

ORDINANCE NO. 3445-15

AN ORDINANCE Amending Ordinance No. 2600-02, the Shoreline Master Program, as Amended, and Amending the Everett Comprehensive Plan Text, Amending Ordinance No. 2021-94 (Comprehensive Plan), as Amended and Amending Ordinance No. 1671-89 (Title 19 EMC), as Amended Related to Location of Residential Uses at Waterfront Place Central

WHEREAS, the State Legislature enacted the Shoreline Management Act requiring cities and counties throughout the state to adopt and amend from time to time shoreline master programs; and

WHEREAS, the Growth Management Act, RCW 36.70A.580, provides that the goals and policies of the shoreline master program shall be considered an element of the City's comprehensive plan, and the other portions of the shoreline master program shall be considered part of the City's development regulations; and

WHEREAS, the Growth Management Act, RCW 36.70A.130, authorizes the City to amend the comprehensive plan in order to adopt or amend shoreline master programs at any time; and

WHEREAS, the City Council adopted Ordinance No. 2600-02, which adopted the updated Shoreline Master Program (SMP) in 2002; and

WHEREAS, the City Council adopted Resolution No. 5382 on September 17, 2003, which rezoned the Port of Everett's North Marina Redevelopment Area to WC-PDO (Waterfront Commercial – Planned Development Overlay Zone); and

WHEREAS Rezone Resolution No. 5382 included as an exhibit a Development Agreement between the Port of Everett and the City of Everett establishing development standards and conditions for the North Marina Redevelopment Area; and

WHEREAS, the City Council adopted Resolution No. 5703 on November 16, 2005, which amended the Development Agreement exhibit to Resolution No. 5382, amending the development standards and conditions for the North Marina Redevelopment Area; and

WHEREAS, the Port of Everett decided to pursue a different development concept in light of changed economic circumstances, and the Port applied to amend the Planned Development Overlay zone master plan and to amend the Shoreline Master Program (SMP) to allow residential use within 200 feet of the shoreline; and

WHEREAS, the SEPA Determination of Non-Significance (DNS) issued on September 26, 2014 for the amendments to the Planned Development Overlay Rezone for the subject property addressed the impacts of the proposal, including amending the SMP to allow residential use in shoreline jurisdiction; and

WHEREAS, Planning Commission held two public workshops and a public hearing on the proposed amendments and recommended that City Council approve the proposed amendments subject to conditions to be incorporated into an Amended and Restated Development Agreement; and

WHEREAS, on January 21, 2015 City Council approved Resolution No. 6814 approving amendments to the Development Agreement between the City of Everett and the Port of Everett for the North Marina Redevelopment plan, now known as Waterfront Place Central; and

WHEREAS, City Council Resolution No. 6814 concluded that allowing housing within the 200 feet shoreline area, but more than 100 feet from the shoreline edge, as proposed in the conceptual master plan with water-related and water-enjoyment uses on the ground floor of most of the buildings in which housing will be developed within 200 feet of the shoreline, provides for more flexibility to accomplish a desirable mix of housing and non-residential uses; and

WHEREAS, amendments to the SMP must be approved by City Council and the Washington State Department of Ecology (Ecology), and on April 1, 2015 the City submitted an application to Ecology to amend the SMP; and

WHEREAS, the City Council has conducted a public hearing to consider proposed amendments to the SMP; and

WHEREAS, the City Council finds the proposed amendments to the SMP and Comprehensive Plan text:

1. Are consistent with the existing policies of the SMP and Comprehensive Plan; and
2. Are based on new information; and
3. Will not impact the current use of properties in the area or vicinity; and
4. Will not create pressure to change additional land use designations in the area; and

WHEREAS, the City Council finds the proposed amendments to the SMP and Zoning Code:

1. Are consistent with the applicable provisions of the Everett Comprehensive Plan; and
2. Bear a substantial relation to the public health, safety or welfare; and
3. Promote the best long term interests of the Everett community.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

SECTION 1: Section 4.4 of Exhibit A to Ordinance No. 2600-02, as amended, and Chapter 3, Section III. Subsection D of Exhibit A to Ordinance No. 2021-94, as amended, which read in part as follows:

4.4 Urban Maritime

Purpose

To provide an area for the intense development of maritime activities such as marinas, boating and fishing businesses, and supporting heavy commercial and industrial uses, along with a wide mix of compatible water-oriented commercial and recreational uses, and public access while protecting and restoring ecological functions. Limited nonwater-oriented uses should be allowed when part of a mixed-use development that incorporates public access and ecological restoration.

