

7 SHORELINE MASTER PROGRAM POLICIES

I. INTRODUCTION

The purpose of this document is four-fold:

- (1) To fulfill the requirements of the Shoreline Management Act (SMA) of 1971, Chapter 286, Laws of 1971, RCW chapter 90.58 and chapter 173-26 WAC by developing a Master Program to guide the future use and development of Mercer Island's shoreline.
- (2) To recognize the Lake Washington/Cedar/Sammamish Watershed (WRIA 8) Chinook Salmon Conservation Plan.
- (3) To provide guidelines for revising local ordinances and zoning codes.
- (4) To provide a basis for evaluating applications for shoreline permits on Mercer Island.

The State of Washington Shoreline Management Act of 1971 recognizes that the shorelines of the state are among our most valuable and fragile natural resources and directs all local governments to develop a Master Program for the management of these shorelines. The Law specifies that all lakes over 1,000 acres in surface area are Shorelines of Statewide Significance. Lake Washington is such a shoreline and in our planning we must, as the Shoreline Management Act specifies, provide for uses in the following order of preference: those which

- (1) Recognize and protect the state-wide interest over local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shoreline;
- (6) Increase recreational opportunities for the public in the shoreline;
- (7) Provide for any other element deemed appropriate or necessary.

PROLOGUE

Mercer Island was originally utilized as a source of timber, and although proposed as a "regional park" in its entirety at one time, it became a recreational and, later, a prime residential area. Until 1940, boat and ferry travel was the primary means of reaching the Island from Seattle. In 1940 the Lake Washington floating bridge was completed. At this time the population of the Island and, subsequently, the complexion of development changed rapidly. Developers took advantage of the relatively easy access and relatively close proximity to Seattle's employment centers, and land quickly changed from forest to subdivision.

Planning during this time and up until the early 1960s was conducted by King County. Since accepting the County zoning upon incorporation of the City in 1960, few changes affecting shoreline uses have occurred, with single-family residential and recreation constituting the primary shoreline uses.

The City developed its first Shoreline Master Program in 1974. Key considerations within this Plan included conservation, public access to the shoreline, residential development, and the guidance for recreational uses along the Mercer Island shoreline. These initial policy objectives are reflected in today's protection of the City's

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shoreline, which includes approximately 6,000 lineal feet of publicly owned shoreline, developed as waterfront recreation areas. Included in these publicly owned lands are nineteen street ends; Groveland Beach Park; Clarke Beach Park; and Luther Burbank Park, which was transferred in 2003 from King County to the City of Mercer Island via an Intergovernmental Land Transfer Agreement.

During the 35 years since the City adopted its first SMP, the Mercer Island has matured to the point where it is largely developed with the priority uses planned for in the first SMP. For example, an inventory of the shoreline prepared as part of this SMP update identified only 30 shoreline properties that are currently undeveloped.

Since 1990, when the state enacted the Growth Management Act, state policy has promoted greater density in urban areas, such as the City of Mercer Island and the other cities that surround Lake Washington. In addition, the increased land values on the Island have created pressures for more intense use of lands during redevelopment.

The City's and region's development during this time has impacted the shoreline. Docks and bulkheads, impervious surfaces in shoreline area and in adjacent areas have impacted the shoreline environment, including salmonid habitat. In 1999, Chinook salmon and bull trout were listed as "Threatened" under the Federal Endangered Species Act. New scientific data and research has improved our understanding of shoreline ecological functions and their value in terms of fish and wildlife, water quality, and human health. Scientific information, however, remains incomplete and sometimes inconsistent in some areas important to Mercer Island's development pattern.

INTENT

To address changes in the shoreline environment, comply with the mandates of the Shoreline Management Act, and enable the City to plan for emerging issues, the City has initiated an extensive update of its Shoreline Master Program. The new program is intended to respond to current conditions and the community's vision for the future.

The largely built out character of the shoreline, as well as the increasing protections under state and federal law for shoreline habitat are two factors that have strongly influenced the update's direction. In updating the program, the city's primary objectives are to:

- Enable current and future generations to enjoy an attractive, healthy and safe waterfront.
- Protect the quality of water and shoreline natural resources to preserve fish and wildlife.
- Protect the City's investments, as well as those of property owners along and near the shoreline.
- Produce an updated Shoreline Master Program (SMP) that is supported by Mercer Island's elected and appointed officials, citizens, property owners, the State of Washington, and other key groups with an interest in the shoreline.
- Fairly allocate the responsibilities for increased shoreline protection among new development and redevelopment.
- Assure that regulatory or administrative actions do not unconstitutionally infringe upon private property rights.

