PLANNING COMMISSIONERS
Bill Chapman, Chair
Marc Berjak
Dave Chappelle
Adam Cooper
Jon Friedman
Steve Marshall
Kristen White
COUNCIL LIAISON
El Jahncke

CALL TO ORDER & ROLL CALL 7:30 PM

APPROVAL OF MINUTES Minutes from April 15, 2009

Agenda Item #1 7:35 PM
Shoreline Master Program Update Workshop
First draft review of the Shoreline Master Program Chapter 5 – Shoreline Use Provisions, and 6 - Definitions

OTHER BUSINESS Council Liaison Report
Staff Comments
Planned Absences for Future Meetings
Announcements & Communications
Next Regular Meeting: May 20, 2009

ADJOURN
PLANNING COMMISSION
MEETING MINUTES
APRIL 15, 2009

Call to Order:
Chair Chapman called the meeting to order at 7:34 PM in the Council Chambers, at 9611 SE 36th Street, Mercer Island, Washington.

Roll Call:
Chair Bill Chapman, Commissioners Adam Cooper, Jon Friedman, Kristen White, Marc Berejka, and Steve Marshall and were present. Commissioner Dave Chappelle and Council Liaison Jahncke were excused. City staff was represented by George Steirer, Principal Planner; and Travis Saunders, Planner.

Minutes:
The Planning Commission approved the minutes from the March 18, 2009 meeting.

Regular Business:
Agenda Item #1: Shoreline Master Program Update Workshop
First draft review of the Shoreline Master Program Chapters 1-2 and Open House Option Matrix review.

Travis Saunders, Planner, provided a staff presentation.

The Commission asked questions of staff.

John Owen, Makers Architecture Planning and Urban Design provided a presentation.

The Commission asked questions of Mr. Owen and staff.

Council Liaison Report:
No Liaison report was provided.

Staff Comments:
Shoreline Master Program update workshops to continue on May 6, 2009

Planned Absences for Future Meetings:
None

Announcements and Communications:
None

Next Regular Meeting:
The next regular meeting is scheduled for May 6, 2009.

Adjournment:
The Planning Commission adjourned at 9:46 PM.

Respectfully submitted by Travis Saunders, Planner
Memorandum

To: City of Mercer Island Planning Commission
From: Travis Saunders, Planner
Re: Shoreline Master Program Update Workshops
Date: April 30, 2009

Commissioners and Councilmember Jahnke:

Included in the Commission packet for the May 6, 2009 meeting, you will find the following items related to the Shoreline Master Program (SMP) update:

Mercer Island Shoreline Master Program 1st Draft Chapters 5 and 6. With the assistance of the City's consultant, Maker's Architecture and Urban Design, the Commission will be reviewing chapter 5 – Shoreline Use Provisions. Chapter 6 – Definitions - will be reviewed, provided time allows. No formal action is required. The Commission's feedback is requested.

At the April 15, 2009 meeting, the Commission was provided Draft Chapters 1 through 3; a Draft Alternatives Matrix and associated graphics; and Chapter 173-26 of the Washington Administrative Code (WAC). Please bring these copies as they are likely to be referenced during the workshop. If you need additional copies, please contact me prior to the meeting.

The next regular meeting is scheduled for May 20, 2009, at which the Commission will be reviewing Draft Chapter 4 – Shoreline Modifications. This chapter's review is intentionally out of sequence, in order for the public to provide input at the May 19th open house. Standards for items such as bulkheads and piers are contained within Chapter 4 and staff hopes to provide the Commission with the public's feedback regarding these key items. Prior to the next Commission workshop a copy of Chapter 4 will be provided in a Commission packet.

Should you have questions regarding the materials or the update process, feel free to contact me.
CHAPTER 5
Shoreline Use Provisions

A. Introduction

The provisions in this section apply to specific common uses and types of development to the extent they occur within shoreline jurisdiction.

B. Shoreline Use and Development Standards Matrices

The following matrices indicate the allowable uses, shoreline modifications, and certain standards applicable to those uses and modifications. Where there is a conflict between the chart and the written provisions in Chapters 3, 4, or 5 of this master program, the more restrictive of the two shall apply. All uses within the shoreline jurisdiction must be also be a permitted or conditional use in the underlying zone.

\[ P = \text{May be permitted} \]
\[ C = \text{May be permitted as a conditional use only} \]
\[ X = \text{Prohibited; the use is not eligible for a variance or conditional use permit} \]
\[ N/A = \text{Not applicable (prohibited)} \]

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<th>SHORELINE USE</th>
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\( P = \) May be permitted
\( C = \) May be permitted as a conditional use only
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\( N/A = \) Not applicable (prohibited)

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**Use Matrix Notes:**

1. Park concessions, such as small food stand, cafes, and restaurants, and uses that enhance the opportunity to enjoy publicly accessible shorelines may be allowed if an allowed or conditional use in MICC 19.02.
2. Accessory parking is allowed in shoreline jurisdiction only if there is no other feasible option, as determined by the City.
3. Passive activities, such as nature watching and trails, that require little development with no significant adverse impacts may be allowed.
4. Nonwater-oriented uses may be allowed as a permitted use where the City determines that water-dependent or water-enjoyment use of the shoreline is not feasible due to the configuration of the shoreline and water body or due to the underlying land use classification in the comprehensive plan.
5. All uses allowed or conditional per in the applicable underlying zone are also allowed.
6. Roadways and public utilities may be allowed if there is no other feasible alternative, as determined by the City, and all adverse impacts are mitigated.
7. For existing nonconforming development, see Chapter 7.C.
| **DEVELOPMENT STANDARDS**  
* *(Regulatory citation in parentheses)* | Urban Park | Urban Conservancy | Shoreline Residential | Aquatic |
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| **Accessory Parking (3.B.2)**            |            |                  |                      |        |
| Setbacks                                 | TBD        | TBD              | N/A<sup>2</sup>      | N/A    |

| **Recreational Development**             |            |                  |                      |        |
| Water-dependent park structures setback  | 0          | 0                | N/A                  | N/A    |
| Water-related, water-enjoyment park structures setback | TBD | TBD | N/A | N/A |
| Nonwater-oriented park structures setback (5.B) | TBD<sup>1</sup> | TBD<sup>1</sup> | N/A | N/A |

| **Residential Development**              |            |                  |                      |        |
| See regulations in 5.B.8.c                |            |                  |                      |        |

Other provisions in this SMP also apply.

