



**CITY OF BLACK DIAMOND**  
**September 6, 2012 Meeting Agenda**  
25510 Lawson St., Black Diamond, Washington

**7:00 P.M. – CALL TO ORDER, FLAG SALUTE, ROLL CALL**

**PUBLIC COMMENTS:** Persons wishing to address the City Council regarding items of new business are encouraged to do so at this time. When recognized by the Mayor, please come to the podium and clearly state your name and address. Please limit your comments to 3 minutes. If you desire a formal agenda placement, please contact the City Clerk at 360-886-5700. Thank you for attending this evening.

**PUBLIC HEARINGS:**

**1.) AB12-066 – Fire Impact Fees**

Mr. Bacha

**APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS:**

**Proclamation – National Recovery Month**

**Presentation - Renegade investigators of the Paranormal – Harold Stratton**

**Presentation – New Officer Introduction and Award Presentation**

**UNFINISHED BUSINESS:**

**NEW BUSINESS:**

**2.) AB12-067 – Ordinance Adopting Sewer Rate Increase**

Ms. Miller

**3.) AB12-068 – Resolution Adopting Shoreline Master Program**

Mr. Nix

**4.) AB12-069 – Ordinance Amending BDMC 18.14.070- Vesting Period**

Mr. Pilcher

**5.) AB12-070 – Ordinance Amending Chapter 17.16 and 18.08 – Administrative Appeals**

Mr. Pilcher

**DEPARTMENT REPORTS:**

**Community Development – Permit Center Survey Results**

Mr. Pilcher

**Administration – Records Access**

Mr. Butkus

**MAYOR'S REPORT:**

**COUNCIL REPORTS:**

**ATTORNEY REPORT:**

**PUBLIC COMMENTS:**

**CONSENT AGENDA:**

**6.) Claim Checks –** September 6, 2012 Check No. 38671 through No. 38724 (void check No. 38672) in the amount of \$85,882.90

**7.) Minutes –** Town Hall Notes of August 9, 2012, Workstudy Notes of August 16, 2012 and Council Minutes of August 16, 2012

**EXECUTIVE SESSION:** To discuss with legal counsel potential litigation pursuant to RCW 42.30.110(1)(i)

**ADJOURNMENT:**

# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION		
<b>SUBJECT:</b>	<b>Agenda Date: September 6, 2012</b>	<b>AB12-066</b>
<b>PUBLIC HEARING - Fire Impact Fee</b>	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator –Pete Butkus	
	City Attorney –Chris Bacha	<b>X</b>
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Public Works – Seth Boettcher	
	Economic Devel. – Andy Williamson	<b>X</b>
Cost Impact:	Police – Jamey Kiblinger	
Fund Source:	Court – Stephanie Metcalf	
Timeline:	Comm. Dev. – Steve Pilcher	
<b>Attachments: Proposed Ordinance</b>		
<p><b>SUMMARY STATEMENT:</b></p> <p>The Fire Impact Fee has been developed and fees calculated with the help of the city’s consultant from Henderson &amp; Young, Mr. Randy Young. Previously Council held a workstudy with staff and the city’s consultant on the calculations and fees. The city council is required to hold a public hearing on the calculations and fees before adoption.</p>		
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b>		
<b>RECOMMENDED ACTION: PUBLIC HEARING ONLY</b>		
<b>RECORD OF COUNCIL ACTION</b>		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
September 6, 2012		



**CITY OF BLACK DIAMOND**  
**WASHINGTON**  
**ORDINANCE NO. \_\_\_\_**

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**AN ORDINANCE OF THE CITY OF BLACK DIAMOND,  
WASHINGTON, RELATING TO DEVELOPMENT  
IMPACT FEES; UPDATING CHAPTER 3.50 OF THE  
BLACK DIAMOND MUNICIPAL CODE; IMPLEMENTING  
A FIRE IMPACT FEE; PROVIDING FOR SEVERABILITY;  
AND ESTABLISHING AN EFFECTIVE DATE**

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WHEREAS, state law, pursuant to RCW Chapter 82.02, authorizes code cities to implement development impact fees for transportation, parks, schools and fire protection system improvements that are reasonably related to the new development, that do not exceed a proportionate share of the costs of system improvements that are reasonably related to and will benefit the new development; and

WHEREAS, in 1995 the City Council, pursuant to Ordinance No. 580, adopted a development impact mitigation code in conformance with RCW Chapter 82.02; and

WHEREAS, the development impact mitigation code has not been updated since its adoption to conform to changes in state law; and

WHEREAS, the City Council has not yet adopted development impact fees as authorized by state law; and

WHEREAS, the current population of the City of Black Diamond is approximately 4200 persons and the City anticipates substantial growth and new development which will impact the City's fire protection service; and

WHEREAS, anticipated growth and new development will necessitate capital investment for fire protection facilities needed to serve new development; and

WHEREAS, in 2010 the City Council authorized and commissioned a fire impact fee protection facilities study, completed in January of 2011 (the "2011 Fire Impact Fee Study"), for the purpose of establishing the rates for development impact fees for fire protection facilities in the City of Black Diamond using methodology authorized by and in compliance with Washington Law and City Code; and

WHEREAS, the 2011 Fire Impact Fee Study was amended in June of 2012 to include a credit for construction of single family residential properties with residential fire sprinkler systems (hereinafter the "Amended 2011 Fire Impact Fee Study"); and

WHEREAS, the Amended 2011 Fire Impact Fee Study sets forth the methodology, the data, the adjustment for benefit to current city development, and the calculations used to establish impact fees and credits for fire protection facilities; and

WHEREAS, the City Council has reviewed the Amended 2011 Fire Impact Fee Study, conducted a work study session related to the methodology, data and calculations used to establish impact fees for fire protection facilities, and held a public hearing on the \_\_\_\_ day of \_\_\_\_\_, 2012 to receive public testimony regarding this ordinance, the Amended 2011 Fire Impact Fee Study, and the proposed impact fees for fire protection facilities; and

WHEREAS, the City Council having been in all matters fully advised, finds that the proposed impact fees for fire protection facilities as set forth herein are reasonably related to new development, do not exceed a proportionate share of the costs of system improvements that are reasonably related to and will benefit new development; and

WHEREAS, the City Council finds that it is in the interest of the public health, safety and welfare to amend the Development Impact Mitigation Code to update the Code and to implement impact fees for fire protection facilities as set forth herein;

NOW, THEREFORE, the City Council of the City of Black Diamond, Washington, do ordain as follows:

Section 1. Amendment of BDMC Ch. 3.50 (Development Impact Mitigation Code).  
Chapter 3.50 of the Black Diamond Municipal Code is hereby amended (shown in legislative revisions marks) to read as follows:

3.50.010 - Title.

This chapter shall be known as the "Black Diamond development impact mitigation code" and may be cited as such.

3.50.020 - Purpose.

It is the purpose of this chapter to:

A. Ensure that adequate facilities are available to serve new growth and development;

B. Promote orderly growth and development by requiring that new development pay a proportionate share of the cost of new facilities needed to serve growth; and in order to promote sound financial management practices in the operation of city government the council finds that the cost of having governmental officials review and process land use proposals should be borne by the land developer and not the taxpayers in general; and whereas, the land developer is entitled to some certainty in

knowing what approvals are required for ~~hera~~ development proposal, the estimated time in obtaining those approvals, and the government officials that will be accountable for each aspect of the approval; and

C. Ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicate fees for the same impact.

#### 3.50.040 - Definitions.

As used in this chapter:

"Applicant" means the person, firm, company, partnership, or corporation, and all successor-s in interest thereto, proposing a development in the city.

"Building permit" for purposes of this Chapter means the permit required for new construction and additions pursuant to Chapter 15.04 BDMC. The term "building permit," as used herein, shall not be deemed to include:

- ~~1. Permits required for the remodeling, rehabilitation or other improvements to an existing structure or rebuilding a damaged or destroyed structure, provided there is no increase in the square footage space (for non-residential construction) or number of dwelling units (for residential construction) resulting therefrom;~~
- ~~2. Permits required for temporary dwellings;~~
- ~~3. Permits required for placement of a mobile home within an approved mobile home park.~~

**Comment [CDB1]:** These exemptions are now reflected in BDMC Section 3.50.120.

"Capital improvement plan" means the capital facilities plan element of the city's comprehensive plan adopted pursuant to the provisions of RCW 36.70A.070 and that contains the elements identified in RCW 82.02.050 and that is in effect at the time the impact fee is imposed.

"City" means the city of Black Diamond.

"Development" means any proposed land use, zoning or rezoning, comprehensive plan amendment, annexation, subdivision, short subdivision, planned unit development, planned area development, building permit, binding site plan or any other property development action permitted or regulated by this code.

"Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of



land, that creates additional demand and need for public facilities; but does not include buildings or structures constructed by a regional transit authority.

"Development approval" means any written authorization from the development approval authority which authorizes the commencement of development activity.

"Development approval authority" means the city official or tribunal having code authority to approve a development activity.

"Dwelling Unit" shall have the same meaning as that term is given pursuant to Chapter 18.100 of the Black Diamond Municipal Code as now, or may hereafter be amended.

"Fire Impact Fee Study" shall mean and refer to the fire protection facility impact fee rate study prepared by Henderson Young & Company and dated on or about January 13, 2011 together with the amendments dated on or about June of 2012 to address credits for residential fire sprinkler systems, as on file with the office of the City Clerk, and such future Fire Impact Fee Study or studies as may be commissioned by the City and adopted by the City Council to establish fire protection facility impact fees.

**Comment [CDB2]:** This definition was amended to include the amendment to the 2011 fire impact study that was necessary to address the credit for fire sprinklers.

"Fire protection facilities" means fire trucks and apparatus, and fire stations, and any furnishings and equipment that are used with fire trucks and apparatus or fire stations and which can be capitalized.

"Fire protection project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development or users of the project and are not fire protection system improvements. No fire protection improvement or facility included in a capital improvement plan approved by the council shall be considered a fire protection project improvement.

"Fire protection system improvements" means fire protection facilities that are included in the capital improvement plan and are designed to provide service to service areas within the community at large, in contrast to fire protection project improvements.

"Impact" means any effect on public facilities or services attributable or directly related to the proposed development.

"Impact fee" means the fee or charge levied pursuant to this chapter as a condition of issuance of a building permit or development approval and which mitigates all or any portion of an impact. Impact fee does not include a reasonable permit or application fee.

"Low-income housing" means housing with a monthly housing expense, that is no greater than thirty percent of eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development.

"Mitigation" or "mitigate" means an action which avoids any negative or adverse impact, or which ameliorates any such impact.

"Non-Residential" or "Non-Residential Development" means any and all types of construction that do not constitute Residential Construction or residential Development.

"Owner" means the owner of record of real property, although when real property is being purchased under a real estate contract, the purchaser shall be considered the owner of the real property if the contract is recorded.

"Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in the capital improvement plan shall be considered a project improvement.

"Proportionate share" means that portion of the cost of public facility improvements that are reasonably related to the service demands and needs of new development.

"Public facilities" means any city-owned, operated or contracted facility or service, in whole or in part, whether existing or planned, including but not limited to parks, utilities, recreational facilities, schools, libraries, playgrounds, streets, transportation facilities, open spaces, police, fire or garbage services, buildings and all such facilities or services, including related equipment.

"Residential" or "Residential Development" means all types of construction intended for human habitation. Unless otherwise specified herein, this shall include, but is not limited to, single-family, duplex, triplex, mobile homes and other multifamily residential development.

**Comment [CDB3]:** This was added because single-family residential development is a category of residential development that is singled out for the fire sprinkler credit.

"Service area" means a geographical area in which a defined set of public facilities provides services to developments within the area. Service areas may be separately described for each type of public facility.

**Comment [CDB4]:** This was added to make clear that mobile homes are included as residential development.

"System improvements" means public facilities that are included in the capital improvement plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

### 3.50.050 - Applicability of impact fee.

A. This chapter shall be applied as part of and integrated into the city's land use and development approval procedures, so that mitigation decisions under this chapter



are incorporated into development approval and permitting decisions at the earliest stage, thus permitting public review and comment.

B. This chapter shall be uniformly applicable to development activity that occurs within a designated service area.

C. Mitigation conditions imposed pursuant to this chapter shall be deemed conditions of the development permit and may be enforced by any suitable means.

#### 3.50.060 - Identification of development impacts.

A. Impact Identification Required. Before a development is given approval or is allowed to proceed, the city shall identify all impacts of the development, if any.

B. Impact Criteria. The city shall consider, but not be limited to, the following items in identifying or quantifying an impact, to the extent the items are applicable to the development.

1. The provisions of this code, the capital improvement plan, or any other adopted city plan;
2. Technical documents which discuss or analyze public facilities or services or adopted city plans;
3. Pre-development versus post-development demands upon public facilities and services;
4. Impact of the development on the size, number, capacity, condition, availability, proximity or other characteristics of public facilities and services;
5. Likelihood that an impact from a development, when aggregated with impacts of future development in the immediate vicinity, will require mitigation due to its cumulative effect;
6. Nature, quantity, cost, identified completion date, if any, and pro rata share if applicable, of contributions, improvements or dedications to public facilities and services, including those offered or suggested by the applicant;
7. Likelihood that the development will benefit from or use public facilities and services;
8. Existing or planned alternatives for financing capital improvements;
9. Whether the development furthers the public health, safety and general welfare;

10. Likelihood of city growth through annexation of areas adjacent to the development;
11. Whether impacts have been previously mitigated, in whole or in part;
12. Any other criteria useful for identifying and quantifying impacts deemed relevant by the city;
13. The cost of system improvements previously incurred by the city to the extent that the proposed growth and development is served by the previously constructed improvements.

C. Identification Cost. The cost of any special investigation, analysis or report necessary for the identification of impacts related to any development shall be borne by the applicant.

#### 3.50.070 - Mitigation review/Alternatives.

A. Mitigation of Impacts Required. The city shall not give development approval unless satisfactory provisions have been made to mitigate identified impacts and such provisions meet the policies and goals of this chapter and of the city's development regulations.

B. Review. The city shall review the identified impacts and any proposed alternatives for mitigating such impacts to determine whether the policies and goals of this chapter and of the city's development regulations can be met.

C. Mitigation Alternatives. The following alternatives or any combination, either on-site or off-site, may be used as necessary to mitigate or avoid identified impacts. The list is not exhaustive and does not purport to describe all available and viable alternatives. Other alternatives may be used as necessary to achieve the policies and goals of this chapter and of the city's development regulations.

1. Modification of the development activity so that identified impacts are avoided;
2. Dedication of land to the city for public purposes;
3. Contributions or payments offered by the applicant for use in mitigating on-site or off-site impacts as authorized under RCW 82.02.020. Contributions pursuant to RCW 82.02.020 shall not be required as a condition of development approval and shall be subject to the limitations of RCW 82.02.020 as now existing or hereafter amended; provided, however, that persons entitled to a refund and/or payment of interest may

voluntarily and in writing waive their right to such refund or payment in whole, in part, or for a specified time period to facilitate completion of the designated improvement. No such waiver shall be required as a condition of development approval, but when made shall be recorded with the King County department of records and shall be binding upon subsequent owners;

4. Environmental mitigation agreements under the authority of RCW Chapter 43.21C and Chapter 19.04 of this code. Such agreements shall not fall within the purview of RCW 82.02.020 and shall be distinct from voluntary contribution agreements;
5. Impact fees assessed pursuant to this chapter. Such fees, if assessed, shall be used only to fund system improvements. Formulas for determining the amount of such fees will be adopted, from time to time, by ordinance of the city council;
6. Contractual arrangements between the applicant and the city permitting use by the general public of private facilities or services within the development;
7. Contractual arrangements between the applicant and the city whereby the applicant constructs, funds or commits to construct or fund public facilities and services which mitigate identified impacts;
8. Any contractual agreement, including but not limited to latecomers agreement, no protest agreement, maintenance agreement or funding agreement which mitigates any identified impact;
9. Any alternative offered by the applicant which is satisfactory to the city and has the effect of mitigating identified impacts;
10. If the city determines that identified impacts would be best mitigated on a regional basis, the city may independently or in conjunction with any other jurisdiction prepare or have prepared a cost estimate and define a benefit area for the regional improvement. The fair share of the total costs to be allocated to the proposed development shall then be determined.

#### 3.50.080 - Imposition of impact fee.

A. No building permit shall be issued for a development activity in a designated service area as herein defined unless the impact fee is calculated, imposed and collected pursuant to this chapter.

B. \_\_\_\_\_

**Comment [CDB5]:** The following section was modified to provide that impact fees will be paid at the time of building permit issuance rather than at preliminary plat approval or short plat approval. This change ensures that plats that may not develop for several years will be subject to increases in impact fees that occur after plat, mpd or site plan approval but prior to issuance of building permits. In addition, it also allows the developer to delay these costs until individual lots are ready for development. The down side is that delay in payment will mean that funds are not available to make improvements when preliminary plat, site plan or mpd approval, is given.



1. For single-family/duplex residential subdivisions and short subdivisions hereinafter approved, the per lot impact fee shall be calculated and assessed ~~at the time of final plat or short plat approval, noted on the face of the final plat,~~ and collected on a per lot basis at the time of building permit application; ~~provided, however, if an improvement for which an impact fee is being collected must be constructed prior to occupancy of any phase of the development, then the impact fee for said improvement shall be paid at the time of assessment.~~
  2. For new multifamily and nonresidential development hereinafter approved, the impact fee shall be calculated and assessed at the time of ~~site plan approval and collected at the time of building permit application;~~ provided, however, if an improvement for which an impact fee is being collected must be constructed for occupancy of any phase of the development, then the impact fee for said improvement shall be paid at the time of impact fee assessment. If the nature of the development activity is then not sufficiently defined, then calculation and assessment of the impact fee shall be deferred until the building permit application is submitted.
  3. ~~Notwithstanding the foregoing, the fee shall be recalculated for building permit applications filed more than three years following the date of the applicable final plat approval, short plat approval or site plan approval, using the city regulations and capital facility and impact fees in effect at the time the building permit application is submitted.~~
  4. ~~If a building permit for a model home is allowed prior to the time of final plat or short plat approval, then the developer shall pay the impact fee in effect at the time the model home building permit application is submitted.~~
- ~~C. For development activity not necessitating or having previously been granted preliminary plat, preliminary short plat or site plan approval, the impact fees shall be calculated, assessed and collected at the time of building permit application.~~
- ~~D.~~ For development activity not necessitating a building permit, the impact fee shall be calculated, assessed and collected at the time of site plan approval.
- ~~E.D.~~ For mobile home parks, the impact fee shall be calculated, imposed and collected at the time of site plan approval, provided, if the mobile home park is approved for construction in phases, then the fee for the first phase shall be paid at the time of site plan approval, and the fee for each subsequent phase shall be paid prior to the issuance of permits for construction of improvements within that phase.
- E. Imposition of Fire Protection Facility Impact Fees. The City hereby imposes and shall collect fire protection facility impact fees, calculated in accordance

with BDMC 3.50.100, on every applicant for a building permit within the service area, except as provided in BDMC 3.50.120 (Exemptions).

E. Any fire protection impact fee imposed shall be reasonably related to the impact caused by the new development and shall not exceed a proportionate share of the cost of fire protection facilities that are reasonably related to the new development.

G. The fire protection impact fee imposed may include costs for fire protection facility improvements previously incurred by the City to the extent that new development will be served by the previously constructed improvements; provided, that such fee shall not be imposed to correct any system improvement deficiencies.

H. The fire protection impact fee imposed for any development shall be calculated and determined by the procedures established by this chapter and based on the methods set forth in BDMC 3.50.100.

#### 3.50.090 - Establishment of development service areas.

Service areas, which may vary by type of public facility, are to be established.

A. Such areas will provide a nexus between those paying the fees and receiving the benefits to ensure that those developments paying impact fees receive substantial benefits.

B. Service areas may be designated by the city council, by ordinance or through amendment to the capital improvement plan upon consideration of the following factors:

1. The comprehensive plan;
2. Standards for adequate public facilities incorporated in the capital improvement plan;
3. The projections for full development as permitted by land use ordinances and timing of development;
4. The need for funding unprogrammed capital improvements necessary to support projected development;
5. Such other factors as the city may deem relevant.

C. Fire Protection Service Area. The city hereby establishes, as the service area for fire protection facility impact fee, the corporate limits of the City of Black Diamond, including all property located within the corporate city limits. The scope of the Fire Protection Service Area is hereby found to be reasonable and established on the



basis of sound planning and engineering principles, the factors set forth in BDMC 3.50.090(A) and (B), and is found to be consistent with RCW 82.02.060, as described in the Fire Impact Fee Study.

### 3.50.100 - Calculation of impact fee.

A. Formulas for determining the amount of the impact fees assessed under this chapter will be adopted, from time to time, by ordinance of the city council. The city council shall hold a public hearing before adopting or amending impact fee formulas.

B. If the development for which approval is sought contains a mix of use, the impact fee must be separately calculated for each type of use.

C. Upon application by the ~~developer~~ applicant supported by studies and data, the impact fee may be reduced or eliminated if it is shown that either:

1. The formulas adopted by the city council do not accurately reflect the impact; or
2. Due to unusual circumstances:
  - a. Facility improvements identified for the applicable service are not reasonably related to the proposed development, or
  - b. Such facility improvements will not reasonably benefit the proposed development.

D. Prior to making an application for any development approval, an applicant, upon payment of the applicable fee, may request an impact fee determination, which determination shall be based upon information supplied by the applicant sufficient to permit calculation of the impact fee. The impact fee determination shall be binding upon the city for a period of six months unless there is a material change in either the development proposal or this chapter. The fee for a binding preapplication impact fee determination shall be ~~not less than fifty dollars, established by ordinance or resolution of the City Council.~~ The fee shall be the actual cost of making the determination, including all legal, administrative, engineering and planning fees, and shall be paid before the written determination is provided to the applicant.

**Comment [SP6]:** We will need an amendment to the fee schedule to implement the pre-application fees.

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E. Adoption of Fire Impact Fee Formula. The following fire protection facility impact fee formula shall be used to calculate base fire protection facility impact fees:

<u>Land Use</u>	<u>Fire Protection Impact Fee Formula</u>
<u>Residential</u>	<u>\$1,783.13 per dwelling unit</u>
<u>*Single Family Residential – With Fire</u>	<u>\$1,450.40 per dwelling unit</u>

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<u>Sprinkler System Credit</u>	
<u>Non-Residential</u>	<u>\$2.29 per square foot</u>

\*Note: The credit is to be given for the fire portion of the impact fee for single family residential, but not for the medical emergency portion of the impact fee. The single-family residential fire sprinkler system credit is 18.66% of the combined (fire plus emergency medical) impact fee per dwelling unit. See, BDMC 3.50.120(G)

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**Comment [CDB7]:** This has been added in response to the new legislative mandate to provide a credit for the fire portion of the impact fee.

F. Calculation of Square Footage. Non-residential fire protection facility impact fees shall be based upon the total square footage, rounded to the nearest whole number, included within the gross leasable area of the development subject to impact fees as measured by generally acceptable standards for measuring gross leasable area. For purposes of this section gross leasable area shall mean the total floor area designed for tenant occupancy and exclusive use, including any basements, mezzanines, or upper floors.

G. The base fire protection facility impact fee shall be adjusted from time to time as provided in BDMC 3.50.190.

### 3.50.120 - Impact fee exemptions.

A. Except as provided below, the following development activity shall be exempted from the payment of all impact fees imposed pursuant to this Chapter:

1. Remodeling, rehabilitation or other improvements to an existing structure or rebuilding a damaged or destroyed structure; provided that, there is no increase in the square footage space (for non-residential construction) or the number of dwelling units (for residential construction) resulting therefrom; provided further that, for rebuilding of a damaged or destroyed structure, the work is completed within 60 months of the date that the damage or destruction occurred;
2. Miscellaneous improvements which do not generate impact, including, but not limited to, fences, walls, residential swimming pools, and signs;
3. Demolition or moving of a structure;
4. Development Activity that meets the mitigation alternative requirements of BDMC 3.50.070; and
5. Placement of a mobile home within an approved mobile home park.

**Comment [CDB8]:** A sampling of surrounding communities with fire impact fees typically require reconstruction with a specific time period. The purpose of the time limitation is to ensure that loopholes are not created so that property owners can avoid impact fees by claiming to rebuild residential structures that historically existed on the site. Most cities have imposed either a twelve month or 24 month time period. My recollection is that during council comments, a 60 month time period was suggested.

**Comment [CDB9]:** These exemptions were removed from the exemption from the definition of permit and added here. We have kept this exemption because impact fees for mobile home parks are paid at the time of site plan approval. Thus, if placement of a mobile home in an approved park is not exempt, then there will be a double payment of impact fees. See BDMC 3.50.080(D).



B. The city council may exempt low-income housing, or designated development activities, with broad public purposes from any impact fees that would have been paid by such development activity; provided that such impact fees shall be ~~is~~ paid from public funds other than the impact fee fund and, provided further that, a low-income housing exemption granted under this section shall be conditioned upon the requirement that the applicant record a covenant in the manner set forth in subsection D below.

C. The City Council may also provide a full or partial exemption from impact fees for low-income housing in accordance with the following. The City Council may grant an exemption for low-income housing under this subsection (C) as follows

1. The City Council may grant a partial exemption of not more than eighty percent of impact fees, in which case there is no explicit requirement to pay the exempted portion of the fee from public funds other than impact fee accounts; or
2. The City Council may grant a full waiver, in which case the remaining percentage of the exempted fee must be paid from public funds other than impact fee accounts.

D. An exemption for low-income housing granted under subsection (B) of this section or this subsection (C) must be conditioned upon requiring the applicant to record a covenant that, except as provided otherwise by this subsection, prohibits using the property for any purpose other than for low-income housing. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion. Covenants required by this subsection must be recorded with the applicable county auditor or recording officer.

E. The City, in granting an exemption under subsection (B) of this section or this subsection (C) for low-income housing, may not collect revenue lost through granting an exemption by increasing impact fees unrelated to the exemption.

F. A school district that receives school impact fees must approve any exemption under subsection (B) of this section or this subsection (C).

G. A person installing a residential fire sprinkler system in a single-family home shall not be required to pay the fire operations portion of the fire protection facility impact fee. The exempted fire operations impact fee shall not include the proportionate share related to the delivery of emergency medical services. For purposes of this chapter, fire sprinkler system shall have the same meaning as that term is given in RCW 18.60.010.

H. The development approval authority shall be authorized to determine whether a particular development activity falls within an exemption identified in this section. Such determinations shall be subject to the appeals procedures set forth in BDMC 3.50.140.

#### 3.50.130 - Impact fee credits.

A. The ~~developer~~applicant shall be entitled to a credit against the applicable impact fee for the present value of any dedication of land, for improvement to or new construction of any system improvements provided by the ~~developer~~applicant (or the ~~developer~~applicant's predecessor in interest) to facilities that are/were identified in the capital improvement plan and that are required by the city as a condition of approval for the immediate development proposal, if such prior dedication, improvement or construction is located within the same service area as the immediate development proposal.

B. The amount of the credit shall be determined at the time of building permit issuance (or site plan approval where no building permit is required). In the event the amount of the credit is calculated to be greater than the amount of the impact fee due, the ~~developer~~applicant may apply such excess credit toward impact fees imposed on other developments within the same service area; provided, however if the improvement is one for which a latecomers agreement would be authorized, then the ~~developer~~applicant shall only be entitled to a latecomers agreement. In any event the city shall not be responsible for payment to the ~~developer~~applicant of any amount credited and not used.

C. The Development Approval Authority shall be authorized to review requests for impact fee credits under this section, and shall advise the applicant in writing of the grant or denial of the request. Such determinations shall be subject to the appeals procedures set forth in BDMC 3.50.140.

**Comment [CDB10]:** This section was added to be consistent with the process for determination of exemptions.

#### 3.50.140 - Appeals.

The determination of the development approval authority as to the applicability, ~~and/or the~~ amount of and/or credit against, an impact fee shall be appealable as provided for in this section.

A. The determination of the development approval authority shall be appealable to the ~~city council~~Hearing Examiner. Such appeal may be perfected by the proponent or any aggrieved party by giving notice to the city administrator within ten days of the decision being appealed. Review by the ~~city council~~Hearing Examiner shall be on a de novo basis; provided, however, where the city council is the development approval authority the only appeal shall be to the King County Superior Court pursuant to the provisions of subsection D of this section.

**Comment [cdb11]:** A sample of other neighboring cities with impact fees indicates that all establish a right to appeal to the Hearing examiner: Renton – HX; Issaquah – HX; Maple Valley – HX; Covington – HX; Enumclaw – HX (unclear if an appeal of HX can be filed with City Council); Orting – HX; Auburn – HX; and, Bonney Lake – HX.

This section was amended to establish the Hearing Examiner as the appellate body to hear appeals of exemption and credit determinations. The Decision of the Hearing Examiner is appealable to the Superior Court.



B. The notice of appeal shall be made upon a form to be supplied by the city administrator. A nonrefundable fee of two hundred fifty dollars shall be paid at the time the notice of appeal is submitted. A hearing shall then be scheduled before the ~~city council~~Hearing Examiner within thirty days of the filing of the notice of appeal and appeal fee.

C. The decision of the ~~city council~~Hearing Examiner shall be in writing and shall include findings of fact and conclusions to support the decision.

D. The decision of the ~~city council~~Hearing Examiner ~~shall be final unless, within ten calendar days, a party of record files and serves upon all city and all affected parties, a petition for writ of review with the King County Superior Court.~~may be appealed to Superior Court by filing a land use petition meeting the requirements set forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties as set forth in state law and within the 21-day time period as set forth in RCW 36.70C.040. Requirements for fully exhausting City administrative appeal opportunities must be fulfilled.

E. An applicant may pay the impact fee under protest pending appeal to avoid delays in the issuance of building permits.

#### 3.50.150 - Impact mitigation fee fund.

A. There is created a fund to be known as the "impact mitigation fee fund." The city clerk-treasurer shall establish separate accounts within such fund and maintain records for each such account whereby impact fees collected can be segregated by type of facility and by service area. All interest shall be retained in the account and expended for the purposes for which the impact fees were imposed.

B. By April of each year, the city clerk-treasurer shall provide a report for the previous calendar year on each impact fee account showing the source and amount of moneys collected, earned or received and system improvements that were financed in whole or in part by impact fees.

#### 3.50.160 - Expenditures.

Impact fees for system improvements shall be expended only in conformance with the capital improvement plan. Impact fees shall be expended or encumbered for a permissible use within ~~sixteen~~ years of receipt, unless there exists an extraordinary and compelling reason for fees to be held longer than ~~sixteen~~ years. Such extraordinary and compelling reasons shall be identified in written findings by the city council.

#### 3.50.170 - Refunds.

A. The current owner of property in which an impact fee has been paid may receive a refund of such fee if the city fails to expend or encumber the impact fees within ~~sixteen~~ years or when the fees were paid or such other period of time established pursuant to this section on public facilities intended to benefit the development activity for which the impact fees were paid. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out basis. The current owner likewise may receive a proportionate refund where the public funding of applicable service area projects by the end of such ~~sixteen~~-year period has been insufficient to satisfy the ratio of public to private funding for such service area as established in the capital improvement plan. The city shall notify potential claimants by first class mail deposited with the United States Postal Service addressed to the last known address of claimants.

B. The request for refund money must be submitted to the city council in writing within one year of the date the right to claim a refund arises or the date the notice is given, whichever is later. Any impact fees that are not expended within these time limitations, and for which no application for refund has been made within this one-year period, shall be retained and expended on the indicated capital improvements. Refunds of impact fees under this subsection shall include interest earned on the impact fees.

C. An ~~developer~~applicant may request and shall receive a refund, including interest earned on the impact fees, when the building permit for which the impact fee has been paid has lapsed for failure to commence construction.

#### 3.50.180 - Impact fee as additional and supplemental requirement.

Nothing in this title shall preclude the city from requiring the applicant or the proponent of a development activity to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or Chapter 58.17 RCW, governing plats and subdivisions. Compliance with this chapter and/or payment of fees under this chapter shall not constitute evidence of a determination of transportation concurrency. The impact fee is additional and supplemental to, and not in substitution of, any other requirements imposed by the city on the development of land or the issuance of building permits; provided, that any other such city development regulation which would require the ~~developer~~applicant to undertake dedication or construction of a facility contained within the city capital improvement plan shall be imposed only if the ~~developer~~applicant is given a credit against impact fees as provided for in Section 3.50.130.

#### 3.50.190 – Review and Adjustment of Rates.

1. The fees and rates set forth in the Rate Study may be reviewed and adjusted by the city council as it deems necessary and appropriate in conjunction with the

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annual budget process so that adjustments, if any, will be effective at the first of the calendar year subsequent to budget period under review.

2. Annually, and prior to the first day of January, the community development director shall calculate and adjust the Impact fees by the same percentage change as in the most recent annual change of the Construction Cost Index published in the Engineering News Record. )—A copy of the adjusted impact fee rates shall be provided to the City Council, and kept on file with the City Clerk, but the adjusted rates shall become effective without further Council review.

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**Comment [CDB12]:** This language accepts the first option in the prior draft with minor revisions.

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Section 2. Severability. Should any section, paragraph, sentence, 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 regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON**  
THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

CITY OF BLACK DIAMOND

\_\_\_\_\_  
Rebecca Olness, Mayor

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Brenda Martinez, City Clerk

Approved as to form:

\_\_\_\_\_  
Chris D. Bacha,  
Kenyon Disend PLLC  
City Attorney

Filed with the City Clerk:  
Passed by the City Council:  
Ordinance No.  
Date of Publication:  
Effective Date:

Please publish in the next two (2) consecutive editions of the Maple Valley/Covington Reporter.

**CITY OF BLACK DIAMOND  
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the Black Diamond City Council will be conducting a public hearing on the proposed Fire Impact Fee Ordinance. The hearing will take place on Thursday, September 6, 2012 at 7:00 p.m. at the Black Diamond City Council Chambers, 25510 Lawson Street, Black Diamond, WA. The purpose of the hearing is to hear public testimony on the above listed subject. Written comments may be submitted to the Clerk's office at 24301 Roberts Drive, PO Box 599, Black Diamond, WA, 98010 no later than 5:00 p.m. on September 6, 2012, otherwise they must be submitted at the hearing. All documents related to the hearing are available for inspection or purchase at City Hall, 24301 Roberts Drive, or on the City's website at <http://www.ci.blackdiamond.wa.us> under "In the Spotlight".

Dated this 23rd day of August, 2012  
Brenda L. Martinez, CMC  
City Clerk

# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION		
<b>SUBJECT:</b> <b>Ordinance No. 12-977, approving the pass through King County sewer rate increase effective January 1, 2013</b>	<b>Agenda Date: September 6, 2012</b>	
	<b>AB12-067</b>	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator – Pete Butkus	
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	<b>X</b>
	Public Works – Seth Boettcher	
	Economic Devel. – Andy Williamson	
Cost Impact:		
Fund Source: Sewer Fund		
Timeline: Effective January 1, 2013		
<b>Attachments: Proposed Ordinance No. 12-977; Metro KC Council letter and Ordinance; King County rate increase schedule; Rate comparison details</b>		
<b>SUMMARY STATEMENT:</b> <p>A public hearing was held August 16, 2013 on the proposed 2013 pass through Metropolitan King County sewer rate increase of \$3.69 per month per residential equivalent (ERU) effective January 1, 2013.</p> <p>This is a pass through rate increase that King County has imposed for all their sewer system customers. The County rate increase is designed to recover the cost of operating their collection and treatment system as well as debt service for previous capital improvements. The King County amount of \$39.79 per month is collected by the City from each sewer customer and remitted monthly to the County per our contract. The Metropolitan King County Council approved the sewer rate increase per their ordinance 17343 on June 11, 2012.</p> <p>The King County sewer rate is proposed to cover both 2013 and 2014 with the next King County rate increase not planned until 2015.</p> <p>City staff is not requesting an increase in the city portion of the Sewer Utility operating cost. The current Lifeline discount to our Senior low income or disabled Sewer Utility customers would remain intact. This Lifeline provision applies only to the City part of the monthly utility bill and gives eligible customers a 50% discount on the city services provided.</p>		
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b> The pass through King County sewer rate increase was reviewed by the Public Works Committee at their July 24, 2012 meeting and the Finance Committee at their July 26, 2012 meeting. Both committees recommended moving forward through the adoption process.		
<b>RECOMMENDED ACTION:</b> <b>MOTION to adopt</b> Ordinance No. 12-977, approving the King County pass through sewer rate increase effective January 1, 2013.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
September 6, 2012		

**ORDINANCE NO. 12-977**

**AN ORDINANCE OF THE CITY OF BLACK DIAMOND,  
KING COUNTY, WASHINGTON, RELATING TO  
ADJUSTMENTS TO SEWER CHARGES; AMENDING  
SECTION 13.24.010 OF THE BLACK DIAMOND  
MUNICIPAL CODE; PROVIDING FOR SEVERABILITY;  
AND ESTABLISHING AN EFFECTIVE DATE**

**WHEREAS**, the Metropolitan King County Council approved a sewer rate increase on June 11, 2012 with Ordinance 17343 for their contracting customers effective January 1, 2013; and

**WHEREAS**, a public hearing was held on August 16, 2012, to received public input regarding the Metropolitan King County sewer pass through rate increase; and

**WHEREAS**, in order to meet contract obligations to pay Metropolitan King County for our contracted collection and treatment services, the City is in need of increasing its pass through sewer rate by the amount of the Metropolitan King County sewer rate increase to be effective January 1, 2013;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, ORDAINS AS FOLLOWS:**

**Section 1.** Section 13.24.010 of the Black Diamond Municipal Code is hereby amended to read as follows:

13.24.010 Monthly Rates Designated. Effective January 1, 2013 sewer service charges shall be as follows:

A. For residential customers served by a single meter to the residence, \$58.95;

B. For residential customers served by a single meter who have been approved under the Lifeline Utility Program, will receive a discount on the city share of the sewer rate as shown in the City fee schedule.

C. For all other users, including but not limited to commercial users, multi-family residences and mobile home parks, served by a single water meter, \$58.95 per month for the first unit, plus \$10.00 for each additional unit served by that water meter, plus \$5.91 for each 100 cubic feet of water consumed per month in excess of 750 cubic feet. For purposes of this section, the word "unit" shall be defined as any dwelling unit, home, condominium, mobile home, manufactured home or location at which business is conducted.

D. Any user subject to an overage charge may apply to the City for installation of a separate meter to monitor water usage solely for irrigation and landscaping purposes. The individual or entity requesting

such a meter shall pay the City for the cost of the meter and cost of installation. Water consumed for these purposes shall not be subject to the overage charge.

E. For purposes of this chapter home occupations shall not be considered a second use.

F. Federal, State and local taxes, where applicable, shall be added to the sums as set forth above.

**Section 2.** This Ordinance shall be effective at 12:01 a.m. on January 1, 2013. A summary of this Ordinance may be published in lieu of publishing the Ordinance in its entirety.

**Section 3.** If any provision of this Ordinance is determined to be invalid or unenforceable for any reason, the remaining provisions of this Ordinance shall remain in force and effect.

Introduced the 16th day of August, 2012.

Passed by a majority of the City Council at a meeting held on the 6th day of September, 2012.

\_\_\_\_\_  
Mayor Rebecca Olness

Attest:

\_\_\_\_\_  
Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Chris Bacha, City Attorney

Published: \_\_\_\_\_

Posted: \_\_\_\_\_

Effective Date: \_\_\_\_\_



**King County**

**Metropolitan King County Council**

Anne Noris, Clerk of the Council

King County Courthouse

516 Third Avenue, Room 1200

Seattle, WA 98104-3272

Tel: 206-296-1020

Fax: 206-205-8165

TTY/TDD: 206-296-1024

Email: [anne.noris@kingcounty.gov](mailto:anne.noris@kingcounty.gov)

Web: [www.kingcounty.gov/council/clerk](http://www.kingcounty.gov/council/clerk)

June 25, 2012

Ms. Brenda Martinez, Asst. City Administrator  
City of Black Diamond  
P.O. Box 599  
Black Diamond, WA 98010

Dear Ms. Martinez,

Monetary Requirements for 2013

The Metropolitan King County Council approved the sewer rate for 2013 and the sewage treatment capacity charge for 2013 with the adoption of Ordinance 17343 on June 11, 2012. A copy of Ordinance 17343 is enclosed for your information.

If you have any questions, please call the Clerk of the Council's Office at 206 296-1020.

Sincerely,

Anne Noris  
Clerk of the Council

Enclosure



KING COUNTY  
Signature Report

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

June 12, 2012

Ordinance 17343

Proposed No. 2012-0144.3

Sponsors McDermott

1 AN ORDINANCE determining the monetary requirements  
2 for the disposal of sewage for the fiscal year beginning  
3 January 1, 2013, and ending December 31, 2013, setting  
4 the sewer rate for the fiscal year beginning January 1, 2013,  
5 and ending December 31, 2013, and approving the amount  
6 of the sewage treatment capacity charge for 2013, in  
7 accordance with RCW 35.58.570; and amending Ordinance  
8 12353, Section 2, as amended, and K.C.C. 4A.--.--, and  
9 Ordinance 11398, Section 1, as amended, and K.C.C.  
10 28.84.055.

11 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

12 SECTION 1. Ordinance 12353, Section 2, as amended, and K.C.C. 4A.--.-- are  
13 each hereby amended to read as follows:

14 A. Having determined the monetary requirements for the disposal of sewage, the  
15 council hereby adopts a ((2012)) 2013 sewer rate of ((~~thirty-six dollars and ten~~)) thirty-  
16 nine dollars and seventy-nine cents per residential customer equivalent per month. Once  
17 a sewer rate ordinance becomes effective, the clerk of the council is directed to deliver a  
18 copy of that ordinance to each agency having an agreement for sewage disposal with  
19 King County.



20 B. The King County council approves the application of Statement of Financial  
21 Accounting Standards No. 71 (FAS 71) to treat pollution remediation obligations as  
22 regulatory assets, and establish a rate stabilization reserve for the purpose of leveling  
23 rates between years.

24 C. As required for FAS 71 application, amounts are to be placed in the rate  
25 stabilization reserve from operating revenues and removed from the calculation of debt  
26 service coverage. The reserve balance shall be an amount at least sufficient to maintain a  
27 level sewer rate between ~~((2011 and 2012))~~ 2013 and 2014, and shall be used solely for  
28 the purposes of: maintaining the level sewer rate in ~~((2012))~~ 2014; and if additional  
29 reserve balance is available, moderating future rate increases beyond ~~((2012))~~ 2014. The  
30 estimated amount of the reserve, as shown in the financial forecast, Attachment A to  
31 ~~((Ordinance 17102))~~ this ordinance, shall be revised in accordance with the ~~((2012))~~ 2013  
32 adopted budget and financial plan. If the reserve needs to be reduced to meet debt  
33 service coverage requirements for ~~((2011))~~ 2012, the county executive shall notify the  
34 council of the change by providing an updated financial forecast.

35 D. The executive shall provide monthly cost reports to the council on Brightwater  
36 as outlined in K.C.C. 28.86.165.

37 SECTION 2. Monetary requirements for the disposal of sewage as defined by  
38 contract with the component sewer agencies for the fiscal year beginning January 1,  
39 2013, and ending December 31, 2013. The council hereby determines the monetary  
40 requirements for the disposal of sewage as follows:

41 Administration, operating, maintenance repair and replace (net of other income):  
42 \$65,697,551.

43 Establishment and maintenance of necessary working capital reserves:

44 \$22,378,007.

45 Requirements of revenue bond resolutions (not included in above items and net of  
46 interest income): \$294,445,033.

47 TOTAL: \$337,764,577.

48 SECTION 3. Ordinance 11398, Section 1, as amended, and K.C.C. 28.84.055 are  
49 each hereby amended as follows:

50 A. The amount of the metropolitan sewage facility capacity charge adopted by  
51 K.C.C. 28.84.050.O. that is charged monthly for fifteen years per residential customer or  
52 residential customer equivalent shall be:

53 1. Seven dollars for sewer connections occurring between and including January  
54 1, 1994, and December 31, 1997;

55 2. Ten dollars and fifty cents for sewer connections occurring between and  
56 including January 1, 1998, and December 31, 2001;

57 3. Seventeen dollars and twenty cents for sewer connections occurring between  
58 and including January 1, 2002, and December 31, 2002;

59 4. Seventeen dollars and sixty cents for sewer connections occurring between  
60 and including January 1, 2003, and December 31, 2003;

61 5. Eighteen dollars for sewer connections occurring between and including  
62 January 1, 2004, and December 31, 2004;

63 6. Thirty-four dollars and five cents for sewer connections occurring between  
64 and including January 1, 2005, and December 31, 2006;

65           7. Forty-two dollars for sewer connections occurring between and including  
66   January 1, 2007, and December 31, 2007;

67           8. Forty-six dollars and twenty-five cents for sewer connections occurring  
68   between and including January 1, 2008, and December 31, 2008;

69           9. Forty-seven dollars and sixty-four cents for sewer connections occurring  
70   between and including January 1, 2009, and December 31, 2009;

71           10. Forty-nine dollars and seven cents for sewer connections occurring between  
72   and including January 1, 2010, and December 31, 2010;

73           11. Fifty dollars and forty-five cents for sewer connections occurring between  
74   and including January 1, 2011, and December 31, 2011; ~~((and))~~

75           12. Fifty-one dollars and ninety-five cents for sewer connections occurring  
76   between and including January 1, 2012, and December 31, 2012; and

77           13. Fifty-three dollars and fifty cents for sewer connections occurring between  
78   and including January 1, 2013, and December 31, 2013.

79           B.1. In accordance with adopted policy FP-15.3.d. in the Regional Wastewater  
80   Services Plan, K.C.C. 28.86.160.C., it is the council's intent to base the capacity charge  
81   upon the costs, customer growth and related financial assumptions used in the Regional  
82   Wastewater Services Plan.

83           2. In accordance with adopted policy FP- 6 in the Regional Wastewater Services  
84   Plan, K.C.C. 28.86.160.C, the council hereby approves the cash balance and reserves as  
85   contained in the attached financial plan for ~~((2012))~~ 2013.

86           3. In accordance with adopted policy FP- 15.3.c., King County shall pursue  
87   changes in state legislation to enable the county to require payment of the capacity charge

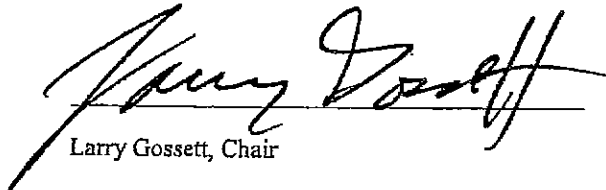
88 in a single payment, while preserving the option for new ratepayers to finance the  
89 capacity charge.

90


Ordinance 17343 was introduced on 5/14/2012 and passed as amended by the  
Metropolitan King County Council on 6/11/2012, by the following vote:

Yes: 8 - Mr. Phillips, Mr. von Reichbauer, Mr. Gossett, Ms. Hague,  
Ms. Patterson, Ms. Lambert, Mr. Ferguson and Mr. McDermott  
No: 0  
Excused: 1 - Mr. Dunn


KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

  
Larry Gossett, Chair

ATTEST:

  
Anne Noris, Clerk of the Council

APPROVED this 15 day of JUNE, 2012.

  
Dow Constantine, County Executive

RECEIVED  
2012 JUN 18 PM 3:10  
CLERK  
KING COUNTY COUNCIL

Attachments: A. Financial Plan for 2013 Amended Proposed Sewer Rate, Revised June 11, 2012

ATTACHMENT A: Wastewater Treatment Division Financial Plan for the 2013 Amended Proposed Sewer Rate, Revised June 11, 2012 17343

	2011	2012	2013	2014	2015	2016	2017	2018
	Unaudited	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast
RESIDENTIAL CUSTOMER EQUIVALENTS (RCEs)								
MONTHLY RATE	707.28	707.28	707.28	709.05	712.59	716.15	721.53	728.94
% Increase	\$36.10	\$36.10	\$39.79	\$39.79	\$44.26	\$44.26	\$45.09	\$45.09
		0.0%	10.2%	0.0%	11.2%	0.0%	1.1%	0.7%
BEGINNING OPERATING FUND	61,368	86,866	72,262	50,153	21,496	16,774	13,701	14,249
OPERATING REVENUE:								
Customer Charges	308,407	306,393	337,711	338,555	378,504	380,396	387,650	393,339
Investment Income	1,720	1,060	996	1,015	1,131	4,988	8,562	11,541
Capacity Charge	48,693	43,774	46,338	48,351	54,038	59,638	65,907	72,446
Rate Stabilization *	(25,500)	15,900	22,600	29,100	5,300	3,600		
Other Income	7,927	9,188	9,492	10,968	11,187	11,411	11,639	11,988
TOTAL OPERATING REVENUES	339,247	376,314	417,137	428,989	450,160	460,034	473,759	489,315
OPERATING EXPENSE	(103,862)	(116,620)	(121,528)	(125,857)	(131,742)	(137,012)	(142,492)	(148,192)
DEBT SERVICE REQUIREMENT PARITY DEBT	(167,517)	(197,355)	(222,534)	(227,535)	(234,684)	(240,519)	(248,352)	(256,455)
SUBORDINATE DEBT SERVICE	(12,684)	(15,689)	(16,611)	(16,728)	(23,942)	(25,554)	(29,626)	(33,913)
DEBT SERVICE COVERAGE RATIO PARITY DEBT **	1.41	1.32	1.33	1.33	1.36	1.34	1.33	1.33
DEBT SERVICE COVERAGE RATIO TOTAL PAYMENTS	1.31	1.15	1.15	1.15	1.15	1.15	1.15	1.15
INTER-FUND LOAN REPAYMENTS	(20,300)	(20,090)	(20,030)	(433)	(589)	(527)	(548)	(570)
LIQUIDITY RESERVE CONTRIBUTION	(18)	(1,276)	(491)	(58,436)	(59,203)	(56,423)	(52,741)	(50,186)
TRANSFERS TO CAPITAL	(34,866)	(25,274)	(35,944)	(58,436)	(59,203)	(56,423)	(52,741)	(50,186)
RATE STABILIZATION RESERVE *	76,500	60,800	38,000	8,900	3,600			
OPERATING LIQUIDITY RESERVE BALANCE	10,366	11,662	12,153	12,586	13,174	13,701	14,249	14,819
OPERATING FUND ENDING BALANCE	86,866	72,262	50,153	21,486	16,774	13,701	14,249	14,819
CONSTRUCTION FUND								
BEGINNING FUND BALANCE	5,000	95,579	5,461	5,381	5,000	5,000	5,000	5,000
REVENUES:								
Parity Bonds	245,000	80,000	55,000	81,699	115,818	104,912	122,995	127,541
Variable Debt Bonds	78,380	15,000	85,000	10,000	10,000	14,558	9,082	9,172
Grants & Loans	8,233	16,085	14,510	784				
Other	2	500	500	500	500	500	500	500
Transfers From Operating Fund	34,866	25,274	35,944	58,436	59,203	56,423	52,741	50,186
TOTAL REVENUES	366,482	136,859	170,954	151,419	185,519	176,393	185,317	187,359
CAPITAL EXPENDITURES	(273,262)	(208,644)	(166,181)	(144,856)	(174,845)	(175,418)	(174,852)	(176,590)
DEBT ISSUANCE COSTS	(1,874)	(554)	(1,425)	(1,684)	(2,368)	(2,171)	(2,505)	(2,587)
BOND RESERVE TRANSACTIONS	11,547	(20,795)	(3,428)	(5,260)	(7,456)	2,246	(7,918)	(8,211)
DEBT SERVICE, CAPITALIZED INTEREST RESERVE ADJUSTMENTS	(28,795)	(7,366)			(1,051)	(1,051)		
ENDING FUND BALANCE	16,481	6,381						
CONSTRUCTION FUND RESERVES								
Bond & Loan Reserves	95,579	5,461	5,381	5,000	5,000	5,000	5,000	5,000
Policy Reserves	180,424	181,218	184,646	189,906	198,412	197,217	205,136	213,346
TOTAL FUND RESERVES	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
TOTAL FUND BALANCE	175,424	196,218	199,646	204,906	213,412	212,217	220,136	228,346
CONSTRUCTION FUND BALANCE	271,002	201,679	205,027	209,906	218,413	217,217	225,136	233,346

\* This revenue is accounted for as a regulatory asset to be deferred to future years in accordance with FAS-71.

\*\* This includes a Regulatory Asset for a \$53.9 million estimate of Environmental Remediation Liability in accordance with FAS-71 which will be amortized over a 30-year average bond term.

## City of Black Diamond, Washington

Monthly Sewer rates with proposed Metro King County rate increase effective January 1, 2013.

Black Diamond Residential Customers	Proposed			
	2011	2012	2013 change \$	Change %
Metro King County	\$36.10	\$36.10	\$39.79	\$3.69 10.2%
Black Diamond Maintenance	\$19.16	\$19.16	\$19.16	\$0.00 0.0%
Total Sewer rate	\$55.26	\$55.26	\$58.95	\$3.69

Black Diamond Lifeline Customers	Proposed			
	2011	2012	2013 change \$	Change %
Metro King County	\$36.10	\$36.10	\$39.79	\$3.69 10.2%
Black Diamond Mtc	\$9.58	\$9.58	\$9.58	\$0.00 0.0%
Total Sewer rate	\$45.68	\$45.68	\$49.37	\$3.69

Soos Creek Water & Sewer Customers	Proposed			
	2012	2013 change \$	Change %	
Metro King County	\$36.10	\$39.79	3.69	10.2
Soos Creek Sewer Maintenance	\$16.05	\$16.05		
Total Sewer rate	\$52.15	\$55.84	3.69	

Cedar River Sewer District Customers	Proposed			
	2012	2013 change \$	Change %	
Metro King County	\$36.10	\$39.79	3.69	10.2
Cedar River Sewer Maintenance	\$19.57	\$19.57		
Total Sewer rate	\$55.67	\$59.36	3.69	

Phone calls to Soos Creek Sewer District and Cedar River Sewer District confirmed that they will pass through the Metro increase of \$3.69 per month effective January 1, 2013

Black Diamond residence and Cedar River Sewer District residence pay nearly identical rates. Soos Creek Sewer Customers pay 3.11 per month less in their total Monthly charge. Both districts said that they do not review their maintenance portion of their rates until late fall when they review their 2013 operating Budgets.

City of Enumclaw	Proposed		
	2012	2013 change \$	Change %
Base minimum	\$26.07		
\$7.75 per 100 Cu Ft @800 Cu Ft	\$62.00		
Total Sewer rate	\$88.07		

City of Enumclaw does not contract with Metro King County, but has their own Sewerage Collection and treatment. They have a different rate structure, and their rates are calculated each month based on the Cubic Feet of water consumption. In the summer rates would probably be higher as more water is used. Staff were on vacation, so were not able to determine if any rate increases are planned.

# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION		
<b>SUBJECT:</b> <b>Resolution No. 12-829, approving the City of Black Diamond's Shoreline Master Program and directing the Mayor to submit the SMP to the Department of Ecology for final review and acceptance.</b>	<b>Agenda Date: September 6, 2012</b>	
	<b>AB12-068</b>	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator – Pete Butkus	
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Public Works – Seth Boettcher	
	Ec. Devel/PW. – Andy Williamson	
Cost Impact: \$70,000	Police – Jamey Kiblinger	
Fund Source: Department of Ecology Grant	Court – Stephanie Metcalf	
Timeline: N/A	Comm. Dev. – Steve Pilcher	<b>X</b>
<b>Attachments: Proposed Resolution No. 12-829 w/appendices</b>		
<b>SUMMARY STATEMENT:</b> <p>The City of Black Diamond is required to update its Shoreline Master Program in accordance with Washington Administrative Code 173-26. Under State law, waterbodies over 20 acres in size (e.g., Lake Sawyer) are considered Waters of the State and are required to plan under the Shoreline Management Act of 1972 and subsequent revisions.</p> <p>The City entered into a contract with the Department of Ecology in July of 2009 for \$60,000 in order to complete this process. The City selected the consulting firm of AHBL, Inc. to provide assistance through this process. Staff and the consultant worked with a Citizens' Advisory Committee in drafting the SMP. Through a Public Participation Plan, citizens advised on what they'd like to see included or excluded in the Draft Master Program, while meeting the State standard of meeting "no net loss of ecological function" as the updated Master Program is required to ensure. Public hearings were held by the Planning Commission and City Council to allow for additional Public comment on the Draft Shoreline Master Program. Changes were made by both the Planning Commission and City Council based on this input and recommendations by City Staff. The City Council conducted a worksession on July 19, 2012 and directed staff to bring forth a revised preliminary Shoreline Master Program for approval and to authorize the submission of the required materials for Ecology's review and acceptance.</p>		
<b>COMMITTEE REVIEW AND RECOMMENDATION: N/A</b>		
<b>RECOMMENDED ACTION: MOTION to adopt Resolution 12-829, approving the City of Black Diamond's preliminary Shoreline Master Program and advising the Mayor to forward these materials on to the Department of Ecology in accordance with Phase 5, deliverables of the contract entered into with the Department under contract #G1000014, dated July 31, 2009.</b>		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
September 6, 2012		

## **RESOLUTION NO. 12-829**

### **A RESOLUTION OF THE CITY COUNCIL OF BLACK DIAMOND, WASHINGTON, GRANTING PRELIMINARY APPROVAL OF THE AMENDED SHORELINE MASTER PROGRAM; DIRECTING THE MAYOR TO FORWARD THE DOCUMENTS COMPRISING THE SHORELINE MASTER PROGRAM, TOGETHER WITH ALL REQUIRED SUPPORTING MATERIALS, TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY FOR REVIEW AND APPROVAL**

**WHEREAS**, the people of the State of Washington enacted the Shoreline Management Act by a vote of the people in 1971; and

**WHEREAS**, the State of Washington Shoreline Management Act (RCW 90.58), adopted in 1972, recognizes that “shorelines are among the most valuable and fragile” resources of the State, and that to protect the public interest in preserving these shorelines, the State and local governments must establish a coordinated planning program to address the types and effects of development occurring along the State’s shorelines; and

**WHEREAS**, the broad policies of the Shoreline Management Act are to encourage water-dependent uses, protect shoreline natural areas and promote public access; and

**WHEREAS**, the City of Black Diamond adopted its own version of a Shoreline Master Program in 1978, but did not identify, at the time, Shorelines of Statewide Significance within its corporate borders; and

**WHEREAS**, the shorelines and outlying areas of Lake Sawyer were incorporated into the City limits of the City of Black Diamond in 1998 and the then established goals, policies and regulations of King County’s Shoreline Master Program continue to be implemented in accordance with WAC 173-26-160; and

**WHEREAS**, the Shoreline Management Act requires all local governments, including the City of Black Diamond, to: 1) develop and inventory the natural characteristics and land use patterns along shorelines covered by the Act; 2) prepare a “Shoreline Master Program” to determine the future of the shorelines; 3) develop specific goals, policies and recommendations for protection of such shoreline resources; 4) develop a permit system with



development standards for all shoreline uses within existing shoreline designations that further the goals and policies of both the Act and the local Shoreline Master Program; and 5) develop a Restoration Plan for the long-term restoration of impaired shoreline ecological functions; and

**WHEREAS**, the City of Black Diamond received a grant to update its Shoreline Master Program from the Department of Ecology in June, 2008 in the amount of \$60,000 and was further awarded an additional \$10,000 in 2012 in order to complete the preliminary Shoreline Master Program; and

**WHEREAS**, the City and it's Consultant, AHBL Inc., produced a Public Participation Plan that included: 1) a Visioning Workshop that was advertised and held on September 21, 2010, 2) the formation of and receipt of input from a Citizen Advisory Committee over a period of 6 months; 3) significant communication of the process to the public through newsletter articles, postings on the City's webpage, postings on the Lake Sawyer Community Club's website and comprehensive email distribution list, and two mass mailings advising the public of the Shoreline Master Program Update; and 4) phone calls and email outreach by City staff with property owners surrounding the lake; and

**WHEREAS**, the City's Responsible Official issued a Determination of Non-Significance on the proposed Shoreline Master Program on March 2, 2012; and

**WHEREAS**, the Black Diamond Planning Commission held four worksessions to discuss the contents of the SMP Update and held two nights of formal public hearings on March 13 and March 27, 2012, where eleven individuals provided public testimony and twenty-four individuals provided written comment; and

**WHEREAS**, the Black Diamond Planning Commission considered the written and verbal testimony provided, held two additional worksessions on May 8 and June 12, 2012, and made certain modifications to the proposed SMP Update and proposed shoreline regulations to reflect such testimony; and

**WHEREAS**, on June 12, 2012, the Black Diamond Planning Commission recommended unanimously that the Black Diamond City Council adopt the proposed SMP update; and

**WHEREAS**, the Black Diamond City Council held one worksession to discuss the contents of the SMP Update on May 31, 2012, and a formal public hearing on June 21, 2012, where one individual provided public testimony and one individual provided written comment; and

**WHEREAS**, the Black Diamond City Council considered written and verbal testimony provided, held one additional worksession on July 19, 2012, and made certain modifications to the proposed SMP Update and proposed shoreline regulations to reflect such testimony; and

**WHEREAS**, once the City approves the Shoreline Master Program, it will be sent to the Washington State Department of Ecology for review and approval, a process which may entail further changes and amendments to the documents of the Shoreline Master Program; and

**WHEREAS**, upon Department of Ecology approval, the City will adopt the Shoreline Master Program by Ordinance;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DOES RESOLVE AS FOLLOWS:**

**Section 1.** The City Council of Black Diamond preliminarily approves the Shoreline Master Program, including Goals, Policies and Recommendations; Shoreline Environmental Designations; Shoreline Regulations and Permit Process; Shoreline Restoration Plan; and, Cumulative Impacts Analysis as set forth in Exhibits A through D which are incorporated by this reference as though fully set forth herein.

**Section 2.** The Black Diamond City Council directs the Mayor to forward all the above Shoreline Master Program documents as well as all supporting materials identified as deliverables under Phase 5 of the City's signed grant agreement number G1000014 to the Department of Ecology for their review and approval in accordance with Washington Administrative Code section 173-26-120.

**Section 3.** The City Clerk is authorized to make necessary corrections to this resolution including, but not limited to, the correction of scrivener's/clerical errors, references, resolution numbering, section/subsection numbers and any references thereto.

Passed by the City Council on the 6<sup>th</sup> day of September, 2012.

---

Mayor Rebecca Olness

ATTEST/AUTHENTICATED:

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Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

---

Chris Bacha, City Attorney

# Appendix A



## City of Black Diamond

Grant No. G1000014

BLACK DIAMOND CITY COUNCIL DRAFT FINAL

### Shoreline Master Program

Prepared by:

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1200 6<sup>th</sup> Ave, Suite 1620  
Seattle, WA 98101-3117

City of Black Diamond Staff



This report was funded  
in part through a grant  
from the Washington  
Department of Ecology.



# Acknowledgments

- City of Black Diamond Shoreline Ad Hoc Advisory Committee
- City of Black Diamond Planning Commission
- City of Black Diamond City Council

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# Chapter 1 Introduction

## A. History and Requirements of the Shoreline Management Act

Washington's **Shoreline Management Act** (Act) was adopted by the public in a 1972 referendum "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." The Act has three broad policies:

1. **Encourage water-dependent uses:** "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines..."
2. **Protect shoreline natural resources,** including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life..."
3. **Promote public access:** "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."

This Act recognizes that "shorelines are among the most valuable and fragile" of the state's resources. The Act, and the City of Black Diamond, recognize and protect private property rights along the shoreline, while aiming to preserve the quality of this unique resource for all state residents.

The primary purpose of the Act is to provide for the management and protection of the state's shoreline resources by planning for reasonable and appropriate uses. In order to protect the public interest in preserving these shorelines, the Act establishes a coordinated planning program between the state and local jurisdictions to use in addressing the types and effects of development occurring along the state's shorelines. By law, the City is responsible for the following:

1. Development of an inventory of the natural characteristics and land use patterns along shorelines covered by the act.
2. Preparation of a "Master Program" to determine the future of the shorelines.
3. Development of a permit system to further the goals and policies of both the act and the local Master Plan.
4. Development of a Restoration Plan that includes goals, policies and actions for restoration of impaired shoreline ecological functions.

## B. Master Program Development and Public Participation

The City of Black Diamond (City) obtained a grant from the Washington Department of Ecology (Ecology) in 2009 to conduct a comprehensive Shoreline Master Program (SMP) update, pursuant to the Ecology SMP



Guidelines (Chapter 173-26 WAC). The first step of the update process was to inventory the City's shorelines as defined by the state's Shoreline Management Act (SMA) (RCW 90.58). The inventory describes existing biological and physical conditions. These conditions were then analyzed and characterized to create a baseline from which future development actions in the shoreline will be measured. Environmental designations were identified for the different shoreline reaches and goals, policies, and regulations for each were developed.

The SMA establishes a minimum 20 acre size threshold for regulation of lakes under the SMP. Lake Sawyer and its associated wetland area (i.e. Frog Lake) are the primary shorelines in the City of Black Diamond that are subject to the requirements of the SMA. In addition, a very small segment of Covington Creek (less than 200 feet) downstream of the Lake Sawyer weir and shorelands within 200 feet of Covington Creek are within the City limits of Black Diamond. All other streams and creeks in the City do not meet the 20 cubic feet per second mean annual flow threshold for regulation under the SMA.

The Guidelines require that the City demonstrate that its updated SMP yields "no net loss" in shoreline ecological functions relative to the baseline due to its implementation. Ideally, the SMP in combination with other City and regional efforts will ultimately produce a net improvement in shoreline ecological functions.

## **C. Purposes of the Shoreline Master Program**

The purposes of this Master Program are:

1. To carry out the responsibilities required of the City of Black Diamond 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 Black Diamond.
3. To further, by adoption, the policies of RCW 90.58, and the goals of this Master Program, both which hereafter follow.
4. To comply with the Shoreline Master Program Guidelines (WAC Chapter 173-26), including a particular focus on including regulations and mitigation standards to ensure that development under the Shoreline Master Program will not cause a net loss of ecological functions.

## **D. Legislative Findings and Washington Shoreline Management Policies**

"The Washington State Legislature finds the shorelines of the state are among the most valuable and fragile of its natural resources and there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition, it finds that ever increasing pressures of additional uses are being placed on the shorelines, necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and uplands adjacent thereto are in private ownership and that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; therefore, coordinated planning is necessary in order 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. There is,

therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to ensure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in navigable water, will promote and enhance the public interest. This policy is intended to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the water of the state and its aquatic life, while generally protecting public rights of navigation and its associated activities.”

## **E. Shoreline Master Program Basics**

The Black Diamond Shoreline Master Program is a planning document that outlines policies for the shoreline of the city and establishes regulations for development occurring in that area.

In order to preserve and enhance the Lake Sawyer shoreline of Black Diamond it is important that all development proposals relating to the shoreline area be evaluated in terms of the City's Shoreline Master Program, and that the City Shoreline Administrator be consulted. Some developments may be exempt from regulation, while others may need to stay within established guidelines, or may require a shoreline conditional use permit application or variance application; all proposals must comply with the policies and regulations established by the state Shoreline Management Act as expressed through this local Shoreline Master Program, regardless of whether a permit is required.

The Shoreline Management Act defines for local jurisdictions the content and goals that should be represented in the Shoreline Master Programs developed by each community; within these guidelines, it is left to each community to develop the specific regulations appropriate to that community. Under the Act, all shorelines of the state meeting the criteria established receive a given shoreline environmental designation. The purpose of the shoreline designation system is to ensure that all land use, development, or other activity occurring within the designated shoreline jurisdiction is appropriate for that area and provides consideration for the special requirements of that environment. Black Diamond has designated its Lake Sawyer shorelines under four shoreline environments: Aquatic, Natural, Urban Conservancy, and Shoreline Residential. These environments are described in Chapter 2: Shoreline Environments.

Persons proposing any shoreline development, land use, or other projects in the shoreline area must consult with the City of Black Diamond Shoreline Master Program Administrator (the City's Community Development Director) to determine how the proposal is addressed in the Master Program.

The City's Shoreline Administrator will determine if a proposal is exempt from a Shoreline Substantial Development Permit (i.e. qualifies for a Shoreline Exemption), as well as provide information on the permit application process.

Requests for shoreline variances, conditional use permits, and substantial development permits require review and recommendation by the City's Shoreline Administrator, with the decision being made by the Hearing

Examiner following a public hearing. Requests for shoreline conditional uses and variances also require final approval by the State of Washington Department of Ecology. A description of exempt projects, shoreline application procedures and criteria are discussed in Chapter 6: Administration.

A description and map (Figure 1) of the area within the jurisdiction of this Shoreline Master Program are presented in Chapter 2: Shoreline Environments.

## **F. Organization of this Shoreline Master Program**

This Master Program is divided into seven Chapters:

**Chapter 1:** Introduction provides general background information on the state Shoreline Management Act; the development of the Shoreline Master Program in Black Diamond; and a general discussion of when and how a shoreline master program is used.

**Chapter 2:** Shoreline Environments defines and maps the shoreline jurisdiction in the City of Black Diamond and defines and maps the environment designations of all the shorelines of the state within the City of Black Diamond. Policies and regulations specific to the four designated shoreline environments (Aquatic, Natural, Urban Conservancy, and Shoreline Residential) are detailed in this chapter. Specific setback regulations, reduction incentives and dimensional and density standards for all Shoreline Environments are also listed.

**Chapter 3:** General Policies and Regulations sets forth the general policies and regulations that apply to uses, developments, and activities in all shoreline areas of Black Diamond.

**Chapter 4:** Specific Shoreline Use Policies and Regulations sets forth policies and regulations governing specific categories of uses and activities typically found in shoreline areas.

**Chapter 5:** Shoreline Modification Activity Regulations provides policies and regulations for those activities that modify the physical configuration or qualities of the shoreline area.

**Chapter 6:** Administration provides the system by which the Black Diamond Shoreline Master Program will be administered, and provides specific information on the application process and criteria used in evaluating requests for shoreline substantial development permits, conditional use permits, and variances.

**Chapter 7:** Definitions defines terms found in this document.

## **G. Relationship of this Shoreline Master Program to Other Plans**

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. In Black Diamond, other plans and policy documents that must be considered include the Black Diamond Comprehensive Plan and the adopted 2005 Department of Ecology Stormwater Management Manual for Western Washington.

Proposals must also comply with regulations developed by the City to implement its plans, such as the zoning code, as well as regulations relating to building construction and safety.

At the time of a permit application or of an initial inquiry, the City's Shoreline Administrator should inform the applicant of those regulations and statutes which may be applicable to the best of the administrator's knowledge; PROVIDED, that the final responsibility for complying with such other statutes and regulations shall rest with the property owner.

## **H. Title**

This document shall be known and may be cited as the City of Black Diamond Shoreline Master Program. This document may refer to itself as "The Master Program."

# Chapter 2 Shoreline Environments

## A. Introduction to Shoreline Environment Designations

The basic intent of a shoreline environment designation is to preserve and enhance shoreline ecological functions and to encourage development that will enhance the present or desired future character of the shoreline. To accomplish this, shoreline segments are given an environment designation based on existing development patterns, biological capabilities and limitations, and the aspirations of the local citizenry.

Environment designations are categories that reflect the type of development that has or should take place in a given area. The Shoreline Master Program Guidelines recommend classifying shoreline environments using the following categories: “high-intensity,” “shoreline residential,” “urban conservancy,” “rural conservancy,” “natural,” and “aquatic.”

These categories represent a relative range of development, from high to low intensity land use:

- “High Intensity” is appropriate for areas of high intensity water oriented commercial, transportation, and industrial development. No areas in Black Diamond meet the criteria for this designation.
- “Shoreline Residential” is intended to accommodate residential development, and appropriate public access and recreational uses consistent with other elements of shoreline management.
- “Urban Conservancy” is a designation designed to protect and restore the ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed areas.
- “Rural Conservancy” is intended for areas outside of cities and urban growth areas that protect ecological functions and conserve existing natural resources and that support, or have the capability to support, agricultural and recreational uses. No areas in Black Diamond meet the criteria for this designation.
- “Natural” is intended to protect shorelines that remain relatively free of human influence or that include intact or minimally degraded shoreline functions that cannot support human use.
- And finally, “Aquatic” is a designation intended to protect, restore, and manage the areas waterward of the ordinary high water mark.

Additionally, local governments may establish an alternative environment designation(s), provided that it is consistent with the purposes and policies of the Shoreline Management Act and the Guidelines, including WAC 173-26-211(5). In addition to the shoreline environment designations established in the SMP Guidelines, the City of Black Diamond has adopted an alternative designation of “Shoreline Residential Limited” to guide shoreline management for an area with unique local conditions.

Once a shoreline segment has been given an environment designation, management policies are developed. These management policies are used as the basis for determining uses and activities that can be permitted in

each environment designation. Specific development standards are also established, which specify how and where permitted development can take place within each shoreline environment.

## **B. Need for Consistency**

The Shoreline Management Act (SMA) requires that policies for lands adjacent to the shorelines be consistent with the SMA, implementing rules, and the local shoreline master program. Conversely, local comprehensive plans provide the underlying framework within which master program provisions should fit. The Growth Management Act (GMA) requires that shoreline master program policies be incorporated as an element of the comprehensive plan, and that all elements be internally consistent. In addition, under the GMA, all development regulations must be consistent with the comprehensive plan.

The Shoreline Guidelines identify three criteria for use in evaluating the consistency between master program environment designation provisions and the corresponding comprehensive plan elements and development regulations. In order for shoreline designation provisions, local comprehensive plan land use designations, and development regulations to be internally consistent, all three of the conditions below should be met:

(a) Provisions not precluding one another.

Comprehensive plan provisions and shoreline environment designation provisions should not preclude one another. To meet this criterion, the provisions of both the comprehensive plan and the master program must be able to be met. Further, when considered together and applied to any one piece of property, the master program use policies and regulations and the local zoning or other use regulations should not conflict in a manner that all viable uses of the property are precluded.

(b) Use compatibility.

Land use policies and regulations should protect preferred shoreline uses from being impacted by incompatible uses. The intent is to prevent existing or potential future water oriented uses, especially water dependent uses, from being restricted on shoreline areas because of impacts to nearby non-water-oriented uses. To be consistent, master programs, comprehensive plans, and development regulations should prevent new uses that are not compatible with preferred uses from locating where they may restrict preferred uses or development.

(c) Sufficient infrastructure.

Infrastructure and services provided in the comprehensive plan should be sufficient to support allowed shoreline uses. Shoreline uses should not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them. Infrastructure plans must also be mutually consistent with shoreline designations. Where they do exist, utility services routed through shoreline areas shall not be a sole justification for more intense development.

## C. City of Black Diamond Shoreline Environment Designations

This Master Program establishes five shoreline environments for the City of Black Diamond. These shoreline environments shall include the shorelines of the City of Black Diamond, including shorelands, surface waters, and bedlands.

These environments are derived from the Black Diamond Shoreline Analysis Report, the Black Diamond Comprehensive Plan, and the environments recommended by the Shoreline Management Act and the Shoreline Guidelines. Black Diamond's Shoreline Analysis Report provides an inventory of natural and built conditions within the City's shoreline jurisdiction. The conditions identified in the inventory have been compared with the recommended shoreline environments and the most appropriate environments were selected. The five (5) Black Diamond shoreline environment designations are:

1. Shoreline Residential,
2. Shoreline Residential Limited,
3. Urban Conservancy,
4. Natural, and
5. Aquatic.

These shoreline environments are illustrated for the City of Black Diamond in Figure 1 (Shoreline Management Environmental Designations), located at the end of the SMP, and described in the text below. Any undesignated shorelines are automatically assigned an Urban Conservancy environment designation. Each shoreline description includes a definition and statement of purpose, followed by designation criteria, management policies, and development standards specific to that Shoreline Environment. Shoreline development standards are summarized in Table I and regulations that apply throughout the SMP (except where specifically provided) are included at the end of this Chapter.

## D. Policies and Regulations

### 1. Shoreline Residential Environment

#### a) **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.

#### b) **Designation criteria**

The Shoreline Residential environment designation is assigned to shoreline areas that are predominantly single-family residential development or are planned and platted for this purpose.



### c) **Designated Areas**

Shoreline Residential areas include those areas adjacent to Lake Sawyer that are currently developed as low to moderate density residential uses and vacant properties zoned for single family use, where that use is anticipated to continue in the future.

### d) **Management policies**

1. Residential activities are preferred over other land and resource consumptive development or uses.
2. Limited non-residential uses, such as parks, recreation facilities and home occupation businesses may be allowed, provided they are consistent with the residential character.
3. Development should be located, sited, designed and maintained to protect, enhance and be compatible with the shoreline environment.
4. Development regulations should require the preservation of 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.
5. Low impact development (LID) techniques, such as minimizing impervious surfaces, infiltration of run-off, pervious pavers, and other techniques should be required where feasible.
6. Private property owners should be encouraged to preserve and enhance native shoreline vegetation and use environmentally friendly landscaping practices, through incentives, information and other assistance.

### e) **Regulations**

#### Shoreline Use

Permitted, conditional and prohibited uses for the Shoreline Residential environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and summarized in Table I of that Chapter.

#### Development Standards

Shoreline-related development standards for the Shoreline Residential environment are summarized in Table I in Chapter 4.

## **2. Shoreline Residential Limited Environment**

### a) **Purpose**

The Shoreline Residential Limited environment designation recognizes the higher level of ecological function and sensitivity associated with specific islands located in Lake Sawyer, when compared to other shoreline areas that are developed or planned for residential development. This designation also recognizes the presence of existing residential and recreational uses in these areas and is designed to provide for development and/or redevelopment that is compatible with the protection of ecological functions at such time when appropriate facilities are provided, such as potable water, electricity and waste disposal that complies with King County and State Health Department regulations. In addition to residential and recreational uses, an additional purpose of this environment is to provide for ecological enhancement.



#### **b) Designation criteria**

The Shoreline Residential Limited environment designation is assigned to shoreline areas on specific islands within Lake Sawyer that do not currently have minimum urban facilities, such as potable water, electricity and waste disposal, but are currently developed as single-family residential and recreational uses or are small lots that are planned and platted for this purpose.

#### **c) Designated Areas**

Shoreline Residential Limited areas include all parcels on three specific islands within Lake Sawyer (see Figure 1) that are currently developed for recreational and seasonal residential uses and similar vacant properties on these islands that are platted and zoned for single family use, where that use is anticipated to continue in the future.

#### **d) Management policies**

1. Development should be located, sited, designed and maintained to protect, enhance and be compatible with the shoreline environment.
2. Residential and recreational uses are allowed and are preferred over other land consumptive uses, provided they meet applicable health, safety and building codes.
3. Further subdivision of property should not be allowed due to the ecological sensitivity of the small islands that comprise this shoreline environment.
4. New physical development is restricted until such time as urban services, such as potable water, electricity and sanitary waste disposal consistent with health department regulations, are provided.
5. Development regulations should require the preservation of ecological functions, taking into account the greater environmental limitations and sensitivity of the shoreline area on these small islands, the level of infrastructure and services available, and other comprehensive planning considerations.
6. Low impact development (LID) techniques, such as minimizing impervious surfaces, infiltration of run-off and pervious pavers, and other techniques should be required where feasible.
7. Private property owners should be encouraged to preserve and enhance native shoreline vegetation, utilized shared overwater structures and use environmentally friendly landscaping practices, through incentives, information and other assistance.

#### **e) Regulations**

##### Shoreline Use

Permitted, conditional and prohibited uses for the Shoreline Residential Limited environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and summarized in Table III of that Chapter.

##### Development Standards

Shoreline-related development standards for the Shoreline Residential Limited environment are summarized in Table I in Chapter 4.

### 3. Urban Conservancy Environment

#### a) **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.

#### b) **Designation criteria**

Areas designated Urban Conservancy are those areas where one or more of the following characteristics apply:

1. They are suitable for water-related or water-enjoyment uses,
2. They are open space, flood plain or other sensitive areas that should not be more intensively developed,
3. They have potential for ecological restoration,
4. They retain important ecological functions, even though partially developed, or
5. They have the potential for development that is compatible with ecological restoration.

#### c) **Designated Areas**

Urban Conservancy areas include shorelands within Lake Sawyer Boat Launch Park, portions of Lake Sawyer Regional Park that are not designated wetlands, as shown in Figure 1. This designation will preserve and enhance the ecological functions of publicly-owned properties and undeveloped portions of the shoreline, while retaining future options for passive and active shoreline recreation and public access. The publicly-owned Lake Sawyer Boat Launch and Lake Sawyer Regional Park offer potential for ecological restoration.

#### d) **Management policies**

1. Uses that preserve the natural character of the area or promote preservation of open space or sensitive lands 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. Water dependent recreation uses, such as a public access pier and boat launch, shall be a priority at Boat Launch Park, provided they can be located, designed, constructed, operated and mitigated in a manner that ensures no net loss of ecological function.
3. Water oriented recreation uses, such as viewing trails, benches, shelters and non-motorized, low impact canoe and kayak launches should be emphasized at Lake Sawyer Regional Park.
4. At all shoreline recreational facilities in the Urban Conservancy Environment, non-water oriented uses should be minimized and allowed only as an accessory use; for example picnic areas, forest trails and small playground areas would be acceptable, but tennis courts and developed sports fields would not.

5. Standards should be established for shoreline stabilization, vegetation conservation, water quality, and shoreline modifications to ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
6. Public access and public recreation objectives should be implemented whenever feasible and when significant ecological impacts can be mitigated.
7. Low impact development (LID) techniques, such as minimizing impervious surfaces, infiltration of run-off and pervious pavers, and other techniques should be required where feasible.

#### **e) Regulations**

##### Shoreline Use

Permitted, conditional and prohibited uses for the Urban Conservancy shoreline environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and summarized in Table III.

##### Development Standards

Shoreline-related development standards for the Urban Conservancy environment are summarized in Table I in Chapter 4.

## **4. Natural Environment**

#### **a) Purpose**

The purpose of the Natural environment designation is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, include planning for restoration of degraded shoreline within this environment.

#### **b) Designation Criteria**

A Natural environment designation should be assigned to shoreline areas if any of the following characteristics apply:

1. The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be changed by human activity; or
2. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or
3. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

#### **c) Designated Areas**

The wetlands within Lake Sawyer Regional Park (i.e. Frog Lake) that are associated with Rock Creek fall within the Natural environment designation. These wetlands have high ecological function and/or are unable to support new development without significant adverse impacts to ecological function. In addition, the

small, undeveloped southernmost island in Lake Sawyer (PIN # 1021069040) is designated Natural (see Figure 1).

**d) Management Policies**

1. Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.
2. The following new uses should be prohibited in the Natural environment:
  - a. Commercial uses.
  - b. Industrial uses.
  - c. Non-water-oriented recreation.
  - d. Roads, utility corridors, and parking areas that can be located outside of shorelines.
  - e. Residential uses.
  - f. Commercial forestry.
  - g. Agricultural uses.(Note: a complete list of permitted and conditional uses is contained in Chapter 4, Section (B)(1), Table I.)
3. Scientific, historical, cultural, educational research uses and low-intensity water-oriented recreational access uses may be allowed provided that no significant ecological impact in the area will result.
4. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed.
5. The subdivision of property should not be allowed.

**e) Regulations**

Shoreline Use

Permitted, conditional and prohibited uses for the Natural shoreline environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and summarized in Table III.

Development Standards

Shoreline-related development standards for the Natural environment are summarized in Chapter 4, Table I .

## 5. Aquatic Environment

**a) 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.

**b) Designation criteria**

Aquatic environment designation are assigned to areas waterward of the ordinary high-water mark.

### c) **Designated Areas**

The Aquatic Environment is assigned to all areas within the shoreline jurisdiction waterward of the ordinary high water mark as shown in Figure 1.

### d) **Management policies**

1. Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.
2. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
3. To reduce the impacts of shoreline development and increase effective use of water resources, shared use of over-water facilities should be encouraged.
4. All developments and uses on waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
5. Uses that adversely impact the ecological functions of critical freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201(2)(e) as necessary to assure no net loss of ecological functions.
6. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

### e) **Regulations**

Regulations and performance standards that apply to individual uses and developments are listed in Chapter 2, including a summary of allowed, conditional and permitted uses in Table III. Table I in Chapter 4 summarizes the development standards.

# Chapter 3      General Shoreline Provisions

## A. Introduction

Based on the general goals established for the Shoreline Master Program, the following policies and regulations apply to all uses, developments, and activities in the shoreline area of the City of Black Diamond. The intent of these provisions is to be inclusive, making them applicable to all environments, as well as particular shoreline uses and activities. Topics include the following:

- Archaeological and Historic Resources
- Environmental Impacts
- Environmentally Sensitive Areas
- Public Access
- Shoreline Vegetation Conservation
- Water Quality, Stormwater, and Non-Point Pollution

The regulations of this chapter are in addition to other adopted ordinances and rules. Where conflicts exist between regulations, those that provide more protection or detail more specific requirements for the shoreline area shall apply. These interlocking development regulations are intended to make shoreline development responsive to specific design needs and opportunities along the City's shorelines, protect the public's interest in the shorelines' recreational and aesthetic values and assure no net loss of ecological functions necessary to sustain shoreline natural resources.

These provisions address the elements of a SMP as required by RCW 90.58.100(2) and implement the governing principles of the Shoreline Master Program Guidelines as established in WAC 173-26-186.

## B. Policies and Regulations

### 1. Universally Applicable Policies and Regulations

#### a) **Applicability**

The following provisions describe how this SMP is to be applied and the requirements for all shoreline uses and modifications in all shoreline environment designations.

#### b) **Policies**

1. The City should keep records of all project review actions within shoreline jurisdiction, including shoreline permits and letters of exemption.
2. The City should involve affected federal, state, and tribal governments in the review process of shoreline applications.
3. The City should periodically review shoreline conditions to determine whether or not other actions are necessary to protect and restore the ecology to ensure no net loss of ecological functions,



upgrade the visual qualities, and enhance residential and recreational uses on the City's shoreline. Specific issues to address in such evaluations include, but are not limited to:

- a. Water quality,
- b. Conservation of aquatic vegetation (control of noxious weeds and enhancement of vegetation that supports more desirable ecological and recreational conditions),
- c. Changing visual character as result of new residential development, including additions, and individual vegetation conservation practices (both along shoreline and in upland areas),
- d. Shoreline stabilization and modifications.

**c) Regulations**

1. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the Shoreline Management Act, Chapter 90.58 RCW, and to the policies and regulations of this SMP.
2. The "policies" listed in this SMP are intended to provide broad guidance and direction for the "regulations" applied by the City. The policies, taken together, constitute the Shoreline Element of the Black Diamond Comprehensive Plan.
3. If provisions within this SMP conflict, or where there is a conflict with other City policies and regulations, the provisions most directly implementing the objectives of the Shoreline Management Act, as determined by the Administrator, shall apply unless specifically stated otherwise.
4. Shoreline uses, modifications, and conditions listed as "prohibited" shall not be eligible for consideration as a shoreline variance or shoreline Conditional Use permit. See Chapter 4 for Shoreline Use regulations and Chapter 6 for exemptions, variances, Conditional Uses, and nonconforming uses.

## **2. Archaeological and Historic Resources**

**a) Applicability**

The following provisions apply to archaeological and historic resources that are either recorded at the state historic preservation office and/or by local jurisdictions or have been inadvertently uncovered.

Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter 25-48 WAC and the provisions of this chapter.

**b) Archaeological and Historic Resources Policies**

1. Due to the limited and irreplaceable nature of archaeological and historic resources, prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Native American tribes, and the Department of Archaeology and Historic Preservation.
2. Ensure that new development is compatible with existing historic structures and cultural sites.

### c) Archaeological and Historic Resources Regulations

1. Developers and property owners shall immediately stop work and notify the City, the Department of Archaeology and Historic Preservation (DAHP) and affected Native American tribes if archaeological resources are uncovered during excavation.
2. 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.
3. Significant archaeological and historic resources shall be permanently preserved for scientific study, education and public observation, as deemed appropriate by the City, DAHP and affected Tribes. 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.
4. 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.
5. Archaeological sites located both in and outside the shoreline jurisdiction are subject to RCW 27.44 (Indian Graves and Records) and RCW 27.53 (Archaeological Sites and Records) and shall comply with WAC 25-48, or its successor, as well as the provisions of this master program.
6. Identified 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.
7. Clear interpretation of historic and archaeological features and natural areas shall be provided when appropriate, such as informational signs and displays.

## 3. Sensitive Areas

Environmentally sensitive areas in the shoreline jurisdiction are regulated by the Sensitive Areas Regulations, Ordinance No. 08-875, codified under Chapter 19.10 of the BDMC, which is herein incorporated into this SMP except as noted below.

Exceptions to the applicability of the Sensitive Areas Ordinance (SAO) in shoreline jurisdiction are provided below.

1. If provisions of the SAO and other parts of the SMP conflict, the requirement that most supports the provisions of the Shoreline Management Act as stated in RCW 90.58.020 shall apply, as determined by the Shoreline Administrator.

2. Provisions of the SAO that are not consistent with the Shoreline Management Act, Chapter 90.85 RCW, and supporting Washington Administrative Code chapters shall not apply in shoreline jurisdiction, as follows:
  - a. The provisions of the SAO do not extend shoreline jurisdiction beyond the limits specified in this SMP. For regulations addressing sensitive area buffer areas that are outside shoreline jurisdiction, see 19.10.230 of BDMC, Wetland buffers.
  - b. Provisions of the SAO that include a “reasonable use determination” shall not apply within shoreline jurisdiction. Specifically, BDMC sections 19.10.080(E) and 19.10.230(H).
  - c. Provisions of the SAO relating to building setbacks do not apply in the shoreline jurisdiction, specifically, section 19.10.160.
  - d. Provisions of the SAO relating to variance procedures and criteria do not apply in shoreline jurisdiction, specifically, section 19.10.190. Variance procedures and criteria have been established in this SMP, Chapter 6, Section G and in WAC 173-27-170.4. Environmental Impacts.
  - e. Provisions in BDMC section 19.10.210, 19.10.673 and where ever else they may occur in Chapter 19.10 relating to the use of the Washington State Wetland Identification and Delineation Manual do not apply. Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements.
  - f. Provisions in BDMC 19.10.230(H)(d) allowing buffer averaging to not less than fifty percent of the standard width shall not apply. Buffer averaging shall be limited to 75% of the required width, and in no case shall be less than 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV wetlands.
  - g. Provisions in BDMC 19.10.235 relating to small isolated wetlands is hereby clarified: by definition, wetlands in shoreline jurisdiction are considered riparian and therefore are not isolated wetlands and are not exempted from mitigation requirements or other standards.
  - h. Provisions in BDMC section 19.10.240(D) related to mitigation replacement ratios for rehabilitation and enhancement shall not apply. Mitigation replacement ratios shall be as follows:

Wetland Category	Wetland Mitigation Type and Replacement Ratio*			
	Re-establishment	Creation	Rehabilitation	Enhancement Only
Category IV	1.5:1	1.5:1	3:1	6:1
Category III	2:1	2:1	4:1	8:1
Category II	3:1	3:1	6:1	12:1
Category I	6:1	6:1	8:1	Not allowed
Headwaters Wetlands	6:1	6:1	8:1	Not allowed
Core Wetland Complex	6:1	8:1	12:1	Not allowed

- i. Provisions in BDMC 19.10.325 pertaining to *Fish and Wildlife Habitat Conservation Area – Water Bodies - Buffers* do not apply to Lake Sawyer. Shoreline setbacks shall be regulated based on the provisions in Chapter 4, Section B.2 through 4 of this SMP. Vegetation management within shoreline setbacks shall be regulated based on the provisions in Chapter 3, Section B.7.c. Provisions in BDMS 19.10.325 pertaining to buffers for other fish and wildlife habitat conservation areas within shoreline jurisdiction, such as streams and wetlands, shall still apply.

## 4. Environmental Impacts

### a) **Applicability**

The Shoreline Management Act is concerned with the environmental impacts that use and activity may have on the fragile shorelines of the state. Problems of degrading the shoreline and its waters with contaminants such as petroleum products, chemicals, metals, nutrients, solid or human waste, or soil sediments from erosion are all issues that are addressed.

### b) **Environmental Impact Policies**

1. Protect shoreline process and ecological functions through regulatory and non-regulatory means that may include acquisition of key properties, conservation easements, regulation of development within the shoreline jurisdiction and incentives to encourage ecologically sound design.
2. Preserve the scenic aesthetic quality of shoreline areas and vistas to the greatest extent feasible.
3. Adverse impacts on the natural environment should be minimized during all phases of development (e.g. design, construction, operation, and management).
4. Shoreline developments that propose to enhance sensitive areas, natural characteristics, ecological resources and provide public access and recreational opportunities to the shoreline are consistent with the fundamental goals of this Master Program, and should be encouraged.

### c) **Environmental Impact Regulations**

1. All shoreline uses and developments shall be located, designed, constructed and mitigated to result in no net loss of ecological functions necessary to sustain shoreline natural processes.
2. Where required, mitigation measures shall be applied in the following sequence listed in order of priority:
  - a. Avoiding the impact altogether by not taking a certain action or parts of an action;
  - b. Minimizing impacts by limiting the magnitude of the action and its implementation by using appropriate technology or by taking 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 compensation projects and taking appropriate corrective measures.
3. Solid waste, liquid waste and untreated effluent shall not be allowed to enter bodies of water or discharged onto the land.
4. The direct release of oil and hazardous materials or chemicals onto the land or into water is prohibited as provided in the City's adopted stormwater regulations.
5. 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. BMPs are identified in the City's adopted stormwater manual.
6. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.
7. Land clearing, grading, filling and alteration of natural drainage features and land forms shall be limited to the minimum necessary for development. When required by the Public Works Director, surface drainage systems or substantial earth modifications shall be designed by an engineer registered in the State of Washington. The Director may also require additional studies prepared by a qualified soils specialist. 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.
8. 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.
9. Identified significant short term, long term, or cumulative adverse environmental impacts lacking appropriate mitigation that is likely to achieve no net loss of ecological functions necessary to sustain shoreline processes shall be sufficient reason for permit denial.

## 5. Public Access

### a) **Applicability**

Public access includes 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. There are a variety of types of potential public access, including, picnic areas, pathways and trails, promenades, boat launches, street ends, ingress and egress, and parking.

Existing developed public access to shorelines within the shoreline jurisdiction is limited to Lake Sawyer Boat Launch situated on the northwestern side of the lake, which includes a boat launch and picnic facilities. Lake Sawyer Regional Park is undeveloped park property located in the southeast corner of the lake.

### b) **Public Access Policies**

1. Preserve and enhance shoreline access to Lake Sawyer primarily through the improvement of existing public access sites.



2. The level, type and design of public access should be commensurate with the degree of fragility of the shoreline. Environmentally sensitive areas should be conserved, access projects should incorporate enhancement and use should be directed to more suitable areas.
3. Future public access improvements should emphasize passive recreation and non-motorized activities due to the fragile nature of the lake and the current seasonal high levels of motorized use.
4. Physical access for swimming and non-motorized boating, passive recreation (such as interpretive trails) and habitat enhancement should be important objectives for the management of shoreline public access sites.
5. Ensure the development of upland areas such as parking facilities and play areas, as well as the development of in-water and nearshore structures, such as docks and swimming areas, are located and designed in ways that result in no net loss of ecological function. Upland non-water oriented recreational and accessory facilities should be located outside of the shoreline management area where feasible.
6. Access should be provided for a range of users including pedestrians, bicyclists, fishermen, boaters and people with disabilities to the greatest extent feasible.
7. Public access provisions should be required for all shoreline development and uses, except for a single family residence or residential projects containing four (4) dwelling units or less, water dependent uses, or where it is deemed inappropriate due to health, safety and environmental concerns.
8. Regulate the design, construction, and operation of permitted uses in the shoreline jurisdiction to minimize interference with the public's use of the water.
9. Improve access to Lake Sawyer through expanded non-motorized connections, including the integration of shoreline public access trails with other existing and planned regional trails and transit service where feasible.
10. Ensure existing and proposed recreational uses do not adversely affect the integrity and character of the shoreline, threaten fragile shoreline ecosystems, or impair or detract from the public's visual or physical access to the water.
11. Preservation and enhancement of the public's visual access to Lake Sawyer should be encouraged through the establishment of setbacks and height limits that ensure view corridors. Enhancement of views should not be construed to mean excess removal of vegetation.
12. Public access to Lake Sawyer does not include the right to enter upon or cross private property, except for dedicated easements.
13. Where appropriate, public access should be provided as close as possible to the water's edge without adversely affecting a sensitive shoreline environment.
14. Public access should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.
15. Public access facilities should be constructed of environmentally friendly materials, use low impact development techniques and support healthy natural processes, when feasible.

16. Plan for an integrated shoreline public access system that identifies specific public needs and opportunities to provide public access. This planning should be integrated with other relevant comprehensive plan elements, especially transportation and parks/recreation. The planning process should also comply with all relevant legal limitations that protect private property rights.
17. At a minimum, public access planning should result in public access requirements for shoreline permits, recommended projects, and/or actions to be taken to develop access to shorelines on public property. Planning should identify a variety of shoreline circulation and access opportunities for pedestrians (including disabled persons), bicycles, and vehicles between shoreline access points, consistent with other comprehensive plan elements.

**c) Public Access Regulations**

1. Except as provided in Regulations 2 and 3 below, public access shall be required to the extent allowed by law for all substantial developments and conditional uses when any of the following conditions are present:
  - a. The project is publicly funded or occurs on public lands, provided that such access would not result in a net loss of ecological function;
  - b. The proposed development would create or increase demand for public access to the shoreline, and the Shoreline Administrator determines that this demand is not fully met through private access, such as shared community access limited to residents of a subdivision, that would be included as part of the development;
  - c. The project adversely impacts existing public access by creating a physical or visual obstruction or discourages use of existing access;
  - d. The development interferes with public use of waters of the state; or
  - e. The proposed use is not water-dependent and is not a preferred use under the SMA. Preferred uses include single family residences, ports, shoreline recreational uses, water dependent industrial and commercial developments and other development that provide public access opportunities.
2. Public access shall not be required for single family residential development of four (4) or fewer lots.
3. Public access shall not be required where one or more of the following conditions apply:
  - f. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
  - g. Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions;
  - h. 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 other constitutional or legal limitations preclude public access.
  - i. Unacceptable environmental harm will result from the public access which cannot be mitigated; or

- j. Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated.
- 4. To meet any of the conditions in Regulation 3 above, the applicant must first demonstrate and the City must determine in its findings that all reasonable alternatives have been exhausted, including but not limited to:
  - a. Regulating access by such means as limiting hours of use to daylight hours.
  - b. Designing separation of uses and activities, with such means as fences, terracing, hedges, and landscaping.
  - c. Providing access that is physically separated from the proposal, such as a nearby street end, an offsite viewpoint, or a trail system.
  - d. Sharing the cost of providing and maintaining public access between public and private entities.
- 5. Projects that meet the criteria in Regulation 4 above shall either build or make a proportional contribution to off-site public access facilities or improvements or, if approved by the shoreline administrator and agreed to by the applicant, make a payment in lieu to the local public access fund.
- 6. Non-water oriented 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, natural vegetation shall not be excessively removed either by clearing or by topping.
- 7. Public access sites shall be connected directly to the nearest public street through a parcel boundary, tract, or easement.
- 8. Public access sites shall be made barrier free for the physically disabled where feasible.
- 9. 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.
- 10. Public access easements and permit conditions shall be recorded on the deed where applicable or on the face of a plat, or short plat. Recording with the King County Recorder's Office shall occur at the time of permit approval (RCW 58.17.110; relating to subdivision approval).
- 11. The standard state approved logo and other approved signs that indicate the public's right of access and hours of access shall be constructed, installed, and maintained by the applicant in conspicuous locations at public access sites. Alternatively, where public access is prohibited, property owners may install signs indicating this, subject to size and location restrictions in a required permit.
- 12. Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access site.
- 13. Physical public access shall be designed to prevent significant impacts to sensitive natural systems.
- 14. Where public access is to be provided by a trail, the following requirements shall apply:

- a. The trail shall be no greater than 10 feet in surface width, and in addition may include 1 foot gravel shoulders. Not including landscaping; no more than 8 feet of improved surface is preferable in most cases.
  - b. Pervious pavement should be used for public access within the shoreline management area unless the Shoreline Administrator determines that such use is not in the public interest because of safety, durability, aesthetic or functionality concerns.
  - c. Where feasible, the trail shall be placed at least 25 feet from the Ordinary High Water Mark.
  - d. Landscaping should be native and drought tolerant or site appropriate.
  - e. Other specific conditions described in an adopted trail or parks plan.
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.

## 6. Restoration

### a) **Applicability**

Restoration refers to the reestablishment or upgrading of impaired ecological shoreline processes or functions. The following goals and policies are intended to guide actions that are designed to achieve improvements in shoreline ecological functions over time in those areas of Lake Sawyer where they have been degraded. The overarching purpose is to achieve improvements over time when compared to the condition upon adoption of the master program, as detailed in the Shoreline Analysis Report. Restoration is distinct from mitigation measures necessary to achieve no net loss of shoreline functions and the City's commitment to plan for restoration will not be implemented through regulatory means.

### b) **System-Wide Restoration Policies**

- 1. Reclaim and restore areas which are biologically and aesthetically degraded to the greatest extent feasible while maintaining appropriate use of the shoreline. Improve the water quality of Lake Sawyer by managing the quality and quantity of stormwater in contributing systems, consistent with the City's adopted stormwater manual.
- 2. Increase quality, width and diversity of native vegetation in protected corridors adjacent to lake habitats to provide safe migration pathways for fish and wildlife, food, nest sites, shade, perches, and organic debris. Strive to control non-indigenous plants or weeds that are proven harmful to native vegetation or habitats.
- 3. Continue to work collaboratively with other jurisdictions and stakeholders to implement the WRIA 9 Plan.

4. Seek funding where possible for various restoration actions and programs from local sources and by working with other WRIA 9 jurisdictions and stakeholders to seek federal, state, grant and other funding opportunities.
5. Develop a public education plan to inform private property owners in the shoreline zone and in the remainder of the City about the effects of land management practices and other unregulated activities (such as vegetation removal, pesticide/herbicide use, car washing) on fish and wildlife habitats and water quality.
6. Where feasible, protect, enhance, and encourage the restoration of lake areas and wetlands throughout the contributing basin where functions have been lost or compromised.

**c) Lake Sawyer Restoration Policies**

1. Target the Lake Sawyer Boat Launch and Lake Sawyer Regional Park for restoration of shoreline natural resources and functions while ensuring continued public access to the shoreline.
2. Improve the health of lake shorelines by encouraging property owners to remove bulkheads and replace these features to the extent feasible with bioengineered stabilization solutions to improve aquatic habitat conditions.
3. Target the Lake Sawyer Boat Launch for habitat enhancements that are designed and sited to be compatible with the heavy active recreation use at this park. Opportunities include replacing the tethered trees functioning as shoreline stabilization with bioengineered shoreline stabilization, removal of excess impervious surface, improved drainage using infiltration and planting of native vegetation where appropriate.
4. Improve habitat conditions by increasing large woody debris recruitment potential through plantings of trees along the lake shore. Where feasible, install or encourage the installation of large woody debris to meet short-term needs.
5. Target single family residential properties with development incentives (such as setback reductions), outreach and information for homeowners who are willing to voluntarily remove bulkheads, plant native vegetation and encourage large woody debris recruitment.
6. Decrease the amount and impact of overwater and in-water structures along Lake Sawyer through minimization of structure size and use of more environmentally friendly materials, including grated decking.
7. Target Lake Sawyer Regional Park for the use of environmentally friendly materials and design during the future development of recreational facilities.
8. Preserve and restore native vegetation along the shoreline to the greatest extent feasible.
9. Continue to participate in lake-wide efforts at Lake Sawyer to reduce populations of non-native aquatic vegetation.

## **7. Vegetation Conservation (Clearing and Grading)**

Vegetation within and adjacent to water bodies provides a valuable function for the health of aquatic ecosystems. Vegetation management involves both a passive and active management system. The intent of



both systems is to minimize habitat loss and the impact of invasive plants, erosion, sedimentation and flooding. "Passive" vegetation management deals with protection and enhancement of existing diverse native plant communities along all shorelines. "Active" vegetation management involves aquatic weed control as well as the restoration of altered or threatened shorelines using a technology called soil bioengineering. Soil bioengineering reestablishes native plant communities as a dynamic system that stabilizes the land from the effects of erosion.

#### **a) Applicability**

The following provisions apply to any activity, development, or use that results in the removal of or impact to shoreline vegetation, whether or not that activity requires a shoreline permit. Such activities include clearing, grading, grubbing, and trimming of vegetation. These provisions also apply to vegetation protection and enhancement activities. See Chapter 7 for definitions of "significant vegetation removal," "ecological functions," "clearing," "grading," and "restore."

#### **b) Shoreline Vegetation Conservation Policies**

1. Clearing and grading activities in shoreline areas should be limited to the minimum necessary to accommodate shoreline development and should result in the enhancement of vegetation over time to provide a greater level of ecological functions, human safety, and property protection.
2. Adverse environmental and shoreline impacts of clearing and grading should be avoided wherever possible through proper site planning, construction timing and practices, bank stabilization, soil bioengineering and use of erosion and drainage control best management practices (BMPs). Maintenance of drainage controls should be a high priority to ensure continuing, effective protection of habitat and water quality.
3. Provide incentives for the retention and planting of native vegetation, and discourage extensive lawns due to their limited erosion control value, limited water retention capacity, and associated chemical and fertilizer applications. Incentives could include additional flexibility with building setbacks from Lake Sawyer, a simplified permit process with recommended planting plans, and/or city participation in a pilot-project that promotes shoreline restoration.
4. In order to increase habitat and address other ecological functions within the shoreline environment such as wave attenuation, temperature regulation, and bank stabilization, encourage homeowners and property managers to leave diseased and fallen trees in place along the shoreline edge provided the trees are not a danger to public safety or private property.
5. Removal of non-hazardous mature trees and native vegetation within the required shoreline setback should be severely restricted regardless of lot size or use.
6. The City of Black Diamond should provide information to the public about environmentally appropriate vegetation management, landscaping for shoreline properties and alternatives to the use of pesticides and herbicides which impact water quality and aquatic habitat.
7. Where removal or destruction of aquatic vegetation is necessary, it should be done only to the extent necessary to allow water-dependent activities to continue. Removal or modification of aquatic vegetation should be conducted in a manner that minimizes adverse impacts to native plant

communities, and should include appropriate handling or disposal of weed materials and attached sediments.

8. Support the work of the King County Weed Watchers program and the efforts of volunteers to monitor noxious aquatic vegetation. Any future efforts by the City to monitor and control aquatic vegetation should seek the input and assistance of volunteers and King County staff assigned to this program.
9. The City should explore opportunities for the planting and enhancement of native vegetation at Lake Sawyer Park Regional Park and Boat Launch.

**c) Shoreline Vegetation Conservation Regulations**

1. All clearing and grading activities must adhere to BDMC Chapter 15.28 – Land Clearing and Grading Code and additional requirements provided in this SMP. Additional clearing and grading performance standards may be required as a condition of permit issuance to ensure the proposal will result in no net loss of shoreline ecological functions.
2. In all shoreline areas, land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development.
3. Any normal and routine maintenance of existing trees shall not be subject to these clearing and grading regulations, provided; that said maintenance does not involve removal of healthy trees and is not detrimental to the health of any trees.
4. Any significant placement of materials from off-site (other than surcharge or preload), or the substantial creation or raising of dry upland shall be considered fill and shall also comply with the fill provisions in Chapter 5.
5. Clearing and grading activities and related alteration of the natural landscape shall only be allowed in association with a permitted shoreline use or development with limited exceptions as set forth below:
  - 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 Black Diamond's engineering and stormwater design standards, native vegetation shall be promptly reestablished in the disturbed area and no net loss of shoreline ecological function is achieved.
  - b. Pruning consistent with accepted arboricultural practices that does not involve the removal of healthy trees and is not detrimental to the health of any trees, maintenance of existing ornamental landscapes and other activities allowed pursuant to these regulations, 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.
  - c. Maintenance or restoration of view corridors 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.
6. The City shall regulate tree removal and land clearing within the shoreline jurisdiction to protect ecological functions. The City shall require a report prepared by a qualified professional as part of

any substantial development permit or exemption that includes removal of significant trees or clearing of native vegetation. The report shall identify appropriate mitigation, performance assurances and maintenance and monitoring requirements necessary to assure no net loss of ecological function necessary to sustain shoreline processes.

7. Native understory vegetation and trees within the Urban Conservancy and Natural Environment and within shoreline setback areas in all environments shall be retained, unless necessary to provide water access, to provide limited view corridors or to mitigate a hazard to life or property. Where limited removals are allowed pursuant to the conditions provided above, vegetation shall be replaced to assure no net loss is achieved.
8. Within all other shoreline areas, tree removal shall be limited to the minimum necessary to accommodate proposed structures and uses or to mitigate a hazard to life or property, and significant trees shall be replaced at an appropriate ratio to assure no net loss is achieved.
9. Stabilization of exposed erosion-prone surfaces within the shoreline environment shall, wherever feasible, utilize soil bioengineering techniques.
10. Aquatic vegetation control 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. Aquatic vegetation control shall occur in compliance with all other applicable laws and standards, including Washington Department of Fish and Wildlife requirements. 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 will disturb the bottom sediment and benthos layer.
11. The control of aquatic vegetation by derooting, rotovating or other methods which disturb the bottom sediment or benthos shall be considered development for which a shoreline substantial development permit is required.
12. The application of herbicides or pesticides in Lake Sawyer, wetlands, or ditches requires a permit from the Washington Department of Ecology and may require preparation of a SEPA checklist for review by other agencies. The individual(s) involved must obtain a pesticide applicator license from the Washington State Department of Agriculture.
13. The following standards apply to restoration of disturbed areas in the Shoreline Residential environment outside of the required shoreline setback, when no other specific mitigation is required for project impacts and no setback reduction is requested under Chapter 4, Section B.2 through 4.
  - a. Restoration of any shoreline that has been disturbed or degraded shall use native plant materials, unless such restoration occurs within a developed and maintained ornamental landscape, in which case noninvasive plant materials similar to that which most recently occurred on-site may be used.
  - b. If the proposed removal of native vegetation is intended for the development of non-native landscaping outside of the required setback area, ornamental species may be used for the revegetation, provided impacts are mitigated by planting native vegetation elsewhere on

the property. The required setback area shall be a priority location for mitigation plantings and mitigation plantings shall be subject to Regulation 18 below.

