

Section 3

General Goals, Objectives, Policies and Regulations

3.1 Master Program Elements

The guidelines issued to implement the Shoreline Management Act of 1971 require that eight elements, when appropriate, be included in local master programs. These are shoreline use, economic development, public access, circulation, recreation, conservation, historical/cultural/educational, and flood hazard prevention. In addition, we have included an implementation element.

This section of the Shoreline Master Program includes a broad goal statement for each element and objectives that are intended to indicate how the goal would be achieved. The goals and objectives form the basis for developing the use/activity policies and regulations, as well as the shoreline use environment designations.

This section also includes general policies and regulations that apply to all shoreline uses and activities.

3.2 Shoreline Use Element

The shoreline use element deals with the pattern of distribution and general location and extent of various land uses in and abutting shoreline areas.

How should the various uses be distributed? To what extent should shorelines be utilized for port activity, marinas, industrial, commercial and other uses?

It should be remembered that the distribution and extent of the various uses along shorelines will be influenced to a great extent by the overall development of the city and adjoining neighborhoods.

The shoreline use element also addresses the compatibility of shoreline uses with other shoreline uses and nearby neighborhoods.

Goal

To plan and foster all reasonable and appropriate uses while protecting and enhancing the quality of the shorelines of Everett and nearby neighborhoods and preserving special opportunities for water-dependent, water-related and water-enjoyment uses.

Objectives

1. Permit land uses as encouraged by the Comprehensive Plan and which are dependent upon or enhanced by a shoreline location, and/or which provide for increased public access to Everett's shorelines.
2. Provide performance and development standards for shoreline uses which achieve compatibility among shoreline activities and nearby neighborhoods.
3. Provide for multiple uses of the shoreline where location and existing or proposed uses make this feasible.
4. Shoreline and water areas on navigable waterways particularly suited for water-dependent and water-related uses should be reserved for such uses even if there is no current demand for such uses.
5. Consider all inventory information when establishing shoreline use environment designation policies, boundaries and use provisions.
6. Define and identify reasonable and appropriate uses, and establish development or performance standards to ensure consistency with the Shoreline Management Act.
7. Plan for and encourage the relocation, where feasible, of those existing uses identified as being inappropriate uses in shoreline areas.
8. Consider the overall development pattern of the City, including neighborhoods adjoining shoreline areas, and the Puget Sound region in planning for shoreline uses and development.
9. For shorelines of statewide significance, recognize and protect state-wide interests when establishing shoreline environment designation policies, boundaries, and use provisions, and when establishing development standards
10. Provide an appropriate shoreline use environment designation for the City-owned Lake Chaplain Reservoir properties, with policies and regulations that ensure a safe and adequate water supply, and protect the public health, safety and welfare.
11. Provide appropriate shoreline use environment designations for shoreline areas within Everett's Urban Growth Boundary that could be annexed to the City of Everett.
12. Provide standards that will minimize impacts of development on nearby properties and neighborhoods.

Policies

1. Exterior lighting should not impact other shoreline properties or nearby neighborhoods.
2. All shoreline development should be designed and operated to minimize noise impacts to other shoreline properties or nearby neighborhoods.
3. Screening of outdoor storage areas should be provided.

Regulations

1. All exterior lighting, including lighting of signs, shall be directed downward onto the site and away from other shoreline properties or nearby neighborhoods.
2. All shoreline development shall comply with the City's noise ordinance (EMC 20.08), both during and after construction. The City may require the applicant to prepare noise studies to determine if a proposal is in conformance with the ordinance.
3. Warning devices on vehicles (back up beepers) are exempt from the City's noise ordinance, but are perceived as irritating by most people. When feasible, developments that abut residential zones must be designed to shield vehicle maneuvering and loading areas from residential areas by placement of buildings, berms, etc.
4. All shoreline developments shall be located, constructed and operated so as not to be a hazard to public health and safety.
5. Shoreline sites shall have a landscaping plan which is in scale and harmony with proposed structures and serves to provide some screening and buffering of the activities where this is appropriate.
6. For water-dependent uses and water-dependent portions of water-related uses located on the shoreline, the setback is 0. However, the Planning Director may require a setback to address environmental impacts and ensure consistency with other requirements of this SMP.

3.3 Economic Development Element

The economic development element encourages commercial and industrial activities, such as manufacturing, warehousing, port facilities, tourist facilities, and other activities that are appropriate for urban shoreline locations.

It must be recognized that the type of economic development along the shorelines will be determined to a great extent by the overall economic activities within the city and larger Puget Sound region.

Goal

To foster appropriate economic development along the shorelines of Everett, recognizing and protecting private property rights, abutting neighborhoods, and areas of high environmental value, consistent with the public interest.

Objectives

1. Develop criteria for the location of water-dependent/water-related, water-enjoyment, and appropriate economic activities, and regulate their use accordingly.
2. Identify shoreline environments that are appropriate for water-related/water-dependent, water-enjoyment, and non-water-oriented economic activity and permit temporary, short-term interim uses of such land that would not foreclose or discourage appropriate future uses. Non-water-oriented uses should not be permitted in areas appropriate for water-dependent uses.
3. Facilitate the development and/or relocation of water-dependent and water-related industrial and commercial uses in appropriate locations.
4. Facilitate the relocation of nonwater-oriented activities to areas away from shorelines in cooperation with business and property owners, governmental agencies, and private agencies.
5. Provide for a multi-use concept by increasing public access to the shoreline while maintaining the economic viability of desirable shoreline uses.
6. Provide incentives for property owners to provide public access amenities on private property.

7. Consider overall city and regional economic development needs as well as potential impacts on abutting upland areas when establishing shoreline use environments, policies and regulations.
8. Preserve opportunities for future water-oriented industrial and commercial development.
9. Recognize and encourage the economic benefits derived from wildlife and fish habitats, public access, and tourism.

3.4 Circulation Element

The circulation element addresses the location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other transportation facilities within the shoreline use environments.

A large number of land-based transportation facilities currently exist in Everett's shoreline areas, including the Burlington Northern Railroad, I-5, SR 529, SR 2, SR 527, city arterials and local access roads. In addition, major Port of Everett shipping facilities are located along Port Gardner Bay.

It is unlikely that any of these major facilities will be relocated outside of shoreline areas. Some of the facilities will likely require expansion. In addition, new roads may be located in shoreline areas.

Goal

To achieve safe, convenient, pedestrian friendly, and diversified circulation systems to provide public access to the shoreline, efficient movement of people and goods, with minimum disruption to the shoreline environment and minimum conflict among shoreline uses and between shoreline users and abutting upland areas.

Objectives

1. Provide for recreational boating facilities, including terminals, moorage, and service facilities.
2. Coordinate all transportation planning to provide efficient use and transfer between modes while minimizing, to the greatest extent possible, the adverse environmental impacts of such facilities.
3. Require transportation facilities to comply with air, noise, stormwater and water quality regulations.
4. Minimize the visual impacts of transportation facilities proposed in shoreline areas.
5. Provide for bicycle and pedestrian circulation as a means of personal transportation and recreation, and connect bicycle and pedestrian trails to shoreline public access features.

6. Encourage water-borne transportation to be linked to land based public transportation.
7. Include public access to the shoreline whenever possible and appropriate in the design and construction of transportation improvements in shoreline areas.
8. Discourage the expansion of railroad facilities along Port Gardner Bay in the Urban Conservancy Environment.
9. Consider the location and characteristics of roads, railroads, navigable waterways, transportation terminals and public utilities when designating shoreline environments.

3.5 Cultural Resources Element

Cultural resources means those tangible and intangible aspects of cultural systems, both living and dead, that are valued by or representative of a given culture or that contain information about a culture. These resources are finite and nonrenewable and include, but are not limited to, sites, structures, districts, objects, and historic documents associated with or representative of peoples, cultures, and human activities and events either in the present or in the past. Cultural resources can also include the primary written and verbal data for interpreting and understanding those tangible resources.”

Cultural resources are valuable links to our past and because of their limited and irreplaceable nature should be considered whenever a development is proposed along Everett's shorelines. The cultural resources element is intended to provide a guide for the identification, protection and restoration of buildings, sites, and areas having historic, archaeological, cultural, educational, or scientific values

Indian villages, military forts, early settlers' homes, as well as significant initial industrial and commercial activity were located along Everett's shoreline because of the proximity of food resources and water being an important means of transportation. Unfortunately, Everett's shoreline has a limited number of surviving historical structures or archaeological sites.

Everett's Historic Resources Ordinance, EMC 2.96, established a historical commission to identify and encourage the conservation of the City's historic resources. A City-wide inventory of historic resources has been completed - *Historic Resource Survey Everett, Washington*. The only structure with shoreline significance listed in the survey is the Weyerhaeuser Office Building. It is also listed on the National Historic Register.

Washington State regulates archaeological excavations on all nonfederal lands. The existing state laws protect from knowing disturbance and establish a permit process for the excavation and removal of Native American human remains (Chapter 27.44 RCW - Indian Graves and Records) and Native American archaeological and significant historic archaeological resources (RCW 27.53 - Archaeological Sites and Resources) on both public and private lands. The rules that implement these laws are codified as WAC 25-48. Detailed archaeological surveys have not been completed for a large portion of the Everett waterfront. The City has a Memorandum of Understanding with the Washington State Office of Archaeological and Historic Preservation (OAHP). OAHP has forwarded to the Everett Planning Department copies of all archaeological site forms for the City of Everett. Everett is responsible for providing a secure location for the records and can only release the information to the affected property owner. When a known site would be impacted and when a new archaeological resource is encountered during construction, or other activity, the City is responsible for notifying the Tulalip Tribes, ensuring that a

professional archaeologist is retained to investigate and report the location and extent of the site, and requiring mitigation for possible impacts.

Goal

To identify, protect and/or document areas having significant historic, archaeological, cultural, or educational.

Objectives

1. Formulate programs of cultural resource identification, evaluation, restoration, preservation, enhancement, interpretation, and maintenance, and integrate these programs with the Capital Improvement Program and budget.
2. Apply the City's historic ordinance, EMC 2.96, as amended, as a part of the plan to protect and preserve significant cultural resources as consistent with RCW 27.53 and 27.54.
3. Provide opportunities for educational and scientific uses in appropriate shoreline areas.

