

Chapter 16.05
SHORELINE MASTER PROGRAM

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Article I. General Provisions

16.05.010 Title.

Chapter 16.05 CMC, in combination with Element 9 of the City of Covington Comprehensive Plan, shall be known and may be cited as the City of Covington Shoreline Master Program. Code provisions within this chapter may refer to it as “this SMP” or “this Master Program.”

16.05.020 Purpose.

The purposes of this Master Program are:

- (1) To carry out the responsibilities imposed on the City of Covington by the Washington State Shoreline Management Act (RCW 90.58);
- (2) To promote the public health, safety, and general welfare, by providing a guide and regulation for the future development of the shoreline resources of the City of Covington; and
- (3) To further, by adoption, the policies of RCY 90.58, and the goals of this Master Program, as set forth in Element 9 of the City of Covington Comprehensive Plan.

16.05.030 Definitions.

This section contains definitions of terms that apply within shoreline jurisdiction. The definitions in this section supplement the terms defined in the Shoreline Management Act (RCW 90.58). Unless otherwise defined in this chapter, the definitions provided in Chapter 18.20 CMC shall be applicable. If there is a conflict, the definitions in this section shall govern.

- (1) “Adjacent lands” means lands adjacent to the shorelines of the state (outside of shoreline jurisdiction). The SMA directs local governments to develop land use controls (i.e. zoning, comprehensive planning) for such lands consistent with the policies of the SMA, related rules and the local shoreline master program (see Chapter 90.58.340 RCW).
- (2) “Administrator” means the City Community Development Director or his/her designee, charged with the responsibility of administering the shoreline master program.
- (3) “Agriculture” or “Agricultural activity” means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.
- (4) “Anadromous fish” means species, such as salmon, which are born in fresh water, spend a large part of their lives in the sea, and return to freshwater rivers and streams to procreate.

- (5) "Appurtenance" means a structure or development which is necessarily connected to the use and enjoyment of a single family residence and is located landward of the ordinary high water mark and also of the perimeter of any wetland. (On a statewide basis, normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drain field, and grading which does not exceed two hundred fifty cubic yards (250) [except to construct a conventional drain field] and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark) (see WAC 173-27-040(2)(g)).
- (6) "Aquaculture" means the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery.
- (7) "Associated wetlands" means those wetlands that are in proximity to and either influence, or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act. Refer to WAC 173-27-030(1).
- (8) "Average grade level" means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure; provided that in case of structures to be built over water, average grade level shall be the elevation of ordinary high water. Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure (WAC 173-27-030(3)).
- (9) "Beach enhancement/restoration" means the process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation, drift sills and other nonintrusive means as applicable.
- (10) "Boat launch or ramp" means graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.
- (11) "Boat lift" means a mechanical device that can hoist vessels out of the water for storage. These devices are usually located along a pier.
- (12) "Boat rail or railway" means a set of steel rails running from the upland area into the water upon which a cart or dolly can carry a boat to be launched.
- (13) "Boathouse" means a structure designed for storage of vessels located over water or upland. Boathouses should not be confused with "houseboats."
- (14) "Boating facility" means a moorage structure serving more than four single-family residences.
- (15) "Bulkhead" means a vertical or nearly vertical erosion protection structure placed parallel to the shoreline consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.
- (16) "Community structure" means a building, dock, or other structure which is intended for the common use of the residents of a particular subdivision or community. It is not intended to serve as a public facility.
- (17) "Conditional use" means a use, development, or substantial development that is classified as a conditional use or is not classified within the applicable master program. Refer to WAC 173-27-030(4).
- (18) "Cumulative impact" means the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.
- (19) "Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any state of water level (RCW 90.58.030(3d)). Development does not include dismantling or removing structures if there is no other associated development or redevelopment.

(20) “Dock” means a structure commonly referred to as a floating moorage structure. See also “fixed-pile pier,” “floating dock,” and “float.”

(21) “Dredge spoil” means the material removed by dredging. Same as dredge material.

(22) “Dredging” means excavation or displacement of the bottom or shoreline of a water body. Dredging can be accomplished with mechanical or hydraulic machines. Most dredging is done to maintain channel depths or berths for navigational purposes; other dredging is for shellfish harvesting or for cleanup of polluted sediments.

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

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

(25) “Ell” means the terminal section of a pier which typically extends perpendicular to the pier walkway. These sections can be either on fixed-piles or floating docks and are typically wider than the pier walkway.

(26) “Emergency” means an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the master program. Emergency construction is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3eiii) and WAC 173-27-040(2d)).

(27) “Enhancement” means alteration of an existing resource to improve or increase its characteristics and processes without degrading other existing functions.

(28) “Exemption” means certain specific developments are exempt from the definition of substantial developments and are therefore exempt from the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the local master program. Conditional use and/or variance permits may also still be required even though the activity does not need a substantial development permit (RCW 90.58.030(3e); WAC 173-27-030(7) and -040). For a complete list of exemptions, see CMC 16.05.050.

(29) “Fair market value” means the expected price at which the development can be sold to a willing buyer. For developments which involve nonstructural operations such as dredging, drilling, dumping, or filling, the fair market value is the expected cost of hiring a contractor to perform the operation or where no such value can be calculated, the total of labor, equipment use, transportation and other costs incurred for the duration of the permitted project (WAC 173-27-030(8)).

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

(31) “Finger pier” means a narrow extension to a fixed-pile pier, usually extending perpendicular to the pier walkway along with an ell to form an enclosed area for boat moorage.

(32) “Float” means a floating structure that is moored, anchored, or otherwise secured in the water offshore and that is generally located at the terminal end of a fixed-pile pier.

(33) “Floating dock” means a fixed structure floating upon a water body for the majority of its length and connected to shore.

(34) “Floating home” means a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.

(35) “Floodway” means the area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

(36) “Forest practices” means activities not covered by the Forest Practices Act, especially Class IV – General forest practices involving conversion to non-forest use.

(37) “Groin” means a barrier-type structure extending from, and usually perpendicular to, the backshore into a water body. Its purpose is to protect a shoreline and adjacent upland by influencing the movement of water and/or deposition of materials. This is accomplished by building or preserving an accretion beach on its updrift side by trapping littoral drift. A groin is relatively narrow in width but varies greatly in length. A groin is sometimes built in a series as a system and may be permeable or impermeable, high or low, and fixed or adjustable.

(38) “Height” means the distance measured from the average grade level to the highest point of a structure: provided, that television antennas, chimneys and similar appurtenances shall not be used in calculating height, except where it obstructs the view of a substantial number of residences on areas adjoining such shorelines: provided further, that temporary construction equipment is excluded in this calculation (WAC 173-27-030(9)).

(39) “In-kind replacement” means to replace wetlands, habitat, biota or other organisms with substitute flora or fauna whose characteristics closely match those destroyed, displaced or degraded by an activity.

(40) “Landfill” means the creation of, or addition to, a dry upland area (landward of the OHWM) or the creation of, or addition to, an in-water area (waterward of the OHWM) by depositing material into waters or onto shoreline, upland dry areas, or wetland areas.

(41) “Launching rail” – see “Boat railway.”

(42) “Launching ramp” – see “Boat launch or ramp.”

(43) “Liberal construction” means a legal concept instructing parties interpreting a statute to give an expansive meaning to terms and provisions within the statute. The goal of liberal construction is to give full effect in implementing a statute’s requirements. See RCW 90.58.900.

(44) “Littoral drift” means the movement of mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and currents.

(45) “Mitigation” or “mitigation sequencing” means the process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal. See WAC 197-11-768 and WAC 173-26-020 (30). Mitigation or mitigation sequencing means the following sequence of steps listed in order of priority, with (a) of this subsection being top priority:

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

(46) “Moorage” means any device or structure (such as a pier or buoy) used to secure a vessel for temporary anchorage.

(47) “Moorage piles” means structural members that are driven into the lake bed to serve as a stationary moorage point. They are typically used for moorage of small boats in the absence of, or instead of, a dock or pier. In some cases, moorage piles may be associated with a dock or pier.

(48) “Mooring buoy” means a floating object anchored to the bottom of a water body that provides tie up capabilities for vessels.

(49) “Native plants” or “native vegetation” means plants that occur naturally, and that distribute and reproduce without aid. Native plants in western Washington are those that existed prior to intensive settlement that began in the 1850s.

(50) “Nonconforming use” means an existing shoreline use that was lawfully established prior to the effective date of the Act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.

(51) “Nonconforming development” or “nonconforming structure” means an existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.

(52) “Nonconforming lot” means a lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.

(53) “Normal maintenance” means those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition (WAC 173-27-040(2b)). See also “normal repair.”

(54) “Normal protective bulkhead” means a bulkhead, common to single family residences, constructed at or near the ordinary high water mark to protect an existing single family residence, and which sole purpose is for protecting land from erosion, not for the purpose of creating new land (WAC 173-27-040(2c)).

(55) “Normal repair” means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment (WAC 173-27-040(2b)). See also “normal maintenance.”

(56) “Ordinary high water mark” means that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water. See RCW 90.58.030(2)(b) and WAC 173-22-030(11).

(57) “Overwater structure” means any device or structure projecting above and waterward of the ordinary high water mark, including, but not limited to piers, docks, floats, and moorage.

(58) “Permit” or “shoreline permit” means any substantial development permit, variance, or conditional use permit, or revision, or any combination thereof, authorized by the Act. Refer to WAC 173-27-030(13).

(59) “Public access” means the ability of the general public to reach, touch, and enjoy the water’s edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Refer to WAC 173-26-221(4).

(60) “Public interest” means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development (WAC 173-27-030(14)).

(61) “Public use” means to be made available daily to the general public on a first-come, first-served basis, and may not be leased to private parties on any more than a day use basis. Refer to WAC 332-30-106.

(62) “Qualified professional” or “professional” means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise and/or certification appropriate for the relevant subject. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field and, unless otherwise specified in this Master Program, must have at least two years of related work experience.

(63) “Recreational facilities” means facilities such as parks, trails, and pathways that provide a means for relaxation, play, or amusement. For the purposes of this Master Program, recreational facilities are divided into two categories:

(a) Water-dependent (e.g. boating facilities, fishing piers, swim rafts); and

(b) Non-water-dependent (e.g. sports fields, golf courses, RV camping).

(64) “Recreational float” means a floating structure that is moored, anchored, or otherwise secured in the water offshore and that is generally used for recreational purposes such as swimming and diving.

(65) “Restoration” means the act of revitalizing or restoring characteristics and processes of a shoreline, ecosystem, or habitat diminished or lost by past alterations, activities, or catastrophic events.

(66) “Retrieval lines” means a system by which a float or other floating object is retrieved to a pier, dock, or shoreland.

(67) “Rotovating” means an aquatic vegetation harvesting technique that uses rototilling technology to uproot and remove plants.

(68) “Setback” means the minimum required distance between a structure and a specified line, such as a lot, easement or buffer line or the ordinary high water mark, that is required to remain free of structures.

(69) “Shorelands” or “shoreland areas” means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetland and river deltas associated with the streams and lakes which are subject to the provision of the Shoreline Management Act. Shorelands in the City of Covington include areas within 200 feet of the ordinary high water mark of shoreline jurisdiction waters and associated wetlands within shoreline jurisdiction. Optional buffers for critical areas are not included in shoreline jurisdiction. Only portions of the floodplain are included in shoreline jurisdiction, including the mapped floodway of Big Soos Creek and contiguous floodplain areas landward 200 feet are also encompassed within the shoreland area. Some additional flood plain areas are included in the Jenkins Creek SMA beyond the statutory minimum because they are located in wetland areas, which are included under mandatory provisions. Waters identified within jurisdiction include portions of Big Soos Creek, portions of Jenkins Creek, and the portion of Pipe Lake located within the City limits.

(70) “Shoreline environment designations” means the categories of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.

(71) “Shoreline jurisdiction” means all of the geographic areas covered by the SMA, related rules and the applicable master program, and such areas within a specified local government's authority under the SMA. Shorelands in the City of Covington include areas within 200 feet of the ordinary high water mark (OHWM) of shoreline jurisdiction waters, floodways, associated floodplain areas landward 200 feet from such floodways and associated wetlands. Waters identified within jurisdiction include portions of Big Soos Creek, portions of Jenkins Creek, and the portion of Pipe Lake located within the City limits. The mapped floodway of Big Soos Creek, contiguous floodplain areas landward 200 feet from such floodways, and associated wetlands are specifically encompassed within the shoreland area. Jenkins Creek does not have a mapped floodway, but floodplain areas within 200 feet of the OHWM and associated wetlands are included in shoreline jurisdiction. Within both Jenkins Creek and Big Soos Creek, additional floodplain areas beyond the statutory minimum are included because they are located in wetland areas. However, the

entire floodplain is not included and wetland buffers are not included. See also “shorelands,” “shorelines,” “shorelines of the state,” “shorelines of statewide significance,” and “associated wetlands.”

(72) “Shoreline Management Act” or “Act” means Chapter 90.58 RCW, or as amended.

(73) “Shoreline stabilization” means actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind or wave action. These actions include structural and nonstructural methods. For the purposes of this SMP, new stabilization measures include enlargement of existing stabilization measures.

(74) “Shorelines” means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (a) shorelines of statewide significance; and (b) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (c) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

(75) “Shorelines Hearings Board” means a state-level quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government on Washington State Department of Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA. See RCW 90.58.170; 90.58.180.

(76) “Shorelines of statewide significance” means a select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special preservationist policies apply and where greater planning authority is granted by the SMA. Permit review must acknowledge the use priorities for these areas established by the SMA. See RCW 90.58.020. Covington does not have any shorelines of statewide significance.

(77) “Shorelines of the state” means “shoreline jurisdiction,” or the total of all “shorelines” and “shorelines of statewide significance” within the state.

(78) “Single-family residence” means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance (WAC 173-27-040(2g)).

(79) “Stream” means a naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty cubic feet per second and b) the water is contained within a channel (WAC 173-22-030(8)).

(80) “Structure” means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above or below the surface of the ground or water, except for vessels (WAC 173-27-030(15)).

(81) “Substantial development” means any development of which the total cost or fair market value exceeds seven thousand forty-seven dollars(\$7,047), or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection (3)(e) must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. “Consumer price index” means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. A list of activities and developments that shall not be considered substantial development is provided in RCW 90.58.030(3)(e).

(82) “Upland” means the dry land area above and landward of the ordinary high water mark.

(83) “Variance” or “shoreline variance” means an approval mechanism to grant relief from the specific bulk, dimensional or performance standards specified in the applicable master program. Variance permits must be

specifically approved, approved with conditions, or denied by the Washington State Department of Ecology (See WAC 173-27-170).

(84) “Water-dependent use” means a use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.

(85) “Water-enjoyment use” means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public’s ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

(86) “Water-oriented use” means any combination of water-dependent, water-related, and/or water enjoyment uses, and along with single family residences, serves as an all-encompassing definition for priority uses under the SMA. Non-water-oriented serves to describe those uses which have little or no relationship to the shoreline and are not considered priority uses under the SMA. Examples include professional offices, automobile sales or repair shops, mini-storage facilities, multifamily residential development, department stores and gas stations.

(87) “Water-related use” means a use or a portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

(a) A functional requirement for a waterfront location exists, such as the arrival or shipment of materials by water or the need for large quantities of water; or

(b) The use provides a necessary service supportive of the water-dependent commercial activities and the proximity of the use to its customers makes its services less expensive and/or more convenient. Examples include manufacturers of ship parts large enough that transportation becomes a significant factor in the products cost, professional services serving primarily water-dependent activities and storage of water-transported foods. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker and log storage.