**Development Standards Matrix Notes:**

1. The City may reduce this dimension if it determines that the type of development allowed within this SMP and other municipal, state, and federal codes cannot be accommodated within the allowed site development area by reconfiguring, relocating, or resizing the proposed development. Where the City reduces a requirement, mitigation, such as vegetation enhancement or shoreline armoring removal, shall be provided as determined by the City.

C. Shoreline Use Policies and Regulations

1. General Policies and Regulations
   a. **Applicability**
      The following provisions apply to all uses in shoreline jurisdiction.
   b. **Policy**
      1. The City should give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon uses of the state's shoreline areas.
2. The City should ensure that all proposed shoreline development will not diminish the public's health, safety, and welfare, as well as the land or its vegetation and wildlife, and should endeavor to protect property rights while implementing the policies of the Shoreline Management Act.

3. The City should reduce use conflicts by prohibiting or applying special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the state's shoreline. In implementing this provision, preference should be given first to water-dependent uses, then to water-related uses and water-enjoyment uses.

4. The City should encourage the full use of existing urban areas before expansion of intensive development is allowed into the Shoreline Jurisdiction.

c. Regulations

1. Developments that include a mix of water-oriented and nonwater-oriented uses may be considered water-oriented provided the City’s Shoreline Administrator finds that the proposed development does give preference to those uses that control pollution and prevent damage to the natural environment, are dependent on a shoreline location, or enhance the public's ability to enjoy the shoreline.

2. All uses not explicitly covered in the section of the SMP require a conditional use permit. The City’s Shoreline Administrator should impose conditions to ensure that the proposed development meets the policies of this master program.

3. All development and uses shall conform to the shoreline use matrix and the development standards matrix in Section B of this chapter unless otherwise stated in this chapter.

2. Non-Single-Family Boating Facilities

a. Applicability

This section does not apply to residential moorage serving an individual single-family residence. Chapter 4 Section B.3 does apply to single-family residential docks and piers.

Boating facilities include dry storage and wet-moorage types; boat launch ramps; covered moorage; boat houses; mooring buoys; and marine travel lifts. See also “Piers and Docks” and “Shoreline Modification Provisions” for non-marina-associated boating facility provisions.

Accessory uses found in boating facilities may include fuel docks and storage, boating equipment sales and rental, wash-down facilities, fish cleaning stations,
repair services, public launching, bait and tackle shops, potable water, waste disposal, administration, parking, groceries, and dry goods.

There are uses and activities associated with boating facilities but are identified in this section as separate uses (e.g., Commercial Development and Industrial Development, including ship and boat building, repair yards, utilities, and transportation facilities) or as separate shoreline modifications (e.g., piers, docks, bulkheads, breakwaters, jetties and groins, dredging, and fill). These uses are subject to the regulations established for those uses and modifications in addition to the standards for boating facilities established in this section.

b. Policies

1. Boating facilities should be located, designed, and operated to provide maximum feasible protection and restoration of ecological processes and functions and all forms of aquatic, littoral, or terrestrial life—including animals, fish, shellfish, birds, and plants—and their habitats and migratory routes. To the extent possible, boating facilities should be located in areas of low biological productivity.

2. Boating facilities should be located and designed so their structures and operations will be aesthetically compatible with the area visually affected and will not unreasonably impair shoreline views. However, the need to protect and restore ecological functions and to provide for water-dependent uses carries higher priority than protection of views.

3. Launch ramps should generally be preferred over marinas in cases where they have substantially less impact on shoreline natural features, vegetation, uses, fisheries, and shellfish resources, as well as less irreversible appropriation of navigable waters.

4. Boat launch facilities should be provided at appropriate public access sites.

5. Existing public moorage and launching facilities should be maintained.

c. Regulations

This section does not apply to residential moorage serving an individual single-family residence. Chapter 4 Section B.3 does apply to single-family residential docks and piers.

1. It is the applicant’s responsibility to comply with all other applicable state agency policies and regulations, including, but not limited to: the Department of Fish and Wildlife criteria for the design of bulkheads, landfills, and marinas; Federal Marine Sanitation standards (EPA 1972) requiring water quality certification from the U.S. Army Corps of Engineers (Section 10); U.S. Army Corps of Engineers dredging standards (Section 404); and state and federal standards for the storage of fuels and toxic materials.

2. New boating facilities shall not significantly impact the rights of navigation on the waters of the state.
Location

3. Boating facilities shall not be located where they would reduce the quantity or quality of critical aquatic habitat or where significant ecological impacts would occur.

4. Public launch ramps shall, as determined feasible by the Shoreline Administrator, be located only on stable shorelines where:

   a. Water depths is a minimum of TBD, to eliminate or minimize the need for offshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach enhancement, and other lake maintenance activities.

   b. There is adequate water mixing and flushing, and the facility is designed so as not to retard or negatively influence flushing characteristics.

   c. Adverse flood channel capacity or flood hazard impacts are avoided.

Design/Renovation/Expansion

5. Boating facilities shall be designed to avoid or minimize significant ecological impacts. The City’s Shoreline Administrator shall apply the mitigation sequence defined in Chapter 3 Section B.4.c.4 in the review of boating facility proposals. On degraded shorelines, the City’s Shoreline Administrator may require ecological restoration measures to mitigate environmental impacts and risks to the ecological functions.

6. Boating facility design shall:

   a. Provide thorough flushing of all enclosed water areas and shall not restrict the movement of aquatic life that require shallow water habitat.

   b. Minimize interference with geohydraulic processes and disruption of existing shoreline ecological functions.

7. Dry moorage shall require a Conditional Use permit.

8. The perimeter of parking, dry moorage, and other storage areas shall be landscaped to provide a visual and noise buffer between adjoining dissimilar uses. See MICC 19.12.040 for landscape requirements.

9. Public access, both visual and physical, shall be an integral part of all marina development and design where the City’s Shoreline Administrator deems it appropriate.

10. Marinas extending into the lake that require a solid bulkhead, breakwater, and/or landfill construction are prohibited.

11. New covered moorage is prohibited.
Boat Launches

12. Boat launch ramps shall be permitted only on stable, non-erosional banks, where a maximum total of TBD deflectors and other stabilization structures will be necessary.

13. Boat launch ramps shall be placed and kept as flush as possible with the foreshore slope to permit launch and retrieval and to minimize the interruption of hydrologic processes.