Classification Criteria

1. Areas used for intensive water-oriented port activity, including commercial, industrial and recreational uses, but excluding those areas used primarily for deep-draft, ocean going vessels.
2. Areas that have adequate utilities and access to support intensive urban shoreline development.

Area Designated (See Figure 4.3)

The area extending from the north property line of the US Naval Station Everett to the south property line of Parcels 0729 054 001 00 (Jeld-Wen), 0729 051 004 00 (Jeld-Wen) and 0729 051 012 00 (Sterling Asphalt/CSR). The west boundary is the East Government Pierhead Line/Harbor Line and the landward boundary is located 200 feet from the ordinary high water mark, except where the area abuts Maulsby Swamp where the east boundary is the east edge of the Burlington Northern right-of-way.

Vision Statements

Existing Marina Area: This area shall retain working waterfront components, with priority given to a mix of maritime uses that support the marina. A wide mix of compatible water-oriented commercial uses, public access, recreational use, and supporting activities will also be encouraged. Any large-scale redevelopment of this area shall be guided by a master plan that gives priority to preservation and enhancement of the marina and its supporting uses. The master plan shall also encourage public access to and enjoyment of the shorelines and emphasize attractive, people oriented mixed-use development with significant public access, abundant public parking a plaza or public center area, and separation between pedestrians and automobiles encouraging public movement. The master plan shall orient buildings and facilities to maximize visual access to the river channel, marina and shoreline pathway system. The mix of uses may include both water-oriented and nonwater-oriented commercial / retail, office, hotel, public facilities, public access and ample public pathways and walkways.

North of Boat Launch to South End of Sterling Asphalt/CSR Property: Because of its proximity to existing public services, this area should be reserved for future

urban development. A wide mix of compatible water-dependent industrial, commercial, and recreational uses will also be encouraged here.

BE AND THE SAME IS HEREBY AMENDED TO READ AS FOLLOWS:

4.4 Urban Maritime

Purpose

To provide an area for the intense development of maritime activities such as marinas, boating and fishing businesses, and supporting heavy commercial and industrial uses, along with a wide mix of compatible water-oriented commercial and recreational uses, and public access while protecting and restoring ecological functions. Limited nonwater-oriented commercial and multiple family residential uses should be allowed when part of a mixed-use development that incorporates public access and ecological restoration.

Classification Criteria

2. Areas used for intensive water-oriented port activity, including commercial, industrial and recreational uses, but excluding those areas used primarily for deep-draft, ocean going vessels.
2. Areas that have adequate utilities and access to support intensive urban shoreline development.

Area Designated (See Figure 4.3)

The area extending from the north property line of the US Naval Station Everett to the south property line of Parcels 0729 054 001 00 (Jeld-Wen), 0729 051 004 00 (Jeld-Wen) and 0729 051 012 00 (Sterling Asphalt/CSR). The west boundary is the East Government Pierhead Line/Harbor Line and the landward boundary is located 200 feet from the ordinary high water mark, except where the area abuts Maulsby Swamp where the east boundary is the east edge of the Burlington Northern right-of-way.

Vision Statements

Existing Marina Area: This area shall retain working waterfront components, with priority given to a mix of maritime uses that support the marina. A wide mix of compatible water-dependent uses, water-oriented commercial uses, public access, recreational use, and supporting activities will also be encouraged. Any large-scale redevelopment of this area shall be guided by a master plan that gives priority to preservation and enhancement of the marina and its supporting uses. The master plan shall also encourage public access to and enjoyment of the shorelines and emphasize attractive, people oriented mixed-use development with significant public access, abundant public parking a plaza or public center area, and separation between pedestrians and automobiles encouraging public movement. The master plan shall orient buildings and facilities to maximize

visual access to the river channel, marina and shoreline pathway system. The mix of uses may include both water-oriented and nonwater-oriented commercial / retail, office, hotel, a limited area for multiple family residential, public facilities, public access and ample public pathways and walkways.

North of Boat Launch to South End of Sterling Asphalt/CSR Property: Because of its proximity to existing public services, this area should be reserved for future urban development. A wide mix of compatible water-dependent industrial, commercial, and recreational uses will also be encouraged here.