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

(89) “Weir” means a low dam built across a stream to raise its level, divert its flow and/or measure its flow. Weirs have been used to address erosion and scouring of stream channels, but can also have negative impacts depending on how they are constructed, e.g. detrimental impacts on fish habitat conditions.

16.05.040 Applicability.

(1) This chapter applies to all uses and development occurring within the shoreline jurisdiction of the City of Covington, as defined in RCW 90.58.030 and CMC 16.05.030. This includes:

(a) Rivers and streams with more than twenty (20) cubic feet per second mean annual flow;

(b) Lakes and reservoirs 20 acres or greater in area;

(c) Associated wetlands;

- (d) Shorelands adjacent to these water bodies, typically within 200 feet of the ordinary high water mark; and
- (e) Floodways and contiguous floodplain areas extending 200 feet from the floodway.

(2) Within the City of Covington, the following waters are considered “shoreslines of the state” and are subject to the provisions of this Master Program. Where applicable, the upstream extent of shoreline jurisdiction for each waterbody, by section, township, and range, is included in parentheses:

- (a) Big Soos Creek (T22N R5E S35);
- (b) Jenkins Creek (T22N R5E S36); and
- (c) Pipe Lake.

(3) Official Shorelines Map.

(a) Shoreline jurisdiction boundaries are depicted on the Official Shorelines Map, adopted at the time of adoption of this Master Program and included in the Shoreline Element of the City of Covington Comprehensive Plan.

(b) The shoreline jurisdiction boundaries depicted on the Official Shorelines Map are approximate and are to be used for guidance only. They shall be used in conjunction with site-specific field investigation in order to determine the actual boundary of shoreline jurisdiction. Whether or not they are mapped, all areas meeting the definition of a shoreline of the state shall be subject to the provisions of this Master Program. Conversely, any property shown on the Official Shorelines Map as within shoreline jurisdiction, but that does not meet the criteria for shoreline jurisdiction as defined in subsection (1) of this section, shall not be subject to the provisions of this Master Program.

(c) The actual location of the ordinary high water mark, floodplain, floodway, and wetland boundaries, where applicable, shall be determined at the time a development is proposed. Wetland boundary and ordinary high water mark determinations shall be valid for five (5) years from the date the determination is made. Floodplain and floodway boundaries shall be assessed using FEMA maps or the most current technical information available.

16.05.050 Exemptions and exceptions.

(1) Developments exempt from permit requirements.

(a) Certain developments are exempt from the requirement to obtain a substantial development permit. Developments that are exempt from the requirement for a substantial development permit are identified in WAC 173-27-040, or as subsequently amended. Developments that are exempt from the requirement to obtain a substantial development permit still require a letter of exemption consistent with CMC 16.05.090. Such developments may also still require a variance or conditional use permit, and all development within the shoreline is subject to the substantive standards of this SMP, regardless of whether a substantial development permit is required.

(b) Certain developments that are exempt from all permit requirements under the Shoreline Management Act are identified in WAC 173-27-044, or as subsequently amended. These developments are exempt from the requirement to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review conducted by the City of Covington to implement this chapter.

(2) Developments and lands not subject to the Shoreline Management Act. The Shoreline Management Act, and the provisions of this SMP, do not apply to the following:

(a) Developments identified in WAC 173-27-045, or as subsequently amended; and

(b) Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes. Those nonfederal lands lying within the exterior boundaries of federal lands and those federal

lands leased to other persons, which fall within the definition of shorelands, shall be subject to the Shoreline Management Act and this SMP.

16.05.060 Relationship to other plans and regulations.

(1) The permitting process for a shoreline development or use does not exempt an applicant from complying with any other local, state, regional, or federal statutes or regulations which may also be applicable to such development or use. Plans and policy documents that shall be considered in Covington include, but are not limited to, the Covington Comprehensive Plan and the King County Surface Water Design Manual. Proposals shall also comply with the regulations developed by the City to implement its plans, such as the zoning and building codes, which are codified in other chapters of the CMC.

(2) Relationship to Critical Areas Regulations.

(a) For protection of critical areas where they occur in shoreline jurisdiction, this Master Program adopts by reference the City's Critical Areas Ordinance (Chapter 18.65 CMC), as subsequently amended, which is incorporated into this Master Program with specific exclusions and modifications in CMC 16.05.230.

(b) Pursuant to WAC 173-26-191(2)(b), amending the critical areas regulations referenced in the Master Program for those critical areas under shoreline jurisdiction will require an amendment to the Master Program and approval by the Washington State Department of Ecology (Department of Ecology).

(c) Within shoreline jurisdiction, the Critical Areas Ordinance shall be liberally construed together with this Master Program to give full effect to the objectives and purposes of this Master Program and Chapter 90.58 RCW.

(3) Should a conflict occur between the provisions of this SMP or between this SMP and the laws, regulations, codes, or rules promulgated by any other authority having jurisdiction within the City, the requirement which most supports the provisions of RCW 90.58.020 shall be applied, except when constrained by federal or state law, or where specifically provided otherwise in this SMP.

Article II. Administration

16.05.070 Purpose.

There is hereby established an administrative system designed to:

- (1) Assign responsibilities for implementation of this Master Program;
- (2) Prescribe an orderly process by which to review proposals and permit applications; and
- (3) Ensure that all persons affected by this Master Program are treated in a fair and equitable manner.

16.05.080 Program Administrator.

(1) The Community Development Director or designee is vested with:

(a) Overall responsibility for administering the Shoreline Management Act and this Master Program as the Shoreline Administrator;

(b) Authority to approve, approve with conditions, or deny shoreline permit revisions in accordance with the policies and provisions of this Master Program; and

(c) Authority to grant letters of exemption from shoreline substantial development permits in accordance with the policies and provisions of this Master Program.

(2) The duties and responsibilities of the Shoreline Administrator shall include:

(a) Preparing and using application forms deemed essential for the administration of this Master Program;

- (b) Advising interested citizens and applicants of the goals, policies, regulations, and procedures of this Master Program;
- (c) Making administrative decisions and interpretations of the policies and regulations of this Master Program and the Shoreline Management Act;
- (d) Collecting applicable fees, as established by the City in CMC 16.05.050;
- (e) Determining that all applications and necessary information and materials are provided;
- (f) Conducting field inspections, as necessary;
- (g) Reviewing, insofar as possible, all provided and related information deemed necessary for appropriate applications needs;
- (h) Determining if a shoreline substantial development permit, conditional use permit or variance permit is required;
- (i) Providing copies of permit applications to relevant staff and agencies for review and comment;
- (j) Conducting a thorough review and analysis of shoreline exemption applications; reviewing other staff and agency comments; making written findings and conclusions; and approving, approving with conditions, or denying such exemptions;
- (k) Conducting a thorough review and analysis of shoreline substantial development permit applications; reviewing other staff and agency comments; making written findings and conclusions; and approving, approving with conditions, or denying such permits;
- (l) Submitting shoreline variance and conditional use permit applications and written recommendations and findings on such permits to the City's Hearing Examiner for their consideration and action;
- (m) Submitting shoreline redesignation permit applications and written recommendations and findings on such permits to the City Council;
- (n) Assuring that proper notice is given to appropriate persons and the public for all hearings;
- (o) Providing technical and administrative assistance to the City's Hearing Examiner and City Council as required for effective and equitable implementation of this program and the Act;
- (p) Investigating, developing, and proposing amendments to this Master Program as deemed necessary to more effectively and equitably achieve its goals and policies;
- (q) Seeking remedies for alleged violations of this program, the provisions of the Act and this Master Program or of conditions of any approved shoreline permit issued by the City of Covington;
- (r) Acting as the primary liaison between local and state agencies in the administration of the Shoreline Management Act and this Master Program; and
- (s) Forwarding shoreline permits to the Department of Ecology for filing or action, consistent with CMC 16.05.090.

16.05.090 Shoreline permit procedures.

(1) Permit required.

- (a) A substantial development shall not be undertaken within the jurisdiction of the SMA, Chapter 90.58 RCW, and this Master Program unless a shoreline substantial development permit has been obtained and the appeal period has been completed and any appeals have been resolved and/or the applicant has been given permission to proceed by the proper authority.

(b) Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction shall conform to Chapter 90.58 RCW, the Shoreline Management Act and this Master Program whether or not a permit is required.

(2) Permit submittal process.

(a) Applicants shall apply for shoreline substantial development, variance, and conditional use permits on forms provided by the City.

(b) Completed application documents for all shoreline permits shall be submitted to the Administrator for processing and review. Any deficiencies in the application or document shall be corrected by the applicant prior to further processing.

(c) Application fees in an amount set forth in the current fee resolution shall be paid to the City of Covington at the time of application. Fees shall include but not be limited to cost recovery for engineering and planning review time, site inspection time, administration, third-party peer review, and any other special costs attributable to the shoreline master program review process.

(3) Public notice.

(a) A notice of application shall be issued for shoreline permit applications as provided for in CMC 14.35.040 and permit notice shall occur pursuant to Chapter 14.40, as amended, except that the public comment period for a substantial development permit, variance, or conditional use shall be no less than thirty (30) days.

(b) The City shall send a notice of application to the Muckleshoot Tribe Fisheries Division for all projects seeking approval under the SMP, including shoreline exemptions.

(c) The Administrator shall be responsible for delivering the legal notice containing the information required by WAC 173-27-110 to the newspaper to be published at least once a week on the same day of the week for two consecutive weeks in a newspaper of general circulation within the area in which the development is proposed. Advertising costs shall be the responsibility of the applicant.

(4) Shoreline Exemption – Letter of Exemption

(a) Purpose and applicability.

(i) Any person claiming exemption from the shoreline substantial development permit requirements under CMC 16.05.050(1)(a) shall make an application to the Shoreline Administrator for a letter of exemption.

(ii) If any part of a proposed development is not eligible for exemption, then a shoreline substantial development permit is required for the entire proposed development.

(b) Letter of Exemption.

(i) If the exemption is approved, the Shoreline Administrator shall prepare and transmit a Letter of Exemption (LOE), addressed to the applicant and Department of Ecology, indicating the specific applicable exemption provisions from WAC 173-27-040 and providing a summary of the project's consistency with this Master Program and the Act. A copy of the LOE shall be maintained on file by the City.

(ii) The Shoreline Administrator may attach conditions and/or mitigating measures to the LOE to achieve consistency and compliance with the provisions of this Master Program and the Act.

(5) Shoreline Substantial Development Permit.

(a) Purpose and applicability. Unless exempted under CMC 16.06.050 of this Master Program or otherwise classified by this Master Program as requiring a shoreline conditional use permit, uses that are classified or set forth as permitted uses in the Master Program shall require authorization under a shoreline substantial development permit.

(b) Review criteria. Uses that are classified or set forth as permitted uses in the Master Program may be authorized, provided the applicant demonstrate consistency with all of the following substantial development criteria, as listed in WAC 173-27-150:

- (i) Consistency with the policies and procedures of the Shoreline Management Act;
- (ii) Consistency with the provisions of WAC 173-27; and
- (iii) Consistency with this Master Program.

(6) Shoreline Conditional Use Permit.

(a) Purpose and applicability.

- (i) The purpose of a conditional use permit is to provide a system within the Master Program that allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020.
- (ii) In authorizing a conditional use, special conditions may be attached to the permit by the City of Covington or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and the Master Program.
- (iii) Uses that are not classified or set forth in this Master Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the Master Program.
- (iv) Uses that are specifically prohibited by this Master Program may not be authorized with the approval of a conditional use permit.

(b) Review criteria.

- (i) Uses that are classified or set forth as conditional uses in the Master Program may be authorized, provided the applicant demonstrate consistency with all of the following conditional use criteria, as listed in WAC 173-27-160:
 - (A) That the proposed use is consistent with the policies of RCW 90.58.020 and the Master Program;
 - (B) That the proposed use will not interfere with the normal public use of public shorelines;
 - (C) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this Master Program;
 - (D) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
 - (E) That the public interest suffers no substantial detrimental effect.
- (ii) In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

(7) Shoreline Variance.

(a) Purpose and applicability.

(i) The purpose of a variance permit is strictly limited to granting relief to specific bulk dimensional, or performance standards set forth in the Master Program, and where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the Master Program would impose unnecessary hardships on the applicant or thwart the SMA policies as stated in RCW 90.58.020.

(ii) These provisions should be applied in a manner which, while protecting the environment, will assure that a person will be able to use his/her property in a fair and equitable manner.

(iii) Variances from the use regulations of this Master Program are prohibited.

(b) Application requirements.

(i) An application for a shoreline variance shall be submitted on a form provided by the City accompanied by maps, completed environmental checklist, applicable fees, and any other information specified in this Master Program or requested by the Administrator.

(ii) An applicant for a substantial development permit who wishes to request a variance shall submit the variance application and the substantial development permit application simultaneously.

(c) Review criteria.

(i) Variance permits for development that will be located landward of the ordinary high water mark and landward of any wetland may be authorized provided the applicant can demonstrate consistency with the following variance criteria, as listed in WAC 173-27-170:

(A) That the strict application of the bulk, dimensional, or performance standards set forth in the Master Program precludes, or significantly interferes with, reasonable use of the property;

(B) That the hardship described above is specifically related to the property, and is the result of unique condition such as irregular lot shape, size, or natural features and the application of the Master Program and not, for example, from deed restrictions or the applicant's own actions;

(C) That the design of the project is compatible with other permitted activities within the area and with uses planned for the area under the Comprehensive Plan and Master Program and will not cause adverse impacts to the shoreline environment;

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

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

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

(ii) Variance permits for development and/or uses that will be located waterward of the ordinary high water mark or within any wetland may be authorized provided the applicant can demonstrated consistency with the following variance criteria:

(A) That the strict application of the bulk, dimensional, or performance standards set forth in the Master Program precludes all reasonable use of the property;

(B) That the proposal is consistent with the criteria established under subsection (i) of this section; and

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

(iii) In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also

remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

(8) Permit review procedures.

(a) Shoreline exemptions are a Type 1 process application, shoreline substantial development permits are a Type 2 process application, shoreline conditional use permits and shoreline variances are a Type 3 process application and shoreline environment redesignations are a Type 4 process application. All applications shall be processed in accordance with the applicable regulations of Chapter 14.30 and Chapter 14.35 SMC, as amended.

(b) Administrator review.

(i) The burden of proving that a proposed development is consistent with the approval criteria and Master Program policies and regulations rests with the applicant.

(ii) The Shoreline Administrator shall make recommendations in the case of variance and conditional use permits, and decisions in the case of substantial development permits, exemptions, or requests for revisions to approved permits based upon: (1) the policies and procedures of the Shoreline Management Act and related sections of the Washington Administrative Code; and (2) this SMP.

(c) Hearing Examiner review.

(i) The Covington Hearing Examiner shall make the final decision at the local level for conditional use and variance and shoreline redesignation applications.

(ii) The Covington Hearing Examiner shall review the recommendations prepared by the Covington Shoreline Administrator and make the final decision to approve, approve with conditions, or deny the permit applications based upon: (1) this SMP; (2) the policies and procedures of the Shoreline Management Act and related sections of the Washington Administrative code; (3) written and oral comments from interested persons; and (4) reports from the Shoreline Administrator. The Hearing Examiner is subject to the procedures and requirements contained in Chapters 2.25, 14.30, 14.35, 14.40, and 14.45 CMC, as amended.