3. Commercial Development

a. Applicability

Commercial development means those uses that are involved in wholesale, retail, service, and business trade. Examples include hotels, motels, grocery markets, shopping centers, restaurants, shops, offices, and private or public indoor recreation facilities. Commercial nonwater-dependent recreational facilities, such as sports clubs and amusement parks, are also considered commercial uses.

Uses and activities associated with commercial development that are identified as separate uses in this program include Mining, Industry, Boating Facilities, Transportation Facilities, Utilities (accessory), and Solid Waste Disposal. Piers and docks, bulkheads, shoreline stabilization, flood protection, and other shoreline modifications are sometimes associated with commercial development and are subject to those shoreline modification regulations in Chapter 4 in addition to the standards for commercial development established herein.

b. Policies

1. Multi-use commercial projects that include some combination of ecological restoration, public access, open space, and recreation should be allowed as a concession within a public park where consistent with the City’s Comprehensive Plan.

2. Where possible, commercial developments are encouraged to incorporate Low-Impact Development techniques into new and existing projects.

c. Regulations

1. Water-oriented commercial developments may be permitted as indicated in Chapter 5 Section B, “Shoreline Use and Development Standards Matrices.”

2. Nonwater-oriented commercial developments may be permitted on a parcel or lot adjacent to the shoreline only where they are either separated from the shoreline by a structural element that makes water access not possible or where all three of the following can be demonstrated:

   a. A water-oriented use is not reasonably expected to locate on the proposed parcel or lot due to topography, incompatible surrounding land uses, physical features, or the site’s separation from the water.
b. The proposed development does not usurp or displace a current water-oriented land use and will not interfere with adjacent water-oriented uses.

c. The proposed development will be of public benefit by increasing ecological functions, and will provide public use of or access to the shoreline.

3. Commercial development shall be designed to avoid or minimize ecological impacts, to protect human health and safety, and to avoid significant adverse impacts to surrounding uses and the area’s visual qualities. The City’s Shoreline Administrator may adjust the project dimensions and setbacks (so long as they are not relaxed below minimum standards without a shoreline variance permit) or prescribe operation intensity and screening standards as deemed appropriate.

4. All new commercial development proposals will be reviewed by the City’s Shoreline Administrator for ecological restoration and public access opportunities. When restoration or public access opportunities exist, the City’s Shoreline Administrator may require that those opportunities are either implemented as part of the development project or that the project design be altered so that those opportunities are not diminished.

All new water-related and water-enjoyment development shall be conditioned with the requirement for ecological restoration and public access unless those activities are demonstrated to be not feasible. (See definition of “feasible.”)

All new nonwater-oriented development, where allowed, shall be conditioned with the requirement to provide ecological restoration and public access.

The City’s Shoreline Administrator will consult the Environmental Restoration Plan and determine the applicability and extent of ecological restoration and/or public access required.

5. Commercial development and accessory uses must conform to the setback and height standards established in Section B “Development Standards Matrix” in this chapter.

6. Low-Impact Development (LID) techniques shall be incorporated where appropriate.

4. Recreational Development

a. Applicability

Recreational development includes public and commercial facilities for recreational activities such as hiking, photography, viewing, and fishing, car-top boating, swimming, bicycling, picknicking, and playing. It also includes facilities for active or more intensive uses, such as parks, campgrounds, golf
courses, and other outdoor recreation areas. This section applies to both publicly and privately owned shoreline facilities intended for use by the public or a private club, group, association or individual.

Recreational uses and development can be part of a larger mixed-use project. For example, a resort will probably contain characteristics of, and be reviewed under, both the “Commercial Development” and the “Recreational Development” sections. Primary activities such as boating facilities, resorts, subdivisions, and hotels are not addressed directly in this category.

Uses and activities associated with recreational developments that are identified as separate use activities in this program, such as “Boating Facilities,” “Piers and Docks,” “Residential Development,” and “Commercial Development,” are subject to the regulations established for those uses in addition to the standards for recreation established in this section.

Commercial indoor nonwater-oriented recreation facilities, such as bowling alleys and fitness clubs, are addressed as commercial uses.

b. Policies
1. The coordination of local, state, and federal recreation planning should be encouraged to satisfy recreational needs. Shoreline recreational developments should be consistent with all adopted park, recreation, and open space plans.

2. Recreational developments and plans should promote the conservation of the shoreline’s natural character, ecological functions, and processes.

3. A variety of compatible recreational experiences and activities should be encouraged to satisfy diverse recreational needs.

4. Water-dependent recreational uses, such as angling, boating, and swimming, should have priority over water-enjoyment uses, such as picnicking and golf. Water-enjoyment uses should have priority over nonwater-oriented recreational uses, such as field sports.

5. Recreation facilities should be integrated and linked with linear systems, such as hiking paths, bicycle paths, easements, and/or scenic drives, should be encouraged.

6. Where appropriate, nonintensive recreational uses may be permitted in floodplain areas. Nonintensive recreational uses include those that do not do any of the following:
   • Adversely affect the natural hydrology of aquatic systems.
   • Create any flood hazards.
   • Damage the shoreline environment through modifications such as structural shoreline stabilization or vegetation removal.

7. Opportunities to expand the public’s ability to enjoy the shoreline in public parks through dining or other water-enjoyment activities should be pursued.
c. Regulations

1. Water-oriented recreational developments and mixed-use developments with water-oriented recreational activities may be permitted as indicated in Chapter 5, Section B, "Shoreline Use and Development Standard Matrices." In accordance with said matrix and other provisions of this master program, nonwater-oriented recreational developments may be permitted only where it can be demonstrated that all of the following apply:

   a. A water-oriented use is not reasonably expected to locate on the proposed site due to topography, surrounding land uses, physical features, or the site’s separation from the water.
   
   b. The proposed use does not usurp or displace land currently occupied by a water-oriented use and will not interfere with adjacent water-oriented uses.
   
   c. The proposed use and development will appreciably increase ecological functions or public access.

2. Accessory parking shall not be located in shoreline jurisdiction unless all of the following conditions are met:

   a. The City’s Shoreline Administrator determines there is no other feasible option,
   
   b. The parking supports a water-oriented use, and
   
   c. All adverse impacts from the parking in the shoreline jurisdiction are mitigated.