- c. Surfaces cleared of vegetation and not further developed must be replanted with native species or other species as approved by the City within one (1) year. Replanted areas shall be planned and maintained such that, within three (3) years time, 80% of required plantings survive and all areas of bare soil are vegetated or appropriately stabilized. Shoreline development subject to any permit action shall be conditioned to require compliance with this standard.
  - d. The Shoreline Administrator has discretion to require monitoring and the financial guarantees where it is determined to be necessary to ensure compliance with the Shoreline Master Program.
14. The following maintenance and monitoring standards apply when vegetation restoration or enhancement occurs within required shoreline setbacks, is associated with a setback reduction under Chapter 4, Section B.2 through 4; occurs within a wetland, stream or related buffer; a variance is requested; specific mitigation for project impacts is required; and/or when vegetation restoration occurs within the Shoreline Residential Limited, Urban Conservancy or Natural shoreline environments.
- a. Plant Maintenance and Monitoring. Five year maintenance and monitoring at a minimum shall be conducted to ensure the long-term survival and stability of required vegetation plantings. Such monitoring shall include, at a minimum:
    - i. Annual inspections of the plants,
    - ii. Replacement of dead riparian plants,
    - iii. Removal of exotic invasive species that may have become established,
    - iv. Photographic documentation of planting success,
    - v. Annual report to the Shoreline Administrator documenting the above requirements and identifying whether the criteria for success below has been achieved.
  - b. Criteria for Success. At the end of the fifth year of monitoring, required plantings shall be considered successful if the following performance standards, at a minimum, are met:
    - i. A minimum eighty percent (80%) survival rate of planted trees and shrubs within the planting area; and
    - ii. A minimum of fifty percent (50%) cover of desirable understory or emergent plant species.
    - iii. Additional standards for vegetative success, including (but not limited to) minimum survival standards following the first growing season may be required after consideration of the project application.
  - c. A contingency plan shall be established in the event that the mitigation plan is inadequate or fails.

- d. Prior to issuance of any construction, grading, or building permit in the shoreline management area, the City may require that the permittee provide a financial guarantee in a form and amount approved by the City. This amount should equal one hundred twenty five percent (125%) of the estimated cost of the required plantings, or no less than two thousand dollars, unless a clear rationale for an alternative amount exists based on the specific details of the proposal.
- e. Prior to final issuance of a building permit or land use permit in the shoreline management area, a maintenance bond or other acceptable financial guarantee equal to a minimum of thirty percent (30%) of the replacement cost of the landscaping may be required. The bond or other suitable financial guarantee shall be maintained for a five (5) year period, at which point the Shoreline Administrator, or designee, will determine if the surety shall be released or extended to ensure the survival and maintenance of required shoreline plantings.

## 8. Water Quality, Stormwater, and Non-Point Pollution

### a) **Applicability**

Water quality is affected in numerous ways by human occupation and development of shoreline areas. Typically the increase in impermeable surfaces as a result of development increases stormwater runoff volumes, causing higher peak stormwater discharges at higher velocities that can cause scouring and erosion of stream banks. Erosion increases suspended solids concentrations and turbidity in receiving waters, and can carry heavy metals, household wastes, excess nutrients, and other pollutants into these waters. Increased nitrogen and phosphorus enrichment results in algal growth that depresses levels of dissolved oxygen in receiving waters. The degradation of water quality adversely impacts wildlife habitat and public health.

Maintaining high water quality standards and restoring degraded systems has been mandated in RCW 90.58. In February of 2007, the City received its Western Washington Phase II Municipal Stormwater Permit from the Washington State Department of Ecology. Under this permit the City developed a Stormwater Management Program. The City has adopted the 2005 DOE Stormwater Drainage Manual which applies to all development activities within the City.

### b) **Water Quality, Stormwater, and Non-Point Pollution Policies**

1. All shoreline uses and activities should be located, designed, constructed and maintained to mitigate adverse impacts to water quality, water quantity, or hydrology.
2. The City should require reasonable setbacks, buffers, and storm water storage basins and encourage low-impact development techniques and materials to achieve the objectives of the Shoreline Master Program.
3. Stormwater impacts should be addressed through the application of the Adopted Surface Water Design Manual and all applicable City stormwater regulations.
4. The City should require the use of Low Impact Development (LID) techniques to the maximum extent feasible. Incentives should be provided to encourage LID.



5. The City should provide general information to the public about the impacts of land and human activities on water quality, and encourage homeowners and property managers to use non-chemical weed and pest control solutions and natural fertilizers.
6. The City should work with the King County Health Department to ensure existing septic systems are working properly to prevent groundwater and surface water degradation through excessive inputs of nutrients (nitrogen and phosphorus) and hazardous microbes.
7. The City should work with local sewer districts to require connection to the sanitary sewer system when existing properties on septic systems are developed, redeveloped or substantially modified and a sanitary sewer system is available.

**c) Water Quality, Stormwater, and Non-Point Pollution Regulations**

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 dust controls.
2. Shoreline development and uses shall adhere to all required setbacks, buffers and standards for stormwater storage basins.
3. All shoreline development shall comply with the applicable requirements of the City's adopted Surface Water Design Manual and all applicable City stormwater regulations.
4. All shoreline development shall implement applicable Low Impact Development techniques to the maximum extent feasible, pursuant to the standards contained in the adopted Surface Water Design Manual and the Low Impact Development Technical Guidance Manual for Puget Sound or successor.
5. New residential development and property owners with failing septic systems that pose a risk to health or the environment shall be required to connect to public sewer if they are seeking a shoreline, building or site development permit and such connection can be made within 300 of the subject property.

# Chapter 4 Shoreline Use Provisions

## A. Introduction

As required by the Shoreline Management Act, this Master Program sets forth policies and regulations governing specific categories of uses and activities typically found in shoreline areas. The policies and regulations cover the following uses and activities: Agriculture, Aquaculture, Boating Facilities, Commercial Development, Forest Practices, Manufacturing, Mining, Parking (as a primary use), Recreational Facilities, Residential Development, Scientific, Historical, Cultural, or Educational Uses, Signage, Transportation, and Utilities. The policies and regulations, which provide basic criteria for evaluating shoreline permit applications, are used to implement the broader goals, policies and intent of the Shoreline Management Act and this Program.

The Shoreline Master Program for the City of Black Diamond contains limited provisions for economic development along the shoreline of Lake Sawyer. Lake Sawyer is substantially developed with residential uses, with little undeveloped shoreline remaining. As such, access to the water is primarily related to recreation and residential uses. Industrial uses of the shoreline are not allowed and the demand for commercial uses of the shoreline are limited.

## B. Basic Shoreline Use and Development Standards

### 1. Permitted, Conditional and Prohibited Uses – Table I

#### KEY

P = Permitted Use

C = Conditional Use

X = Prohibited

SHORELINE USES	NATURAL	URBAN CONSERVANCY	SHORELINE RESIDENTIAL	SHORELINE RESIDENTIAL LIMITED	AQUATIC <sup>1</sup>
Agriculture (Accessory Use Only)	X	X	P	P	X
Aquaculture <sup>1</sup>	C	C	C	C	C

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<sup>1</sup> Please also see adjacent upland environment. Where a use would be located both in upland and overwater, the more restrictive standards apply.

SHORELINE USES	NATURAL	URBAN CONSERVANCY	SHORELINE RESIDENTIAL	SHORELINE RESIDENTIAL LIMITED	AQUATIC <sup>2</sup>
<b>Boating Facilities (Public, Commercial, or Serving 4 or More Residences)</b>					
Marina (Public or Private)	X	X	X	X	X
Community Pier (Private Shared Use)	X	X	P	C <sup>3</sup>	P
Public Pier	C	C	C	C	C
Boat Launch	X	P/X <sup>4</sup>	X	X	C
<b>Commercial Development (Accessory Use Only, e.g. home based business or park concession stand, please see use standards for additional restrictions)</b>	X	C <sup>5</sup>	P <sup>6</sup>	X	X
<b>Forest Practices</b>	X	X	X	X	X
<b>Manufacturing</b>	X	X	X	X	X
<b>Mining</b>	X	X	X	X	X
<b>Parking (As a Primary Use)</b>	X	X	X	X	X

<sup>1</sup> Aquaculture shall be conditionally approved in all shoreline designations as long as the use meets the mandates of WAC 173.26.241(3)(b) and is limited to native species recovery only.

<sup>2</sup> Please also see adjacent upland environment. Where a use would be located both in upland and overwater, the more restrictive standards apply.

<sup>3</sup> Only one community pier per island shall be allowed in the Shoreline Residential Limited environment. Community piers shall be conditioned to require the removal of any other private overwater structures on the applicants' properties.

<sup>4</sup> Boat launches meeting the definition of Boating Facilities in state law are a permitted use at the existing Boat Launch Park and are not permitted elsewhere in the Urban Conservancy environment.

<sup>5</sup> This use is subject to further zoning restrictions in the Black Diamond Municipal Code.

<sup>6</sup> This use is subject to further zoning restrictions in the Black Diamond Municipal Code.

Parking (As an Accessory Use)	X	C	P	X	X
SHORELINE USES	NATURAL	URBAN CONSERVANCY	SHORELINE RESIDENTIAL	SHORELINE RESIDENTIAL LIMITED	AQUATIC <sup>1</sup>
<b>Recreational Facilities</b>					
Water oriented	P	P	P	P	P <sup>2</sup>
Non-water oriented (As a Primary Use)	X	X	X	X	X
Non-water oriented (As an Accessory Use)	C	C	P	P	X
Multi-use Trails	X	C	C	X	X
Minor Trails	P	P	P	P	X
<b>Residential Development</b>					
Single family	X	X	P	C	X
Multi-family	X	X	X	X	X
<b>Scientific, Historical, Cultural, or Educational Uses</b>	P	P	P	P	P
<b>Transportation Facilities</b>					
New Roads related to Permitted Shoreline Activities	X	X	C	X	X
Expansion of Existing Circulation Systems and driveways	X	C	P	X	X
<b>Utilities (Primary)</b>					
Solid Waste Disposal or Transfer Sites (excluding storage of recyclable materials)	X	X	X	X	X
Other	X	C	C	C	C
<b>Utilities (Accessory)</b>					
Local Public Water, Electric, Natural Gas Distribution, Public Sewer collection, Cable and Telephone Service, and Appurtenances	C	P	P	P	C

<sup>1</sup> Please also see adjacent upland environment. Where a use would be located both in upland and overwater, the more restrictive standards apply.

<sup>2</sup> Only water dependent uses are permitted in the Aquatic designation.

## 2. Basic Development Standards – Table II

DEVELOPMENT STANDARD	NATURAL	URBAN CONSERVANCY	SHORELINE RESIDENTIAL	SHORELINE RESIDENTIAL LIMITED	AQUATIC
Maximum Height <sup>1</sup>	32 ft. (All Structures)	32 ft. (All Structures)	Primary Dwelling Unit: 32 ft.  Accessory Building: No greater than primary dwelling unit or 26 feet, whichever is less	Primary Dwelling Unit: 32 ft.  Accessory Building: No greater than primary dwelling unit or 26 feet, whichever is less	N/A <sup>3</sup>
Shoreline Setback (from OHWM) <sup>2</sup>  Please also see Regulation # 2 related to non-conforming single family homes.	100 ft.	100 ft. (standard) may be reduced to 75 ft. (minimum) with enhancement <sup>5</sup>	40 ft. (standard) may be reduced to 25 ft. (minimum) with enhancement	50 ft. (standard) may be reduced to 25 ft. (minimum) with enhancement	N/A <sup>3</sup>
Maximum Impervious Surface Coverage <sup>4</sup>	5%	10%	40% <sup>5</sup>	30%	N/A <sup>3</sup>
Maximum Building Coverage	5%	5%	30%	20%	N/A <sup>3</sup>
Minimum lot width <u>and</u> water frontage	N/A	N/A	60 ft. <sup>1</sup>	N/A	N/A <sup>3</sup>
Minimum Lot Size	No further subdivision	No further subdivision is	9,600 sq. ft <sup>6</sup>	No further subdivision is	N/A <sup>3</sup>

<sup>1</sup>Please see Residential Subdivision Standards in Chapter 4, Section C.8.c.



DEVELOPMENT STANDARD	NATURAL	URBAN CONSERVANCY	SHORELINE RESIDENTIAL	SHORELINE RESIDENTIAL LIMITED	AQUATIC
	is allowed	allowed	Subdivision of unsewered properties is prohibited.	allowed.	

<sup>1</sup> Development shall also be subject to the height limits established by the underlying zoning. The maximum basic height limitation for all principal and accessory buildings in the various zone districts shall not apply to cupolas that do not extend more than three feet above the roof line, flagpoles, transmission lines, residential antennas, and other similar structures as determined by the Director.

<sup>2</sup>The standard setback applies to all permanent and temporary primary and accessory structures unless specifically exempted below. Setbacks are measured landward, on a horizontal plane perpendicular to the shoreline. The setback may be reduced to the minimum setback indicated in Table II where the applicant agrees to implement voluntary enhancements as described in Sections B.3 and B.4 below, and the Shoreline Administrator determines the proposal is consistent with all other requirements of this SMP. Please see zoning regulations for interior lot setbacks and other requirements that apply to specific zones. Development associated with water dependent uses, shoreline access and ecological restoration such as overwater structures, shoreline stabilization, trails, stairs and similar appurtenances are not required to meet the minimum setback. However, where such development is approved within the minimum setback, the placement of structures and hard surfaces shall be limited to the minimum necessary for the feasible operation of the use.

<sup>3</sup>Not Applicable. Land-based standards do not apply in the Aquatic environment because only water dependent structures and development, such as docks, are allowed. Height of all structures shall be the minimum necessary for the proposed water dependent use.

<sup>4</sup> The amount of impervious surface shall be the minimum necessary to provide for the intended use. The City will encourage practices that further minimize impervious surfaces and stormwater runoff, including use of best available technologies.

<sup>5</sup> The City shall adopt administrative rules that allow partial credit for pervious pavements or infiltration systems that do not degrade ecological function, provided site coverage including both impervious surfaces and pervious pavements shall not constitute more than 50% of parcel area. The amount of credit and certification of allowable materials shall be determined by the City Engineer.

<sup>6</sup>Minimum lot size refers to the minimum area needed for a new lot and is further restricted by other factors, including land needed for an on-site sewage system in those areas where sanitary sewers are not available.

### 3. Flexible Shoreline Setback Regulations

In addition to the specific requirements for particular uses, the following standards shall apply:

1. A standard setback shall be established from the ordinary high water mark for all lots within shoreline jurisdiction. The setback shall not apply to docks, piers, bridges and similar water dependent structures.
  - a. The forty (40) foot standard setback in the Shoreline Residential and the fifty (50) foot Shoreline Residential Limited Environments may be reduced down to a minimum of twenty-five (25) feet when setback reduction impacts are mitigated using a combination of the voluntary mitigation options provided in Table III to achieve an equal or greater protection of lake ecological functions.
  - b. The one-hundred (100) foot setback within the Urban Conservancy environment may be reduced to a minimum of seventy-five (75) feet, when setback reduction impacts are mitigated using a combination of the mitigation options provided in Table III to achieve an equal or greater protection of lake ecological functions.
  - c. No setback reduction is allowed in the Natural environment, where a one-hundred (100) foot setback shall be required.
  - d. At least one Water Related Action or 25 feet of reduction allowance from selected Upland Related reduction mechanisms in Table III must be undertaken in order to achieve the full setback reduction allowed.
  - e. *Alternative Setback Averaging* – In instances of unique lot configurations, the Shoreline Administrator or his/her designee may allow modification either of the standard or mitigated shoreline setback, by allowing a partial reduced setback if a compensating increased setback for other portions of the development is provided. Modified setback averaging may only be allowed where a qualified professional demonstrates that all of the following conditions are met:
    - i. Alternative setback averaging will not reduce shoreline functions or functional performance;
    - ii. The total area contained in the setback area after averaging is no less than that which would otherwise be required; and all increases in setback dimension for averaging are generally parallel to the shoreline edge;
    - iii. The setback depth at its narrowest point is not reduced to less than twenty-five feet;
    - iv. Under no circumstances shall a structure encroach more than five feet beyond either the standard or mitigated setback.
2. Please see provisions for Nonconforming Uses and Development in Chapter 6: Administration.
3. All property owners who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions in a Notice on Title, and provide a copy of the Notice on Title to the Shoreline Administrator.
4. Setback reductions shall not apply to enforcement actions, after the fact permits or similar actions.
5. Mitigation of native vegetation as discussed below 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:

- a. The goals and objectives for the mitigation plan;
  - b. The criteria for assessing the mitigation;
  - c. 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 no less than five years; and
  - d. A contingency plan.
5. Whenever the Shoreline Administrator determines that monitoring has identified a significant adverse deviation from predicted impacts, or that mitigation or maintenance measures have failed, the property owner shall be required to institute corrective action, which shall be subject to further monitoring as necessary to ensure the success of requirement mitigation measures.
  6. Please see Chapter 3, Section B.7.C (Vegetation Conservation regulations) for additional requirements, including maintenance, monitoring and criteria for mitigation success.

#### 4. Shoreline Setback Reduction Mechanisms – Table III

REDUCTION MECHANISM		REDUCTION ALLOWANCE
Water Related Actions		
1	Removal of existing bulkhead located at, below, or within 5 feet landward of the shoreline's ordinary high water mark (OHWM) and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, beach/substrate composition and stabilization of disturbed soils with native vegetation.	<p>Bulkhead Removal on 75% of shoreline: 15 feet</p> <p>50% of shoreline: 10 feet</p> <p>25% of shoreline: 5 feet</p>
2	Restoration of natural shoreline conditions (e.g. no bulkhead or other unnatural shoreline features such as upland impervious surfaces or other structural alterations allowed) within 10 feet of the OHWM, including restoration of native vegetation. The reduction will only be granted if ecological functions would be improved relative to the existing condition.	10 feet
3	Existing hard structural stabilization at or near the ordinary high water mark is removed and new hard structural shoreline stabilization measures are setback from the OHWM between 2 ft. to 4 ft. based on feasibility and existing conditions and are sloped a maximum angle of 3 vertical: 1 horizontal to provide dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat.	5 feet
4	Soft structural shoreline stabilization measures are installed waterward of the OHWM on a site currently containing only hard stabilization. They shall include the use of gravels, cobbles, boulders and/or logs, as well as vegetation. The material shall be of a size and placed to remain stable and accommodate alteration from wind and boat-driven waves and shall be graded to a maximum slope of 1 vertical: 4 horizontal	5 feet

REDUCTION MECHANISM		REDUCTION ALLOWANCE
5	Contribution to a City restoration fund, or bank, for offsite shoreline restoration and implementation of measures contained in the setback reduction mechanisms of the Water Related Actions, items 1 through 4, of Table III above. Amount shall be determined by the Shoreline Administrator based upon the approximate cost that would be required to accomplish the applicant selected water-related, shoreline enhancement at the on-site area of improvement. The City shall establish the fund or bank and more specific operational rules, to make this reduction mechanism available.	5-15 feet
6	<p>Contribution to a City restoration fund, or bank, for offsite shoreline restoration in the City owned parks on Lake Sawyer. Amount shall be determined based upon the cost per frontage foot shown below times the number of frontage feet on the applicant's parcel as shown in the current King County property tax assessment database. The City shall establish the restoration cost per foot for the three setback reductions below to make this reduction mechanism available.</p> <p>Setback Reduction of 5 ft. = \$XXX per foot of frontage at the on-site location.</p> <p>Setback Reduction of 10 ft. = \$YYY per foot of frontage at the on-site location</p> <p>Setback Reduction of 15 ft. = \$ZZZ per foot of frontage at the on-site location.</p>	5-15 feet
Upland Related Actions		
7	Restoration of native vegetation (and preservation of existing trees and native vegetation) in at least 75 percent of the reduced (i.e. that portion remaining after reductions are applied) setback area. The remaining 25 percent of the setback area can be comprised of existing non-invasive, non-native vegetation. Up to 10 feet of frontage may be used for improved shoreline access, provided access areas are located to avoid areas of greater sensitivity and habitat value and access areas may not be counted as part of the 25 percent restoration area. (Note: this incentive cannot be used by any properties that currently have substantial multi-layered native vegetation in 75% of the setback area. The reduction will only be granted if ecological functions would be	10 feet



REDUCTION MECHANISM		REDUCTION ALLOWANCE
	improved relative to the existing condition.)	
8	Restoration of native vegetation (and preservation of existing trees and native vegetation) in at least 25 percent of the reduced setback area. Up to 10 feet of frontage may be used for improved shoreline access, provided access areas are located to avoid areas of greater sensitivity and habitat value and access areas may not be counted as part of the 25 percent restoration area. (Note: this incentive cannot be used by any properties that currently have substantial multi-layered native vegetation in 25% of the setback area. The reduction will only be granted if ecological functions would be improved relative to the existing condition.)	5 feet
9	Installation of biofiltration/infiltration mechanisms such as rain gardens, bioswales, created and/or enhanced wetlands, infiltration facilities, ponds or other approved Low Impact Development techniques that treat the majority of surface water run-off from a site and exceed adopted stormwater requirements. (Note: stormwater ponds serving more than one property should be located outside of shoreline jurisdiction if possible).	5 feet
10	Installation of a “green” roof in accordance with the standards of the LEED Green Building Rating System.	5 feet
11	Installation of pervious material for entire length of a driveway or infiltration systems that do not degrade ecological function.	5 feet
12	Limiting total impervious surface, e.g. pathways or patios for water access and enjoyment, in the reduced setback area to less than 10 percent, provided the applicant complies with all other development requirements	5 feet
13	Reduction of 5 feet for impervious surface 10 percent less than the SMP standard and 10 feet for impervious coverage 20 percent less than the SMP standard	5-10 feet
14	For preparation of, and agreement to adhere to, a written shoreline vegetation management plan that includes appropriate limitations on the use of fertilizers, herbicides and pesticides to protect water quality.	5 Feet

REDUCTION MECHANISM		REDUCTION ALLOWANCE
	This plan must be approved by the City prior to implementation of the plan.	
15	Preserving or restoring at least 20 percent of the total lot area outside of the setback area as native vegetation.	5 feet
16	Contribution to a City mitigation fund, or bank, for offsite vegetation restoration and implementation of other measures contained in setback reduction mechanisms 6 and 7 of Table III above. Amount shall be determined by the Shoreline Administrator based upon what the approximate cost would be to accomplish the vegetation enhancement work in the on-site setback area. The City shall establish the fund or bank and more specific operational rules, to make this reduction mechanism available.	5-10 feet
17	Connection to the sanitary sewer system on a property that currently utilizes an onsite septic system.	5 feet

Any further reduction of shoreline setbacks beyond the minimum listed in this Chapter shall require a Shoreline Variance.

## C. Shoreline Use Policies and Regulations

### 1. General Use Policies

#### a) **Applicability**

The following provisions are applicable to all uses occurring within the shoreline jurisdiction.

#### b) **Policies**

1. The following uses should be prohibited within the shoreline jurisdiction: Mining, Forestry, and Manufacturing.
2. When determining allowable uses and resolving use conflicts within the City's shoreline jurisdiction, apply the following preferences and priorities in the order listed below:
  - a. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.
  - b. Reserve shoreline areas for water-dependent and associated water related uses.

- c. Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.
  - d. Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.
  - e. Limit non-water-oriented uses to those locations where the above described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act, including opportunities for ecological enhancements and public access improvements.
3. Proposed economic use of the shoreline should be consistent with Black Diamond's Comprehensive Plan.
  4. New residential development should be designed to protect existing shoreline water views, promote public safety, and avoid adverse impacts to shoreline habitats.
  5. All development and redevelopment activities within the City's shoreline jurisdiction should be designed to ensure public safety, enhance public access, protect existing shoreline and water views and achieve no net loss of shoreline ecological functions.
  6. Require the use of Low Impact Development (LID) and encourage "Green Building" practices, such as those promulgated under the Leadership in Energy and Environmental Design (LEED) and Green Built programs, for new development within the shoreline jurisdiction.
  7. Proposed shoreline uses should not infringe upon the rights of others or upon the rights of private ownership.
  8. Encourage shoreline uses which enhance their specific areas or employ innovative features for purposes consistent with this program.
  9. Encourage restoration of shoreline areas that have been degraded or diminished in ecological value and function as a result of past activities or catastrophic events.
  10. Shoreline uses are allowed only if the underlying zoning allows the use.

## 2. Agriculture

Agriculture includes, but is not limited to, the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, or Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140; finfish in upland hatcheries, or livestock.

### a) Policies

1. Agriculture should be prohibited in the Natural environment and permitted as an accessory use only in all other environments.
2. The creation of new agricultural lands by diking, draining, or filling marshes, and associated marshes, bogs, and swamps, or by removing native vegetation should be prohibited.

3. All agricultural activities should be setback from the shoreline according to the setbacks established for the shoreline environment in which the activity is occurring.
4. Appropriate management techniques should be utilized to prevent contamination of nearby water bodies and adverse effects on valuable plant, fish, and animal life by fertilizer and pesticide use and application. The use of chemical pesticides and fertilizers should be discouraged.
5. Significant new agricultural development should be conditioned with the requirement for ecological restoration to ensure no net loss of ecological functions. The City's Shoreline Administrator will consult the provisions of this SMP and determine the applicability and extent of ecological restoration. The extent of ecological restoration shall be that which is reasonable given the specific circumstances of an agricultural development.

#### **b) Regulations**

1. Agricultural development shall conform to applicable state and federal policies and regulations, provided they are consistent with the Shoreline Management Act and this SMP to ensure no net loss of ecological function.
2. All agricultural activities shall occur outside of the established shoreline setback area.
3. The removal of native vegetation to accommodate agricultural activities shall be prohibited.
4. A buffer of natural or planted permanent native vegetation not less than 25 feet in width, measured perpendicular to the shoreline, shall be maintained between areas of new development for crops, grazing, or other agricultural activity and adjacent waters, and associated wetlands. The City's Shoreline Administrator shall determine the extent and composition of the buffer when the permit or letter of exemption is applied for.
5. Water withdrawals from SMP waterbodies for irrigation purposes shall be subject to Department of Ecology rules and regulations.
6. Manure lagoons, confinement lots, feeding operations, lot wastes, stockpiles of manure solids, aerial spraying, and storage of noxious chemicals are prohibited within the shoreline jurisdiction.
7. Any water discharge from agricultural activities into SMP water bodies shall be prohibited.

### **3. Aquaculture**

Aquaculture is the farming of food fish, shellfish, or other aquatic plants and animals. This activity is of statewide interest. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. The technology associated with some forms of aquaculture is still in its formative stages and experimental. This shoreline master program recognizes the necessity of some latitude in the development of this use.

#### **a) Policies**

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

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

**b) Regulations**

1. Aquaculture development shall conform to applicable state and federal policies and regulations, provided they are consistent with the Shoreline Management Act and this SMP to ensure no net loss of ecological function.
2. The applicant shall demonstrate that the proposed facility meets the requirements of Policy 2 above.
3. Impacts to ecological functions shall be mitigated in accordance with the sequence described in Chapter 3, Section 4(C)2.

## **4. Boating Facilities**

**a) Applicability**

Boating facilities, including community piers, public piers, commercial launches and related facilities, and public or community boat launches, shall be subject to the policies and regulations of this Section, as well as those contained in Chapter 5, Section E, Overwater Structures. The following policies and regulations only apply to public, commercial or private moorage facilities serving more than four (4) single-family residences.

**b) Policies**

1. Boating facilities should be located, designed, and operated to ensure no net loss of ecological functions or other significant adverse impacts, and should, where feasible, enhance degraded and/or scarce shoreline features.
2. To the extent possible, boating facilities should be located in areas of low biological productivity.
3. Boating facilities should be located and designed so their structures and operations will be aesthetically compatible with the area visually affected and will not unreasonably impair shoreline views. However, the need to protect and restore functions and to provide for water-dependent uses carries higher priority than the protection of views.
4. Boating facilities should not unduly obstruct navigable waters and should consider adverse effects to recreational opportunities such as swimming, fishing and shoreline viewing.
5. Existing boating facilities for motorized craft may be modified and reconfigured, but any expansions that encourage additional motorized use of the lake are discouraged and should be mitigated to protect the lake from additional adverse impacts associated with intensive motorized use on a relatively small water body.

**c) Regulations**

1. New boating facilities shall be limited to private shared use pier facilities and public non-motorized facilities.
2. Boating facilities shall not significantly impact the rights of navigation on the waters of the state.



3. Existing boating facilities that accommodate motorized craft may be repaired, improved and reconfigured, however, they shall not be expanded to accommodate a greater number of users without a conditional use permit and mitigation measures to address the ongoing impacts of this use.
4. Location Standards.
  - a. New boating facilities shall not be permitted in areas where dredging will be required or where impacts to shoreline ecological functions and processes cannot be mitigated.
  - b. Boating facilities shall be located and designed with the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft from floods or destructive storms.
  - c. Boating facilities shall be located to protect the public health, safety and welfare.
  - d. Boating facilities shall be located only where adequate utility services are available, or where they can be provided concurrent with the development.
5. Facility Design.
  - a. All boating facilities shall be designed to avoid and minimize impacts. All impacts must be mitigated consistent with mitigation sequencing and no net loss requirements.
  - b. All boating facilities shall be the minimum size necessary to accommodate the anticipated demand. Specifically, the amount of overwater cover, the size and number of in-water structures, the waterward length of the facility, and the extent of any necessary associated shoreline stabilization or modification shall be minimized. Specific sizing of all boating facility components shall have the following limitations:
    - i. Over-water facilities shall be no wider than 8 feet and no longer than 60 feet measured perpendicularly from the OHWM.
    - ii. Over-water facilities may be as long as 80 feet without a Shoreline Variance if the additional length is needed to reach 11 feet of moorage depth as measured from the OHWM. The extra length will not be allowed if the extension would interfere with navigation or other public uses of the water.
  - c. Overwater components of all boating facilities shall allow transmission of light through the deck surface.
6. Site Design and Operation.
  - a. Boating facilities shall be designed so that lawfully existing or planned public shoreline access is not blocked, obstructed nor made dangerous.
  - b. Boating facilities shall provide physical and/or visual public or community access for as many water-oriented recreational uses as possible, commensurate with the scale of the proposal. Features for access could include, but are not limited to, walk-on access or fishing platforms.
  - c. Public or community access areas shall provide space and facilities for physical and visual access to waterbodies, including feasible types of shore recreation.

- d. Accessory uses at boating facilities shall be limited to water-oriented uses or uses that support physical or visual shoreline access for substantial numbers of the general public. Accessory development may include, but is not limited to, parking, non-hazardous waste storage and treatment, stormwater management facilities, and utilities where these are necessary to support the water-oriented use.
- e. It is the applicant's responsibility to comply with all state agency policies and regulations, including all applicable health, safety and welfare requirements associated with the use.
- f. The traffic generated by such a facility must be safely and conveniently handled by the streets serving the proposed facility.
- g. No live-aboards or floating homes are allowed.
- h. Boating facilities must be limited to day moorage only.
- i. Covered moorage is prohibited.
- j. The perimeter of parking and other storage areas shall be landscaped to provide a visual and noise buffer between adjoining dissimilar uses or scenic areas.
- k. The facility must have provisions available for cleanup of accidental spills of contaminants.

## 7. Boat Launch

- a. Location Standards – Boat launches for non-motorized boats shall be sited so that they do not significantly damage fish and wildlife habitats and shall not occur in areas with native emergent vegetation. Removal of native upland vegetation shall be minimized to the greatest extent feasible.
- b. The design shall comply with all regulations as stipulated by state and federal agencies, affected tribes, or other agencies with jurisdiction.
- c. The applicant shall demonstrate that the proposed length of a boat launch is the minimum necessary to safely launch the intended craft. In no case shall the ramp extend beyond the point where the water depth is 6 feet below the OHWM, unless the City determines that a greater depth is needed for a public boat launch facility.
- d. Design Standards
  - i. Boat launches for non-motorized boats shall be constructed of materials which have the minimum ecological impact; typically gravel or similar natural material should be used to meet this requirement.
  - ii. Preferred launch ramp designs for motorized boats, in order of priority, are:
    - 1. Open grid designs with minimum coverage of lake substrate.
    - 2. Seasonal ramps that can be removed and stored upland.
    - 3. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in shoreline profile.

## 5. Commercial Development

### a) **Applicability**

Commercial development means those uses that are involved in wholesale, retail, service and business trade.

### b) **Policies**

1. New commercial uses should be prohibited as a primary use within the Lake Sawyer shoreline area.
2. Only limited accessory commercial development should be allowed in the Shoreline Residential and Urban Conservancy. Examples of limited accessory commercial uses are as follows:
  - a. Concession stands at recreation facilities,
  - b. Booths associates with festivals sponsored by the City,
  - c. Private parties, receptions and banquets, and
  - d. Boat rentals at recreation facilities.
3. Other than those commercial uses listed above, commercial vendors should not establish business facilities in shoreline jurisdiction. This prohibition does not preclude a vendor from being hired to provide services in connection with a permitted use.
4. Home occupations should be allowed within the Shoreline Residential environment provided they meet the applicable requirements of the zoning code.
5. Low Impact Development techniques should be incorporated into new development as feasible, pursuant to the City's adopted Surface Water Design Manual and the Low Impact Development Technical Guidance Manual for Puget Sound or successor.

### c) **Regulations**

1. Commercial uses shall only be allowed as an accessory use in those shoreline environments where they are allowed pursuant to Table I in this Chapter.
2. Existing primary commercial recreation use at the Sunrise Resort property may continue and may be modified, subject to the requirements and limits for Nonconforming Uses in Chapter 6 and all other applicable SMP and zoning regulations.
3. Commercial uses in Shoreline Residential Environment shall be limited to home occupations within existing single family structures, pursuant to the requirements in the zoning code.
4. Any redevelopment or other modifications made to existing commercial development shall be designed to avoid or minimize ecological impacts, to protect human health and safety, and to avoid significant adverse impacts to surrounding uses and the shoreline's visual qualities, such as views to the waterfront and the natural appearance of the shoreline. To this end, the City's Shoreline Administrator may administratively adjust the project dimensions and setbacks (so long as they are not relaxed below minimum standards without a shoreline variance permit) or prescribe operation intensity and screening standards as deemed appropriate.
5. Low Impact Development (LID) techniques shall be incorporated where appropriate.

## 6. Parking

### a) **Applicability**

Parking is the temporary storage of automobiles or other motorized vehicles. The following provisions apply only to parking that is accessory to a permitted shoreline use. Parking as a primary use and parking which serves a use not permitted in shoreline jurisdiction is prohibited.

### b) **Policies**

1. Parking in shoreline areas should be minimized.
2. Parking facilities in shoreline areas should be located and designed to minimize adverse impacts including those related to stormwater runoff, water quality, visual qualities, public access, and vegetation and habitat maintenance, and shall result in no loss of ecological functions.
3. Parking in shoreline areas should not restrict access to the site by necessary public safety vehicles, utility vehicles, or other vehicles requiring access to shoreline properties.

### c) **Regulations**

1. Parking as a primary use is prohibited in Shoreline jurisdiction.
2. Parking in shoreline areas must directly serve a permitted shoreline use.
3. Parking facilities shall provide adequate provisions to control surface water runoff to prevent it from contaminating water bodies.
4. 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.
5. 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 an effective “full-screen” within three years of project completion when viewed from adjacent areas within Shoreline jurisdiction.
6. 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.

## 7. Recreational Development

### a) **Applicability**

Recreational uses include passive activities, such as walking, viewing and fishing. Recreational development also includes facilities for active uses, such as swimming, boating, and other outdoor recreation uses. This section applies to both public and private noncommercial shoreline recreational facilities (excluding private residences) in Black Diamond.

## **b) Policies**

1. Recreational uses in the shoreline jurisdiction should be limited to water-oriented uses. Non-water-oriented recreational facilities may be allowed as an accessory use in limited circumstances where they support water oriented uses and do not displace water oriented uses.
2. Recreational uses and development should be managed and regulated to prevent the overall increase in motorized boat use and reduce the impacts of this use on the ecological health and residential character of Lake Sawyer. New recreational development should emphasize non-motorized water dependent and water related uses, such as fishing, swimming, picnic facilities, non-motorized hand carried boats, wildlife viewing and nature trails.
3. The City should explore additional controls on watercraft speeds and the large wake associated with certain types of watercraft. .
4. The coordination of local, state and federal recreation planning should be encouraged. Shoreline recreational developments should be consistent with the City's park and recreation plans.
5. Recreational developments should be designed to preserve, enhance or create scenic views and vistas.
6. The use of existing publicly owned lands for public access and development of recreational opportunities should be encouraged. The use and improvement of existing public properties for recreation improvements should be given higher priority over the acquisition of additional sites.
7. Priority for land acquisition should be given to open space that provides wildlife habitat and offers opportunities for education and interpretation within shoreline jurisdiction.
8. Shoreline areas with a potential for providing recreation or public access opportunities should be identified and acquired by lease or purchase, or through partnerships with nonprofit and service organizations, and incorporated into the park and open space system.
9. Links between existing and future shoreline parks, recreation areas and public access points should be created with a non-motorized trail system using existing rights-of-way or through acquisition of easements and/or land.
10. Recreational activities should be designed to avoid conflict with private property rights, and to minimize and mitigate negative impacts on adjoining property.
11. Public access should not contribute to a net loss of shoreline ecological functions.

## **c) Regulations**

1. All structures associated with a recreational use, except water dependent structures, such as docks and boardwalks, and appurtenances that provide access to the water for that use, shall maintain a standard setback of forty (40) feet in the Shoreline Residential Environment, fifty (50) feet in the Shoreline Residential Limited Environment and one-hundred (100) feet in the Urban Conservancy Environment from the OHWM. This setback may be reduced down to 25 feet in the Shoreline Residential, 30 feet in the Shoreline Residential Limited Environment and 75 feet in the Urban Conservancy Environment using setback reduction mechanisms in Table II in this Chapter. Existing structures may be replaced in their current location and configuration to the extent allowed by state



and federal agencies with jurisdiction. Any further setback reduction shall require approval of a shoreline variance application.

2. Private and public recreation areas shall protect existing native vegetation in the shoreline area and restore vegetation impacted by development activities. Recreational use and development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City may request necessary studies prepared by qualified professionals to determine compliance with this standard.
3. 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 emphasized in planning public and private (excluding residential) recreation sites in the shoreline corridor.
4. All recreational developments shall make adequate provisions for:
  - a. Public access to the shoreline;
  - b. Non-motorized and pedestrian access;
  - c. The prevention of trespass onto adjacent properties, including but not limited to landscaping and fencing;
  - d. Protection and restoration of environmentally sensitive areas and shoreline processes and functions;
  - e. Signs indicating the public's right of access to shoreline areas, installed and maintained in conspicuous locations at the point of access and the entrance; and
  - f. Buffering of such development from adjacent private property or natural area.
5. In approving shoreline recreational developments, the City shall ensure that the development will maintain, enhance or restore desirable shoreline features.
6. Swimming areas shall be separated from boat launch areas.
7. The construction of swimming facilities, piers, moorages, floats and launching facilities waterward of the OHWM shall be governed by the regulations relating to overwater structure construction in the Shoreline Modifications Section of this SMP.
8. Public boat launching facilities may be developed, provided the traffic generated by such a facility can be safely and conveniently handled by the streets serving the proposed facility.
9. Fragile and unique shoreline areas with valuable ecological functions, such as wildlife habitats, shall be used only for non-intensive recreation activities that do not involve the construction of structures.
10. Recreation developments such as golf courses and playfields that require periodic use of fertilizers, pesticides or other chemicals, or that support high-intensity activities as a primary use, such as sporting events, shall be located outside of shoreline jurisdiction.
11. A new or expanded shoreline recreational development must provide public access if feasible pursuant to Chapter 3, Section B(5)(d), Public Access.

## 8. Residential Development

### a) **Applicability**

Residential development means one or more buildings, structures, lots, parcels, or portions thereof which are designed for and used or intended to be used to provide a place of abode for human beings, including single family residences and other detached dwellings together with accessory uses and structures normally applicable to residential uses located landward of the OHWM, including, but not limited to, swimming pools, garages, sheds, fences and saunas.

### b) **Policies**

1. Residential development should be permitted only where there are adequate provisions for utilities, circulation and access.
2. New residential subdivisions should not be allowed unless sanitary sewer is provided.
3. Recognizing the single purpose, irreversible and space consumptive nature of shoreline residential development, new development should provide adequate setbacks and natural buffers from the water and ample open space among structures to protect natural features, preserve views and minimize use conflicts.
4. The City should provide development incentives, including reduced shoreline setbacks, to encourage the protection, enhancement and restoration of high functioning buffers and natural or semi-natural shorelines.
5. Residential development should be designed to preserve shoreline aesthetic characteristics, views, and minimize physical impacts to shoreline ecological functions.
6. Residential development should be designed so as to preserve existing shoreline vegetation, control erosion and protect water quality using best management practices and where possible, utilizing low impact development technologies.
7. The City encourages the use of joint-use piers and docks in lieu of individual piers and docks for each waterfront lot to protect the ecological functions of the lake.
8. The City encourages the use of alternative paving products for walkways, driveways, and patios, such as pervious pavers, as a mechanism for reducing impervious surfaces and surface water runoff.
9. Subdivisions should be designed to minimize impacts to shoreline ecological functions, including the use of common open space areas along the shoreline, retention of native vegetation and shared moorage and recreational facilities.
10. Development should, at a minimum, achieve no net loss of ecological functions necessary to sustain shoreline natural resources, even for exempt development.

### c) **Regulations**

1. Residential development is permitted subject to the policies and regulations for the specific Shoreline Environment (see Chapter 2, Table I), the standards of the underlying zoning regulations and the general regulations in Chapter 3 of this Shoreline Master Program.

2. Residential development shall be required to connect to public sewer if the property owner is seeking a building or site development permit or the property has a failing septic system that poses a risk to health or the environment, and such connection can be made within 300 of the subject property.
3. Special Subdivision Standards. The following requirements shall apply to residential short subdivisions that create more than four lots and all long subdivisions. These standards are in addition to those required under Title 17 and other sections of the Black Diamond Municipal Code.
  - a. Lot divisions subject to these provisions shall be designed to include a common open space tract encompassing all areas within 75 feet of the OHWM that are not part of a parent lot with a retained primary structure.
  - b. Vegetation removal within the required open space tract shall be the minimum necessary to facilitate water-oriented recreational uses. Structures within 50 feet of the OHWM located within the common open space tract shall be limited to overwater structures (e.g. joint use pier) and related access, such as a trail and stairs.
  - c. Pruning consistent with accepted arboricultural practices shall be allowed within the open space tract to provide views of the water from and through the tract, but healthy native vegetation shall be retained consistent with Subsection b above.
  - d. Public access may be required for subdivisions of more than four lots pursuant to the requirements of Chapter 3, Section B.5.c. The Shoreline Administrator may determine that shared community access limited to residents of the subdivision is sufficient where additional demand for public access created by the subdivision would be satisfied by such access and the proposal would not result in other conditions that adversely impact public access pursuant to Chapter 3, Section B.5.c.1.
  - e. New lots created through the subdivision shall be required to connect to the public sanitary sewer.
4. Structures or other development accessory to residential uses are permitted in shoreline jurisdiction, if allowed under all other applicable standards in this SMP and subject to the provisions of the City's zoning code.
5. All additions to residential structures must comply with all standards in this SMP, including required shoreline setbacks established in Chapter 2, Table I.
6. Residential structures that are intentionally modified, replaced, repaired or enlarged are subject to the requirements in Chapter 6 (Administration – Nonconforming Use and Development Standards).
7. Residential structures that are modified, replaced or repaired following a catastrophic loss are subject to the requirements in Chapter 6 (Administration – Nonconforming Use and Development Standards).
8. Accessory uses and appurtenant structures not specifically addressed in the SMP shall be subject to the same regulations as primary residences.
9. In order to maintain visual access to the waterfront, fences within the required setback from the OHWM shall be:

- a. No more than 42 inches when separating two residential lots and no more than 6 feet high when separating a residential lot from a park or commercial use, and
  - b. May not extend waterward of the OHWM.
10. To protect views and vistas maximum height limits have been established for each Shoreline Environment as indicated in Chapter 4, Table I, Summary of Shoreline Dimensional Standards.
11. Stormwater runoff for all new or expanded pavements or other impervious surfaces 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.
12. Residential development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City may request necessary studies prepared by qualified professionals to determine compliance with this standard.

## 9. Signs

### a) **Applicability**

A sign is defined as a device of any material or medium, including structural component parts, which is used or intended to be used to attract attention to the subject matter for advertising, identification or informative purposes. The following provisions apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment, conducted or sold either on the premises.

### b) **Policies**

1. Signs should be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses.
2. Signs should not block or otherwise interfere with visual access to the water or shorelines.
3. Outdoor advertising and billboards are not an appropriate use of the shoreline area within shoreline jurisdiction.

### c) **Regulations**

1. Signs shall comply with the City's sign regulations.
2. Sign plans and designs shall be submitted for review and approval at the time of shoreline permit approval.
3. All signs shall be located and designed to minimize interference with vistas, viewpoints and visual access to the shoreline.
4. The following types of signs may be allowed in all shoreline environments:
  - a. Water navigational signs and highway signs necessary for operation, safety and direction.
  - b. Public information signs directly relating to a shoreline use or activity.

- c. Off-premise, freestanding signs for community identification, information, or directional purposes.
  - d. National, site and institutional flags or temporary decorations customary for special holidays and similar events of a public nature.
5. The following signs are prohibited:
- a. Off-premises detached outdoor advertising signs.
  - b. Spinners, streamers, pennants, flashing lights, and other animated signs used for commercial purposes.
  - c. Signs placed on trees or other natural features.
  - d. Commercial signs for products, services, or facilities located off-site.

## 10. Transportation Facilities

### a) **Applicability**

Transportation facilities are those structures and developments that aid in land, air, and water surface movement of people, goods, and services. They include roads and highways, bridges, bikeways, trails, heliports, and other related facilities. In Black Diamond, these uses account for a minimal percentage of the shoreline land inventory. However, the impact of these facilities on shorelines can be substantial.

### b) **Policies**

1. Normal operation and maintenance of all roadways in shoreline jurisdiction should be exempt.
2. New road construction in the shoreline jurisdiction should be minimized, and allowed by conditional use only when related to and necessary for the support of permitted shoreline activities.
3. Expansion of existing roadways should be allowed by conditional use if such facilities are found to be in the public interest.
4. Joint use of transportation corridors within the shoreline jurisdiction for roads, utilities and motorized and non-motorized forms of transportation should be encouraged, where feasible.

### c) **Regulations**

1. New road construction in shoreline jurisdiction shall be minimized and allowed only when related to and necessary for the support of permitted shoreline activities.
2. Transportation facility development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.
3. Expansion of existing roadways within the shoreline jurisdiction shall be allowed only when the proponent demonstrates that:
  - a. No alternative route is feasible;
  - b. The roadway is constructed and maintained to cause the least possible adverse impact on the land and water environment; and



- c. The roadway is found to be in the public interest.
4. Transportation and primary 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.
5. Developers of roads must be able to demonstrate that efforts have been made to coordinate with existing land use plans including the Shoreline Master Program and the City's Comprehensive Plan.
6. 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.
7. Road designs must provide safe pedestrian and non-motorized vehicular crossings where public access to shorelines is intended.
8. 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 and function.
9. The City shall give preference to mechanical means for roadside brush control on roads in shoreline jurisdiction rather than the use of herbicides.

## 11. Utilities (Primary)

### a) Applicability

Utilities are services and facilities that produce, transmit, store, process or dispose of electric power, gas, water, sewage, and communications. Utilities in this SMP are divided into primary and accessory based on type and scale. The provisions of this section apply to primary use and activities such as solid waste handling and disposal, water transmission lines, sewage treatment facilities and mains, power generating or high voltage transmission facilities, gas distribution lines and storage facilities, stormwater mains and regional stormwater treatment facilities.

### b) Policies

1. New primary utilities should be located outside of the SMA unless no other feasible option exists. Where allowed, they should utilize existing transportation and utility sites, rights-of-way and corridors whenever possible, rather than creating new corridors. Joint use of rights-of-way and corridors should be encouraged.
2. Solid waste disposal activities and facilities should be prohibited in shoreline areas. Short term storage of trash and recyclable materials associated with a permitted shoreline use is allowed, provided such activity occurs outside of the shoreline setback.
3. Primary utilities should avoid locating in environmentally sensitive areas unless no feasible alternatives exist.
4. Wherever primary utility facilities and corridors must be placed in a shoreline area, they should be located so as to protect scenic views. Whenever possible, such facilities should be placed underground or designed to minimize impacts on the aesthetic qualities of the shoreline area.

### c) Regulations

1. Primary utilities shall be located outside of SMA jurisdiction unless no other feasible option exists.
2. Primary 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.
3. Primary utility facilities shall avoid disturbance of unique and fragile areas, as well as 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. Failure to meet this standard will result in permit denial.
4. 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, will not conflict with property rights (easement restrictions), endanger public health and safety or create a significant and disproportionate liability for the owner.
5. 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 must fully substantiate the infeasibility of existing routes.
6. Solid waste disposal sites and facilities are prohibited in the shoreline environment.
7. Where major facilities must be placed in a shoreline area, the location and design shall be chosen so as not to destroy or obstruct scenic views.
8. Primary utility development shall provide screening of facilities from water bodies and adjacent properties. Screening, including landscaping and fencing, shall be designed to constitute a dense “full screen”.
9. Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and upon project completion any disturbed areas shall be restored to their pre-project condition, or if not feasible, then additional plantings will be required to attain no net loss in ecological function.
10. The City shall hold public meetings prior to the issuance of a Substantial Development Permit for a major primary utility project in accordance with the administrative procedures outlined in this Master Program to allow for the greatest amount of public input to help guide utility-related decisions.

## 12. Utilities (Accessory)

### a) Applicability

Utilities have been split into accessory and primary with accessory meaning utilities that affect small-scale distribution services connected directly to the uses along the shoreline. For example, power distribution, telephone, cable, water and sewer service lines, stormwater collection and conveyance, are all considered as accessory utility uses. They are covered in this section because they concern all types of development and have the potential of impacting the ecological condition and visual quality of the shoreline and its waters.

**b) Policies**

1. Utilities are necessary to serve shoreline uses and should be properly installed to protect the shoreline and water from contamination and degradation.
2. Utility facilities and right-of-ways should be located outside of the shoreline area to the maximum extent possible. When utility lines require a shoreline location, they should be placed underground, where feasible.
3. Utility facilities should be designed and located in a manner which preserves the natural landscape and shoreline ecology, and minimizes conflicts with present and planned land uses.

**c) Regulations**

1. Utility developments 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, or endanger public health and safety.
2. In shoreline areas, accessory utilities shall be placed underground unless demonstrated to be infeasible. Further, such lines shall utilize existing rights-of-way, and existing corridors whenever possible.
3. Utility facilities shall be located and designed to avoid destruction of, or damage to, important wildlife areas, and other unique and fragile areas. Utility facility development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.
4. Heating and cooling facilities for residential homes shall not be located in the Aquatic environment.
5. Clearing for the installation or maintenance of utilities shall be kept to a minimum, and upon project completion, any disturbed area shall be restored, to the greatest extent feasible, to pre-project conditions, including replanting with native species, or other species as approved by the City, and maintenance care. If the previous condition is identified as being undesirable for shoreline function, then landscaping and other improvements shall be undertaken.
6. The location and construction of outfalls shall comply with all appropriate federal, state, county and city regulations.
7. The City of Black Diamond shall maintain, enhance and restore public natural drainage systems to protect water quality, reduce flooding, reduce public costs and prevent associated environmental degradation for a no net loss of shoreline ecological functions.
8. New utility lines including electricity, communications, and fuel lines shall be located underground. Existing above ground lines shall be moved underground when properties are redeveloped or in conjunction with major system upgrades or replacements.
9. Utility development shall include public access to the shoreline, trail systems, and other forms of recreation, providing such uses will not unduly interfere with utility operations, endanger the public health, safety, and welfare, or create a significant and disproportionate liability for the owner.

10. Proposals for new utility corridors shall fully substantiate the infeasibility of existing routes.

# Chapter 5 Shoreline Modification Provisions

## A. Introduction

Shoreline modification activities are those actions that modify the physical configuration or qualities of the shoreline area. Shoreline modification activities are, by definition, undertaken in support of or in preparation for a permitted shoreline use. A single use may require several different shoreline modification activities.

Shoreline modification activity policies and regulations are intended to assure, at a minimum, no net loss of ecological functions necessary to sustain shoreline natural resources and to prevent, reduce and mitigate the negative environmental impacts of proposed shoreline modifications consistent with the goals of the Shoreline Management Act. A proposed development must meet all of the regulations for both applicable uses and activities as well as the general and environment designation regulations.

This chapter has been divided into five sections: Clearing and Grading, Shoreline Stabilization, Dredging, Fill, and Overwater Structures.

## B. Table of Shoreline Modification Activities

The shoreline modification table below determines whether a specific shoreline modification is allowed within each of the shoreline environments. See standards following the table for a full explanation of activities and required conditions for permitted activities.

The table should be interpreted as follows:

- A. The letter "X" indicates the modification is not allowed.
- B. The letter "P" indicates the modification may be allowed only if the underlying zoning allows the modification.
- C. The letter "C" indicates the modification may be allowed subject to the shoreline conditional use review procedures specified in Chapter 6, and only if the underlying zoning allows the modification.
- D. "N/A" indicates the shoreline modification is not applicable in the given environment.

d) **Table IV. Shoreline Modifications**

Shoreline Modification Activity	Natural	Urban Conservancy	Shoreline Residential Limited	Shoreline Residential	Aquatic
SHORELINE STABILIZATION					See adjacent upland environment
Beach Augmentation / Enhancement	X	C	P	P	
Soil Bio-engineering	C	P	P	P	
Structural stabilization	X	C	C	P	
Breakwaters, jetties, and groins	X	X	X	X	
Clearing and Grading	C	P	C	P	
Dredging	C	C	C	C	
Fill - landward of OHWM	C	C	C	P	
Fill - waterward of OHWM	C	C	C	C	
OVERWATER STRUCTURES <u>ACCESSORY TO RESIDENTIAL</u>					
Buoy	X	N/A	P	P	
Boathouse	X	N/A	X	X	
Joint Use Pier, Dock, Float, or Pile	X	N/A	P	P	
Non-Joint Use Pier, Dock, Float or Pile	X	N/A	C	P	
Overwater Walkway	X	N/A	X	X	
Boat Ramp	X	N/A	X	X	
Launching Rails	X	N/A	X	X	
Boat Lifts	X	N/A	C	P	
Boat Canopies	X	N/A	C	P	
Structural Moorage Covers	X	N/A	X	X	



Shoreline Modification Activity	Natural	Urban Conservancy	Shoreline Residential Limited	Shoreline Residential	Aquatic
<u>OVERWATER STRUCTURES NOT ACCESSORY TO RESIDENTIAL STRUCTURES:</u>					See Adjacent Upland Environment
Buoy	X	P	P	P	
Boathouse	X	X	X	X	
Joint Use or Public Pier, Dock, Float or Pile	X	P	C	P	
Non-Joint Use Pier, Dock, Float or Pile	X	X	C	C	
Overwater Walkway	C	C	X	X	
Boat Ramp	X	P/X <sup>2</sup>	X	X	
Launching Rails	X	X	X	X	
Boat Lift	X	X	X	X	
Boat Canopies	X	X	X	X	
Structural Moorage Covers	X	X	X	X	

<sup>1</sup> Please see Chapter 4, Section (B)(1), Table I, for additional use regulations pertaining to Boating Facilities (commercial, public or private use serving more than 4 single family residences). Where the regulations contained in Table IV above conflict with those in Table I in Chapter 4, the more restrictive shall apply.