(d) Washington State Department of Ecology review.

(i) After City approval of a conditional use or variance permit, the City shall submit the permit to the Department of Ecology for approval, approval with conditions, or denial. The Department of Ecology shall render and transmit to the City and the applicant its final decision approving, approving with conditions, or disapproving the permit within thirty (30) days of the date of submittal by the City pursuant to WAC 173-27-110.

(ii) The Department of Ecology shall review the complete file submitted by the City on conditional use and variance permits and any other information submitted or available that is relevant to the application. The Department of Ecology shall base its determination to approve, approve with conditions or deny a conditional use permit or variance on consistency with the policy and provisions of the Shoreline Management Act and, except as provided in WAC 173-27-210, the criteria in WAC 173-27-160 and 173-27-170. The City and the Department of Ecology may, in addition, apply the more restrictive criteria where they exist in the shoreline master programs.

(iii) The City shall provide timely notification of the Department of Ecology's final decision to those interested persons having requested notification from the City pursuant to WAC 173-27-130.

(9) Financial guarantee. To guarantee that conditions imposed in conjunction with permit approval are completed, the City may require the applicant to post a performance bond or other financial guarantee in an amount satisfactory to the City. Any such bond or guarantee shall be from a reputable bonding company in a form acceptable to the City Attorney.

(10) Timing and duration.

(a) Commencement of activity. If a permit is approved, the applicant or any other party authorized to conduct activities or uses by the decision shall not begin construction, development, or any authorized use or activity until after the fourteen (14) day appeal period is over and any appeals concluded. Construction or use may occur during the time a court appeal is underway provided: (1) the permit was approved by the local government and the State of Washington Shorelines Hearing Board and (2) permission is granted for the construction, use or activity under RCW 90.58.140(5)(b) or its successor.

(b) Duration of permits. The time requirements of this section shall apply to all substantial development permits and to any development authorized pursuant to a variance or conditional use permit authorized by this chapter. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of this Master Program, the City may adopt different time limits from those set forth in subsections (i) and (ii) of this section as a part of action on a substantial development permit.

(i) Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two (2) years of the effective date of the permit.

(ii) Authorization to conduct development activities shall terminate five (5) years after the effective date of the permit: provided, that the City may authorize a single extension before the end of the time limit, if a request for extension has been filed before the expiration date and with prior notice to parties of record and the Department of Ecology, for up to one (1) year based on reasonable factors.

(iii) The running of a permit time period shall not include the time during which an activity was not actually pursued due to the pendency of reasonably related administrative appeals or legal action or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

(iv) When permit approval is based on conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity: provided, that an alternative compliance limit may be specified in the permit.

(11) Revisions.

(a) When required. A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the Master Program or the policies and provisions of chapter 90.58 RCW. Changes that are not substantive in effect do not require approval of a revision.

(b) Submittal materials. When an applicant seeks to revise a substantial development, conditional use, or variance permit, the Shoreline Administrator shall request from the applicant detailed plans and text describing the proposed changes.

(c) Administrator review.

(i) If the Shoreline Administrator determines that the proposed changes are within the scope and intent of the original permit, and are consistent with this Master Program and the Act, the Shoreline Administrator may approve a revision. "Within the scope and intent of the original permit" means the following:

(A) No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less.

(B) Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit.

(C) The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of this Master Program except as authorized under a variance granted as the original permit or a part thereof.

(D) Additional or revised landscaping is consistent with any conditions attached to the original permit and with this Master Program.

(E) The use authorized pursuant to the original permit is not changed.

(F) No adverse environmental impact will be caused by the project revision.

(ii) Revisions to permits may be authorized after original permit authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of chapter 90.58 RCW and this Shoreline Master Program. If the proposed change constitutes substantial development then a new permit is required. Provided, this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.

(iii) If the sum of the revision and any previously approved revisions under former WAC 173-27-100 or this section violate the provisions in subsection (i) of this section, the City shall require that the applicant apply for a new permit.

(d) Notice of decision.

(i) The revision approval, including the revised site plans and text consistent with the provisions of WAC 173-27-180 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section, shall be filed with the Department of Ecology. In addition, the Shoreline Administrator shall notify parties of record of their action.

(ii) If the revision to the original permit involves a conditional use or variance, the Shoreline Administrator shall submit the revision to the Department of Ecology for approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of this subsection. The Department of Ecology shall render and transmit to the Shoreline Administrator and the applicant its final decision within fifteen (15) days of the date of the Department of Ecology's receipt of the submittal from the Shoreline Administrator. The Shoreline Administrator shall notify parties of record of the Department of Ecology's final decision.

(e) Effective date. The revised permit is effective immediately upon final decision by the Shoreline Administrator or, when appropriate under subsection F of this section, upon final action by the Department of Ecology.

(12) Rulings to State. Any ruling on an application for a shoreline permit under authority of this Master Program, whether it is an approval or denial, shall, with the transmittal of the ruling to the applicant, be filed concurrently with the Department of Ecology. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130, as amended.

(13) Appeals

(a) Local appeals.

(i) Any decision made by the Administrator on an exemption, Master Program policy or regulation interpretation, permit revision, or other action within the responsibility of the Administrator, may be appealed by the applicant, private or public organization, or individual to the Hearing Examiner within fourteen (14) calendar days following the issuance of a written decision by the Administrator, or otherwise becomes effective.

(ii) Such appeals shall be initiated by filing with the Administrator a notice of appeal setting forth the action being appealed and the principal points upon which the appeal is based, together with a filing fee as prescribed by ordinance.

(b) Appeals to the State Shorelines Hearings Board.

(i) Any person aggrieved by the granting or denying of a substantial development permit, variance, or conditional use permit, the upholding of an exemption appeal, or by the rescinding of a permit pursuant to the provisions of this Master Program, may seek review from the State of Washington Shorelines Hearing Board by filing a request for the same within twenty-one (21) days of the date of filing as defined in subsection (ii) below and by concurrently filing copies of such request with the Department of Ecology and the Attorney General's office.

(ii) Consistent with RCW 90.58.140(6), the date of filing is defined as follows:

(A) For projects that only require a substantial development permit: the date that the Department of Ecology receives the City decision.

(B) For a conditional use permit or variance: the date that the Department of Ecology's decision on the conditional use permit or variance is transmitted to the applicant and the City.

(C) For shoreline substantial development permits simultaneously mailed with a conditional use permit or variance to the Department of Ecology: The date that the Department of Ecology's decision on the conditional use permit or variance is transmitted to the applicant and the City.

(iii) A copy of such appeal notice shall also be filed with the City of Covington Shoreline Administrator.

(iv) State Hearings Board regulations are provided in RCW 90.58.180 and Chapter 461-08 WAC.

16.05.100 Nonconforming uses, structures, and development.

(1) Applicability. This section applies to nonconforming uses, development, structures, and lots, as defined in CMC 16.05.030 of this chapter.

(2) Nonconforming structures and development. Nonconforming structures and development shall be subject to the following provisions:

(a) Nonconforming structures used for a conforming use may continue as legal nonconforming structures and may be maintained and repaired.

(b) Nonconforming structures may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new structures or development, with the exception that improvements to nonconforming structures for the purpose of compliance with applicable accessibility regulations are not subject to this restriction.

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

(d) A structure that is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon finding that the following conditions are met. Additional conditions may be attached to the permit as are deemed necessary to assure compliance with the following listed conditions, the requirements of the Master Program, and the Act, and to assure that the use will not become a nuisance or hazard:

(i) No reasonable alternative conforming use is practical; and

(ii) The proposed use will be at least as consistent with the policies and provisions of the Act and the Master Program and as compatible with the uses in the area as the preexisting use.

(e) A nonconforming structure that is moved any distance shall be brought into conformance with the Master Program and the Act.

(f) If a nonconforming structure is damaged or destroyed by fire, explosion, or other casualty or act of God, to an extent not exceeding seventy-five (75) percent of the replacement cost of the original structure, such structure may be reconstructed or restored and the previous use activity continued subject to all other provisions of this section, provided that application is made for the permits necessary to restore the development within six months of the date the damage occurred, and all permits are obtained and the restoration completed within two years of permit issuance.

(g) Preexisting residential structures. Primary residential and appurtenant structures, located landward of the ordinary high water mark, that are classified as nonconforming structures under subsection (1) of this section, are considered conforming structures for the purpose of this Master Program, and shall be subject to the following provisions:

(i) Enlargement or expansion that would not otherwise be allowed under this Master Program, by the addition of space to the main structure, or by the addition of space to an appurtenant structure, may be permitted if the following criteria are met:

(A) The expansion does not extend farther waterward than the existing primary residential structure; and

(B) Potential adverse impacts to shoreline ecological functions are mitigated in accordance with CMC 16.05.230 of this chapter.

(ii) Proposed enlargements or expansions that do not meet the criteria in subsection (i) above shall require a variance pursuant to CMC 16.05.090(7) of this chapter.

(iii) Bulkheads, overwater structures, and other shoreline modifications accessory to the preexisting residential structures shall be excluded from the provisions of this subsection.

(3) Nonconforming uses. Nonconforming uses shall be subject to the following provisions:

(a) Nonconforming uses may continue as legal nonconforming uses and may be repaired and maintained.

(b) Nonconforming uses shall not be enlarged or expanded, except that nonconforming single-family residences classified as nonconforming uses and located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances upon approval of a conditional use permit.

(c) A nonconforming use that is discontinued for twelve (12) consecutive months or for twelve months during any two (2) year period shall lose its nonconforming status and associated rights, and any subsequent use shall be conforming. It shall not be necessary to demonstrate an intent to abandon in order for the nonconforming rights to expire.

(d) A use that is listed as a conditional use in this Master Program, but that existed prior to adoption of this Master Program, and for which a conditional use permit has not been obtained, shall be considered a nonconforming use.

(4) Nonconforming lots. An undeveloped nonconforming lot located landward of the ordinary high water mark may be developed if permitted by other City land use regulations and provided that such development conforms to all other requirements of the Master Program and the Act.

16.05.110 Enforcements and penalties.

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

(2) Enforcement. All provisions of the Master Program shall be enforced by the Shoreline Administrator and/or his/her designated representatives. For such purposes, the Shoreline Administrator or his/her duly authorized representative shall have the power of a police officer.

(3) Penalty. Any person found to have willfully engaged in activities on the City's shorelines in violation of the Shoreline Management Act of 1971 or in violation of the City's Master Program, rules or regulations adopted pursuant thereto, is guilty of a gross misdemeanor, and shall be subject to the penalty provisions of the Covington Municipal Code (civil citation penalties and criminal penalties).

(4) Violator's Liability. Any person subject to the regulatory program of the Master Program who violates any provision of the Master Program or permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. The Attorney General or Covington attorney shall bring suit for damages under this section on behalf of the State or City governments. If liability has been established for the cost of restoring an area affected by a violation, the court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including money damages, the court in its discretion may award attorneys' fees and costs of the suit to the prevailing party.

16.05.120 Moratoria authority and requirements.

(1) The City of Covington has authority to adopt a moratorium control or other interim control on development under RCW 90.58.590.

(2) Before adopting a moratorium or control pursuant to this authority, the City shall:

(a) Hold a public hearing on the moratorium or control. The public hearing shall be held within sixty (60) days of the adoption of the moratorium or control.

(b) Adopt detailed findings of fact that include, but are not limited to, justifications for the proposed or adopted actions and explanations of the desired and likely outcomes.

(c) Notify the Department of Ecology of the moratorium or control immediately after its adoption. The notification shall specify the time, place, and date of any public hearing.

(3) A moratorium or control adopted pursuant to this authority may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review.

(4) A moratorium or control adopted pursuant to this authority may be renewed for one or more six-month period if the City complies with the requirements in subsection (2) of this section before each renewal.

16.05.130 Amendments to the Master Program and periodic review.

(1) Amendments to the Master Program. Any of the provisions of this Master Program may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173-26 WAC. Any amendments shall also be subject to the procedures in CMC Chapter 14.25. Amendments or revisions to the Master Program, as provided by law, do not become effective until approved by the Department of Ecology.

(2) Master Program review. This Master Program shall be periodically reviewed and amendments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations. This review process shall be consistent with the requirements of WAC 173-26 or its successor and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

16.05.140 Severability.

If any provisions of this Master Program, or its application to any person or legal entity or parcel of land or circumstances, are held invalid, the remainder of the Master Program, or the application of the provisions to other persons or legal entities or parcels of land or circumstances, shall not be affected.

Article III. Shoreline Environments

16.05.150 Establishment of shoreline environment designations.

(1) This Master Program establishes the following five shoreline environments for the City of Covington. These shoreline environments shall include the shorelines of the City of Covington, including shorelands, surface waters, and bedlands.

- (a) High-Intensity;
- (b) Medium-Intensity;
- (c) Shoreline Residential;
- (d) Urban Conservancy; and
- (e) Aquatic.

(2) Shoreline environment designations are depicted on the Official Shorelines Map, adopted at the time of adoption of this Master Program and included in the Shoreline Element of the City of Covington Comprehensive Plan. These maps only approximately identify or depict the lateral extent of shoreline jurisdiction. The actual lateral extent of the shoreline jurisdiction shall be determined on a site-specific basis by a qualified professional at the time of a development application.

16.05.160 High-Intensity Environment.

(1) Purpose. The purpose of the High-Intensity environment designation is to provide for high-intensity water-oriented and non-water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

(2) Designation Criteria. A High-Intensity environment designation shall be assigned to those shoreline areas within incorporated municipalities and urban growth areas if they currently support high-intensity uses related to commerce, transportation, or navigation; or are suitable and planned for high-intensity water-oriented uses.

16.05.170 Medium-Intensity Environment.

(1) Purpose. The purpose of the Medium-Intensity environment designation is to provide for water-oriented and non-water-oriented commercial, mixed-use, and residential uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded. Adaptive reuse of existing structures for office uses is emphasized, along with public access and water-enjoyment uses.

(2) Designation Criteria. A Medium-Intensity environment designation shall be assigned to shoreline areas if they currently support residential, water-enjoyment, or commercial uses; are located in upland areas outside of stream buffers; and are suitable and planned for limited intensity commercial, residential, or water-enjoyment uses. .

16.05.180 Shoreline Residential Environment.

(1) Purpose. The Shoreline Residential environment designation is designed to provide for residential needs where the necessary facilities for development can be provided. An additional purpose is to provide appropriate public access and recreational uses.

(2) Designation Criteria. A Shoreline Residential environment designation shall be assigned to shoreline areas if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.

16.05.190 Urban Conservancy Environment.

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

(2) Designation Criteria. An Urban Conservancy environment designation shall be assigned to those shoreline areas where one or more of the following characteristics apply:

- (a) They are suitable for water-related or water-enjoyment uses;
- (b) They are open space, floodplain, stream buffer, or other sensitive areas that should not be more intensively developed;
- (c) They have potential for ecological restoration;
- (d) They retain important ecological functions, even though partially developed; or
- (e) They have the potential for development that is compatible with ecological restoration.

16.05.200 Aquatic Environment.

(1) Purpose. The purpose of the Aquatic environment designation is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.

(2) Designation Criteria. An Aquatic environment designation shall be assigned to all areas waterward of the ordinary high water mark.