3. All new recreational development proposals will be reviewed by the City’s Shoreline Administrator for ecological restoration and public access opportunities. When restoration or public access plans indicate opportunities exist for these improvements, the City’s Shoreline Administrator may require that those opportunities are either implemented as part of the development project or that the project design be altered so that those opportunities are not diminished.

   All new nonwater-oriented recreational development, where allowed, shall be conditioned with the requirement to provide ecological restoration and public access. The City’s Shoreline Administrator shall consult the Environmental Restoration Plan and determine the applicability and extent of ecological restoration required.

4. Nonwater-oriented structures, such as restrooms, recreation halls and gymnasiums, recreational buildings and fields, access roads, and parking areas, shall be set back from the OHWM at least 70 feet unless it can be shown that there is no feasible alternative.

5. See Chapter 3 Section 11.c.3-4 for water quality regulations related to the use of pesticides, herbicides, and fertilizers.
5. Residential Development

a. Applicability

Residential development means one or more buildings, structures, lots, parcels or portions thereof which are designed for and used or intended to be used to provide a place of abode, including single-family residences, duplexes, other detached dwellings, floating homes, multi-family residences, mobile home parks, residential subdivisions, residential short subdivisions, and residential planned unit development, together with accessory uses and structures normally applicable to residential uses, including, but not limited to, garages, sheds, tennis courts, swimming pools, parking areas, fences, cabanas, saunas, and guest cottages. Residential development does not include hotels, motels, or any other type of overnight or transient housing or camping facilities.

Single family residences are a preferred use under the Shoreline Management Act.

b. Policies

1. Residential development should be prohibited in environmentally sensitive areas including, but not limited to, wetlands, steep slopes, floodways, buffers, etc.

2. The overall density of development, lot coverage, and height of structures should be appropriate to the physical capabilities of the site and consistent with the comprehensive plan.

3. Recognizing the single-purpose, irreversible, and space consumptive nature of shoreline residential development, new development should provide adequate setbacks or open space from the water to provide space for public use of the shoreline and the water, to provide space for outdoor recreation, to protect or restore ecological functions and ecosystem-wide processes, to preserve views, to preserve shoreline aesthetic characteristics, to protect the privacy of nearby residences, and to minimize use conflicts.

4. Adequate provisions should be made for protection of groundwater supplies, erosion control, stormwater drainage systems, aquatic and wildlife habitat, ecosystem-wide processes, and open space.

5. Sewage disposal facilities, as well as water supply facilities, shall be provided in accordance with appropriate state and local health regulations.

6. New residences should be designed and located so that shoreline armoring will not be necessary to protect the structure. The creation of new residential lots should not be allowed unless it is demonstrated the lots can be developed without:

   a. Constructing shoreline stabilization structures (such as bulkheads).

   b. Causing significant erosion or slope instability.

   c. Removing existing native vegetation within 20 feet of the shoreline.
c. Regulations

Properties within Shoreline Jurisdiction on Lakes

1. A summary of regulations for residential properties within shoreline jurisdiction is presented below. Refer to written provisions within this section for exceptions and more detailed explanations. See also Chapter 3 Section B.11 for vegetation conservation provisions.

<table>
<thead>
<tr>
<th>Proposed Regulation:</th>
<th></th>
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<tbody>
<tr>
<td>Standard Minimum Building Setback from OHWM</td>
<td>TBD</td>
</tr>
<tr>
<td>Standard Minimum Deck Setback from OHWM</td>
<td>TBD</td>
</tr>
<tr>
<td>Maximum Impervious Surface</td>
<td>TBD</td>
</tr>
</tbody>
</table>

2. New residential development, including new structures, new pavement, and additions, within shoreline jurisdiction on lakes shall adhere to the following standards:

a. Setbacks:
   i. Buildings: Set back all covered (enclosed) structures **TO BE DETERMINED (TBD)**. Where the City's Shoreline Administrator finds that an existing site does not provide sufficient area to locate the residence entirely landward of this setback, the City's Shoreline Administrator may allow the residence to be located closer to the OHWM, provided all other provisions of this master program are met and impacts are mitigated.

   ii. Patios and decks: Uncovered patios or decks that are no higher than 2 feet above grade may extend a maximum of **TBD** into the building setback. See paragraph 3 below for exception to this requirement.

b. Maximum amount of impervious surface: The maximum amount of impervious surface for each lot, including structures and pavement (including gravel surfaces) shall be no greater than **TBD** of the total lot area above OHWM.

   In calculating impervious surface, pavers, as defined in MICC 19.16, may be counted as **TBD** percent impervious and wood decks with 1/8” or greater gaps between deck boards may be counted as permeable if over bare soil.

c. Incentives to provide shoreline vegetation. **Providing incentives for shoreline vegetation is an option that could be considered.**

d. **Incentive for removing bulkheads.**


g. Also see regulations for “Shoreline Stabilization” and “Docks and Floats” in Chapter 4 for those structures.

3. For new development on previously undeveloped lots, any existing native vegetation shall be retained along the shoreline to TBD from the OHWM. If little or no native vegetation exists on the previously undeveloped lot, native vegetation shall be planted along the shoreline to TBD from the OHWM. 25 percent of the required vegetated area can be cleared or thinned for view maintenance and waterfront access, provided 75 percent of the area remains vegetated (see Vegetation Conservation section). Invasive species may be removed, vegetation trimmed, and trees “limbed up” from the bottom to eye level to provide views. In the 25 percent cleared area, pathways for access to the water are allowed.

Property owners must prepare, and agree to adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that:

- Requires the preparation of a revegetation plan
- Requires the native vegetation to consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions,
- Includes appropriate limitations on the use of fertilizer, herbicides and pesticides as needed to protect lake water quality, and
- Includes a monitoring and maintenance program.

This plan shall be added to a Notice on Title, and a copy of the Notice on Title shall be provided to the Shoreline Administrator.

Property owners can take advantage of the incentives described in 2.c above for any vegetation that is provided in excess of the minimum required 20 feet of native vegetation.


c. Also see regulations for “Shoreline Stabilization” and “Docks and Floats” in Chapter 4 for those structures.