The City of Mercer Island, through adoption of the Shoreline Master Program, intends to implement the Washington State Shoreline Management Act (RCW chapter 90.58) and its policies, including protecting the state's

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shorelines and their associated natural resources, planning for and fostering all reasonable and appropriate uses, and providing opportunities for the general public to have access to and enjoy shorelines.

The City of Mercer Island's Shoreline Master Program represents the City's participation in a coordinated planning effort to protect the public interest associated with the shorelines of the State while, at the same time, recognizing and protecting private property rights consistent with the public interest. The program preserves the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state and protects the functions of shorelines so that, at a minimum, the City achieves a 'no net loss' of ecological functions, as evaluated under the Final Shoreline Analysis Report issued in July 2009. The program also promotes restoration of ecological functions where such functions are found to have been impaired, enabling functions to improve over time.

The goals and policies of the SMA constitute one of the goals for growth management as set forth in RCW 36.70A.020 and, as a result, the goals and policies of this SMP serve as an element of Mercer Island's Comprehensive Plan and should be consistent with other elements of the Comprehensive Plan. In addition, other portions of the SMP adopted under RCW chapter 90.58, including use regulations, are considered a part of the City's development regulations.

II. DESIGNATED ENVIRONMENTS

WAC 173-26-211 states, "Master programs shall contain a system to classify shoreline areas into specific environment designations. This classification system shall be based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in this section. Each master program's classification system shall be consistent with that described in WAC 173-26-211 (4) and (5) unless the alternative proposed provides equal or better implementation of the act."

WAC 173-26-211(4)(c) allows for local governments to establish a designation system, provided it is consistent with the purposes and policies of WAC 173-26-211 and WAC 173-26-211(5).

Mercer Island contains two distinct shoreline designations, pursuant to WAC 173-26-211(4)(c): Urban residential, and urban park.

This system is designed to encourage uses in each environment which enhance the character of that environment. The basic intent of this system is to utilize performance standards which regulate use activities in accordance with goals and objectives defined locally. Thus, the particular uses or type of developments placed in each environment should be designed and located so that there are no effects detrimental to achieving the objectives of the environment designations and local development criteria. This approach provides an 'umbrella' environment class over local planning and zoning on the shorelines. Since every area is endowed with different resources, has different intensity of development and attaches different social values to these physical and economic characteristics, the enforcement designations should not be regarded as a substitute for local planning and land-use regulations.

URBAN RESIDENTIAL

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

Designation Criteria:

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URBAN RESIDENTIAL

Areas that are predominantly single-family or multifamily residential development or are planned and platted for residential development.

Management Policies:

- (1) Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be set to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.
- (2) Development of multifamily, recreational and residential subdivisions of five or more lots should provide public access and joint use for community recreational facilities, except when there are constitutional or other legal constraints.
- (3) Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
- (4) Non-commercial recreational areas should be allowed.

URBAN PARK ENVIRONMENT

The purpose of the urban park environment is to protect and restore ecological functions in urban and developed settings, while allowing public access and a variety of park and recreation uses.

Designation Criteria:

An urban park environment designation will be assigned to publicly owned shorelands, including all parks, street ends and public access points.

Management Policies:

- (1) Uses that preserve the natural character of the area or promote preservation of open space, or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.
- (2) Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the urban park designation. These standards should ensure that new development does not result in a net loss of shoreline ecological functions.
- (3) Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
- (4) Water-oriented uses should be given priority over nonwater-oriented uses. Water-dependent uses should be given highest priority.

III. GENERAL GOALS AND POLICIES

PUBLIC ACCESS

The following goal and policies address the ability of the public to reach, touch, view, and travel on Lake Washington and to view the water and the shoreline from public places.

GOAL:

Increase and enhance public access to and along the Mercer Island Shoreline where appropriate and consistent with public interest, provided public safety, private property rights, and unique or fragile areas are not adversely affected.