16.05.210 Environment designation interpretation.

(1) Upland environment designations, including High-Intensity, Medium-Intensity, Shoreline Residential, and Urban Conservancy, shall apply to shorelands.

(2) Only one environment designation shall apply to a given shoreland area. In the case of different designations occurring parallel to the shoreline, designations shall be divided along an identified linear feature (such as a stream buffer).

(3) Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline waterbody related to site-specific surveys of ordinary high water mark, associated wetlands, floodway, and/or floodplain are automatically assigned the environment designation of the contiguous waterward shoreline environment designation.

(4) All other areas of shoreline jurisdiction that are neither mapped as jurisdiction nor assigned an environment designation shall be assigned an Urban Conservancy environment designation until the shoreline area can be re-designated through an SMP amendment process conducted consistent with WAC 173-26-100, as amended, and Article II of this chapter.

Article IV. General Shoreline Regulations

16.05.220 Archaeological and historic resources.

(1) Applicability. The following provisions apply to archaeological and historic resources that are either recorded at the state historic preservation office and/or by local jurisdiction or are inadvertently uncovered.

(2) Local developers and property owners shall immediately stop work and notify the City, the Department of Archaeology and Historic Preservation and affected Indian tribes if archaeological resources are uncovered during excavation.

(3) A site inspection or evaluation by a professional archaeologist in coordination with affected Native American tribes shall be required for all permits issued in areas documented to contain archaeological resources. Failure to comply with this requirement shall be considered a violation of the Shoreline Permit.

- (4) 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 archeological, natural scientific or historical value, a Shoreline Substantial Development Permit and/or any other permit authorizing development or land modification shall not be issued which would pose a threat to the site. The City may require that a site be redesigned or that development be postponed in such areas to allow investigation of public acquisition potential and/or retrieval and preservation of significant artifacts.
- (5) In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The City shall notify the State Department of Ecology, the State Attorney General's Office and the State Historic Preservation Office of such a waiver in a timely manner.
- (6) In addition to the provisions of this SMP, archaeological sites shall be subject to RCW 2744 (Indian Graves and Records) and RCW 2753 (Archaeological Sites and Records) and shall comply with Chapter 25-48 WAC, or as subsequently amended.
- (7) Identified or suspected historical or archaeological resources shall be considered in park, open space, public access, and site planning with access to such areas designed and managed to give maximum protection to the resource and surrounding environment.
- (8) Clear interpretation of historical and archaeological features and natural areas shall be provided when appropriate.

16.05.230 Environmental protection and critical areas.

- (1) No net loss of shoreline ecological functions.
 - (a) No use, activity, or modification shall result in a net loss of shoreline ecological function. Impacts to ecological functions shall be avoided, minimized, and mitigated to achieve this standard.
 - (b) No permit shall be approved and no activity shall be authorized by the Shoreline Administrator without a clear finding that the use, activity, or modification, and any required mitigation, complies with the no net loss standard as set forth in subsection (1) of this section.
 - (c) The applicant and/or party responsible for the use, activity, or modification shall provide all necessary information needed to demonstrate compliance with the no net loss standard.
 - (d) The City shall periodically review shoreline conditions to determine whether or not other actions are necessary to ensure no net loss of ecological functions, protect and enhance visual quality, and enhance residential and recreational uses on the City's shoreline. Specific issues to address in such evaluations include, but are not limited to:
 - (i) Water quality;
 - (ii) Conservation of aquatic vegetation (control of noxious weeds and enhancement of vegetation that supports more desirable ecological and recreational conditions);
 - (iii) Changing visual character as a result of new residential development, including additions, and individual conservation practices (both along shorelines and in upland areas); and
 - (iv) Shoreline stabilization and modifications.
- (2) Critical areas in shoreline jurisdiction. Critical areas, critical area buffers, and shoreline buffers located within shoreline jurisdiction shall be regulated by Chapter 18.65 CMC which is herein incorporated by reference into this Master Program, with the following clarifications and modifications:
 - (a) The reasonable use exception provisions (CMC 18.65.075) and the public agency/utility exception provisions (CMC 18.65.070) of the Critical Areas Ordinance shall not apply in shoreline jurisdiction.

Exceptions within shoreline jurisdiction shall require a shoreline variance based on the variance criteria listed in CMC 16.05.090 of this Master Program and WAC 173-27-170.

(b) The allowed alteration provisions of the Critical Areas Ordinance (CMC 18.65.050) shall not apply to Type S waters (shorelines of the state) or their buffers (shoreline buffers). Activities and alterations to shorelines of the state and their buffers shall be subject to the provisions of this Master Program.

(c) Shoreline buffer widths are defined in CMC 16.05.280 of this Master Program.

(d) Critical areas and buffers do not extend shoreline jurisdiction beyond the limits specified in this Master Program, except as provided for in CMC 16.05.040 of this chapter.

(e) Future amendments to the Critical Areas Ordinance require Department of Ecology approval of an amendment to this Master Program to incorporate updated language.

(f) If provisions of the Critical Areas Ordinance conflict with provisions of this Master Program, the provisions most protective of the ecological resource shall apply, as determined by the Administrator.

(g) If there are provisions of the Critical Areas Ordinance that are not consistent with the Shoreline Management Act, Chapter 90.58 RCW, and supporting Washington Administrative Code chapters, those provisions shall not apply.

(3) Mitigation Sequencing. Where required, mitigation measures shall be applied in the following sequence of steps, listed in order of priority; lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable:

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

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

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

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

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

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

(4) Solid waste, liquid waste, and untreated effluent shall not be allowed to enter any bodies of water or to be discharged onto the land.

(5) The direct release of oil and hazardous materials or chemicals onto the land or into water is prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

(6) All shoreline uses and activities shall utilize best management practices (BMPs) to minimize any increase in surface runoff and to control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Physical control measures include, but are not limited to, catch basins, settling ponds, oil/water separators, filtration systems, grassy swales, interceptor drains and landscaped buffers. All types of BMPs require regular maintenance to continue to function as intended.

(7) All shoreline developments and uses shall utilize effective erosion control methods during both construction and operation.

- (8) All shoreline uses and activity shall be located, designed, constructed and managed in a manner that avoids, if feasible, and then minimizes adverse impacts to surrounding land and water uses and that is aesthetically compatible with the affected area.
- (9) All shoreline developments shall be located, constructed and operated so as not to be a hazard to public health and safety.
- (10) Land clearing, grading, filling and alteration of natural drainage features and land forms shall be limited to the minimum necessary for development. Any allowed activity shall be consistent with Chapter 14.60 CMC and this Master Program. Surface drainage systems or substantial earth modifications involving greater than 500 cubic yards of material shall be designed by a professional engineer. These designs shall seek to prevent maintenance problems, avoid adverse impacts to adjacent properties or shoreline features, and result in no net loss of shoreline ecological functions.
- (11) All shoreline uses and activities shall be located and designed to prevent or minimize the need for shoreline protection structures (bulkheading, riprap, etc.) and stabilization, landfills, groins, jetties, or substantial site regrades.
- (12) Identified significant short term, long term, or cumulative adverse environmental impacts lacking appropriate mitigation shall be sufficient reason for permit denial.

16.05.240 Public access.

(1) Public access shall be required in the following circumstances:

- (a) Public access shall be required for all shoreline development and uses, except for water-dependent uses and single-family residences not part of a development planned for more than four parcels.
- (b) Subdivisions of land into more than four parcels shall include dedication and improvement of public access.
- (c) Public entities, including the City of Covington, shall be required to incorporate public access measures as part of each public shoreline development project, unless access is incompatible with safety, security, or environmental protection.

(2) Where public access is required under subsection (1) of this section, a payment in lieu of providing public access shall be permitted in accordance with RCW 82.02.020 (relating to fees associated with development) provided that both of the following conditions are met:

- (a) The applicant demonstrates, and the City determines, that one or more of the following circumstances applies:
 - (i) Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means; or
 - (ii) Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions; or
 - (iii) The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development; or
 - (iv) Unacceptable environmental harm such as damage to fish spawning areas will result from the public access that cannot be mitigated; or
 - (v) Significant undue and unavoidable conflict between the proposed access and adjacent use would occur and not be mitigated; and
- (b) The applicant demonstrates, and the City determines, that all reasonable alternatives have been exhausted, including but not limited to:
 - (i) Regulating access by such means as limiting hours of use to daylight hours;

(ii) Designing separation of uses and activities, with such means as fences, terracing, hedges, and landscaping;

(iii) Providing access that is physically separated from the proposal, such as a nearby street end, an offsite viewpoint, or a trail system.

(3) Where public access is required, the following provisions apply:

(a) Public access sites shall be connected directly to the nearest public street if possible.

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

(c) Physical public access shall be designed to prevent significant impacts to sensitive natural systems. Where impacts to shoreline ecological functions cannot be avoided, mitigation shall be required to meet the no net loss standard.

(d) Public access sites shall utilize environmentally friendly materials and technologies in such things as building materials, porous pavement, site preparation, drainage, and landscaping to the extent feasible.

(e) Where public access is to be provided by a trail, it shall be subject to the following provisions:

(i) The trail shall be consistent with CMC 18.65.050(6) and adhere to the provisions of CMC 18.65.050(7) 25.

(ii) Where feasible, the trail shall be placed on the furthest landward edge of the shoreline buffer.

(iii) Landscaping shall be composed of native, drought-tolerant, and site-appropriate vegetation to the extent feasible.

(iv) The City may require that other specific conditions, as determined by the City, to be described in a trail plan.

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

(g) Public access easements and permit conditions shall be recorded on the deed where applicable or on the face of a plat or short plat as a condition running in perpetuity with the land. Recording with the King County Department of Records shall occur at the time of permit approval (RCW 58.17.110; relating to subdivision approval or disapproval).

(h) The standard state approved logo and other approved signs that indicate the public's right of access and hour of access shall be constructed, installed, and maintained by the applicant in conspicuous locations at public access sites. In accordance with subsection (1)(a) of this section, signs controlling or restricting public access may be approved as a condition of permit approval.

(i) Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access site.

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

16.05.250 Vegetation management.

(1) All vegetation removal activities shall adhere to the requirements of the City's code pertaining to clearing (Chapter 14.60 CMC), critical areas (Chapter 18.65 CMC), and tree preservation and protection (Chapter 18.45 CMC), unless more restrictive standards are provided for in Chapter 16.05 CMC. A shoreline exemption letter or substantial development permit are required unless otherwise stated in this section.

(2) The removal of trees that are determined by a certified arborist as hazardous, possible threat to public safety, or posing an imminent risk of damage to an existing legally conforming structure, public or private road or sidewalk or other permanent improvement within the shoreline jurisdiction, is allowed subject to the following:

(a) Mitigation. The landowner shall replace any trees that are removed with a Pacific Northwest native tree with a minimum 2 inch caliper size replacement trees(s) at a one to one ratio (1:1) within in the shoreline buffer and at a 1:3 ratio (1 replacement tree for every three hazard trees removed) for any hazard tree removed within the shoreline jurisdiction but outside of the shoreline buffer.

(b) Wildlife snag as alternative to mitigation. A landowner may choose to convert a hazard tree proposed for removal to a wildlife snag as an alternative if recommended by a certified arborist.

(3) Selective Vegetation Pruning. Pruning of existing trees and vegetation within the shoreline jurisdiction with hand labor and hand-operated equipment consistent with current International Society of Arboriculture (ISA) best management practices guidelines, in accordance with the Master Program is allowed without a shoreline permit or approval. A Clearing and Grading Permit, Major or Minor Tree Permit, and/or SEPA review may still be required. In no event may a tree or vegetation which is an active nest site for a species of local importance be pruned.

(4) When vegetation removal is allowed, all significant trees removed shall be replaced with a Pacific Northwest native tree, a minimum 2-inch caliper size for replacement plantings consistent with the following minimum standards:

Significant Tree ¹ Removed	Replacement Ratio (replaced: removed)
6-10 inches	1:1
10 – 16 inches	2:1
Greater than 16 inches	3:1

¹A significant tree means any healthy tree of six inches caliper or larger.

(5) Vegetation removed within the shoreline buffer other than significant trees shall be replaced at a spatial ratio of 1:1 to replicate the structural habitat and ecological functions provided by native species.

(6) All vegetation and significant trees removed from the shoreline buffer shall be replaced within the shoreline buffer.

(7) Removal of vegetation within areas classified as critical areas or critical area buffers under CMC 18.65, or shoreline buffers under CMC 16.05.280 of this chapter, is subject to the following provisions:

(a) Removal of vegetation in such areas is prohibited unless such removal is determined to be necessary to support a water-oriented use, in connection with an approved alteration, to remove a documented hazard to existing development, or to remove noxious weeds as listed by the state in Chapter 16-750 WAC, and no other feasible alternative exists.

(b) All vegetation removal in critical areas, critical area buffers, and shoreline buffers shall document how they comply with all of the requirements of the CMC 16.05.230(3) Mitigation Sequencing and Chapter CMC 18.65.

(c) Vegetation replacement shall be required at an appropriate ratio to assure no net loss is achieved.

(d) The City shall require a report prepared by a qualified professional to ensure impacts are mitigated.

(e) Within stream buffers, hazard trees shall be turned into snags if feasible, and/or resulting woody debris shall be put into the stream channel if it can be done in a manner that does not create a hazard on the site or to downstream properties.

(8) Outside of areas classified as critical areas or critical area buffers under CMC 16.05.230(2) of this chapter, or shoreline buffers under CMC 16.05.280 of this chapter, removal of vegetation shall only be allowed in association with a permitted shoreline use or development, except that the following activities may be allowed independent of a permitted shoreline use or development:

(a) Removal of noxious weeds as listed by the state in Chapter 16-750 WAC, provided such activity shall be conducted in a manner consistent with best management practices and the City of Covington's engineering design standards, and native vegetation shall be promptly reestablished in the disturbed area.

(b) Modification of vegetation in association with a legal, non-conforming use or development provided that said modification is conducted in a manner consistent with this Master Program and results in no net loss to ecological functions or critical fish and wildlife habitats. This could include, but is not limited to the maintenance of an existing developed yard and ornamental landscaping.

(c) Normal and routine maintenance of existing trees, for view maintenance, safety, or other purposes, provided that said maintenance is consistent with accepted arboricultural practices, does not involve removal of healthy trees, and is not detrimental to the health of any trees.

(d) Maintenance or restoration of view sheds situated on public lands provided that said activity is conducted in a manner consistent with this Master Program and results in no net loss to ecological functions or critical fish and wildlife habitat areas.

(e) Limited removal of trees may be allowed within the shoreline jurisdiction of Pipe Lake, at the discretion of the Shoreline Administrator, provided the following conditions are met:

(i) The removal is consistent with subsection (2) of this section;

(ii) Mitigation is provided and no net loss of ecological functions occurs; and

(iii) Native understory vegetation is preserved outside of areas used for structures and their maintenance, active recreation, and shoreline access.

(9) Outside of critical areas, critical area buffers, and shoreline buffers, tree and vegetation removal shall be minimized and significant trees and other vegetation shall be replaced at an appropriate ratio to ensure no net loss is achieved. The City shall require a report prepared by a qualified professional to ensure impacts are mitigated.

(10) Areas cleared of vegetation and not developed shall be subject to the following provisions:

(a) Such areas shall be replanted within one (1) year, and shall be planned and maintained such that, within three (3) years' time, the vegetation is at least ninety (90) percent reestablished.

