development was damaged, provided that application is made for the
2684 permits necessary to restore the development within six months one year of the date the damage occurred,
2685 all permits are obtained and the restoration is completed within two three years of permit issuance.

2686
2687 (4) If a nonconforming use is discontinued for 12 consecutive months or for 12 months during any two-three-
2688 year period, the nonconforming rights shall expire and any subsequent use shall be conforming. A use
2689 authorized pursuant to subsection (6) of this section shall be considered a conforming use for purposes of
2690 this section.

2691 (5) A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming
2692 or nonconforming status of the building or structure in which it is housed; and

2693 (6) An undeveloped lot, tract, parcel, site, or division which was established prior to the effective date of the
2694 Act and the master program but which does not conform to the present lot size or density standards may be
2695 developed as long as such development conforms to other requirements of the master program and the Act.
2696 (Ord. 539 § 2, 1994).

2697 (7) Structures that were legally established and are used for a conforming use but which are nonconforming
2698 with regard to setbacks, buffers, or yards; area; bulk; height; or density may be maintained and repaired and
2699 may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity
2700 by further encroaching upon or extending into areas where construction or use would not be allowed for new
2701 development or uses.

2702 (8) A use which is listed as a conditional use but which existed prior to adoption of the master program or
2703 any relevant amendment and for which a conditional use permit has not been obtained shall be considered a
2704 nonconforming use. A use which is listed as a conditional use but which existed prior to the applicability of
2705 the master program to the site and for which a conditional use permit has not been obtained shall be
2706 considered a nonconforming use.

2707 (9) A structure for which a variance has been issued shall be considered a legal nonconforming structure and
2708 the requirements of this section shall apply as they apply to preexisting nonconformities.

2709 (10) A nonconforming structure which is moved any distance must be brought into conformance with the
2710 applicable master program and the act.

2711 **16.24.140 Enforcement and penalties.**

2712 **(1) For the purposes of improving enforcement of this SMP program, the shoreline administrator**
2713 **shall monitor activities along the Normandy Park shoreline through as follows:**

2714 **(a) Conduct a boat survey of the Normandy Park shoreline zone every six months to assess**
2715 **violations of this shoreline program. Provide an annual report of the results of these surveys**
2716 **to the City Council.**

2717 **(b) Assess whether the City is achieving no net loss of shoreline ecological functions on an**
2718 **annual basis and cumulatively from the issue date (XX, 2014) of this shoreline program. The**
2719 **report shall include an analysis of impacts from development (and where possible including**
2720 **unpermitted actions) and how this is balanced by restoration actions within Normandy Park**
2721 **to achieve no net loss of ecological functions. This shall be reported annually to the City**
2722 **Council.**

2723 **(2) The choice of enforcement action and the severity of any penalty should be based on the nature of the**
2724 **violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of**
2725 **the persons subject to the enforcement action, the benefits that accrue to the violator, and the cost of**
2726 **obtaining compliance may also be considered.**

(a)The following section of the RCW 90.58.210 Court actions to ensure against conflicting uses
and to enforce — Civil penalty — Review is incorporated in this code section and will be enforced
by the City.

2727 **(i) Except as provided in RCW 43.05.060 through 43.05.080 and 43.05.150, the attorney**
2728 **general or the attorney for the local government shall bring such injunctive, declaratory, or**
2729 **other actions as are necessary to ensure that no uses are made of the shorelines of the**

2730 state in conflict with the provisions and programs of this chapter, and to otherwise enforce
2731 the provisions of this chapter.

2732 (ii) Any person who shall fail to conform to the terms of a permit issued under this chapter or
2733 who shall undertake development on the shorelines of the state without first obtaining any
2734 permit required under this chapter shall also be subject to a civil penalty not to exceed one
2735 thousand dollars for each violation. Each permit violation or each day of continued
2736 development without a required permit shall constitute a separate violation.

2737 (iii) The penalty provided for in this section shall be imposed by a notice in writing, either by
2738 certified mail with return receipt requested or by personal service, to the person incurring the
2739 same from the department or local government, describing the violation with reasonable
2740 particularity and ordering the act or acts constituting the violation or violations to cease and
2741 desist or, in appropriate cases, requiring necessary corrective action to be taken within a
2742 specific and reasonable time.

2743 (iv) The person incurring the penalty may appeal within thirty days from the date of receipt of
2744 the penalty. The term “date of receipt” has the same meaning as provided in RCW
2745 43.21B.001. Any penalty imposed pursuant to this section by the department shall be subject
2746 to review by the shorelines hearings board. Any penalty imposed pursuant to this section by
2747 local government shall be subject to review by the local government legislative authority. Any
2748 penalty jointly imposed by the department and local government shall be appealed to the
2749 shorelines hearings board.