SECTION 2: Section 5.14 of Exhibit A to Ordinance No. 2600-02, as amended, and Chapter 3, Section IV. Subsection M of Exhibit A to Ordinance No. 2021-94, as amended, which read in part as follows:

5.14 Residential Development

Introduction

Residential development means one or more buildings or structures which are designed for or intended to be used to provide a place of abode for human beings, including single-family residences, duplexes, and multiple family residential developments, together with accessory uses and structures normally applicable to residential uses including but not limited to garages, sheds, utility services, recreation facilities, and parking. Note that shoreline modification activities, including docks are addressed in Section 6 of this SMP and are not considered accessory structures.

Both single family and multiple family residential uses occur in Everett's shorelines. Single family uses in shoreline jurisdiction are located north and west of Silver Lake, around Lake Stickney, above Maulsby Swamp, along Port Gardner Bay, and along Lowell-Larimer Road. Multiple family development occurs south and east of Silver Lake. In the future, multiple family development may also occur in the Multi-Use Environment.

Note that live-aboards are addressed under Section 5.4 Boating Facilities, rather than in this section.

In most cases, a substantial development permit is not required for the construction of an individual single family residence or normal appurtenances to a single family residence (see WAC 173-27-040(2)(g)). Although these structures are exempt, compliance with the Shoreline Master Program is still required. All multiple family developments, subdivisions, short subdivisions, and non-exempt accessory structures are not exempt, and require a Substantial Development Permit.

Is hereby amended to read as follows:

5.14 Residential Development

Introduction

Residential development means one or more buildings or structures which are designed for or intended to be used to provide a place of abode for human beings, including single-family residences, duplexes, and multiple family residential developments, together with accessory uses and structures normally applicable to residential uses including but not limited to garages, sheds, utility services, recreation facilities, and parking. Note that shoreline modification activities, including docks are addressed in Section 6 of this SMP and are not considered accessory structures.

Both single family and multiple family residential uses occur in Everett's shorelines. Single family uses in shoreline jurisdiction are located north and west of Silver Lake, around Lake Stickney, above Maulsby Swamp, along Port Gardner Bay, and along Lowell-Larimer Road. Multiple family development occurs south and east of Silver Lake. In the future, multiple family development may also occur in the Multi-Use Environment and the Urban Maritime Environment in limited locations as a part of a master plan.

Note that live-aboards are addressed under Section 5.4 Boating Facilities, rather than in this section.

In most cases, a substantial development permit is not required for the construction of an individual single family residence or normal appurtenances to a single family residence (see WAC 173-27-040(2)(g)). Although these structures are exempt, compliance with the Shoreline Master Program is still required. All multiple family developments, subdivisions, short subdivisions, and non-exempt accessory structures are not exempt, and require a Substantial Development Permit.

SECTION 3: Table 5.1 of the Shoreline Master Program, Exhibit A to Ordinance No. 2600-02, as amended, which was codified in EMC 19.33D.100 (Zoning Code), and which currently reads as follows:

Table 5.1 Shoreline Use Table

Use	Environment	Deep Water Port	Maritime	Industrial	Mixed-Use Industrial	Multi-Use	Shoreline Residential	Conservancy Recreation	Conservancy	Conservancy Agriculture	Municipal Water Quality	Municipal Watershed	Aquatic	Aquatic Conservancy
Agriculture		X	X	X	P	X	X	P	X	P	P	X	X	X
Aquaculture		P	P	P	P	P	X	X	X	X	X	X	P	C
Boating Facilities		P	P	P	P	P	P	P	X	X	P	X	P	X
Commercial														
Water-dependent		P	P	P	P	P	X	P, 2	X	X	X	x	P, 12	X
Water-related		P	P	P	P	P	X	P, 2	X	X	X	x	P, 12	X
Water-enjoyment			P	P	P	P	X	P, 2	X	X	X	x	P	X
Nonwater-oriented		X	P, 15	P	P	P	X	P, 2	X	X	X	x	X	X
Forest Practices, 8		P	P	P	P	P	P	P, 3	X	P, 3	P	P	NA	NA
Industry		P	P	P	P	P, 6	X	C, 1	X	C, 1	X	X	P, 12	X
In-stream Structures		P	P	NA	NA	NA	NA	NA	NA	NA	P	P	P	C, 14
Log Storage and Rafting		P, 5	P, 5	P, 5	P, 5	X	X	X	X	X	X	X	X	X
Mining		X	X	X	X	X	X	X	X	X	X	P	X	X
Parking		P	P	P	P	P	P	P	X	P	P	P	X	X
Recreational Development		P	P	P	P	P	P	P	P, 9	P, 16	X	X	P, 12	X
Residential Development		X	X	X	X	P	P	X	X	P, 17	X	X	X	X