POLICIES

- (1) Public access to and along the water's edge should be consistent with the public safety, private property rights, and conservation of unique or fragile areas.
- (2) Public access to and along the water's edge should be available in publicly owned shoreline areas.
- (3) When substantial modifications or additions are proposed to substantial developments, the developer should be encouraged to provide for public access to and along the water's edge if physically feasible provided that no private property be taken involuntarily without due compensation.
- (4) In new developments on the shoreline, the water's edge should be kept free of buildings.
- (5) Where publicly owned shoreline areas are available for public pedestrian pathways, these should be developed as close to the water's edge as reasonable.
- (6) Views of the shoreline and water from shoreline and upland areas should be preserved and enhanced. Enhancement of views should not be construed to mean excessive removal of vegetation.
- (7) Rights-of-way on the shoreline should be made available for public access where appropriate.
- (8) Access onto shoreline public street ends should be enhanced.
- (9) Consideration should be given to the handicapped, disabled, and elderly when developing public access to shoreline areas.

CONSERVATION AND WATER QUALITY

The following goal and policies address the protection of the resources of the shoreline.

GOAL:

The resources and amenities of Lake Washington are to be protected and preserved for use and enjoyment by present and future generations.

POLICIES

- (1) Existing natural resources should be conserved, consistent with private property rights.

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- (a) Aquatic habitats, particularly spawning grounds, should be protected, improved and, if feasible, increased.
 - (b) Wildlife habitats should be protected, improved and, if feasible, increased.
 - (c) Critical areas have been mapped. Access and use should be restricted if necessary for the conservation of these areas. The type and degree of development to be allowed should be based upon such factors as: slope, soils, vegetation, geology and hydrology.
 - (d) Water quality should be maintained at a level to permit recreational use (specifically swimming), provide a suitable habitat for desirable forms of aquatic life and satisfy other required human needs.
- (2) Existing and future activities on Lake Washington and its shoreline should be designed to minimize adverse effects on the natural systems.
- (3) Uses or activities within all drainage basins related to Lake Washington should be considered as an integral part of shoreline planning.
- (a) Developers should be required to bear the cost of providing safeguards to prevent storm drainage damage resulting from their development.
 - (b) Excessive soil erosion and sedimentation and other polluting elements should be prevented from entering and adversely affecting the Lake and its constituent watercourses.
 - (c) Restoration of natural systems adversely affected by sedimentation and pollution should be encouraged.
 - (d) The destruction of watercourses feeding into Lake Washington should be discouraged.
 - (e) The planning and control of surface drainage water from Mercer Island into Lake Washington should be based on such factors as the quality and quantity of water, rate of flow and containment, etc. The latest applicable data should be used in the implementation of a storm drainage system.
- (4) Shoreline areas having historical, archaeological, cultural, educational or scientific value should be protected and restored.
- (a) Public and private cooperation should be encouraged in site preservation and protection.
 - (b) Suspected or newly discovered archaeological sites should be kept free from intrusion until their value is determined.
- (5) Festivals and temporary uses involving public interest and not substantially or permanently impairing water quality or unique and fragile areas should be permitted.
- (6) Protect, conserve and establish vegetation along the shoreline edge, especially native vegetation.
- (7) Critical areas should be protected at a level at least equal to that provided by the City's critical area regulations adopted pursuant to the Growth Management Act.

IV. SHORELINE MODIFICATIONS

SHORELINE STABILIZATION

The following policy addresses shoreline stabilization.

POLICY

Non-structural stabilization measures are preferred over "soft" structural measures. Soft structural measures are preferred over hard structural measures.

PIERS AND MOORAGES

The following policies address piers and moorages.

POLICIES

- (1) New piers and docks should be allowed only for water-dependent uses or public access. Piers and docks associated with single family residences are considered a water-dependent use.
- (2) New piers and docks should be designed and constructed to avoid or, if that is not possible, to minimize and mitigate the impacts to ecological functions.
- (3) The repair, renovation, and replacement of existing piers and docks should be allowed.
- (4) Property owners who repair, renovate or replace existing piers and docks should be provided information on the best materials and methods for environmental enhancement.

LANDFILL AND DREDGING

Landfill is usually contemplated in locations where the water is shallow and where rooted vegetation often occurs. In their natural condition these same areas provide suitable habitat for fish and wildlife feeding, breeding and shelter. Biologically the shallow vegetation areas tend to be highly productive portions of the Lake. For these reasons governmental agencies and scientific experts have generally taken a stand against landfill.