(3) The following section of the RCW 90.58.220 General penalty is adopted in this code and
enforced by the City.

2750 (a) In addition to incurring civil liability under RCW 90.58.210, any person found to have
2751 willfully engaged in activities on the shorelines of the state in violation of the provisions of
2752 this chapter or any of the master programs, rules, or regulations adopted pursuant thereto
2753 shall be guilty of a gross misdemeanor, and shall be punished by a fine of not less than
2754 twenty-five nor more than one thousand dollars or by imprisonment in the county jail for not
2755 more than ninety days, or by both such fine and imprisonment: PROVIDED, That the fine for
2756 the third and all subsequent violations in any five-year period shall be not less than five
2757 hundred nor more than ten thousand dollars: PROVIDED FURTHER, That fines for
2758 violations of RCW 90.58.550, or any rule adopted thereunder, shall be determined under
2759 RCW 90.58.560.

(4) The following section of the RCW 90.58.230 Violators liable for damages resulting from
violation — Attorney’s fees and costs is adopted in the code and enforced by the City.

2760 (a) Any person subject to the regulatory program of this chapter who violates any provision
2761 of this chapter or permit issued pursuant thereto shall be liable for all damage to public or
2762 private property arising from such violation, including the cost of restoring the affected area
2763 to its condition prior to violation. The attorney general or local government attorney shall
2764 bring suit for damages under this section on behalf of the state or local governments. Private
2765 persons shall have the right to bring suit for damages under this section on their own behalf
2766 and on the behalf of all persons similarly situated. If liability has been established for the cost
2767 of restoring an area affected by a violation the court shall make provision to assure that
2768 restoration will be accomplished within a reasonable time at the expense of the violator. In
2769 addition to such relief, including money damages, the court in its discretion may award
2770 attorney's fees and costs of the suit to the prevailing party.

2771 ~~(4) Civil Penalty.~~

2772 ~~(a) The attorney for the city shall bring such injunctive, declaratory, or other actions as are necessary to~~
2773 ~~insure that no uses are made of the shorelines of the state in conflict with the provisions of the Act and the~~
2774 ~~master program and to otherwise enforce the provisions of the Act and the master program.~~

2775 ~~(b) Any person who fails to conform to the terms of a permit issued under the master program or who~~
2776 ~~undertakes a development or use on the shorelines of the state without first obtaining any permit required~~
2777 ~~under the master program or who fails to comply with a cease and desist order issued under regulations~~
2778 ~~shall also be subject to a civil penalty not to exceed \$1,000 \$100,000 for each violation. Each permit violation~~
2779 ~~or each day of continued development without a required permit shall constitute a separate violation.~~

2780 ~~(c) Any person who, through an act of commission or omission procures, aids, or abets in the violation shall~~
2781 ~~be considered to have committed a violation for the purposes of the civil penalty.~~

2782 ~~(d) The penalty provided for in this section shall be imposed by a notice in writing, either by certified mail with~~
2783 ~~return receipt requested or by personal service, to the person incurring the same from the city. The notice~~
2784 ~~shall include the "content of order" specified in subsection (1)(f) of this section.~~

2785 ~~(e) Within 30 days after the notice is received, the person incurring the penalty may apply in writing to the city~~
2786 ~~for remission or mitigation of such penalty. Upon receipt of the application, the city may remit or mitigate the~~
2787 ~~penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or~~
2788 ~~factors not considered in setting the original penalty. Any penalty imposed pursuant to this section by the city~~
2789 ~~shall be subject to review by the Normandy Park city council. In accordance with RCW 90.58.050 and~~
2790 ~~90.58.210(4), any penalty jointly imposed by the city and the Department of Ecology shall be appealed to the~~
2791 ~~shoreline hearings board. When a penalty is imposed jointly by the city and the Department of Ecology, it~~
2792 ~~may be remitted or mitigated only upon such terms as both the city and the Department of Ecology agree.~~

2793 ~~(f) Regulatory Order.~~

2794 ~~(i) Content or order shall set forth and contain:~~

2795 (A) A description of the specific nature, location, extent, and time of violation and the damage or potential
2796 damage; and

2797 (B) A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific
2798 corrective action to be taken within a given time. A civil penalty under this section may be issued with the
2799 order and same shall specify a date certain or schedule by which payment will be complete.

2800 (ii) The cease and desist order issued under this subsection shall become effective immediately upon receipt
2801 by the person to whom the order is directed.

2802 (iii) Failure to comply with the terms of a cease and desist order can result in enforcement actions including,
2803 but not limited to, the issuance of a civil penalty.