Environment Use	Deep Water Port	Maritime	Industrial	Mixed-Use Industrial	Multi-Use	Shoreline Residential	Conservancy Recreation	Conservancy	Conservancy Agriculture	Municipal Water Quality	Municipal Watershed	Aquatic	Aquatic Conservancy
Signs	P	P	P	P	P	P	P	P, 7	P, 7	P, 4	P, 4	P, 10	X
Outdoor Advertising	X	X	X	X	X	X	X	X	X	X	X	X	X
Solid Waste Landfill and In-water Disposal	X	X	X	X	X	X	X	X	X	X	X	X	X
Solid Waste Collection Facilities	P	P	P	P	P	P	P	X	P	P	P	P	X
Solid Waste Transfer Stations	X	X	C	C	X	X	X	X	X	X	X	X	X
Transportation Facilities	P	P	P	P	P	P	P	P, 13	P	P	P	C, 11	C
Utilities and Utility Facilities	P	P	P	P	P	P	P	P	P	P	P	P	C, 14

Note that the proposed use must also be an approved use in the Zoning Code. For example, where industrial activities are permitted in the Shoreline Environment, the Zoning Code may limit permitted uses to certain kinds of industrial activities.

P = Permitted Use (Note that the Regulations in this Section contain limitations on permitted shoreline uses.

C = Conditional Use (See Section 2.4 for Conditional Use Criteria)

X = Prohibited (Not allowed under any circumstances. Limitations in regulations do not apply.)

1 = Permitted only in the Agriculture Zone for activities such as food processing.

2 = Permitted only in Public Parks for concessions.

3 = Permitted only in the Agriculture Zone

4 = Directional signs only

5 = New log storage activities are prohibited, except on dry land. Expansion of existing areas is prohibited where grounding will occur and in the Aquatic Environment.

6 = Permitted in the multi-use zones along the riverfront. However, industrial uses are limited to high tech, office-park-type, non-warehouse type activities.

7 = Only interpretive and public access signs

8 = Forest practices are allowed in any environment when completed as part of a public access or mitigation/restoration proposal.

9 = Only minor public access improvements such as trails, boardwalks, overlooks, interpretive signs, restrooms, and picnic shelters are permitted. Associated facilities including parking, must be located outside of the Conservancy environment.

- 10 = Permitted on structures allowed over water.
 11 = Expansion of existing facilities does not require a conditional use.
 12 = Permitted to the pierhead/harbor line when the use is permitted on the adjacent shoreline site.
 13 = A conditional use permit is required for expansion of the railroad in the Urban Conservancy environment along Port Gardner Bay.
 14 = A conditional use permit is not required for water-dependent utilities.
 15 = Nonwater-oriented commercial uses are only allowed in the North Marina Planned Development Overlay - WC zone area, shown on Figure 5.1
 16 = Passive recreation activities, such as trails, boardwalks, overlooks, interpretive signs, open space fields, picnic shelters, and associated facilities, such as parking and restrooms are permitted. Active recreation facilities, such as scheduled ball fields are not permitted. Community gardens are permitted uses.
 17 = Permitted only in the Rural Flood Fringe District along Larimer Road and in areas outside the 100-year floodplain.

Is hereby amended to read as follows:

Table 5.1 Shoreline Use Table

Use	Environment	Deep Water	Port	Maritime	Industrial	Mixed-Use	Industrial	Multi-Use	Shoreline	Recreation	Conservancy	Agriculture	Municipal	Water Quality	Municipal Watershed	Aquatic	Aquatic	Conservancy
Agriculture		X		X	X	P	X	X	X	P	X	P	P	P	X	X	X	X
Aquaculture		P		P	P	P	P	P	X	X	X	X	X	X	X	P	P	C
Boating Facilities		P		P	P	P	P	P	P	P	X	X	X	P	X	P	P	X
Commercial																		
Water-dependent		P		P	P	P	P	P	X	P, 2	X	X	X	X	x	P, 12	P, 12	X
Water-related		P		P	P	P	P	P	X	P, 2	X	X	X	X	x	P, 12	P, 12	X
Water-enjoyment				P	P	P	P	P	X	P, 2	X	X	X	X	x	P	P	X
Nonwater-oriented		X		P, 15	P	P	P	P	X	P, 2	X	X	X	X	x	X	X	X
Forest Practices, 8		P		P	P	P	P	P	P	P, 3	X	P, 3	P	P	P	NA	NA	NA
Industry		P		P	P	P	P	P, 6	X	C, 1	X	C, 1	X	X	X	P, 12	P, 12	X
In-stream Structures		P		P	NA	NA	NA	NA	NA	NA	NA	NA	P	P	P	P	P	C, 14