4. For the purposes of maintaining visual access to the waterfront, the following standards apply to accessory uses, structures, and appurtenances for new and existing residences.

a. Fences:

i. Fences within TBD feet of the OHWM shall be no more than 4 feet high when separating two residential lots.

ii. Fences within TBD feet of the OHWM shall be no more than 6 feet high when separating a residential lot from public lands or community park.
iii. Fences aligned roughly parallel to the shoreline and within TBD feet of the
OHWM shall be no more than TBD feet high and shall be set back at least
TBD feet from the OHWM.

iv. Fences along a property line running roughly perpendicular to the shoreline
may extend to the OHWM.

v. The opaque portions (e.g., boards or slats) of a fence must not cover more
than TBD percent of the fence. That is, when looking at a fence, not more
than TBD percent of it may be opaque and at least TBD percent of the fence
must be open. Chain link fences are not permitted within TBD feet of the
OHWM.

b. Garages and pavements for motorized vehicles (drives and parking areas)
shall be set back at least TBD feet from the OHWM.

5. Accessory uses and appurtenant structures not addressed in the regulations
above shall be subject to the same conditions as primary residences.

6. The creation of new residential lots within shoreline jurisdiction on lakes shall
be prohibited unless the applicant demonstrates that all of the provisions of this
master program, including setback and size restrictions, can be met on the
proposed lot. Specifically, it must be demonstrated that:

a. The residence can be built in conformance with all applicable setbacks and
development standards in this master program.

b. Adequate water, sewer, road access, and utilities can be provided.

c. The intensity of development is consistent with the City’s comprehensive
plan.

d. The development will not cause flood or geological hazard to itself or other
properties.

In addition, new residential development on new lots that contain intact native
vegetation shall conform to regulations of C.2.a.iv. above. (See also
Vegetation Conservation standards section in Chapter 3 Section 11).

7. The storm water runoff for all new or expanded pavements or other impervious
surfaces shall be directed to infiltration systems in accordance with the City of
Mercer Island Surface Water Design Manual.

8. See the “Vegetation Conservation” section for regulations related to clearing,
grading, and conservation of vegetation.

9. Also see regulations for “Shoreline Stabilization” and “Docks and Floats” in
Chapter 4 for those structures.

6. Transportation

a. Applicability

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

The various transport facilities that can impact the shoreline cut across all environmental designations and all specific use categories. The policies and regulations identified in this section pertain to any project, within any environment, that is effecting some change in present transportation facilities.

b. Policies

1. Circulation system planning on shorelands should include systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the master program.

2. Trail and bicycle paths should be encouraged along shorelines and should be constructed in a manner compatible with the natural character, resources, and ecology of the shoreline.

3. When existing transportation corridors are abandoned, they should be reused for water-dependent use or public access.

c. Regulations

General

1. Development of all new and expanded transportation facilities in shoreline jurisdiction shall be consistent with the City’s comprehensive plan and applicable capital improvement plans.

2. All development of new and expanded transportation facilities shall be conditioned with the requirement to mitigate significant adverse impacts consistent with Chapter 3 Section B.4 of this master program. Development of new or expanded transportation facilities that cause significant ecological impacts shall not be allowed unless the development includes shoreline mitigation/restoration that increases the ecological functions being impacted to the point where:
   • Significant short- and long-term risks to the shoreline ecology from the development are eliminated.
   • Long-term opportunities to increase the natural ecological functions and processes are not diminished.

If physically feasible, the mitigation/restoration shall be in place and functioning prior to project impacts. The mitigation/restoration shall include a monitoring and adaptive management program that describes monitoring and enhancement measures to ensure the viability of the mitigation over time.

Location

3. New nonwater-dependent transportation facilities shall be located outside shoreline jurisdiction, if feasible. In determining the feasibility of a non-shoreline location, the City’s Shoreline Administrator will apply the definition
of “feasible” in Chapter 6 and weigh the action’s relative public costs and benefits, considered in the short- and long-term time frames.

4. New transportation facilities shall be located and designed to prevent or to minimize the need for shoreline protective measures such as riprap or other bank stabilization, fill, bulkheads, groins, jetties, or substantial site grading. Transportation facilities allowed to cross over water bodies and wetlands shall utilize elevated, open pile, or pier structures whenever feasible. All bridges must be built high enough to allow the passage of debris and provide three feet of freeboard above the 100-year flood level.

5. Roads shall be located to minimize the need for routing surface waters into and through culverts. Culverts and similar devices shall be designed with regard to the 25-year storm frequencies and allow continuous fish passage. Culverts shall be located so as to avoid relocation of the stream channel.

6. Bridge abutments and necessary approach fills shall be located landward of wetlands or the OHWM for water bodies without wetlands; provided, bridge piers may be permitted in a water body or wetland as a conditional use.

**Design/Construction/Maintainance**

7. All roads, if permitted parallel to shoreline areas, shall provide buffer areas of compatible, self-sustaining vegetation. Shoreline scenic drives and viewpoints may provide breaks periodically in the vegetative buffer to allow open views of the water.

8. Development of new and expanded transportation facilities shall include provisions for pedestrian, bicycle, and public transportation where appropriate as determined by the City’s Shoreline Administrator. Circulation planning and projects shall support existing and proposed shoreline uses that are consistent with the master program.

9. Transportation and primary utility facilities shall be required to make joint use of rights-of-way and to consolidate crossings of water bodies if feasible, where adverse impact to the shoreline can be minimized by doing so.

10. Fills for development of transportation facilities are prohibited in water bodies and wetlands; except, when all structural and upland alternatives have been proven infeasible and the transportation facilities are necessary to support uses consistent with this program, such fill may be permitted as a Conditional Use.

11. Development of new and expanded transportation facilities shall not diminish but may modify public access to the shoreline.

12. Waterway crossings shall be designed to provide minimal disturbance to banks.

13. All transportation facilities shall be designed, constructed, and maintained to contain and control all debris, overburden, runoff, erosion, and sediment generated from the affected areas. Relief culverts and diversion ditches shall not discharge onto erodible soils, fills, or sidecast materials without appropriate BMPs, as determined by the City’s Shoreline Administrator.
14. All shoreline areas disturbed by construction and maintenance of transportation facilities shall be replanted and stabilized with native, drought-tolerant, self-sustaining vegetation by seeding, mulching, or other effective means immediately upon completion of the construction or maintenance activity. Such vegetation shall be maintained until established by the agency or developer constructing or maintaining the road. The vegetation restoration/replanting plans shall be as approved by the City's Shoreline Administrator.