(b) Areas cleared of native vegetation shall be replanted with similar species of native vegetation in quantities designed to achieve no net loss of ecological function. Areas cleared of ornamental landscapes, including grass, may be replanted with similar species, unless mitigation is necessary to address project impacts. In all cases of revegetation, native vegetation shall be preferred.

(c) New or expanded lawn areas within shoreline buffers shall be prohibited.

(11) The control of aquatic vegetation shall be subject to the following provisions:

(a) Such activity shall only occur when native plant communities and associated habitats are threatened or where an existing water-dependent use is restricted by the presence of weeds.

(b) Such activity shall occur in compliance with all other applicable laws and standards, including Washington Department of Fish and Wildlife requirements.

(c) Control of aquatic vegetation by mechanical methods is exempt from the requirement to obtain a shoreline substantial development permit only if the bottom sediment or benthos is not disturbed in the process. It is assumed that mechanical removal of accumulated vegetation at a level closer than two (2) feet to the root level, including derooting or rotovating, will disturb the bottom sediment and benthos layer. Such methods shall be considered development for which a shoreline substantial development permit is required.

(d) The use of herbicides and pesticides to remove noxious plants in rivers, streams, wetlands, or ditches shall be subject to the following provisions:

(i) Within critical areas and critical area buffers, such activity shall be prohibited, except where no reasonable alternatives exist and it is demonstrated that such activity is in the public interest. Where such activity is permitted, a conditional use permit shall be required.

(ii) A permit from the Department of Ecology shall be required. Preparation of a SEPA checklist for review by other agencies may also be required.

(iii) Mechanical removal of noxious weeds shall be timed and carried out in a manner to minimize any disruption of wildlife or habitat.

(iv) The individual(s) involved shall obtain a pesticide applicator license from the Washington State Department of Agriculture.

16.05.260 Water quality, stormwater, and non-point pollution.

(1) All shoreline development, both during and after construction, shall minimize impacts related to surface runoff through control, treatment and release of surface water runoff such that there is no net loss of receiving water quality in the shoreline environment. Control measures include but are not limited to dikes, runoff intercepting ditches, catch basins, settling wet ponds, sedimentation ponds, oil/water separators, filtration systems, grassy swales, planted buffers, and fugitive dust controls.

(2) All shoreline development shall comply with the applicable requirements of the most recent edition of the Adopted Surface Water Design Manual and all applicable City stormwater regulations. The City will also rely on source control standards and other BMPs contained in the most recent versions of the Department of Ecology Stormwater Management Manual for Western Washington and The Low Impact Development Manual: Technical Guidance for Puget Sound.

(3) Shoreline development and uses shall adhere to all required setbacks, buffers and standards for stormwater storage basins and facilities. Low impact stormwater facilities may be allowed within designated shoreline setback areas if the applicant demonstrates compliance with all other regulations, including any applicable critical areas standards.

(4) Property owners with failing septic systems and applicants seeking required building, land use and shoreline permits for a major redevelopment shall be required to connect to the public sewer if such connection can be made within 300 feet of the subject property.

(5) The use of pesticides, herbicides, and fertilizers on lawns shall be prohibited within shoreline buffers.

16.05.270 Flood hazard management.

(1) Development within flood hazard areas shall be subject to the provisions of the City of Covington Flood Damage Prevention Ordinance (Chapter 16.15 CMC) in addition to the provisions of this SMP.

(2) New development or uses in shoreline jurisdiction, including the subdivision of land, are prohibited when it is reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway during the life of the development.

(3) New structural flood hazard reduction measures in shoreline jurisdiction shall be permitted only when it can be demonstrated by a scientific and engineering analysis that:

- (a) They are necessary to protect existing development;
- (b) Nonstructural measures are not feasible;
- (c) Impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss; and
- (d) Appropriate vegetation conservation actions are taken consistent with CMC 16.05.250.

(4) New structural flood hazard reduction measures shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration; provided that such flood hazard reduction projects may be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible.

(5) New public structural flood hazard reduction measures, such as dikes or levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and immitigable significant ecological impacts, unavoidable conflict with proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

Article V. Specific Shoreline Use Regulations

16.05.280 General shoreline use standards.

(1) Permitted uses.

(a) Table 16.05.280-1 indicates which new, expanded, or altered shoreline uses may be allowed or prohibited in shoreline jurisdiction within each shoreline environment designation. Refer to the text in CMC 16.05.290-380 of this chapter for provisions related to specific uses listed in the table. Uses are classified as follows:

- (i) Uses allowed by Shoreline Substantial Development Permit or Shoreline Exemption are indicated by a "P" in the table.
- (ii) Uses allowed by Shoreline Conditional Use Permit are indicated by a "C" in the table.
- (iii) Prohibited uses are not allowed and are indicated by an "X" in the table.
- (iv) Uses regulated consistent with the adjacent upland environment designation are indicated by "Upland" in the table.
- (v) Uses not specifically identified in the table may be allowed by a Shoreline Conditional Use Permit.
- (vi) If there are any conflicts between Table 16.05.280-1 and the written provisions this Master Program, the written provisions shall control.

(b) Unless otherwise indicated in Table 16.05.280-1, the provisions of this section apply to primary uses, and accessory uses are regulated consistent with the primary use.

(c) Additional provisions for the Urban Conservancy environment. All new uses and developments, permitted or allowed as conditional, in the Urban Conservancy environment shall be compatible with conserving, protecting, and restoring ecological conditions of the shoreline. New uses and developments shall demonstrate consistency with the Urban Conservancy management policies as set forth in the Covington Comprehensive Plan.

Table 16.05.280-1. Permitted uses by shoreline environment designation.

Shoreline Use	Shoreline Environment Designation				
	High Intensity	Medium Intensity	Shoreline Residential	Urban Conservancy	Aquatic
Agriculture	X	X	X	X	X
Aquaculture	P	P	C	P	Upland
Boating Facilities	X	X	C	C	Upland
Commercial Development					
Primary	P	P	X (1)	X	X
Accessory	P	P	P	C	X
Forest Practices	X	X	X	X	X
Industrial Development	P	X	X	X	X
Institutional Development (2)	P	P	P	P	P
In-Stream Structural Development					
As part of a fish enhancement project	P	P	P	P	P
Other	C	C	C	C	C
Mining	X	X	X	X	X
Recreational Development					
Water-oriented	P	P	P	P	P
Non-water-oriented					
Primary	P	P	C	C	X
Accessory	P	P	P	P	X
Multi-use trails	P	P	C	C	X
Minor trails	P	P	P	P	X
Residential Development					
Single-family	P	P	P	P/C/X (3)	X
Multi-family	P	P	X	X	X
Signs					
Primary	X	X	X	X	X
Accessory	P	P	P	C	C
Transportation Facilities					
New circulation routes related to permitted shoreline use	C	C	C	C	C (4)
Expansion of existing circulation system	P	P	C	C	C (4)
Multi-use trails	P	P	C	C	C (4)
Parking					
Primary	X	X	X	X	X
Accessory	P	P	P	C	X
Utilities					
Major					
Solid waste disposal or transfer sites	X	X	X	X	X

Shoreline Use	Shoreline Environment Designation				
	High Intensity	Medium Intensity	Shoreline Residential	Urban Conservancy	Aquatic
(excluding storage of recyclable materials)					
Power generation, substations, and gas storage facilities	C	C	C	C	X
All other	C	C	C	C	C
Minor	P	P	P	C	C
Uses Not Specified	C	C	C	C	C

Table Notes:

1. Commercial uses that are incidental to the primary residential use and are compatible with the residential character of the neighborhood, such as home occupations, may be permitted.
2. Institutional development shall include scientific, historical, cultural, or educational uses. The provisions for commercial development set forth in CMC 16.05.320 shall apply to institutional development.
3. Allowed as a permitted use (P) in the Jenkins Creek shoreline jurisdiction; as a conditional use (C) in the Big Soos Creek shoreline jurisdiction; and prohibited (X) in the Pipe Lake shoreline jurisdiction. All residential development shall be subject to the critical areas regulations set forth in CMC 16.05.230.
4. Bridges shall be allowed only in accordance with the provisions set forth in CMC 16.05.380, Transportation facilities, and all applicable shoreline modification regulations set forth in CMC 16.05.400-450.

(2) Dimensional standards.

(a) Table 16.05.280-2 defines the dimensional standards applicable to all shoreline development within each shoreline environment designation. Dimensional standards include maximum height, shoreline buffers, building setbacks from the shoreline buffer, impervious surface coverage, and minimum lot width. All development shall also comply with all applicable dimensional standards, including interior and yard setbacks, pursuant to CMC Title 18. Where a conflict exists between a requirement of this Master Program and the zoning code, the most protective provision shall prevail.

Table 16.05.280-2. Dimensional standards.

Dimensional Standard	Shoreline Environment Designation				
	High Intensity	Medium Intensity	Shoreline Residential	Urban Conservancy	Aquatic
Maximum Height	45 ft.	45 ft.	30 ft.	30 ft.	NA
Shoreline Buffer (1)	115 ft.	115 ft.	115 ft. (2)	115 ft.	NA
Building Setback from Buffer	15 ft.	15 ft.	15 ft.	15 ft.	NA
Impervious Surface Coverage	60%	50%	50%	10%	NA
Minimum Lot Width	60 ft.	60 ft. (3)	60 ft.	100 ft. (3)	NA

Table Notes:

1. Shoreline buffers may be modified subject to the critical areas provisions of CMC 16.05.230. Use and management of the buffer shall comply with all critical areas standards unless a provision would preclude a water-dependent use.
2. Shoreline buffers in the Shoreline Residential environment may be reduced pursuant to the provisions of 16.05.280(2)(c).

3. Where the Urban Conservancy environment and the Medium Intensity environment are parallel shoreline environments along Jenkins Creek, no minimum lot width shall be required for residential development, provided a conservation easement shall be required for all portions of lots within the Urban Conservancy designation; native vegetation shall be preserved within the easement; and joint consolidated access shall be provided within the easement.

(b) Maximum height.

(i) The maximum height set forth in Table 16.05.280-2 and the provisions of this subsection shall not apply to television antennas, chimneys, flagpoles, public utilities, and similar appurtenances.

(ii) In addition to compliance with the maximum height standard as set forth in Table 16.05.280-2, an applicant shall demonstrate that structures located below the ordinary high water mark are the minimum necessary to accommodate a water-dependent or other permitted use. Elevated decks, storage buildings, and other structures on docks are prohibited unless necessary for the operation of a water-dependent use, and no reasonable alternative exists.

(iii) A height of more than thirty-five (35) feet may be approved only if the applicant prepares a view corridor study indicating that the proposed structure would not diminish views of the shoreline from surrounding properties.

(iv) Development shall also be subject to the height limits established by the underlying zoning, but in no case shall height exceed forty-five (45) feet above average grade level.

(v) Accessory structures, where allowed, shall not exceed a maximum height of twelve (12) feet.

(c) Shoreline buffers.

(i) The shoreline buffer shall be measured landward, on a horizontal plane perpendicular to the shoreline. The buffer shall be measured from the ordinary high water mark, unless a channel migration zone is found to occur and documented in a study submitted by a qualified professional, in which case the City may require that the shoreline buffer be measured from the edge of the channel migration zone.

(ii) Developments associated with water-dependent uses, ecological restoration, and public access shall not be subject to the requirement for a shoreline buffer. Mitigation sequencing shall be applied to ensure no net loss of shoreline ecological functions, consistent with CMC 16.05.230(3) of this chapter.

(iii) Accessory structures. Accessory structures that are not water-dependent or water-related are prohibited within the shoreline buffer, except within the Shoreline Residential environment accessory structures may be allowed within the shoreline buffer if they are no closer than 10 feet from the OHWM, and less than or equal to two hundred (200) square feet in total area, and shall not exceed a maximum height of twelve (12) feet. The area of shoreline buffer impacted shall be mitigated by planting native vegetation in an equivalent area elsewhere within in the shoreline buffer.

(iv) Buffer averaging or buffer reduction may be achieved using the critical areas provisions set forth in CMC 18.65.360(2) and CMC 18.65.360(3), respectively, provided that the buffer shall not be reduced to less than 60 percent of the standard buffer. Further buffer reduction shall require approval of a shoreline variance.

(v) Pipe Lake buffer reduction.

(A) In addition to the allowance under subsection (iv) above, within the Shoreline Residential environment only, the Shoreline Administrator may approve reduction of the standard buffer down to a minimum of sixty (60) feet when a combination of the mitigation measures set forth in Table 16.05.280-3 is used to achieve an equal or greater protection of shoreline ecological functions, and subject to the provisions of this subsection.

Table 16.05.280-3. Shoreline buffer reduction mechanisms.

Reduction Mechanism		Reduction Allowance
Water-Related Actions (1)		
1	Removal of an existing bulkhead covering at least 75 percent of the shoreline frontage that is located at, below, or within 5 feet landward of the ordinary high water mark; and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography and beach/substrate composition.	30 ft.
2	Removal of an existing bulkhead covering at least 25 percent of the shoreline frontage that is located at, below, or within 5 feet landward of the ordinary high water mark; and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, beach/substrate composition, and vegetation.	15 ft.
3	Preservation of existing natural shoreline conditions (e.g. no bulkhead or other unnatural shoreline features such as upland impervious surfaces or other structural alterations) within 5 feet of the ordinary high water mark, including preservation of existing vegetation.	10 ft.
4	Preservation of existing trees and native vegetation and restoration of native vegetation as necessary in at least 75 percent of the remaining buffer area. Up to 25 percent of the buffer area can be composed of existing non-invasive, non-native vegetation. Up to 15 feet of the shoreline frontage (from the ordinary high water mark landward to the building setback line) may be permitted for improved shoreline access, provided access areas shall be located to avoid areas of greater sensitivity and habitat value. (2)	20 ft.
5	Preservation of existing trees and native vegetation and restoration of native vegetation in at least 25 percent of the remaining buffer area. Up to 15 feet of the shoreline frontage (from the ordinary high water mark landward to the building setback line) may be permitted for improved access, provided access areas shall be located to avoid areas of greater sensitivity and habitat value. (3)	10 ft.
Upland-Related Actions (4)		
6	Installation of biofiltration/infiltration mechanisms such as bioswales, created and/or enhanced wetlands, or ponds that exceed standard stormwater requirements.	15 ft.
7	Installation of a "green" roof in accordance with the standards of the LEED Green Building Rating System.	15 ft.
8	Installation of pervious material for driveway or road construction.	10 ft.
9	Limiting total impervious surface in the reduced buffer area to less than 5 percent.	10 ft.
10	Preserving or restoring at least 20 percent of the total lot area outside of the reduced buffer as native vegetation. No more than 20 percent of the total lot area can be lawn.	10 ft.

Table Notes:

1. At least one Water-Related Action must be undertaken in order to achieve the full buffer reduction allowed.
2. This mitigation measure may not be used by any properties that currently have native vegetation in 75% or more of the remaining buffer area.
3. This mitigation measure may not be used by any properties that currently have native vegetation in 25% or more of the remaining buffer area.
4. A maximum of 35 feet in cumulative buffer reduction may be achieved using Upland-Related Actions.

(B) Buffer averaging as set forth in CMC 18.65.360(2) may be used in combination with the mitigation measures provided in Table 16.05.280-3, provided that the buffer shall not be reduced to a width of less than 50 feet at any location. Further buffer reduction shall require approval of a shoreline variance.

