

3 Shoreline Jurisdiction and Environment Designations

1. Shoreline Jurisdiction

- a) The Shoreline Master Program jurisdiction applies to all shorelines of the state and their associated shorelands. This includes:
 - (i) All marine waters; and
 - (ii) Rivers and streams with more than 20 cubic feet per second mean annual flow (cfsmaf); and
 - (iii) Lakes and reservoirs greater than 20 acres in area; and
 - (iv) Associated wetlands and 100-year floodplains; and
 - (v) Shorelands adjacent to these water bodies, typically within 200 feet of the ordinary high water mark (OHWM).
- b) Associated estuarine wetlands: the jurisdictional boundary shall extend 200 feet landward of the ordinary high water mark of the wetland.
- c) Associated palustrine wetlands which extend greater than 200 feet landward of the ordinary high water mark of the shoreline: the jurisdictional boundary shall extend 75 feet from the ordinary high water mark of the wetland.

2. Shoreline Environment Designations

Shorelines are classified into specific environment designations 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 provisions of WAC 173-26-211.

The Shoreline Environmental Designations are: High Intensity, Shoreline Residential, Urban Conservancy, Rural Conservancy, Natural, and Aquatic.

a) High Intensity

- (i) **Purpose.** To provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.
- (ii) **Criteria.**
 - A) Shoreline areas within Urban Growth Areas (UGAs); and
 - B) Industrial or commercial "limited areas of more intense rural development" (LAMIRD), if they currently support high-intensity uses related to commerce, transportation or navigation; or
 - C) Shoreline in a rural area with an existing major transportation facility of statewide importance; or
 - D) Shoreline suitable and planned for high-intensity water-oriented uses.
- (iii) **Management Policies.**
 - A) Priority should be given first to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses.
 - B) Non-water-oriented uses should not be allowed except:
 - a) As part of mixed used development;
 - b) In limited situations where they do not conflict with or limit opportunities for water-oriented uses; or

- c) On sites where there is no direct access to the shoreline.
- C) Policies and regulations shall assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
- D) Where feasible, visual and physical public access should be required.
- E) Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.
- F) Full utilization of existing urban areas should be achieved before further expansion on intensive development is allowed. Consideration should be given to the potential for displacement of non-water-oriented uses with water-oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas.

b) Shoreline Residential

- (i) **Purpose.** To accommodate residential development and appurtenant structures which are consistent with this Program. An additional purpose is to provide appropriate public access and recreational uses.
- (ii) **Criteria.**
 - A) Shoreline areas which are predominately single-family or multi-family residential development or are planned or platted for residential development;
 - B) Does *not* include shoreline supporting existing residential development which may not support higher densities of development due to potential cumulative impacts to sensitive environments or safety, such as steep slopes or floodplains. Such shoreline shall be designated Rural or Urban Conservancy, whichever applies.
- (iii) **Management Policies.**
 - A) 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.
 - B) Multi-family and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities. If public access is not feasible on site, off-site options such as an in-lieu fee may be recommended.
 - C) Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
 - D) Commercial development should be limited to water-oriented uses. Water-oriented includes water-dependent, water-related and water-enjoyment uses.

c) Urban Conservancy

- (i) **Purpose.** 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.

- (ii) **Criteria.** Shoreline areas within UGAs or LAMIRDs which are appropriate and planned for development that is compatible with maintaining or restoring of the ecological functions of the area and are not generally suitable for water-dependent uses which are/have any of the following:
 - A) Suitable for water-related or water-enjoyment uses;
 - B) Open space, flood plain or other sensitive areas that should not be more intensively developed or supporting resource-based uses;
 - C) Potential for ecological restoration;
 - D) Retained important ecological functions, even though partially developed; or
 - E) Potential for development that is compatible with ecological restoration or Low Impact Development techniques.
 - F) Meeting any of the above in this list and are currently supporting residential development.
 - G) Expanded Urban Growth Boundary into the section of shoreline designated Rural Conservancy and it would now meet any of the above criteria.
- (iii) **Management Policies.**
 - A) Uses that preserve the natural character of the area or promote preservation of open space, floodplain or other sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration or preservation of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.
 - B) Public access and public recreation objectives should be implemented whenever feasible and ecological impacts can be mitigated.
 - C) Water-oriented uses should be given priority over non-water oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.
 - D) Any development in the Urban Conservancy designation should implement Low Impact Development techniques, as much as is practicable, in order to maintain and mitigate ecological functions.