7. Utilities

a. Applicability

Utilities are services and facilities that produce, transmit, carry, store, process, or dispose of electric power, gas, water, sewage, communications, oil, and the like. The provisions in this section apply to primary uses and activities, such as solid waste handling and disposal, sewage treatment plants and outfalls, public high-tension utility lines on public property or easements, power generating or transfer facilities, and gas distribution lines and storage facilities. See Chapter 4 Section B.10, "Utilities," for on-site accessory use utilities.

Solid waste disposal means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste on any land area or in the water.

Solid waste includes solid and semisolid wastes, including garbage, rubbish, ashes, industrial wastes, wood wastes and sort yard wastes associated with commercial logging activities, swill, demolition and construction wastes, abandoned vehicles and parts of vehicles, household appliances and other discarded commodities. Solid waste does not include sewage, dredge material, agricultural wastes, auto wrecking yards with salvage and reuse activities, or wastes not specifically listed above.

b. Policies

1. New utility facilities should be located so as not to require extensive shoreline protection works.

2. Utility facilities and corridors should be located so as to protect scenic views. Whenever possible, such facilities should be placed underground or alongside or under bridges.

3. Utility facilities and rights-of-way should be designed to preserve the natural landscape and to minimize conflicts with present and planned land uses.

c. Regulations

1. All utility facilities shall be designed and located to minimize harm to shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the
needs of future populations in areas planned to accommodate growth. The City’s Shoreline Administrator may require the relocation or redesign of proposed utility development in order to avoid significant ecological impacts or significant adverse impacts.

2. Utility production and processing facilities, such as power plants or parts of those facilities that are nonwater-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available. In such cases, significant ecological impacts shall be avoided.

3. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located to cause minimum harm to the shoreline and shall be located outside of the shoreline area where feasible. Utilities shall be located in existing rights-of-way and corridors whenever possible.

4. Development of pipelines and cables on shorelines, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance or that cause significant ecological impacts shall not be allowed unless no other feasible option exists. When permitted, those facilities shall include adequate provisions to protect against significant ecological impacts.

5. Restoration of ecological functions shall be a condition of new and expanded nonwater-dependent utility facilities.

6. Utility development shall, through coordination with local government agencies, provide for compatible, multiple uses of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety or create a significant liability for the owner.

7. New solid waste disposal sites and facilities are prohibited. Existing solid waste disposal and transfer facilities in shoreline jurisdiction shall not be added to or substantially reconstructed.

8. New electricity, communications and fuel lines shall be located underground, except where the presence of bedrock or other obstructions make such placement infeasible or if it is demonstrated that above-ground lines would have a lesser impact. Existing above-ground lines shall be moved underground during normal replacement processes.

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

10. Utility developments shall be located and designated so as to avoid or minimize the use of any structural or artificial shoreline stabilization or flood protection works.

11. Utility production and processing facilities shall be located outside shoreline jurisdiction unless no other feasible option exists. Where major facilities must
be placed in a shoreline area, the location and design shall be chosen so as not to destroy or obstruct scenic views, and shall avoid significant ecological impacts.

12. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, unless no other feasible alternative exists. In those limited instances when permitted by Conditional Use, automatic shut-off valves shall be provided on both sides of the water body.

13. Filling in shoreline jurisdiction for development of utility facility or line purposes is prohibited, except where no other feasible option exists and the proposal would avoid or minimize impacts more completely than other methods. Permitted crossings shall utilize pier or open pile techniques.

14. Power-generating facilities shall require a Conditional Use permit.

15. Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and upon project completion any disturbed areas shall be restored to their pre-project condition.

16. Telecommunication towers, such as radio and cell phone towers, are specifically prohibited in shoreline jurisdiction.
CHAPTER 6
Definitions

Accessory use. Any structure or use incidental and subordinate to a primary use or development.

Act. The Shoreline Management Act (Chapter 90.58 RCW).

Adjacent lands. Lands adjacent to the shorelines of the state (outside of shoreline jurisdiction).

Administrator. The City of Mercer Island Planning Services Manager or his/her designee, charged with the responsibility of administering the shoreline master program.

Appurtenance. A structure or development which is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and also of the perimeter of any wetland. (On a state-wide basis, normal appurtenances include a garage, deck, driveway, utilities, fences and grading which does not exceed two hundred fifty cubic yards.)

Aquatic. Pertaining to those areas waterward of the ordinary high water mark.

Aquaculture. The cultivation of fish, shellfish, and/or other aquatic animals or plants, including the incidental preparation of these products for human use.

Archaeological. Having to do with the scientific study of material remains of past human life and activities.

Average grade level. See “base elevation.”

Base elevation. The average elevation of the approved topography of a parcel at the midpoint on each of the four sides of the smallest rectangle that will enclose the proposed structure, excluding eaves and decks.

Beach. The zone of unconsolidated material that is moved by waves and wind currents, extending landward to the shoreline.

Beach enhancement/restoration. Process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation, drift sills and other nonintrusive means as applicable.

Berm. A linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the ordinary high water mark. Also, a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.

Bioengineering. The use of biological elements, such as the planting of vegetation, often in conjunction with engineered systems, to provide a structural shoreline stabilization measure with minimal negative impact to the shoreline ecology.
Biofiltration system. A stormwater or other drainage treatment system that utilizes as a primary feature the ability of plant life to screen out and metabolize sediment and pollutants. Typically, biofiltration systems are designed to include grassy swales, retention ponds and other vegetative features.

Bog. A wet, spongy, poorly drained area which is usually rich in very specialized plants, contains a high percentage of organic remnants and residues, and frequently is associated with a spring, seepage area, or other subsurface water source. A bog sometimes represents the final stage of the natural process of eutrophication by which lakes and other bodies of water are very slowly transformed into land areas.

Buffer area. A parcel or strip of land that is designed and designated to permanently remain vegetated in an undisturbed and natural condition to protect an adjacent aquatic or wetland site from upland impacts, to provide habitat for wildlife and to afford limited public access.

Building height. See definition in Mercer Island City Code 19.02.010(D).

Bulkhead. A solid wall erected generally parallel to and near the ordinary high water mark for the purpose of protecting adjacent uplands from waves or current action.

Buoy. An anchored float for the purpose of mooring vessels.

Channel. An open conduit for water, either naturally or artificially created; does not include artificially created irrigation, return flow, or stockwatering channels.

City. The City of Mercer Island, Washington.

Clearing. The destruction or removal of vegetation ground cover, shrubs and trees including, but not limited to, root material removal and/or topsoil removal.