<sup>2</sup> Permitted use at the existing Boat Launch Park, not permitted at Lake Sawyer Regional Park.

## C. Shoreline Stabilization

### 1. Applicability and Definitions

Shoreline stabilization includes actions taken to address erosion impacts to property caused by natural processes, such as current, flood, wake or wave action. These actions include all structural and nonstructural methods. "Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete or boulder bulkheads, while "soft" structural measures rely on less rigid materials, such as bioengineered vegetation measures, anchored logs or beach enhancement. Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, planning and regulatory measures to avoid the need for structural stabilization.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. The means taken to reduce damage caused by erosion, accretion, and flooding must recognize the positive aspects of each of these processes in order to retain the benefits of these natural occurrences. Erosion does not occur without accretion (deposition and accumulation) of material eroded, such as formation of a beach or a sandbar. Likewise, accretion cannot occur unless material has been eroded.

Specific structural methods for stabilization include bulkheads, beach restoration and enhancement, soil bioengineering, and groins along Lake Sawyer. A key regulatory distinction in this SMP is made between new stabilization measures and the replacement of existing stabilization measures. New stabilization measures, by state definition, include the enlargement of existing structures. Some of these techniques are currently being used in Black Diamond as described below, or they are techniques that could be used to address local shoreline issues.

General policies and regulations addressing shoreline stabilization methods applicable to the City are presented in the following sections. Additional discussion of the individual stabilization methods, and policies and regulations specific to them, are provided following the general policies and regulations section.

#### **a) Beach Restoration or Enhancement on Lake Sawyer**

Beach enhancement is the alteration of exposed and submerged shorelines for the purpose of stabilization, recreational enhancement, and or/aquatic habitat creation or restoration using native or similar material. The materials used are dependent on the intended use. For recreational purposes, various grades of clean sand or pea gravel are often used to create a beach above the ordinary high water mark. Restoration or re-creation of a shore feature may require a rock and gravel matrix and/or creation of other materials appropriate for the intended use.

#### **b) Soil Bioengineering**

Soil bioengineering is the term given to the practice of using natural vegetative materials to stabilize shorelines and prevent erosion. This may include use of root systems, or other living plant material; fabric or other soil stabilization techniques; and limited rock toe protection, where appropriate. Soil bioengineering projects often include fisheries habitat enhancement measures such as anchored logs or root wads, in project design. Soil bioengineering techniques may be applied to shoreline areas and the upland areas away from the immediate shoreline.

The use of soil bioengineering as a shoreline stabilization technique is a viable and proven alternative to riprap, concrete and other structural solutions. It provides habitat while maintaining and preserving the natural character of the shoreline. Soil bioengineering is the preferred "best practices" choice when considering shoreline stabilization.

#### **c) Bulkheads**

Bulkheads are shoreline structures, either sloped or vertical, usually constructed parallel to the shore. The primary purpose they serve is to contain and prevent the loss of soil caused by erosion or wave action.

Bulkheads have historically been constructed of poured-in-place or precast concrete, concrete blocks, steel or aluminum sheet piling, wood or wood and structural steel combinations, and boulders. Bulkheads may be either thin structures penetrating deep into the ground or more massive structures resting on the surface.

Uses and activities related to bulkheads which are identified as separate use activities in this program, such as Fill and Residential Development, are subject to the regulations for those uses in addition to the standards for bulkheads established in this section.

#### **d) Groins**

Groins are barrier-type structures of rock, wooden piling or other materials constructed across the beach itself and extending into the water with the intent to obstruct sand and sediment carried by the littoral drift action along shorelines. Groins have limited applicability in Black Diamond's shoreline jurisdiction because of the relatively small size of Lake Sawyer.

NOTE: PERMIT EXEMPTIONS ARE DESCRIBED IN FULL IN CHAPTER 6 –ADMINISTRATION

## **2. Stabilization Policies and Regulations**

### **a) Policies**

1. Proposals for shoreline stabilization activities, including bulkheads should address the impact of these activities on the shoreline environment. This planning should consider off-site erosion, accretion, or damage that might occur as a result of shoreline stabilization structures or activities.
2. Explore a range of solutions to reduce the amount of bulkheads and shoreline armoring over time around Lake Sawyer and restore natural bank conditions. Alternative methods to typical shoreline armoring using native vegetation and other natural shoreline features should be the preferred method where feasible.
3. Non-structural stabilization measures are preferred over “soft” structural measures. Soft structural shoreline stabilization measures are strongly preferred over hard structural shoreline stabilization. Proposals for hard and soft structural solutions, including bulkheads, should be allowed only when it is demonstrated that nonstructural methods are not feasible. Hard structural shoreline stabilization measures should be allowed only when it is demonstrated that soft structural measures are not feasible.
4. Structural shoreline stabilization should be permitted only when it has been demonstrated that shoreline stabilization is necessary for the protection of existing legally established structures, primary uses and public improvements, and that there are no other feasible options to the proposed shoreline stabilization that have less impact on the shoreline environment.
5. Shoreline stabilization structures should be located, designed and constructed to minimize adverse impact on the property of others.
6. New development requiring bulkheads or similar protection should generally not be allowed. All new shoreline development should be located and designed to avoid or, if avoidance is not possible, minimize the need for shoreline modification activities.

7. Mitigation for shoreline stabilization should be provided to achieve no net loss of ecological functions necessary to sustain shoreline natural resources.

**b) Regulations**

General Shoreline Stabilization – Basic Requirements

1. Structural (soft and hard) solutions to reduce shoreline damage from erosion shall be allowed only after it is demonstrated through a geotechnical report prepared by a qualified professional that non-structural solutions would not provide sufficient protection to an allowed primary structure or a legally existing shoreline use. 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).

General Shoreline Stabilization – New Development

2. New development, including the division of land into new parcels, shall be located and designed to eliminate the need for concurrent or future shoreline stabilization. New non-water dependent development that would require shoreline stabilization that would cause significant adverse impacts to adjacent or down-current properties is prohibited.
3. New development, including single-family residences, that includes structural shoreline stabilization will not be allowed unless all of the conditions below are met:
  - a. The need to protect the development from damage due to erosion caused by natural processes, such as currents and waves, and by manmade processes, such as boat wakes, is demonstrated through a geotechnical report prepared by a qualified professional.
  - b. The erosion is not being caused by upland conditions, such as loss of vegetation and drainage.
  - c. Non-structural measures, such as placing the development farther from the shoreline, planting vegetation, low impact development measures, or installing on-site drainage improvements, are not feasible or not sufficient.
  - d. The stabilization structure will not result in a net loss of shoreline ecological functions.
4. New development on steep or unstable slopes shall be set back sufficiently to ensure that shoreline stabilization will not be needed during the life of the structure, as demonstrated by a geotechnical analysis prepared by a geotechnical engineer of related professional licensed and in good standing in the State of Washington.

General Shoreline Stabilization – New or Expanded Measures

5. New structural 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 scientific analysis that shoreline stabilization is necessary to protect existing primary structures, ecological function 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.

#### General Shoreline Stabilization – Replacement and Repair

6. An existing shoreline stabilization structure shall not be replaced with a similar structure unless there is a demonstrated need to protect legally established principal uses or structures from erosion caused by currents or waves and a nonstructural measure is not feasible.
7. Shoreline stabilization solutions developed to replace existing shoreline stabilization shall be placed along the same alignment as, or landward of, the shoreline stabilization being replaced, except as noted below and in Regulation 30 and 31 pertaining to bulkheads.
8. Where existing structural stabilization is replaced by non-structural 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.
9. A major repair of a hard shoreline stabilization structure shall be allowed when the existing primary structure is 10 feet or less from the OHWM. All other major repair proposals must include a written narrative prepared by a qualified geotechnical engineer that provides a demonstration of need. A major repair shall be defined as:
  - a. A repair needed to a portion of an existing stabilization structure that has collapsed, eroded away, or otherwise demonstrated loss of structural integrity, or in which the repair work involves modification of the toe rock or footing, and the repair is 50% or greater than the linear length of the shoreline stabilization measure; or
  - b. A repair to more than 75% of the linear length of the existing hard structural stabilization measure in which the repair work involves replacement of top or middle course rocks or other similar repair activities.
10. Minor repairs are repairs that do not meet the threshold established in regulation 9 above and shall be allowed without a demonstration of need.

#### General Shoreline Stabilization – Design Requirements

11. Professional design (as approved by the City) of all shoreline stabilization is required. 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.
12. Shoreline stabilization and modification projects shall first 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. Alternative methods to typical shoreline armoring using native vegetation and other natural shoreline features shall be considered when replacing existing and constructing new shoreline stabilization solutions.
13. Shoreline stabilization should not be used to create new or newly usable land.

14. Shoreline stabilization shall not significantly interfere with normal surface and/or subsurface drainage into the water body.
15. 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.
16. Shoreline stabilization shall be designed so as not to cause a significant impact to adjacent properties, including the need for shoreline stabilization elsewhere.
17. All shoreline modification activities must comply with all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.
18. 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.

#### Beach Enhancement

19. Beach enhancement along Lake Sawyer 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 and all other standards of the SMP, including mitigation sequencing and no net loss are followed. The Washington Department of Fish and Wildlife shall be consulted regarding proposed beach enhancement to obtain input on habitat present and proposed mitigation.
20. Beach enhancement is intended as a form of soft shoreline stabilization and any associated fill should be the minimum necessary to achieve the shoreline stabilization purpose. Beach enhancement is not intended to create additional dry land area. Beach enhancement is allowed as a permitted use, however, proposals which include more fill than necessary to achieve the stabilization purpose shall be subject to the requirements for Shoreline Fill in this Chapter, shall require a Conditional Use Permit and shall only be allowed in conjunction with a water-dependent or public use permitted by this Master Program, and for fisheries, aquaculture, or wildlife enhancement projects..
21. Beach restoration/enhancement activities shall not:
  - a. Extend waterward more than the minimum amount necessary to achieve the desired stabilization as determined by the Shoreline Administrator based on specific justification in the required geotechnical analysis.
  - b. Disturb shallow water fish/wildlife habitat without appropriate mitigation of the impacts, as determined by the Shoreline Administrator based on the recommendations of a qualified consultant.
22. 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.



23. The restored beach shall approximate, and may slightly exceed, the natural beach width, height, bulk or profile (but not as much as to create additional dry land).
24. 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.

#### Soil Bioengineering

20. 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.
21. Unless Sensitive 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, or as otherwise specified for specific activities in this SMP or state or federal permits. Additional performance standards may be established by the Shoreline Administrator in administrative rules.
25. 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.
26. 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.

#### Breakwaters

27. Breakwaters, jetties, and groins shall not be permitted.

#### Bulkheads

28. Bulkhead design and development shall conform to all other applicable local, state, and federal agency regulations, including regulations for shoreline stabilization in this Chapter.
29. 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 would not cause erosion of the adjoining properties.
30. Bulkheads may tie in flush with existing bulkheads on adjoining properties, provided that the new bulkhead does not extend waterward of OHWM, except that which is 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 OHWM such that no net loss of lake occurs and the design complies with all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.
31. Replacement bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety

or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

32. Replacement bulkheads may be permitted if there is a demonstrated need to protect principal uses or structures from erosion caused by waves provided that:
  - a. The replacement bulkhead is designed, located, sized, and constructed to assure no net loss of ecological functions;
  - b. The existing bulkhead is removed; and
  - c. The proposal includes a report prepared by a geotechnical engineer or other qualified professional that evaluates the necessity of the bulkhead by estimating timeframes and rates of erosion, urgency of replacement (within 3 years), alternative solutions and other pertinent factors
33. When a bulkhead is required at a public access site, provisions for safe access to the water shall be incorporated into bulkhead design.
34. Stairs or other permitted structures may be built into a bulkhead, but shall not extend waterward of a bulkhead.
35. Fill behind bulkheads shall be limited to an average of one (1) cubic yard per running foot of bulkhead. Any filling in excess of this amount shall be considered a regulated activity subject to the policies and regulations in this SMP pertaining to fill activities and the requirement for obtaining a shoreline substantial development permit.

## **D. Dredging and Disposal**

### **1. Applicability**

Although these activities may occur separately from one another, they are often all parts of the same shoreline modification process and are, therefore, considered together in the following policies and regulations.

Dredging is the removal or displacement of earth or sediments such as gravel, sand, mud or silt and/or other materials or debris from any stream, or lake and associated shorelines, side channels, and wetlands. In a lake setting, dredging is normally done for specific purposes or uses such as deepening a navigational channel or obtaining bottom material. Excavations on beaches below the OHWM in lands covered by water constitutes dredging.

Dredge material is disposed of on land or into water bodies and may be intended for the purpose of creating new or additional lands for other uses. Dredge spoil varies from clean river sand to organic sludge. While some of this material is deposited on land, a significant portion is dumped, intentionally or unintentionally, back into the water or immediately adjacent to the water.

Of all activities on shorelines, dredging poses one of the greatest threats to water quality and aquatic life. In most cases, dredging occurs in shallow areas and may disturb the aquatic environment in the following ways: (1) temporary reduction of water clarity from suspended sediments, (2) loss of aquatic plants and animals by

direct removal or from the sedimentation of suspended materials, (3) alteration of the nutrient and oxygen levels of the water column, and (4) suspension of toxic materials from the sediments into the water column.

## 2. Dredging Policies and Regulations

### a) Policies

1. When allowed, dredging and dredge material disposal should be limited to the minimum amount necessary.
2. In all cases, dredging operations should be planned and conducted to protect and maintain existing aquatic habitat and other shoreline uses, properties, and values. Proposals that include dredging should provide mitigation to achieve no net loss of shoreline ecological functions.
3. Dredging waterward of the ordinary high water mark for the primary purpose of obtaining fill should not be allowed, except as part of a restoration or environmental cleanup project.
4. The City may impose limitations on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.

### b) Regulations

1. Dredging and disposal of dredge material shall avoid, and minimize significant ecological impact; impacts that cannot be avoided shall be mitigated to achieve no net loss of ecological processes and functions.
2. All dredging and dredge disposal shall conform to applicable state and federal policies and regulations, provided they are consistent with the Shoreline Management Act and this SMP to ensure no net loss of ecological function.
3. New development siting and design shall avoid the need for new and maintenance dredging.
4. Dredging may be permitted as a conditional use activity only:
  - a. When necessary to support a water-dependent use;
  - b. For expansion or alteration of public utility facilities;
  - c. As part of mitigation actions, environmental restoration and habitat enhancement projects;
  - d. When technical information demonstrates water circulation, littoral drift, aquatic life and water quality will not be substantially impaired;
  - e. When other solutions would result in greater environmental impact;
  - f. As part of an approved habitat improvement project;
  - g. If it improves water quality; and
  - h. When applicable permits of other local, state and federal agencies have been obtained.
5. Maintenance dredging associated with a water dependent use shall be restricted to maintaining the previously dredged and/or existing authorized location, depth and width.

6. Dredging for the primary purpose of obtaining fill or construction material is prohibited, except for projects associated with MTCA or CERCLA habitat restoration, or any other significant restoration effort approved by a shoreline CUP. When dredging is allowed for fill materials, placement of fill must be waterward of the OHWM.
7. Proposals for dredging and dredge disposal shall include details on all feasible mitigation measures to protect aquatic habitats. Dredging and dredge disposal shall not create a net loss of shoreline ecological functions.
8. Dredging material which will not subsequently cause violation of State Water Quality Standards may be used in permitted landfill projects.
9. Dredging operations shall be designed and scheduled to avoid impacts to fish, including impacts to fish rearing, feeding and spawning.
10. Depositing dredge materials in water areas shall be prohibited except where it is being used as part of a comprehensive ecological restoration project.
11. Dredging shall utilize techniques (such as hydraulic dredging instead of agitation dredging) that cause minimal dispersal and broadcast of bottom material.
12. Limitations may be imposed on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.

## E. Fill

### 1. Applicability

Fill is the placement of soil, sand, rock, gravel, sediment, earth retaining structure or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

Fill is usually considered in locations where the water is shallow and where rooted vegetation often occurs. In their natural condition, these same areas provide valuable 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 sought to prohibit or restrict placement of fill in these areas.

The policies contained herein are intended to focus on the aspects of natural systems affected by dredging and the disposal of dredge material, man-made fill, cuts, excavations and site grading actions, while at the same time recognizing the community's needs.

Fill occurring on dry land landward of the OHWM which does not exceed a cost of five thousand seven hundred eighteen (**5,718**) **dollars or 250 cubic yards of material** (per WAC 173-27-040, may be adjusted annually by the State of Washington for inflation), does not require a shoreline substantial development permit, as noted elsewhere in this Master Program. This development, however, must comply with all other applicable policies and regulations as defined in this Master Program.

## 2. Fill Policies and Regulations

### a) Policies

1. Shoreline fill should only be permitted as a conditional use in all shoreline environments.
2. Fills waterward of the OHWM should be restricted to the minimum necessary to support water-dependent uses, public access, cleanup and disposal of contaminated sediments as part of an interagency clean-up plan, disposal of dredged sediments in accordance with DNR rules, expansion or alteration of transportation facilities of statewide significance when no other alternatives are feasible, and for mitigation actions, environmental restoration, beach nourishment and enhancement projects, and only when other solutions would result in greater environmental impact.
3. Shoreline fills should be designed and located so that there will be no significant damage to existing ecological systems or natural resources, and no alteration of local currents, surface and subsurface drainage, or flood waters which would result in hazard to adjacent life, property, or natural resource systems.
4. Where permitted, fill coverage should be the minimum necessary to provide for the proposed use.
5. Fills should be permitted only when tied to a specific development proposal that is permitted by the master program.
6. In evaluating fill projects, factors such as current and potential public use of the shoreline and water surface area, water flow and drainage, water quality and habitat should be considered and protected to the maximum extent feasible. Further, the City should assess the overall value of the fill site in its present state versus the proposed shoreline use to be created to ensure consistency with the Shoreline Management Act and this Master Program.
7. The perimeter of fills should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial fill activities and over time. Natural appearing and self-sustaining control methods are preferred over structural methods.
8. Replenishing sand and gravel on public and private beaches should be allowed, if it can be demonstrated that the proposal will result in no net loss of ecological functions.
9. Sanitary landfills should not be located in shoreline jurisdiction.

### b) Regulations

1. Fill proposals must demonstrate, at a minimum, that they will result in no net loss of shoreline ecological functions.
2. Fills waterward of the OHWM (not including small scale beach enhancement intended as soft shoreline stabilization) in all environments and landward of the OHWM in the Natural Environment shall require a conditional use permit and shall be restricted to the minimum necessary to:
  - a. Support allowed water-dependent uses,

- b. Provide public access,
  - c. Allow for the remediation and disposal of contaminated sediments as part of an interagency clean-up plan,
  - d. Provide for the expansion or alteration of transportation facilities of statewide significance when no other alternatives are feasible, or
  - e. Accomplish mitigation actions, environmental restoration and enhancement projects, and only when other solutions would result in greater environmental impact.
3. Fills shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area.
  4. All perimeters of fills shall be provided with vegetation, retaining walls, or other satisfactory mechanisms for erosion prevention and sediment capture.
  5. Fill shall be permitted only where it is demonstrated that the proposed action will not:
    - a. Result in significant damage to water quality, fish, aquatic habitat, and/or wildlife habitat; or
    - b. Adversely alter natural drainage and circulation patterns, or significantly reduce flood water holding capabilities.
    - c. The Washington Department of Fish and Wildlife shall be consulted regarding any project where fill is proposed below the OHWM.
  6. Refuse disposal sites, solid waste disposal sites, or sanitary fills shall be prohibited within the shoreline jurisdiction.
  7. Any placement or removal of materials landward of the OHWM shall comply with the provisions of Vegetation Conservation (Clearing and Grading) of this SMP.
  8. All fill proposals shall conform to applicable state and federal policies and regulations, provided they are consistent with the Shoreline Management Act and this SMP to ensure no net loss of ecological function.

## **F. Overwater Structures and Launching Facilities**

### **1. Applicability**

Piers and docks are structures which abut the shoreline and are often used as a landing or moorage place for watercraft. Piers are built on fixed platforms supported by piles above the water, while docks float upon the water. Some piers may terminate in a float section that is connected by a ramp. Piers are the most common type of overwater structure on Lake Sawyer. Recreational floats are independent anchored off-shore platforms, used for water-dependent recreational activities such as swimming and diving. Mooring structures include moorage piles, buoys and boat lifts. Launching facilities include boat ramps and launching rails.

All of these types of facilities have positive and negative aspects. Floating docks generally have less of a visual impact than piers on pilings. However, in the nearshore, docks can interrupt littoral drift of sediments and



other suspended materials, and significantly shade the aquatic environment throughout their length. Pile piers can provide diverse habitat for both desirable and undesirable aquatic life. Excavated moorage involves dredging and will disturb bottom sediments and aquatic life. Docks and piers alike create impediments to boat traffic and fish travel. Pier construction requires regulation to protect navigation, to protect shoreline aesthetics, and to maintain the useable water surface and aquatic lands for life forms characteristic and important to those areas.

## 2. Policies and Regulations

### a) Policies

1. New piers and docks should be allowed only for public access and water-dependent uses.
2. New piers and docks should be restricted to the minimum size necessary and permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent use.
3. Piers and docks should be discouraged where conflicts with recreational boaters and other recreational water activities would be created by their construction.
4. The further proliferation of single-purpose, single-owner piers and docks should be discouraged. Preference should be given to joint-use structures in shoreline areas unless the applicant demonstrates why a joint-use structure is not feasible.
5. Substantial additions or alterations to overwater structures, including renovations where the cost of the development exceeds seventy-five (75) percent of the fair market value of the existing structure, should be in conformance with all policies and regulations set forth in this Master Program.
6. Preference should be given to fixed-pile piers elevated above the OHWM. Floating docks should be allowed if the applicant can demonstrate why a fixed pile pier is not feasible or will result in greater impacts.
7. Recreational floats should be allowed where they are intended to support public or private recreational uses, or in lieu of fixed piers adjacent to residential land uses.
8. Mooring buoys should be encouraged as a low-impact moorage option.
9. New covered moorage should not be allowed.
10. Overwater structures, including piers, should only be authorized after consideration of:
  - a. The effect such structures have on wildlife and aquatic life, water quality, scenic and aesthetic values, environmental sensitive resources, submerged lands, and submerged vegetation.
  - b. The effect such structures have on water circulation, recreational boating, sediment movement and littoral drift and shoreline access.
11. Overwater structures and mooring buoys should be designed to cause minimum interference with navigable waters and the public's safe use of the lake and shoreline.
12. Use of non-reflective materials in construction should be required.

13. The proposed size of the structure and intensity of use or uses of any overwater structure should be compatible with the surrounding environment and land and water uses.
14. Boat ramps for motorized vessels should be limited to one public ramp at Boat Launch Park and all future boat ramp improvements should be consistent with mitigation sequencing and result in no net loss of shoreline ecological functions.
15. Lighting facilities should be limited to the minimum extent necessary to locate the pier or dock at night.
16. Lighting on piers, docks and floats shall avoid light spill over onto the water surface.

**b) Regulations**

General

1. All new, reconstructed, repaired, or modified overwater structures must comply with all regulations contained in this SMP and all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.
2. Mitigation shall be provided for all new, reconstructed, or modified overwater structures to ensure no net loss of ecological function.
3. New piers and docks shall be allowed only for public access and water-dependent uses, which includes a structure associated with a single family residence provided that it is designed and intended as a facility for access to watercraft and otherwise complies with the regulations contained in this section.
4. Piers and docks may be permitted accessory to a development provided:
  - a. The applicant has demonstrated to the satisfaction of the Shoreline Administrator that a shared or joint-use pier is not feasible.
  - b. No more than one (1) pier/dock for each single-family residence or lot is permitted.
5. New piers and docks that are not accessory to single family residences shall be permitted only when intended for public use or when the applicant has demonstrated that a specific need exists to support the intended water-dependent use.
6. New residential development of more than two dwellings (e.g. short subdivision) shall provide a joint use or community moorage structure, rather than individual piers or docks.
7. Proposed overwater structures which do not comply with the dimensional standards contained in this chapter may only be approved if they obtain a variance.
8. Fixed pile piers elevated at least two (2) feet above the OHWM shall be preferred. Floating docks shall be allowed if floating elements are not located within the first thirty (30) feet of the shoreline measured waterward of the OHWM, unless the applicant can demonstrate why adherence to this restriction is not feasible and an alternative design would result in less ecological impact.
9. All float tubs shall be fully encapsulated and the decks shall be fully grated except for the float tubs, designed with a ramp section connecting to the upland and are prohibited from resting on the substrate. Floating docks are required to be designed to not ground during low water conditions.

10. 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.
11. Wooden components that will be in contact with water or over water shall not be treated or coated with herbicides, fungicides, paint, pentachlorophenol, arsenate, creosote, or similar toxic substances. Structures shall be made out of materials that have been approved by applicable state and federal agencies.
12. New Boat houses located over water or within the shoreline setback area are not permitted.
13. Covered moorage with a solid roof and structural elements is not permitted, however one boat canopy with a translucent covering and one boat lift per lot is permitted, except for joint use docks, where one boat lift and one canopy per ownership interest is permitted. Up to two lifts for personal watercraft shall also be permitted.
14. No portion of a deck of a pier shall, during the course of the normal fluctuations of the elevation of the water body, protrude more than six (6) feet above the OHWM.
15. No residential dwelling unit may be constructed on an overwater structure.
16. No pier, moorage, float, or overwater structure or device shall be located closer than fifteen feet from the side property line extended, except that such structures may abut property lines for the common use of adjacent property owners when mutually agreed to by the property owners in a contract recorded with King County Records, a copy which must accompany an application for a building permit or a shoreline permit.
17. All pier and dock lengths shall be minimized to the maximum extent feasible and comply with regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.
18. The length, width, and total area of moorage structures are provided in Table V below.
19. Table V: Dimensional Standards for Overwater Structures

Standard	Dock	Pier
Height above OHWM <sup>1</sup>	N/A	2 ft.
Maximum Length <sup>2</sup>	The point at which 11 ft. of water depth is reached, not to exceed 60 ft. All measurements are based on the OHWM as determined in the field.	The point at which 11 ft. of water depth is reached, not to exceed 60 ft. All measurements are based on the OHWM as determined in the field.
Maximum Width <sup>3</sup>	4 ft. required within the first 30 feet from the OHWM, 6 feet required elsewhere.	4 ft. required within the first 30 feet from the OHWM, 6 feet required elsewhere.

Maximum Surface Area <sup>1</sup>	400 sq. ft. (single owner)	480 sq. ft. (single owner)
	480 sq. ft. (joint-use)	600 sq. ft. (joint-use)
	600 sq. ft. (if public access provided)	1000 sq. ft. (if public access provided)

1 No portion of a deck of a pier shall, during the course of the normal fluctuations of the elevation of the water body, protrude more than six (6) feet above the water surface.

2 The proposed length must be the minimum necessary to support the intended use. The total dock length includes approach ramp and floating element(s). A report prepared by a qualified professional that includes verifiable survey information demonstrating the average water depth is required for all docks or piers over forty (40) feet in length. Existing public piers may be repaired or replaced to their previous length. Piers or docks extending further waterward than adjacent piers or docks must demonstrate that they will not have an adverse impact on navigation.

3 Includes all walkways and additional fingers. The proposed width must be the minimum necessary to support the intended use. All pier and dock primary walkways or decks must incorporate materials and a design that allow adequate minimum of 50% of light to transmit through the material. Floats must have a minimum 2-foot strip of grating down the center that allows 50% of light to transmit through. The maximum width of a ramp connecting a pier to a float should be minimized to the maximum extent practical and shall also meet the light transmittal standard. An exception to the maximum width standard may be granted in order to meet the American's with Disabilities Act standards and considerations. A demonstration of need must be shown in order to allow this exception.

4 The proposed surface area of the overwater structure must be the minimum necessary to support the intended use. Maximum surface area includes all walkways, ramps, and additional fingers associated with the dock or pier, as well as any float associated with the property or properties (see additional standards for floats below). Joint-use docks and piers must be utilized by two or more residential property owners.

#### Recreational Floats

20 Recreational floats may be permitted, provided:

A. One float per property is permitted.

- a. The area of a recreational float shall be minimized to the maximum extent feasible and comply with regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction. No recreational float shall have more than one hundred and fifty (150) square feet when associated with a private recreation land use, and four hundred (400) when associated with a public recreational land use. The float area shall count toward the maximum allowed surface area for overwater structures in Section F.2.b.18 (Table 5) of this Chapter.

- b. Distance waterward from the OHWM. Recreational floats must be in water with depths of 8 feet or more at the landward end of the float and may be located up to a maximum waterward distance of sixty (60) feet.
- 21. Recreational floats shall be designed and intended for swim use or other non-motorized use.
- 22. Recreational floats shall incorporate material that allows 40% of light to transmit through in a minimum 2 foot strip down the center.
- 23. Retrieval lines shall not float at or near the surface of the water.
- 24. Height. Recreational floats must be built so that the deck surface is one (1) foot above the water's surface and they must have reflectors for nighttime visibility.
- 25. All float tubs shall be fully encapsulated.

#### Boat Ramps

- 26. One boat ramp may be permitted for recreational uses at Boat Launch Park in the Urban Conservancy environment provided the applicant shall demonstrate 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, or others that have jurisdiction.
- 27. In no case shall the ramp extend beyond the point where the water depth is six (6) feet below the OHWM, unless the City determines that a greater depth is needed for a public boat launch facility.
- 28. Public boat ramps and commercial boat ramps are regulated as Boating Facilities and must comply with all policies and regulations in Chapter 4 of this SMP.
- 29. Boat ramps shall be separated from swim areas by a minimum of twenty-five (25) feet.
- 30. Preferred boat ramp designs, in order of priority, are:
  - a. Open grid designs with minimum coverage of lake substrates.
  - b. Seasonal ramps that can be removed and stored upland.
  - c. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in shoreline profile.
- 31. All boat launches shall comply with all regulations as stipulated by state and federal agencies, affected tribes, or others with jurisdiction.

#### Mooring Bouys

- 32. Moorage buoys installed for recreational purposes may be permitted provided they are consistent with this Program and can meet the following criteria:
  - a. The installation and use of moorage buoys shall comply with all applicable state and federal laws, regulations, permits and approvals.
  - b. One mooring buoy per lot is permitted.

- c. Mooring buoys shall be located, spaced and oriented to not pose a hazard or obstruction to navigation, fishing, pleasure boating, or swimming activity.
- d. Mooring buoys and the swing path of attached boats shall not encroach onto adjacent properties, or into the water-ward extension of lot lines of adjacent properties, and shall not impede the ability of other property owners to access their property.
- e. Mooring buoys shall be located to avoid sensitive aquatic and nearshore habitat areas and shall not result in the degradation of water quality or habitat areas.
- f. Mooring buoys shall not be used for residential purposes (living on the boat).



# Chapter 6 Administration

## A. Purpose and Applicability

There is hereby established an administrative system designed to assign responsibilities for implementation of the Shoreline Master Program (SMP) and shoreline permit review, to prescribe an orderly process by which to review proposals and permit applications, and to ensure that all persons affected by this SMP are treated in a fair and equitable manner. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the Shoreline Management Act (SMA) and to the policies and regulations of this SMP. Where inconsistencies or conflicts with other sections of the Black Diamond Municipal Code occur, this section shall apply.

## B. Program Administrator

1. The City's Community Development Director is hereby vested with:
  - a. Overall responsibility for administering the Shoreline Management Act (SMA) and this Shoreline Master Program (SMP) 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 SMP; and
  - c. Authority to grant statements of exemption from shoreline substantial development permits in accordance with the policies and provisions of this SMP.
2. The duties and responsibilities of the Shoreline Administrator shall include:
  - a. Preparing and using application forms deemed essential for the administration of this SMP.
  - b. Advising interested citizens and applicants of the goals, policies, regulations, and procedures of this SMP.
  - c. Making administrative decisions and interpretations of the policies and regulations of this SMP and the SMA.
  - d. Collecting applicable fees, as established in the City's fee schedule.
  - 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 all 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. Submitting shoreline substantial development permit 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.
- l. Submitting shoreline redesignation permit applications and written recommendations and findings on such permits to the Planning Commission for recommendation to the City Council.
- m. Assuring that proper notice is given to appropriate persons and the public for all hearings.
- n. Providing technical and administrative assistance to the City's Hearing Examiner, Planning Commission and City Council as required for effective and equitable implementation of this program and the Act.
- o. Investigating, developing, and proposing amendments to this SMP as deemed necessary to more effectively and equitably achieve its goals and policies.
- p. Enforcing and seeking remedies for alleged violations of this program, the provisions of the SMA and this SMP or of conditions of any approved shoreline permit issued by the City of Black Diamond. The Shoreline Administrator may delegate these enforcement duties to a designated representative.
- q. Acting as the primary liaison between local and state agencies in the administration of the SMA and this SMP.
- r. Forwarding shoreline permits to the Department of Ecology for filing or action.

## C. Review Criteria for All Development

1. All proposed uses, activities and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, i.e. the Shoreline Management Act (SMA), its implementing rules and this master program, whether or not a permit is required.
2. No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is determined to be consistent with the policy and provisions of the SMA and the SMP.
3. No permit shall be issued for any new or expanded building or structure of more than thirty-two feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.
4. A substantial development shall not be undertaken within the jurisdiction of the SMA 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.
5. The City may attach conditions to the approval of permits as necessary to ensure consistency of the project with the SMA and this SMP.

## D. Exemptions

1. The following guidelines are to be used in determining whether or not a development proposal is exempt from the substantial shoreline development permit.
  - a. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.
  - b. An exemption from the substantial development permit process is not an exemption from compliance with the Shoreline Management Act (SMA) or this Shoreline Master Program (SMP), nor from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this SMP and the SMA. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a conditional use permit even though the development or use does not require a substantial development permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this SMP, such development or use can only be authorized by approval of a variance.
  - c. The burden of proof that a development or use is exempt from the permit process is on the applicant.
  - d. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.
  - e. The City's Shoreline Administrator may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the SMA and this SMP.
2. The following list outlines twelve (12) exemptions that shall not be considered substantial developments for the purpose of this SMP:
  - a. Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand seven hundred eighteen (\$5,xxx) dollars, if such development does not materially interfere with the normal public use of the water or "shorelines of statewide significance." The dollar threshold established in this subsection 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. The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;
  - b. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction.. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including, but not limited to, its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment;

- c. Construction of a normal protective bulkhead common to single family residences. A "normal protective bulkhead" includes those structural and nonstructural developments installed at or near, and parallel to the ordinary high water mark for the sole purpose of protecting an existing single family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead, then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Washington Department of Fish and Wildlife;
- d. Emergency construction necessary to protect property from damage by the elements. An "emergency" is 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 Act or this Master Program. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Shoreline Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to the Act and this Master Program, obtained. All emergency construction shall be consistent with the policies of the Act and this Master Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;
- e. Construction by an owner, lessee, or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-two (32) feet above average grade level and meets all requirements of the City of Black Diamond having jurisdiction thereof, other than requirements imposed pursuant to the Act. "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. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield, and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Construction authorized under this exemption shall be located landward of the ordinary high water mark and shall be subject to required setbacks.
- f. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if the fair market value of the dock does not exceed ten thousand dollars (\$10,000), but if subsequent construction having a fair

- market value exceeding two thousand five hundred dollars (\$2,500) occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.
- g. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with the normal public use of the surface waters;
  - h. Any project with certification from the Governor pursuant to Chapter 80.50 RCW.
  - i. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
    - i. The activity does not interfere with the normal public use of the surface waters;
    - ii. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
    - iii. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
    - iv. A private entity seeking development authorization under this section, first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions.
  - j. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under chapter 43.21C RCW;
  - k. Watershed restoration projects as defined in WAC 173-27-040(o)(i). The Shoreline Administrator shall review the projects for consistency with the SMP in an expeditious manner and shall issue its decision along with any conditions within forty-five (45) days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects.
  - l. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the requirements of WAC 173-27-040(p) apply. No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria identified in WAC 173-27-040(p) and that are reviewed and approved according to the provisions of this section.
5. Whenever a development falls within the exemption criteria outlined above and the development is subject to a U.S. Army Corps of Engineers Section 10 or Section 404 Permit, the City's Shoreline Administrator shall prepare a Statement of Exemption, and transmit a copy to the applicant and the Washington State Department of Ecology. Exempt development as defined herein shall not require a substantial development permit, but may require a conditional use permit, variance and/or a Statement of Exemption.

6. Before determining that a proposal is exempt, the City's Shoreline Administrator may conduct a site inspection to ensure that the proposal meets the exemption criteria. The exemption granted may be conditioned to ensure that the activity is consistent with the SMP and the SMA.

## **E. Permit Process**

1. Applicants shall apply for shoreline substantial development, variance, and conditional use permits on forms provided by the City.
2. Shoreline substantial development permits, shoreline variance permits and shoreline conditional use permits are a Type 3 application and shall be processed and subject to the applicable regulations of Chapter 18.08 BDMC, as amended.
3. An applicant for a shoreline substantial development permit who wishes to request a variance and/or conditional use, shall submit the variance and/or conditional use application(s) and the substantial development permit application simultaneously.
4. Public notice. A notice of application shall be issued for all shoreline permit applications as provided for in Chapter 18.08 BDMC, as amended, excepting that the public comment period for the notice of application for a shoreline substantial development, conditional use or variance permit shall be not less than thirty (30) days, per WAC 173-27-110(2)(e).
5. Application review. The Administrator shall make decisions on shoreline exemptions, and recommendations on applications for conditional use and variance permits based upon: (1) the policies and procedures of the SMA and related sections of the Washington Administrative Code; and (2) this SMP.
6. Hearing Examiner action. The Hearing Examiner shall review an application for a shoreline substantial development permit, shoreline variance and shoreline conditional use permit and make decisions based upon: (1) this SMP; (2) the policies and procedures of the SMA and related sections of the Washington Administrative Code; (3) written and oral comments from interested persons; (4) reports from the Shoreline Administrator; and (5) Chapters 2.30 and 18.08 BDMC, as amended.
7. Filing with Department of Ecology. All applications for a permit or permit revision shall be submitted to the Department of Ecology, as required by WAC 173-27-130 or as subsequently amended. After City approval of a Conditional Use or variance permit, the City shall submit the permit to the Department of Ecology for the Department's approval, approval with conditions, or denial, as provided in WAC 173-27-200. The Department shall transmit its final decision to the City and the applicant within thirty (30) calendar days of the date of submittal by the City.
8. Hold on Construction. Each permit issued by the City shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of filing with the Department of Ecology, per WAC 173-27-190 or as subsequently amended. "Date of filing" of the City's final decision on substantial development permits differs from date of filing for a Conditional Use permit or variance. In the case of a substantial development permit, the date of filing is



the date the City transmits its decision on the permit to the Department of Ecology. In the case of a variance or Conditional Use permit, the “date of filing” means the date the Department of Ecology’s final order on the permit is transmitted to the City.

9. Duration of permits. Construction, or the use or activity, shall commence within two (2) years after approval of the permits. Authorization to conduct development activities shall terminate within five (5) years after the effective date of a shoreline permit. The Administrator may authorize a single extension before the end of either of these time periods, with prior notice to parties of record and the Department of Ecology, for up to one (1) year based on reasonable factors.
10. Compliance with permit conditions. When permit approval includes conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity. All uses and developments occurring within shoreline jurisdiction shall be compliant with 90.58 RCW.

## **F. Substantial Development Permits**

1. A substantial development permit shall be granted only when the development proposed is consistent with:
  - a. The policies and procedures of the SMA;
  - b. Applicable state regulations; and
  - c. The provisions of this SMP.
2. Local government may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and the local master program.

## **G. Variances**

1. Purpose. The purpose of a variance is strictly limited to granting relief to specific bulk dimensional, or performance standards set forth in the SMP, and where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the SMP would impose unnecessary hardships on the applicant or thwart the SMA policies as stated in RCW 90.58.020. 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. Construction pursuant to this permit shall not begin nor can construction be authorized except as provided in RCW 90.58.020. In all instances, extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.
2. Criteria for Granting Variances
  - a. Variances 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:

- i. 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.
  - ii. That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the SMP and not, for example, from deed restrictions or the applicant's own actions.
  - iii. 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 SMP and will not cause adverse impacts to the shoreline environment.
  - iv. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area.
  - v. That the variance requested is the minimum necessary to afford relief.
  - vi. That the public interest will suffer no substantial detrimental effect.
- b. Variances for a 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 demonstrate all of the following:
  - i. That the strict application of the bulk, dimensional, or performance standards set forth in the SMP precludes all reasonable use of the property.
  - ii. That the proposal is consistent with the criteria established under subsection (2)(a) through (d) of this section.
  - iii. That the public rights of navigation and use of the shorelines will not be adversely affected.
- c. In the granting of all variances, 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.
- d. Variances from the use regulations in Chapter 4, Table I of the SMP are prohibited.

## H. Conditional Uses

1. Purpose. The purpose of a conditional use permit is to provide a system within the SMP which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the City of Black Diamond or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the SMA and the SMP. Uses that are specifically prohibited by this SMP may not be authorized with the approval of a conditional use permit.

2. Criteria for Granting Shoreline Conditional Use Permits. Uses which are classified or set forth as conditional uses in the SMP may be authorized, provided the applicant demonstrate 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 SMP;
  - 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 SMP;
  - 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.
3. 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.
4. Other uses which are not classified or set forth in this SMP 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 SMP.
5. Uses which are specifically prohibited by the SMP may not be authorized.

## **I. Time Requirements of Permit**

1. The time requirements of this section shall apply to all shoreline 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 SMP and this chapter, the City may adopt different time limits from those set forth in section as a part of action on a substantial development permit.
2. Notwithstanding any other provision of the Black Diamond Municipal Code, construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a substantial development permit. However, the Shoreline Administrator may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the substantial development permit and to the department.
3. Authorization to conduct development activities shall terminate five years after the effective date of a substantial development permit. However, local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the department.

4. The effective date of a substantial development permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods in RCW 90.58.140 subsections (B) and (C) do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions 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.
5. Revisions to permits under WAC 173-27-100 may be authorized after original permit authorization has expired. Provided, that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.
6. The City shall notify the department of Ecology in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by RCW 90.58.143 as amended shall require a new permit application

## **J. Nonconforming Use and Development Standards**

### **1. Applicability**

"Nonconforming use or development" means a shoreline use or development which was lawfully constructed or established prior to the effective date of the Act or this Master Program, or amendments thereto, but which does not conform to present regulations or standards of this Master Program. Standards for nonconforming use or development in the shoreline area are provided below. In the event of a conflict between the standards below and the standards contained in BDMC Chapter 18.68 or any other standard in the BDMC, the requirement that most supports the provisions of the Shoreline Management Act as stated in RCW 90.58.020 shall apply, as determined by the City.

### **2. Nonconforming Structures**

- a. Structures that were legally established and are used for a conforming use, but which are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may be maintained and repaired and 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 development or uses. Modification, reconstruction or addition to a nonconforming structure, including increasing the height of a structure to the maximum allowed by zoning regulations, shall be permitted, provided it does not increase the building footprint lying within the required setback area.
- b. If a nonconforming structure, waterward of the OHWM, is intentionally modified and the cost of the proposed structure exceeds seventy-five (75) percent of the fair market value of the replacement cost of the original structure, it shall be required to meet all applicable standards in the SMP.
- c. If a nonconforming structure is damaged by fire, explosion, or other casualty and/or natural disaster, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, provided that application is made for the permits necessary to restore the structure

within twenty-four months of the date the damage occurred, all permits are obtained and the restoration is completed within two years of permit issuance.

- d. If a nonconforming structure is damaged by fire, explosion, or other casualty and/or natural disaster and the criteria in item c, are not met, the owner shall be required to revegetate the lot.
- e. 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.
- f. A nonconforming structure which is moved any distance must be brought into conformance with the Master Program and the Act.

### 3. Nonconforming Use

- a. Uses that were legally established and are nonconforming with regard to the use regulations of the Master Program may continue as legal nonconforming uses.
- b. A use which is listed as a conditional use, but which existed prior to adoption of the Master Program or any relevant amendment and for which a conditional use permit has not been obtained, shall be considered a nonconforming use.
- c. A nonconforming use may be expanded or extended throughout the structure occupied by the original nonconforming use. The structure's usable floor area may only be increased pursuant to granting of a conditional use permit.
- d. A structure which 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 a finding that:
  - 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.
  - iii. In addition such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the Master Program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.
- e. A nonconforming use may be re-established as a nonconformance, except that any nonconforming use that is discontinued for a period of one (1) year shall not be allowed to continue as the nonconforming use.

### 4. Nonconforming Lots

- a. An undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established prior to the effective date of the SMA or the SMP, but which does not conform to the present lot size standards, may be developed subject to the requirements of BDMC 18.68.060(C) and so long as such development conforms to all other requirements of the SMP and the SMA.

## **K. Appeal to the State Shoreline Hearings Board**

Any person aggrieved by the granting or denying of a shoreline 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 receipt of the final order and by concurrently filing copies of such request with the Department of Ecology and the Attorney General's office. State Hearings Board regulations are provided in RCW 90.58.180 and Chapter 461-08 WAC. A copy of such appeal notice shall also be filed with the City of Black Diamond City Clerk.

## **L. Enforcement and Penalties**

All provisions of this Master Program shall be enforced by the Shoreline Administrator and/or his designated representative. The enforcement procedures and penalties contained in WAC Chapter 173-27 and RCW Chapter 90.58 are hereby incorporated by reference.

## **M. Master Program Review**

1. This Master Program shall be reviewed at regular intervals as required by state statute 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.
2. The City's established permit tracking system, aerial photos, reviewing of other available data, and field observations as feasible shall be used to periodically evaluate the effectiveness of the Shoreline Master Program in achieving no net loss of shoreline ecological functions with respect to both permitting and exemptions.
3. As part of any required SMP update, an evaluation report assessing the effectiveness of the SMP in achieving no net loss shall be prepared and considered in determining whether policies and regulations are adequate in achieving this requirement.
4. The SMP review and update 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.

## **N. Amendments to the Master Program**

1. Any of the provisions of this SMP 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 BDMC 18.08.
2. Amendments or revisions to the Master Program, as provided by law, do not become effective until approved by the Department of Ecology.



## **O. Severability**

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

## **P. Conflict of Provisions**

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 most restrictive requirement shall be applied, except when constrained by federal or state law, or where specifically provided otherwise in this SMP.

# Chapter 7 Definitions

Accessory use or accessory structure - Any subordinate use, structure, or building or portion of a building located on the same lot as the main use or building.

Accretion - The growth of a beach by the addition of material transported by wind and/or water. Included are such shoreforms as barrier beaches, points, spits, and hooks.

Act - The Shoreline Management Act (Chapter 90.58 RCW and WAC Chapter 173-27).

Adjacent lands - Lands adjacent to the shorelines of the state (outside of shoreline jurisdiction).

Administrator - See Shoreline Administrator.

Agriculture - The cultivation of the soil, production of crops, and/or raising of livestock, including incidental preparation of these products for human use. In all cases, the use of agriculture related terms shall be consistent with the specific meanings provided in WAC 173-26-020.

AKART - An acronym for "all known, available, and reasonable methods of prevention, control, and treatment" (WAC 173-201A-020). AKART represents the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. The concept of AKART applies to both point and nonpoint sources of pollution.

Anadromous fish - 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.

Appurtenance - 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. These can include, but are not limited to a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield, and grading which does not exceed two hundred fifty cubic yards (250) (except to construct a conventional drainfield) 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)).

Aquaculture - The commercial cultivation of fish, shellfish, and/or other aquatic animals or plants including the incidental preparation of these products for human use.

Aquascreens - A fiberglass screen used as a bottom barrier to limit and/or control aquatic plant growth. The screen is typically anchored to an area of the lake bottom and functions as a physical barrier to prevent plants from growing.

Archaeological - Having to do with the scientific study of material remains of past human life and activities.

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Associated Wetlands - 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).

Average grade level - 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)).

Baseline - The existing shoreline condition, in terms of both ecological function and shoreline use, established at the time this Shoreline Master Program is approved.

Best available science - Current scientific information used in the process to designate, protect, or restore critical areas that is derived from a valid scientific process as defined by WAC 365-195-900 through 925.

BMPs - See Best Management Practices.

Beach - The zone of unconsolidated material that is moved by waves, wind and tidal currents, extending landward to the coastline.

Beach enhancement/restoration - 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.

Beach feeding - Landfill deposited on land or in the water to be distributed by natural water processes for the purpose of supplementing beach material.

Benthic organism - Organisms that live in or on the bottom of a body of water.

Benthos - Benthos are living organisms associated with the bottom layer of aquatic systems, at the interface of the sediment (or substrate) and overlying water column. Benthos commonly refers to an assemblage of insects, worms, algae, plants and bacteria.

Berm - A linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the line of ordinary high tide. Also, a linear mound used to screen an adjacent activity, such as a parking lot.

Best Management Practices (BMPs) - A variety of behavioral, procedural, and structural measures that reduce the amount of contaminants in stormwater runoff and in receiving waters.

Bioengineering - see Soil bioengineering

Biofiltration system - A stormwater or other drainage treatment system that utilizes as a primary feature the ability of plant life to screen out and metabolize sediment and pollutants. Typically, these systems are designed to include grassy swales, retention ponds and other vegetative features.

Biota - The animals and plants that live in a particular location or region.

Boat launch or ramp - Graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

Boat lift - A mechanical device that can hoist vessels out of the water for storage. These devices are usually located along a pier.

Boat rail or railway - 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.

Boathouse - A structure designed for storage of vessels located over water (not to be confused with "houseboats").

Boating Facility - A public moorage structure or a private moorage structure serving more than four residences.

Bog - A wet, spongy, poorly drained area which is usually rich in very specialized plants, contains a high percentage of organic remnants and residues and frequently is associated with a spring, seepage area, or other subsurface water source. A bog sometimes represents the final stage of the natural process of eutrophication by which lakes and other bodies of water are very slowly transformed into land areas.

Breakwater - An off-shore structure generally built parallel to the shore that may or may not be connected to land. Its primary purpose is to protect a harbor, moorage, or navigational activity from wave and wind action by creating a still-water area along the shore. A secondary purpose is to protect the shoreline from wave-caused erosion.

Bulkhead - 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.

CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act ("Superfund"); 1986 amendments are known as Superfund Amendments and Reauthorization Act or SARA.

CFR - Code of Federal Regulations.

CZMP - Coastal Zone Management Plan.

Certified engineer/biologist - see Professional engineer and Professional biologist.

Clean Water Act - The primary federal law providing water pollution prevention and control; previously known as the Federal Water Pollution Control Act. See 33 USC 1251 et seq.

City - The City of Black Diamond.

Clearing - The destruction or removal of vegetation ground cover, shrubs and trees including, but not limited to, root material removal and/or topsoil removal.

Commercial - Uses and facilities that are involved in wholesale or retail trade or business activities.

Comprehensive Plan - The document, including maps adopted by the city council that outlines the City's goals and policies relating to management of growth, and prepared in accordance with RCW 36.70A. The term also includes adopted subarea plans prepared in accordance with RCW 36.70A.

Conditional Use - A use, development, or substantial development that is classified as a conditional use or is not classified within the master program. Refer to WAC 173-27-030(4).

Conservation Easement - A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.

Covered moorage - Boat moorage, with or without walls, that has a roof to protect the vessel.

Cumulative Impact - 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.

DNS - Determination of Nonsignificance, under SEPA.

Degrade - To scale down in desirability or salability, to impair in respect to some physical property or to reduce in structure or function.

Department - The City of Black Diamond Department of Community Development.

Development - 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)).

Dock - A floating moorage structure.

Downdrift - The direction of movement of beach materials.

Dredge spoil - The material removed by dredging. Same as Dredge Material.

Dredging - 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 or for cleanup of polluted sediments.

Dwelling unit – a single unit providing complete, independent living facilities for one or more persons, not to exceed one family, and which includes permanent provisions for living, sleeping, eating, cooking and sanitation.

EIS - Environmental Impact Statement.

Ecological Functions - 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.

Ecosystem-wide Processes - 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.

Ecology (WDOE) - The Washington State Department of Ecology.

Ell – 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.

Emergency - 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)).

Endangered Species Act (ESA) - A federal law intended to protect any fish or wildlife species that are threatened with extinction throughout all or a significant portion of its range.

Enhancement - Alteration of an existing resource to improve or increase its characteristics and processes without degrading other existing functions. Enhancements are to be distinguished from resource creation or restoration projects.

Environmental Impacts - The effects or consequences of actions on the natural and built environments. Environmental impacts include effects upon the elements of the environment listed in the State Environmental Policy Act (SEPA). Refer to WAC 197-11-600 and WAC 197-11-444.

Environment- See Shoreline Environment.

Erosion - The wearing away of land by the action of natural forces.

Excavated moorage slip - A boat mooring location that is man-made in that it requires dredging or excavation of excess sediment to afford access. May often involve dredging of the lake bottom waterward of the OHWM, or may include excavating a segment of the existing shoreline to enable moorage of a boat.

Excavation - The artificial movement of earth materials.



Fair market value - The open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. Also includes the fair market value of any donated, contributed or found labor, equipment or materials (WAC 173-27-030(8)).

Fill - The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

Finger Pier - 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.

Float - A floating structure that is moored, anchored, or otherwise secured in the water offshore and that may be associated with a fixed-pile pier, or a stand alone structure, such as platforms used for swimming and diving.

Floating Dock - A fixed structure floating upon a water body for the majority of its length and connected to shore.

Floating home - A structure designed and operated substantially as a permanently based over water residence. These are not vessels and lack adequate self-propulsion and steering equipment to operate as a vessel. They are typically served by permanent utilities and semi-permanent anchorage/moorage facilities.

Floodplain - Synonymous with 100-year floodplain. The land area susceptible to being inundated by stream derived waters with a 1 percent chance of being equaled or exceeded in any given year. The limits of this area are based on flood regulation ordinance maps or a reasonable method that meets the objectives of the SMA (WAC 173-22-030(2)).

Floodway - means the area, as identified in a master program, that either: (i) has been established in Federal Emergency Management Agency (FEMA) flood insurance rate maps or floodway maps; or (ii) consists of those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those 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.

Geotechnical Report or Geotechnical Analysis - a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and

recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

Grading - The physical manipulation of the earth's surface and/or drainage pattern in preparation for an intended use or activity.

Grassy swale - A vegetated drainage channel that is designed to remove various pollutants from storm water runoff through biofiltration.

Groin - 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.

Hydraulic Project Approval (HPA) - The permit issued by the Washington State Departments of Fisheries or Wildlife pursuant to the State Hydraulic Code Chapter 75.20.100-140 RCW.

Habitat - The place or type of site where a plant or animal naturally or normally lives and grows.

Hearing Examiner - The Hearing Examiner of the City of Black Diamond.

Height - 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)).

Heliport - Any landing area or other facility owned and operated, and which is designed, used or intended to be used by private aircraft for landing or taking off of aircraft, including all associated or necessary buildings and open spaces.