Policies

1. The City should encourage and seek financial support for the completion of an archaeological survey of the Everett Shoreline area in order to establish its archaeological significance, this survey to be conducted by a recognized archaeological authority.
2. In processing shoreline permits in non-surveyed areas, the City should require the applicant to consult with professional archaeologists, where appropriate, as to the significance of the specific area involved.
3. The City should require recognition and consideration of identified archaeological, cultural, or historical areas which may exist. In areas documented to contain archaeological artifacts and data, the City should require a site inspection and evaluation by an archaeologist in coordination with the Tulalip Tribes. The evaluation should identify the impacts of the proposal and recommend mitigation measures.
4. The City should require developers to stop work immediately and notify the Planning and Community Development Department of the City of Everett, if during excavation in the shoreline area, anything of possible archaeological

interest is uncovered. The City should subsequently notify the Tulalip Tribes and the State Office of Archaeology and Historic Preservation.

5. When archaeological artifacts are discovered during development, the City should require the applicant to hire a qualified archaeologist to investigate and report to the City upon the location, condition, and extent of the site; impacts associated with the proposal; and any recommended mitigation necessary.
6. The City should encourage the development of interpretive facilities, the rehabilitation of existing shoreline historical markers, and the installation of new markers that document the history of shoreline activity in Everett.

Regulations

1. All shoreline permits shall contain provisions which require developers to immediately stop work and notify the City and the Tulalip Tribes if anything of possible archaeological interest is uncovered during excavations or development and consult a professional archaeologist to inspect and evaluate the site. Failure to comply with this requirement shall be considered a violation of the Shoreline Permit.
2. An archaeological survey shall be required for any development that includes excavation into native soils (i.e., below any fill) unless an acceptable archaeological survey has previously been completed for the area. Archaeological survey reports and site investigation reports shall be made available to the Tulalip Tribes.
3. All permits issued for development in areas known to contain archaeological artifacts and data shall include requirements for the developer to provide for a site inspection and evaluation by a qualified archaeologist. The archaeologist report must include an analysis of the impacts of the development on the artifacts and data, and recommended mitigation measures. The report and mitigation measures must be approved by the City prior to the initiation of any development activity. Significant archaeological data or artifacts shall be reported to the State Office of Archaeology and Historic Preservation and shall be recovered before work resumes or begins on a project.
4. All development proposed for location on or adjacent to historic sites which are registered on the state or national historic register or have been recommended for such in the Shoreline Historic Survey shall provide interpretive signs or other method of documenting the historic character of such sites.

5. Significant archaeological and historic resources shall be permanently preserved for scientific study, education and public observation. When the City determines that a site has significant archaeological, cultural, scientific or historical value based upon consultations with the State Office of Archaeology and Historic Preservation and the Tulalip Tribes, a substantial development permit shall not be issued which would pose a threat to the site. The City may require that development be postponed in such areas to allow investigation of or public acquisition and/or retrieval and preservation of significant artifacts.
6. Archaeological sites located both in and outside the shoreline jurisdiction are subject to RCW 27-44 (Indian Graves and Records) and RCW 27-53 (Archaeological Sites and Records) and shall comply with WAC 25-48, as well as the provisions of this master program.
7. Access to identified historical or archaeological resources shall be designed and managed so as to give maximum protection to the resource and surrounding environment.

3.6 Flood Hazard Reduction Element

Flood hazard reduction measures are actions taken to prevent and/or reduce adverse impacts caused by current flooding, wake or wave action. Structural flood hazard reduction measures include, but are not limited to, dikes, levees, revetments, floodwalls, elevation of structures, biotechnical measures, and channel realignment. Nonstructural measures include planning and zoning requirements, such as setbacks, wetland restoration, dike removal, use relocation, and stormwater management programs. Structural flood hazard reduction measures such as diking can reduce inundation in a portion of the watershed, but can also intensify flooding elsewhere. Flood hazard reduction measures can also damage ecological functions crucial to fish and wildlife species, bank stability, and water quality. Measures, such as those that modify littoral drift, can result in impacts beyond the project boundaries.

Exemptions. The Shoreline Management Act exempts from the requirement to obtain a Substantial Development Permit the normal maintenance and repair of existing shoreline stabilization and flood protection works and emergency construction-necessary to protect property from damage by the elements. The Act also exempts the operation and maintenance of dikes, ditches, drains or other facilities existing as of September, 1975, which were created, developed or utilized as part of an agricultural drainage or diking system. Although these structures are exempt from obtaining a Substantial Development Permit, compliance with all other prohibitions, regulations and development standards of this chapter is still required.

Incorporation by Reference

Consistent with WAC 173-26-190 the City hereby incorporates into the Shoreline Master Program the Floodplain Overlay Districts and Regulations (EMC 19.30) in effect as of August 13, 2005. (*Ordinance 2857-05 and Ordinance 3053-08, effective 12/24/09*)

The following goals, objectives, policies and regulations are in addition to those incorporated above.

Goal

To prevent or minimize flood damage while protecting shoreline ecological functions and ecosystem-wide processes.

Objectives

1. Discourage new development in shoreline areas that would be harmed by flood conditions, or which would create or intensify flood hazard impacts on other properties.
2. Use existing regulations and other appropriate means to evaluate and prevent flood damages.
3. Update floodplain development regulations as needed to ensure compliance with FEMA standards.
4. Minimize impact to shoreline ecological functions and ecosystem-wide processes when flood protection measures are necessary to prevent flood damages.
5. Give preference to nonstructural flood hazard reduction measures over structural measures when feasible.

Policies

1. Flood hazard reduction planning should be undertaken in a coordinated manner among affected property owners and public agencies and should consider entire systems or sizable stretches of rivers, lakes or marine shorelines. This planning should consider the off-site erosion, accretion or flood damage that might occur as a result of stabilization or protection structures or activities.
2. Flood hazard reduction structures should be located, designed, constructed and maintained to not significantly impact ecological functions or ecosystem-wide processes.
3. Nonstructural flood control solutions should be used wherever feasible, including limiting development in historically flood-prone areas, regulating structural design, and encouraging dike breach projects in appropriate locations. Structural solutions to reduce shoreline damage should be allowed only after it is demonstrated that nonstructural solutions would not provide equal damage reduction, while still achieving the project purpose. Shoreline modifications for flood hazard reduction should comply with the Shoreline Modification requirements in Section 6.
4. Substantial stream channel direction modification, realignment and straightening should be prohibited, unless proposed as part of an ecosystem restoration project.

Regulations

1. Structural flood hazard reduction activities must be in support of an allowable shoreline use that is in conformance with the provisions of this master program.
2. All development in the Flood Fringe and Floodway overlay zones shall comply with EMC 19.30, as applicable. In addition, all development located downriver from SR 529, shall be floodproofed in accordance with the provisions in EMC 19.30.040C, as applicable.
3. Structural flood hazard reduction activities must comply with the requirements for Shoreline Modification Activities in Section 6 of this SMP.
4. Structural flood hazard reduction measures shall only be permitted when nonstructural measures are not feasible. When structural flood hazard reduction measures are permitted, all impacts to the existing shoreline functions and priority species and habitats shall be mitigated to the extent feasible.
5. All new structural flood hazard reduction measures and improvements to existing structures shall include measures to restore ecological functions whenever feasible.
6. Many of the 2001 SEWIP assessment units designated Aquatic Conservancy in Section 4 of this SMP as well as the aquatic area west of Smith Island (AU 3.05) received high rankings partially due to high quality marsh edge and/or riparian vegetation along dikes adjacent to the aquatic areas. Where structural flood hazard reduction measures are needed to protect development inland from these dikes, when feasible, new dikes or other stabilization structures shall be constructed inland of the existing dikes, and the high quality vegetation shall be preserved and enhanced along the existing dike.
7. New structural flood hazard reduction measures shall be placed landward of the channel migration zone, except
 - a) when necessary to accommodate development allowed under this Shoreline Master Program, where existing structures prevent active channel movement;
 - b) when necessary to accommodate actions that protect or restore ecological functions or ecosystem-wide processes, such as wetland restoration;
 - c) bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists;
 - d) repair and maintenance of an existing legal use, provided that such actions do not cause significant ecological impacts;

- e) development on a previously altered site where it is demonstrated that the development returns ecological functions and processes of the applicable section of the watershed or drift cell to a more natural condition;
 - f) development consistent with a management plan approved by the department of ecology that is directed toward protecting and restoring ecological functions and ecosystem-wide processes;
 - g) modifications to or additions to an existing legal use, provided that channel migration is not further limited and that the new development includes appropriate ecological restoration;
 - h) existing and ongoing agricultural practices, provided that no new restrictions to channel movement occur; or
 - i) when the applicant demonstrates that no other alternative to reduce flood hazard to existing development is feasible.
8. River and stream channel direction modification, realignment and straightening shall be prohibited, unless proposed as part of an ecosystem restoration project.
9. All flood hazard reduction structures shall be constructed and maintained in a manner which does not degrade the quality of affected waters.
10. Removal of gravel for flood management purposes shall be prohibited unless associated with an ecosystem restoration project that does not result in significant ecological impacts to fish and wildlife. Note that this does not apply to dredging projects that meet the requirements of Section 6.4.
11. Marshland Subarea.
- a. When flood protection structures in the Marshland Subarea are rebuilt, or undergo major renovation, best available fish passage technology must be incorporated when feasible.
 - b. Relocation of structural flood protection measures in the Marshland Subarea for restoration purposes must be consistent with the Snohomish River Comprehensive Flood Control Management Plan, and coordinated with Snohomish County, the Marshland Flood Control District, the Coordinated Diking Council, Natural Resources Conservation Service, affected utilities and property owners.
 - c. Sufficient protections must be in place to ensure that properties outside the restoration areas continue to be protected from flooding to at least the extent they are protected under pre-restoration conditions.
 - d. Restoration projects must incorporate design features to preserve or improve drainage in areas outside restoration areas.
 - e. Dikes must be designed to ensure they will not impact utility operations or access. Any dikes that would affect access to power lines or liquid petroleum product lines must be constructed to accommodate the expected access needs of the utility owner, including loading generated by typical utility vehicles. Dikes should be designed to withstand water loading to be considered accessible.
 - f. Adequate access to adjacent agricultural fields must be maintained or provided.
12. New flood control structures such as dikes and levees shall dedicate and improve public access pathways unless public access improvements would result in a safety hazard to the public, inherent and unavoidable security problems, or significant ecological impacts.