2804 (2) Delinquent Permit Penalty. Permittee applying for a permit after commencement of a use or activity may,
2805 at the discretion of the city be required, in addition, to pay a delinquent permit penalty not to exceed three
2806 times the appropriate permit fee paid by the permittee. A person who has caused, aided, or abetted a
2807 violation within two years after the issuance of a regulatory order, notice of violation, or penalty by the city or
2808 the Department of Ecology against said person may be subject to a delinquent permit penalty not to exceed
2809 10 times the appropriate permit fee paid by the permittee. Delinquent permit penalties shall be paid in full
2810 prior to resuming the use or activity.

2811 (3) Property Lien. Any person who fails to pay the prescribed penalty as authorized in this section shall be
2812 subject to a lien upon the affected property until such time as the penalty is paid in full. The attorney for the
2813 city shall file said lien against the affected property at the office of the King County assessor.

2814 (4) Mandatory Civil Penalties. Issuance of civil penalties is mandatory in the following instances:

2815 (a) The violator has ignored the issuance of an order or notice of violation.

2816 (b) The violation causes or contributes to significant environmental damage to shorelines of the state as
2817 determined by the city.

2818 (c) A person causes, aids, or abets in a violation within two years after issuance of a similar regulatory order,
2819 notice of violation, or penalty by the city or the Department of Ecology against said person.

2820 (5) Minimum Penalty Levels.

2821 (a) Regarding all violations that are mandatory penalties, the minimum penalty is \$250.00. ~~\$250,000~~

2822 (b) For all other penalties, the minimum penalty is \$100.00. ~~\$100,000.~~

2823 (6) General Criminal Penalty. In addition to incurring civil liability under subsection (1) of this section, any
2824 person found to have willfully engaged in activities on the shorelines of the state in violation of the provisions
2825 of the Act or the master program shall be guilty of a gross misdemeanor and shall be punished by a fine of

2826 not less than ~~\$100.00~~ ~~\$100,000~~, nor more than ~~\$1,000~~ ~~\$250,000~~ or by imprisonment in the county jail for not
2827 more than 90 days for each separate offense, or by both such fine and imprisonment; provided, that the fine
2828 for each separate offense for the third and all subsequent violations in any five-year period shall be not less
2829 than ~~\$500.00~~ nor more than ~~\$10,000~~.

2830 ~~(7) Violator's Liability— Damages— Attorney's Fees— Costs.~~ Any person subject to the regulatory program of
2831 the Act or the master program who violates any provision thereof or permit issued pursuant thereto shall be
2832 liable for all damage to public or private property arising from such violation, including the cost of restoring
2833 the affected area to its condition prior to violation. The attorney for the city shall bring suit for damages under
2834 this section on behalf of the city. Private persons shall have the right to bring suit for damages under this
2835 section on their own behalf and on the behalf of all persons similarly situated. If liability has been established
2836 for the cost of restoring an area affected by a violation, the court shall make provisions to assure that
2837 restoration will be accomplished within reasonable time at the expense of the violator. In addition to such
2838 relief, including money damages, the court in its discretion may award attorney's fees and costs of the suit to
2839 the prevailing party.

2840 ~~(8) Development and Building Permits.~~ No building permit, septic tank permit, or other development permit
2841 shall be issued for any parcel of land developed or divided in violation of the master program. All purchasers
2842 or transferees of property shall comply with provisions of the Act and the master program, and each
2843 purchaser or transferee may recover his damages from any person, firm, corporation, or agent selling,
2844 transferring, or leasing land in violation of the Act or the master program, including any amount reasonably
2845 spent as a result of inability to obtain any development permit and spent to conform to the requirements of
2846 the Act or the master program as well as cost of investigation, suit, and reasonable attorney's fees
2847 occasioned thereby. Such purchaser, transferee, or lessor may, as an alternative to conforming his property
2848 to these requirements, rescind the sale, transfer, or lease and recover cost of investigation and reasonable
2849 attorney's fees occasioned thereby from the violator. (Ord. 539 § 2, 1991).

2850 **16.24.150 Additional authority.**

2851 In addition to any other powers granted hereunder, the city may:

2852 (1) Acquire lands and easements within shorelines of the state by purchase, lease, or gift, either alone or in
2853 concert with other governmental entities, when necessary to achieve implementation of the master program;

2854 (2) Accept grants, contributions, and appropriations for any agency, public or private, or individual for the
2855 purposes of the Act and the master program;

2856 (3) Appoint advisory committees to assist in carrying out the purposes of the Act and the master program;
2857 and

2858 (4) Contract for professional or technical services required by the city which cannot be performed by city
2859 employees. (Ord. 539 § 2, 1991).

2860 (5) Make administrative decisions and interpretations of the policies and regulations of this SMP and the
2861 SMA.

2862 (6) The application of this Program should be consistent with constitutional and other legal limitations on the
2863 regulation of private property. The Administrator should give adequate consideration to mitigation measures,
2864 dimensional variances, and other possible methods to prevent undue or unreasonable hardships upon
2865 property owners.