Hoist - A device used for lifting or lowering a load by means of a drum or lift-wheel around which rope or chain wraps. It may be manually operated, electrically or pneumatically driven and may use chain, fiber or wire rope as its lifting medium.

Houseboat - A vessel, principally used as an over water residence. These are licensed and designed for use as a mobile structure with detachable utilities or facilities, anchoring and the presence of adequate self-propulsion and steering equipment to operate as a vessel. Principal use as an overwater residence means

occupancy in a single location, for a period exceeding two months in any one calendar year. This definition includes liveaboard vessels.

Hydric soils - Generally, soils which are, or have had a history of being, wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of plants (WAC 173-22-030(5)).

Hydrophytes - Those plants capable of growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content (WAC 173-22- 030(5)).

Impervious surface - Any nonvertical surface artificially covered or hardened so as to prevent or impede the percolation of water into the soil mantle including, but not limited to, roof tops, swimming pools, paved or graveled roads and walkways or parking areas, but excluding landscaping and surface water retention/detention facilities.

In-kind replacement - 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.

Interested party - Synonymous with "party of record", all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail (WAC 173-27-030(12)).

Lacustrine (also lacustrian) - Of, on, or pertaining to lakes.

Lake - A body of standing water in a depression of land or expanded part of a river, including reservoirs, of twenty (20) acres or greater in total area. A lake is bounded by the ordinary high water mark or, where a stream enters a lake, the extension of the elevation of the lake's ordinary high water mark within the stream (RCW 90.58.030(1d); WAC 173-20-030; WAC 173-22-030(4)).

Landfill - The creation of, or addition to, a dry upland area (landward of the OHWM) by the addition of rock, soil, gravels and earth or other material. Does not include solid or hazardous waste.

Landscaping - Vegetation ground cover including shrubs, trees, flower beds, grass and other similar plants and including tree bark and other materials which aid vegetative growth and maintenance.

Launching rail - See also Boat launch or ramp and Boat railway.

Launching ramp - See also Boat launch or ramp and Boat railway.

Liberal construction - 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.

Littoral - Living on, or occurring on, the shore.

Littoral drift - The mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and currents.

May - “May” means the action is acceptable, provided it conforms to the provisions of this chapter.

Mitigation or Mitigation Sequencing - 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). Means the following sequence of steps listed in order of priority:

- a) Avoiding the impact all together 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.

Moorage - Any device or structure used to secure a vessel for temporary anchorage, but which is not attached to the vessel (such as a pier or buoy).

Moorage Piles - 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 lieu of, a dock or pier. In some cases, moorage piles may also be associated with a dock or pier.

Mooring buoy - A floating object anchored to the bottom of a water body that provides tie up capabilities for vessels.

Multifamily dwelling (or residence) - A building containing two or more dwelling units, including but not limited to duplexes, apartments and condominiums.

Must - Means a mandate; the action is required.

National Environmental Policy Act (NEPA) - Requires federal agencies to consider environmental factors when making decisions, especially for development proposals of a significant scale. As part of the NEPA process, EISs are prepared and public comment is solicited.

Native plants - These are plants that occur naturally, and distribute and reproduce without aid. Native plants in western Washington are those that existed prior to intensive settlement that began in the 1850s.

Natural riparian habitat corridor - The streamside environment designed and maintained primarily for fisheries and wildlife habitat, water quality improvements and secondarily for flood control works.

NFIP - National Flood Insurance Program.

NOAA - National Oceanic and Atmospheric Administration.

Nonconforming use or development - A shoreline use or structure which was lawfully constructed or established prior to the effective date of the applicable SMA/SMP provision, and which no longer conforms to the applicable shoreline provisions (WAC 173-27-080).

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

Normal protective bulkhead - *Includes* those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land (WAC 173-27-040(2)(c)).

Normal repair - 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.

Ordinary High Water Mark (OHWM) - That mark 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 the City: provided, that in any area where the OHWM cannot be found, the OHWM adjoining fresh water shall be the line of mean high water. See RCW 90.58.030(2)(b) and WAC 173-22-030(11).

Off-site replacement - To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by a regulated activity.

Oil separator - Specialized catch basins that are designed to trap oil and other materials lighter than water in the basin while allowing the water to escape through the drainage system. Commonly employed in parking lots and streets.

On-site replacement - To replace wetlands or other shoreline environmental resources at or adjacent to the site on which a resource has been impacted by a regulated activity.

Overwater structure - Any device or structure projecting over the ordinary high water mark, including, but not limited to piers, docks, floats, and moorage.

Permit (or Shoreline Permit) - See Shoreline Permit.

Pier - A fixed, pile-supported moorage structure.

Practicable alternative - An alternative available and capable of being carried out after taking into consideration short and long-term cost, options of project scale and phasing, existing technology and logistics in light of overall project purposes.

Priority Habitat - A habitat type with unique or significant value to one or more species. An area classified and mapped as such must have one or more of the following attributes:

- h. Comparatively high fish or wildlife density;
- i. Comparatively high fish or wildlife species diversity;
- j. Fish spawning habitat;
- k. Important wildlife habitat;
- l. Important fish or wildlife seasonal range;
- m. Important fish or wildlife movement corridor;
- n. Rearing and foraging habitat;
- o. Important marine mammal haul-out;
- p. Refugia habitat;
- q. Limited availability;
- r. High vulnerability to habitat alteration;
- s. Unique or dependent species; or
- t. Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands). May also be described by a successional stage (such as, old growth forests). Alternatively, a may consist of a specific habitat element (such as caves or snags) of key value to fish and wildlife. May contain priority and/or non-priority fish and wildlife.

Priority Species - Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.



- (a) Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.
- (b) Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.
- (c) Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.
- (d) Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

Professional biologist - A specialist with education and training in the area of natural sciences concerned with the plants and animal life of a region.

Professional engineer - A person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering and is licensed by the state of Washington.

Properly Functioning Conditions (PFC) - Conditions that create and sustain natural habitat-affecting processes over the full range of environmental variation, and that support productivity at a viable population level of PTE species. PFC indicates a level of performance for a subset of the more broadly defined “ecological functions,” reflecting what is necessary for the recovery of PTE species.

Proposed, Threatened, and Endangered (PTE) Species - Native species that are proposed to be listed or are listed in rule by the Washington State Department of Fish and Wildlife as threatened or endangered, or that are proposed to be listed as threatened or endangered or that are listed as threatened or endangered under the federal Endangered Species Act.

Public access - 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).

Public interest - 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)).

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.

RCW - Revised Code of Washington.

RCW 90.58 - The Shoreline Management Act of 1971.

Recreational facilities - Facilities such as parks, trails, and pathways, whether public, private or commercial, that provide a means for relaxation, play, or amusement. For the purposes of this Master Program, recreational facilities are divided into two categories:

1. Water-dependent (i.e. – moorage facilities, fishing piers, recreational floats) and
2. Non-water-dependent (i.e. – sports fields, golf courses, and RV camping)

Recreational Float - A floating structure that is moored, anchored, or otherwise secured in the water off-shore and that is generally used for recreational purposes such as swimming.

Residential development - Development which is primarily devoted to or designed for use as a dwelling(s). Includes single family development, multi-family development and the creation of new residential lots through land division.

Restoration - "Restore," "restoration" or "ecological restoration" means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

Riparian - Of, on, or pertaining to the banks of a river, stream or lake.

Riprap - A layer, facing, or protective mound of stones placed to prevent erosion, scour, or sloughing of a structure or embankment; also, the stone so used.

Rotovating - An aquatic vegetation harvesting technique that uses rototilling technology to uproot and remove plants.

Runoff - Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

Shoreline Exemption - 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 (WAC 173-27-040). For a complete list of exemptions, see Chapter 6.

Sensitive Areas Ordinance, Black Diamond Municipal code 19.10 - This ordinance provides the goals, policies, and implementing regulations for protecting the designated critical areas of Black Diamond. The ordinance addresses environmentally sensitive area development controls; measures important for protecting and preserving these resources; preventing or mitigating cumulative adverse environmental impacts to critical areas; and serves to alert the public to the development limitations of critical areas.

SEPA - see State Environmental Policy Act

SEPA Checklist - A checklist required of some projects under SEPA to identify the probable significant adverse impacts on the quality of the environment, to reduce or avoid impacts from a proposal, and to aid the responsible governmental agency in deciding whether a full environmental impact statement (EIS) is required (WAC 197-11-960).

SMA - see Shoreline Management Act

SMP - see Shoreline Master Program

Sediment - The fine grained material deposited by water or wind.

Setback - A required open space, specified in shoreline master programs, measured horizontally upland from and perpendicular to the ordinary high water mark.

Shall - Means a mandate; the action must be done.

Shorelands or Shoreland Areas - Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous flood plain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of the Shoreline Management Act. In the City of Black Diamond it is limited to those areas within 200 feet of the ordinary high water mark of Lake Sawyer and any associated wetlands.

Shoreline Administrator - The City of Black Diamond Community Development Director or his/her designee, charged with the responsibility of administering the shoreline master program.

Shoreline environment designations - 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. See WAC 173-26-211.

Shoreline jurisdiction - The term describing all of the geographic areas covered by the SMA, related rules and the applicable master program. In the City of Black Diamond, this includes Lake Sawyer, those areas within 200 feet of the ordinary high water mark of Lake Sawyer and any associated wetlands. See definitions of Shorelines, Shorelines of the state, Shorelines of statewide significance, Shorelands, and Wetlands.

Shoreline Management Act (SMA) - Chapter 90.58 RCW, as amended. Washington's Shoreline Management Act was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The goal of the

SMA is to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

Shoreline Master Program (SMP) - The comprehensive use plan and related use regulations which are used by local governments to administer and enforce the permit system for shoreline management. Master programs are developed in accordance with the policies of the SMA, approved and adopted by both the state and the local government, and consistent with the rules (WACs) adopted by Ecology.

Shoreline Modification - Actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

Shoreline Permit - A substantial development, conditional use, revision, or variance permit or any combination thereof (WAC 173-27-030(13)).

Shoreline stabilization – 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 measures such as bulkheads and nonstructural methods such as soil bioengineering.

Shorelines - All of the water areas of the state, including reservoirs and their associated uplands, together with the lands underlying them, except those areas excluded under RCW 90.58.030(2)(d).

Shorelines Hearings Board - 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. See RCW 90.58.170; 90.58.180.

Shorelines of Statewide Significance - 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.

Shorelines of the State - Shorelines and Shorelines of Statewide Significance.

Should - Means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this Master Program, against taking the action.

Sign - A board or other display containing words and/or symbols used to identify or advertise a place of business or to convey information. Excluded from this definition are signs required by law and the flags of national and state governments.

Single-family residence - 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)).

Solid waste - All garbage, rubbish trash, refuse, debris, scrap, waste materials and discarded materials of all types, exclusive of hazardous wastes, and including any and all source-separated recyclable materials and yard waste.

Soil bioengineering - An applied science that combines structure, biological and ecological concepts to construct living structures that stabilizes the soil to control erosion, sedimentation and flooding using live plant materials as a main structural component.

State Environmental Policy Act (SPA) - Requires state agencies, local governments and other lead agencies to consider environmental factors when making most types of permit decisions, especially for development proposals of a significant scale. As part of the SEPA process, EISs may be required to be prepared and public comments solicited.

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

Structure - 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)).

Substantial Development - Any development of which the total cost or fair market value exceeds five thousand seven hundred and eighteen dollars (\$5,xxx), or any development which materially interferes with the normal public use of the water or shorelines of the state unless it is one of the 12 exemptions identified in state law and in Chapter 6, Section D of this SMP. The dollar threshold established in this definition 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 (RCW 90.58.030(3)(e)). For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials. A list of activities and developments that shall not be considered substantial development is provided in Chapter 8 (WAC 173-27-040(2)(a)).

Terrestrial - Of or relating to land as distinct from air or water.

Upland - Generally described as the dry land area above and landward of the ordinary high water mark.

Utilities - Services and facilities that produce, transmit, store, process or dispose of electric power, gas, water, stormwater, sewage and communications.

Utilities, Accessory - Utilities comprised of small-scale distribution and collection facilities connected directly to development within the shoreline area. Examples include local power, telephone, cable, gas, water, sewer and stormwater service lines.

Utilities, Primary - Utilities comprised of trunk lines or mains that serve neighborhoods, areas and cities. Examples include solid waste handling and disposal sites, water transmission lines, sewage treatment facilities and mains, power generating or transmission facilities, gas storage and transmission facilities and stormwater mains and regional facilities.

Variance - A means to grant relief from the specific bulk, dimensional or performance standards specified in the master program, but not a means to vary a shoreline use. Variance permits must be specifically approved, approved with conditions, or denied by Ecology (See WAC 173-27-170).

WAC - Washington Administrative Code.

Water-dependent use - A use or a portion of a use which can not 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 moorage structures (including those associated with residential properties), marinas, aquaculture, float plane facilities and sewer outfalls.

Water-enjoyment use - 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. 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.

Water-oriented use- Refers to any combination of water-dependent, water-related, and/or water enjoyment uses and 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.

Water-related use- 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. Of a functional requirement for a waterfront location 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.

Water quality - The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. 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.

Watershed restoration plan - A plan developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, and/or the Department of Transportation acting within or pursuant to its authority, a city, a county or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to 43.21C RCW, the State Environmental Policy Act.

Wetlands - Means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. May include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

Zoning - To designate by ordinance, including maps, areas of land reserved and regulated for specific land uses.

## Appendix B



### City of Black Diamond

Grant No. G1000014  
Shoreline Environmental Designation Map Final

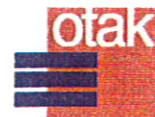


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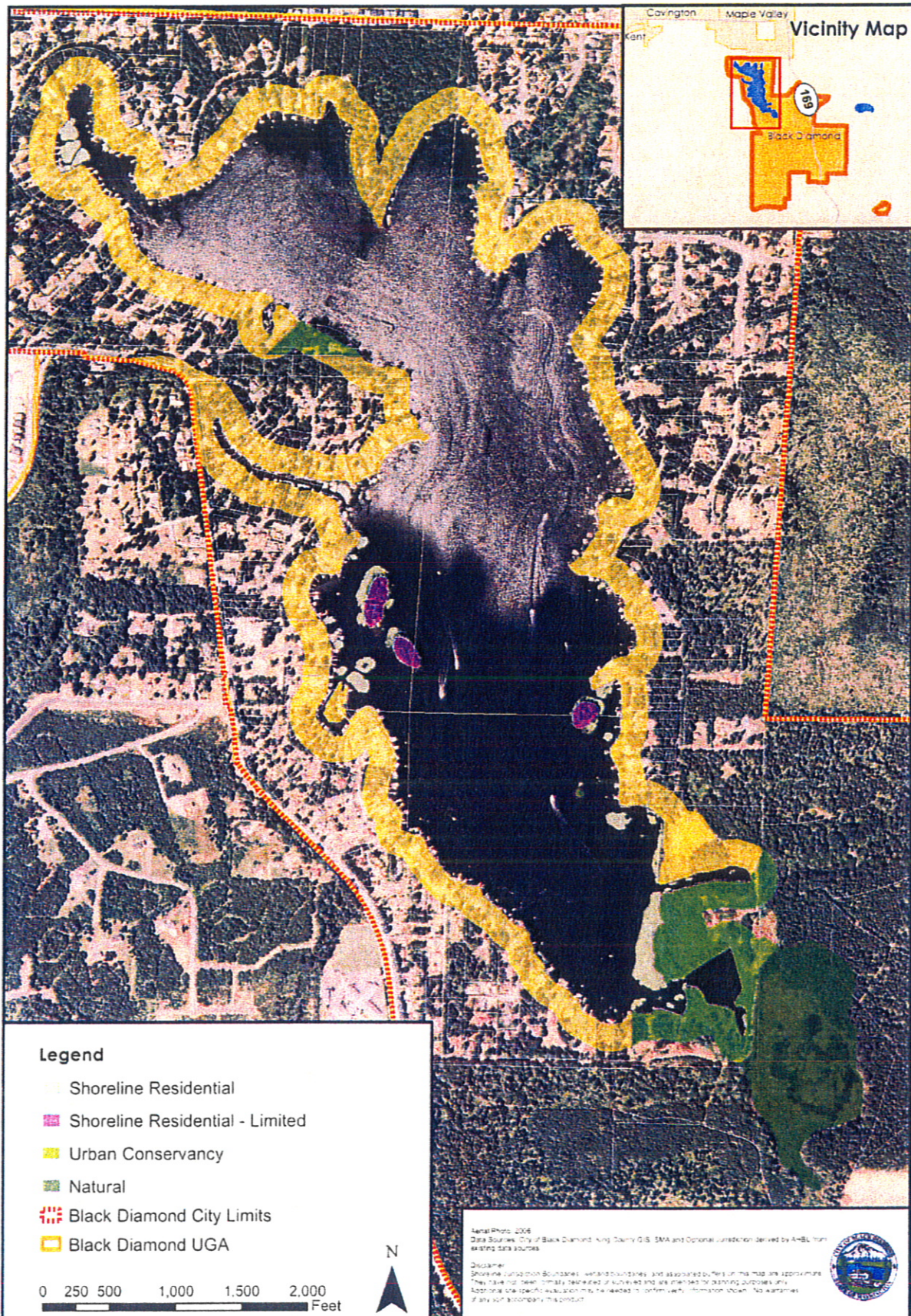
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Department of Ecology.





**City of Black Diamond  
Shoreline Master Program  
LAKE SAWYER**

**FIGURE 1  
Shoreline Environment Designations**





# Appendix C

City of Black Diamond  
Grant No. G1000014

## **DRAFT FINAL REPORT**

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### **Shoreline Restoration Plan Component of the Shoreline Master Program for the City of Black Diamond**

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## SHORELINE MASTER PROGRAM UPDATE SHORELINE RESTORATION PLAN

### 1. INTRODUCTION

The City of Black Diamond's Shoreline Master Program applies to activities in the shoreline jurisdiction. Activities that have adverse affects on the ecological functions and values of the shoreline must provide mitigation for those impacts. By law, the proponent of that activity is not required to return the subject shoreline to a condition that is better than the baseline level at the time the activity takes place. How then can the shoreline be improved over time in areas where the baseline condition is severely, or even marginally, degraded?

Section 173-26-201(2)(f) WAC of the Shoreline Master Program Guidelines<sup>1</sup> says:

“master programs shall include goals and policies that provide for restoration of such impaired ecological functions. These master program provisions shall identify existing policies and programs that contribute to planned restoration goals and identify any additional policies and programs that local government will implement to achieve its goals. These master program elements regarding restoration should make real and meaningful use of established or funded nonregulatory policies and programs that contribute to restoration of ecological functions, and should appropriately consider the direct or indirect effects of other regulatory or nonregulatory programs under other local, state, and federal laws, as well as any restoration effects that may flow indirectly from shoreline development regulations and mitigation standards.”

However, degraded shorelines are not just a result of pre-Shoreline Master Program activities, but also of unregulated activities and exempt development. The new Guidelines also require that “[l]ocal master programs shall include regulations ensuring that exempt development in the aggregate will not cause a net loss of ecological functions of the shoreline.” While some actions within shoreline jurisdiction are exempt from a permit, the Shoreline Master Program should clearly state that those actions are not exempt from compliance with the Shoreline Management Act or the local Shoreline Master Program. Because the shoreline environment is also affected by activities taking place outside of a specific local master program's jurisdiction (e.g., outside of city limits, outside of the shoreline zone within the city), assembly of out-of-jurisdiction actions, programs and policies can be essential for understanding how the City fits into the larger watershed context. The latter is critical when establishing realistic goals and objectives for dynamic and highly inter-connected environments.

As directed by the Guidelines, the following discussions provides a summary of baseline shoreline conditions, lists restoration goals and objectives, and discusses existing or potential programs and projects that positively impact the shoreline environment. Finally, anticipated scheduling, funding, and monitoring of these various comprehensive restoration elements are provided. In total, implementation of the Shoreline Master Program (with mitigation of project-

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<sup>1</sup> The Shoreline Master Program Guidelines were prepared by the Washington Department of Ecology and codified as WAC 173-26. The Guidelines translate the broad policies of the Shoreline Management Act (RCW 90.58.020) into standards for regulation of shoreline uses. See <http://www.ecy.wa.gov/programs/sea/sma/guidelines/index.html> for more background.

related impacts) in combination with this Restoration Plan (for restoration of lost ecological functions that occurred prior to a specific project) should result in a net improvement in the City of Black Diamond's shoreline environment in the long term.

In addition to meeting the requirements of the Guidelines, this Restoration Plan is also intended to support the City's or other non-governmental organizations' applications for future grant funding to implement elements of this Restoration Plan.

## **2. SHORELINE INVENTORY SUMMARY**

### **2.1 Introduction**

The City of Black Diamond retained AHBL and Otak to conduct an inventory and characterization of the Lake Sawyer shoreline in 2010. The purpose of the shoreline inventory was to facilitate the City's compliance with the State of Washington's Shoreline Management Act (SMA) and updated Shoreline Master Program Guidelines. The inventory describes existing physical and biological conditions in the Lake Sawyer shoreline zone within City limits, including recommendations for restoration of ecological functions where they are degraded. The full *Final Shoreline Analysis Report* is included as an appendix to the Shoreline Master Program, and is summarized below.

### **2.2 Shoreline Boundary**

As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the state plus their associated "shorelands." Shorelands are defined as:

"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 wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter...Any county or city may determine that portion of a one-hundred-year-floodplain<sup>2</sup> to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom (RCW 90.58.030)"

Shorelands in the City of Black Diamond include areas within 200 feet of the ordinary high water mark of Lake Sawyer, as well as its associated wetlands. Black Diamond contains no streams or rivers under shoreline jurisdiction. Ravensdale Creek and Rock Creek flow into Lake Sawyer from the south and southeast, but the mean annual flow of each stream is below the minimum 20 cubic feet per second (cfs) required to be regulated by the Shoreline Management Act (RCW 90.58.030). Covington Creek flows out of Lake Sawyer on the west side of the lake and is included in King County's shoreline jurisdiction; a small portion of the creek buffer is located within Black Diamond's shoreline jurisdiction.

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<sup>2</sup> According to RCW 173-220-030, 100-year floodplain is "that land area susceptible to being inundated by stream derived waters with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act;"

During the shoreline assessment, a large wetland complex at the southern end of the lake was identified as obviously being associated with Lake Sawyer. While physically separated from the lake by an access road, the wetlands are hydraulically connected to Lake Sawyer by Rock Creek and are included in the City's shoreline jurisdiction. Another physically separated wetland was identified near the northeast corner of the lake, but local residents and City information has confirmed that it does not have a surface water connection to Lake Sawyer. As such, this wetland is not considered an associated wetland and is not included in Black Diamond's shoreline jurisdiction.

## **2.3 Inventory**

The shoreline inventory is divided into seven main sections: Introduction, Current Regulatory Framework Summary, Shoreline Inventory, Conditions by Inventory Segment: Lake Sawyer, Analysis of Ecological Functions and Ecosystem Wide Processes, Land Use Analysis and Shoreline Management Recommendations. The City's shoreline jurisdiction for Lake Sawyer is divided into six segments: Area A (Residential), Area B (Lake Sawyer Boat Launch Park), Area C (North Single Family Parcel), Area D (Northwest Wetland, later determined to be outside the SMA), Area E (Islands), Area F (Lake Sawyer Regional Park) and Area G (Regional Park Wetland). These segments are based on existing land use patterns and current zoning.

### 2.3.1 Land Use and Physical Conditions

1. Existing Land Use: The City of Black Diamond's shoreline area is extensively developed, the most dominant land use being single-family housing. King County Assessor records indicate that less than 8% of the shoreline jurisdiction is classified as vacant, and those non-vacant parcels not occupied by residential development consist mostly of recreational uses, including two city-owned parks and an RV Park.
2. Parks and Open Space/Public Access: Parks and open space account for approximately 24% of the land in the shoreline jurisdiction, and the majority of this acreage is concentrated at the southern end of the lake in the City-owned Lake Sawyer Regional Park. This park provides trails, passive recreation, and non-motorized shoreline access. The City also owns a small park on the northwest shore of the lake that features the only public boat ramp on Lake Sawyer. Other opportunities for public access to the shoreline are limited, due to the extent of private residential development.
3. Shoreline Modifications: The Lake Sawyer shoreline has been extensively modified, including construction of docks, piers, and a variety of shoreline armoring. Approximately 66% of the shoreline has been armored, and approximately 90% of shoreline properties have an overwater structure. The Residential segment (Segment A) has the most heavily altered shoreline, with 80% armored with a variety of materials, including placed concrete bulkheads, concrete blocks, boulders, or wood.

The full shoreline inventory includes a more in-depth of discussion of the above topics, as well as information about transportation, stormwater and wastewater utilities, historical/archaeological sites, among others.



### 2.3.2 Biological Resources and Critical Areas

Outside of the wetland complex in the Lake Sawyer Regional Park, the Lake Sawyer shoreline zone has relatively few high-quality biological resources due to extensive residential development and associated shoreline modifications in the area. However, the shoreline jurisdiction does contain some environmentally critical areas and scattered wildlife habitat.

Geological hazard areas (slopes greater than 40%) are common throughout much of the shoreline jurisdiction, though the overall area is relatively small (7 acres). Steep slopes are most commonly arranged in bands running parallel to the shoreline between upland development and the OHWM.

Washington Department of Fish and Wildlife (WDFW) mapping of Priority Habitat and Species indicates the presence of bald eagle nest buffers within the shoreline jurisdiction, and all of Lake Sawyer is classified as a waterfowl concentration area. In addition, Covington Creek is listed as habitat for Coastal Cutthroat, Winter Steelhead, and Coho salmon. Ravensdale and Rock Creeks are listed as habitat for Coastal Cutthroat and Coho salmon. Coho and steelhead are also found in Lake Sawyer.

There are no critical aquifer recharge areas located within the shoreline jurisdiction. However, two wellhead protection zones overlap portions of the shoreline jurisdiction, and the shoreline falls within the 5- and 10-year zones for these wellheads.

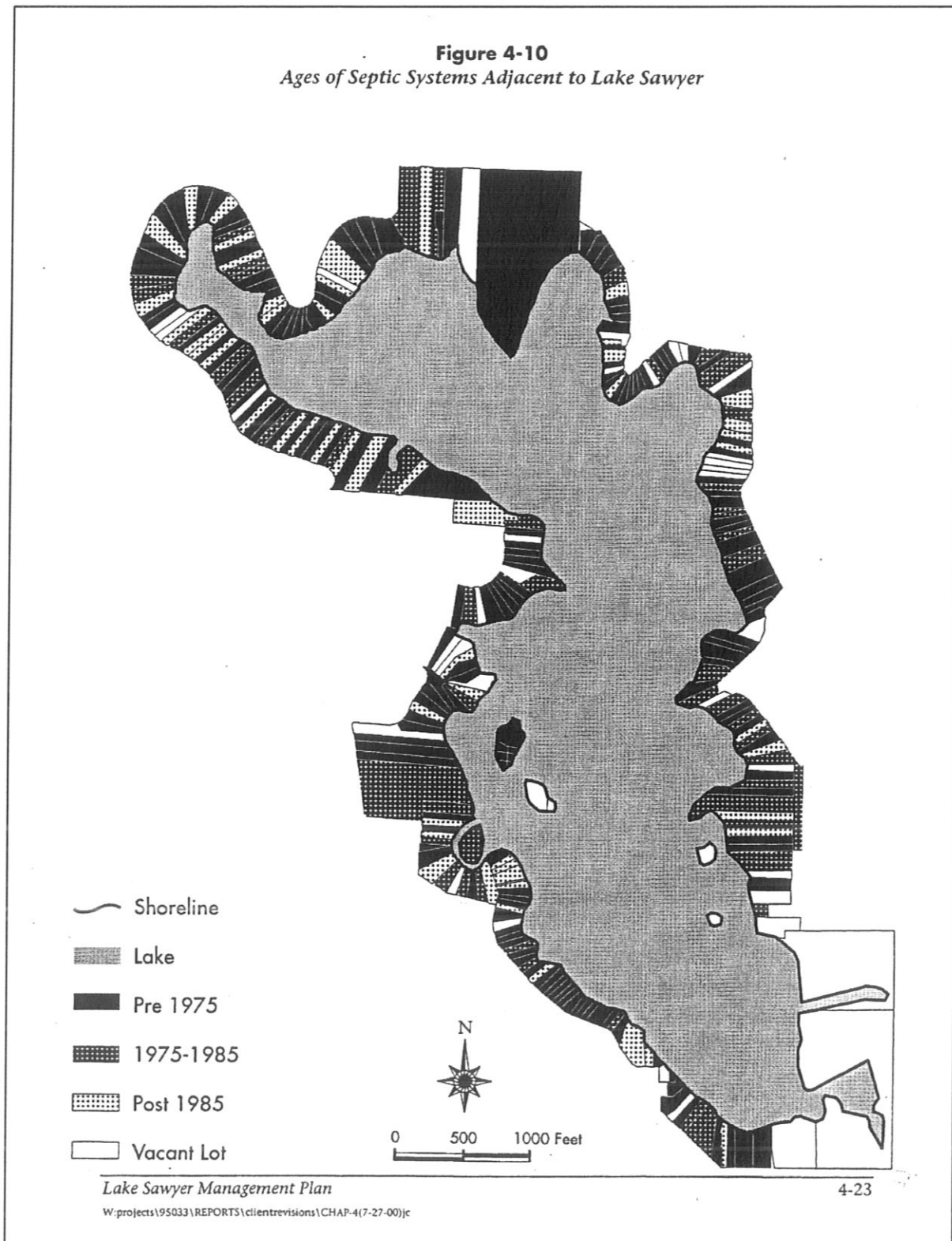
### 2.3.3 Impaired Function, Degraded Areas, and Sites with Potential for Ecological Restoration

As noted in Section 2.3.1, Lake Sawyer has been heavily modified, primarily as a result of extensive residential development. Only approximately 14 of the lakeshore parcels were vacant in 2009. The shoreline area is not anticipated to see an appreciable growth in density over existing conditions because the majority of the properties are already significantly built out, with the larger single family property in Area C being a possible exception. In addition, development of primarily passive park improvements on the large open parcel at the south end of the lake is expected. It is expected that the size and nature of housing surrounding the lake may shift in the coming years, following a pattern of larger single-family residences replacing the smaller more modest homes left around the lake.

Hydrologic, vegetation, hyporheic and habitat functions have all been negatively impacted by development both within the larger watershed and adjacent to the shoreline of Lake Sawyer. Segment A (most Residential areas) has the highest level of modification and the lowest overall function. Segment G (Regional Park Wetland) and Segment C (Forested Large Lot Single Family Parcel) have the highest overall function, based largely on their more natural conditions.

As noted in more detail in the Shoreline Analysis Report, water quality is a key management issues for Lake Sawyer. In 2000, there were more than 270 OSS in the nearshore area of Lake Sawyer. Figure 1 depicts the distribution and ages of OSS surrounding Lake Sawyer, as documented by the *Lake Sawyer Management Plan* in 2000.

Figure 1. Ages of Septic Systems Adjacent to Lake Sawyer





As illustrated in Figure 1, properties adjacent to Lake Sawyer contained a large number of septic systems constructed prior to 1975. While it is anticipated that some of these have been replaced since the *Lake Sawyer Management Plan* was published, it is likely that many older systems still exist and are now reaching the end of their design life, increasing potential risks to water quality.

Due to the high use of septic systems around the lake, input from stormwater runoff, and sources of phosphorus within the lake itself, phosphorus levels continue to be monitored. As part of the NPDES Phase II permit compliance, the City currently has various programs to control stormwater pollution through maintenance of public facilities and inspection of private facilities, as well as conducting construction site inspections and requiring appropriate spill control and response measures. Monitoring has been done by volunteers and staff with funding coming out of the City's stormwater utility in Lake Sawyer in association with a Total Maximum Daily Load (TMDL) Plan for phosphorus in the lake that was developed by Ecology in 1991, and the water quality has generally improved since 1993 when the TMDL was approved by the EPA. In 2002, Ecology produced a document titled *Effectiveness Monitoring for Total Phosphorus Total Maximum Daily Loads for Fenwick and Sawyer Lakes*. The report concluded that the lake is meeting the long-term goal of reducing phosphorus. However, the anticipated growth in the watershed could have a negative impact on the health of the lake. Ecology has produced a follow-up document titled *Lake Sawyer Total Phosphorus Total Maximum Daily Load Water Quality Implementation Plan* (2009), which provides a framework for corrective actions to address ongoing and future sources of phosphorus pollution in Lake Sawyer and the surrounding watershed.

The TMDL was originally issued relating to phosphorus levels as a result of a failed experimental wastewater treatment facility that utilized the wetlands in Area G, but is now used to manage stormwater facilities because the primary source of phosphorus is from stormwater runoff. The City is continuing to work towards meeting the requirements of the NPDES permit by 2012. Some of the current goals the City is working towards include establishing updated maintenance standards for facility function, performing maintenance within required timeframes, annual inspection of all municipally owned or operated permanent stormwater treatment and flow control facilities, conducting checks of potentially damaged stormwater facilities after major storm events, and several activities and educational opportunities relating to public involvement and participation (PacWest Engineering 2009).

Enhancement of lakeshore vegetation, reductions or modifications to shoreline hardening, and minimization of in- and over-water structures would each increase one or more ecological parameters of the City's shoreline. These options could be implemented voluntarily by the City or City residents or, depending on specific project details, could be required to mitigate adverse impacts of new shoreline projects. The *Habitat Limiting Factors and Reconnaissance Assessment Report, Green/Duwamish and Central Puget Sound Watershed (Water Resource Inventory Area 9)* (Kerwin and Nelson 2000) identifies the numerous limiting habitat factors and impacts in WRIA 9, many of which are particularly important in Black Diamond's shoreline jurisdiction:

- Dams which block upstream and downstream passage for salmonids, change the natural flow, cause gravel starvation and scouring and reduce amount and size of large woody debris (e.g. the fish way dam at Lake Sawyer's outlet);

- Logging practices which create reduced riparian habitat, fish passage barriers, excessive sedimentation, decreased water quality and altered stream hydrology (e.g. logging practices upstream of Lake Sawyer may contribute to increase sediment and reduced water quality in the lake);
- Reduced forest cover and increased impervious surface from land development which disrupts hydrologic stream flow, decreases water quality and increases sedimentation (e.g. continued development and impervious surfaces in Black Diamond);
- Urbanization, water diversions, and revetments that are lowering the floodplain and disconnecting off-channel habitats, reducing large woody debris, causing chronic water quality problems and severely reducing riparian habitats and associated functions (e.g. these events upstream of Lake Sawyer can impact the lake and its associated streams and wetlands); and
- Introduction of non-native plant and animal species (non-native plants and animals are associated with Lake Sawyer and its associated streams and wetlands).

Opportunity areas were initially identified during the review of the reference materials, review of aerial photographs, and a brief site visit in December 2009. More detailed descriptions of each area can be found in Section 4.0 below. Restoration opportunities on public lands exist at the two City-owned parks in the shoreline jurisdiction. Many of the restoration opportunities are similar for each of the segments and include:

- Replacement of non-native invasive plants, such as purple loosestrife, which is found onshore (Lake Sawyer Management Plan 2000), with appropriate native species;
- These areas could be enhanced by encouraging private homeowners to implement bulkhead removal and shoreline enhancement projects (including installation of native vegetation) and replace deteriorating piers. New construction should discourage the installation of bulkheads or other forms of shoreline modification. Regulations can also address the installation or replacement of one dock for use by two parcels. Homeowner education should also focus on discouraging the use of chemicals on lawns and shrubs.
- Educational opportunities for lakeshore residents that include topics such as the use of fertilizers and pesticides, the installation of native plant species, and the use LID and green building techniques.
- Removal or modification of bulkheads and limiting the number of new or replacement docks to one dock per two parcels.
- The use of LID and green building techniques for the redevelopment of the City parks in shoreline jurisdiction.
- Active monitoring of septic systems and required conversion of homes on septic systems to the City's sewer system when sewer is available and/or significant new development is proposed.
- In areas of natural or semi-natural shoreline condition, education regarding the preservation and maintenance of these features is highly encouraged.

Overall, the highest priority areas for restoration are those areas within Lake Sawyer Regional Park that have been heavily modified, including clearing and shoreline armoring. The highest

priority areas for protection are wetland areas in the Regional Park, Area C and private property on the east shore of the lake just north of the Regional Park containing regulated wetlands.

Please see Section 5.1 for recommended site specific projects.

### 3. RESTORATION GOALS AND OBJECTIVES

The results of the City's Shoreline Analysis Report, the direction of Ecology's *Shoreline Master Program Guidelines*, and input from the Shoreline Citizen Advisory Committee are the foundation for the goals and objectives of the City of Black Diamond's restoration strategy. Lake Sawyer receives run-off from surrounding areas, and the existing dam/weir maintains a relatively stable lake water elevation and allows normal flows to pass through to Covington Creek and ultimately to the Green-Duwamish River.

Lake Sawyer lies within the Green/Duwamish watershed, which corresponds to Water Resource Inventory Area (WRIA) 9. In 2002, the WRIA 9 Steering Committee published the *Green/Duwamish and Central Puget Sound Watershed (Watershed Resource Inventory Area or WRIA 9) Near-Term Action Agenda for Salmon Habitat Conservation*. According to this analysis, "the Green/Duwamish watershed suffers from detrimental conditions for fish and fish habitat due to major engineering changes, land use changes which have resulted in direct and indirect impacts to salmon habitat, and water quality which has declined due to wastewater and industrial discharges, erosion, failing septic systems and the use of pesticides." (WRIA 9 Steering Committee 2002).

Although the *WRIA 9 Near-Term Action Agenda for Salmon Habitat Conservation* and the *Salmon Habitat Plan: Making our Watershed Fit for a King* (hereafter collectively referred to as the *WRIA 9 Plan*) are salmon-centered, pursuit of ecosystem-wide processes and ecological functions performance that favors salmon generally captures those processes and functions that benefit all fish and wildlife. The goals and objectives of this restoration plan incorporate some of the elements of the WRIA 9 Plan. However, the presence of the previously discussed dam/weir at Covington Creek, Lake Sawyer is somewhat more isolated from the rest of the watershed than other water bodies; while flows are free leave the lake via Covington Creek, the dam/weir may form an obstacle for migrating fish. Adult salmon have been identified, in small numbers in the tributaries to Lake Sawyer higher up in the watershed. As a result of this potential limitation, water quality, shoreline armoring, and upland impervious cover are considered higher priorities than salmon habitat in Lake Sawyer.

Black Diamond's *Shoreline Analysis Report* (Otak/AHBL 2010) provides supporting information that identifies water quality and shoreline modification issues on Lake Sawyer. Key issues include loss of lakeshore vegetation, absence of large woody debris, shoreline armoring, and increased stormwater pollutants and run-off. The following goals and objectives have been identified for the City of Black Diamond's restoration strategy:

**Goal 1** – Prevent further degradation of water quality in Lake Sawyer from non-point pollution associated with stormwater and wastewater. Restore and enhance lake water quality to protect beneficial uses of the lake and watershed-wide fish habitat and other resources.

**Goal 2** – Restore and enhance shorelines that have been altered through installation of bulkheads and other forms of hard armoring.

**Goal 3** – Restore riparian vegetation and increase the prevalence of native species in shoreline areas to provide habitat for area wildlife.

**Goal 4** – Contribute to conservation and recovery of salmon and other anadromous fish, focusing on preservation, protection, and restoration of spawning and rearing habitat in Lake Sawyer, Rock Creek, and Ravensdale Creek.

**Goal 5** – Explore potential changes in the regulation of motorized boating activities on Lake Sawyer to address wake cause shoreline erosion, intensity of use, safety, pollution and other issues.

### **Restoration Objectives**

- Improve the water quality of Lake Sawyer by managing the quality and quantity of stormwater in contributing systems, consistent at a minimum with the latest Washington Department of Ecology *Stormwater Management Manual for Western Washington*.
- Improve the health of lake shorelines by removing bulkheads and replacing these features to the extent feasible with bioengineered stabilization solutions to improve aquatic habitat conditions.
- Improve tributary stream health by eliminating man-made barriers to anadromous fish passage, preventing the creation of new barriers, and providing for transport of water, sediment, and organic matter at all stream crossings.
- Improve tributary stream and lake health by identifying hardened and eroding lakeshores and correcting to the extent feasible with bioengineered stabilization solutions.
- Improve tributary stream and lake health by increasing large woody debris recruitment potential through plantings of trees in the riparian corridors. Where feasible, install large woody debris to meet short-term needs.
- Increase quality, width and diversity of native vegetation in protected corridors adjacent to lake habitats to provide safe migration pathways for fish and wildlife, food, nest sites, shade, perches, and organic debris. Strive to control non-indigenous plants or weeds that are proven harmful to native vegetation or habitats.
- Target Lake Sawyer Regional Park for habitat enhancements that are designed and sited to be compatible with the increased recreational use anticipated at this park in the future. Opportunities include removing the timber bulkheads and providing bioengineered shoreline stabilization, limiting excess impervious surface, improved drainage using infiltration and planting of native vegetation where appropriate.

- Target single family residential properties with incentives, outreach and information for homeowners who are willing to voluntarily remove bulkheads, plant native vegetation and encourage large woody debris recruitment.
- Target single family residential properties with outreach and information regarding the water quality impacts associated with fertilizer and pesticide use in the shoreline jurisdiction.
- Decrease the amount and impact of overwater and in-water structures along Lake Sawyer through minimization of structure size and use of more environmentally friendly materials, including light-permeable decking.
- Target Lake Sawyer Regional Park for the use of environmentally friendly materials and design during the future construction of overwater structures at this site.
- Where feasible, protect, enhance, and encourage the restoration of lake areas and wetlands throughout the contributing basin where functions have been lost or compromised.

#### **4. LIST OF EXISTING AND ONGOING PROJECTS AND PROGRAMS**

The following series of existing projects and programs are generally organized from the larger watershed scale to the City-scale, including City projects and programs and finally non-profit organizations that are also active in the City of Black Diamond area.

##### **4.1 Comprehensive Plan Policies**

The City completed its last major update to the Comprehensive Plan in 2009. The Comprehensive Plan, specifically *Chapter 4 – The Natural Environment* and *Chapter 5 – Land Use*, contains a number of goals and policies focused on preservation and restoration of shoreline habitat, including the following:

- Policy NE-4 Condition all development proposals to require sanitary sewer service prior to occupancy.
- Policy NE-7 Require temporary erosion control measures to be installed before construction begins and maintenance of those control measures through stabilization of the site following the completion of construction to control the quantity of sediment entering surface water.
- Policy NE-9 Protect sensitive areas from inappropriate land uses, activities, or development through continued application of and periodic updates to the sensitive areas ordinance (SAO) and development regulations. The City will monitor the effectiveness of its SAO and will modify this ordinance as necessary, based upon the information gathered during monitoring.



- Policy NE-10 Avoid disturbance to valuable fish and wildlife habitat through the proper location, design, construction, and management of new development.
- Policy NE-20 Minimize areas of vegetation loss and grading disturbance to protect water quality and prevent erosion, when developing on moderate and highly erodible soils.
- Policy LU-5 Use appropriate methods of acquisition or long-term protection to preserve sensitive natural areas.
- Policy LU-6 Use the open space system to protect surface and groundwater quality.

#### **4.2 *Environmentally Sensitive Areas Regulations***

The City of Black Diamond environmentally sensitive areas regulations are found in Black Diamond Municipal Code Chapter 19.10. The City completed its last sensitive areas regulations update in 2009 consistent with best available science and all other requirements of the GMA. The regulations are based on “best available science,” and provide a high level of protection to sensitive areas in the City. The regulations categorize streams based on fish use and duration of flow, with standard buffers ranging from 25 feet to 100 feet. Wetland buffers range between 40 and 225 feet and are classified according to Black Diamond Municipal Code 19.10.210. Management of the City’s environmentally sensitive areas using these regulations should help insure that ecological functions and values are not degraded, and impacts to critical areas are mitigated. These sensitive areas regulations are one important tool that will help the City meet its restoration goals. The City’s critical areas regulations are adopted by reference into the Shoreline Master Program to regulate critical areas found within the shoreline zone.

#### **4.3 *Stormwater Management and Planning***

Title 14 of the Black Diamond Municipal Code establishes the city stormwater utility and enumerates regulations for stormwater management and drainage design. BDMC 14.04.020 adopts by reference the February 2005 edition of the Department of Ecology’s Stormwater Manual for Western Washington. The purpose of the City’s establishment of drainage regulations is to:

“...promote public health, safety and welfare by establishing and operating a comprehensive approach to surface and storm water problems.”

In February 2007, Ecology approved the City’s National Pollution Discharge Elimination System (NPDES) Phase II permit. The NPDES Phase II permit is required to cover the City’s stormwater discharges into regulated lakes and streams. Under the conditions of the permit, the City must protect and improve water quality through public education and outreach, detection and elimination of illicit non-stormwater discharges (e.g., spills, illegal dumping, wastewater), management and regulation of construction site runoff, management and regulation of runoff from new development and redevelopment, and pollution prevention and maintenance for municipal operations. The policies and regulations of the proposed SMP and this Restoration Plan are intended to support the City’s ongoing NPDES Phase II Permit compliance efforts. Through the City’s NPDES permit the City has implemented private stormwater system



inspections, illicit discharge detection and outreach and capital improvement projects which include the installation of rain gardens and storm water filtration systems. The City also offers stormwater credits to individuals that can demonstrate that they are improving water quality and quantity within their own systems.

#### **4.4 Public Education**

The City of Black Diamond's Comprehensive Plan identifies policy statements based on goals associated with the Natural Environment element (excerpted below). These items help guide City staff and local citizen groups in developing mechanisms to educate the public and broaden the interest in protecting and enhancing local environmental resources.

##### **Water Quality Policies**

- Policy NE-1 The City recognizes the need for aquifer protection and will continue to coordinate planning efforts with King County in maintaining the South King County Ground Water Management Plan through the South King County Groundwater Management Committee.
- Policy NE-3 Promote the use of interlocal agreements with other agencies to restrict land use in sensitive aquifer recharge areas in order to minimize possible sources of pollution, potential for erosion, and to maintain infiltration volumes.

##### **Critical Areas Policies**

- Policy NE-8 Coordinate with King County and the Muckleshoot Indian Tribe in the developing [sic] natural resources planning for the areas surrounding the City.

#### **4.5 Other Projects**

The following projects are focused on no net increase of phosphorus in the Lake Sawyer Watershed within their respective project boundaries.

##### *Approved Master Planned Developments (MPDs)*

The developer has proposed no net increase in phosphorous loading into the Rock Creek/Lake Sawyer system as part of The Villages and Lawson Hills MPDs. In addition, a Water Quality Review Committee is required to be established to review and evaluate compliance with the stormwater conditions imposed upon the MPDs and provide an annual report to the City Council. Galvanized and copper and similar roof and gutter materials, as well as roof treatments such as chemical moss killers are prohibited for any rooftop draining directly to wetlands, streams, or their associated buffers without treatment within the MPDs. The developer is required to fund training of City staff or a contractor so that the City may provide inspection services for City actions related to any NPDES permits granted by the Department of Ecology for MPD development.

#### 4.6 Water Resource Inventory Area (WRIA) 9 Participation and Ongoing Efforts

The City was one of 16 members of the WRIA 9 Forum, which participated in financing and developing the *Salmon Habitat Plan: Making Our Watershed Fit for a King* (Steering Committee 2005). This effort includes the City of Black Diamond's implementation commitment in the form of City Council Resolution #05-396, approved December 1, 2005 (Appendix A). The City's preparation of the *Shoreline Analysis Report Including Shoreline Inventory and Characterization of City of Black Diamond's Shoreline: Lake Sawyer* (Otak/AHBL 2010) and this *Shoreline Restoration Plan* are important steps toward furthering the goals and objectives of the *WRIA 9 Plan*. The City's Shoreline Master Program update materials rely in part on the science included in the *WRIA 9 Plan*.

The *WRIA 9 Plan*, which was adopted by the City, lists a number of programs that can and do occur in Black Diamond, but also across the entire watershed, that would contribute to the recovery of habitat basin-wide. The 16 WRIA-wide (WW) actions in Chapter 7 of the *WRIA 9 Plan* and in Table 1 below are programmatic in nature and range from public education and stewardship to incentives to regulations and enforcement.

**Table 1.** WRIA-Wide Programs Recommended to Support Habitat and Implementation of WRIA 9 Goals in Black Diamond

Program #	Program	Black Diamond Implementation
1	Conduct Shoreline Stewardship Workshops and Outreach	Will begin with implementation of the City's 2012 shoreline master program.
2	Increase/Expand Water Conservation Incentive Programs	The City has a webpage dedicated to water conservation efforts throughout the City.
3	Increase/Expand Natural Yard Care Programs for Landscapers	Efforts have been geared towards making residents more aware of natural yard care programs. Future programs will also target landscape construction and maintenance companies.
4	Increase/Expand Natural Yard Care Programs for Single Family Homeowners	The City hands out educational materials and writes newsletter articles on natural yard care programs. The City has been actively pursuing the reduction in use of phosphorus based fertilizers throughout the City and conducted onsite soil sampling through the King Conservation District in determining phosphorus levels in area soils. The results concluded that very little Phosphorus is needed in order to ensure healthy lawn growth.
5	Promote the Planting of Native Trees	The City is actively engaged in planting native trees and is starting a program that provides free trees to residents that qualify and have a need for native trees.

Program #	Program	Black Diamond Implementation
6	Promote Better Volunteer Carwash Practices	The City has written a newsletter article on proper ways in which to wash your car within the watershed and is in the process of purchasing car wash kits for events held at local businesses.
7	Increase Public Awareness about What Healthy Streams and Rivers Look Like and How to Enjoy Recreating on Them	The City is actively engaged in educating youth within the community with regard water quality and conducts weekly sampling to verify good water quality resources throughout the City and where improvements are needed.
8	Increase Involvement of Volunteers in Habitat Stewardship	The City annually holds an earth day celebration in which volunteers are asked to participate.
9	Green/Duwamish Volunteer Revegetation Program	The City has participated and continues to participate in revegetation efforts throughout the City. The Natural Resources Department Coordinates activities and helps conduct events.
10	Support/Expand the Natural Resource/Basin Steward Programs	The City contributes financial resources to the efforts being promoted through the County throughout the basin.
11	Expand/Improve Incentive Programs	The City will allow a stormwater billing credit to ratepayers that properly maintain a private stormwater treatment and detention/retention pond and the associated facilities that adequately perform stormwater treatment functions. Ratepayers can receive a credit of up to 85% off their annual bill.
12	Improve Enforcement of Existing Land Use and Other Regulations	The City has a dedicated part-time code enforcement officer and full-time Planner that works on relevant issues as they relate to our current land use and City regulations.
13	Increase Use of Low Impact Development (LID) and Porous Concrete	The City has adopted the 2005 Department of Ecology stormwater manual which includes components for low impact development. In addition, Yarrow Bay is proposing LID as a component to their Master Planned Developed Communities in order to meet no net increase in phosphorus loading on the Rock Creek and Lake Sawyer systems.
14	Provide Incentives for Developers to Follow Built Green™ Checklist Sections Benefiting Salmon	The City does not yet provide specific incentives for Built Green, but may see this type of development within

Program #	Program	Black Diamond Implementation
		the MPDs. Many of the elements of the program will be incorporated in the MPDs, with or without formal certification.
15	Develop a Coordinated Acquisition Program for Natural Areas	The City has actively participated in the acquisition of natural areas for the protection of these areas to benefit the environment.
16	Develop Salmon Restoration Tools Consistent with Agricultural Land Uses	The City has actively participated with the King Conservation District in protecting agricultural uses, while paying attention to the needs of salmon and salmon habitat.

#### 4.7 Lake Sawyer Management Plan

In 2000, King County published the *Lake Sawyer Management Plan*, which contained the results of water quality studies conducted in Lake Sawyer from 1994 – 1995, as well as proposed management policies designed to protect the lake’s water quality from further degradation. These management goals were developed with partners and reflect the desire to protect Lake Sawyer for future generations.

The plan establishes the following key management goals for Lake Sawyer:

1. To maintain the lake’s mesotrophic state and accommodate future growth
2. To reduce the main nonpoint sources of phosphorus loads to the lake.
3. To control the growth of macrophytes at levels that provide optimum recreational uses and prevent the growth of exotic macrophytes.
4. To achieve within a few years and maintain appropriate or adequate levels of dissolved oxygen at all depths in the lake.
5. To continue measuring Lake Sawyer water quality and to evaluate progress on achievement of management goals.
6. For the stakeholders to work with appropriate agencies, shoreline residents, landowners and others in the watershed to minimize the impact of new and existing development on Lake Sawyer water quality and its beneficial uses.
7. For stakeholders to work with agencies to educate lake users, waterfront owners, and other drainage basin residents, businesses, and cities on best management practices.
8. To control the water level in the lake to optimize the fisheries, flood control, and lake recreational uses.

9. To develop partnerships between the City of Black Diamond, King County, and relevant non-profit groups to establish guidelines and standards for accommodating growth, maintaining beneficial uses, and protecting natural resources of the lake and its watershed.
10. For the City of Black Diamond, King County, and non-profit organizations to mutually seek and acquire funds for implementation of the Lake Sawyer Watershed Management Plan.

Based on these goals, the management plan establishes 20 management measures, which are divided into six categories:

- **Stormwater Control Policies:** Includes implementation of updated stormwater control methods, erosion protection, and vegetation conservation.
- **Watershed Measures:** Includes recommended Best Management Practices to reduce pollutant loading from residences, commercial development, agriculture, and resource-extraction industries. In particular, several mining and sand/gravel operations are located within the watershed. Runoff and discharge from these sites can significantly increase downstream phosphorus loading, which leads to further degradation of water quality in Lake Sawyer.
- **Regional Stormwater and Phosphorus Control:** Implementation of a stormwater plan for the Rock Creek subbasin.
- **Aquatic Plant Management:** Includes efforts to control the spread of aquatic vegetation that can grow rapidly as a result of excess nutrient loading. Such growth of aquatic vegetation is a symptom of poor water quality in the lake and can hinder its recreational use if not controlled either through chemical or physical means.
- **Monitoring Activities:** Establishes goals for monitoring water quality in Lake Sawyer and associated streams.
- **Contingency In-Lake Measures:** Allows use of mechanical and chemical methods of preserving Lake Sawyer's trophic state in the event that other restoration methods are not immediately effective.

The management plan also recommends the establishment of a Lake Management District (LMD) for the purposes of funding implementation of the above goals and management measures. Under RCW 36.61, LMD's can levy special assessments for lake improvement projects, and revenue collected by LMD's can be used to satisfy the cash match requirements associated with Department of Ecology and EPA grants for pollution control projects.

## 5. LIST OF ADDITIONAL PROJECTS AND PROGRAMS TO ACHIEVE LOCAL RESTORATION GOALS

The following series of additional projects and programs are generally organized from the larger watershed scale to the City-scale, including City projects and programs and respective and willing non-profit organizations that are also active in the Black Diamond area.

### 5.1 *Recommended Projects*

The following is partially developed from a list of opportunity areas identified within the *Shoreline Analysis Report*. The list of potential projects was created after assessing field conditions, and is intended to contribute to improvement of impaired functions.