Environment Use	Deep Water Port	Maritime	Industrial	Mixed-Use Industrial	Multi-Use	Shoreline Residential	Conservancy Recreation	Conservancy	Conservancy Agriculture	Municipal Water Quality	Municipal Watershed	Aquatic	Aquatic Conservancy
Log Storage and Rafting	P, 5	P, 5	P, 5	P, 5	X	X	X	X	X	X	X	X	X
Mining	X	X	X	X	X	X	X	X	X	X	P	X	X
Parking	P	P	P	P	P	P	P	X	P	P	P	X	X
Recreational Development	P	P	P	P	P	P	P	P, 9	P, 16	X	X	P, 12	X
Residential Development	X	P, 18	X	X	P	P	X	X	P, 17	X	X	X	X
Signs	P	P	P	P	P	P	P	P, 7	P, 7	P, 4	P, 4	P, 10	X
Outdoor Advertising	X	X	X	X	X	X	X	X	X	X	X	X	X
Solid Waste Landfill and In-water Disposal		X	X	X	X	X	X	X	X	X	X	X	X
Solid Waste Collection Facilities	P	P	P	P	P	P	P	X	P	P	P	P	X
Solid Waste Transfer Stations	X	X	C	C	X	X	X	X	X	X	X	X	X
Transportation Facilities	P	P	P	P	P	P	P	P, 13	P	P	P	C, 11	C
Utilities and Utility Facilities	P	P	P	P	P	P	P	P	P	P	P	P	C, 14

Note that the proposed use must also be an approved use in the Zoning Code. For example, where industrial activities are permitted in the Shoreline Environment, the Zoning Code may limit permitted uses to certain kinds of industrial activities.

P = Permitted Use (Note that the Regulations in this Section contain limitations on permitted shoreline uses.)

C = Conditional Use (See Section 2.4 for Conditional Use Criteria)

X = Prohibited (Not allowed under any circumstances. Limitations in regulations do not apply.)

1 = Permitted only in the Agriculture Zone for activities such as food processing.

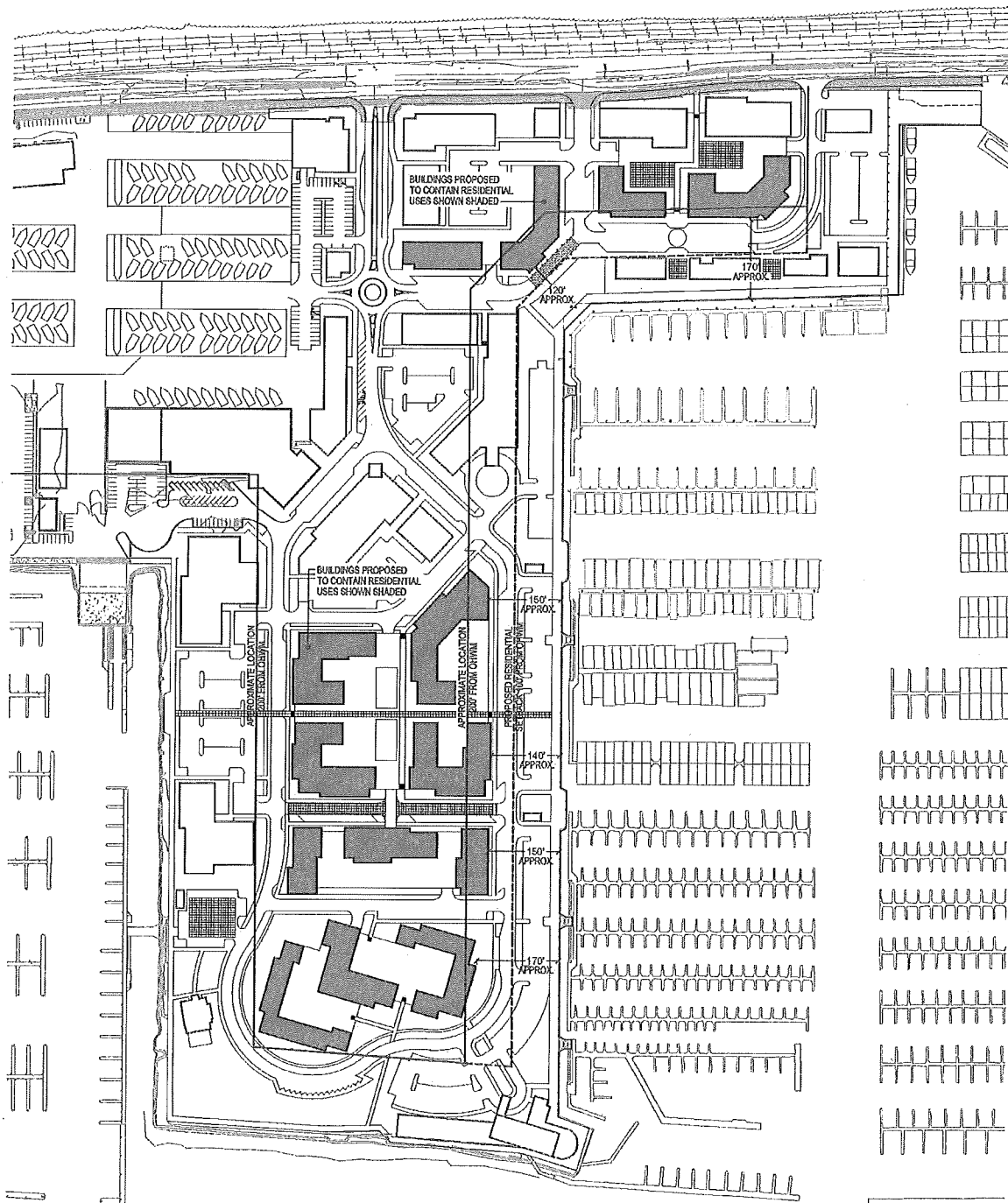
2 = Permitted only in Public Parks for concessions.