3.7 Public Access Element

The public access element addresses the provision of shoreline access to the general public. Shoreline public access is the ability of the public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, or to view the water and the shorelines from adjacent locations. There are a variety of types of public access including picnic areas, pathways and trails, floats and docks, promenades, viewing towers, bridges, boat launches, street ends, ingress and egress, parking and others.

Goals

To achieve safe, convenient, and diversified access for the public to the shorelines of Everett.

The first 100 years of Everett's history, public access to shorelines was limited by industrial and railroad development. Everett's citizens have indicated that public access is among their highest priorities. The goal of this section shall be to protect and maintain existing public access, to restore and reclaim public access, and to provide safe and meaningful public access, use and enjoyment of Everett's shorelines.

Objectives

1. Promote and enhance the public interest in access to waters held in public trust by the state while protecting private property rights and public safety.
2. To the greatest extent feasible, protect the public's opportunity to enjoy the physical and aesthetic qualities of the shorelines of the state, including views of the water.
3. Protect and, as appropriate, seek to enhance existing public access including expansion of trails, trail networks, and substantial public viewing areas.
4. Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize any interference with the public's use of the water
5. Develop (a) citywide public access plan(s) that identifies(y) potential shoreline public access projects, such as park acquisition and development; observation and view points; interpretive displays for areas of significant historic, cultural, educational, or scientific value; trails, including trails connecting public access areas; and other appropriate means of providing public access to the shoreline. The plan(s) should include a list of public access improvements and design

standards that provide direction for public and private improvements. Adopt the plan as an element of the Comprehensive Plan. Include appropriate public improvements in the Capital Facilities Element of the Comprehensive Plan.

6. Indicate by use of signs and graphics all publicly owned and controlled accessible shoreline areas.
7. Continue the cooperative public access efforts between the Port, the City and the County.
8. Protect the rights of navigation.

Policies

1. Public access to shorelines should be required of all developments in shoreline jurisdiction to the extent allowed by law.
2. Preference should be given to provision of on-site public access. Off-site public access is appropriate where it would provide more meaningful improvements, or where off-site public access is consistent with an approved public access plan.
3. On-site public access shall not be required in the Deep Water Port Environment so long as public access requirements are met or fulfilled by off-site public access. Public access requirements for development in the Deep Water Port Environment may be met or fulfilled by off-site public access improvements, or on-site improvements at the request of the applicant/property owner.
4. Public access should be prohibited in the Municipal Watershed Environment.
5. Where off-site public access is necessary, construction of trails or trail improvements that link shoreline areas or other improvements that further the objectives of an adopted public access plan should be allowed in meeting public access requirements.
6. Public access improvements should be generally consistent with adopted public access plans and the non-motorized transportation (trail) plan if the project area is covered by the plans. However, an alternative proposed by the Applicant may be approved if it is consistent with the goals, objectives, and policies in this SMP.
7. Additional studies should be completed to determine if the shoreline trails identified as “Needs Further Study” in the Non-Motorized Transportation Plan are feasible. If not feasible, alternative locations should be identified and evaluated.

8. Public access should be provided as close as possible to the water's edge without significantly adversely affecting a sensitive environment or resulting in significant safety hazards. Improvements should allow physical contact with the water where feasible.
9. Water-enjoyment uses and non-water-oriented uses that front on the shoreline should provide continuous public access.
10. Developments within shoreline jurisdiction that do not have shoreline frontage should provide public access by providing trails or access corridors through their sites.
11. Public access improvements should be allowed in buffers, but should be designed to mitigate any significant impacts to environmentally sensitive areas.
12. An applicant may construct public access improvements before site development as a part of an overall site master plan, which may be phased. The applicant would receive credit for those improvements at time of development.
13. Public access requirements should be completed in a timely manner and assurance devices should be used to provide meaningful and timely public access.
14. Signs identifying publicly accessible shorelines should be required at such locations.
15. Public access provided by street-ends, utility corridors, and public rights-of-way should be addressed in public access plans and should be preserved, maintained and improved.
16. Utility rights-of-way leading to or along Everett's waterfront should provide linear public access.
17. Transportation corridors should be designed to be pedestrian and bicycle friendly and to provide safe circulation through and to the shoreline. Pedestrian and bicycle routes should be connected to each other and neighborhoods throughout greater Everett, and should be constructed in such a manner as to provide both recreational and commuting options for pedestrians and bicyclists.
18. Developments should be designed to reduce or minimize impacts on scenic vistas of shoreline areas, while accommodating a proposal's objective. Public views of shoreline areas should be preserved.

19. Public access improvements should include provisions for disabled and physically impaired persons where reasonably feasible.
20. Public access improvements should be designed and maintained to provide for public safety and comfort.
21. Public access improvements should be designed and managed to avoid or minimize potential impacts to private property and individual privacy.
22. Public access improvements should include physical separation or other means of clearly delineating public and private space in order to avoid user conflict and enhance public safety.
23. The City should encourage the multiple use of jetties and groins to increase public access and enjoyment of the shoreline.

Regulations

1. Public access shall be required to the extent allowed by law in the review of all shoreline substantial development and conditional use permits (including land division), except for projects which meet the following criteria:
 - a. Projects in the Municipal Watershed Environment.
 - b. Environmental remediation projects involving no proposed use of the property.
 - c. Projects involving only ecological enhancement and restoration, except that new dikes shall incorporate public access per regulation 17.
 - d. In-water proposals with no demonstrated impact on public access or with a demonstrated increase in public access, such as dredge material disposal at the PSSDA site and removal of existing pilings or other obstructions.
 - e. Projects in shoreline jurisdiction, with no waterfront, and no identified trail connections to existing or potential public access sites.

The remaining public access regulations in Section 3.7 do not apply to the exceptions listed above.*

* Please note that regulations 21 through 23 apply to all developments.

2. Public access shall be provided on-site, except for projects which meet the following criteria as determined by the Planning Director or Hearing Examiner:
 - a. The project is in the Deep Water Port Environment.
 - b. The provision of public access would result in an unavoidable health or safety hazard to the public that cannot be prevented by any practical means. The applicant must demonstrate that the health or safety hazards cannot be mitigated through the application of alternative design features or other solutions, such as regulating access by such means as maintaining a gate and/or limiting hours of use; designing separation of uses and activities (e.g. bridges, pedestrian overpasses or underpasses, fences, terracing, use of one-way glazing, hedges, landscaping, etc.).
 - c. The provision of public access would result in significant environmental harm, and the impact cannot be mitigated.
 - d. The provision of on-site public access is not practical (e.g. small or odd shaped lots, lots where functional requirements of primary use would hinder access).
 - e. More meaningful access that is better than that provided by the application of the goals, objectives and policies of this plan can be provided off-site.
3. Projects which meet the criteria in Regulation 2 above, must either construct off-site improvements or, if approved by the Planning Director, contribute to a public access fund established by the City to construct off-site public access improvements of comparable value.
4. Water-enjoyment uses and non-water-oriented uses that front on the shoreline shall provide continuous public access along the entire site's shoreline. Continuous access does not mean the access is equidistant from the OHWM or within a buffer.
5. A project proponent may participate in "public access banking" by providing public access improvements prior to the time a project is constructed.
6. Where a project is located within an area covered by an adopted public access plan, public access improvements shall be generally consistent with the adopted plan. However, the City may approve an alternative proposed by the Applicant that meets the goals, objectives and policies in this SMP. Adopted public access plans include, but are not limited to, An Urban Design Plan for Everett Harborfront, Everett Harborfront Public Access Plan, Everett Central City Development Plan, a Pedestrian and Bicycle Access Plan for Everett's Snohomish

Riverfront , the Non-Motorized Transportation (Trail) Plan, or as such shall be superceded or amended.

7. Except where clearly not feasible, public access improvements shall include construction of trails to implement the Non-Motorized Transportation Plan, or as such shall be superceded or amended.
8. Where the required public access improvements are part of an integrated system to be accomplished through a public/private effort, the City may permit the applicant to pay an amount equal to the construction cost of the required improvements in lieu of developing the improvements at the time of development. The funds from this permit will be designated by the City for a programmed capital improvement project which includes the public access improvements required by the project permit. The intent of this provision is to allow greater flexibility and cost effectiveness in creating a public access system than could be achieved if elements of the system were constructed individually.
9. Where feasible, development uses and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's physical access to the water and shorelines.
10. Public access provided by shoreline street ends, public utilities and public rights-of-way shall not be diminished.
11. Public access sites shall be connected directly to the nearest public street or trail.
12. Roads and railroads along public shoreline areas shall provide for safe pedestrian and bicycle circulation through the shoreline. Pedestrian circulation shall be provided to the shoreline unless the access meets the criteria in Regulation 2.
13. Public access improvements shall include provisions for persons with disabilities, where reasonably feasible.
14. Required public access improvements shall be fully developed and available for public use at the time of occupancy of the use or activity unless there are mitigating circumstances and an assurance device acceptable to the Planning and Community Development Director is in place.
15. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition running contemporaneous with the authorized land use. Said recording with the County Auditor's Office shall occur at the time of permit approval. Future actions by the

applicant and/or successors in interest or other parties shall not diminish the usefulness or value of the public access provided.