General: Many shoreline properties have the potential for improvement of ecological functions through: 1) reduction or modification of shoreline armoring, 2) reduction of overwater cover and in-water structures (grated pier decking, pier size reduction, pile size and quantity reduction, moorage cover removal), and/or 3) reductions in impervious surface coverage. Similar opportunities would also apply to undeveloped lots which may be used as community lots for upland properties or local street-ends and utility corridors.

#### Segment A: Residential

Approximately 95% of the lake is surrounded by residential development, placing the majority of restoration opportunities in this segment on private property. These areas could be enhanced through outreach to private homeowners, encouraging them to implement restoration measures, such as bulkhead removal, shoreline vegetation enhancement, and replacement of deteriorating piers. Homeowner education with regard to use of chemicals on lawn areas is also recommended.

#### Segment B: Lake Sawyer Park Boat Launch

The City has recently made improvements at the boat launch park. Improvements include a new concrete boat ramp. Potential future improvements include restoration of the shoreline buffer vegetation and removal of timber steps and retaining wall, and installation of restroom facilities and playground equipment. Towards the north end of the park new beaches are proposed as well as the removal of a timber bulkhead. Overall, the project design removes retaining walls and timber bulkheads; however, the design does include a small amount of log toe protection near the beach areas. Other improvement opportunities to consider include the use of LID techniques when replacing the boat ramp and construction of the dock; LID and green building techniques when constructing the restroom facilities; improved signage for the park leading users to the shore; and stormwater treatment for runoff from the road, parking areas, and boat ramp.

#### Segment C: Forested Single Family Parcel

The property is currently enrolled in the open space taxation program, indicating the owner's current management objectives. Upland and overhanging shoreline vegetation on this property provides a high level of ecological function. Maintaining the shoreline in terms of vegetation and armoring will also provide protective shoreline habitat for small fish, invertebrates, and amphibians. In the long term, the City should work with the owner of this property to ensure the



permanent protection of this property and prevent the possibility of future conversion or subdivision.

#### Segment D: Islands

It is likely that these homes were originally very small fishing cabins with infrequent visitors that generated very little waste. These now appear to be large homes that likely support more than one bathroom, as well as a kitchen. Due to the apparent lack of utilities, namely sewer/septic service, the City should work with the King County Health District to provide public information and enforce existing regulations. If these systems are discharging improperly treated wastewater conversion to composting toilets should be encouraged. Additional development on these islands should not be permitted unless adequate wastewater facilities are provided. In the long term, the City should work with the owners of these properties to explore options for permanent protection of these sensitive islands. City should also vigorously enforce adopted regulations requiring proof of legal water and wastewater services to obtain a building permit.

#### Segment F and G: Lake Sawyer Regional Park and Wetland

The wetland complex that characterizes this segment is located adjacent to Lake Sawyer Regional Park and is separated from the lake shore by the passive recreation areas of the park. As described in the Shoreline Analysis Report, portions of the wetland buffer are degraded, and there is significant opportunity for restoration in these areas. The City should integrate restoration of the wetland buffers with improvements at the regional park, including controlling access and directing use to the outer buffer area for trails, wildlife viewing, and other educational activities, with overlooks where appropriate. Non-native invasive species are present in the wetland and buffer and should be removed and replaced with native species.

Conceptual improvements for this area of the regional park include the enhancement of the existing trail system; improved access and parking; and restrooms. Any active uses, such as athletic fields, should be located outside of the SMA. Areas closest to the lake should be encouraged to be enhanced or developed for the purpose of water access. Due to the high value habitat at the southern end of the lake, it is suggested that the City consider a ban on motor boats and jet skis in this area in order to protect the habitat. Other improvement opportunities to consider include the use of LID and green building techniques when building the restroom facilities, trails, and parking areas and limited wayfinding signage for the park.

Hydrologic restoration opportunities in this segment include the removal of existing rock and timber bulkheads and replacement with soft shoreline treatments. In particular, there is a large area of failing timber bulkhead that could be removed. Much of the area behind the timber bulkhead is wetland and would be highly susceptible to shoreline erosion. Stabilization of this shoreline with vegetation and potentially gravel or logs may be an option, but the restoration plan should explore the optimum design to restore natural wetland conditions in this area. Re-grading the nearshore, limited use of in-water fill materials, planting aquatic vegetation and other enhancements should be considered. It is recommended that restoration activities include additional restrictions to the use of motorized craft in this area to protect against wake caused erosion.

Rock bulkheads could also be removed and replaced with soft shoreline treatments, which would be relatively straightforward in non-wetland areas. Enhancements could also include the replacement of existing culverts with a footbridge and removal of rip rap located at the existing culverts on Rock and Ravensdale Creeks.

Overall, the high priority areas for restoration in the SMA are those areas with Lake Sawyer Regional Park that have been heavily modified, including clearing and shoreline armoring.

## **5.2 Public Education/Outreach**

Chapter 7 of the WRIA 9 Plan identifies numerous WRIA-wide (“watershed-wide”) actions that could contribute to the recovery of ecosystem health. These actions range from public education and stewardship to incentives to regulations and regulatory enforcement. Specific public education and stewardship efforts listed in the report that are applicable to Black Diamond and Lake Sawyer include:

- Conduct Shoreline Stewardship Workshops and Outreach
- Increase/Expand Water Conservation Incentive Programs
- Increase/Expand Natural Yard Care Programs for Landscapers
- Increase/Expand the Natural Yard Care Program for Single Family Homeowners
- Promote the Planting of Native Trees
- Promote Better Volunteer Carwash Practices
- Increase Involvement of Volunteers in Habitat Stewardship
- Green/Duwamish Volunteer Revegetation Program
- Support/Expand the Natural Resource/Basin Steward Programs
- Expand/Improve Incentives Programs
- Improve Enforcement of Existing Land Use and Other Regulations
- Increase Use of Low Impact Development techniques and Porous Concrete
- Develop a Coordinated Acquisition Program for Natural Areas
- Develop Salmon Restoration Tools Consistent with Agricultural Land Uses

Specific details about these public education, outreach and stewardship programs may be found at <http://your.kingcounty.gov/dnrp/library/2005/kcr1876/CHAPTERS/Ch7-Actions.pdf>.

## **6. RESTORATION PRIORITIES**

The process of prioritizing actions that are geared toward restoration of Black Diamond’s shoreline area involves balancing ecological goals with a variety of site-specific constraints. Constraints in Black Diamond include an extensively developed shoreline area, relatively small lot sizes on average, heavy motorized recreation use, and predominantly private land ownership (which limits those areas where habitat enhancement can be assured). These goals and constraints were used to develop a hierarchy of restoration actions to rank different types of projects or programs associated with shoreline restoration. Programmatic actions, like providing public education and outreach programs to local residents, tend to receive relatively high priority opposed to restoration actions involving private landowners.

Although restoration project/program scheduling is summarized in the following section (Table 2), the actual order of implementation may not always correspond with the priority level assigned to that project/program. This discrepancy is caused by a variety of obstacles that interfere with efforts to implement projects in the exact order of their perceived priority. Some projects, such as those associated with riparian planting, are *relatively* inexpensive and easy to permit and should be implemented over the short and intermediate term despite the perception of lower priority than projects involving extensive shoreline restoration or large-scale capital improvement projects. Straightforward projects with available funding should be initiated immediately for the worthwhile benefits they provide and to preserve a sense of momentum while permitting, design, site access authorization, and funding for the larger, more complicated, and more expensive projects are under way.

### **6.1 Priority 1 – Improve Water Quality and Reduce Sediment and Pollutant Delivery**

Maintaining and improving water quality within Lake Sawyer and its contributing drainage basin is considered the highest restoration priority for the City of Black Diamond. The water quality of Lake Sawyer directly influences recreational uses such as swimming and boating, as well as fish and wildlife habitat. In addition, water from Lake Sawyer flows west through Covington Creek, eventually joining Soos Creek and then the Greek River, thus affecting regional downstream water quality.

The City received its final National Pollutant Discharge Elimination System (NPDES) Phase II permit in January 2007 from Ecology. The NPDES Phase II permit is required to cover the City's stormwater discharges into regulated lakes and streams. Under the conditions of the permit, the City must protect and improve water quality through public education and outreach, detection and elimination of illicit non-stormwater discharges (e.g., spills, illegal dumping, wastewater), management and regulation of construction site runoff, management and regulation of runoff from new development and redevelopment, and pollution prevention and maintenance for municipal operations.

The City has adopted Ecology's 2005 Stormwater Manual for Western Washington, and the proposed standards in the SMP require the use of feasible and applicable Low Impact Development techniques in the shoreline area whenever possible.

Watershed-wide programmatic actions listed in the *WRIA 9 Plan* include four actions focused on addressing water quality and stormwater controls. While the *WRIA 9 Plan* has a salmon-centric focus, the three actions below have much broader implications to improving overall water quality and reducing sediment and pollutant delivery.

- Program WW-11: Expand/Improve Incentives Programs
- Program WW-12: Improve Enforcement of Existing Land Use and Other Regulations
- Program WW-13: Increase Use of Low Impact Development and Porous Concrete

These recommendations emphasize the use of low impact development techniques, on-site stormwater detention for new and redeveloped projects, and control of point sources that discharge directly into surface waters. They involve protecting and restoring forest cover, riparian buffers, wetlands, and creek mouths by revising and enforcing critical areas ordinances and Shoreline Master Programs, incentives, and flexible development tools.

On-site sewer systems (OSS) have a high potential to negatively impact lake water quality by polluting runoff with excess nutrients, human pathogens, hazardous household waste, and organic substances. OSS generally have a maximum effective life of 20-40 years, and potential for failure increases after this time. The *Lake Sawyer Management Plan* contains the following management strategy regarding OSS:

- **LS-5: On-Site Septic System Maintenance.** Relevant stakeholders should work in cooperation with King County Department of Public Health on annual education workshops, inspection days, and community sponsored pump-out days.
- As part of efforts to improve water quality in Lake Sawyer, the City should support ongoing water quality monitoring by forming partnerships with other agencies and community groups who have conducted or are currently conducting water quality monitoring in the area. The following groups have conducted water quality monitoring surveys in the Lake Sawyer area within the last 25 years:
  - King County Water and Land Resources Division
  - Washington Department of Ecology
  - Local non-profit organizational members
  - The City of Black Diamond

The eventual conversion of properties with on-site sewer systems (OSS) is also included under this priority. While this action applies to lands with the City limits throughout the watershed, greater benefit for shoreline function can be achieved in areas within closest proximity to Lake Sawyer. Over the short term, the City should continue to restrict further subdivision until sewer is provided and require connection to the sanitary sewer when it is available. The City should consider potential funding sources and establish a timeline for construction of appropriate wastewater facilities and conversion of all areas on Lake Sawyer to sanitary sewer.

## **6.2    *Priority 2 – Enhance Habitat at Lake Sawyer Regional Park and Wetland as Part of Planned Park Improvements***

Improving the ecological function of the shoreline in Lake Sawyer Regional Park and its associated wetland complex is the most tangible site-specific restoration opportunity in the shoreline jurisdiction. The City's 2008 Lake Sawyer Park Development Concept Plan indicates that future development at the park will include construction of trails and picnic areas, as well as a canoe/kayak launch and fishing pier. The concept plan also includes several habitat restoration projects in the park near Rock and Ravensdale Creeks, as well as the removal of existing timber and rock bulkheads along the shoreline. Significant opportunity exists for removal of invasive



vegetation, planting or native multilayered vegetation and amending soils along the shoreline that have been negatively impacted by previous clearing, grading and compaction from vehicles and heavy equipment.

The Lake Sawyer Regional Park wetland complex also provides substantial opportunities for habitat restoration and public education. Portions of the buffer around the wetland have been degraded, and restoration of these areas could provide park visitors with wildlife viewing, as well as the opportunity to see habitat restoration in progress. Removal of the existing culvert between the wetland complex and lake, and replacement with an open bottom culvert or bridge could also be explored. A wetland boardwalk could also be developed to provide public access and interpretive opportunities in a manner that is consistent with protection of the ecological functions of the wetland.

### ***6.3 Priority 3 – Develop, Expand and Implement Public Education and Involvement Programs***

Public education and involvement should be a high priority in the City of Black Diamond due to the extent of residential development along the Lake Sawyer shoreline. While Lake Sawyer Regional Park provides excellent opportunities for restoration and enhancement on public land, the majority of the shoreline is in private ownership. Therefore, in order to achieve the goals and objectives set forth in this Restoration Plan, many restoration projects would need to occur on private property. Thus, providing education opportunities and involving the public are keys to success, and would possibly entail coordinating the development of a long-term Public Education and Outreach Plan to gain public support. This could include local workshops to educate shoreline property owners and other shoreline users on maintaining healthy shoreline environments, promoting enhancement and restoration opportunities, and use of low impact development techniques.

An important subset of this priority is the need to educate boaters and other recreationalists about the potential impacts to lake functions from this activity. This includes efforts to minimize introduction of noxious aquatic weeds, reduce the potential for shoreline erosion from vessel wakes, minimize the potential for introduction of petroleum products and other chemicals and prevent litter and dumping.

### ***6.4 Priority 4 – Revise City Regulations and Plans***

The City should explore possible additional time, place and manner limitations on motorized boating to reduce the current level of shoreline erosion associated with vessel wake. Also included in this Priority is the continued and enhanced enforcement of City zoning and other regulations. Of particular note, is the importance for the enforcement of City regulations pertaining to vessel speed and maintaining an appropriate distance from the shoreline to reduce the potential for shoreline erosion associated with boat wakes. Significant outreach and discussion with property owners, residents and other lake users will be necessary to determine a feasible course of action.

City Zoning, Regulatory, and Planning Policies are listed as being of lower priority in this case simply because they were recently reviewed and updated in 2008-2009. The City's Sensitive

Areas regulations were also reviewed at this time and updated to be consistent with the Best Available Science for sensitive areas, including those within the shoreline zone. The City should review the Comprehensive Plan during the next major update to ensure that policy direction in the updated SMP is reflected in other element and should consider additional efforts to forward restoration priorities as part of future major Comprehensive Plan updates. For example, current City policy direction and restoration priorities pertaining to Lake Sawyer Regional Park and the Boat Launch Park, could be refined in future updates to the Comprehensive Plan, the Parks, Recreation and Open Space Plan and park specific planning efforts.

In addition to updating existing City plans and regulations, the City should partner with King County and other stakeholders to update the *Lake Sawyer Management Plan*, which has not been revised since 2000. With additional input from City staff and community stakeholders, the plan could help guide lake management and restoration in conjunction with the Shoreline Master Program.

### **6.5    *Priority 5 – Reduce Shoreline Bank Armoring along Lake Sawyer, Create or Enhance Natural Shoreline Conditions***

Approximately 66 percent of Lake Sawyer’s shoreline is armored at or below the ordinary high water mark. (Otak/AHBL 2010) Since the majority of the City’s shoreline is residential, no specific project sites on private property have been identified under this restoration priority. However, emphasis should be given to future public project proposals that restore shoreline areas to more natural conditions, and the City should continue to develop incentives and education for property owners to remove existing armoring or replace with softer stabilization systems. Setback incentives included in the proposed SMP regulations, in combination with bulkhead regulations which require property owners to implement soft shoreline stabilization where feasible and limit new bulkheads to those instances where soft shoreline stabilization will not be adequate to protect existing structures, are expected to encourage and require more widespread implementation of shoreline treatments which positively benefit shoreline ecological functions.

### **6.6    *Priority 6 – Reduce In-water and Over-water Structures***

Reduction of in- and over-water cover by piers, docks, and other boat-related structures is one mechanism to improve shoreline ecological functions. Pier and docks are extensive along Lake Sawyer, with approximately 89 percent of all residential parcels having a pier or dock. The Washington Department of Fish and Wildlife already regulates the size and materials for in- and over-water structures throughout the State and generally recommends finding ways to reduce both the size and density of these structures. Although no specific project sites to reduce in-water and over-water structures within residential areas are identified here, future project proposals involving reductions in the size and/or quantity of such structures should be emphasized. Such future projects may involve joint-use pier proposals or pier reconstruction and may be allowed an expedited permit process or promoted through project incentives. In addition, standards in the SMP require the use of grated decking and other materials that result in less impacts on salmonids.



### **6.7    *Priority 7 – Improve Riparian Vegetation, Reduce Impervious Coverage***

Similar to the priority listed above to improve water quality and reduce sediment and pollutant delivery, improved riparian vegetation and reduction in impervious surfaces are emphasized throughout the WRIA 9 Salmon Habitat Plan. Actions to address these concerns apply not just within the Shoreline Management Area, but throughout the watershed within the City limits and potential annexation areas. Watershed-wide programmatic actions described in the Salmon Habitat Plan include many references to improving vegetative conditions and reducing impervious surface coverage. Specific reference to planting vegetation is listed in Program WW-5: Promote the Planting of Native Trees. The reduction of impervious surface and stormwater runoff can be mitigated through use of low-impact development techniques, pervious paving materials and development incentives as listed in Program WW-13: Increase Use of Low Impact Development and Porous Concrete.

The *Lake Sawyer Management Plan* also includes provisions for the protection and preservation of forested areas:

- **LS-2: Forest Retention/Conservation.** An incentive program to encourage landowners to retain their forest in the rural areas of the basin should be implemented. Alternatively, forestland or its development rights can be purchased for dedicated open space.

Previous experimental wastewater treatment facilities have been shown to increase the phosphorus loading from the Rock Creek subbasin. Partnering with King County, the King Conservation District and other non-profit organizations to increase native vegetation retention in this area could play an important role in protecting lake water quality.

### **6.8    *Priority 8 – Encourage Conservation of Remaining Undeveloped Private Lands***

The City should encourage the continued stewardship and future conservation of remaining undeveloped or minimally developed private properties. The City should work with property owners, local residents and interested stakeholders to identify priorities, partners and conservation and stewardship funding resources. Key areas include the large lot single family property on the forested peninsula at the north end of the lake (Area C) as well as undeveloped properties north of Lake Sawyer Regional Park. The intent of this priority is to set the stage for potential permanent conservation of these properties if the owners are willing, while ensuring that adequate and objective development standards that ensure no net loss are in place should property owners choose to develop their land.

### **6.9    *Priority 9 – Continue Water Resource Inventory Area (WRIA) 9 Participation***

Of basic importance is the continuation of ongoing, programmatic, basin-wide programs and initiatives such as the WRIA 9 Forum. However, the City should explore ways to increase participation in this regional effort. This may include expanding collaborative work with other jurisdictions and stakeholders in WRIA 9 to implement the actions called for in the related plan. This process provides an opportunity for the City to keep in touch with its role on a basin-wide

scale and to influence habitat conditions beyond its borders, which, in turn, come back to influence water quality and quantity and habitat issues within the City.

## 7. PROPOSED IMPLEMENTATION TARGETS AND MONITORING METHODS

As previously noted, the vast majority of the City's shoreline zone is occupied by single-family residences, with small areas of vacant property, the Boat Launch Park, and the Lake Sawyer Regional Park. Due to its size and location near two creeks and a large wetland complex, the regional park represents the City's greatest opportunity for directly improving shoreline ecological function. Restoration and enhancement opportunities outside the regional park would consist primarily of promoting restoration and healthy practices on private property. The City of Black Diamond can also continue improvement of shoreline ecological functions along the Lake Sawyer shoreline through a more comprehensive watershed approach, which combines the both public education programs and lakefront improvements.

The following table (Table 2) outlines a possible schedule and funding sources for implementation of a variety of efforts that could improve shoreline ecological function, and are described in previous sections of this report.

**Table 2.** Implementation Schedule and Funding for Restoration Priority Projects, Plans and Programs

Restoration Project/Program	Timeline or Benchmark	Funding Source or Commitment
1. Water Quality Improvements	Ongoing	The City adopted a Storm and Surface Water Plan in 2009. In addition, the City prepares annual updates to its Stormwater Management Program, pursuant to the conditions of its NPDES permit. Implementation of watershed-level BMP's and future contingency work (excluding aquatic weed control) may be funded by grants from the Washington Department of Ecology Centennial Clean Water Fund. Eligible non-infrastructure projects include stream restoration, on-site septic repair/replacement, and education/outreach. The federal Clean Water Act Section 319 grant program, administered by EPA and Ecology, can provide funding for non-point source pollution control projects similar to the Centennial program. The Department of Ecology also offers funds the removal of aquatic weeds that may interfere with fish populations through its Aquatic Weeds Management Fund Grant Program.
2. Habitat Enhancement in City Parks	Ongoing	The City commits substantial staff time to the review of projects and programs to ensure consistency and compliances with the goals and policies of the City's Parks, Recreation and Open Space Comprehensive Plan. Restoration, where opportunities present themselves, could include shoreline armoring removal and the installation of native plants along lake shoreline and stream and wetlands areas and buffers. These projects would be completed as opportunities

Restoration Project/Program	Timeline or Benchmark	Funding Source or Commitment
		present themselves and as potential mitigation projects come forward. Staff time and materials are paid for through the City's general fund. The City has committed to keep a majority of Lake Sawyer Regional Park in passive recreation. The Lake Sawyer Concept plan does call for ball fields outside of shoreline jurisdiction. A majority of the funds dedicated to both passive and active recreation will be obtained through grants and money dedicated by the Lake Sawyer Park Foundation.
3. Public Education and Involvement	Started in School year 2010 and is ongoing.	The City currently works within the Enumclaw School District, specifically Black Diamond Elementary in teaching about water quality and habitat issues that pertain to Black Diamond. Staff time and materials are paid for through the City's general fund and grants.
4. Revise City Regulations and Management Plans	Ongoing	<p>The City intends to re-examine the current local boating regulations and enforcement to address shoreline erosion caused by vessel wake and related resource and potential safety concerns associated with seasonally high levels of motorized use on the lake. Extensive input from the community and stakeholders will be needed on this issue. This review effort is expected to occur over the next year.</p> <p>The Lake Sawyer Management Plan (2000) recommends the establishment of a Lake Management District (LMD). LMD's can levy special assessments for lake improvement projects, and revenue collected by LMD's can be used to satisfy the cash match requirements associated with Department of Ecology and EPA grants for pollution control projects. To date, community interest in a LMD has been minimal, but the City will bring this up in the context of SMP adoption, refinement of boating regulations and other lake related issues.</p> <p>In addition, during the next major comprehensive plan update, the City will review (and as necessary, revise) comprehensive plan policies related to the shoreline. Future refinements of the Lake Sawyer Regional Park Plan are also expected. Changes to the Sensitive Area Ordinance and other development regulations are not expected in the immediate future because these have been revised recently.</p>

Restoration Project/Program	Timeline or Benchmark	Funding Source or Commitment
5. Reduce Shoreline Bank Armoring	Starting with SMP adoption in 2012	Implementation of the incentive based setback standards and other elements of the code are expected to address this priority. Additional site specific efforts with willing private parties will be implemented when funding is obtained, either through grants or through partnerships with other agencies or non-profit groups, or as required by critical areas regulations or the Shoreline Master Program during project-level review by the City.
6. Reduce In-water Structure Coverage	Starting with SMP adoption in 2012	Implementation of the incentive based setback standards and other elements of the code are expected to address this priority. Additional site specific efforts with willing private parties will be implemented when funding is obtained, either through grants or through partnerships with other agencies or non-profit groups, or as required by critical areas regulations or the Shoreline Master Program during project-level review by the City.
7. Improve Vegetation and Reduce Impervious Surface Coverage	Ongoing	Implementation of the incentive based setback standards and other elements of the code are expected to address this priority. Additional site specific efforts with willing private parties will be implemented when funding is obtained, either through grants or through partnerships with other agencies or non-profit groups, or as required by critical areas regulations or the Shoreline Master Program during project-level review by the City.
8. Encourage Conservation of Remaining Undeveloped Lands	Ongoing	No specific timeline or funding source has been identified. Development of the SMP has provided an opportunity for initial outreach and to begin the community and landowner conversations regarding the desirability and possibility of permanent conservation of these areas. Regardless of the interest or outcome, the new SMP will ensure no net loss of ecological function, while respecting private property rights, should owners of remaining undeveloped and minimally developed lands chose to develop their properties.
9. Continue WRIA 9 Participation	Ongoing	The City is an active member of the WRIA 9 Forum. Membership at this time entails a commitment of time from a City Council member and staff member. Money for the staff member currently comes out of the City's general fund.

The City is required to monitor development under the Shoreline Master Program to ensure no net loss. We recommend that City planning staff track all land use and development activity, including exemptions, within shoreline jurisdiction, and incorporate actions and programs of the Parks and Recreation and Public Works departments as well. We recommend that a report be

assembled that provides basic project information, including location, permit type issued, project description, impacts, mitigation (if any), and monitoring outcomes as appropriate. Examples of data categories might include square feet of non-native vegetation removed, square feet of native vegetation planted or maintained, reductions in chemical usage to maintain turf, linear feet of eroding shoreline stabilized through plantings, or linear feet of shoreline armoring removed. The report could also update Tables 1 and 2 above, and outline implementation of various programs and restoration actions (by the City or other groups) that relate to water quality and shoreline health.

The staff report could be assembled to coincide with Comprehensive Plan updates and could be used, in light of the goals and objectives of the Shoreline Master Program, to determine whether implementation of the Shoreline Master Program is meeting the basic goal of no net loss of ecological functions relative to the baseline condition established in the *Shoreline Analysis Report* (Otak/AHBL 2010). In the long term, the City should be able to demonstrate a net improvement in the City of Black Diamond's shoreline environment. Based on the results of this assessment, the City may make recommendations for changes to the Shoreline Master Program.



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## **APPENDIX A**

### **CITY OF BLACK DIAMOND RESOLUTION #05-396 RATIFYING THE WRIA 9 SALMON HABITAT PLAN**

# Appendix D

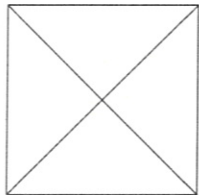
City of Black Diamond  
Grant No. G1000014

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## FINAL CUMULATIVE IMPACTS ANALYSIS COMPONENT for City of Black Diamond Shoreline: Lake Sawyer

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## 1.0 INTRODUCTION

### 1.1 DEPARTMENT OF ECOLOGY DIRECTION AND GUIDANCE

The Shoreline Management Act guidelines require local shoreline master programs to regulate new development to “achieve no net loss of ecological function.” The guidelines (WAC 173-26-186(8)(d)) state that, “To ensure no net loss of ecological functions and protection of other shoreline functions and/or uses, master programs shall contain policies, programs, and regulations that address adverse cumulative impacts and fairly allocate the burden of addressing cumulative impacts.”

The guidelines further elaborate on the concept of net loss as follows:

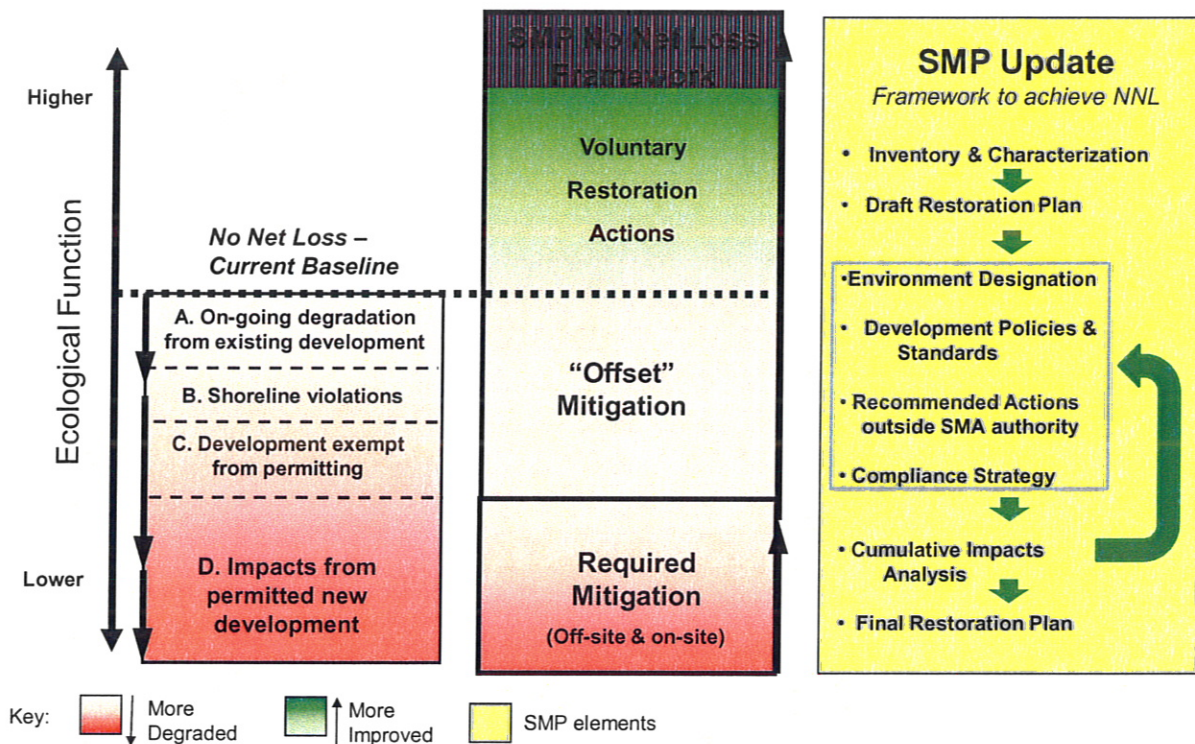
“When based on the inventory and analysis requirements and completed consistent with the specific provisions of these guidelines, the master program should ensure that development will be protective of ecological functions necessary to sustain existing shoreline natural resources and meet the standard. The concept of “net” as used herein, recognizes that any development has potential or actual, short-term or long-term impacts and that through application of appropriate development standards and employment of mitigation measures in accordance with the mitigation sequence, those impacts will be addressed in a manner necessary to assure that the end result will not diminish the shoreline resources and values as they currently exist. Where uses or development that impact ecological functions are necessary to achieve other objectives of RCW 90.58.020, master program provisions shall, to the greatest extent feasible, protect existing ecological functions and avoid new impacts to habitat and ecological functions before implementing other measures designed to achieve no net loss of ecological functions.”  
[WAC 173-206-201(2)(c)]

In short, updated SMPs shall contain goals, policies and regulations that prevent degradation of ecological functions relative to the existing conditions as documented in that jurisdiction’s characterization and analysis report. For those projects that result in degradation of ecological functions, the required mitigation must return the resultant ecological function back to the baseline. This is illustrated in the figure below. The jurisdiction must be able to demonstrate that it has accomplished that goal through an analysis of cumulative impacts that might occur through implementation of the updated SMP. Evaluation of such cumulative impacts should consider:

- (i) current circumstances affecting the shorelines and relevant natural processes;
- (ii) reasonably foreseeable future development and use of the shoreline; and
- (iii) beneficial effects of any established regulatory programs under other local, state, and federal laws.”



# SMP Updates: Achieving No Net Loss of Ecological Function



Source: Department of Ecology

As outlined in the *Shoreline Restoration Plan* prepared as part of this SMP update, the SMA also seeks to restore ecological functions in degraded shorelines. This cannot be required by the SMP at a project level, but Section 173-26-201(2)(f) of the Guidelines says: “master programs shall include goals and policies that provide for restoration of such impaired ecological functions.” See the *Shoreline Restoration Plan* for additional discussion of SMP policies and other programs and activities in the City of Black Diamond that contribute to the long-term restoration of ecological functions relative to the baseline condition.

The following document summarizes for each shoreline environment (see Map Folio, Figure 1) the existing conditions, anticipated development, relevant Shoreline Master Program (SMP) and other regulatory provisions, and the expected net impact on ecological function.

## 1.2 RELATIONSHIP TO SEPA

The State Environmental Protection Act (SEPA) requires an assessment of environmental impacts. This cumulative impact analysis is a supplement to the environmental review done under SEPA and is intended to focus on an expanded analysis of cumulative that might not otherwise be considered at the same level of detail as part of the environmental checklist.

The SEPA review process is intended to provide a list of possible environmental impacts that may occur as a result of a project or change in policy. This helps identify potential impacts that may need to be mitigated, conditioned, or that may even result in the denial of a project or proposal. This cumulative impact analysis is intended to look at impacts as a whole on the basis of whether or not multiple similar projects collectively result in gradual, but significant impacts.

### **1.3 ASSUMPTIONS**

This analysis examines foreseeable impacts over time. Impacts are examined in each of the shoreline management areas. The shoreline management areas used in this analysis also correspond with the segments that were previously analyzed in the Black Diamond Shoreline Analysis Report for alterations to key processes. Site specific impacts are also expected to be addressed on a case-by-case basis during individual shoreline substantial development permit reviews.

Due to current and proposed land use regulations and the extensively developed nature of the Lake Sawyer shoreline, it is assumed that a limited number of properties have significant redevelopment potential. The two most significant of these properties are at the north end of the lake (Segment C – Forested Single-Family Parcel) and at the south end of the lake, immediately north of the Lake Sawyer Regional Park (owned by a private party and currently used as a sports field). A complete discussion of vacant residential lots with subdivision potential that would have the potential for the creation of new lots within the Shoreline Management Area is included in Chapter 4. The majority of areas along Lake Sawyer are likely to see relatively slow and incremental changes associated with on-going uses, as well as redevelopment and expansion of existing uses. Limited new development may occur on currently vacant lots and where parcels are eligible for subdivision. Because of the developed nature of the shoreline, redevelopment is not expected to result in negative ecological impacts. Because many existing structures were built under older, less stringent standards, redevelopment can be expected to improve overall ecological function over the long term due to the application of new development standards that require a higher level of environmental protection, strictly regulate new shoreline modifications, and offer incentives for shoreline restoration. This is discussed in detail in this document.

### **1.4 DOCUMENT ROADMAP**

This cumulative impacts analysis:

- Summarizes the existing conditions in each of the shoreline management areas;
- Identifies anticipated development in each shoreline segment and how the proposed SMP regulations would address this development;
- Discusses how other local, state and federal regulations would address potential impacts;
- Details the potential impacts and risks to shoreline functions and processes; and
- Describes the net effect on ecological functions and processes.

A cumulative impacts analysis table is included in Chapter 5 that describes the relationship between ecological function, potential alteration, resources at risk, proposed SMP regulations and non-regulatory measures designed to assure no net loss at a minimum. In addition, this table provides a summary of the anticipated net change in ecological performance for each shoreline analysis segment.

## 2.0 EXISTING CONDITIONS

The following summary of existing conditions in the Lake Sawyer shoreline area and the relevant natural processes is based on the Final Shoreline Analysis Report (Otak/AHBL, August 2010), and additional analysis needed to perform this assessment. The full report includes a more in-depth discussion of the topics briefly summarized in this section.

### 2.1 SHORELINE ENVIRONMENTS

Approximately 69.52% of the upland shoreline jurisdiction is proposed to be designated as the Shoreline Residential Environment, the majority of which is currently developed as low density single family residences. Approximately 14.99% of the upland shoreline jurisdiction is proposed to be designated as Urban Conservancy, approximately 1.41% as Shoreline Residential Limited and approximately 14.08% as Natural.

**Table 1: Area and Shoreline Frontages of Shoreline Planning Segments**

	Area (ac)	Shoreline Frontage (ft)	Percent of SMA Area
Segment A – Shoreline Residential	115.2	24,738.4	65.16%
–Segment B – Urban Conservancy	2.1	539.7	1.19%
–Segment C – Shoreline Residential	7.7	1,814.0	4.36%
Segment D – Shoreline Residential Limited	2.5	2,415.1	1.41%
Segment E – Urban Conservancy	24.4	5,497.8	13.80%
Segment F – Natural	24.9	N/A	14.08%
<b>TOTAL</b>	<b>176.8</b>	<b>35,005</b>	<b>100%</b>

### 2.2 LAND USE

The majority of shoreline properties surrounding Lake Sawyer are developed as private single-family residential uses. Existing residential development accounts for approximately 57.5 percent of the acreage of the proposed shoreline jurisdiction. Parks and publicly owned land account for approximately 23.5 percent of the shoreline jurisdiction; these lands are concentrated in Lake Sawyer Regional Park at the south end of the lake. A small city park containing a boat ramp is also located on the northwest side of the lake, at the end of SE 296<sup>th</sup> Street. Other land uses within the shoreline jurisdiction include mobile homes, a lakeside resort with recreation areas and RV parking, and vacant lots. The Lake Sawyer shoreline is mostly built out, and vacant land accounts for only 7.6 percent of the shoreline jurisdiction acreage.

## 2.3 PARKS AND OPEN SPACE/PUBLIC ACCESS

As described in Section 2.2 – Land Use, parks and open space account for approximately 24 percent of the land in the shoreline environment. The majority of this land is concentrated at the southern end of the lake, where the City owns the Lake Sawyer Regional Park, which provides walking trails, non-motorized shoreline access, and passive recreation. The site is currently undeveloped. The City also owns a small park on the northwest side of the lake, at the end of SE 296<sup>th</sup> Street, which features the only public boat ramp on the lake, as well as boat trailer parking and picnic facilities.

## 2.4 SHORELINE MODIFICATIONS

Aerial photography and site observation indicates that the shoreline of Lake Sawyer has been extensively modified, including construction of docks, piers, and various forms of shoreline armoring. Approximately 66 percent of the shoreline edge has been armored, and approximately 90 percent of shoreline parcels have some kind of overwater structure. Major areas of unarmored shoreline are located on several small islands within the lake, a large forested parcel at the north end of the lake, and a portion of the regional park shoreline at the southern end of the lake.

Shoreline modifications, such as armoring and overwater structures, can alter the hydrologic functions of the lake edge, leading to changes in erosion patterns, sediment transport, and aquatic vegetation distribution. Overwater structures can affect aquatic vegetation growth and fish behavior and feeding patterns. More detailed discussion of shoreline modifications in each of the shoreline analysis segments is provided below.

### Segment A: Residential

As described in the Shoreline Analysis Report, this inventory segment is the largest in the shoreline environment, encompassing 65.16 percent of the shoreline area and characterized by shoreline residential uses on waterfront lots. The shoreline in this segment has been heavily modified, most notably in the form of bulkheads to protect residences from wave action. Approximately 80 percent of the shoreline in this segment has been armored with a variety of materials, including poured concrete, concrete blocks, boulders, and wood.

Overwater structures, such as floating swimming platforms, piers, and boat docks, are also very common. Approximately 291 parcels in Segment A have docks, piers, or floating platforms, or have access to them through joint use with adjacent parcels. This represents approximately 90.4 percent of the shoreline parcels in Segment A. The remaining 31 lots do not have a moorage structure or access to a moorage structure. Based on data from the Washington Department of Natural Resources, these overwater structures cover approximately 154,727 square feet, or approximately 3.6 acres.

Many of the primary residential structures in Segment A are constructed quite close to the shoreline. The Shoreline Analysis Report included an initial analysis of the median setback distance for all structures within the shoreline jurisdiction, which was approximately 57 feet. This analysis has been refined and updated to focus only on primary residential structures. A



review of building footprint data and aerial photography indicated that approximately 112 primary structures in Segment A are located within 40 feet of the OHWM, which is the proposed standard setback in the SMP for the Shoreline Residential environment. Of these, 67 structures are located within the proposed 20-foot minimum setback. The remaining 155 structures within Segment A lie more than 40 feet from the shoreline, outside the proposed maximum setback. The median setback is approximately 48.7 feet based on available data. However, the mapped location of the ordinary high water mark does not always correspond well with the apparent shoreline edge in aerial photos and therefore we believe this number may not accurately reflect the true median setback.

#### Segment B: Lake Sawyer Park Boat Launch

As described in the Shoreline Analysis Report, this inventory segment consists of the City-owned boat launch park on the northwestern side of Lake Sawyer and accounts for 1.19 percent of the shoreline area. The boat ramp and its associated modifications account for approximately 12 percent of the shoreline in this segment, leaving the majority of the shoreline in a semi-natural state. Shoreline protection in these areas consists of logs tethered together and placed at or just beyond the OHWM.

#### Segment C: Forested Single Family Parcel

As described in the Shoreline Analysis Report, this inventory segment consists of a single, 12.9-acre parcel on the northern shore of Lake Sawyer. 7.7 acres of the site are within the shoreline jurisdiction, and this segment accounts for approximately 4.36 percent of the total shoreline area in the city. The property forms a point in the lake, and some limited armoring is present at this location. Three docks are present; however, the majority of the shoreline on the site has been left in its natural state with large amounts of vegetation overhanging the water. The site is currently occupied by three structures, one of which is approximately 6 feet from the OHWM, which is inside the proposed 25-foot minimum setback for the Shoreline Residential environment. Another structure is approximately 103 feet from the OHWM, putting it well beyond the 40-foot standard setback distance proposed in the SMP. The presence of the third structure has been confirmed visually, but not specific data is not available from the King County Assessor or other sources.

#### Segment D: Islands

Lake Sawyer contains five small islands that are platted with parcels. These islands are accessible only by boat and have no roads. Three of the islands are platted as one parcel each, one is platted as two parcels (under common ownership), and the largest island contains seven parcels. The two-parcel island on the west side of the lake is heavily forested and appears to be completely undeveloped. The larger of the two eastern islands appears to have two docks, and aerial photography indicates that there may be a structure on the island, though dense trees make identification difficult. King County Assessor records do not list any structures for this parcel, and no improvements have been assessed. The southeastern island is very small, approximately 8,200 square feet, and aerial photos indicate that no docks or structures are present.

The shoreline of the largest island is much more extensively modified than those of the other three. The northern half of the island is a single parcel and appears to have only one dock, leaving most of its shoreline undisturbed. The southern half of the island is divided into six parcels that are developed with homes, decks, and docks constructed very close to the shoreline. Several of the cabins and decks may actually be built partially over the water.

#### Segment E: Lake Sawyer Regional Park

While the Lake Sawyer Regional Park is mostly undeveloped and is used for passive recreation, approximately 50 percent of the park shoreline has been modified. Modifications include armoring with timbers and boulders, as well as four corrugated metal culverts that allow Rock Creek and Ravensdale Creek to flow under an access road, but no docks, piers, or other overwater structures are present.

#### Segment F: Lake Sawyer Regional Park Wetland

As described in the Shoreline Analysis Report, this portion of the regional park consists of a large wetland complex located southeast of the Lake Sawyer shoreline. While physically separated from the lake by upland passive recreation areas, the wetland complex is connected to Lake Sawyer by Rock Creek, which flows through the wetland and into the lake via the culverts described in Segment E. No shoreline armoring, overwater structures or improvements other than rustic trails are present in this segment.

## **2.5 IMPERVIOUS COVERAGE**

Impervious surface coverage for each segment was analyzed by reviewing land cover data from Washington Department of Ecology. This land cover data was generated from Landsat imagery, which has several limitations. Because the data is collected by satellite, image resolution is relatively low; each pixel is approximately 30 square meters. A satellite's view of the ground is also often obstructed in various ways, such as by cloud cover, vegetation, or man-made structures. In the case of impervious coverage data, dense vegetation can mask the presence of buildings, roads, or other impervious surfaces. Because of these limitations, Landsat data is best suited for calculations of broad trends over large areas.

Due to the coarse resolution of the data available (30m), it is not possible to accurately determine impervious surface at the parcel level; in many areas, parcels are smaller than the basic unit of the impervious cover dataset. Rather, impervious surface percentage is estimated over the entire analysis segment using a weighted average calculation method. Overall, it is estimated that the shoreline jurisdiction includes approximately 29.67 acres of impervious surface, which represents approximately 16.78% of the total acreage.

#### Segment A: Residential

Segment A consists primarily of low-intensity residential uses. Though this segment contains extensive shoreline modification and has experienced significant clearing of natural vegetation, overall impervious surface remains relatively low. While impervious cover on individual lots varies across the segment, the overall percentage of impervious surface for Segment A is approximately 24.6%. As described previously, the source data for this estimate is only



available at coarse resolutions, and this likely underestimates actual impervious surface coverage on the site. It is probable that some impervious areas, such as driveways, are not included in this estimate due to obscuring vegetation and the coarse resolution of the available data. Segment A contains approximately 318,860 square feet of right-of-way for public roads, equivalent to approximately 6.4% of the overall segment area.

#### Segment B: Lake Sawyer Park Boat Launch

Segment B consists of the Boat Launch Park. While the boat launch represents a localized concentration of impervious surface, it comprises a small proportion of the analysis segment. This segment also contains approximately 33,945 square feet of public right-of-way for SE 236<sup>th</sup> Street, which would account for a large portion of the impervious surface present. Overall, impervious coverage in Segment B is estimated to be approximately 9%.

#### Segment C: Forested Single Family Parcel

Segment C is heavily forested, and Landsat data shows no impervious surface in this Segment, though the extensive mature forest canopy on the site makes accurate identification of ground features difficult. Three structures have been visually identified on the site, as well as parking areas (gravel and compacted dirt) and a loop drive, all of which are located primarily in the shoreline jurisdiction. While the level of actual impervious surface (buildings, asphalt, concrete) is likely to be very low, effective impervious surface, which also includes gravel roads and parking areas and compacted dirt, is estimated to be roughly 10-15% of the Segment, though a survey would be necessary to confirm the size and distribution of these features on-site.

#### Segment D: Islands

Impervious surface coverage in Segment D is concentrated on the western island, which is currently developed with several residences. Due to the size of the lots and the resolution of the data available, it is difficult to estimate a precise amount of impervious surface in this area. Based on the area of the documented structures on site, coupled with the impervious surface data from Ecology, it is estimated that impervious coverage on the western island is between 20-26%; it is likely, however, that this data includes several overwater structures that are free-draining, which would make the effective impervious surface on this island slightly lower. Impervious coverage on the central and eastern islands appears to be negligible.

#### Segment E: Lake Sawyer Regional Park

Impervious cover in this analysis segment is extremely low, consisting of access roads and roadside parking areas. Total impervious coverage is estimated at approximately 2%, based on Landsat imagery. Effective impervious surface is likely to be slightly higher, due to the presence of areas of compacted soil, including an old road bed.

#### Segment F: Lake Sawyer Regional Park Wetland

Impervious cover in this analysis segment is extremely low, consisting of access roads and trails. Total impervious coverage is estimated at approximately 3%.

## **2.6 BIOLOGICAL RESOURCES AND CRITICAL AREAS**

An extensive discussion of the biological resources and environmentally critical areas present in the shoreline jurisdiction is included in the Shoreline Analysis Report. A summary of conditions for each of the inventory segments is presented in Table 2.

**Table 2. Summary of Biological Resources and Critical Areas Conditions**

Analysis Segment	Wetlands/Streams	Geologically Hazardous Areas	Critical Aquifer Recharge Areas and Wellhead Protection Zones	Priority Habitat Species
Segment A (Residential)	<ul style="list-style-type: none"> <li>No documented wetlands present in Segment A.</li> <li>Covington Creek and part of its stream buffer are located in the western portion of Segment A.</li> </ul>	<ul style="list-style-type: none"> <li>Slopes greater than 40% are common in Segment A, though the overall area is relatively small (6.1 acres) in comparison to the size of the segment. Portions of Segment A that have very few steep slopes include the far northwest corner of the lake and those properties on the Covington Creek inlet. The majority of remaining residential parcels contain some area of steep slope, as illustrated in the Shoreline Analysis Report. These areas generally run parallel to the shoreline, often between existing structures and the OHWM.</li> </ul>	<ul style="list-style-type: none"> <li>Portions of Segment A fall within two wellhead protection zones on the east and west sides of the lake. The shoreline jurisdiction crosses the 5- and 10-Year zones for these wellheads.</li> </ul>	<ul style="list-style-type: none"> <li>Portions of Segment A located south of SE 304<sup>th</sup> Street are within WDFW Bald Eagle Nest buffers.</li> <li>Covington Creek is listed as habitat for Coastal Cutthroat, Winter Steelhead, and Coho salmon. Covington Creek is also designated as critical habitat for federally listed, threatened, Puget Sound Chinook Salmon. Steelhead is a federally listed species whose presence is documented in Covington Creek and Lake Sawyer. Coho is a Species of Concern that is mapped as occurring in Lake Sawyer as well.</li> <li>All of Lake Sawyer is classified by WDFW as a waterfowl concentration location.</li> </ul>
Segment B (Lake Sawyer Park Boat Launch)	<ul style="list-style-type: none"> <li>No documented wetlands or streams are present in Segment B.</li> </ul>	<ul style="list-style-type: none"> <li>This segment is relatively free of geological hazards. A small area (0.1 acre) of slope greater than 40% is located near the shoreline on the eastern half of the parcel.</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>All of Lake Sawyer is classified by WDFW as a waterfowl concentration location. See also PHS species above.</li> </ul>
Segment C (Forested)	<ul style="list-style-type: none"> <li>No documented wetlands or streams are present in Segment</li> </ul>	<ul style="list-style-type: none"> <li>This segment contains a scattering of steep slope areas, clustered close to the</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>All of Lake Sawyer is classified by WDFW as a</li> </ul>

Analysis Segment	Wetlands/Streams	Geologically Hazardous Areas	Critical Aquifer Recharge Areas and Wellhead Protection Zones	Priority Habitat Species
Single Family Parcel)	C.	shoreline. The overall area affected is approximately 0.13 acre.		waterfowl concentration location. See also above.
Segment D (Islands)	<ul style="list-style-type: none"> <li>No documented wetlands or streams are present in Segment D.</li> </ul>	<ul style="list-style-type: none"> <li>The islands contain scattered areas of steep slopes, concentrated near the shoreline. Most of the steep slope area on the developed island is located on the northern parcel. Steep slopes on the central island are grouped on the northern shoreline, and the eastern island has one small area of steep slope on the southwestern shore. Total area is approximately 0.05 acre.</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>All of Lake Sawyer is classified by WDFW as a waterfowl concentration location. See also PHS fish species above.</li> </ul>
Segment E (Lake Sawyer Regional Park)	<ul style="list-style-type: none"> <li>Ravensdale Creek and Rock Creek, streams not regulated under the Shoreline Management Act, cross the shoreline environment and enter Lake Sawyer through culverts located under an access road.</li> </ul>	<ul style="list-style-type: none"> <li>This segment contains approximately 0.6 acre of steep slope areas, clustered mostly in forested areas in the central and southern portions of the reach, which are encompassed by the regional park.</li> <li>Approximately 42% of this segment lies within a Coal Mine Hazard Zone that encompasses most of the western portion of the regional park. The privately owned property north of the park is unaffected.</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>All of Segment E lies within WDFW Bald Eagle Nest buffers.</li> <li>Ravensdale Creek and Rock Creek are listed as habitat for Coastal Cutthroat and Coho salmon. Coho and Steelhead are also found in Lake Sawyer.</li> <li>All of Lake Sawyer is classified by WDFW as a waterfowl concentration location.</li> </ul>

Analysis Segment	Wetlands/Streams	Geologically Hazardous Areas	Critical Aquifer Recharge Areas and Wellhead Protection Zones	Priority Habitat Species
Segment F (Lake Sawyer Regional Park Wetland)	<ul style="list-style-type: none"> <li>Rock Creek, enters Segment F at the southernmost point of the shoreline jurisdiction and empties into Lake Sawyer through a culvert under an access road in the regional park.</li> <li>Segment F contains a 15-acre, Category 1 wetland complex associated with Rock Creek. The wetland itself is physically separated from the lake, but it is hydraulically connected through Rock Creek.</li> </ul>	<ul style="list-style-type: none"> <li>Segment F contains approximately 1.2 acres of steep slope areas, concentrated in the northeastern portion of the segment, north of the wetland complex.</li> <li>The entirety of this segment lies within a Coal Mine Hazard Zone.</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>Approximately the western half of Segment F lies within WDFW Bald Eagle Nest buffers.</li> <li>Rock Creek is listed as habitat for Coastal Cutthroat and Coho salmon. Coho and Steelhead (federally listed are also found in Lake Sawyer.</li> </ul>

## 3.0 REGULATORY FRAMEWORK

### 3.1 CITY OF BLACK DIAMOND

#### 3.1.1 *Shoreline Master Program*

The City of Black Diamond's Shoreline Master Program has been designed in consideration of the ways in which reasonably foreseeable development in the shoreline jurisdiction could negatively affect shoreline functions and processes. This subsection provides an overview of the master program and how it generally addresses protection of ecological functions. A detailed discussion of the impacts associated with adoption of the Shoreline Master Program policies and regulations is included in Section 5.

The core of the proposed SMP is the designation of five shoreline environments surrounding Lake Sawyer, described below:

##### *Shoreline Residential*

The Shoreline Residential environment is intended to provide for residential uses and appurtenances where necessary facilities can be provided, as well as provide appropriate public access and recreational use. This designation is applied to areas that are primarily single-family residential in character or which are planned for this purpose. This environment designation corresponds to Inventory Segment A, as described in Chapter 2.

##### *Shoreline Residential Limited*

The Shoreline Residential Limited environment is intended to recognize existing residential and recreational uses in areas where necessary facilities for development are not already provided. The Shoreline Residential Limited environment will provide for additional development in these locations once appropriate facilities and services, such as potable water, electricity, and waste disposal, are available. This environment designation is also intended to foster ecological enhancement. The Shoreline Residential Limited designation is currently applied to those parcels located on three islands in Lake Sawyer, corresponding to Inventory Segment D, as described in Chapter 2.

##### *Urban Conservancy*

The purpose of the Urban Conservancy environment is to protect and restore ecological functions of sensitive lands, such as open space and floodplains, where they exist in urban and developed areas. The Urban Conservancy environment includes the shorelands of the Lake Sawyer Boat Launch Park (Inventory Segment B) and those portions of the Lake Sawyer Regional Park not designated as wetlands (Inventory Segment E).

##### *Natural*

The Natural environment is designed to protect shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions that are not compatible with human use. Natural shorelines require that only very low-intensity uses be allowed to preserve ecological function. This designation is applied to the wetlands within the Lake Sawyer



Regional Park associated with Rock Creek (Inventory Segment F), as well as one of the undeveloped islands in Lake Sawyer, where development is not feasible due to the small size of the island and other site characteristics.

### Aquatic

The Aquatic environment exists to protect, restore, and manage the unique characteristics of the lands located waterward of the ordinary high water mark.

The proposed SMP contains policies and supporting regulations intended to protect the City's shorelines and ensure no net loss of current ecological function. Key policies and regulations are referenced in Chapter 5 as part of the analysis of potential impacts to specific ecological processes.

### **3.1.2 Comprehensive Plan**

The City's Comprehensive Plan, updated in 2009, contains both Natural Environment and Land Use elements, which set forth goals and policies for the protection of sensitive environmental resources and shoreline areas, as well as establish the future land uses within the shoreline jurisdiction. Techniques proposed include updates to adopted stormwater regulations, requirements for all future development to connect to sanitary sewer, avoiding disturbance of valuable fish and wildlife habitat, creation of an open space system, and limitations on clearing and grading. These policies are implemented by the Black Diamond Municipal Code.

### **3.1.3 Comprehensive Parks Plan**

The City of Black Diamond Comprehensive Parks Plan, adopted December 23, 2008, outlines the goals and policies that govern the development of public parks and recreational facilities. Currently, the City has insufficient developed parkland to meet its adopted level of service standards, and the Lake Sawyer Regional Park is identified as an opportunity area for reducing this deficit. While development of the regional park has the potential to adversely affect the shoreline, the Comprehensive Parks Plan includes the following Goals, Objectives, and Policies to protect environmental resources:

- Objective 4: Park design shall protect and improve the functions of the natural environment and strike a balance between public use and preservation.
  - Policy 4.1: Park design shall incorporate features that enhance the existing environment and educate users of the presence and functions of environmental amenities.
  - Policy 4.2: Development and maintenance of parklands shall utilize eco-friendly methods and products.
  - Policy 4.3: Park development and management shall, where appropriate, incorporate natural resource conservation, restoration, and preservation.
  - Policy 4.5: Design for new parks will minimize road construction and utilize low-impact engineering techniques to soften the imprint of roads and trails on the land.