Conditional use. A use, development, or substantial development which is classified as a Conditional Use or is not classified within the applicable master program.

Covered moorage. Boat moorage, with or without walls, that has a roof to protect the vessel.


Development. A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any stage of water level. (RCW 90.58.030(3)(d).)

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

Director. City of Mercer Island Director of Planning.
Dock. A structure which abuts the shoreline and is used as a landing or moorage place for craft. A dock may be built either on a fixed platform or float on the water. See also “development” and “substantial development.”

Document of record. The most current shoreline master program officially approved or adopted by rule by the Department of Ecology for a given local government jurisdiction, including any changes resulting from appeals filed pursuant to RCW 90.58.190

Dredging. Excavation or displacement of the bottom or shoreline of a water body.

Ecological functions (or shoreline functions). The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline’s natural ecosystem.

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

EIS. Environmental Impact Statement.

Emergency. An unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the master program. Emergency construction is construed narrowly as that which is necessary to protect property and facilities from the elements. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to Chapter 90.58 RCW, these regulations, or the local master program, shall be obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and the local master program. As a general matter, flooding or seasonal events that can be anticipated and may occur but that are not imminent are not an emergency. (RCW 90.58.030(3eiiii).)

Enhancement. Alteration of an existing resource to improve or increase its characteristics, functions, or processes without degrading other existing ecological functions. Enhancements are to be distinguished from resource creation or restoration projects.

Erosion. The wearing away of land by the action of natural forces.

Exemption. Certain specific developments as listed in WAC 173-27-040 are exempt from the definition of substantial developments are therefore exempt from the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the local master program. Conditional use and/or variance permits may also still be required even though the activity does not need a substantial development permit. (RCW 90.58.030(3e); WAC 173-27-040.) (See also “development” and “substantial development.”)

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

Feasible. For the purpose of this master program, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

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

(b) The action provides a reasonable likelihood of achieving its intended purpose.

(c) The action does not physically preclude achieving the project's primary intended use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

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

Fill. The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the ordinary high water mark, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

Floats. An anchored, buoyed object.

Floodway. Those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative groundcover condition. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

Gabions. Structures composed of masses of rocks, rubble or masonry held tightly together usually by wire mesh so as to form blocks or walls. Sometimes used on heavy erosion areas to retard wave action or as foundations for breakwaters or jetties.

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

Grade. See “base elevation.”

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

Grassy Swale. A vegetated drainage channel that is designed to remove various pollutants from storm water runoff through biofiltration.

Guidelines. Those standards adopted by the Department of Ecology into the Washington Administrative Code (WAC) to implement the policy of Chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and the Department of Ecology in developing and amending master programs.

Habitat. The place or type of site where a plant or animal naturally or normally lives and grows.

Height. See “building height.”

Hydrological. Referring to the science related to the waters of the earth including surface and ground water movement, evaporation and precipitation. Hydrological functions in shoreline include, water movement, storage, flow variability, channel movement and reconfiguration, recruitment and transport of sediment and large wood, and nutrient and pollutant transport, removal and deposition,

Letter of exemption. A letter or other official certificate issued by the City of Mercer Island to indicate that a proposed development is exempted from the requirement to obtain a shoreline permit as provided in WAC 173-27-050. Letters of exemption may include conditions or other provisions placed on the proposal in order to ensure consistency with the Shoreline Management Act, this chapter, and the applicable master program.

Littoral. Living on, or occurring on, the shore.

Littoral drift. The mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and currents.

May. Refers to actions that are acceptable, provided they conform to the provisions of this master program and the Act.

MICC. Mercer Island City Code, currently applicable edition.

Mitigation (or mitigation sequencing). The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal, including the following listed in the order of sequence priority, with (a) of this subsection being top priority.

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.
(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations.

(e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.

(f) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

_Moorage facility._ Any device or structure used to secure a boat or a vessel, including piers, docks, piles, lift stations or buoys.

_Moorage pile._ A permanent mooring generally located in open waters in which the vessel is tied up to a vertical column to prevent it from swinging with change of wind.

_Multi-family dwelling (or residence)._ A building containing two or more dwelling units, including but not limited to duplexes, apartments and condominiums.

_Must._ A mandate; the action is required.

_Nonconforming development._ A shoreline use or structure which was lawfully constructed or established prior to the effective date of the applicable master program provision, and which no longer conforms to the applicable shoreline provisions.

_Nonpoint pollution._ Pollution that enters any waters of the state from any dispersed land-based or water-based activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

_Nonwater-oriented uses._ Those uses that are not water-dependent, water-related, or water-enjoyment.

_Normal maintenance._ Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. See also "normal repair."

_Normal protective bulkhead._ Those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion.

_Normal repair._ To restore a development to a state comparable to its original condition, including, but not limited to, its size, shape, configuration, location, and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. (WAC 173-27-040.) See also "normal maintenance" and "development."
Off-site replacement. To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by a regulated activity.

OHWM. See "ordinary high water mark."

Ordinary high water mark (OHWM). That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology. See RCW 90.58.030(2)(b).

Party of record. All persons, agencies, or organizations who have submitted written comments in response to a notice of application, made oral comments in a formal public hearing conducted on the application, or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail.

Periodic. Occurring at regular intervals.

Person. An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated. (RCW 90.58.030(1d).)

Pier element. Sections of a pier including the pier walkway, the pier float, the ell, etc.

Provisions. Policies, regulations, standards, guideline criteria or designations.

Public interest. The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development.

RCW. Revised Code of Washington.

Residential development. Development which is primarily devoted to or designed for use as a dwelling(s).

Restore (restoration). To significantly re-establish or upgrade shoreline ecological functions through measures such as revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic sediments. To restore does not necessarily imply returning the shoreline area to aboriginal or pre-European settlement condition.

Revetment. Facing of stone, concrete, etc., built to protect a scarp, embankment, or shore structure against erosion by waves or currents.

Riprap. A layer, facing, or protective mound of stones placed to prevent erosion, scour, or sloughing of a structure or embankment; also, the stone so used.
Runoff. Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

Sediment. The fine grained material deposited by water or wind.

SEPA (State Environmental Policy Act). SEPA requires state agencies, local governments and other lead agencies to consider environmental factors when making most types of permit decisions, especially for development proposals of a significant scale. As part of the SEPA process, EISs may be required to be prepared and public comments solicited.