16. The standard state approved logo or other signs approved by the Planning and Community Development Director that indicate the public's right of access and hours of access shall be constructed, installed and maintained by the applicant. Signs may control or restrict public access as a condition of permit approval.
17. Public access improvements shall be designed to minimize impacts to environmentally sensitive areas, ecological functions, or ecosystem-wide processes. A biological assessment (Planning Director's Interpretation), and potentially a habitat management plan (EMC 19.37 – Environmentally Sensitive Areas), shall be required for each project in shoreline jurisdiction. The City may require that buffers be increased based upon the results of that assessment. Mitigation of impacts shall be required as appropriate.
18. The City may require that parking facilities be provided in conjunction with required public access improvements.
19. Pedestrian access shall be required along new and reconstructed dikes, jetties and groins, except where the access would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant ecological impacts, significant unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.
20. Publicly financed or subsidized shoreline erosion control measures shall not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, or security. Public access improvements shall be incorporated into such projects except when exempted by Regulations 1 or 2 above.
21. Existing public access shall not be eliminated unless the Applicant shows that there is no feasible alternative and replaces the public access at another location.*
22. The placement and design of structures on shoreline sites shall be done in a manner which is least detrimental to shoreline views and vistas. In certain instances this may be accomplished by orienting the length axis of the building and/or operation parallel to the view line. This regulation applies even if off-site public access is provided.*

23. Any building or structure within 200 feet of the ordinary high water mark, in excess of 35 feet in height shall provide data showing that it will not obstruct the view of a substantial number of residences on the areas adjoining such shorelines. This regulation does not apply to cranes, utility poles or other devices required to carry on water-dependent operations. (The intent of this regulation is not to reduce the height limitation presently allowed in any multi-family zone.) This regulation applies even if off-site public access is provided.*

* Please note that regulations 21 through 23 apply to all developments.

3.8 Recreational Element

The recreational element addresses the preservation and expansion of recreational opportunities through programs of acquisition, development, and dedication.

Goal

To provide opportunities for diverse and convenient water-oriented recreational experiences for the public where appropriate.

Objectives

1. Locate only water-dependent, water-related or water-enjoyment recreational facilities at shoreline locations wherever possible and appropriate.
2. Promote public awareness of the existing and potential recreational uses of the shoreline.
3. Relate and link shoreline recreation to the overall recreational pattern of the city.
4. Explore appropriate means to provide public recreation at the shoreline and on the water.
5. Identify, protect, and reserve for public use and/or enjoyment those shoreline areas containing special qualities that cannot be easily duplicated.
6. Inventory all existing shorelines for unique attributes and assign public acquisition priorities accordingly.
7. Utilize submerged lands for underwater recreation where it is safe, feasible and appropriate.
8. Ensure retention of opportunities for passive recreation (e.g., natural areas, open space).
9. Utilize recreational sites as opportunities to educate the public to the value of Everett's shoreline water bodies and historic/cultural resources, (e.g., interpretive signage, "touch tanks", etc.).
10. Wherever feasible, use City-owned utility properties in shoreline areas for recreational purposes.

3.9 Conservation Element

The conservation element addresses the protection, preservation, enhancement and restoration of Everett's natural shoreline resources, including scenic vistas, parkways, wetlands, estuarine areas, fish and wildlife habitat, beaches, geologically hazardous areas, and other valuable natural and aesthetic features.

In the early 1900's, Everett's waterfront was heavily impacted by mills and other industry. Since the 1970's and adoption of the Shoreline Management Act and other environmental laws, shoreline conditions in the City have been improving. The City is committed to the continued environmental enhancement and restoration of shoreline areas. The City's first Environmentally Sensitive Areas ordinance was adopted in 1989, and amended in 1991 to comply with Growth Management Act requirements. This ordinance requires protection and/or mitigation of impacts to critical areas and gives special consideration to Fish and Wildlife Conservation Areas. As Everett's heavily impacted shoreline sites are developed/redeveloped, compliance with City regulations and this SMP will result in improved environmental conditions.

Incorporation by Reference

Consistent with WAC 173-26-190, and in response to the listing of salmon under the federal Endangered Species Act, the City hereby incorporates the following plans, goals, policies and studies into this Shoreline Master Program only insofar as they apply to areas within shoreline jurisdiction. These documents comprise the substance and procedures for regulating development in critical and sensitive areas within the City of Everett including development within the shoreline jurisdiction. While these documents have broader applications within the City of Everett, they are applied here as an essential element of the regulatory structure to address development proposals within shoreline jurisdiction. These regulations apply to all activities and uses in all environmental designations of the Shoreline Master Plan.

For the purposes of this Shoreline Master Plan, EMC 19.33D.360-590, PDI 2-2000, PDI 05-005 and the SEWIP study are the versions in existence on March 21, 2001 unless otherwise noted. EMC 19.37 is the version that became effective on April 28, 2006. The Comprehensive Plan is the version that becomes effective in August 2005. The City's Comprehensive Plan, EMC 19.33D.360-590, 19.37, PDI 01-005 and PDI 2-2000 were adopted under the City's general land use authority and police powers. The SEWIP document has not been previously adopted by the City and is incorporated herein as the inventory work that meets the best available science required under RCW 36.70A.172 of the Growth Management Act. (*Rev. 11/17/05*)

In the event the City should subsequently amend these regulations, the City may apply regulations which offer the greatest protection of sensitive shoreline resources even if the regulations are not formally incorporated within the City's Shoreline Master Plan. The City may, at its discretion, submit the amended version(s) of the regulations to the Department of Ecology as an amendment to the Shoreline Master Program consistent with WAC 173.26.190.

The plans, regulations, policies and studies incorporated by reference are as follows:

- **The City’s Comprehensive Plan** Goals, Objectives and Policies for Critical Areas. These policies provide the basic framework for the protection of sensitive features within the City of Everett and are in compliance with the State’s Growth Management Act as well as the Shoreline Management Act. (*Rev. 11/17/05*)
- **EMC 19.33.D.360-590 Environmentally Sensitive Areas Ordinance** and applicable definitions in EMC 19.04. EMC 19.33.D.360-590 regulates development in sensitive areas including wetlands, streams, rivers, and steep slopes. These regulations prescribe buffers and setbacks, and provide for the protection of “priority species” such as those “Threatened or Endangered” species protected under the Endangered Species Act. (These definitions and regulations are applicable in all areas of shoreline jurisdiction, except the Marshland Subarea.)
- **Planning Director’s Interpretation 2-2000**, (PDI 2-2000) Interim Procedures, Endangered Species Act Listing for Chinook Salmon and Bull Trout, or a subsequent procedure consistent with National Marine Fisheries Service (NMFS) 4d rule. The PDI 2-2000 sets forth a procedure for reviewing projects that emulates the Section 7 consultation procedures practiced by NMFS. PDI 2-2000 requires a biological evaluation to be performed on all projects within shoreline jurisdiction and may require a more detailed biological assessment if circumstances warrant. Projects may be conditioned and or mitigation measures prescribed that exceed those in the City’s critical areas ordinance (EMC 19.37).
- **Planning Director’s Interpretation 01-005**, (PDI 01-005). Standard Buffer Width Reduction. (*Rev. 11/17/05*)
- **EMC 19.37 Critical Areas** and applicable definitions in EMC 19.04 in effect on April, 28, 2006 (Applicable in Marshland Subarea only)
- **The Snohomish Estuary Wetland Integration Plan** (SEWIP) including the SEWIP Salmon Overlay published in February 2001. The SEWIP work will serve as the primary inventory information and “Best Available Science” for those areas included in the SEWIP study area.
- **Marshland Subarea Plan**

As stated above, these policies and regulations apply to all activities and uses in all environmental designations of the Shoreline Master Plan. Where conflict exists between any of these documents, the most protective of shoreline resources shall apply. This may mean that every parcel is not developable or fully developable as desired by a project proponent. Project proponents will be responsible for providing sufficient scientific information to document the environmental impacts and appropriate mitigation measures for their proposals. The City may deny projects that will result in significant ecological impacts that are not fully mitigated, even though the project is consistent with the use provisions of this SMP.

The following goals, objectives, policies and regulations are in addition to those incorporated above.

Goals

1. To protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life.

2. To promote and enhance the public interest by protecting, enhancing, restoring, and preserving ecological functions and ecosystem-wide processes, while allowing development in Everett's Urban Growth Boundary.
3. To preserve and enhance scenic elements.
4. To educate the public to the ecological value of Everett's shoreline areas.
5. It is the short-term goal that there be no net loss of the acreage or functional values of shoreline habitat. The long term goal is an increase in the acreage and functional values of shoreline habitat.
6. To protect and restore proposed, threatened or endangered species and their habitat.

Objectives

1. Implement area-wide and watershed-based studies and management plans cooperatively with other local, state, and federal resource agencies and the Tulalip Tribes. Identify areas which should be preserved, enhanced, or restored to protect and restore ecological functions and ecosystem-wide processes, and prohibit or severely restrict development in those areas.
2. Require that developments address their impacts on scenic views and vistas and that impacts be mitigated to the extent practicable.

Also see Public Access Policy 17 and Regulations 20 and 21 in Section 3.7.
3. Require that all shoreline uses comply with all applicable local, state, and federal regulations protecting critical areas.
4. Through the application of the City's development regulations and this Shoreline Master Program, closely scrutinize the alteration of and prevent long-term degradation of submerged lands, except as permitted for water dependent uses or placement of dredged materials.
5. Inform the public about shoreline conservation practices.
6. Maintain an updated inventory of the shoreline natural resources and ecosystems by which to judge the impact of any proposed action in shoreline areas.
7. Program funds for the preservation, restoration and/or beautification of valuable shoreline resources as a part of the Capital Improvement Program to apply towards projects that will result in a net increase in ecological functions.
8. Modify management practices and regulations over time to address changing conditions and new knowledge gained from monitoring activities and research.