(vi) All property owners who obtain approval for a reduction in the buffer must record the final approved buffer and corresponding conditions in a Notice on Title, and provide a copy of the Notice on Title to the Shoreline Administrator.

(vii) All property owners who obtain approval for a reduction in the buffer must prepare, and agree to adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that includes appropriate limitations on the use of fertilizer, herbicides, and pesticides as needed to protect lake water quality. This plan shall be recorded as a Notice on Title, and a copy of the final recorded Notice on Title provided to the Shoreline Administrator.

(viii) Restoration of native vegetation shall consist of a mixture of trees, shrubs, and groundcover and be designed to improve habitat functions. Preparation of a revegetation plan shall be completed by a qualified professional and include a monitoring and maintenance program that shall, at a minimum, include the following:

1. The goals and objectives for the mitigation plan;
2. The criteria for assessing the mitigation;
3. A monitoring plan that includes annual progress reports submitted to the Shoreline Administrator and that lasts for a period sufficient to establish that performance standards have been met as determined by the Shoreline Administrator, but not less than five (5) years; and
4. A contingency plan.

(ix) Whenever the Shoreline Administrator determines that monitoring has established a significant adverse deviation from predicted impacts, or that mitigation or maintenance measures have failed, the applicant or the property owner shall be required to institute correction action, which shall also be subject to further monitoring as provided in this section.

(x) The Shoreline Administrator may require a Financial Guarantee in an amount sufficient to guarantee that all required mitigation measures will be completed in a manner that complies with conditions of approval and to guarantee satisfactory workmanship and materials for a period not to exceed five years. The Shoreline Administrator shall establish the conditions of the bond according to the nature of the proposed mitigation, maintenance or monitoring and the likelihood and expense of correcting mitigation or maintenance failures.

(xi) All costs associated with the mitigation/monitoring and planning including city expenses, shall be the responsibility of the applicant.

(xii) Existing structures. Existing structures that are not considered to be nonconforming and located within the shoreline buffer may be replaced in their current location and configuration to the extent allowed by local, state, and federal agencies with jurisdiction.

(d) Building setbacks. Structures allowed within the shoreline buffer under subsection (c) of this section shall also be allowed within the building setback from the shoreline buffer unless otherwise prohibited by Chapter 18.65 CMC

(e) Impervious Surface Coverage.

(i) The amount of impervious surface shall be the minimum necessary to provide for the proposed use.

(ii) Impervious surface coverage is further restricted in critical areas, critical area buffers, and shoreline buffers pursuant to the critical areas regulations set forth in CMC 16.05.230.

(iii) Outside of critical areas, critical area buffers, and shoreline buffers, a credit towards the total impervious surface coverage may be provided through the use of permeable materials, such as pervious concrete, subject to approval by the Shoreline Administrator in consultation with the Development Review Engineer pursuant to CMC Chapter 13.25. Within the Urban Conservancy environment, this credit shall be limited to a maximum of 20% of the site area. The City will encourage practices that further minimize impervious surfaces and stormwater runoff, including use of best available technologies.

16.05.290 Agriculture.

(1) Only existing agricultural uses that predated the incorporation of Covington in 1998 are permitted, subject to all requirements of this Master Program, and provided:

(a) All uses and development shall be located and designed to assure no net loss of ecological functions and have no significant adverse impact on other shoreline resources and values;

(b) A shoreline substantial development permit is requirements for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(e)(iv);

(c) Any barn, shed, or other structure constructed in conjunction with the permitted agricultural activity shall not be constructed within the floodway;

(d) All existing agricultural activity along shorelines of the state shall conform to the best management practices developed pursuant to the Federal Water Pollution Control Act of 1972 and adopted by the King County Soil Conservation District;

(e) Lagoons, ponds, or other waste retention facilities shall be subject to subsection (b) of this section; and

(f) Agricultural uses shall comply with all applicable critical areas regulations as set forth in CMC 16.05.230 of this chapter.

16.05.300 Aquaculture.

(1) Aquaculture shall not be permitted in areas where it would result in a net loss of ecological functions or significantly conflict with navigation or other water-dependent uses.

(2) Aquacultural development shall conform to applicable state and federal policies and regulations, provided they are consistent with the Act and this Master Program, to ensure no net loss of ecological function.

(3) Aquaculture facilities shall be designed and located such that they do not spread disease to native aquatic life, establish new nonnative species that cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.

(4) Impacts to ecological functions shall be mitigated in accordance with the sequence set forth in CMC 16.05.230(3).

16.05.310 Boating facilities.

(1) Applicability. Boating facilities, as regulated in this section, shall include commercial or non-commercial moorage structures serving more than four (4) single-family residences.

(2) Boating facilities shall be located where such development can comply with the requirement for no net loss of ecological functions, and where existing navigation rights and channels can be protected.

(3) Extended moorage on waters of the state without a lease or permission shall be prohibited, except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

(4) The responsibility to comply with all state agency policies and regulations, including all applicable health, safety, and welfare requirements associated with the primary use or accessory use, shall belong to the applicant.

(5) The applicant shall demonstrate that traffic generated by the boating facility shall be safely and conveniently handled by the streets serving the proposed facility.

(6) New boating facilities shall be designed to avoid, then minimize, potential aesthetic impacts. Where such impacts cannot be avoided they shall be mitigated, including the use of vegetation, screening, and placement, where applicable.

- (7) Public access shall be required for all new boating facilities, unless the applicant demonstrates that such access is infeasible, subject to all requirements in CMC 16.05.240 of this chapter.
- (8) Live-aboards and night-time use of boats, including for sleeping, shall be prohibited.
- (9) Boating facilities shall have provisions available for cleanup of accidental spills of contaminants.
- (10) Use of internal combustion engines on Pipe Lake shall be prohibited, in accordance with CMC 8.25.

16.05.320 Commercial development.

- (1) Water-enjoyment and water-related commercial development shall be required to provide public access and ecological restoration where feasible, consistent with the provisions of CMC 16.05.240 of this chapter, and shall avoid, minimize, and mitigate impacts to existing vegetation, recreational uses, and public access.
- (2) New non-water-oriented commercial development shall be prohibited unless it is part of a mixed-use project, navigation is severely limited, and the use provides a significant public benefit consistent with the policies of the Act.
- (3) Non-water-dependent commercial development shall be prohibited over water, except in existing structures and where necessary to support water-dependent uses.
- (4) Home occupations may be permitted within the Shoreline Residential environment, provided they meet the requirements of CMC 18.80.100, Home Occupations, as amended.
- (5) Commercial development accessory to a permitted recreational use or facility may be permitted as a conditional use in the Urban Conservancy environment. Examples of commercial developments accessory to a permitted recreational use or facility include concession stands and private parties, receptions, or banquets (one-time CUP to establish scope of activity allowed).
- (6) Commercial vendors located outside of shoreline jurisdiction shall not establish facilities within shoreline jurisdiction, except that this prohibition does not preclude a vendor from being hired to provide services in

16.05.330 Industrial development.

- (1) Industrial development and redevelopment shall be located, designed, and constructed to result in no net loss of ecological processes and functions.
- (2) Industrial development and redevelopment shall include cleanup and restoration of impacted sites.
- (3) Public access shall be required consistent with CMC 16.05.240 of this chapter, and unless such a requirement would interfere with operations or create hazards to life or property.
- (4) Industrial development shall utilize the best techniques in design and siting to prevent the release of contaminants into the adjoining water bodies in order to comply with the water quality standards set forth in RCW 90.58.
- (5) New non-water-oriented industrial development shall be prohibited unless it is part of a mixed-use project and provides a significant public benefit such as ecological restoration, environmental clean-up, historic preservation, or public access.

16.05.340 In-stream structural development.

- (1) In-stream structures shall not impede upstream or downstream migration of anadromous fish. All new replacement structures, including culverts, shall be made fish passable in accordance with the most recent Washington State Department of Fish and Wildlife requirements or with the National Marine Fisheries Service guidelines for Endangered Species Act-listed species.
- (2) Structures shall be designed and located to minimize removal of riparian vegetation

(3) In-water structures shall be located and designed to preserve or enhance aquatic habitat and to minimize impacts on the visual and aesthetic quality of the shoreline.

(4) In-water structures shall be consistent with CMC 18.65.050(6) and applicable conditions of CMC 18.65.050(7).

16.05.350 Recreational development.

(1) Applicability. This section shall apply to both public and private shoreline recreational facilities, excluding private residences. Commercial recreational development shall be subject to the provisions of CMC 16.05.320, Commercial development.

(2) Proposals for new or expanded recreational development shall include provisions for public access to the shoreline. Public access sites shall comply with the requirements of CMC 16.05.240(3) of this chapter. New or expanded recreational development that does not provide public access may be authorized provided the applicant demonstrates compliance with CMC 16.05.240 of this chapter.

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

(4) All new structures associated with a recreational development, other than accessory or water-dependent structures such as docks and boardwalks that provide access to the water for that development, shall maintain the required shoreline buffer and building setback as set forth in CMC 16.05.280 of this chapter. Existing structures may be replaced in their existing location and configuration to the extent allowed by local, state, and federal agencies with jurisdiction. Shoreline buffer reduction beyond that allowed under CMC 16.05.280 shall require a shoreline variance.

(5) Recreational development shall be located, designed, and constructed to result in no net loss of shoreline ecological functions, including protection of existing native shoreline vegetation and restoration of native shoreline vegetation impacted by development activities. Mitigation shall be provided as necessary to meet this requirement. The City may request studies by qualified professionals to determine compliance with this requirement.

(6) Water-dependent or water-related activities such as swimming, boating, and fishing, and activities that benefit from waterfront scenery such as picnicking, hiking, and bicycling, shall be given priority in planning public and private recreational development in shoreline jurisdiction.

(7) Recreational development shall make adequate provisions for, as applicable:

- (a) Motorized, non-motorized, and pedestrian access;
- (b) The prevention of trespass onto adjacent properties, using mechanisms including but not limited to landscaping and fencing;
- (c) Protection and restoration of critical areas and shoreline processes and functions;
- (d) Signs indicating the public's right of access to shoreline acres, installed and maintained in conspicuous locations at the point of access and entrance; and
- (e) Buffering of such development from adjacent private property or natural areas.

(8) In approving recreational development, the City shall ensure that the development will maintain, enhance, or restore desirable shoreline features.

(9) Swimming areas shall be separated from boat launch areas.

- (10) The construction of swimming facilities, piers, moorages, floats, and launching facilities waterward of the ordinary high water mark shall also be subject to the provisions for overwater structures as set forth in CMC 16.05.420 of this chapter.
- (11) Public boat launching facilities may be permitted provided the traffic generated by such facilities can be safely and conveniently handled by the streets serving the proposed facility.
- (12) Fragile and unique shoreline areas with valuable ecological functions, such as wetlands and wildlife habitats, shall be used only for non-intensive recreation activities that do not involve the construction of structures.
- (13) Recreational developments that require periodic use of fertilizers, pesticides, and other chemicals, such as golf courses and playfields, or that support high-intensity activities such as sporting events as a primary use, shall be located outside of shoreline jurisdiction.
- (14) Trails.
- (a) Trails shall be designed to avoid significant impacts to sensitive natural systems and shall result in no net loss of ecological functions. Mitigation sequencing as set forth in CMC 16.05.230(3) of this chapter shall be required.
 - (b) Trails shall be located at least eighty (80) feet from the ordinary high water mark, except in limited areas to provide viewpoints or conform to topography. Publicly accessible trails shall meet the applicable provisions of CMC 16.05.240.
 - (c) Trails not intended for public access shall be limited to non-motorized, pervious trails, including boardwalks, no greater than six (6) feet wide. Trails not meeting these criteria shall be considered multi-use, and shall require a conditional use permit in the Shoreline Residential and Urban Conservancy environments.
- (15) Whenever financially feasible and practical, the City shall require the use of building materials and technologies whose production and use result in reduced environmental impacts when developing public access to the shoreline. Porous pavements shall be used unless the applicant demonstrates to the satisfaction of the Shoreline Administrator that such materials would restrict accessibility, pose a safety hazard, or are not sufficiently durable.

16.05.360 Residential development.

- (1) Consistent with CMC 16.05.050, Exemptions, and WAC 173-27-040, a substantial development permit is not required for construction within the Shoreline Residential environment by an owner, lessee, or contract purchaser of a single-family residence for his own use or the use of his family. However, such construction and all normal appurtenant structures shall otherwise conform to the provisions of this Master Program. An “appurtenance” means a structure that is necessarily connected to the use and enjoyment of a single-family residence and may include a garage, deck, driveway, utilities, fences, and grading that does not exceed two hundred fifty (250) cubic yards.
- (2) All new structures associated with a residential development, other than water-dependent structures such as docks, shall maintain the required shoreline buffer and building setback as set forth in CMC 16.05.280 of this chapter. Existing structures, not determined to be nonconforming, may be replaced in their existing location and configuration to the extent allowed by local, state, and federal agencies with jurisdiction. Shoreline buffer reduction beyond that allowed under CMC 16.05.280 shall require a shoreline variance.
- (3) Over-water residences and floating homes shall be prohibited.
- (4) New residential lots created through subdivision or short subdivision shall be designed, configured, and developed to:
- (a) Prevent the loss of ecological functions at full build-out;
 - (b) Prevent the need for new shoreline stabilization or flood hazard reduction measures; and
 - (c) Be consistent with the environment designations and standards of this Master Program.

(5) New multi-unit residential development, including the subdivision of land into more than four (4) parcels, shall provide community and/or public access in conformance with the provisions of CMC 16.05.240 of this chapter.

(6) The stormwater runoff for all new or expanded pavements or other impervious surfaces associated with residential development shall be directed to infiltration systems, and other Low Impact Development techniques shall be incorporated into new development as feasible, in accordance with the City's adopted Surface Water Design Manual and the Low Impact Development Technical Guidance Manual for Puget Sound.

(7) Residential development shall result in no net loss of shoreline ecological functions. Mitigation sequencing as set forth in CMC 16.05.230(3) shall be required. The City may request studies by qualified professionals to determine compliance with this requirement.

(8) The City shall notify affected Indian Tribes when a single-family home or other exempt development is proposed in the Jenkins Creek or Big Soos Creek shoreline areas.

16.05.370 Signs.

(1) Commercial signs are prohibited in all shoreline environments.

(2) Non commercial signs, where allowed by CMC Chapter 18.55, shall comply with the following provisions:

(a) Sign plans and designs shall be submitted for review and approval at the time of shoreline permit application.

(b) All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline.

(c) Over-water signs shall be related to water-dependent uses only.

16.05.380 Transportation facilities.

(1) General standards.

(a) New road and bridge construction in shoreline jurisdiction shall be avoided and minimized and allowed only through a conditional use permit when related to and necessary for the support of permitted shoreline activities.

(b) New stream crossings associated with transportation uses shall be avoided if possible and minimized in number and total area impacted (e.g. using perpendicular crossings). Culverts and bridges shall be designed to allow passage of adult and juvenile salmon pursuant to WDFW Fish Passage Guidelines and to accommodate the flow of water, sediment, and woody debris during the 100 year return storm event. Bridge abutments shall be located outside of floodplains and channel migration zones if feasible.

(c) Applicants for new transportation facilities shall demonstrate how such facilities have been planned, located, and designed where routes will have the least possible adverse effect on unique or fragile shoreline features.