3 = Permitted only in the Agriculture Zone

4 = Directional signs only

- 5 = New log storage activities are prohibited, except on dry land. Expansion of existing areas is prohibited where grounding will occur and in the Aquatic Environment.
- 6 = Permitted in the multi-use zones along the riverfront. However, industrial uses are limited to high tech, office-park-type, non-warehouse type activities.
- 7 = Only interpretive and public access signs
- 8 = Forest practices are allowed in any environment when completed as part of a public access or mitigation/restoration proposal.
- 9 = Only minor public access improvements such as trails, boardwalks, overlooks, interpretive signs, restrooms, and picnic shelters are permitted. Associated facilities including parking, must be located outside of the Conservancy environment.
- 10 = Permitted on structures allowed over water.
- 11 = Expansion of existing facilities does not require a conditional use.
- 12 = Permitted to the pierhead/harbor line when the use is permitted on the adjacent shoreline site.
- 13 = A conditional use permit is required for expansion of the railroad in the Urban Conservancy environment along Port Gardner Bay.
- 14 = A conditional use permit is not required for water-dependent utilities.
- 15 = Nonwater-oriented commercial uses are only allowed in the North Marina Planned Development Overlay - WC zone area, shown on Figure 5.1
- 16 = Passive recreation activities, such as trails, boardwalks, overlooks, interpretive signs, open space fields, picnic shelters, and associated facilities, such as parking and restrooms are permitted. Active recreation facilities, such as scheduled ball fields are not permitted. Community gardens are permitted uses.
- 17 = Permitted only in the Rural Flood Fringe District along Larimer Road and in areas outside the 100-year floodplain.
- 18 = Multi-Family Residential permitted between 100 feet and 200 feet from the Shoreline as shown on Figure 5.2.

SECTION 4: Section 5 of the Shoreline Master Program, Exhibit A to Ordinance No. 2600-02, as amended, and Section 33D.100 of Ordinance No. 1671-89 as amended (EMC 19.33D.100), are amended by the addition of Figure 5.2 to follow Figure 5.1:



 **DIAGRAM OF REDUCED SETBACKS
(FOR RESIDENTIAL USES)**

FIGURE 5.2


SECTION 5: Severability. Should any section, paragraph, clause or phrase of this Ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, this shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

SECTION 6: Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.


SECTION 7: Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

SECTION 8: General Duty. It is expressly the purpose of this Ordinance to provide for and promote the health safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provisions or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

SECTION 9: The effective date of this ordinance shall be the later of the date the City's ordinance would normally be effective or the date on which the Washington Department of Ecology approves the amendments to the Shoreline Master Program as provided by RCW 90.58.090.


Ray Stephanson, Mayor

ATTEST:


CITY CLERK - Deputy

Passed: 9-2-15

Valid: 9-12-15

Published: 9-18-15

Effective Date: 9-27-15