9. Encourage restoration by limiting impacts on properties that are not being restored.

Policies

1. Best available science should be used when identifying, evaluating, and mitigating impacts to critical areas.
2. The adverse impacts of shoreline uses and activities on the environment should be identified, mitigated, and monitored as appropriate, for all phases of development (e.g. design, construction, and management). (See definition of mitigation in Section 7.)
3. Highest priority should be given to the protection and restoration of fish and wildlife conservation areas as defined in EMC 19.37 and 19.33.D360-590. These include
 - Habitats of primary association (A critical component(s) of the habitats of federally or state-listed endangered, threatened, candidate, sensitive, priority, and monitored wildlife or plant species which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. (Partial definition))
 - Riparian corridors
 - Continuous vegetative corridors linking watersheds
 - Significant biological areas. (Plant associations of infrequent occurrence; commercial and recreational shellfish areas; kelp and eelgrass beds; herring and smelt spawning areas; state natural area preserves and natural resource conservation areas; Maulsby Swamp; the Category 1 wetlands on the Simpson Lee site; and Jetty Island)

Except within the Marshland Subarea, development proposed in these areas should comply with EMC 19.33D.360-590 and Planning Director Interpretation No. 2-2000, Interim Procedures, Endangered Species Act Listing for Chinook Salmon, as applicable. In the Marshland Subarea, development should comply with EMC 19.37.

4. New development on geologically hazardous areas should only be approved if consistent with the City's Environmentally Sensitive Areas (Critical Areas) Ordinance, and when the new development will not result in the need for new shoreline stabilization over the life of the project.
5. As sites are redeveloped, unnecessary improvements within shoreline jurisdiction should be removed. Permeable surfaces and buffers along rivers, wetlands, lakes and Port Gardner Bay should be restored to the extent practicable. Buffers and restoration should be provided consistent with EMC 19.33.D.360-590 or 19.37, as applicable.
6. Existing hydrologic connections between water bodies, water courses, and associated wetlands should be protected.
7. Shoreline developments should provide detention and treatment of stormwater runoff as necessary to prevent adverse impacts to receiving waters and shore properties from increased flows, erosion, sedimentation, and pollutants.

8. The City should encourage shoreline property owners to take actions, where appropriate, to enhance the shoreline with native vegetation that will improve the condition of fish and wildlife habitat, even if no shoreline development is proposed.
9. All developments should comply with existing local, state and federal regulations relating to water quality and critical areas.
10. Clearing and grading activities that will have an adverse impact on shoreline resources should be limited to the minimum necessary to accommodate shoreline development. Mitigation of adverse impacts should be required.
11. Maintenance activities that include disposal of landslide debris from bluffs should consider impacts to fish and wildlife conservation areas.
12. Research activities and educational facilities should be allowed in or near critical areas if the activities and facilities will not significantly adversely impact the area.
13. The City should encourage and actively seek funding for the restoration of properties identified as high priority for restoration in the Snohomish Estuary Wetland Integration Plan.
14. The City should require clear performance standards, monitoring, and provision for contingency measures based upon best available science for all projects that include compensation for impacts to environmentally sensitive areas and restoration projects.
15. The City should monitor and analyze the cumulative impacts of development permitted in shoreline areas, including development exempt from Shoreline Substantial Development Permit requirements. Where impacts are occurring beyond that anticipated, the City should revise the Master program to address the cumulative impacts, and/or revise the conditions of approval of developments as allowed by EMC 19.33D.360-590 and 19.37 (including buffers, compensation ratios, the detailed design of compensation and restoration projects, etc.) to address the new information.
16. Restoration should be encouraged by reducing hardships on property owners caused when a shoreline restoration project shifts shoreline management act jurisdiction into areas that had not previously been regulated under the act or shifts the location of required shoreline buffers.

Regulations

1. Except for within the Marshland Subarea, all development activities shall comply with the City's Environmentally Sensitive Area Ordinance, EMC 19.33D. 360-590, in effect on March 21, 2001; Planning Director Interpretation No. 2-2000, Interim Procedures, Endangered Species Act Listing for Chinook Salmon and Bull Trout; and Planning Director Interpretation No. 01-005 unless more stringent requirements are adopted by City Council subsequent to that date.

2. All developments shall comply with other local, state and federal regulations relating to critical areas, as applicable.
3. Best available science shall be used in identifying, evaluating and mitigating impacts of development proposals. The City shall require sufficient geological, hydrological and biological studies to determine the impacts of the proposal. (See EMC 19.37 and Planning Director Interpretation No. 2-2000 in Appendix A.)
4. Area-wide and watershed-based plans adopted by City Council shall be given substantial weight in determining whether impacts to wetlands and aquatic areas are adequately evaluated and compensated.
5. When analyzing proposed development on geologically hazardous areas, geotechnical reports must address stabilization required over the life of the project. The geotechnical report must address the method of conveying stormwater to the nearest established, stable drainage course, within the naturally occurring drainage (or sub-drainage) basin, by pipe or by other approved method that will not result in erosion or flooding. Sufficient information and analysis must be provided to enable the City to determine that this requirement is being met. Appropriate easements will be required if conveyance must occur across private property.
6. Existing hydrologic connections between water bodies, water courses, and associated wetlands shall be protected and maintained.
7. All developments shall mitigate impacts to water quality using best available science. Compliance with City stormwater regulations consistent with state stormwater regulations shall be required. Water quality monitoring during construction and operation may be required by the Planning and Community Development Director or Hearing Examiner on a project by project basis based upon specific characteristics of the proposal.
8. Projects that would cause significant ecological impacts to water quality, quantity, or flows, including impacts to aesthetic qualities or recreational opportunities, shall be prohibited.
9. Existing vegetation along the shoreline in the area designated Urban Conservancy located north and west of the railroad tracks along Port Gardner Bay shall not be removed, except to replace non-native vegetation as permitted by the Planning Director through a buffer management plan or to allow construction of a permitted use when impacts to vegetation are mitigated.
10. When disposing of landslide debris along Port Gardner Bay, the railroad and other property owners shall avoid eelgrass beds.

11. As existing shoreline properties are redeveloped, impervious surfaces not needed for current or planned uses shall be removed and shoreline buffers shall be enhanced and/or/restored to the buffer width required by the SMP, except as necessary to accommodate access to the water necessary for the operation of water-dependent and water-related uses and/or public access. The Planning Director/Hearing Examiner shall have the authority to require redesign of the site and structures to minimize impacts to existing aquatic and buffer vegetation and to provide for buffer enhancement.
12. Land clearing, grading, filling and alteration of natural drainage features and land forms, where permitted, shall be limited to the minimum necessary for permitted development.
13. When this Master Program requires mitigation, the mitigation sequence identified in Section 7 shall be used.
14. Where applicable, new development shall include environmental cleanup and restoration of the shoreline in accordance with state and federal requirements.
15. Interpretive signs shall be required for new developments with public access to explain the ecological resources on the development site.
16. Fencing shall be prohibited when significant wildlife movement in wildlife corridors would be impaired.
17. Where buffers are restored or enhanced, plantings shall generally be spaced and composed to mimic native buffer communities. However, plantings shall also be designed to take into account impacts to views and scenic vistas. Measures to protect views and scenic vistas may include, but not be limited to:
 - grouping large trees in clusters
 - selecting species that grow to heights that allow views without requiring maintenance pruning
 - clustering evergreens.
18. When public access is incorporated into buffers, buffer plantings shall be preserved and/or restored to the extent practicable. However improvements such as, paved trails, non-motorized public access bridge structures, overlooks, limited grassy recreational areas, and limited areas of hardened surfaces for direct access to the water may be permitted.
19. All plantings within environmentally sensitive areas and their required buffers shall be native species or native-hybrids. The City shall encourage developers to use native species for all landscaping within 100 feet of the shoreline, except for areas permitted for grass in conjunction with public access, recreational developments, or dike maintenance.
20. When restoring and enhancing buffers along the Snohomish River and its estuary, overhanging vegetation shall be provided along dikes and shoreline stabilization structures when feasible.

21. Buffers shall be maintained to eliminate invasive non-native species when practicable. Assurance devices shall be required for restored and enhanced buffers.
- 22A. Minimum 200 foot buffers shall be required adjacent to areas designated Aquatic Conservancy (SO AUs 2.21, 2.28, 2.30, 2.31, 2.32, 2.41, 2.44) and SO AU 3.05 on Smith Island north of 12th St. NE and on North Spencer Island (see Figure 3.9-1). A function assessment must be completed for all projects to demonstrate that these buffers result in no net loss of wetland or stream function. A wider buffer will be required when necessary to protect wetland and stream ecological functions. The buffers may be reduced in accordance with PDI 01-005 where there has been prior substantial legal alteration to the buffer and when the project applicant: (1) completes an approved function assessment, and (2) prepares an approved habitat management plan that includes buffer enhancement that would improve the functional performance of the buffer and the associated critical area. In no case shall buffers be reduced below 100 feet, except
- When a significant action that restores salmonid rearing habitat is incorporated into the proposal, including actions such as reconnection of a blind tidal channel, a dike breach, or removal of fill to create tidal marsh area.
 - Public access improvements such as trails and interpretive facilities may be included in portions of the buffer when the biological assessment and habitat management plan (if required) demonstrate no significant adverse impacts or that significant adverse impacts are mitigated.
 - Buffers may be reduced to provide a reasonable use of a property as specified in EMC 19.37.050.D.
 - Expansion of existing facilities such as SR529 and I-5 may be allowed when mitigation is provided for buffer impacts.