Setback. A required open space, specified in shoreline master programs, measured horizontally upland from and perpendicular to the ordinary high water mark.

Shall. A mandate; the action must be done.

Shorelands. All lands within Shoreline Management Act jurisdiction lying upland or higher in elevation of the OHWM.

Shoreline Administrator. The Director of the Development Services Group for the City of Mercer Island or a duly authorized designee.

Shoreline areas (and shoreline jurisdiction). The same as "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

Shoreline environment designations. The categories of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. Shoreline designations in Mercer Island include: Aquatic, Urban Conservancy, Urban Park, and Shoreline Residential.

Shoreline functions. See “ecological functions.”

Shoreline jurisdiction. The term describing all of the geographic areas covered by the SMA, related rules and the applicable master program. Also, such areas within a specified local government's authority under the SMA. See definitions of "shorelines", "shorelines of the state", "shorelines of statewide significance" and "wetlands." See also the “Shoreline Management Act Scope” section in the “Introduction” of this master program.

Shoreline master program, master program, or SMP. This Shoreline Master Program, as adopted by the City of Mercer Island and approved by the Washington Department of Ecology.

Shoreline modifications. Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, dock, weir, dredged basin, fill, bulkhead, or other shoreline structures. They can include other actions, such as clearing, grading, or application of chemicals.

Shoreline permit. A substantial development, Conditional Use, revision, or variance permit or any combination thereof.
Shoreline property. An individual property wholly or partially within shoreline jurisdiction.

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

Shoreline sub-unit. An area of the shoreline that is defined by distinct beginning points and end points by parcel number or other legal description. These sub-units are assigned environment designations to recognize different conditions and resources along the shoreline.

Shorelines. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of state-wide significance; (ii) shorelines on areas of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream areas; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

Shorelines of the state. The total of all “shorelines” and “shorelines of state-wide significance” within the state.

Shorelines Hearings Board (SHB). A six member quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government on Department of Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA.

Shorelines of state-wide significance. A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special policies apply.

Should. The particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this shoreline master program, against taking the action.

Sign. A board or other display containing words and/or symbols used to identify or advertise a place of business or to convey information. Excluded from this definition are signs required by law and the flags of national and state governments.

Significant ecological impact. An effect or consequence of an action if any of the following apply:

(a) The action measurably or noticeably reduces or harms an ecological function or ecosystem-wide process.

(b) Scientific evidence or objective analysis indicates the action could cause reduction or harm to those ecological functions or ecosystem-wide processes described in (a) of this subsection under foreseeable conditions.

(c) Scientific evidence indicates the action could contribute to a measurable or noticeable reduction or harm to ecological functions or ecosystem-wide processes described in (a) of this subsection as part of cumulative impacts, due to similar actions that are occurring or are likely to occur.
**Significant vegetation removal.** The removal or alteration of native trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive, non-native, or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

**Single-family residence (SFR).** A detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance.

**SMA.** The Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

**Storm water.** That portion of precipitation that does not normally percolate into the ground or evaporate but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or constructed infiltration facility.

**Stream.** A naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty cubic feet per second and b) the water is contained within a channel. See also “channel.”

**Structure.** A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above or below the surface of the ground or water, except for vessels.

**Subdivision.** The division or redivision of land, including short subdivision for the purpose of sale, lease or conveyance.

**Substantial development.** Any development which meets the criteria of RCW 90.58.030(3)(e). See also definition of "development" and "exemption".

**Substantially degrade.** To cause damage or harm to an area's ecological functions. An action is considered to substantially degrade the environment if:

(a) The damaged ecological function or functions significantly affect other related functions or the viability of the larger ecosystem; or

(b) The degrading action may cause damage or harm to shoreline ecological functions under foreseeable conditions; or

(c) Scientific evidence indicates the action may contribute to damage or harm to ecological functions as part of cumulative impacts.

**Sub-unit.** For the purposes of this SMP, a sub-unit is defined as an area of the shoreline that is defined by distinct beginning points and end points by parcel number or other legal description. These sub-units are assigned environment designations to recognize different conditions and resources along the shoreline.
Swamp. A depressed area flooded most of the year to a depth greater than that of a marsh and characterized by areas of open water amid soft, wetland masses vegetated with trees and shrubs. Extensive grass vegetation is not characteristic.

Terrestrial. Of or relating to land as distinct from air or water.

Transportation (Facilities). A structure or development(s), which aids in the movement of people, goods or cargo by land, water, air or rail. They include but are not limited to highways, bridges, causeways, bikeways, trails, ferry terminals, float plane – airport or heliport terminals, and other related facilities.

Upland. Generally described as the dry land area above and landward of the ordinary high water mark.

Utility. A public or private agency which provides a service that is utilized or available to the general public (or a locationally specific population thereof). Such services may include, but are not limited to, storm water detention and management, sewer, water, telecommunications, cable, electricity, and natural gas.

Utility (Accessory). Utilities are small-scale distribution services connected directly to the uses along the shoreline and are not carrying significant capacity to serve other users that are not located in the shoreline jurisdiction.

Variance. A means to grant relief from the specific bulk, dimensional, or performance standards set forth in this master program and not a means to vary a use of a shoreline. Variance permits must be specifically approved, approved with conditions, or denied by the Administrator and the Department of Ecology.

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

WAC. Washington Administrative Code.

Water-dependent. A use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include fishing, boat launching, swimming, and storm water discharges.

Water-enjoyment. A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to:

- Parks with activities enhanced by proximity to the water.
- Docks, trails, and other improvements that facilitate public access to shorelines of the state.
- Restaurants with water views and public access improvements.
• Museums with an orientation to shoreline topics.
• Scientific/ecological reserves.
• Resorts with uses open to the public without membership and public access to the shoreline; and any combination of those uses listed above.

**Water-oriented use.** A use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

**Water quality.** The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impervious surfaces and storm water handling practices. Water quantity, for purposes of this master program, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

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

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

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

**Weir:** A structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment of other moving objects transported by water.

**Wetland or wetlands.** Areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support—and that under normal circumstances do support—a prevalence of vegetation typically adapted for life in marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

**Zoning.** The system of land use and development regulations and related provisions of the Mercer Island City Code.

In addition, the definitions and concepts set forth in RCW 90.58.030, as amended, and implementing rules shall also apply as used herein.