In most cases when dredging is done it also occurs in shallow areas and may disturb the environment in the following ways: 1) temporary reduction of water clarity from suspended sediments, 2) losses in aquatic plants and animals by direct removal or from the sedimentation of suspended materials, 3) alteration in the nutrient and oxygen levels of the water column, and 4) suspension of toxic materials from the sediments into the water column.

POLICIES

- (1) Fills should be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.
- (2) Fills waterward of the ordinary high-water mark should be allowed only when necessary to support: water-dependent use, public access, cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan, disposal of dredged material considered suitable under, and conducted in accordance with the Dredged Material Management Program of the Department of Natural Resources, expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible, mitigation action, environmental restoration, beach nourishment or enhancement project. Fills waterward of the ordinary high-water mark for any use except ecological restoration should require a conditional use permit.
- (3) Dredging and dredge material disposal should be done in a manner which avoids or minimizes significant ecological impacts and impacts which cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.

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- (4) New development should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging. Dredging for the purpose of establishing, expanding, or relocating or reconfiguring navigation channels and basins should be allowed where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.
 - (5) Dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material should not be allowed, except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high-water mark. The project must be either associated with a MTCA or CERCLA habitat restoration project or, if approved through a shoreline conditional use permit, any other significant habitat enhancement project.

BREAKWATERS AND SIMILAR FEATURES

POLICY

The use of new breakwaters and other similar structures should be limited.

SHORELINE HABITAT AND NATURAL SYSTEMS ENHANCEMENT PROJECTS

POLICY

Foster habitat and natural system enhancement projects that are consistent with the City's Shoreline Restoration Plan and whose primary purpose is restoration of the natural character and ecological functions of the shoreline.

V. SPECIFIC SHORELINE USES AND ACTIVITIES

The following goal and policy address the general distribution, location, and extent of all uses within shoreline jurisdiction.

GOAL:

Ensure that the land use patterns within shoreline areas are compatible with shoreline environment designations and will be sensitive to and not degrade habitat, ecological systems, and other shoreline resources.

POLICY

All activities, development and redevelopment within the City's shoreline jurisdiction should be designed to ensure no net loss of shoreline ecological functions.

BOATING FACILITIES

The following policies address boating facilities.

POLICY

New boating facilities should be designed to meet health, safety, and welfare requirements; mitigate aesthetic impacts; minimize impacts to neighboring uses; provide public access; assure no net loss of ecological functions and prevent other significant adverse impacts; and protect the rights of navigation and access to recreational areas.

RECREATIONAL DEVELOPMENT

Mercer Island has approximately 15 miles of shoreline most of which is devoted to low density single family residences. It could be said that almost 100 percent of the developed shoreline of Mercer Island is devoted to water-dependent recreation, assuming that the waterfront residents find both active and passive enjoyment from their shoreline location. The remainder of the shoreline is set aside for public or semi-public water-related recreation except for a fraction which is utilized for bridge crossings and utilities. The latter, in some cases, is also available for public access to the water.

The City presently owns approximately 6,000 feet of shoreline which is developed as waterfront parks with facilities for swimming, fishing and car-top boat launching. Beaches at Luther Burbank Park and Groveland Beach Park are staffed with lifeguards during the summer season. Unguarded designated swimming areas also exist at Calkins Landing and Clarke Beach Park. Dock facilities that serve fishing and other activities are located at Luther Burbank Park and Proctor Landing, and seasonally at Clarke and Groveland Beaches. The City manages several summer camps for youth and adult with instruction on sailing and kayaking based at Luther Burbank Park.

Nineteen street ends of widths varying from 30 feet to 75 feet add an additional 600 lineal feet of shoreline to the public domain and provide the potential for considerable access to the water's edge in all segments of the Island. Development of some street ends has been undertaken as a cooperative effort between the City and the adjacent neighborhoods. Some provide swimming access, others offer car-top launching access, others provide minimal access solely for passive enjoyment because of the limitation of size or topography, and lack of neighborhood interest and availability of funds. Three street ends were re-developed in 2003, which included eliminating bulkheads and enhancing near shore habitat.

There are two private waterfront clubs owning a combined 1,194 feet of frontage. They provide swimming, moorage, and boat launching facilities to a significant portion of the Island's families.