d) Rural Conservancy

- (i) **Purpose.** To protect ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities.
- (ii) **Criteria.** Shorelines outside the Urban Growth Area (UGA) or Limited Area of More Intense Rural Development (LAMIRD) in which are/have:
 - A) Currently supporting lesser-intensity resource-based uses, such as agriculture, forestry, or recreational uses, or is designated agriculture or forest lands; or

- B) Currently accommodating residential uses but is subject to environmental limitations, such as properties that include or are adjacent to steep banks, feeder bluffs, or flood plains or other flood-prone areas; or
- C) High recreational value or with unique historic or cultural resources; or
- D) Low-intensity water-dependent uses.
- E) Retracted Urban Growth Boundary from the section of shoreline designated Urban Conservancy and it would now meet any of the above criteria.

(iii) Management Policies.

- A) Developments or uses that would substantially degrade or permanently deplete the physical and biological resources of the area should not be allowed.
- B) New development should be designed and located to preclude the need for shoreline stabilization. New shoreline stabilization or flood control measures should only be allowed where there is a documented need to protect an existing structure or ecological functions and mitigation is applied.
- C) Residential development standards shall ensure no net loss of shoreline ecological functions and should preserve the existing character of the shoreline consistent with the purpose of the “rural conservancy” environment. Such standards shall include at a minimum: density, lot coverage and vegetation conservation.
- D) Low-intensity, water-oriented commercial uses may be permitted in the limited instances where those uses have been located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the development.
- E) Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails and swimming beaches , are preferred uses, provided significant adverse impacts to the shoreline area mitigated.

e) Natural

- (i) Purpose.** To protect those shoreline areas that are relatively free of human influence or which include intact or minimally degraded shoreline functions intolerant of human use. In order to maintain ecological processes and functions, restrictions on the intensities and types of uses permitted in such areas are required. Restoration of degraded shorelines should be planned within this environment.
- ii) Criteria.** Shorelines having a unique asset or feature considered valuable for its natural or original condition which is relatively intolerant of intensive human use. This includes largely undisturbed portions of shoreline areas, wetlands, estuaries, unstable bluffs, spits, and ecologically intact shoreline habitats, both in and out of

the Urban Growth Area (UGA) or Limited Area of More Intense Rural Development (LAMIRD) when any of the following characteristics apply:

- A) The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity; or
- B) The shoreline is considered to represent ecosystems and geologic types that are of scientific and educational interest; or
- C) The shoreline is unable to support new development or uses without adverse impacts to ecological functions or risk to human safety.
- D) The shoreline includes largely undisturbed portions of shoreline areas such as wetlands, estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats.

iii) Management Policies.

- A) Any use in the Natural Designation that would degrade or result in a net loss of ecological functions or natural character of the shoreline area should not be allowed. This includes vegetation removal impacting ecological functions.
- B) Any alteration which is permitted within the Natural Designation should be designed with low impact development methods, or be capable of restoration to the natural condition where feasible.
- C) Single family residences, roads, parking areas and utility corridors may be allowed as a conditional use, only if they cannot be located outside the Natural Designation or SMP jurisdiction, provided that the density and intensity of such use is limited as necessary to protect ecological functions and is consistent with the purpose of the Natural Designation.
- D) Low-intensity, water-oriented recreational access, scientific, historical, cultural, educational research uses may be allowed provided that no significant ecological impact on the area will result.