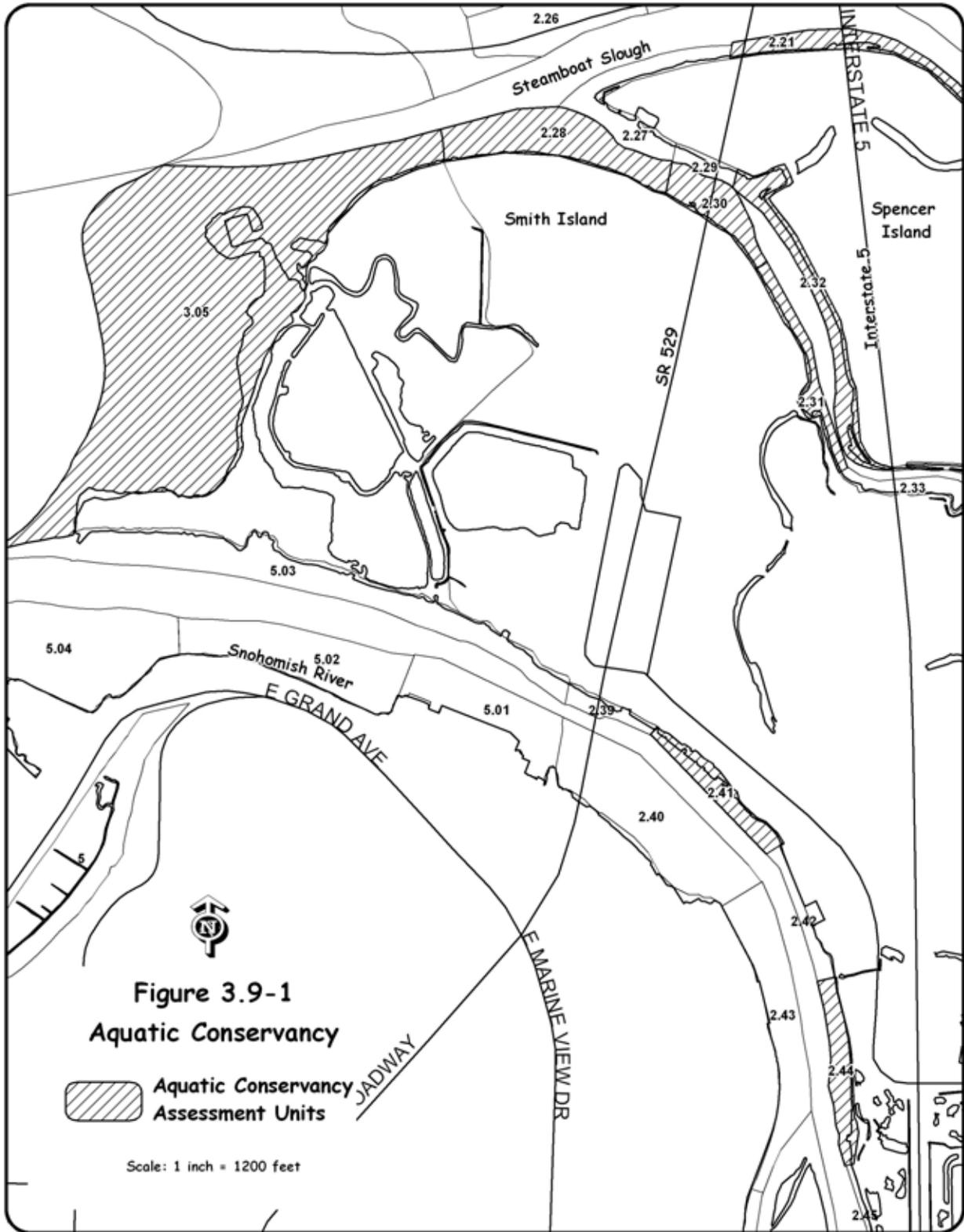
The City shall ask the appropriate resource agencies to review and comment on the function assessment and management plan. (*Rev. 11/17/05*)

- 22B. Palustrine wetlands on Smith Island north of 12th Street, on North Spencer Island, and on the city-owned property southwest of Weyco Island (AU 256) shall be categorized per Figure 3.9-2 (based upon SEWIP Wildlife Function). Category 1 wetlands shall have a minimum buffer of 200 feet. Category 2 wetlands shall have a minimum buffer of 100 feet. Category 3 wetlands shall have a minimum buffer of 50 feet. A function assessment must be completed for all projects to demonstrate that these buffers result in no net loss of wetland and stream function. A wider buffer will be required when necessary to protect wetland and stream functions. The buffers may be reduced in accordance with PDI 01-005 where there has been prior substantial legal alteration to the buffer and when the project applicant: (1) completes an approved function assessment, and (2) prepares an approved habitat management plan that includes buffer enhancement that would improve the functional performance of the buffer and associated critical area. In no case shall the buffers be reduced by more than 50%, except:
- When a significant action that restores salmonid rearing habitat is incorporated into the proposal, including actions such as reconnection of a blind tidal channel, a dike breach, or removal of fill to create tidal marsh area.

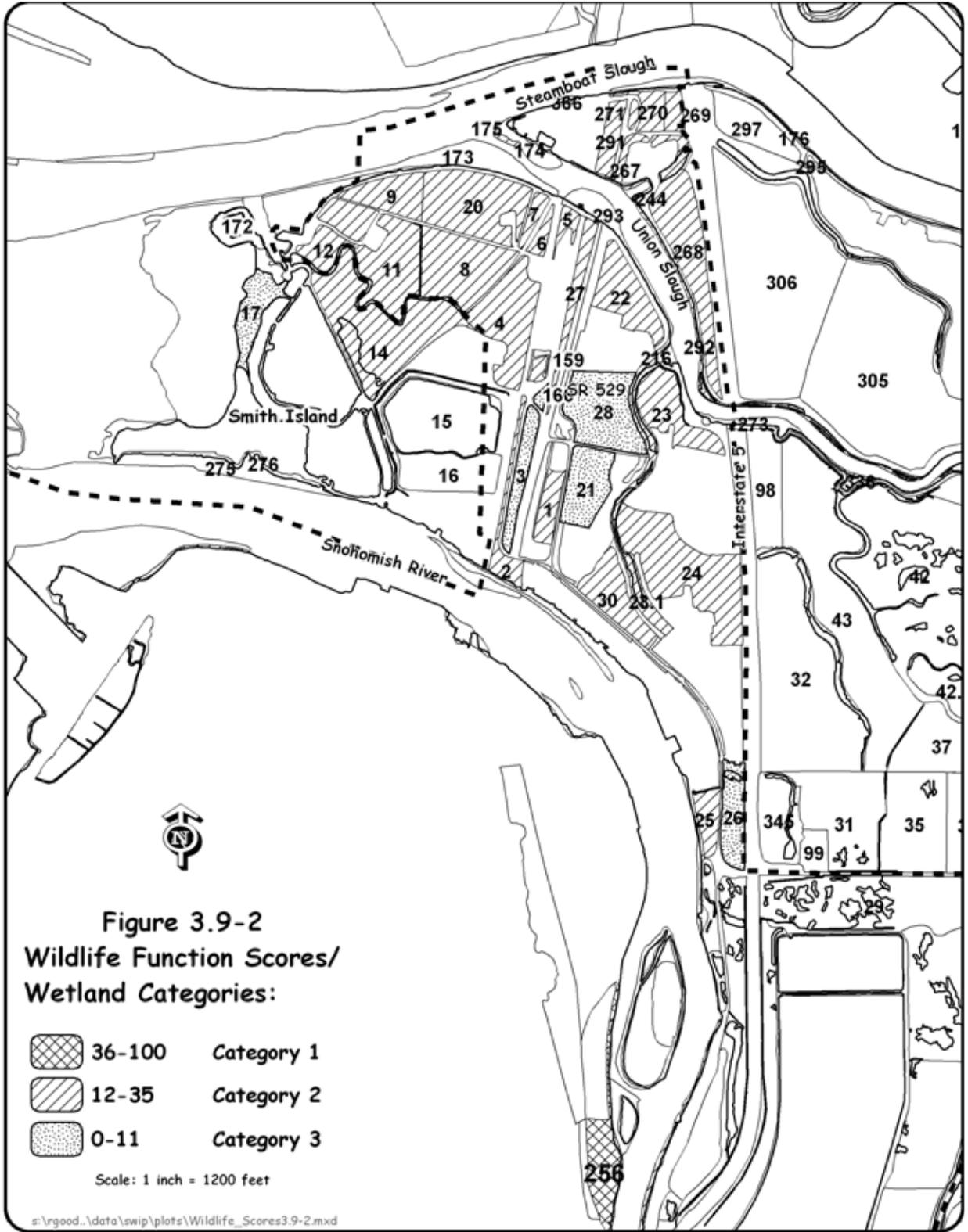
- Public access improvements such as trails and interpretive facilities may be included in portions of the buffer when the biological assessment and habitat management plan (if required) demonstrate no significant adverse impacts or that significant adverse impacts are mitigated.
- Buffers may be reduced to provide a reasonable use of a property as specified in EMC 19.37.050.D.
- Expansion of existing facilities such as SR529 and I-5 may be allowed when mitigation is provided for buffer impacts.

The City shall ask the appropriate resource agencies to review and comment on the function assessment and management plan. (*Rev. 11/17/05*)

23. Where dike setbacks are proposed or required, the wetland area within the setback area (i.e., between the waterward toe of the existing dike and the waterward toe of the setback dike) shall be delineated per the state wetland delineation manual. Areas not presently functioning as wetland will be credited toward the required buffer area.
24. The buffer on the south side of the Category 1 wetland north of the Simpson development pad shall be determined by a wetland analysis per Sections 37.100 and 37.170 of the Everett Municipal Code. This analysis shall include a Habitat Management Plan (HMP) and Buffer Enhancement Plan (BEP). Buffers recommended in the wetland analysis cannot be less than 100 feet unless significant improvements are made to the wetland and buffer functions. In no case shall the buffer be reduced below 75 feet, and the trail shall be relocated outside of that buffer except where it connects to the trail along the river. The buffer shall be enhanced to provide for the potential for large woody debris recruitment into the wetland. Provided however that a spur trail to the wetland may be provided in the buffer to provide views into the wetland. Associated interpretive facilities such as signs, a viewing platform, and benches may also be provided in the buffers.



c:\nood_1\data\sww\olots\Aquatic Figure3.9-1.mxd



25. Except as provided herein, all new development in the Marshland Subarea shall comply with the requirements of EMC 19.37 Critical Areas. The wetland compensation requirements of SMP Section 3.9 Regulation 35 shall apply in the Marshland area, rather than the compensation requirements in EMC 19.37.120C.
- EMC 19.37.050.B (Reasonable Use Exception) is not applicable. *(March, 2011)*
 - Except as provided in the following bullet, a Shoreline Variance is required to modify the standards in EMC 19.37. *(March, 2011)*
 - The Marshland Subarea Plan recommends significant tidal restoration within the subarea that would result in moving the ordinary high water mark further inland. The Subarea Plan also proposes significant nontidal wetland and riparian restoration that will result in new wetland areas, higher habitat scores for existing wetlands, and fish access to streams and drainages where it may currently not exist. Pursuant to the process identified in RCW 90.58.580, the City may grant relief from Shoreline Master Program regulations if the proposed relief is the minimum necessary to relieve the hardship; the restoration project will result in a net environmental benefit; and the granting of the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with the master program. This shall not apply to shoreline restoration projects created as mitigation to obtain a development permit. A shoreline substantial development permit is not required on land in the urban growth area that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the ordinary high water mark. *(March, 2011)*
26. Stormwater facilities are prohibited in Category 1 stream and wetland buffers. In lower rated wetlands and streams, stormwater management facilities are permitted only within the outer twenty-five percent (25%) of the buffer, provided that:
- i. The buffer area has been previously substantially and legally altered and is degraded as defined by PDI 01-005.
 - ii. Native vegetation and soils at the site should be protected and low impact development techniques should be used to promote infiltration of stormwater at the source. Stormwater facilities shall be integrated into the wetland buffer as a natural drainage system. The slopes and all areas that are disturbed shall be planted with native vegetation consistent with a buffer enhancement/mitigation plan. Above ground concrete walls and structures are not permitted. Below grade structures may be permitted only if it can be shown to the satisfaction of the planning director that the use of such materials fits with the natural design of the proposed facility and does not interfere with wildlife passages or adversely impact biological functions of the buffer or the adjacent critical area.