### **3.1.4      *Environmentally Sensitive Areas Ordinance***

The City currently regulates Environmentally Sensitive Areas under Chapter 19.10 of its Municipal Code. These regulations were adopted in 2009 and are intended to designate and classify sensitive areas in order to limit development and alteration in these areas and to prevent adverse environmental impacts to sensitive areas. Sensitive areas regulations apply to the following types of areas:

- Wetlands,
- Fish and wildlife conservation areas,
- Geologically hazardous areas,
- Critical aquifer recharge areas, and
- Frequently flooded areas.

Those provisions of the Environmentally Sensitive Areas Ordinance that are applicable to the shoreline jurisdiction are incorporated into Chapter 3 of the proposed SMP.

## **3.2      STATE AND FEDERAL REGULATIONS**

As described in detail in the Shoreline Analysis Report, development activities within the City's shoreline jurisdiction may be regulated under the following laws and regulations:

- Section 404 of the Clean Water Act;
- The Endangered Species Act;
- Section 401 Water Quality Certification; and
- Washington State Hydraulic Code.

Any development activity within the shoreline jurisdiction that takes place below the OHWM of a Water of the United States or a Water of the State will trigger the need for review by Federal or State agencies, respectively. Lake Sawyer is considered a Water of the State, and any action below the OHWM would therefore require a permit from the Department of Ecology. Section 2 of the Shoreline Analysis Report contains a detailed discussion of the applicability of these State and Federal regulations to development within the shoreline jurisdiction.

## **4.0      FUTURE DEVELOPMENT AND ECOLOGICAL FUNCTIONS AT RISK**

Future development on the Lake Sawyer shoreline has the potential to impact ecological function. The goal of the Black Diamond Shoreline Master Program is to assure no net loss of existing ecological function. The following subsections describe the potential for future development in the shoreline jurisdiction and the ecological functions potential impacted by such development.

### **4.1      PATTERNS OF SHORELINE DEVELOPMENT**

As discussed in the Shoreline Analysis Report, shoreline development on Lake Sawyer since 1998 has been characterized primarily by construction and modification of residential structures and related appurtenances such as bulkheads and piers, most of which were permitted as

Shoreline Exemptions. Table 3 presents the shoreline permit history for the city from 1998-2009, with the exception of 2004.

**Table 3. Shoreline Permit History in the City of Black Diamond Since Incorporation**

Year	Pier		Bulkhead Mod.	Upland Residential Structure	Upland Com/MF Structures	Utilities	Other	Permit Type			
	Extension / Mod.	New/ Replace						Exemption	SDP	CUP	Variance
1998	4	2	1	4				11			
1999	1	3		13				17			
2000	4	3	1	9		1	1	20			
2001	2	2		5		1	1	11			
2002	3			2				5			
2003	1	1		6			4	12			
2004											
2005		1	1	8				8	1		
2006	3	4		8			1	16			
2007			1	1				2			
2008		1		2			2	5			
2009		2	1	4			3	9			
<b>TOTAL</b>	<b>18</b>	<b>19</b>	<b>5</b>	<b>62</b>		<b>2</b>	<b>12</b>	<b>116</b>	<b>1</b>		

The trends shown in this permitting data indicate that development on the shorelines of Lake Sawyer is likely to continue being dominated by construction and modification of residential uses and their associated shoreline structures, such as bulkheads, docks, and piers.

## 4.2 ECOLOGICAL FUNCTIONS AND PROCESSES AT RISK

As described in the Shoreline Inventory Report, the shoreline of Lake Sawyer provides a range of ecological functions for hydrologic, vegetative, hyporheic, and habitat processes, which must be protected by the SMP. A detailed evaluation of the relative performance of each shoreline inventory segment with regard to these processes was included in the Shoreline Analysis Report, and the potential impacts to these functions from future development in each shoreline segment is analyzed in Chapter 5.3 – General Cumulative Impacts Assessment. Below is a general discussion of these ecological functions and how each function could potentially be impacted by future development.

### 4.2.1 Hydrologic Functions

#### Water and Sediment Storage

Lakes, by definition, provide capacity for water and sediment storage from stream flows and surface runoff. Lakes also have the potential to improve water quality by entrapping sediments that may contain toxic compounds. Surrounding uplands also have the potential for water and sediment storage, depending on the amount of vegetation present. Areas that have been

extensively cleared or converted to impervious surface provide little opportunity for water infiltration and storage. As such, development of shoreline areas that clears vegetation or creates new impervious surface has the potential to reduce water and sediment storage function. Development that includes Low Impact Development techniques, such as pervious pavement, bioretention, or green roofs, has the potential to mitigate impacts to these functions.

#### Attenuation of Wave Energy

Wave energy, generated either naturally by wind or by man-made sources such as watercraft, can cause shoreline erosion if not properly released. Wave energy from recreational activities, such as waterskiing and wakeboarding, is a significant concern on Lake Sawyer. Natural or “soft” shorelines that feature vegetation or accumulated organic material provide a buffer that attenuates wave energy and protects the shoreline from erosive forces. Modification of the shoreline to remove vegetation or organic material, including the installation of bulkheads and other forms of “hard” armoring, eliminates this attenuation effect. The result is the reflection of wave energy back into the lake and the amplification of erosive wave forces on those lake shorelines that are not protected, as well as the habitat loss associated with the clearing and fill necessary to install bulkheads. The presence of docks, piers, or other artificial in-water structures can also interfere with movement of sediments along the shoreline, altering substrate conditions. Development that would create new shoreline armoring, increase the presence of in-water structures, or would remove vegetation from the water’s edge has the potential to adversely affect the wave energy attenuation function of Lake Sawyer’s shorelines. Conversely, development that removes existing bulkheads or implements bio-engineered or natural shoreline protection measures can positively affect this function.

#### Removal of Excess Nutrients and Toxic Compounds

Upland areas often provide filtration of stormwater into adjacent water bodies by allowing runoff to infiltrate into the soil. Highly vegetated areas and wetlands provide the greatest potential for natural filtration, while impervious surfaces and areas cleared of vegetation provide little to no filtration capacity. Filtration of stormwater runoff improves water quality by removing excess nutrients and toxics generated by residential development, such as fertilizers, herbicides, hydrocarbons, petroleum, and discharges from on-site septic systems (OSS) that are not functioning properly. Overwater structures, such as docks, piers, or swimming platforms that use chemical treatments to prevent rot, such as creosote, can contribute to contamination of the water body, further reducing water quality. Development that increases the level of impervious surface coverage surrounding the lake or that removes native vegetation has the potential to adversely affect water quality by inhibiting filtration of runoff and preventing removal of these excess nutrients and toxic substances.

#### Recruitment of Large Woody Debris and Organic Material

As described under Attenuation of Wave Energy, the accumulation of large woody debris (LWD) and other organic material on lake shorelines aids the attenuation of wave energy, as well as providing habitat for fish and wildlife, as noted in Section 4.2.4 – Shoreline Habitat Functions. This organic material typically enters the lake from surrounding uplands either from stream flow or from organic debris that washes in from upland areas during storm events. Organic material also enters the lake when shoreline vegetation falls into the water because of death or bank erosion. The placement of obstructions at stream outlets, such as dams, weirs, or culverts, can reduce or eliminate recruitment of LWD from stream channels. Likewise, clearing of vegetation from surrounding upland areas, particularly areas immediately adjacent to the shoreline, can

reduce the amount of LWD and organic material that is recruited. Development that obstructs stream passages or clears shoreline vegetation can have an adverse effect on this function.

#### **4.2.2 Shoreline Vegetation Functions**

##### Temperature Regulation

Shoreline vegetation that overhangs streams and lakes can provide temperature regulation by shading the water and limiting the potential for solar gain in the water body. This function is important for streams but has a negligible impact for Lake Sawyer because lakes have large expanses of unshaded water in the center that reduce the relative contribution of shoreline shading to overall temperature regulation.

##### Improvement of Water Quality

As described in Section 4.2.1, the presence of shoreline vegetation provides filtering of stormwater runoff, which can remove excess nutrients and toxic compounds that originate in upland residential areas, such as fertilizers, herbicides, hydrocarbons, petroleum products, and septic overflows. Filtration of these substances improves the overall water quality of the lake. Removal of shoreline vegetation reduces this capacity for filtration, leading to potential decreases in water quality.

##### Attenuation of Wave Energy

As described in Section 4.2.1, vegetated shorelines provide “soft” shoreline protection and allow wave energy to be released, thereby reducing erosive effects on unprotected shorelines. Development that clears shoreline vegetation, removes accumulated organic debris, or installs new “hard” armoring reduces the ability of the shoreline to attenuate wave energy, while development that removes existing armoring or uses natural shoreline protection methods preserves this function.

##### Sediment Removal and Bank Stabilization

Natural conditions are characterized by an ongoing, underlying process of shoreline erosion that acts to maintain substrate conditions. The introduction of bulkheads and armoring stabilizes the shoreline but limits the natural recruitment of lakebed materials.

##### Recruitment of Large Woody Debris and Organic Material

As described in Section 4.2.1, the accumulation of large woody debris and other organic material aids the attenuation of wave energy. Stream outlet obstructions and clearing of vegetation reduces the overall amount of organic material recruited. Shoreline vegetation also provides habitat benefits by offering forage and cover for wildlife, as described in Section 4.2.4 – Shoreline Habitat Functions.

#### **4.2.3 Hyporheic Functions**

The hyporheic zone is a transitional region between groundwater and surface water and represents the interface between terrestrial and aquatic ecosystems. Hyporheic functions in Lake Sawyer include the following:

##### Removal of Excess Nutrients and Toxic Compounds

As described in the Shoreline Analysis Report, the area where groundwater and surface water exchange has potential to provide removal of excess nutrients and toxics, though the effectiveness of this function varies by soil type and substrate conditions. In general, portions of the shoreline with impervious surface have a reduced potential for runoff infiltration and



filtering, and shoreline bulkheads act as a barrier to water exchange between surface water and groundwater.

#### Water Storage

As described in the Shoreline Analysis Report, the exchange zone between surface water and groundwater can provide water storage, but this function is depended on soil type, groundwater level, and impervious coverage. Under natural conditions, groundwater stored in the upland soils would discharge into the lake on a seasonal basis, providing surface water recharge. The presence of impervious coverage prevents stormwater infiltration, precluding subsurface recharge. Bulkheads along the shoreline also inhibit recharge by creating a barrier to subsurface water exchange.

#### Vegetation Support

Under natural conditions, shallow groundwater at the lake's edge can support a riparian vegetation community. Residential development surrounding the lake that includes construction of shoreline armoring, backfilling, or compaction of soils reduces the availability of groundwater at the lake's edge and precludes the establishment of riparian vegetation communities.

#### Maintenance of Base Flows

The contribution of groundwater-surface water exchange in the hyporheic zone to base flows can vary depending on soil conditions and grades, but shoreline armoring, including bulkheading, generally has a negative effect on this function as it presents a barrier to water exchange.

### **4.2.4 Habitat Functions**

#### Physical Space and Conditions for Life History

Under natural conditions, the near-shore environment provides valuable habitat for aquatic species, including den sites, spawning grounds, and rearing and foraging areas. Upland vegetation provides cover, food, and nesting sites for terrestrial species. Modification of the shoreline, specifically armoring, can create deeper, more turbulent near-shore conditions that are inhospitable to aquatic species. Deep water adjacent to the shoreline also allows larger predatory fish to prey on young fish. Armoring of the shoreline also frequently involves removal of shoreline vegetation, which eliminates cover and habitat for terrestrial species. The presence of overwater structures can also alter natural patterns of light transmission into the water column, which can affect growth and behavior of aquatic organisms. Artificial lighting installed on docks and piers has also been shown to affect fish movement patterns. This is of particular concern in the Lake Sawyer shoreline management area due to the documented presence of federally listed steelhead in the lake and in Rock Creek.

#### Food Production and Delivery

Upland riparian areas, including emergent wetlands, often provide food for a variety of species. Residential development of the shoreline and the installation of shoreline armoring greatly reduce the potential for the shoreline to provide foraging areas for both aquatic and terrestrial species. While some domestic plants, such as fruit trees or garden plants, can supply food for wildlife, the function is diminished compared to natural conditions. Food production and delivery can also be affected by the presence of overwater structures, which alter the natural patterns of lighting and may interfere with the growth of aquatic vegetation.



### **4.3 POTENTIAL FOR FUTURE DEVELOPMENT**

As described in the Shoreline Analysis Report, future development on the Lake Sawyer shoreline is anticipated to consist primarily of single-family residential development. Due to the small amount of vacant land along the shoreline, future development activity is anticipated to consist mostly of the remodeling, expansion, or redevelopment of existing single-family residences, as well as limited construction of new residences on the few vacant parcels in the area and vacant and developed parcels that may become eligible for subdivision when sanitary sewer service is available. As discussed in the Shoreline Analysis Report, demand for single-family residential development in this area is high; therefore, very few, if any, current residential uses are anticipated to be converted to other uses.

#### **4.3.1 Segment A – Residential**

##### Anticipated Changes in Land Use

Given that the majority of this segment is zoned for low-density residential development, no significant conversion of existing residences to other uses is anticipated. Existing residences are likely to expand or redevelop to larger homes, and the few vacant lots are expected to develop with single-family residences.

##### Likely Development and Implications for Shoreline Management

#### **Redevelopment of Existing Properties**

As described in Chapter 2, Segment A is extensively developed for residential uses. However, many of these residences are small vacation homes and cabins that have the potential to expand in the future, resulting in the redevelopment of these existing properties with larger primary residences. The Sunrise RV Resort on the western shore of the lake also has limited potential for additional development in its present use, based on requirements in the proposed SMP, though it would be possible to convert this property to single-family use if sanitary sewer service were extended to the site. The potential for single-family development on this property is described in more detail in the discussion of potential development associated with land subdivision.

Additional development or redevelopment could include expansion of related appurtenances, such as parking areas and driveways, and could potentially increase the amount of impervious surface on each parcel. As described in Section 4.2, increased impervious surface coverage can impact various ecological functions, including water and sediment storage, as well as water quality. Redevelopment also has the potential to improve ecological function because most development in this area was built under outdated or nonexistent standards. Impervious surface coverage is capped in the Shoreline Residential environment at 40% of site area, and the SMP management policies for the Shoreline Residential environment require the use of Low Impact Development (LID) techniques to the greatest extent feasible. These techniques include use pervious pavement, reduction of impervious surfaces, infiltration of runoff, and other techniques that can minimize water quality and water storage impacts and in some cases improve ecological functions compared to existing conditions in this Segment.

#### **Development of Vacant Properties**

In addition to redevelopment of existing properties, new development could occur on currently vacant lots. Review of King County Assessor data revealed 8 vacant lots in the shoreline jurisdiction that are below the minimum lot size required to be eligible for subdivision. Of these 8 lots, 6 currently have shoreline frontage. Each lot is allowed to construct a single dwelling unit, subject to the development regulations included in the SMP. Development of these parcels would result in the clearing of on-site vegetation, increased impervious surface coverage, and additional overwater cover for those lots with shoreline access. However, the SMP limits impervious cover in the Shoreline Residential environment to 40% of site area and requires development to implement all feasible LID techniques, which have the potential to reduce water quality impacts. The SMP also includes vegetation preservation standards to minimize impacts from clearing of shoreline and upland vegetation.

In summary, development of currently vacant properties within Segment A would produce up to 8 new residences and up to 6 new developed shoreline frontages.

### **New Lots from Subdivision**

Review of parcels within the shoreline jurisdiction indicates that there is limited potential for lot subdivision in Segment A. Based on the minimum lot size for the R4 zone (BDMC 18.30.040.A.1.a), 107 parcels are currently large enough to be subdivided; 3 are vacant, and 104 are developed. Although the SMP currently prohibits subdivision of lots in areas where sanitary sewer is not yet available, which constitutes the vast majority of the Lake Sawyer shoreline, as discussed in the Shoreline Analysis Report, this discussion assumes the eventual provision of services to all areas of the shoreline jurisdiction.

The analysis of subdivision potential in this document focuses on basic requirements, such as lot size and width, under standard code requirements. Please note that new subdivision standards have been added to the proposed SMP to address potential impacts (see Chapter 4, Residential Uses). In addition, there are many other standards and conditions that can influence the ability of property owner to subdivide and the resulting lot yield. It should be noted that BDMC 18.86 also allows “cluster development”, in which lot sizes could be reduced to 6000 sq. ft. and other lot dimensional standards varied. So, a large property (such as Sunrise Resort) could potentially result in more lots within the shoreline jurisdiction than could occur under the standard requirements of the R4 zone. However, given the strict requirements of the proposed SMP, it is more likely that development would be clustered outside of the SMA and shoreline areas retained in common recreational open space to meet the requirement for no net loss of ecological function.

### *Vacant Parcels*

Of the 3 vacant lots large enough for subdivision, two have shoreline frontage greater than 120 feet, which is double the minimum width in the R4 zone under current zoning, as well as the proposed shoreline frontage standard in the Draft SMP. These lots could therefore be subdivided to create additional lots with shoreline frontage. Based on the minimum shoreline frontage of 60 feet, these 2 vacant lots could be subdivided to create up to 5 new parcels for a total of 7 shoreline frontage lots. However, review of site conditions for these parcels, including lot shape and available site access, indicates that full subdivision is probably not feasible and that no more than 5 total lots are likely to be created, all of which would have shoreline frontage.

The remaining vacant lot meets the minimum size standard for subdivision, but it does not have at least 120 feet of shoreline frontage. Because of its size, this lot is still eligible for subdivision, but any new lots will be located upland of the shoreline, and no new shoreline frontages would be created. Subdivision of this parcel is assumed to create only 1 additional lot within the shoreline jurisdiction and no additional shoreline frontages<sup>1</sup>.

In summary, subdivision of vacant parcels in Segment A is anticipated to result in a total of 7 developable lots within the shoreline jurisdiction, of which 6 lots would have shoreline frontage.

#### *Developed Parcels*

The 104 developed parcels fall into a number of categories, based on site conditions:

- 22 parcels do not meet the minimum frontage standard of 60 feet to be eligible for subdivision. Future development of these lots is limited to redevelopment of existing structures, as described in the previous section, Redevelopment of Existing Properties.
- 9 lots have sufficient size and frontage to be subdivided, but the location and configuration of existing structures, as well as lot dimensions, would make subdivision difficult. No new shoreline lots are anticipated to be created from these properties.
- 56 lots have at least 60 feet, but less than 120 feet, of shoreline frontage. These lots do not have sufficient lake frontage to be divided into multiple lakefront lots, but they could be subdivided into lots oriented perpendicular to the shoreline. As described in the discussion of subdivision of vacant lots, each of these properties is assumed to be able to create 1 additional lot within the shoreline jurisdiction, resulting in 56 new upland lots. No new shoreline frontages would be created from these lots.
- The remaining 18 lots have few impediments to subdivision. Each lot has at least 120 feet of shoreline frontage and is assumed to subdivide in a manner that would create new shoreline frontage lots. Assuming new lots would have a shoreline frontage of approximately 60 feet, and considering factors such as site access, lot shape, and location of existing structures, subdivision is estimated to result in a total of 39 shoreline frontages, including parent parcels, or 21 new shoreline frontage lots. Notably, new shoreline frontages would be restricted for shoreline subdivisions that created more than two new lots or long subdivisions. This provision would impact the Sunset RV Resort, where it is expected that areas along the shoreline would be contained within a common open space tract.

In summary, subdivision of developed properties in Segment A has the potential to create approximately 21 new shoreline frontage lots and 60 new upland lots within the shoreline jurisdiction.

### **Shoreline Armoring**

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<sup>1</sup> Shoreline parcels that do not meet the minimum shoreline frontage necessary for creation of new shoreline lots can still be subdivided to create "stacked" lots oriented perpendicular to the shoreline. Depending on the depth of the parent lot, this method of subdivision can create a large number of new lots. However, relatively few of them would be located within the 200-foot shoreline management area. Because the R4 zone requires a minimum lot size of 9,600 square feet, the minimum depth for a lot 60 feet wide would be 160 feet. Even lots just below the minimum subdivision threshold of 120 feet would still be a minimum of 80 feet deep. Based on these dimensional requirements, any lot not wide enough to create new shoreline frontages can only create, at most, 1 additional upland lot that lies entirely within the shoreline jurisdiction.

As described in Chapter 2, approximately 80% of the shoreline in Segment A is currently armored. Additional shoreline stabilization and armoring could result from future residential development in the area, though this is anticipated to be limited. As described in the previous sections, Segment A contains only 9 vacant parcels with shoreline frontage, and most of the developed parcels that are eligible for subdivision are already armored; only approximately 20 of these parcels do not currently have some form of shoreline armoring in place. Additionally, the SMP strictly limits new structural shoreline stabilization measures, as well as repair and replacement of existing structures. Bio-engineered methods are preferred, and structural solutions are only allowed where it can be demonstrated that they are necessary to protect existing development. Shoreline stabilization associated with future development will therefore result in fewer impacts on shoreline function. As existing bulkheads deteriorate and major repairs or replacement are proposed, the proposed standards are expected to result in a net improvement in ecological functions as some existing hard armoring is converted to non-structural or soft armoring improvements. In addition, the proposed SMP includes incentives to reduce minimum shoreline setbacks in exchange for restoration activities or implementation of soft armoring and LID techniques. As described in Chapter 2, these incentives are expected to prompt some currently armored properties to convert to non-structural techniques in order to reduce the shoreline setback required on their property as they redevelop.

### **Overwater Structures**

Development of new residences on vacant and subdividable parcels is likely to result in an increase in the number of overwater structures on Lake Sawyer, further increasing modification of the shoreline and disruption of ecological processes.

The SMP limits the construction of new piers and docks to those providing public access or associated with a water dependent use, including a single-family residential structure. Joint-use piers are required for lots without at least 60 feet of shoreline frontage, as well as any development that creates more than two new dwelling units. As described in Chapter 2, approximately 34 existing lots in Segment A do not have access to a dock or pier. Construction of new docks on Lake Sawyer is anticipated to occur as follows:

- Of the 34 parcels currently without a dock or pier, three are subdividable, and each is anticipated to create two shoreline lots, thus producing 6 new piers if each lot developed a single use pier. For the purposes of this analysis we assume one subdivision would construct a joint use pier and one subdivision would construct individual piers for each new lot, for a total of 4 new piers.
- Of the 34 parcels currently without a dock or pier, one has sufficient shoreline frontage to be subdivided into 3 parcels. SMP regulations for overwater structures require joint use docks for development of more than two dwellings (SMP 5.F.2.b.6). This parcel is therefore anticipated to create 1 new joint use pier.
- Each of the remaining 30 existing parcels without a dock or pier could develop a single-use pier under the provisions of the SMP, resulting in 30 new piers. For the purposes of this analysis we assumed that approximately 10% of new piers would be joint use piers, serving 2 lots each. This would result in approximately 3 new joint use piers and 24 single use piers, for a total of 27.

- Accounting for vacant and subdividable parcels included thus far, an additional 12 new shoreline frontage lots could be created in Segment A through subdivision. Each new parcel could develop a single-use pier. For the purposes of this analysis we assumed that 10% of the piers would be joint use piers, serving 2 lots each. This would result in approximately 1 new joint use piers and 10 single use piers, for a total of 11.

In total, approximately 43 new docks or piers could be created in Segment A, 6 of which would be joint use..

According to the SMP's dimensional standards for overwater structures, joint-use piers have a maximum surface area of 600 square feet, and single-use piers have a maximum surface area of 480 square feet. Based on the anticipated proportions of single-use and joint-use structures, and any additional floats (which are counted towards the maximum coverage previously identified) new overwater coverage is anticipated to be approximately 21,360 square feet. This represents a 14% increase over existing conditions. New overwater structures, would also be required to comply with the SMP's standards for dock and pier materials, which require materials that allow 50% light to penetrate to the water below, thereby reducing effective overwater coverage.

Over time, the new standards would reduce overwater coverage from older docks and piers as they are replaced. It is estimated that a considerable percentage, perhaps 20% to 40%, of existing docks will undergo major repairs or replacement during the planning period of the SMP with more fish-friendly materials and design features required under the SMP. Over time, the majority of existing docks would be constructed to the new standards. These include:

- Fixed pile piers shall maintain at least 2 feet of vertical clearance above the OHWM
- Floating docks are discouraged unless floating elements are not located within the first 30 feet from the shoreline.
- Dock width would be limited to 4 feet within the first 30 feet from the shoreline.
- Wooden components that come in contact with the water shall not be treated with toxic substances that can result in water contamination.

Replacement of older docks designed to these new standards will result in further reduction in effective overwater coverage, shading and other impacts on salmonids associated with overwater structures.

#### **4.3.2 Segment B – Lake Sawyer Park Boat Launch**

##### Anticipated Changes in Land Use

The Lake Sawyer Park Boat Launch is unlikely to see significant land use changes, given the size and location of the property. The site is anticipated to remain in City ownership and continue in its use as a park and public access point for the lake.

##### Likely Development and Implications for Shoreline Management

The Lake Sawyer Boat Launch Park is expected to remain in City ownership and not be subdivided for additional development. The City's Comprehensive Parks Plan has identified the site for additional improvements to site facilities, including increased parking, bathroom facilities, a new boat launch and access dock, and restoration of shoreline vegetation. As of Summer 2012, the boat launch had been improved, but the other improvements had not been implemented. These improvements have the potential to clear additional vegetation and increase the level of impervious surface, which would further degrade function of the shoreline.



However, as required by the proposed SMP, the City's development plans for the boat launch improvements will address on-site drainage issues, include water quality control facilities, and include appropriate mitigation to ensure no net loss of ecological function. As a public access point, the new access dock would be limited in size at 1,000 square feet and the boat ramp is expected to occupy an area similar to the current facility. While construction of the access dock would increase overwater coverage in this segment by up to 1,000 square feet, the pier would be required to use materials that allow 50% light penetration through the decking and maintain vertical clearance above the water surface, thereby reducing impacts from overwater shading. Specific standards in the SMP would mitigate impacts associated with the boat ramp as well.

#### **4.3.3 Segment C – Forested Single Family Parcel**

##### Anticipated Changes in Land Use

This segment consists of a single, 12.9-acre parcel currently used as a single family dwelling, with 7.7 acres within the shoreline jurisdiction. Residential use is expected to continue on this property. The property is not expected to redevelop in the near future, based on the owner's desire to maintain the current use and its current taxation status as open space. Should the site be sold in the future, it may be subdivided for single-family residential use, provided that sanitary sewer service is extended to the site.

##### Likely Development and Implications for Shoreline Management

##### **Potential New Lots from Subdivision**

While the proposed SMP restricts the subdivision of land in areas not adequately served by sanitary sewer, and this parcel is unlikely to convert from its current use to single-family residences in the foreseeable future, the site could theoretically be subdivided to create up to 25 lots with shoreline frontage, based on a minimum lot width of 60 feet and minimum lot size of 9,600 square feet, as set forth in BDMC 18.30.040.A. However, based on this cumulative impacts analysis and Department of Ecology comments on the draft SMP standards, the City is proposing additional subdivision standards (see Chapter 4, Section C.8.c.3. These standards would apply to residential short subdivisions that create more than two lots and all long subdivisions. These standards are in addition to those required under Title 17 and other sections of the Black Diamond Municipal Code. Standards would include:

- a. New primary residential structures shall not be located within 100 feet of the Ordinary High Water Mark.
- b. Lot divisions subject to these provisions shall be designed to include a common open space tract encompassing all areas within 75 feet of the ordinary high water mark that are not directly associated with the developed yard area of any retained primary structure on the parent lot.
- c. Public access may be required for subdivisions of more than four lots pursuant to the requirements of Chapter 3, Section B.5.c.
- d. Vegetation removal within the required open space tract shall be the minimum necessary to facilitate water-oriented recreational uses. Structures within 50 feet of the ordinary high water mark shall be limited to overwater structures (e.g. joint use pier) and related access, such as a trail and stairs.



- e. Pruning consistent with accepted aboricultural practices shall be allowed within the open space tract to provide views of the water from and through the tract, but healthy native vegetation shall be retained consistent with Subsection d above.
- f. New lots created through the subdivision shall be required to connect to the public sanitary sewer.

Based on the proposed subdivision standards, the actual number of lots within shoreline jurisdiction that could be created by subdivision under the proposed SMP is approximately 22, and that no new private shoreline frontages would be created. The remaining upland acreage of the property could be further subdivided. However, under proposed minimum dimensional requirements, lots with the minimum width of 60 feet would need a lot depth of at least 160 feet to meet the minimum lot size. As a result, any additional upland lots created on the site would likely not be within the shoreline jurisdiction. Given the proposed vegetation conservation standards, the actual number of new lots that would be created within shoreline jurisdiction could be further reduced to comply with no net loss standards. While it is possible that the applicant might limit subdivision initially to allow creation of up to three building sites with shoreline frontage (i.e. 2 new lots), we feel it is more likely that the property would be developed under a long subdivision for maximum yield. A common recreational tract encompassing a large portion of the current shoreline would occupy the first 75 feet from the OHWM, with new residential structures located at least 100 feet from the OHWM. The only lot with true shoreline frontage would be the “parent lot” with the existing home, developed yard area and dock.

Development of property for single-family residential use could potentially degrade shoreline functions as a result of increased impervious surface coverage and upland vegetation clearing. However, the proposed SMP restricts impervious surface coverage in the Shoreline Residential environment to 40% of lot area, which will limit the impacts associated with redevelopment and expansion. The proposed SMP also requires use of LID techniques to the greatest extent feasible, requires mitigation for impacts associated with shoreline development, and requires minimization of vegetation clearing, preservation of native vegetation areas and mitigation (SMP 3.B.7).

### **Vegetation Clearing**

The property is currently heavily forested, and subdivision and redevelopment would entail extensive vegetation clearing, which would reduce the site’s ability to filter pollutants from run-off to the lake. Additionally, removal of shoreline vegetation during installation of armoring or overwater structures would reduce the wave energy attenuation function of this Segment. However, under the proposed subdivision standards, areas within 75 feet of the OHWM would be included in a common open space tract that would only allow very limited vegetation removal necessary to facilitate water-oriented recreation uses, such as trails and stairs. New development would also be subject to the vegetation preservation standards of the SMP (SMP 3.B.7), which require the preservation and restoration of cleared native vegetation, retention of native understory within shoreline setback areas, limits on tree removal, and implementation of replanting and mitigation programs to preserve the ability of water to infiltrate on the site and achieve no net loss.

### **Shoreline Armoring**

As described in Chapter 2, the property is, for the most part, free of armoring and shoreline modifications; Segment C represents some of the most natural shoreline areas on Lake Sawyer. Though redevelopment of this Segment is not anticipated for the near future, subdivision of the property to provide additional shoreline residential lots could result in increased modification of the shoreline. However, the SMP strictly limits new structural shoreline stabilization measures, as well as repair and replacement of existing structures. Bio-engineered methods are preferred, and structural solutions are only allowed where it can be demonstrated that they are necessary to protect existing development. As the site currently contains very little development, it is unlikely that much structural stabilization would be allowed in the future. All new lots on the site would be required by the SMP to be designed to minimize the need for shoreline stabilization and to use non-structural methods when stabilization is necessary.

### **Overwater Structures**

The SMP requires that joint-use docks or piers be provided for any shoreline development of more than two residences, as opposed to single-use structures. As described under Potential New Lots from Subdivision, future development of the site would create up to 22 new shoreline lots, however none of them are expected to have shoreline frontage. Any future development of this site would therefore be required by SMP 5.F.2.b.6 to provide a single, joint-use or community moorage structure. Per the dimensional standards of the SMP, this structure could be up to 1,000 square feet in size, assuming it is intended for access by the public at large. While construction of this dock would result in an increase of overwater coverage of 1,000 square feet, SMP regulations also require that the decking material allow for penetration of 50% light to the water below, which would reduce impacts from overwater shading.

#### **4.3.4 Segment D – Islands**

##### Anticipated Changes in Land Use

Significant new development on the islands is unlikely due to the lack of adequate utilities, making it difficult for applicants to meet the necessary permit requirements for new development. Land uses in this segment are anticipated to remain stable.

##### Likely Development and Implications for Shoreline Management

### **Development of Vacant Lots**

As described in Chapter 2, four of the five islands are currently vacant. However, development of these properties is unlikely, as no utilities are available, making it difficult for new construction to meet City permit requirements. Additional construction of accessory structures could occur on the northwest island, which is already developed with several residences, but no new primary uses are likely to be permitted in the foreseeable future. Review of aerial photos indicates that undocumented structures may be located on at least one of the undeveloped islands, and additional enforcement efforts may be required by the City to prevent unpermitted development on these islands that could degrade shoreline function.

### **Shoreline Armoring**

While new development on the islands is unlikely to occur, some of the existing structures on the northwest island are currently protected by shoreline armoring. Eventually, this armoring will require repair or replacement, and property owners will be required to convert any hard

armoring, such as bulkheads and riprap, to non-structural solutions unless they can demonstrate that such measures would be unable to adequately protect existing development. Over time, therefore, the proposed SMP regulations, if implemented, would improve the condition of the island shorelines.

### **Overwater Structures**

Every existing residence on the islands currently has access to a dock or pier, and the northeastern island, which is currently undeveloped, features two docks. Because no additional residential development is anticipated to occur on any of the islands, no additional docks or piers would be constructed. Over time, as the eight existing docks age, property owners who wish to repair or replace them will be required to convert their structures to be in compliance with the SMP regulations for overwater structures, including the requirement for 50% light penetration through the decking material. Over time, the proposed regulations will result in a net reduction in effective overwater coverage. During the planning period of the SMP, it is assumed some of the existing docks would be repaired or replaced with more fish-friendly materials and design features required under the SMP. These include:

- Fixed pile piers shall maintain at least 2 feet of vertical clearance above the OHWM
- Floating docks are discouraged unless floating elements are not located within the first 30 feet from the shoreline.
- Wooden components that come in contact with the water shall not be treated with toxic substances that can result in water contamination.

Replacement of older docks using these techniques will result in further reduction in effective overwater coverage and shading impacts on fish.

### **4.3.5 Segment E – Lake Sawyer Regional Park and Adjacent Residential**

#### Anticipated Changes in Land Use

The Regional Park is anticipated to continue as a recreational area for the foreseeable future, and the City plans to further develop the site to provide greater public shoreline access. The residential parcel north of the park, which large enough for subdivision, is anticipated to remain vacant for the foreseeable future until sanitary sewer service is provided to the area. At such time, the parcel may convert to residential use. Although there are no current plans to do so, there is also the potential that this property could be converted to public recreational use as it is adjacent to the current Regional Park.

#### Likely Development and Implications for Shoreline Management

#### **Residential Development of Vacant Property**

While no subdivision or development of non-recreational uses is anticipated at the regional park, Segment E also contains a privately owned property immediately north of the park that is designated as Shoreline Residential. This property has approximately 1,363 feet of shoreline frontage and, under the minimum lot dimension requirements of the proposed SMP and BDMC 18.30.040, could be subdivided to create up to 22 shoreline frontages. However, based on the analysis contained in the preliminary cumulative impacts analysis and Department of Ecology

comments on the draft SMP standards, the City is proposing additional subdivision standards (see Chapter 4, Section C.8.c.3. These standards would apply to residential short subdivisions that create more than two lots and all long subdivisions. These standards are in addition to those required under Title 17 and other sections of the Black Diamond Municipal Code. We expect that as a result of these standards no new shoreline frontage would be created and all areas within 75 feet of the OHWM would be included in a common open space tract that serves upland lots. It should be noted that the majority of lot area within shoreline jurisdiction is mapped as wetland, which would further reduce development potential. We expect that given wetland and wetland buffer development restrictions proposed in the Draft SMP, no more than 3 new lots would be created within shoreline jurisdiction on this parcel.

In addition, it should be noted that subdivision in areas where sanitary sewer is not available is restricted by both proposed and existing shoreline regulations, which could delay or preclude construction of these units. Furthermore, based on the vegetation management and wetland standards in the SMP, and considering the SMP's requirements for no net loss of ecological function, and public access, the actual number of lots that could be created by subdivision under the proposed SMP could be substantially lower.

### **Recreational Development**

The majority of Segment E consists of the Lake Sawyer Regional Park, which is owned by the City and is anticipated to experience limited development for recreational purposes. While development plans for the regional park are not finalized, the 2008 Lake Sawyer Park Development Concept Plan indicates that future development for those portions of the park within the shoreline jurisdiction will consist primarily of passive recreational facilities such as trails, picnic areas, and open space. A swimming area, kayak and canoe launch, and fishing point are also tentatively planned, as well as a restoration and monitoring project at the mouth of Ravensdale Creek. Development of ball fields and parking areas may also occur, but these facilities would be located outside the shoreline jurisdiction.

Development at the park provides an excellent opportunity for shoreline enhancement through the protection of sensitive vegetation, soils, and wildlife habitat.

### **Shoreline Armoring**

As described in Chapter 2, approximately 50% of the shoreline in this segment has been armored, most extensively along the park shoreline in the southwest. Subdivision and residential development of the property north of the park could potentially increase the level of shoreline modification in portions of this segment. The SMP strictly limits new structural shoreline stabilization measures, as well as repair and replacement of existing structures. Bio-engineered methods are preferred, and structural solutions are only allowed where it can be demonstrated that they are necessary to protect existing development. As the residential property is currently vacant, no additional structural stabilization measures would be allowed. Proposed subdivision standards would require areas within 75 feet of the OHWM to be included in a common open space tract, with all structures at least 50 feet from the OHWM. This is expected to eliminate the potential for shoreline armoring in this reach. The existing armoring would also be replaced, either as it aged or at the time of residential development, with new, non-structural stabilization systems, as required by the SMP.

Recreational development at the park is not expected to result in additional shoreline armoring. Over time, further development of the park would result in the removal of existing stabilization structures as part of shoreline restoration efforts or the replacement of current structures with non-structural systems where required. Large portions of the park shoreline are currently stabilized with timber bulkheads, which the City has informally indicated that it intends to remove. The City also intends to implement extensive shoreline planting in the area to stabilize the lakeshore and enhance shoreline functions. The removal of shoreline armoring and implementation of shoreline planting at the park provide great opportunities for restoration and enhancement of shoreline function in this area, and both will be addressed in the Restoration Plan component of the SMP.

### **Overwater Structures**

The SMP requires that joint-use docks or piers be provided for any shoreline development of more than two residences, as opposed to single-use structures. As described under Residential Development of Vacant Property, future development of the site would create up to 3 new lots in shoreline jurisdiction; however none of these lots are expected to have shoreline frontages because of the requirements of the residential subdivision regulations in the Draft SMP. Any future development of this site would also be required by SMP 5.F.2.b.6 to provide a single, joint-use or community moorage structure. Per the dimensional standards of the SMP, this structure could be up to 1,000 square feet in size, assuming it is intended for access by the public at large. While construction of this dock would result in an increase of overwater coverage of 1,000 square feet, SMP regulations also require that the decking material allow for penetration of 50% light to the water below, which would reduce impacts from overwater shading. The SMP also requires overwater structures to maintain a minimum vertical clearance above the water surface, avoid placing pilings in the nearshore, and avoid use of floating components to minimize shading impacts on fish.

Construction of new overwater structures at the regional park could occur in a limited manner to provide a fishing area and public access to the water, as described in the 2008 Lake Sawyer Park Development Concept Plan. While construction plans are not complete, we estimate that development of the park will entail construction of a single, public access pier, which is limited by the SMP to 1,000 square feet in size. While construction of this dock would result in an increase of overwater coverage of 1,000 square feet, SMP regulations also require that the decking material allow for penetration of 50% light to the water below, which would reduce impacts from overwater shading. The SMP also requires overwater structures to maintain a minimum vertical clearance above the water surface, avoid placing pilings in the nearshore, and avoid use of floating components to minimize shading impacts on fish.

### **4.3.6 Segment F – Lake Sawyer Regional Park Wetland**

#### Anticipated Changes in Land Use

Due to restrictions on development near wetlands imposed by the City's critical areas ordinance and included in the proposed SMP, significant development in this segment is unlikely. The area is anticipated to remain in passive recreational use as part of the Lake Sawyer Regional Park.



#### *Likely Development and Implications for Shoreline Management*

The SMP designates Segment F as Natural, which would prohibit further subdivision of property in order to protect valuable natural resources in the area. The Lake Sawyer Park Development Concept Plan designates this area for passive recreational activities, such as hiking trails, and for habitat restoration activities. No shoreline armoring or overwater structures would be constructed, and the passive use of the area would limit vegetation clearing and keep impervious surface coverage low, maintaining the currently high ecological function of the segment.

#### **4.3.7      *Summary of Potential Future Development***

Table 4 summarizes the potential for new development within each analysis segment and for the shoreline management area as a whole.



**Table 4. Summary of Potential Development by Inventory Segment**

<b>Inventory Segment</b>	<b>Development of Existing Vacant Lots</b>	<b>Potential New Lots from Subdivision</b>	<b>New Shoreline Frontages</b>	<b>New Overwater Structures</b>
<b>Segment A (Residential)</b>	<ul style="list-style-type: none"> <li>8 new residences on existing lots that are too small for subdivision</li> </ul>	<ul style="list-style-type: none"> <li>3 vacant lots subdivided to create 4 new lots within the SMA (7 total).</li> <li>74 developed lots potentially subdivided to create 81 new lots within the SMA.</li> </ul>	<ul style="list-style-type: none"> <li>4 new shoreline frontages from subdivision of vacant parcels (6 total lots with shoreline frontage, if counting vacant parent lot).</li> <li>21 new shoreline frontages from subdivision of developed parcels.</li> </ul>	<ul style="list-style-type: none"> <li>Approximately 43 new overwater structures associated with residential development.</li> <li>Increased effective overwater coverage of 21,360 square feet.</li> <li>Some existing docks would be repaired or replaced using proposed SMP standards, thereby reducing impacts from overwater shading.</li> </ul>
<b>Segment B (Lake Sawyer Park Boat Launch)</b>	None. Additional development expected with boat ramp improvements.	None	None	<ul style="list-style-type: none"> <li>New access dock would increase effective overwater coverage by 1,000 square feet.</li> </ul>
<b>Segment C (Forested Single Family Parcel)</b>	None	<ul style="list-style-type: none"> <li>Subdivision could create up to 22 lots within the SMA, however, far fewer are expected due to other standards in the SMA intended to implement "no net loss".</li> </ul>	<ul style="list-style-type: none"> <li>New shoreline frontage lots are expected as a result of proposed special subdivision regulations..</li> </ul>	<ul style="list-style-type: none"> <li>If subdivided, site would require a single community dock to serve residences. New dock would increase effective overwater coverage by up to 1,000 square feet.</li> </ul>
<b>Segment D (Islands)</b>	None	None	None	<ul style="list-style-type: none"> <li>Some existing docks would be repaired or replaced using proposed SMP standards, thereby reducing impacts from overwater shading.</li> </ul>
<b>Segment E (Lake Sawyer Regional Park and Private Property North of the Park)</b>	None. Additional park facilities expected to be developed.	<ul style="list-style-type: none"> <li>Subdivision of residential property north of Park is expected to only create 3 new lots in shoreline jurisdiction because of wetland protection standards</li> </ul>	<ul style="list-style-type: none"> <li>No new shoreline frontages are expected due to special subdivision regulations.</li> </ul>	<ul style="list-style-type: none"> <li>If subdivided, site would require a single community dock to serve residences. New dock would increase effective overwater coverage by up to 1,000 square feet.</li> </ul>

Inventory Segment	Development of Existing Vacant Lots	Potential New Lots from Subdivision	New Shoreline Frontages	New Overwater Structures
		and required buffers”.		<ul style="list-style-type: none"> <li>New fishing dock at regional park would increase effective overwater coverage by up to 1,000 square feet.</li> </ul>
Segment F (Lake Sawyer Regional Park Wetland)	None	None	None	None
Total for Shoreline Management Area	8 new residences on vacant lots. Please note that redevelopment and expansion of existing single family residences on currently developed lots is expected to be the most common development activity in the SMA.	<ul style="list-style-type: none"> <li>Up to 110 new lots within the SMA, however, far fewer are expected due to other standards in the SMA intended to implement “no net loss” and public access requirements.</li> </ul>	<ul style="list-style-type: none"> <li>Up to 25 new shoreline frontages however, far fewer are expected due to other standards in the SMA intended to implement “no net loss” and public access requirements.</li> </ul>	<ul style="list-style-type: none"> <li>47 new overwater structures.</li> <li>Net increase in overwater coverage of 25,360 square feet.</li> <li>Some conversion of existing docks and piers (perhaps up to 40% in 10 years) to proposed size and materials standards as they age and need repair or replacement.</li> </ul>

## **5.0 SMP PROVISIONS AND IMPACT ASSESSMENT**

### **5.1 GENERAL GOALS, POLICIES, AND REGULATIONS**

The proposed SMP contains numerous goals, policies, and regulations intended to protect shoreline areas and achieve no net loss of ecological function. Some of the most relevant policies and regulations are summarized below.

- Critical areas within the shoreline jurisdiction shall be regulated by the provisions of the City's Environmentally Sensitive Areas Ordinance, which is incorporated into the proposed SMP (Chapter 3.3).
- Protect shoreline process and ecological functions through regulatory and non-regulatory means that may include acquisition of key properties, conservation easements, regulation of development within the shoreline jurisdiction and incentives to encourage ecologically sound design (SMP 3.4.b.1).
- All shoreline uses and developments shall be located, designed, constructed and mitigated to result in no net loss of ecological functions necessary to sustain shoreline natural processes (SMP 3.4.c.1)
- 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. BMPs are identified in the City's adopted stormwater manual (SMP 3.4.c.5).
- 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 (SMP 3.4.c.8).
- Promote restoration of biologically degraded areas and increase quality of native vegetation in habitat corridors (SMP 3.6.b.1 and 3.6.b.2).
- Target the Lake Sawyer Boat Launch and Lake Sawyer Regional Park for restoration of shoreline natural resources and functions while ensuring continued public access to the shoreline (SMP 3.6.c.1).
- Encourage bulkhead removal and vegetation conservation on single-family lots through use of incentives, such as setback reductions (SMP 3.6.c.2, 3.6.c.5, and 3.6.c.8).
- Shoreline development should be located and designed to mitigate adverse impacts to water quality (SMP 3.8.b.1).
- New residential development and property owners with failing septic systems that pose a risk to health or the environment shall be required to connect to public sewer if they are seeking a shoreline, building, or site development permit and such connection can be made within 300 feet of the property. (SMP 3.8.c.4).

## 5.2 GENERAL CUMULATIVE IMPACTS ASSESSMENT

The following section summarizes potentially impacted processes, relevant SMP policies and other regulatory provisions, and anticipated net effect on shoreline function for each shoreline inventory segment. A discussion of the effects of shoreline development on each type of ecological function is provided in Section 4.2.

### 5.2.1 Segment A – Residential

#### Anticipated Future Development

As described in Section 4.3, residences are likely to expand or redevelop to larger homes. As described in Table 4, Segment A currently contains 11 vacant lots, which are expected to eventually develop with single-family residences. Additional residential lots could be created through subdivision, though this is dependent on provision of sanitary sewer service and is not anticipated to occur in the near future. A complete discussion of the potential for subdivision and redevelopment is contained in Section 4.3.

#### Resources at Risk

##### **Upland Development Activities**

Upland development in Segment A is anticipated to consist of new and expanded residential development, leading to increased impervious surface area and clearing of vegetation above the OHWM. These development activities have the potential to negatively impact hydrologic, vegetation, and habitat resources, as described in Section 4.2. Specifically, upland development activities would impact the following ecological processes and functions:

- Water and sediment storage;
- Removal of excess nutrients and toxic compounds;
- Recruitment of large woody debris and organic material;
- Improvement of water quality;
- Sediment removal and bank stabilization
- Physical habitat space and conditions for life history; and
- Wildlife food production and delivery.

##### **Nearshore Development Activities**

Near-shore development in Segment A is anticipated to consist of shoreline modification and stabilizations measures associated with upland residential development. These modifications may include installation or expansion of bulkheads or other shoreline stabilization structures that could adversely affect hydrologic, vegetation, hyporheic, and habitat resources, as described in Section 4.2. Specifically, nearshore development activities would impact the following ecological processes and functions:

- Attenuation of wave energy;
- Recruitment of large woody debris and organic material;
- Sediment removal and bank stabilization

- Removal of excess nutrients and toxic compounds;
- Water storage;
- Vegetation support;
- Maintenance of base flows; and
- Physical habitat space and conditions for life history.

### **Overwater Development Activities**

As described in Section 4.3, overwater development in Segment A is anticipated to consist of up to approximately 43 new docks or piers, as well as the gradual replacement and repair of existing overwater structures. As summarized in Table 4, overwater development in Segment A is anticipated to result in a net increase in effective overwater coverage of up to approximately 21,360 square feet. The presence of overwater structures can adversely affect hydrologic and aquatic habitat resources and would specifically impact the following ecological processes and functions:

- Attenuation of wave energy;
- Removal of excess nutrients and toxic compounds;
- Physical habitat space and conditions for life history; and
- Wildlife food production and delivery.

### **Effect of Proposed SMP Regulations**

#### **Upland Development Activities:**

New upland development in the Shoreline Residential environment would be subject to a maximum of 40% impervious site cover, and a maximum building footprint of 30% of site area. (SMP 4.B.2)

All development in the Shoreline Residential environment would be subject to a standard 40-foot setback from the OHWM. This setback can be reduced to a minimum of 25 feet when approved mitigation or restoration actions are taken, such as bulkhead removal, vegetation preservation, use of LID techniques, or keeping impervious surface significantly below allowances. (SMP 4.B.3 and 4.B.4) Implementation of these techniques will minimize impacts on ecological functions by limiting impervious surface and reducing stormwater runoff to the lake that could contain excess nutrients and toxic materials, as well as increasing the potential for natural filtration by preserving natural vegetation. In addition, SMP regulations would require that all stormwater runoff be appropriately treated and directly discharged to the lake (SMP 4.C.8.c):

“Stormwater runoff for all new or expanded pavements or other impervious surfaces 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.”

The SMP would also reduce upland impacts on water quality through regulations requiring new development to connect to public sanitary sewer, thereby reducing pollutant loading from failing septic systems. Use-specific regulations for residential development (SMP 4.C.8.c) state:

- “Residential development shall be required to connect to public sewer if the property owner is seeking building or site development permit or the property has a failing septic system that poses a risk to health or the environment, and such connection can be made within 300 feet of the subject property.”
- “New lots created through subdivision shall be required to connect to the public sanitary sewer.”

Upland development impacts on vegetation and habitat functions would also be reduced by application of the SMP’s vegetation conservation regulations (SMP 3.B.7.c), which require that clearing of shoreline vegetation be kept to the minimum amount necessary for development. Additionally, any development that entails tree removal and land clearing shall require a report from a qualified professional identifying appropriate mitigation measures to assure no net loss of ecological function.

#### **Near-shore Development Activities:**

Impacts on ecological functions in the near-shore area would primarily result from the presence of shoreline stabilization structures, such as bulkheads. The SMP places strict limits on new structural stabilization measures, as well as the repair or replacement of existing structures. Bio-engineered shoreline protection measures are the preferred means of erosion prevention, and structural solutions shall only be allowed where it can be demonstrated that such methods are necessary to protect existing development and that non-structural stabilization solutions are infeasible or would not provide adequate protection (SMP 5.2.b.1). Likewise, new bulkheads on developed lots shall only be allowed to protect an existing structure. The applicant must demonstrate a need for the bulkhead in the form a geotechnical report that confirms the existing structure will be damaged within 3 years due to shoreline erosion, and must also show that non-structural stabilization measures are infeasible or would not provide adequate protection to prevent damage to the property.

New development, including land subdivision, would be required to be located and designed to minimize the need for shoreline stabilization, and new non-water dependent uses shall be prohibited from constructing stabilization that would cause significant impacts (SMP 5.2.b.2).

Additional regulations on shoreline stabilization structures (SMP 5.2.b) require that existing stabilization structures shall not be replaced with similar structures unless it can be demonstrated that non-structural methods are inadequate to protect existing development from ongoing erosion caused by currents or waves. As existing stabilization structures fail over time, this requirement will result in the conversion of many properties that currently use structural protection methods to non-structural protection, reducing impacts on near-shore ecological functions and improving shoreline conditions.

#### **Overwater Development Activities:**

Piers, docks, and floating platforms are permitted uses in the Shoreline Residential environment when accessory to residential development. Impacts on ecological functions would be limited by



application of the SMP's overwater structure regulations (SMP 5.F.2.b). These regulations require that any components of overwater structures that contact the water shall be free of toxic substances that may contaminate the lake, thus protecting water quality. All new docks and piers must also incorporate materials that allow light penetration to the water below, thus reducing impacts on growth and behavior of aquatic organisms.

#### *Effect of Other Regulatory Requirements and Restoration Activities*

In addition to the provisions of the SMP, the City's Sensitive Areas Ordinance (BDMC 19.10), which has been incorporated into the SMP, governs development that may have adverse impacts on environmentally sensitive areas, such as wetlands, fish and wildlife conservation areas, geologically hazardous areas, critical aquifer recharge areas, and frequently flooded areas. BDMC 19.10 requires the implementation of measures to limit alteration of sensitive areas and ensure no net loss of ecological function.

In addition to City review, any development activities taking place in or over water, including wetlands, would require review by the Washington State Department of Fish and Wildlife, the U.S. Army Corps of Engineers, and the Washington State Department of Ecology. Each of these agencies has the authority to review proposals for in-water work and apply conditions and mitigation measures before granting permits.

#### *Net Effect on Ecological Performance*

While the shoreline environment in Segment A is extensively built out, potential exists for additional development through redevelopment, subdivision and development of vacant lots (listed in order of magnitude). Development of the 11 existing vacant lots, as well as new lots from subdivision, including associated construction of new overwater structures and shoreline armoring, has the potential to further degrade ecological function. As described in Chapter 2, impervious cover in Segment A is estimated at approximately 25-30%, and construction of new residences and expansion of existing homes could potentially increase this coverage up to the maximum allowed. However, as described in Chapter 2, the median setback distance for primary structures in Segment A is 48.7 feet, and approximately 112 structures are within the standard 40-foot setback area required in the Shoreline Residential environment. In order to expand or redevelop these properties, the owners would be required to either comply with the setback requirement or implement components of the flexible shoreline setback regulations (SMP 4.B.4) in order to bring their property into compliance with the SMP. These setback reduction mechanisms include a series of incentive-based measures to encourage property owners to implement projects that would have a positive effect on shoreline ecological function. In return, they are allowed reductions to the minimum shoreline setback for their property. Setback reductions may be granted for a variety of enhancement actions, including the following:

- Removal of existing bulkheads,
- Preservation of native vegetation along the shoreline,
- Installation of biofiltration /infiltration mechanisms, such as rain gardens, bioswales, or other approved LID water treatment facilities,
- Installation of a LEED-approved green roof,

- Limiting on-site impervious surface to less than 5%,
- Preserving at least 20% the lot area outside the shoreline setback in native vegetation.