(d) Transportation facilities shall result in no net loss of shoreline ecological functions and no adverse impacts on existing or planned water-dependent uses. Mitigation shall be provided as necessary to meet this requirement.

(e) Where feasible, transportation and utility facilities shall be required to make joint use of rights-of-way, and to consolidate crossings of water bodies to minimize adverse impacts to the shoreline.

(f) Circulation system plans within the shoreline shall consider and include appropriate provisions for pedestrian, bicycle, and public transportation.

(2) Roads.

(a) Expansion of existing roadways may be permitted only when the applicant demonstrates that:

(i) No alternative route is feasible;

(ii) The roadway is constructed and maintained to cause the least possible adverse impact on the land and water environment; and

(iii) The roadway expansion is in the public interest.

(b) Where new roads are proposed, applicants shall demonstrate that efforts have been made to coordinate with existing land use plans, including the City's Comprehensive Plan and this Master Program.

(c) All debris and other waste materials from roadway construction shall be disposed of in such a way as to prevent their entry into any water body.

(d) Roads shall be designed to provide safe pedestrian and non-motorized vehicular crossings where public access to shorelines is intended.

(e) Any road expansion affecting streams and waterways shall be designed to allow fish passage and minimum impact to habitat.

(f) Streets within shoreline jurisdiction shall be designed with the minimum pavement area required. Gravel and more innovative materials shall be used where feasible for pathways and road shoulders to minimize the amount of impermeable surfaces and help to maintain a more natural appearance.

(g) The City shall give preference to mechanical means for roadside brush control on roads in shoreline jurisdiction rather than the use of herbicides.

(3) Parking.

(a) Parking facilities shall be located outside of shoreline jurisdiction except to support an authorized shoreline use. Parking as a primary use shall be prohibited in shoreline jurisdiction.

(b) Parking facilities shall provide adequate provisions to control surface water runoff to prevent it from contaminating water bodies.

(c) Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened or in cases when an alternate orientation would have less adverse impact on the shoreline.

(d) Exterior parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties. Exterior parking facilities for nonresidential uses shall be landscaped with vegetation in such a manner that plantings provide effective screening within three years of project completion.

(e) New and reconstructed parking areas within the Urban Conservancy shoreline environment shall utilize Low Impact Development (LID) techniques as appropriate and as described in the most recent edition of the Low Impact Development Manual: Technical Guidance for Puget Sound.

16.05.390 Utilities.

(1) General standards.

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

(b) Utility lines shall utilize existing rights-of-way, corridors, and/or bridge crossings whenever possible and shall avoid duplication and construction of new corridors in all shoreline areas. Proposals for new corridors or water crossings shall fully substantiate the infeasibility of existing routes.

(c) Utility facilities shall be located, designed, and constructed to avoid disturbance of unique and fragile areas, including wildlife spawning, nesting, and rearing areas. Utility facility development shall result in no net loss of

shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement, with consideration given to ongoing impacts, such as permanent restrictions on vegetation growing under transmission lines or within utility corridors.

(d) Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum. Upon project completion, any disturbed areas shall be restored to their pre-project condition or better consistent with CMC 16.05.250 of this chapter.

(2) Major utilities.

(a) Applicability. The provisions of this subsection apply to major utilities, such as solid waste handling and disposal, water transmission lines, sewage treatment facilities and mains, power-generating or transfer facilities, gas distribution lines and storage facilities, and stormwater mains and regional treatment facilities.

(b) Major utilities shall be located outside of shoreline jurisdiction unless no other feasible alternative exists. When allowed under this regulation, major utilities shall be located landward of the ordinary high water mark, unless such location is not feasible or would result in potentially greater environmental impacts.

(c) In the case of a new primary utility corridor serving multiple municipalities and districts, the determination as to the feasibility of alternative routes outside of shoreline jurisdiction and/or the possibility of using existing rights-of-way may include, but is not limited to, consideration of:

(i) Construction impacts on the community, including impacts on traffic and adjacent land uses;

(ii) Engineering considerations, including restoration or disruption issues related to the presence of existing public improvements and utility facilities;

(iii) Environmental considerations, including impacts on the ecological function both within and outside of shoreline jurisdiction; and

(iv) Project considerations, including construction cost, construction schedule, and expenditures or contractual commitments made by the proponent of the corridor, prior to the adoption of this Master Program, in acquiring rights for the proposed route.

(d) Where major utilities must be located within shoreline jurisdiction, they shall be located and designed so as not to destroy or obstruct scenic views.

(e) Stream and water crossings shall be minimized according to mitigation sequencing. Boring shall be the preferred method unless it is demonstrated to be infeasible. Utilities that need to cross water shall be deep enough to avoid the need for bank stabilization or fill. Consideration shall be given to flooding and erosion when considering appropriate depth.

(f) Solid waste disposal sites and facilities shall be prohibited in shoreline jurisdiction. Storage of recyclable materials shall not be considered solid waste disposal.

(g) Major utilities shall provide screening of facilities from water bodies and adjacent properties in a manner that is compatible with the surrounding environment. Type of screening required shall be determined by the City on a case-by-case basis.

(h) To allow for the greatest amount of public input to help guide utility-related decisions, the City shall hold public meetings prior to the issuance of a substantial development permit, conditional use permit, or shoreline variance for a major primary utility project in accordance with the administrative procedures set forth in Article II of this Master Program.

(3) Minor utilities.

- (a) Applicability. The provisions of this subsection apply to utilities that are accessory to shoreline uses, including utilities that affect small-scale distribution services connected directly to uses along the shoreline, such as power, telephone, cable, water service, sewer service lines, and stormwater collection and conveyance.
- (b) Utility development shall, through coordination with local government agencies, provide for compatible, multiple use of sites and rights-of-way.
- (c) Proposals for new utility corridors shall fully substantiate the infeasibility of using existing utility corridors.
- (d) New utility lines, pipelines, and cables, including electricity, communications, and fuel lines, shall be located underground unless demonstrated to be infeasible. Existing above-ground lines shall be moved underground when properties are redeveloped or in conjunction with major system upgrades or replacements.
- (e) The location and construction of outfalls shall comply with all applicable federal, state, county, and city regulations.
- (f) The City of Covington shall maintain, enhance, and restore the natural drainage systems to protect water quality, reduce flooding, reduce public costs, and prevent associated environmental degradation for no net loss of shoreline ecological functions.
- (g) The City shall establish maintenance procedures to assure continued proper functioning of surface water management and drainage systems.

Article VI. Shoreline Modification Regulations

16.05.400 General shoreline modification standards.

(1) Permitted modifications.

(a) Table 16.05.400-1 indicates which new, expanded, or altered shoreline modifications may be allowed or prohibited in shoreline jurisdiction within each shoreline environment designation. Refer to the text in CMC 16.05.410-450 of this chapter for provisions related to specific modifications listed in the table. Modifications shall also be subject to underlying zoning. Modifications are classified as follows:

- (i) Modifications allowed by Shoreline Substantial Development Permit or Shoreline Exemption are indicated by a “P” in the table.
- (ii) Modifications allowed by Shoreline Conditional Use Permit are indicated by a “C” in the table.
- (iii) Prohibited modifications are not allowed and are indicated by an “X” in the table.
- (iv) Modifications regulated consistent with the adjacent upland environment designation are indicated by “Upland” in the table.
- (v) Modifications not specifically identified in the table may be allowed by a Shoreline Conditional Use Permit.
- (vi) If there are any conflicts between Table 16.05.400-1 and the written provisions this Master Program, the written provisions shall control.

Table 16.05.400-1. Permitted modifications by shoreline environment designation.

Shoreline Use	Shoreline Environment Designation				
	High Intensity	Medium Intensity	Shoreline Residential	Urban Conservancy	Aquatic
Dredging and Dredge Spoil Disposal					
Dredging	C	C	C	C	C

Shoreline Use	Shoreline Environment Designation				
	High Intensity	Medium Intensity	Shoreline Residential	Urban Conservancy	Aquatic
Dredge spoil disposal	C	C	C	C	C
Fill and Excavation					
Fill	C (1)	C (1)	C (1)	C (1)	C
Excavation (2)	C (1)	C (1)	C (1)	C (1)	C
Overwater Structures					
Boathouse	X	X	X	X	X
Bridge	C	C	C	C	C
Joint-use pier, dock, or float	X	X	P	C/X(3)	Upland
Accessory to residential structures					
Single-use pier, dock, or float	X	X	P	C/X (3)	Upland
Launching ramp	X	X	X	X	X
Not accessory to residential structures					
Single-use pier, dock, or float	X	X	C	C/X (3)	Upland
Launching ramp	X	X	X	C/X (3)	Upland
Launching rails	X	X	C	C/X (3)	Upland
Shoreline Habitat and Ecological Enhancement	P	P	P	C/P (4)	Upland
Shoreline Stabilization					
Soil bioengineering	P	P	P	P	P
Bulkheads	X	X	P	C	Upland
Breakwaters, groins, and jetties	X	X	X	X	X
Riprap	C	X	X	X	Upland
Weirs, new	X	X	X	X	X
Weirs, repair and replacement of existing	C	C	C	C	C
Modifications Not Specified	C	C	C	C	C

Table Notes:

1. Fill landward of the ordinary high water mark associated with a permitted upland use shall be permitted as a Shoreline Substantial Development Permit or Shoreline Exemption (“P”). Fill landward of the ordinary high water mark that does not exceed 250 cubic yards of material shall be exempt pursuant to the provisions of WAC 173-27-040.
2. Moorage excavated from dry land shall be prohibited in all environments.
3. Recreational floats, launching ramps not accessory to residential structures, and launching rails not accessory to residential structures shall be permitted as a conditional use (“C”) in Pipe Lake shoreline jurisdiction, and shall be prohibited (“X”) in Big Soos Creek and Jenkins Creek shoreline jurisdiction.
4. Beach restoration and enhancement shall be permitted as a conditional use (“C”) in Pipe Lake shoreline jurisdiction, and shall be permitted as a Shoreline Substantial Development Permit or Shoreline Exemption (“P”) in Big Soos Creek and Jenkins Creek shoreline jurisdiction.

(2) All shoreline modification activities shall be in support of a permitted shoreline use that is in conformance with the provisions of this Master Program unless it can be demonstrated that such activities are necessary and in the public interest.

(3) Shoreline modification projects shall avoid and then minimize adverse impacts to the environment to the greatest extent feasible, and where such impacts cannot be avoided, mitigation shall be provided to achieve no net loss of shoreline ecological functions. Mitigation sequencing as set forth in CMC 16.05.230(3) of this chapter shall be required.

(4) All shoreline modification activities within the City shall comply with all other regulations as stipulated by state and federal agencies, local Tribes, or others with jurisdiction.

(5) Professional design, as approved by the City, shall be required for all shoreline modification structures.

16.05.410 Shoreline stabilization.

(1) General standards.

(a) All clearing and grading activities associated with shoreline stabilization shall adhere to the requirements of the City's code pertaining to land, clearing, and grading (CMC Chapters 18.45 and 18.60) and the vegetation management provisions set forth in CMC 16.05.250 of this chapter.

(b) An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves. Where allowed, replacement shall be subject to the following standards:

(i) The replacement structure is designed, located, sized, and constructed and mitigation is provided as necessary to ensure no net loss of ecological functions.

(ii) Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing stabilization structure unless as provided below and in subsection (3)(c) of this section.

(iii) Where existing structural stabilization is replaced by soft shoreline stabilization using bioengineering techniques and results in a documented improvement of shoreline functions, such stabilization may be allowed waterward of the ordinary high water mark subject to state and federal approvals.

(c) Shoreline stabilization shall not be used to create new land.

(d) New structural (soft and hard) stabilization measures and enlargement of existing structural stabilization measures shall be limited to the minimum size necessary and shall be permitted only when it has been conclusively demonstrated through analysis in a geotechnical report prepared by a qualified professional that shoreline stabilization is necessary to protect existing primary structures, public improvements, ecological restoration projects or hazardous substance remediation projects from erosion, and that nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient.

In such cases, soft structural solutions shall be used if feasible. The geotechnical report shall evaluate the necessity of structural stabilization measures by estimating timeframes and rates of erosion (damage within 3 years), urgency of replacement, alternative solutions and other pertinent factors. Non-structural solutions include (but are not limited to) soil bioengineering, beach enhancement, alternative site designs, drainage improvements and increased building setbacks (for proposed structures).

(f) All new shoreline development, including the division of land into new parcels, shall be located and designed to prevent the need for shoreline stabilization activities based on geotechnical analysis.

(g) New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis.

(h) New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas is prohibited, and where stabilization is allowed, impacts to sediment transport shall be avoided or minimized and stabilization measures shall be specifically designed so as not to create a need for shoreline stabilization elsewhere.

(i) Shoreline stabilization shall not significantly interfere with normal surface and/or subsurface drainage into adjacent or nearby water bodies.

(j) Shoreline stabilization shall be designed so as not to constitute a hazard to navigation and to not substantially interfere with visual access to the water.

(k) Public access shall be required as part of publicly financed shoreline stabilization measures unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant ecological impacts, unavoidable conflict with proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

(2) Soil bioengineering.

(a) All soil bioengineering projects shall use native plant materials appropriate to the specific area including trees, shrubs, and groundcovers, unless demonstrated infeasible for the particular site.

(b) Unless more specific and restrictive Critical Area Regulations apply, all cleared areas shall be replanted immediately following construction and irrigated (if necessary) to ensure that within three (3) years all vegetation is one hundred (100) percent reestablished to achieve no net loss of ecological functions of the shoreline area. Areas that fail to adequately reestablish vegetation shall be replanted with approved plant materials until such time as the plantings are viable. Additional performance standards may be established by the Shoreline Administrator in administrative rules.

(c) Bank stabilization in the form of a vegetated buffer zone shall be maintained (e.g., weeding, watering, dead plant replacement) for a minimum of three (3) years. The buffer zone shall exclude activities that could disturb the site. Where determined necessary by the Shoreline Administrator, fencing may be required to ensure protection of buffer plantings.

(d) All construction and planting activities shall be scheduled to minimize impacts to water quality and fish and wildlife aquatic and upland habitat, and to optimize survival of new vegetation.

(e) More specific and stringent performance standards, including relevant requirements from the City of Covington Critical Areas Regulations for shoreline jurisdiction, as set forth in CMC 16.05.230(2) of this chapter, may be required as a condition of permit issuance to ensure the proposal will result in no net loss of shoreline ecological functions.

(3) Bulkheads.

(a) Bulkhead design and development shall conform to the general standards as set forth in subsection (1) of this section and all other applicable local, state, and federal agency regulations.

(b) On shorelines where no other bulkheads are adjacent, the construction of a bulkhead shall tie in with the contours of the adjoining shorelines, as feasible, such that the proposed bulkhead shall not cause erosion of the adjoining properties.

(c) On all shorelines, bulkhead shall not be placed waterward of the ordinary high water mark, except as provided below:

(i) A replacement bulkhead protecting a primary residence may encroach waterward of the ordinary high water mark or existing bulkhead if the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such a case, the replacement bulkhead shall abut the existing shoreline stabilization structure.

(ii) Bulkheads may tie in flush with existing bulkheads on adjoining properties, provided that the new bulkhead does not extend waterward of the ordinary high water mark, except to the degree necessary to make the connection to the adjoining bulkhead. In such circumstances, the remaining portion of the bulkhead shall be placed landward of the existing ordinary high water mark such that no net loss of aquatic area occurs and the design complies with all other regulations as stipulated by state and federal agencies, local Tribes, and others with jurisdiction.