- iii. The facilities must include a buffer enhancement and management plan that would improve the functional performance of the buffer and associated critical area.
- iv. The location of such facilities will result in no net loss of wetland ecological functions.

For Category II, III, and IV wetlands and streams, the Planning Director may grant an exception to the outer 25% limitation when the applicant demonstrates that the project would significantly increase wetland or stream function. *(Rev. 11/17/05)*

- 27. To the extent feasible, projects shall be designed to shield environmentally sensitive areas and their buffers from high noise generating activities such as vehicle loading and maneuvering areas and loud industrial activities through site design, use of fencing and berms, etc.
- 28. Lighting shall be directed downward onto the site and away from environmentally sensitive areas and their buffers.
- 29. The buffer along Port Gardner Bay at the tank farm site shall be determined at the time redevelopment of the site is proposed. The requirements for buffer/shoreline treatment shall be determined based upon the biological assessment for the redevelopment.
- 30. Whenever feasible, construction staging areas shall be located outside of environmentally sensitive areas and buffers as defined in the SMP.
- 31. Best available science shall be used in the design and implementation of compensation and restoration projects.
- 32. Monitoring shall be required for all projects where compensation is required for impacts to environmentally sensitive areas, and for projects where buffer enhancement and/or restoration is required. Monitoring requirements shall be based upon the performance standards defined for the project. Provisions shall be made for contingency measures to take in case the compensation does not meet performance standards within specified timeframes.
- 33. For all mitigation proposals incorporating buffer enhancement, a 5-year Set-Aside shall be required to cover the costs of monitoring, maintenance, and contingencies, including 50 percent of the cost of the plantings. The applicant's biologist shall submit a letter to the City upon installation of the buffer enhancement. Monitoring reports shall be submitted at the end of years 1, 3, and 5 following installation, unless more frequent reports are required in the approval. Contingencies must be implemented based upon the findings of the monitoring. The City may release the

Set-Aside sooner than 5 years if the enhancement is determined by the City to be successful.

34. Construction sites and on-going activities involved in the handling and storage of fuel, chemicals, oil and other substances with the potential for spillage into adjacent waters, shall have operational procedures to prevent and handle potential spills. In addition physical structures which would contain any potential spills shall also be provided. Procedures shall meet applicable local, state and federal requirements.

35. **SEWIP Regulations**

When compensatory wetland mitigation is required for development in the estuary, the applicant must comply with the following regulations unless an alternative that provides equal or greater compensation is approved by state and federal resource agencies.

A. SEWIP Salmon Overlay

Exception for Maulsby Mudflats: The compensation ratios in Regulations 35.A. 3, 6, and 7, however, will not apply to the Maulsby Mudflats due to the high natural resource value of the mudflats and the higher uncertainty of successfully mitigating impacts to this site. Compensation ratios for development at that site will be determined at the time a development is proposed based upon specific mitigation proposals and input from appropriate state and federal agencies.

1. Unavoidable Impacts. Unavoidable adverse impacts to tidal habitat functions that result from loss of littoral habitat functions or area in the Snohomish River Estuary (including Port Gardner) shall be compensated by restoring or enhancing historic tidal aquatic habitat functions and littoral area in the estuary.

Top priority is assigned to compensatory mitigation through tidal restoration in areas identified in the restoration plan (SO Section 6), and within the same EMU, where possible (Regulation 35.A.5). In cases where loss of function does not have an associated loss of littoral habitat area, mitigation can be provided in the form of restoration or enhancement of existing littoral habitat area, or by provision of new habitat area.

2. Mitigation Timing. Compensatory mitigation for unavoidable adverse impacts to tidal habitat functions shall be provided, either in advance of the impact or concurrently with the actions resulting in impact. (See Regulation 35.A.7 for a definition of concurrent mitigation.) No temporal lag shall occur

between the time of loss of functions to the impact and the time when at least equivalent salmonid habitat functions are provided through mitigation actions.

3. Minimum Compensation Requirements. The minimum requirements for compensation shall be:

- 1 acre (or fraction thereof) of restored littoral habitat for each acre (or fraction thereof) of littoral habitat lost from diking, dredging, and/or filling. Littoral habitat includes all area from -10.0 ft MLLW to at least OHW (where discernible; otherwise MHHW); area of both impact and mitigation sites is extended landward to the extent of the riparian zone as defined in SO Section 2.4.
- 1 acre (or fraction thereof) of tidal or palustrine habitat for each acre (or fraction thereof) of palustrine habitat lost to development (see also Regulation 35.A.15).
- 1.3 IVA-acres of habitat function for the limiting taxon (chinook or coho/bull trout) for each IVA-acre lost. This 30 percent increase in function accounts for uncertainty in the habitat assessments provided by the model as described above, and is intended to ensure that the SEWIP goal of a net increase in habitat function is achieved.

Minimum acreage compensation regulations do not apply to habitat restoration and enhancement projects that are not used for compensatory mitigation. Mitigation credit for log raft storage restrictions that remove a stressor from a tideflat are only allowed as mitigation for lost habitat function, not area. Note that loss of riparian function above OHW should be scored by the model, and should be compensated.

4. Out-of-Kind Compensation.

- Development impacts to tidal or tidally influenced habitats shall not be compensated for with palustrine wetland enhancement, restoration, or creation.
- Development impacts to palustrine wetland habitats may be compensated for with tidal habitat restoration or creation on an acre-for-acre basis. If nontidal mitigation is proposed for loss of nontidal palustrine wetlands in the SEWIP planning area, it should be reviewed to ensure that opportunities to recover tidal function would not be foreclosed. To

replace palustrine wetland functions with palustrine wetland functions, the original SEWIP process and vegetated wetland model applies (City of Everett et al. 1997).

- The Tidal Habitat Model shall be used to ensure that adequate replacement of salmonid habitat function is provided (i.e., it is assumed that within the regulations of SEWIP, the model will provide for replacement of habitat for salmonids, except that impacts to eelgrass will be evaluated and compensated for in accordance with WDFW mitigation policies).
- Out-of-kind compensation for the two watershed process-based functions identified in the Tidal Habitat Model (e.g., LWD recruitment, feeder bluffs) shall be prohibited, except for cases where tree removal is required for maintenance of the integrity of functional dikes.

5. Where Compensation Can Occur.

- Compensation for impacts to vegetated palustrine wetlands may occur within any EMU, with either created, enhanced, or restored tidal habitat. However, to replace palustrine wetland functions with palustrine wetland functions, the original SEWIP process and vegetated wetland model applies. See the 1997 SEWIP Regulations after Regulation 35.A.15 below.
- Compensation for impacts to tidal (i.e., anadromous fish) habitats must occur with tidal habitat creation, enhancement, or restoration, preferably within the same EMU (SO Figure 3.1) or secondarily within the adjacent downstream EMU, with the following exceptions:
- Because the nature of salmonid habitat functions provided by the salmonid habitat in EMU 7 (Port Gardner shoreline) is somewhat different from those provided in EMUs upstream in the estuary, impacts in EMU 7 shall be compensated only in EMUs 4 or 7.
- Opportunities for habitat restoration in the highly modified habitats in EMUs 5 and 6 are limited; therefore, impacts in EMUs 5 and 6 may be compensated in EMUs 2, 3, 4, 5, or 6. Because EMUs 1, 2, and 6 have the smallest proportions of their total acreage that is salmon habitat (SO Table 4.2) within their boundaries, further reduction of habitat area and function should be avoided.

- Impacts in EMU 3 may be compensated in EMUs 2, 3, or 4.

6. How Compensation is Calculated. The SEWIP assumes that in all cases there will be no temporal loss of cumulative salmonid habitat function as calculated by the model. Where mitigation is provided in advance of project impacts (e.g., the performance standards established for Year 5 have been met at the mitigation site), the acreage of compensation shall be calculated from the IVA function performance scores (Year 5) using the following ratio, provided that a minimum compensation requirement of 1:1 acres (“no net loss”) of area is met and provided that the minimum functional replacement compensation requirement of Regulation 35.A.3 is met.

$\frac{\text{IVA score per acre function lost} \times \text{acres lost}}{\text{IVA score per acre function gained at mitigation site}} = \text{Acres of compensation}$
--

7. How Compensation is Calculated (Concurrent Mitigation). The acreage of compensation for concurrent mitigation (mitigation that is constructed but may not be fully functioning at the time impact is incurred) shall be calculated from the IVA function performance scores at the time of impact, provided that the minimum compensation requirements of Regulation 35.A.3 are met at all times (see Table 5.1 in the Salmon Overlay for example):

$\frac{\text{IVA score per acre function lost} \times 1.3 \times (\text{acres lost})}{\text{IVA score per acre function gained (at the time of impact)}} = \text{Acres of compensation}$
--

8. Compensation Based on Limiting Function. Under Regulations 35.A. 6 and 7, the acreage needed for compensation shall be calculated separately for the chinook and coho/bull trout functions. Whichever function requires the greater acreage for compensation (i.e., which is the limiting function) will determine the required overall compensation acreage in order to ensure that the limiting function is adequately compensated for. Excess compensation acreage for the non-limiting function shall not be available as compensation for other habitat impacts.