Covenant Shores, a continuing care retirement community, owns approximately 650 feet of shoreline which serves as open space, swimming, picnicking, and moorage for its residential units. Numerous private neighborhood waterfront "parks," with shared access for neighboring residences, exist along the shoreline.

Regarding waterfront recreation, The City of Mercer Island Parks and Recreation Plan, adopted in 2007, calls for Capital improvements at two waterfront facilities to enhance recreation opportunities. Shoreline restoration, swim beach enhancements and dock area improvements are anticipated at Luther Burbank Park, and improved boat launching and retrieval is anticipated with planned improvements at the Mercer Island Boat Launch. Future development of Luther Burbank Park is also subject to the Luther Burbank Master Plan.

GOAL

Water-dependent recreational activities available to the public are to be encouraged and increased on the shoreline of Mercer Island where appropriate and consistent with the public interest.

POLICIES

- (1) Provide additional public water-oriented recreation opportunities.

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- (2) Locate public recreational uses in shoreline areas that can support those uses without risks to human health, safety, and/or security, while minimizing effects on shoreline functions, private property rights, and/or neighboring uses.
 - (3) Priority should be given to recreational development for access to and use of the water.

RESIDENTIAL DEVELOPMENT

Present residential zoning on Mercer Island's shoreline is for single family residential uses, and conditional uses that are complementary to the single family environment, such as public parks, private recreational areas, retirement homes located on properties used primarily for a place of worship, and noncommercial recreational areas. It should be noted that some of the shoreline is not yet developed as intensely as it could be under existing zoning. Several large shoreline properties now used by one family could be subdivided to allow from one to three additional residences.

GOAL

Existing residential uses are to be recognized, and new residential construction will be subject to certain limitations where applicable.

POLICIES

- (1) Existing single-family residential uses will be protected. New construction or modifications should be allowed within the framework of the policies in this document and City ordinance.
- (2) In single-family developments within the shoreline, the water's edge should be kept free of buildings.
- (3) Public access does not include the right to enter upon private residential property without the permission of the owner.
- (4) New overwater residential dwellings should not be permitted.
- (5) Single family residences should be identified as a priority use.

TRANSPORTATION FACILITIES

A. Circulation.

Principal transportation routes on Mercer Island include Interstate 90, a highway that crosses Lake Washington via Mercer Island and two connecting bridges, and a series of arterial roads that follow the shoreline around the Island a short distance inland.

Thus, shoreline-related roads form an important element of principal transportation routes on the Island. In addition, numerous lateral roads connect the shoreline following arterials with properties along the water's edge, and frequently provide public access to the lake through developed and undeveloped street ends as well as visual access to the lake.

A rudimentary system of pedestrian and bicycle ways has gradually developed along portions of the shoreline following arterials; more definitive development of such ways is planned via the City's Pedestrian and Bicycle Facility Plan. Buses provide important modes of on-Island transportation as well as access to neighboring municipalities and employment centers.

GOAL

A balanced transportation system for moving people and goods is to be encouraged within existing corridors.

POLICIES

- (1) Develop efficient circulation systems in a manner that assures the safe movement of people and goods while minimizing adverse effects on shoreline use, developments and shoreline ecological functions.
- (2) Provide and/or enhance physical and visual public access to shorelines along public roads in accordance with the public access goals.
- (3) Encourage shoreline circulation systems that provide alternative routes and modes of travel. Within the I-90 corridor, allow movement of people by means of transit.

B. Parking.

The following policies address parking.

POLICIES

- (1) Parking facilities for motor vehicles or boat trailers should be minimized in the shoreline area.
 - (a) Parking facilities should not be permitted along the water's edge.
 - (b) Upland parking facilities for shoreline activities should provide adequate pedestrian access to the shoreline.
 - (c) Upland parking facilities should be designed and landscaped to minimize adverse impacts on the shoreline and adjacent lands.
 - (d) Parking facilities should be planned, located and designed where they will have the least possible adverse effect on unique or fragile shoreline features, and will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.
 - (e) Parking facilities in shorelines should minimize the environmental and visual impacts.

UTILITIES

The following policies address utilities.

POLICIES

- (1) Utility facilities should be designed and located to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations.
- (2) Utilities should be located in existing rights-of-way and corridors whenever possible.