(d) When a bulkhead is required at a public access site, provisions for safe public access to the water shall be incorporated into bulkhead design.

(e) Stairs or other permitted structures may be built into a bulkhead, but shall not extend waterward of the bulkhead.

(f) Fill landward of bulkheads shall be limited to an average of one (1) cubic yard per linear foot of bulkhead. Any filling in excess of this amount shall be considered a regulated activity subject to the policies and regulations of this Master Program pertaining to fill activities and the requirement for obtaining a shoreline substantial development permit.

(4) Weirs.

(a) New weirs shall be prohibited.

(b) Repair and maintenance of existing weirs shall be permitted, provided that no more environmentally beneficial solution, including removal or modification of the weir, is feasible.

(c) Replacement of existing weirs may be permitted provided that construction is conducted using natural materials and consistent with other applicable provisions of this Master Program.

(5) Breakwaters, jetties, and groins shall be prohibited.

(6) Shoreline stabilization using beach substrate enhancement shall be subject to the provisions of CMC 16.05.450, Shoreline habitat and ecological enhancement, of this chapter.

16.05.420 Dredging and dredge spoil disposal.

(1) General standards.

(a) Dredging and disposal of dredge spoils shall avoid, then minimize significant ecological impact; impacts that cannot be avoided shall be mitigated to achieve no net loss of ecological processes and functions. Proposals for dredging and dredge disposal shall include details on all feasible mitigation measures to protect aquatic habitats.

(b) Dredging and dredge spoil disposal is prohibited in wetlands, except for the purposes of enhancing valuable wetland functions. A design prepared by a qualified wetland scientist is required prior to allowing dredging and/or disposal of dredge spoils into a wetland.

(c) The City of Covington may impose limitations on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.

(d) New development siting and design shall avoid the need for new and maintenance dredging.

(2) Dredging.

(a) Dredging may be permitted as a conditional use activity only:

(i) When necessary to support a water-dependent use or navigation;

(ii) For expansion nor alteration of public utility facilities or bridges within a public right-of-way, when there is a documented need and where other feasible sites or routes do not exist;

- (iii) As part of approved mitigation actions, environmental restoration, and habitat enhancement projects;
 - (iv) To improve water quality;
 - (v) To improve water flow or manage flooding when a biological and geomorphological study demonstrates a long-term benefit to hazard reduction and the action is part of a comprehensive flood management solution; or
 - (vi) To clean up contaminated sediments.
- (b) Where dredging is permitted pursuant to subsection (a) above, the applicant shall demonstrate that applicable permits of other local, state, and federal agencies have been obtained, and shall demonstrate using technical information produced by a qualified professional that:
- (i) Water circulation, littoral drift, aquatic life, and water quality will not be substantially impaired; and
 - (ii) Other solutions would result in greater environmental impact.
- (c) Dredging to establish, expand, relocate, or reconfigure navigation channels consistent with subsection (a)(i) above shall be allowed only where needed to accommodate existing navigational uses, and then only when significant ecological impacts are minimized and when mitigation is provided consistent with required mitigation sequencing.
- (d) Maintenance dredging of established navigation channels and basins shall be restricted to maintaining the previously dredged and/or existing authorized location, depth and width.
- (e) When dredging is permitted, the extent of dredging shall be the minimum necessary to accommodate the proposed use.
- (f) Dredging for the primary purpose of obtaining fill or construction material is prohibited.
- (g) Dredging shall be timed so that it does not interfere with aquatic life.
- (h) Dredging shall utilize techniques (such as hydraulic dredging instead of agitation dredging) that cause minimal dispersal and broadcast of bottom material.
- (i) Dredging landward of the ordinary high water mark is considered excavation and shall be subject to the regulations set forth in CMC 16.05.430 of this chapter.
- (3) Dredge spoil disposal.
- (a) Disposal of dredge spoils shall be done only in approved sites.
 - (b) Dredging material that will not subsequently cause violation of State Water Quality Standards may be used in permitted landfill projects.
 - (c) Individual disposal operations shall comply with Department of Natural Resources leasing practices, the Department of Ecology Water Quality Certification process, and the permit requirements of the State Department of Fish and Wildlife and the U.S. Army Corps of Engineers.
 - (d) Dredge spoil disposal waterward of the ordinary high water mark may be allowed only by conditional use permit for one or more of the following circumstances:
 - (i) For wildlife habitat improvement;
 - (ii) To correct problems of material distribution adversely affecting fish;
 - (iii) For permitted beach enhancement;

(iv) When the alternative of depositing material on land is demonstrated to be more detrimental to shoreline resources than depositing in water areas; or

(v) In approved open-water disposal sites as identified by appropriate agencies.

(e) If suitable alternatives for land disposal are not available or are infeasible consistent with subsection (d)(iv), above, water disposal sites shall be identified consistent with the following criteria:

(i) Sites shall not interfere with geo-hydrologic processes;

(ii) Dredge spoils have been analyzed by qualified personnel and found to be non-polluting;

(iv) Aquatic life will not be adversely affected; and

(v) The sites and method of disposal shall meet all requirements of applicable regulatory agencies.

(f) Dredge disposal within the channel migration zone of Jenkins Creek, Big Soos Creek or any other stream is prohibited, unless part of an approved fish habitat improvement project and studies indicate it is consistent with the criteria in subsection (e), above.

(g) Any significant placement of materials from off-site (other than surcharge or pre-load), or the substantial creation or raising of dry upland shall be considered fill and shall also comply with the fill provisions of CMC 16.05.430 of this chapter.

16.05.430 Fill and excavation.

(1) All fill and excavation activities shall adhere to the requirements of Chapter 14.60 CMC Clearing and Grading Regulations.

(2) Fill, excavation, and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development.

(3) All shoreline development shall comply with the applicable requirements of the most recent edition of the adopted Surface Water Design Manual and all applicable City stormwater regulations. The City shall rely on source control standards and other BMPs contained in the most recent version of the Department of Ecology Stormwater Management Manual for Western Washington and the Low Impact Development Manual: Technical Guidance for Puget Sound.

(4) Stabilization of exposed erosion-prone surfaces within the shoreline environment shall, wherever feasible, utilize soil bioengineering techniques.

(5) Fills shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area.

(6) All perimeters of fills shall be provided with vegetation, retaining walls, or other satisfactory mechanisms for erosion prevention and sediment capture.

(7) Fill proposals must demonstrate, at a minimum, that they will result in no net loss of shoreline ecological functions.

(8) Fill shall be permitted only where it is demonstrated that the proposed action will not:

(9) No refuse disposal sites, solid waste disposal sites, or sanitary fills shall be permitted along the Pipe Lake shoreline in Covington.

(10) Fill waterward of the ordinary high water mark shall be permitted as a conditional use only:

(a) In conjunction with a water-dependent or public use permitted by this Master Program;

(b) In conjunction with a bridge for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist; or

(c) For fisheries, aquaculture, or wildlife enhancement projects.

(11) Excavation on beaches shall include precautions to prevent the migration of fine grain sediments, disturbed by the excavation, onto adjacent beach areas. Excavation on beaches shall be backfilled promptly using material of similar composition and similar or coarser grain size.

16.05.440 Overwater structures.

(1) General standards.

(a) All new, reconstructed, repaired, or modified overwater structures shall comply with the Critical Areas Regulations for shoreline jurisdiction as set forth in CMC 16.05.230(2) meet the requirement for no net loss of ecological functions; and comply with all other regulations as stipulated by state and federal agencies, local Tribes, and others with jurisdiction.

(b) With the exception of bridges, overwater structures are prohibited in Soos Creek and Jenkins Creek shoreline jurisdiction.

(c) Proposed overwater structures that are not accessory to a residential development and are not joint-use structures may be permitted as a conditional use subject to the following requirements:

(i) The overwater structure does not create any potential adverse impacts to navigation or public safety;

(ii) The overwater structure does not cause environmental impacts that cannot be sufficiently mitigated;

(iii) The overwater structure complies with all other conditional use criteria as set forth in WAC 173-27-160 and CMC 16.05.090 of this Master Program; and

(iv) The overwater structure complies with the provisions of this section applicable to overwater structures that are accessory to residential development.

(d) Development on or over the water shall be constructed as far landward as possible to avoid interference with views from surrounding properties to the shoreline and adjoining waters.

(e) Construction of residential development on an overwater structure shall be prohibited.

(f) Proposed overwater structures that do not comply with the applicable dimensional standards set forth in this section shall be approved only through a shoreline variance.

(g) All overwater structures shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe overwater structures shall be removed or repaired promptly by the owner.

(h) Piles, floats, or other structures in direct contact with water shall not be treated or coated with herbicides, fungicides, paint, or pentachlorophenol.

(i) Boathouses, boat lifts, moorage piles, and moorage covers shall be prohibited.

(2) Piers and docks.

(a) When allowed. New piers and docks shall be allowed:

(i) As an accessory to a permitted residential development, provided it is designed and intended as a facility for access to watercraft and subject to the provisions of subsection (b) of this section; or

(ii) For public access or as an accessory to a permitted water-dependent use, when intended for public use or when the applicant has demonstrated that a specific need exists to support the intended water-dependent use.

(b) Where proposed as an accessory to a residential development, piers and docks shall comply with the following provisions:

(i) No more than one (1) pier or dock for each single-family residence shall be permitted.

(ii) On lots with less than fifty (50) feet of waterfront, joint-use piers/docks shall be required, except when both lots abutting the subject lot have legal pre-existing piers or docks and the applicant demonstrates to the satisfaction of the Shoreline Administrator that a shared use agreement is not feasible. Only in this case may a lot with less than fifty (50) feet of waterfront be permitted an individual pier or dock.

(iii) For residential development of more than two (2) dwellings, a joint-use pier/dock or community dock facility shall be required rather than individual docks unless the applicant demonstrates to the satisfaction of the Shoreline Administrator that a joint-use or community facility is not feasible.

(c) Dimensional standards.

(i) No portion of the deck of a pier shall, during the course of the normal fluctuations of the elevation of the water body, protrude more than five (5) feet above the ordinary high water mark.

(ii) All pier and dock lengths shall be minimized to the maximum extent feasible and shall comply with regulations as stipulated by state and federal agencies, local Tribes, and others with jurisdiction. The proposed length shall be the minimum necessary to support the intended use. The maximum waterward intrusion as measured from the ordinary high water mark of any portion of any pier or dock shall be limited to the following:

(A) Forty (40) feet for a single property owner.

(B) Fifty (50) feet for a joint-use structure utilized by two or more residential property owners.

(C) Eight (80) feet for a pier that allows public access.

(iii) The maximum square footage of ells and fingers shall be one hundred twenty (120) square feet.

(iv) The maximum width of walkways and additional fingers shall be minimized to the maximum extent practical. All walkways shall be fully grated and ells and floats shall have a minimum two-foot strip of grating down the center.

(v) Surface coverage, including all floats, ramps, and ells, shall be limited to the following:

(A) Four hundred (400) square feet for a single property owner.

(B) Six hundred (600) square feet for a joint-use structure utilized by two or more residential property owners.

(C) Eight hundred (800) square feet for a pier that allows public access.

(3) Launching rails and ramps.

(a) Launching rails may be permitted as a conditional use in the Shoreline Residential environment and in the Pipe Lake Urban Conservancy environment when not accessory to residential structures, in lieu of a moorage pier or dock, provided that the following requirements are met:

(i) The applicant shall demonstrate that the proposed length of the rail is the minimum necessary to safely launch the intended craft and comply with all regulations as stipulated by state and federal agencies, local Tribes, and others with jurisdiction;

(ii) In no case shall the rail extend beyond the point where the water depth is ten (10) feet below the ordinary high water mark;

(iii) The rail shall be anchored to the ground with the use of tie-type construction; and

(iv) No more than one (1) launching rail per single-family residence or duplex shall be permitted.

(b) Launching ramps may be permitted as a conditional use for recreational uses in the Pipe Lake Urban Conservancy environment, provided that the following requirements are met:

(i) The applicant demonstrates that the proposed length of the ramp is the minimum necessary to safely launch the intended craft and comply with all regulations as stipulated by state and federal agencies, local Tribes, and others with jurisdiction; and

(ii) In no case shall the ramp extend beyond the point where the water depth is ten (1) feet below the ordinary high water mark.

(4) Floats.

(a) Recreational floats shall be designed and intended for swim use or other non-motorized use.

(b) Recreational floats shall have fully grated decks.

(c) Retrieval lines shall not float at or near the surface of the water.

(d) All float tubs shall be fully encapsulated.

(e) Floats shall have reflectors for nighttime visibility.

(f) Dimensional standards.

(i) Area. The area of a recreational float shall be minimized to the maximum extent feasible and shall comply with regulations as stipulated by state and federal agencies, local Tribes, and others with jurisdiction. No recreational float shall be greater than two hundred (200) square feet in area.

(ii) Height. Recreational floats shall be built so that the deck surface is one (1) foot above the water's surface.

(iii) Distance waterward from the ordinary high water mark. Recreational floats shall be in water with depths of eight (8) feet or more at the landward end of the float and may be located up to a maximum waterward distance of fifty (50) feet, or where the water depth is demonstrated safe for swimming, whichever is reached first.

16.05.450 Shoreline habitat and ecological enhancement.

(1) Beach/bank restoration and enhancement.

(a) Beach restoration and enhancement along Big Soos and Jenkins Creeks shall be subject to the Critical Areas Regulations for shoreline jurisdiction as set forth in CMC 16.05.230(2) of this chapter.

(b) Beach enhancement along Pipe Lake may be permitted when the applicant has demonstrated that the project will not detrimentally interrupt littoral processes; redirect waves, current, or sediment to other shorelines; or adversely affect adjacent properties or habitat.

(2) Natural beach restoration/enhancement.

(a) Design standards. Natural beach restoration/enhancement shall not:

- (i) Extend waterward more than the minimum amount necessary to achieve the desired stabilization;
- (ii) Disturb significant amounts of valuable shallow water fish or wildlife habitat without appropriate mitigation of the impacts.

(b) Construction standards:

- (i) The size and/or mix of new materials to be added to a beach shall be as similar as possible to that of the natural beach sediment, but large enough to resist normal current, wake, or wave action at the site.
- (ii) The restored beach shall approximate, and may slightly exceed, the natural beach width, height, bulk, or profile, but not so much as to obviously create additional dry land.

(c) Beach enhancement is prohibited within fish and/or wildlife spawning, nesting, or breeding habitat that would be adversely affected by it and also where littoral drift of the enhancement materials would adversely affect adjacent spawning grounds or other areas of biological significance.

(3) Where a shoreline habitat or ecological enhancement project results in a change in the location of the ordinary high water mark and associated shoreline jurisdiction on the subject property and/or adjacent properties, and where application of the provisions of this Master Program would preclude or interfere with the uses permitted by the underlying zoning, thus presenting a hardship to the project proponent, relief may be granted from the provisions of this Master Program consistent with the following requirements:

- (a) The proposed relief is the minimum necessary to relieve the hardship;
- (b) After granting the proposed relief, there is net environmental benefit from the restoration project;
- (c) Granting the proposed relief is consistent with the objectives of the shoreline restoration project and with this Master Program;
- (d) The shoreline restoration project does not provide mitigation required to obtain a development permit; and
- (e) The application for relief is reviewed and approved by the Department of Ecology.