9. Use of Average Restoration Potential Per Acre. An average restoration potential per acre shall be used to establish the compensation requirements in cases where several AUs are restored simultaneously (as in a compensation bank) or where several individual project impacts are to be mitigated in a single restoration project. This average is calculated by summing the potential increase in IVA-acre points and dividing by the total acreage of the site. This average shall then be used to determine the acres of compensation required according to Regulations 35.A. 3 and 6 or 7.

10. Guidelines for Developing Compensatory Mitigation Plans. Compensatory mitigation and monitoring plans (CMMPs) with applicable performance standards submitted under the SEWIP plan should follow the interagency “Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals” (Department of Ecology Publication #94-29) which is subject to amendment by Department of Ecology and future acceptance by the City. CMMPs shall be circulated to the SSOTAC for review and comment and for adaptive management purposes as provided in Salmon Overlay Section 5.6. Applicants should consider the overall restoration objectives set forth in SO Chapter 6. *(Rev. 11/17/05)*
11. Performance Criteria. Standards and performance criteria shall be established for each mitigation action as described in SO Section 5.6 and stated in the CMMP.
12. Monitoring Requirements. Each compensation site shall be monitored over a period of up to 10 years as described in SO Section 5.6.
13. Threatened, Endangered, or Commercially Important Species. All tidal and associated riparian areas within the SEWIP planning area are designated critical habitat for chinook salmon and are likely to also constitute important habitat for coho salmon and anadromous native char. If areas in the UGA have other threatened, endangered or commercially important species, then the compensation plan shall incorporate design measures to mitigate any impacts to these species and their habitats.
14. Projects with Impacts Outside of the Estuary Study Area. Projects with impacts outside of the SEWIP study area may be compensated for within the SEWIP study area, consistent with the SEWIP restoration and/or enhancement goals and objectives.
15. Loss of Palustrine Wetlands. Compensation is required where existing palustrine wetlands will be converted to tidal habitat for compensatory mitigation. The acreages calculated per this regulation are set aside within the restored mitigation site and may not be considered as compensatory mitigation. However, to provide an incentive to developers to undertake tidal restoration as compensatory mitigation, while recognizing the range of functions provided by different types of isolated palustrine wetlands, the following ratios shall apply for wetlands, based on existing scores from the SEWIP freshwater model (SO Figure 5.1). Alternatively, a project proponent may rescore the site using that model to reflect existing conditions:
 - Fourth quartile (highest quality) – 0.75 acre for each acre lost

- Third quartile (moderate quality) – 0.5 acre for each acre lost
- Second quartile (fair quality) – 0.3 acre for each acre lost
- First quartile (lowest quality) – 0.1 acre for each acre lost
- No compensation shall be required for vegetated freshwater wetlands lost through restoration of tidal functions, if the restoration project is not used as compensatory mitigation.

B. 1997 SEWIP Regulations (Apply to palustrine compensation only)

The following mitigation ratios apply only to the development footprint identified in Figure 2.3A in SEWIP.

- 1a. Unavoidable Impacts. Unavoidable impacts to wetland functions in the Snohomish River Estuary shall be compensated by restoring historic wetlands in the Estuary identified in the restoration plans (Table 2.1 and Chapter 5 in the 1997 SEWIP).
- 1b. Where Compensation Can Occur. Compensation for impacts to vegetated palustrine wetlands may occur within the same Ecological Management Unit or within the adjacent Ecological Management Unit (See EMU Map, Figure 2.2 in the 1997 SEWIP).
- 1c. Impacts to palustrine wetlands inside the SETAC approved development footprint (SEWIP Figure 2.3A). Prior to issuance of Certificate of Occupancy or Public Works Permit Final Inspection, the applicant must submit (1) an as-built signed by the wetland biologist documenting that the wetland mitigation has been constructed per plans; and (2) performance guarantees for monitoring, maintenance, and contingency. *(Rev. 11/17/05)*
- 1d. Impacts to palustrine wetland mitigation outside the SETAC approved development footprint (SEWIP Figure 2.3A.). Mitigation for impacts to palustrine wetlands outside the development footprint shall be completed concurrently or in advance of the impact to the wetland. Concurrent mitigation is defined as mitigation that has been constructed and has met the ratios established in Regulation 35B.3.a by the time impact is incurred. Advanced mitigation is mitigation that meets the 5-year performance standards at the time of impact. *(Rev. 11/17/05)*
2. Minimum Compensation Requirements. The minimum requirements for compensation will be one acre of restored wetland for one acre of wetland lost.

- 3a. How Compensation is Calculated. The acreage of compensation shall be calculated from the IVA function performance scores using the following ratio, provided that the minimum compensation requirement of regulation 35.B.2 is met (see 1997 SEWIP Figure 2.4 for example):

$$\frac{\text{IVA score for per acre function lost}}{\text{IVA score for per acre function gained}} \times (1.25) \times (\text{acres lost}) = \text{Acreage of compensation}$$

This regulation applies when the restoration credits are less than the impact debits and the calculated “Acreage of Compensation” will not be less than the acreage loss; otherwise regulation 35.B.2 should be applied. The 1.25 multiplier is included in this ratio calculation to compensate for the temporal loss of wetland functions at the impact site during the time required for the functions at the compensation site to approach the “pre-impact” level of performance.

- 3b. How Compensation is Calculated When Regulations 35.B. 2 and 8 are Met. In cases where the performance standards established for “year 5” have been met (see 35.B.9), the acreage of compensation shall be calculated from the IVA function performance scores using the following ratio, provided that the minimum compensation requirement of regulation 35.B.2 is met:

$$\frac{\text{IVA score for per acre function lost}}{\text{IVA score for per acre function gained}} \times (\text{acres lost}) = \text{Acreage of Compensation}$$

This regulation is intended to provide incentive to developers for the creation of large wetland compensation banks. The 1.25 “temporal” multiplier is not included in this ratio calculation because the compensation site has demonstrated through monitoring (Regulation 35.B.8) that wetland functions are performing as proposed in the compensatory mitigation plan.

4. Compensation is Based on Limiting Function. Under Regulations 35.B. 3.a and 3b, the acreage needed for compensation shall be calculated separately for the Water Quality Improvement and Habitat groups of functions. Whichever group of functions requires the greater acreage for compensation (i.e. which is the limiting group of functions¹) shall determine the required “overall compensation acreage²” in order to ensure that the limiting function

¹ The “limiting group of functions” shall be defined as that group of functions (e.g. Water Quality Improvement or Habitat) which exhibits the least average increase in IVA score per acre for a particular restoration site.

² “Overall Compensation Acreage” shall be defined as the required acreage of compensation calculated from regulation G.3 for the limiting group of functions (e.g. either Water Quality Improvement or Habitat).

is adequately compensated for. Excess compensation acreage³ for the non-limiting function shall not be available as compensation for other wetland impacts.

5. When to Use Average Restoration Potential Per Acre. An average restoration potential per acre shall be used to establish the compensation requirements in cases where several wetland complexes are restored simultaneously (as in a compensation bank). This average is to be calculated by summing the potential increase in IVA acre-points for each group of functions and dividing by the total acreage of the site. This average shall then be used to determine the acres of compensation required according to regulations 35.B. 2 or 3.
6. SEWIP Restoration Plan is a Guide for Objectives and Goals. The SEWIP restoration plan for an individual site must be used as the basis for setting the goals and objectives of any compensation proposed.
7. Guidelines for Developing Compensatory Mitigation Plans. Compensatory mitigation plans with applicable performance standards submitted under the SEWIP plan should follow the interagency “Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals” (Department of Ecology Publication #94-29, 40 pp).
- 7a. Threatened, Endangered or Commercially Important Species. If areas in the development footprint have SEWIP-mapped “threatened, endangered or commercially important species,” then the compensation plan shall incorporate design measures to mitigate any impacts to these species. (See 1997 SEWIP Figures 2.5 and 2.6.) SETOC will amend the Plan to incorporate any new mapped areas of threatened, endangered or commercially important species. If a COE regional permit is adopted, then the amendment process must meet the requirements of that permit⁴.
8. Monitoring Requirements. Each compensation site shall be monitored over a period of 10 years. The wetland compensation plan shall establish a set of applicable performance standards. Additionally, the compensation plan shall include post-project assessment of the site using the IVA model to determine if the projected increase in the IVA scores (restoration potential) for the compensation site has been achieved. When the performance standards established for year 5 are met (which may occur during any year of the

³ “Excess Compensation Acreage” is when the calculated acreage of compensation for the “non-limiting” group of functions is subtracted from the “Overall Compensation Acreage.”

monitoring period) and the increase in IVA points projected for the compensation site has occurred, then regulation 35.B. 3.b may be applied.

9. Projects With Impacts Outside of the Estuary Study Area. Projects with impacts outside of the SEWIP study area may be compensated for within the SEWIP study area, consistent with the SEWIP restoration and/or enhancement goals and objectives.

36. In implementing EMC 19.33D.460E and 500 E, the City will require protective covenants for all development proposals on properties that contain environmentally sensitive areas, except where an easement is obtained for infrastructure projects and the easement does not contain required mitigation. (Rev. 11/17/05)

3.10 Implementation Element

This element deals with the relationship of the Master Program, the Substantial Development Permit Process, the Shoreline Inventory, existing land use regulations, and the need to keep these up-to-date.

Goal

To implement the Comprehensive Plan and achieve a fair, balanced, and impartial administration of the Shoreline Permit Process and other legal requirements.

Objectives

1. Provide for a review and written report by staff to the Planning Commission at least every five years to assess the performance of and the need for modifications to the Master Program and related land use policies and regulations.
2. Process shoreline permits consistent with the City's Procedural ordinance and assure complete coordination with and review by affected agencies, neighborhoods, and parties.
3. Continue to work towards a 1-stop permit system both within the City government and between appropriate federal, state, and local agencies responsible for regulating development in shoreline areas.