(f) Aquatic

- i) Purpose.** The purpose of the “Aquatic” environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.
- ii) Criteria.** Lands water-ward of the ordinary high-water mark. This includes tidelands, bedlands, and lands beneath freshwater shorelines of the state.
- iii) Management Policies.**
 - A) New over-water structures and development on navigable waters and their beds should be allowed only for water-dependent uses, public access or ecological restoration, and when:
 - a) They do not preclude attainment of ecological restoration; and
 - b) The size of the new over-water structure is limited to the minimum necessary to support the structures’ intended use; and
 - c) Multiple use of the over-water facility has been encouraged; and
 - d) The structure or use is located and designed to minimize interference with surface navigation, considers impacts to public views, and allows for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration; and

- e) The use or modification is designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
- B) New over-water structures and development associated with new residential development of two or more dwellings should require joint use or community dock facilities.
- C) Development within the Aquatic environment should be compatible with the adjoining upland designation.
- D) Existing over-water residences may continue through normal maintenance and repair, but should not be enlarged or expanded. New over-water residences should be prohibited.
- E) Applicants for any use or modification within the Aquatic designation should schedule a staff consult to review the site conditions, and potential habitats and species. This consult should result in a general understanding of applicable development standards for the proposal.
- F) Development over or in critical saltwater habitats should be limited to those which mitigate impacts according to mitigation sequencing as described in 22.xx.xxx, and which follow the development standards for that development activity.
- G) Critical saltwater habitats include:
 - a) Kelp and eelgrass beds,
 - b) Forage fish spawning and holding areas,
 - c) Mudflats,
 - d) Shellfish beds (commercial, subsistence, and recreational),
 - e) Intertidal habitats with vascular plants, and
 - f) Areas with which priority species have a primary association.

3. Official Shoreline Map

As part of the master program, there is one official set of Kitsap County Shoreline Environment Designation Maps which shall be in the custody of the Department of Community Development and available for public inspection during normal business hours and on the Kitsap County website. Unofficial copies of the official map or portions thereof may be included or distributed with copies of the master program.

The purpose of the official environment designation map is to depict graphically those areas of Kitsap County falling under the jurisdiction of the master program, and the shoreline environment designations of those areas.

a) Mapping Boundaries

Where the exact location of a jurisdiction or environment designation boundary line is uncertain, the official environment designation map will be used to determine the location of such line. When resorting to the environment designation map does not resolve the conflict, the following rules will apply:

- (i) Boundaries indicated as approximately following the center lines of streets, highways, alleys or other roadways shall be construed to follow such center lines;
- (ii) Boundaries indicated as approximately following lot, fractional section or other subdivision lines shall be construed as following such subdivision lines;
- (iii) Boundaries indicated as approximately following any lines of corporate limits or other local government jurisdictional lines shall be construed as following such lines;
- (iv) Boundaries indicated as following railroad lines shall be construed as following the center line of the railroad right-of-way;
- (v) Boundaries indicated as parallel to or extensions of features identified in subsections (i) through (iv) above shall be so construed;
- (vi) Boundaries between parallel environment designations shall be construed as the top of the bluff or vegetation line which distinguishes existing development from the critical area abutting the shoreline;
- (vii) When not specifically indicated on the environment designation map, distances shall be determined by the scale of the map; and
- (viii) Where existing physical or cultural features are at variance with those shown on the environment designation map and cannot be determined with certainty by applying subsections (1) through (6) above, the hearing examiner shall determine the location or existence of such feature utilizing any appropriate criteria contained in this master program.
- (ix) Where a developed road intersects the shoreline jurisdiction such that the intersect is between two distinct parcels, the parcel on the landward side may not be required to meet all of the development regulations for that designation, provided all other provisions of this Program are met, including no net loss of shoreline ecological functions.

b) Mapping Errors

Some mapping errors may be adjusted prior to an SMP amendment to assign the appropriate designation to that area, including the following:

- (i) The common boundary descriptions and the criteria in RCW 90.58.030(2) and WAC 173-22 supersede the map when there are mapping error conflicts, other than those with a solution provided in this section.
- (ii) In the event that a jurisdictional area, including associated wetlands, is not mapped, it will automatically be assigned a "Rural Conservancy" or "Urban Conservancy" designation. Such designation will apply until an SMP

amendment is approved that assigns the appropriate designation to the subject area [WAC 173-26-211(2)(e)].

- (iii) In the event that a parcel was inadvertently assigned more than one designation (perpendicular to the shore), the more restrictive designation shall apply.
- (iv) In the event that a parcel on the boundary between two designations appears to be a mapping error based on the criteria in this section, an administrative mapping adjustment may be allowed to facilitate consistency with the most appropriate of the two designations.