The SMP also includes standards to limit impacts to ecological function from new overwater structures. As described in Chapter 4.3, the SMP limits the size of new docks and piers based on their use. Currently, the median size of overwater structures on Lake Sawyer is approximately 462 square feet. As these structures are replaced in the future, they will be required to conform to the new SMP regulations for structure size and materials, as well as provide adequate passage of light to the water below.

Over time, implementation of the SMP regulations is anticipated to improve ecological function in Segment A, particularly with regard to water quality, wave energy attenuation, and shoreline vegetation.

### **5.2.2 Segment B – Lake Sawyer Park Boat Launch**

#### **Anticipated Future Development**

Extensive redevelopment is not anticipated to occur in this Segment. The Boat Launch Park is expected to remain in City ownership and continue its current use. The City's Comprehensive Parks Plan identifies this site for additional future improvements, including increased parking, restrooms, and an access dock.

#### **Resources at Risk**

##### **Upland Development Activities**

Upland development in Segment B is anticipated to consist of improvements to the existing boat launch. These improvements will moderately increased impervious surface area and clear additional vegetation above the OHWM. These development activities have the potential to negatively impact hydrologic, vegetation, and habitat resources, as described in Section 4.2. Specifically, upland development activities would impact the following ecological processes and functions:

- Water and sediment storage;
- Removal of excess nutrients and toxic compounds;
- Recruitment of large woody debris and organic material;
- Improvement of water quality;
- Physical habitat space and conditions for life history; and
- Wildlife food production and delivery.

##### **Nearshore Development Activities**

Near-shore development in Segment B is anticipated to consist of improvements to the boat ramp. Shoreline modifications and stabilizations measures associated with the boat ramp could adversely affect hydrologic, vegetation, hyporheic, and habitat resources, as described in Section 4.2. Specifically, nearshore development activities would impact the following ecological processes and functions:

- Attenuation of wave energy;

- Recruitment of large woody debris and organic material;
- Sediment removal and bank stabilization
- Removal of excess nutrients and toxic compounds;
- Water storage;
- Vegetation support;
- Maintenance of base flows; and
- Physical habitat space and conditions for life history.

### **Overwater Development Activities**

Overwater development in Segment B would consist of a new access dock associated with the existing boat ramp. The presence of new overwater structures can adversely affect hydrologic and aquatic habitat resources and would specifically impact the following ecological processes and functions:

- Attenuation of wave energy;
- Removal of excess nutrients and toxic compounds;
- Physical habitat space and conditions for life history; and
- Wildlife food production and delivery.

### *Effect of Proposed SMP Regulations*

#### **Upland Development Activities:**

New upland improvements at the Boat Launch Park would be subject to the development standards of the Urban Conservancy environment, which limits impervious cover to 10% of site area (SMP 4.B.2). The site is currently estimated to be approximately 9% impervious cover, so the capacity for additional impervious surface is limited. The limit on impervious cover would ensure that the ability of water to infiltrate on the site is maintained and would minimize impacts on ecological function resulting from increased stormwater runoff, such as degraded water quality.

The SMP's General Shoreline Provisions for Environmental Impacts (SMP 3.B.4) state that all shoreline uses and activities shall utilize best management practices from the City's stormwater manual to minimize the effects of increased surface runoff. In addition, all land clearing, grading, and filling shall be the minimum amount necessary for development.

As described for Segment A, all development in the shoreline environment would be subject to the SMP's vegetation conservation regulations (SMP 3.B.7.c), which require that clearing of shoreline vegetation be kept to the minimum amount necessary for development. Additionally, any shoreline substantial development permit that entails tree removal and land clearing shall require a report from a qualified professional identifying appropriate mitigation measures to assure no net loss of ecological function. Application of these regulations would minimize the adverse effects of upland development on vegetation and habitat functions.

**Near-shore Development Activities:**

Impacts on ecological functions in the near-shore area would primarily result from the presence of additional shoreline stabilization associated with improvements to the boat ramp. As described in Section 4.3, the SMP regulations strictly limit new shoreline armoring and structural shoreline stabilization measures, as well as repair and replacement of existing structures. Bio-engineered methods are preferred, and structural solutions are only allowed where it can be demonstrated that they are necessary to protect existing development (SMP 5.C.2.b.5).

Use-specific standards for boating facilities also require that existing boating facilities for motorized craft may be repaired, improved and reconfigured, but they shall not be expanded to accommodate a greater number of users without a conditional use permit and mitigation measures to address ongoing impacts (SMP 4.C.4.c.3).

**Overwater Development Activities:**

As described for Segment A, new overwater structures in the shoreline environment are subject to application of the SMP's overwater structure regulations (SMP 5.F.2.b). These regulations require that any components of overwater structures that contact the water shall be free of toxic substances that may contaminate the lake, thus protecting water quality. All new docks and piers must also incorporate materials that allow light penetration to the water below, thus reducing impacts on growth and behavior of aquatic organisms. Light penetration for overwater components is also required by the SMP's use-specific regulations for boating facilities (SMP 4.C.4.c.5.c).

**Effect of Other Regulatory Requirements and Restoration Activities**

As described for Segment A, the Washington Department of Fish & Wildlife, the U.S. Army Corps of Engineers, and the Washington State Department of Ecology would have jurisdiction over any work performed waterward of the OHWM and would have authority to review any improvements to the boat launch area and apply conditions and mitigation measures to assure no net loss of ecological function.

**Net Effect on Ecological Performance**

While the ecological performance of this area is already impaired, expansion of the boat launch has the potential to further degrade shoreline functions. However, upland improvements to the park would be required to adhere to the 10% impervious cover limit required in the Urban Conservancy environment, as well as vegetation preservation standards, both of which would help maintain the ability of water to infiltrate on the site and improve water quality.

As described in Section 4.3, the City's development plans for the boat launch improvements will address on-site drainage issues, include water quality control facilities, and include appropriate mitigation to ensure no net loss of ecological function, as required by the SMP. The SMP's use-specific standards for boating facilities, as described under Upland Development Activities, also require mitigation measures for any boating facility expansion. Implementation of the SMP and planned restoration activities at the boat launch park is therefore anticipated to result in an increase in ecological function over time.

### **5.2.3 Segment C – Forested Single Family Parcel**

#### Anticipated Future Development

While there is no indication that the current owner intends to redevelop the site, this Segment could potentially be subdivided to create up to 22 lots in shoreline jurisdiction if the necessary conditions were met, including extension of sanitary sewer service to the site. However, considering the SMP's requirements for no net loss of ecological function, preservation of native vegetation and mitigation for any removals, and public access, the actual number of lots that could be created by subdivision under the proposed SMP is likely to be substantially lower. Furthermore, the proposed special subdivision standards would require the creation of an open space tract that covers all areas with 75 feet of the OHWM that are not associated with the developed yard area of the parent lot and existing primary structure. Furthermore, the property is currently enrolled in the King County Public Benefit Rating System Open Space Taxation Program, and the property owners have made it clear that they have no current plans for development.

#### Resources at Risk

As described for Segment A, upland, nearshore, and overwater development associated with residential development of the site could potentially have adverse effects on habitat, vegetation, and hydrologic resources. However, subdivision and development of Segment C would have a much greater potential for negative effects to habitat and vegetation resources than Segment A, due to the forested nature of the site and the relatively intact nature of most of the shoreline. The primary risks associated with the potential subdivision and development of Segment are associated with increased impervious surface coverage, clearing of shoreline and upland vegetation, introduction of shoreline armoring, and construction of overwater structures. However, with the addition of the proposed special subdivision regulations, we believe these risks are mitigated.

#### Effect of Proposed SMP Regulations

The proposed SMP would designate Segment C as Shoreline Residential. As described for Segment A, residential development would be subject to a maximum of 40% impervious site cover, and a maximum building footprint of 30% of site area. (SMP 4.B.2), and the use of LID construction techniques would be required to the maximum extent feasible, which would reduce impacts associated with increased impervious surface coverage by providing for infiltration and filtering of surface runoff, as well as replacing traditionally impervious surfaces with impervious materials.

Clearing of vegetation on the site would be subject to the SMP's standards for vegetation conservation (SMP 3.B.7.c), which require that clearing of shoreline vegetation be kept to the minimum amount necessary for development. Additionally, any development that entails tree removal and land clearing shall require a report from a qualified professional identifying appropriate mitigation measures to assure no net loss of ecological function.



While each single-family residence is typically allowed to construct a single-use dock or pier for boat moorage, the SMP would require any development of more than two residential dwellings to provide a joint-use or community access dock (SMP 5.F.2.b.6). Any future subdivision and development of Segment C would therefore require a single community pier, greatly reducing the potential for new overwater coverage. As described in Section 4.3, the SMP standards limit the size of new community piers with public access to 1,000 square feet, of which 50% must consist of a decking material that allows penetration of light to the water below. Effective overwater coverage in Segment C would therefore be limited to an increase of approximately 600 square feet.

Residential development of Segment C would also potentially increase the level of shoreline modification, including stabilization and armoring. However, as described in Section 4.3, the SMP regulations strictly limit new shoreline armoring and structural shoreline stabilization measures, as well as repair and replacement of existing structures. Bio-engineered methods are preferred, and structural solutions are only allowed where it can be demonstrated that they are necessary to protect existing development (SMP 5.C.2.b.5).

#### *Effect of Other Regulatory Requirements and Restoration Activities*

Any proposed in-water work would be reviewed by state and federal regulators, as described for Segments A and B. These agencies would have the authority to condition permits and require the implementation of best management practices and mitigation measures to assure no net loss of ecological function.

#### *Net Effect on Ecological Performance*

Because this area is anticipated to remain relatively unchanged for the foreseeable future, and ecological function is moderate/high, no net adverse effects on ecological performance are anticipated from implementation of the SMP in the immediate future. However, if sewer service is provided at a future date, the property owner may choose to sell or redevelop the parcel. As discussed in the previous sections, the proposed SMP regulations would limit upland impervious surface, maintain the presence of shoreline vegetation, require mitigation for upland and aquatic impacts necessary to meet no net loss, and require the use of non-structural shoreline stabilization measures for any future development, thus protecting ecological function on the site. Furthermore, with the addition of the proposed special subdivision regulations, we believe the proposed SMP would result in no net loss of shoreline ecological functions on this site.

### **5.2.4 Segment D – Islands**

#### *Anticipated Future Development*

Additional future development in this segment is highly unlikely due to the lack of adequate utilities (including adequate sanitation) and the low potential that utility services will be extended to the islands in the future. In addition, the SMP regulations state that residential development must achieve no net loss, and development on the islands is unlikely to be able to meet that standard. As such, future development on the islands is unlikely to be permitted.



### Resources at Risk

Residential development of the site could potentially have adverse effects on habitat, vegetation, and hydrologic resources. These potential impacts are increased because of the small area of the islands and the proximity of any future development to the shoreline. As described in Section 4.3, no significant future development is anticipated in Segment D.

### Effect of Proposed SMP Regulations

The Shoreline Residential Limited environment restricts new development until urban services, such as potable water, electricity, and sanitary waste disposal are available. (SMP 2.D.2.d) If and when development is allowed, property owners would need to comply with the proposed SMP standards for setbacks, impervious surface coverage, and LID techniques. Additionally, repair or replacement of existing overwater structures is more likely and such activity would require compliance with the proposed SMP standards for size and materials. As described in Section 4.3, repair and replacement of existing docks is anticipated to occur over time and would result in a net reduction in impacts from overwater shading as piers and docks incorporated more fish-friendly materials and design features.

### Effect of Other Regulatory Requirements and Restoration Activities

Any proposed in-water work would be reviewed by state and federal regulators. These agencies would have the authority to condition permits and require the implementation of best management practices and mitigation measures to assure no net loss of ecological function.

### Net Effect on Ecological Performance

The potential for new development in this analysis segment is low, due to lack of adequate utilities. If adequate utilities are provided or available due to changes in sanitation codes and technologies, SMP regulations will improve ecological performance by requiring property owners who expand or rebuild to do so in compliance with the proposed policies and regulations, including conversion to soft shoreline armoring methods, preservation of shoreline vegetation, and reconstruction of docks and piers to meet current standards for protection of water quality and aquatic habitat.

## **5.2.5 Segment E – Lake Sawyer Regional Park and Adjacent Residential**

### Anticipated Future Development

Segment E consists of the Lake Sawyer Regional Park, as well as a privately owned parcel zoned for single-family residential use immediately north of the park. As described in Section 4.2, the City's 2008 Lake Sawyer Park Development Concept Plan indicates that future development for those portions of the park within the shoreline jurisdiction will consist primarily of passive recreational facilities such as trails, picnic areas, and open space. The residential parcel is not anticipated to develop in the immediate future, but if sanitary sewer service were to become available in the area, the property could potentially be subdivided. Based on the presence of wetlands on this site, we expect that subdivision would create up to 3 new lots in shoreline jurisdiction. Pursuant to the proposed special subdivision standards, it is likely that an open space tract would be created along the shoreline to provide recreational access for upland lots.

## Resources at Risk

### **Upland Development Activities**

Upland development in Segment E is anticipated to be primarily recreational in nature. The creation of trails and other improvements in the shoreline area would moderately increase impervious surface coverage and clearing of vegetation, but the primary purpose of the park development is to preserve and enhance the park's natural amenities. Upland park development would neutral or very mildly negative effect on ecological resources, which is likely to be balanced by planned habitat restoration activities.

Though subdivision of the vacant residential parcel north of the regional park is not currently anticipated due to lack of sewer service, future residential development of this parcel would result in have the potential to negatively impact hydrologic, vegetation, and habitat resources, as described in Section 4.2. Specifically, upland residential development activities would impact the following ecological processes and functions:

- Water and sediment storage;
- Removal of excess nutrients and toxic compounds;
- Recruitment of large woody debris and organic material;
- Improvement of water quality;
- Sediment removal and bank stabilization
- Physical habitat space and conditions for life history; and
- Wildlife food production and delivery.

### **Nearshore Development Activities**

Potential near-shore development in Segment E could consist of construction of a canoe/kayak launch area at Lake Sawyer Regional Park. While plans for park improvements are still preliminary, any work in the near-shore associated with the canoe/kayak launch that would require shoreline stabilization or clearing of vegetation has the potential to adversely affect hydrologic, vegetation, hyporheic, and habitat resources, as described in Section 4.2. Specifically, nearshore development activities would impact the following ecological functions/processes:

- Attenuation of wave energy;
- Recruitment of large woody debris and organic material;
- Sediment removal and bank stabilization;
- Removal of excess nutrients and toxic compounds; and
- Physical habitat space and conditions for life history.

If the residential parcel north of the park were to develop in the future in a manner that required shoreline stabilization, impacts to near-shore resources and ecological processes would be similar to those discussed for Segment A, specifically:

- Attenuation of wave energy;

- Recruitment of large woody debris and organic material;
- Sediment removal and bank stabilization
- Removal of excess nutrients and toxic compounds;
- Water storage;
- Vegetation support;
- Maintenance of base flows; and
- Physical habitat space and conditions for life history.

### **Overwater Development Activities**

Overwater development in Segment E would occur at the fishing point, as described in the 2008 Lake Sawyer Park Development Concept Plan. As summarized in Table 4, construction of this fishing pier would result in an increase in overwater coverage of approximately 1,000 square feet. While construction plans for the park are not complete, the presence of overwater structures can adversely affect hydrologic and habitat resources and construction could interfere with the following ecological functions/processes:

- Attenuation of wave energy;
- Removal of excess nutrients and toxic compounds;
- Physical habitat space and conditions for life history; and
- Wildlife food production and delivery.

As described in Section 4.3, overwater development at the residential parcel north of the regional park would consist of a single community access dock, as required by SMP regulations (SMP 5.F.2.b.6). As summarized in Table 4, residential overwater development in Segment E is anticipated to result in a net increase in overwater coverage of approximately 1,000 square feet. The presence of overwater structures can adversely affect hydrologic and aquatic habitat resources and would specifically impact the following ecological processes and functions:

- Attenuation of wave energy;
- Removal of excess nutrients and toxic compounds;
- Physical habitat space and conditions for life history; and
- Wildlife food production and delivery.

### **Effect of Proposed SMP Regulations**

#### **Upland Development Activities**

New upland improvements at the Lake Sawyer Regional Park would be subject to the development standards of the Urban Conservancy environment, which limits impervious cover to 10% of site area (SMP 4.B.2). The SMP's vegetation conservation regulations (SMP 3.B.7.c) also require that clearing of shoreline vegetation be kept to the minimum amount necessary for

development. Additionally, any shoreline development that entails tree removal and land clearing shall require a report from a qualified professional identifying appropriate mitigation measures to assure no net loss of ecological function. Application of these regulations would ensure that upland development in the park would not adversely affect the ability of water to infiltrate on the site, preserving water quality in Lake Sawyer.

Use-specific regulations for recreational development also state that public and private recreational development shall protect native vegetation and restore any areas disturbed by development (SMP 4.C.7.c.2).

Future residential development on the privately owned parcel north of the regional park would be governed by the same SMP regulations described for residential development in Segment A.

### **Nearshore Development Activities**

Impacts on ecological functions in the near-shore area would primarily result from the construction of shoreline stabilization associated with park improvements, such as the proposed canoe/kayak launch area. The SMP strictly limits new structural stabilization measures, as well as the replacement of existing stabilization structures with similar measures (SMP 5.2.b.1). Structural methods can only be used after demonstrating that they are necessary to protect existing development. As the site is currently undeveloped, any new stabilization necessary at the launch area would have to be non-structural in nature, which would promote attenuation of wave energy, prevent barriers to subsurface groundwater exchange, and not limit the recruitment of organic material on the shoreline.

Near-shore construction activities would also be subject to the SMP's vegetation conservation regulations (SMP 3.B.7.c), as well as use-specific regulations for recreational development (SMP 4.C.7.c.2), as described for Upland Development Activities. Preservation of native shoreline vegetation would promote habitat function and augment the ability of the site to naturally filter stormwater runoff.

Future residential development on the privately owned parcel north of the regional park requiring shoreline stabilization would be governed by the same SMP regulations described for near-shore development in Segment A.

### **Overwater Development Activities**

As described for Segments A and B, new overwater structures in the shoreline environment are subject to application of the SMP's overwater structure regulations (SMP 5.F.2.b). These regulations require that any components of overwater structures that contact the water shall be free of toxic substances that may contaminate the lake, thus protecting water quality. All new docks and piers must also incorporate materials that allow light penetration to the water below, thus reducing impacts on growth and behavior of aquatic organisms. Light penetration for overwater components is also required by the SMP's use-specific regulations for boating facilities (SMP 4.C.4.c.5.c).

The potential fishing and public access pier at the regional park would also be subject to the size limit imposed by SMP 5.F.2.b.18, which requires that total surface area for public piers be no greater than 1000 square feet. This size requirement would further limit adverse effects on sediment transport and habitat.

Any new overwater structures associated with future residential development on the privately owned parcel north of the regional park would be governed by the same SMP regulations described for overwater development in Segment A.

#### *Effect of Other Regulatory Requirements and Restoration Activities*

As described for Segments A and B, the U.S. Army Corps of Engineers, the Washington Department of Fish & Wildlife, and the Washington State Department of Ecology would have jurisdiction of any work performed waterward of the OHWM and would have authority to review any shoreline improvements in the park and apply conditions and mitigation measures to assure no net loss of ecological function.

In addition to regulatory oversight, the City's development plans for the Park include several habitat restoration projects and the removal of existing timber bulkheads along the park shoreline. These restoration and enhancement activities would reduce the amount of structural armoring in Segment E, remove a barrier to the attenuation of wave energy, and improve the available for habitat areas for local wildlife, thus providing a benefit to ecological function in Segment E.

#### *Net Effect on Ecological Performance*

While this area currently exists in a relatively undeveloped state, overall ecological function is moderate due to extensive shoreline modification. Upland areas are relatively undisturbed, and impervious surface coverage is very low. Development of the site for recreational uses would slightly increase impervious cover and may require moderate clearing of vegetation. However, the provisions of the SMP would ensure that shoreline vegetation is protected, maintain the ability of water to infiltrate on the site, preserve lake water quality, and mitigate any impacts from development on the site.

The SMP would also improve near-shore functions over the long term by facilitating removal of shoreline armoring. As noted in Section 4.3, the timber bulkheads present along the park shoreline are beginning to fail, and the City plans to replace them with soft armoring solutions as part of the ongoing park development. Use of these non-structural stabilization methods, would allow for a gradual increase in net ecological performance along the park shoreline.

### **5.2.6 Segment F – Lake Sawyer Regional Park Wetland**

#### *Anticipated Future Development*

Due to the presence of the large wetland complex that characterizes this segment, no development or alteration of ecological processes in this segment are anticipated. Development in Segment F is heavily restricted, both by the City's adopted Critical Areas Ordinance and by the development standard for the Natural environment, which allow a maximum impervious and building coverage of 5% and prohibit subdivision. SMP vegetation conservation standards also require the preservation of native understory vegetation and trees within the Natural environment in shoreline setback areas, further reducing potential for development.



### Effect of Proposed SMP Regulations

While no development is anticipated within this segment, regulations for the Natural environment designation (SMP 4.B) would apply, including prohibitions against most development types.

The SMP's General Shoreline Provisions for Environmental Impacts (SMP 3.B.4.c) state:

- “Land clearing, grading, filling and alteration of natural drainage features and land forms shall be limited to the minimum necessary for development. When required by the Public Works Director, surface drainage systems or substantial earth modifications shall be designed by a civil engineer registered in the State of Washington. The Director may also require additional studies prepared by a qualified soils specialist. 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.”
- “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. BMPs are identified in the City's adopted stormwater manual.”

Use-specific SMP regulations for recreational development (SMP 4.C.7) include:

- “Private and public recreation areas shall protect existing native vegetation in the shoreline area and restore vegetation impacted by development activities. Recreational use and development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City may request necessary studies prepared by qualified professionals to determine compliance with this standard.”

“Fragile and unique shoreline areas with valuable ecological functions, such as wildlife habitats, shall be used only for non-intensive recreation activities that do not involve the construction of structures.”

### Effect of Other Regulatory Requirements and Restoration Activities

As described for Segment A, in addition to the provisions of the SMP, the City's Sensitive Areas Ordinance (BDMC 19.10) governs development that may have adverse impacts on environmentally sensitive areas, such as wetlands, fish and wildlife conservation areas, geologically hazardous areas, critical aquifer recharge areas, and frequently flooded areas. BDMC 19.10 requires the implementation of measures to limit alteration of sensitive areas and ensure no net loss of ecological function. The presence of the wetland complex in this analysis segment would make any proposed development in the area subject to these requirements.

As described in the other segments, any proposed in-water work, including work in wetlands, would be reviewed by state and federal regulators. These agencies would have the authority to condition permits and require the implementation of best management practices and mitigation measures to assure no net loss of ecological function.



#### Net Effect on Ecological Performance

Implementation of the SMP policies and regulations, coupled with the application of the Sensitive Areas Ordinance, ensures that ecological performance in this segment will not be degraded relative to current conditions.

#### **5.2.7      *Summary of Cumulative Impacts***

Table 5 summarizes the potential for cumulative impacts within each analysis segment.

**Table 5. Summary of Cumulative Impacts**

Potential Alteration and Resource at Risk	Effect of Proposed SMP Policies and Regulations	Effect of Other Regulatory Requirements and Restoration Activities	Net Effect on Ecological Performance
<b>Segment A (Residential) – Shoreline Residential</b>			
<p><b><u>Upland Development Activities:</u></b> Increased impervious surface and vegetation clearing may negatively impact hydrologic, vegetation, and habitat resources, specifically water storage and quality, recruitment of LWD, bank stabilization, and wildlife food production and delivery.</p> <p><b><u>Nearshore Development Activities:</u></b> Shoreline modification and stabilization activities associated with residential development may negatively affect hydrologic, hyporheic, vegetation, and habitat resources, specifically attenuation of wave energy, recruitment of LWD, water storage and quality, habitat space and maintenance of base flows.</p> <p><b><u>Overwater Development Activities:</u></b> Overwater development is anticipated to consist of approximately 50-55 new docks and piers and gradual replacement/repair of existing structures. Increased overwater coverage can adversely affect hydrologic and habitat functions, specifically attenuation of wave energy, water quality, and food and forage requirements for aquatic organisms.</p>	<p><b><u>Impervious Surface Increases:</u></b></p> <ul style="list-style-type: none"> <li>• Development in Shoreline Residential Environment would be subject to a maximum limit of 40% impervious surface and 30% building footprint (SMP 4.B.2).</li> <li>• SMP would require the use of all feasible LID techniques to minimize impervious surface and promote infiltration of runoff (SMP 4.B.3-4).</li> <li>• SMP would require treatment of all stormwater runoff before discharge to the lake (SMP 4.C.8).</li> </ul> <p><b><u>Vegetation Clearing:</u></b></p> <ul style="list-style-type: none"> <li>• SMP would require compliance with vegetation conservation standards to minimize vegetation clearing and maintain the site's ability to naturally filter surface water runoff (SMP 3.B.7.c).</li> </ul> <p><b><u>Shoreline Stabilization:</u></b></p> <ul style="list-style-type: none"> <li>• SMP limits new structural stabilization measures, preferring bio-engineered and non-structural solutions. Structural solutions would only be allowed to protect existing development where non-structural methods would not provide adequate protection (SMP 5.2.b.1).</li> </ul> <p><b><u>Overwater Structures:</u></b></p> <ul style="list-style-type: none"> <li>• SMP limits the size of overwater structures and requires that decking material allow at least 50% of light to penetrate to the water below (SMP 5.F.2.b).</li> <li>• SMP would require joint-use docks or piers for</li> </ul>	<p><b><u>Critical Areas Ordinance:</u></b> Applicable section of Black Diamond's critical areas ordinance (BDMC 19.10) have been incorporated into the proposed SMP to protect environmentally sensitive areas.</p> <p><b><u>State and Federal Review:</u></b> WDFW, U.S. Army Corps of Engineers, and Washington Department of Ecology each have regulatory authority to review development activities taking place in or over water, including wetlands. Permits for in-water work may be required from each of these agencies on a project-specific basis, allowing each agency to impose design and mitigation requirements to avoid and minimize adverse environmental impacts.</p>	<p>Application of the SMP regulations and policies will result in a net improvement in ecological function over time, particularly with regard to water quality, wave energy attenuation, and shoreline vegetation.</p>

Potential Alteration and Resource at Risk	Effect of Proposed SMP Policies and Regulations	Effect of Other Regulatory Requirements and Restoration Activities	Net Effect on Ecological Performance
	developments of more than two residences. Parcels being subdivided into 3 or more lots would be required to provide common access instead of allowing individual docks (SMP 5.F.2.b).		
<b>Segment B (Lake Sawyer Park Boat Launch) – Urban Conservancy</b>			
<p><b><u>Upland Development Activities:</u></b> Increased impervious surface and vegetation clearing may negatively impact hydrologic, vegetation, and habitat resources, specifically water storage and quality, recruitment of LWD, bank stabilization, and wildlife food production and delivery.</p> <p><b><u>Nearshore Development Activities:</u></b> Shoreline modification and stabilization activities associated with improvements to the boat ramp may negatively affect hydrologic, hyporheic, vegetation, and habitat resources, specifically attenuation of wave energy, recruitment of LWD, water storage and quality, habitat space and maintenance of base flows.</p> <p><b><u>Overwater Development Activities:</u></b> Overwater development is anticipated to consist of a single access dock associated with the boat launch. Increased overwater coverage can adversely affect hydrologic and habitat functions, specifically attenuation of wave energy, water quality, and food and forage</p>	<p><b><u>Impervious Surface Increases:</u></b></p> <ul style="list-style-type: none"> <li>• Development in Urban Conservancy Environment would be subject to a maximum limit of 10% impervious surface (SMP 4.B.2).</li> <li>• SMP would require that all shoreline uses and activities utilize best management practices for stormwater to minimize effect of increased runoff (SMP 3.B.4).</li> <li>• SMP would require treatment of all stormwater runoff before discharge to the lake (SMP 4.C.8).</li> </ul> <p><b><u>Vegetation Clearing:</u></b></p> <ul style="list-style-type: none"> <li>• SMP would require compliance with vegetation conservation standards to minimize vegetation clearing and maintain the site's ability to naturally filter surface water runoff (SMP 3.B.7.c).</li> </ul> <p><b><u>Shoreline Stabilization:</u></b></p> <ul style="list-style-type: none"> <li>• SMP limits new structural stabilization measures, preferring bio-engineered and non-structural solutions. Structural solutions would only be allowed to protect existing development where non-structural methods would not provide adequate protection (SMP 5.2.b.1).</li> </ul> <p><b><u>Overwater Structures:</u></b></p> <ul style="list-style-type: none"> <li>• SMP limits the size of overwater structures and requires that decking material allow at least 50%</li> </ul>	<p><b><u>Critical Areas Ordinance:</u></b> Applicable section of Black Diamond's critical areas ordinance (BDMC 19.10) have been incorporated into the proposed SMP to protect environmentally sensitive areas.</p> <p><b><u>State and Federal Review:</u></b> WDFW, U.S. Army Corps of Engineers, and Washington Department of Ecology each have regulatory authority to review development activities taking place in or over water, including wetlands. Permits for in-water work may be required from each of these agencies on a project-specific basis, allowing each agency to impose design and mitigation requirements to avoid and minimize adverse environmental impacts.</p>	Implementation of the SMP regulations, as well as on-site water quality control features and shoreline restoration activities, is anticipated to result in a net improvement in ecological function in Segment B.

Potential Alteration and Resource at Risk	Effect of Proposed SMP Policies and Regulations	Effect of Other Regulatory Requirements and Restoration Activities	Net Effect on Ecological Performance
requirements for aquatic organisms.	of light to penetrate to the water below (SMP 5.F.2.b).		
<b>Segment C (Forested Single Family Parcel) – Shoreline Residential</b>			
<p><b><u>Upland Development Activities:</u></b> If the parcel is allowed to subdivide and develop for residential uses, increased impervious surface and vegetation clearing may negatively impact hydrologic, vegetation, and habitat resources, specifically water storage and quality, recruitment of LWD, bank stabilization, and wildlife food production and delivery.</p> <p><b><u>Nearshore Development Activities:</u></b> Shoreline modification and stabilization activities associated with any future residential development may negatively affect hydrologic, hyporheic, vegetation, and habitat resources, specifically attenuation of wave energy, recruitment of LWD, water storage and quality, habitat space and maintenance of base flows.</p> <p><b><u>Overwater Development Activities:</u></b> Overwater development would consist of a single community use dock. Increased overwater coverage from this structure can adversely affect hydrologic and habitat functions, specifically attenuation of wave energy, water quality, and food and forage requirements for aquatic organisms.</p>	<p><b><u>Impervious Surface Increases:</u></b></p> <ul style="list-style-type: none"> <li>Development in Shoreline Residential Environment would be subject to a maximum limit of 40% impervious surface and 30% building footprint (SMP 4.B.2).</li> <li>SMP would require the use of all feasible LID techniques to minimize impervious surface and promote infiltration of runoff (SMP 4.B.3-4).</li> <li>SMP would require treatment of all stormwater runoff before discharge to the lake (SMP 4.C.8).</li> </ul> <p><b><u>Subdivision and Vegetation Clearing:</u></b></p> <ul style="list-style-type: none"> <li>All areas within 75 feet of the OHWM would be protected in an open space tract if the property were subdivided. (SMP 4.C.8.c.3)</li> <li>No new structures would be allowed with 100 feet of the OHWM on new lots created through subdivision. (SMP 4.C.8.c.3)</li> <li>SMP would require compliance with vegetation conservation standards to minimize vegetation clearing and maintain the site's ability to naturally filter surface water runoff (SMP 3.B.7.c).</li> </ul> <p><b><u>Shoreline Stabilization:</u></b></p> <ul style="list-style-type: none"> <li>SMP limits new structural stabilization measures, preferring bio-engineered and non-structural solutions. Structural solutions would only be allowed to protect existing development where non-structural methods would not provide</li> </ul>	<p><b><u>Critical Areas Ordinance:</u></b> Applicable section of Black Diamond's critical areas ordinance (BDMC 19.10) have been incorporated into the proposed SMP to protect environmentally sensitive areas.</p> <p><b><u>State and Federal Review:</u></b> WDFW, U.S. Army Corps of Engineers, and Washington Department of Ecology each have regulatory authority to review development activities taking place in or over water, including wetlands. Permits for in-water work may be required from each of these agencies on a project-specific basis, allowing each agency to impose design and mitigation requirements to avoid and minimize adverse environmental impacts.</p>	With the standards in the revised Draft SMP, including the special subdivision standards, we expect implementation of the Draft SMP will result in no net loss of ecological functions.

Potential Alteration and Resource at Risk	Effect of Proposed SMP Policies and Regulations	Effect of Other Regulatory Requirements and Restoration Activities	Net Effect on Ecological Performance
	<p>adequate protection (SMP 5.2.b.1).</p> <p><b>Overwater Structures:</b></p> <ul style="list-style-type: none"> <li>SMP limits the size of overwater structures and requires that decking material allow at least 60% of light to penetrate to the water below (SMP 5.F.2.b).</li> <li>SMP would require a joint-use dock or pier in this Segment if the parcel is subdivided into 3 or more lots (SMP 5.F.2.b).</li> </ul>		
<b>Segment D (Islands) – Shoreline Residential Limited</b>			
<p><b>Upland Development Activities:</b> No significant upland development activities are anticipated. No new development is likely to be constructed due to unavailability of utilities. Most development requires a conditional use permit to ensure scrutiny.</p> <p><b>Nearshore Development Activities:</b> No new shoreline modifications are anticipated on the islands, but existing armoring may require repair or replacement as it ages. At this time, property owners would be required to convert to non-structural systems in compliance with the SMP.</p> <p><b>Overwater Development Activities:</b> No construction of new overwater structures is anticipated on the islands. Existing structures may be replaced as they age, at which point property owners would be required to comply</p>	<p><b>Shoreline Stabilization:</b></p> <ul style="list-style-type: none"> <li>SMP limits new structural stabilization measures, preferring bio-engineered and non-structural solutions. Structural solutions would only be allowed to protect existing development where non-structural methods would not provide adequate protection (SMP 5.2.b.1).</li> </ul> <p><b>Overwater Structures:</b></p> <ul style="list-style-type: none"> <li>SMP limits the size of overwater structures and requires that decking material allow at least 60% of light to penetrate to the water below (SMP 5.F.2.b).</li> </ul> <p><b>Impervious Surface Increases:</b></p> <ul style="list-style-type: none"> <li>Development in Shoreline Residential Environment would be subject to a maximum limit of 30% impervious surface and 20% building footprint (SMP 4.B.2).</li> <li>SMP would require the use of all feasible LID techniques to minimize impervious surface and promote infiltration of runoff (SMP 4.B.3-4).</li> <li>SMP would require treatment of all stormwater</li> </ul>	<p><b>Critical Areas Ordinance:</b> Applicable section of Black Diamond's critical areas ordinance (BDMC 19.10) have been incorporated into the proposed SMP to protect environmentally sensitive areas.</p> <p><b>State and Federal Review:</b> WDFW, U.S. Army Corps of Engineers, and Washington Department of Ecology each have regulatory authority to review development activities taking place in or over water, including wetlands. Permits for in-water work may be required from each of these agencies on a project-specific basis, allowing each agency to impose design and mitigation requirements to avoid and minimize adverse environmental impacts.</p>	<p>Due to the very low potential for new development in this Segment and the eventual conversion of existing shoreline armoring and overwater structures to comply with the proposed SMP standards, ecological function on the islands is anticipated to improve over time.</p>



Potential Alteration and Resource at Risk	Effect of Proposed SMP Policies and Regulations	Effect of Other Regulatory Requirements and Restoration Activities	Net Effect on Ecological Performance
with the proposed SMP standards.	runoff before discharge to the lake (SMP 4.C.8).		
<b>Segment E (Lake Sawyer Regional Park) – Urban Conservancy</b>			
<p><b><u>Upland Development Activities:</u></b> Upland recreational development at the park is anticipated to moderately increase impervious surface and vegetation clearing at the park. Residential development at the parcel north of the park may also increase impervious surface, clear vegetation, and disrupt habitat areas. These activities may negatively impact hydrologic, vegetation, and habitat resources, specifically water storage and quality, recruitment of LWD, bank stabilization, and wildlife food production and delivery.</p> <p><b><u>Nearshore Development Activities:</u></b> Development at the park would actively reduce the amount of shoreline modification present by removing existing armoring and converting to bio-engineered stabilization measures when necessary. Shoreline modification and stabilization activities associated with residential development on the adjacent private parcel may negatively affect hydrologic, hyporheic, vegetation, and habitat resources, specifically attenuation of wave</p>	<p><b><u>Impervious Surface Increases:</u></b></p> <ul style="list-style-type: none"> <li>• Development at the park would be subject to the Urban Conservancy environment's maximum limit of 10% impervious surface (SMP 4.B.2).</li> <li>• Development in Shoreline Residential Environment would be subject to a maximum limit of 40% impervious surface and 30% building footprint (SMP 4.B.2).</li> <li>• SMP would require the use of all feasible LID techniques to minimize impervious surface and promote infiltration of runoff (SMP 4.B.3-4).</li> <li>• SMP would require treatment of all stormwater runoff before discharge to the lake (SMP 4.C.8).</li> </ul> <p><b><u>Subdivision and Vegetation Clearing:</u></b></p> <ul style="list-style-type: none"> <li>• <u>Subdivision</u> not allowed in Park. In other areas, all areas within 75 feet of the OHWM would be protected in an open space tract if the property were subdivided (SMP 4.C.8.c.3)</li> <li>• No new structures would be allowed with 100 feet of the OHWM on new lots created through subdivision (SMP 4.C.8.c.3)</li> <li>• SMP would require compliance with vegetation conservation standards to minimize vegetation clearing and maintain the site's ability to naturally filter surface water runoff (SMP 3.B.7.c).</li> </ul>	<p><b><u>Critical Areas Ordinance:</u></b> Applicable section of Black Diamond's critical areas ordinance (BDMC 19.10) have been incorporated into the proposed SMP to protect environmentally sensitive areas.</p> <p><b><u>State and Federal Review:</u></b> WDFW, U.S. Army Corps of Engineers, and Washington Department of Ecology each have regulatory authority to review development activities taking place in or over water, including wetlands. Permits for in-water work may be required from each of these agencies on a project-specific basis, allowing each agency to impose design and mitigation requirements to avoid and minimize adverse environmental impacts.</p>	Implementation of the SMP regulations, combined with the planned restoration projects planned for the regional park, such as bulkhead removal and shoreline vegetation planting, are anticipated to increase shoreline ecological function over time. Development at the residential property north of the park is not anticipated to occur in the immediate future, and SMP regulations would limit subdivision in order to achieve no net loss.



Potential Alteration and Resource at Risk	Effect of Proposed SMP Policies and Regulations	Effect of Other Regulatory Requirements and Restoration Activities	Net Effect on Ecological Performance
<p>energy, recruitment of LWD, water storage and quality, habitat space and maintenance of base flows.</p> <p><b>Overwater Development Activities:</b> Overwater development at the park is anticipated to consist of a single fishing pier. The SMP would require future overwater construction at the residential parcel would be a single community dock. Increased overwater coverage can adversely affect hydrologic and habitat functions, specifically attenuation of wave energy, water quality, and food and forage requirements for aquatic organisms.</p>	<p><b>Shoreline Stabilization:</b></p> <ul style="list-style-type: none"> <li>SMP limits new structural stabilization measures, preferring bio-engineered and non-structural solutions. Structural solutions would only be allowed to protect existing development where non-structural methods would not provide adequate protection (SMP 5.2.b.1).</li> </ul> <p><b>Overwater Structures:</b></p> <ul style="list-style-type: none"> <li>SMP limits the size of overwater structures and requires that decking material allow at least 50% of light to penetrate to the water below (SMP 5.F.2.b).</li> <li>SMP would require joint-use docks or piers for developments of more than two residences. Parcels being subdivided into 3 or more lots would be required to provide common access instead of allowing individual docks. Development of the residential parcel would be required to comply with this standard (SMP 5.F.2.b).</li> </ul>		
<b>Segment F (Lake Sawyer Regional Park Wetland) – Natural</b>			
<p>No development is anticipated to occur in Segment F, due to the presence of a large wetland complex, which is protected by both the City's Critical Areas Ordinance and strict development standards for the Natural environment. SMP development standards require large setbacks, limit impervious surface coverage, prohibit subdivision, and require extensive preservation of native vegetation.</p>	<p><b>Limits on Impervious Surface:</b></p> <ul style="list-style-type: none"> <li>SMP limits impervious surface and building coverage to 5% (SMP Chapter 4, Table 2).</li> </ul> <p><b>Vegetation Preservation:</b></p> <ul style="list-style-type: none"> <li>SMP requires preservation of native understory vegetation and trees in the Natural environment (SMP 3.B.7).</li> <li>Use-specific regulations for recreational development require protection and restoration of existing vegetation impacted by any development activities and mitigation to achieve no net loss</li> </ul>	<p><b>Critical Areas Ordinance:</b> Applicable section of Black Diamond's critical areas ordinance (BDMC 19.10) have been incorporated into the proposed SMP to protect environmentally sensitive areas.</p> <p><b>State and Federal Review:</b> WDFW, U.S. Army Corps of Engineers and Washington Department of Ecology each have regulatory authority to review</p>	<p>Adopted critical areas regulations and SMP provisions requiring vegetation preservation and limiting impervious cover are anticipated to prevent any net loss of ecological function in Segment E.</p>

Potential Alteration and Resource at Risk	Effect of Proposed SMP Policies and Regulations	Effect of Other Regulatory Requirements and Restoration Activities	Net Effect on Ecological Performance
	(SMP 4.C.7).	development activities that impact wetlands. Permits for in-water work may be required from each of these agencies on a project-specific basis, allowing each agency to impose design and mitigation requirements to avoid and minimize adverse environmental impacts.	

# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION			
<b>SUBJECT:</b> <b>Ordinance No. 12-978, amending Chapter 18.14, Black Diamond Municipal Code, regarding vesting periods for previously approved project permits</b>	<b>Agenda Date: September 6, 2012</b>		<b>AB12 -069</b>
	Department/Committee/Individual		
	Mayor Rebecca Olness		
	City Administrator – Pete Butkus	X	
	City Attorney –Chris Bacha	X	
	City Clerk – Brenda L. Martinez		
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger		
Cost Impact: legal notice; staff time Fund Source: none Timeline: Planning Comm hearing 8/7/12	Comm. Dev. – Steve Pilcher	X	
<b>Attachments:</b> Proposed ordinance			
<b>SUMMARY STATEMENT:</b>  <p>In 2009, the City adopted Black Diamond Municipal Code Chapter 18.14, concerning vesting of project permit applications. The chapter included provisions for how long previously approved permit applications would remain valid. If the approval or code did not include a specific expiration date, previously approved permits would expire by April 1, 2012.</p> <p>Black Diamond Plaza, LLC, the proponents of a commercial development proposal along SR 169, requested an extension of time beyond the code-specific April 1 expiration date. The Community Development Director determined their request did not meet the approval criteria contained in 18.14.050.A. However, the Director did grant a 6 month extension until October 1, 2012, in order to allow the proponents the opportunity to seek a change in the regulations.</p> <p>Black Diamond Plaza, LLC subsequently requested an amendment to the code to extend the expiration date until April 1, 2016. The Planning Commission conducted a public hearing on the matter and recommends the Council amend the code to allow an extension until April 1, 2015.</p> <p>Based upon staff research, this proposed amendment would only apply to the Black Diamond Plaza property, as there are no other eligible properties within the city limits.</p>			
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b> The Planning Commission conducted a public hearing on this request on August 7, 2012 and rendered its recommendation at the conclusion of the hearing.			
<b>RECOMMENDED ACTION: MOTION to adopt Ordinance No. 12-978, amending BDMC 18.14 regarding the vesting period for previously approved project permits.</b>			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	
September 6, 2012			

# CITY OF BLACK DIAMOND WASHINGTON

ORDINANCE NO.12-978

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**AN ORDINANCE OF THE CITY OF BLACK DIAMOND,  
WASHINGTON, RELATING TO VESTING OF PROJECT  
PERMITS; AMENDING CHAPTER 18.14 OF THE BLACK  
DIAMOND MUNICIPAL CODE; PROVIDING FOR  
SEVERABILITY; AND ESTABLISHING AN EFFECTIVE  
DATE**

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WHEREAS, on June 18, 2009, the City Council adopted Ordinance No. 09-909 to replace the majority of the City's then-existing zoning regulations and procedural requirements codified in Title 18 of the Black Diamond Municipal Code; and

WHEREAS, Ordinance No. 09-909 established a new chapter 18.14 relating to vesting of project permits; and

WHEREAS, BDMC 18.14.070 established that project permits approved prior to the adoption of Chapter 18.14 would retain their approval until April 1, 2012; and

WHEREAS, June, 2012, Black Diamond Plaza, LLC filed a request to amend the text of BDMC 18.14.070 to extend the period of approval set forth in BDMC 18.14.070; and

WHEREAS, the Planning Commission reviewed the above described request at a public hearing held on August 7, 2012; and

WHEREAS, after consideration of the request and other facts, the Planning Commission has recommended that the BDMC 18.14.070 be amended to provide the previously approved project permits shall remain vested until April 1, 2015; and

WHEREAS, the City Council finds that it is in the best interest of the public health, safety and welfare to amend BDMC Chapter 18.14 as set forth herein to extend the vesting period for previously approved project permits that have not yet expired pursuant to the provisions of BDMC 18.14.070; and

NOW, THEREFORE, the City Council of the City of Black Diamond, Washington, do ordain as follows:

**Section 1. Amendment of BDMC 18.14.070 (Lapsing of existing approvals – Notice required).** Section 18.14.070 of the Black Diamond Municipal Code is hereby amended (amendments shown in legislative revision marks) to read as follows:

**18.14.070 - Lapsing of existing approvals—Notice required.**

Any project permit issued by the city prior to the enactment of this chapter, if such approval or permit is not already subject to a definite expiration date under the provisions of the city's municipal code, shall hereby lapse and become void on April 1, 2012 2015; provided, the city shall take reasonable steps to notify persons who may possess such approval or permits of this deadline. Reasonable steps may include putting notice on the city's website or mailing written notice to any person whom the city is aware would be affected and for whom the city is able, through reasonable effort, to determine a current mailing address. Extension of such an approval or permit, or issuance of a new approval or permit, shall be subject to the provisions of this chapter.

**Section 2. Severability.** Should any section, paragraph, sentence, 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 regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 3. Effective Date.** This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 6TH DAY OF SEPTEMBER, 2012.**

CITY OF BLACK DIAMOND

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Rebecca Olness, Mayor

ATTEST/AUTHENTICATED:

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Brenda L. Martinez, City Clerk

Approved as to form:

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Chris D. Bacha,  
Kenyon Disend PLLC  
City Attorney

Filed with the City Clerk:  
Passed by the City Council:  
Ordinance No.  
Date of Publication:  
Effective Date:



# CITY COUNCIL AGENDA BILL

City of Black Diamond  
Post Office Box 599  
Black Diamond, WA 98010

ITEM INFORMATION			
<b>SUBJECT:</b> <b>Ordinance No. 12-979, amending Chapters 17.16 and 18.08, Black Diamond Municipal Code, regarding administrative appeals of preliminary decisions</b>	<b>Agenda Date: September 6, 2012</b>		<b>AB12 -070</b>
	Department/Committee/Individual		
	Mayor Rebecca Olness		
	City Administrator – Pete Butkus	X	
	City Attorney –Chris Bacha	X	
	City Clerk – Brenda L. Martinez		
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger		
Timeline: Planning Comm recomm. 8/7/12	Comm. Dev. – Steve Pilcher	X	
<b>Attachments:</b> Proposed ordinance			
<b>SUMMARY STATEMENT:</b> <p>On May 3, 2012, the City Council adopted Resolution No. 12-801, directing the Planning Commission to conduct a public hearing and render a recommendation on the attached ordinance. The proposed ordinance would resolve an apparent conflict between BDMC 17.16 and 18.08 by clarifying that an appeal of a Hearing Examiner decision on a preliminary plat application would be directed to the City Council, instead of Superior Court.</p> <p>The Commission conducted a public hearing on June 12, 2012, considered the testimony and asked to receive information from the City's insurance carrier and legal counsel regarding this issue. On August 7, 2012, a presentation was made by Michael Tierney, an attorney under contract with CIAW (insurance carrier) and with Mr. Bacha, City Attorney. Four of the five City Council members were also in attendance for this presentation.</p> <p>After considering the information provided, the Commission voted unanimously to recommend that the City Council <i>not</i> adopt the proposed ordinance and to instead amend Chapter 17 so that it agrees with Chapter 18, as it is more efficient, it is a better application of the law and it provides better protection to individuals and bodies.</p>			
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b> The Planning Commission conducted a public hearing on this request in June 12, 2012 and continued the hearing until July 10 and August 7, 2012 to receive information from the City's insurance provider. Afterwards, the Commission voted to recommend the Council <i>not</i> adopt the proposed ordinance.			
<b>RECOMMENDED ACTION:</b> <b>MOTION to adopt/deny Ordinance No. 12-979, amending BDMC 17.16 and 18.08 regarding administrative appeals of preliminary plat decisions.</b>			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	
September 6, 2012			

# CITY OF BLACK DIAMOND WASHINGTON

ORDINANCE NO. 12-979

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**AN ORDINANCE OF THE CITY OF BLACK DIAMOND,  
WASHINGTON, RELATING TO ADMINISTRATIVE  
APPEALS OF DEVELOPMENT DECISIONS; AMENDING  
CHAPTER 17.16 AND 18.08 OF THE BLACK DIAMOND  
MUNICIPAL CODE; PROVIDING FOR SEVERABILITY;  
AND ESTABLISHING AN EFFECTIVE DATE**

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WHEREAS, on June 18, 2009 the City Council adopted Ordinance No. 09-909 to replace the majority of the City's then-existing zoning regulations and procedural requirements codified in Title 18 of the Black Diamond Municipal Code; and

WHEREAS, pursuant to Ordinance No. 09-909 approval of a preliminary plat was made a type – 3 decision; and

WHEREAS, a type – 3 decision is made by a Hearing Examiner following an open record public hearing and may only be appealed to the Superior Court; and

WHEREAS, BDMC 17.16.040 which pre-existed the adoption of Ordinance No. 09-909, provides for a closed record appeal before the City Council of the hearing examiner's decision on a preliminary plat application; and

WHEREAS, BDMC 17.16.040 is in conflict with the procedures for appeal of a decision on a preliminary plat application as set forth in Ordinance No. 09-909; and

WHEREAS, the planning commission reviewed the proposed changes set forth herein at a public hearing held on June 12, 2012 and recommended that the amendments be adopted; and

WHEREAS, the City Council finds that it is in the best interest of the public health, safety and welfare to amend BDMC Chapters 17.16 and 18.08 as set forth herein to remove the conflict that has unintentionally been created regarding administrative appeals of development decisions and to clarify and harmonize the process for such administrative appeals; and

NOW, THEREFORE, the City Council of the City of Black Diamond, Washington, do ordain as follows:

**Section 1. Amendment of BDMC 17.16.040 (Appeal from hearings examiner decision).** Section 17.16.040 of the Black Diamond Municipal Code is hereby amended (amendments shown in legislative revision marks) to read as follows:

17.16.040 - Appeal from hearings examiner decision.

A. The hearings examiner's decision on a preliminary plat application shall be final city action unless within fourteen days of the date of his or her decision an appeal is filed with the city clerk, appealing the decision to the city council. The appeal shall not be deemed timely unless a complete application for appeal, in conformance with the requirements of BDMC 18.08.210~~on the city's appeal form~~, is filed with the clerk, and the appropriate filing fee paid, by five p.m. on the fourteenth day after the examiner's decision. An appeal may be filed by the city administrator, the applicant, or any aggrieved party~~person~~ of record before the hearings examiner.

B. The hearing before the city council shall be a closed record appeal and subject to the appeal process set forth at BDMC 18.08.220. The council shall not receive new evidence, but shall only receive legal argument, either orally or in writing, and shall allow the applicant and the appellant thirty minutes to present their oral argument. If the applicant is the appellant, then the city shall have thirty minutes to present its response to the appeal.

C. The decision of the city council may be appealed by a party withstanding to the King County superior court pursuant to Chapter 36.70C RCW. A petition for a judicial appeal must be filed within twenty-one days of the issuance of a decision.

**Section 2. Amendment of BDMC 18.08.060 (Quasi-judicial decisions—Type 3).** Section 18.08.060 of the Black Diamond Municipal Code is hereby amended (amendments shown in legislative revision marks) to read as follows:

A. Type 3 decisions are made by the hearing examiner following an open record public hearing and involve the use of discretionary judgment in the review of each specific application.

B. Type 3 decisions require public notice as set forth in Section 18.08.120

C. For each Type 3 decision, the department shall forward a recommendation to the hearing examiner regarding whether the proposal is consistent with applicable regulations and policies and whether the proposal should be approved, approved with modifications or conditions, or denied. The examiner shall issue a written decision including findings, conclusions, and conditions, if any.

D. The director may require an applicant to participate in a public meeting to provide information and take public comment before the department forwards a recommendation to the hearing examiner.

E. A Type 3 decision may be appealed to Superior Court, except that a Type 3 decision on a shoreline application may be appealed only to the State Shorelines Hearings Board and a Type 3 preliminary plat approval may be appealed to Superior Court only after that person first exhausts the administrative remedies provided by the City pursuant to BDMC 18.08.210. (See also Section 18.08.200 regarding consolidated permit processing and appeals.)

F. The following decisions, actions, and permit applications require a Type 3 decision:

1. Preliminary plats;
2. Conditional use permits;
3. Shoreline substantial development, conditional use permit or variances;
4. Plat alterations or vacations;
5. Variances; and
6. Sensitive areas exceptions.

**Section 3. Amendment of BDMC Table 18.08.200-1 (Summary of Appeal structure).**  
Table 18.08.200-1 of Section 18.08.200 of the Black Diamond Municipal Code is hereby amended (amendments shown in legislative revision marks) to read as follows:

Table 18.08.200-1 Summary of Appeal Structure

Process Type	Decision maker	Appeal to	Further appeal
Type 1	Director	Hearing Examiner	N.A.
Type 2	Director	Hearing Examiner	Court
Type 3, except shoreline <u>Applications and preliminary plat applications</u>	Hearing Examiner	Superior Court	Court
Type 4 and 6	City Council	Superior Court	N.A.
Type 5	City Council	Growth Management Hearings Board (GMHB)	Court
Type 3 Shoreline application	Hearing Examiner	Shorelines Hearings Board	Court
<u>Type 3 Preliminary Plat Application</u>	<u>Hearing Examiner</u>	<u>City Council (Closed Record)</u>	<u>Court</u>
Note that a consolidated permit process may change the initial decision maker for Type 2 shoreline applications and for Type 3 applications consolidated with Type 4 applications.			

**Section 4. Amendment of BDMC 18.08.210 (Administrative appeals).** Section 18.08.210 of the Black Diamond Municipal Code is hereby amended (amendments shown in legislative revision marks) to read as follows:

18.08.210 - Administrative appeals.

A. Who May Appeal. Any aggrieved party of record may file an administrative appeal of a Type 1, or 2 or 3 decision. Any aggrieved party of record may file an administrative appeal of a Type 3 preliminary plat approval decision of the Hearing Examiner.

B. Time and Place to Appeal. Appeals of a Type 1, 2 or 3 decision shall be addressed to the hearing examiner and filed in writing with the department within fourteen calendar days of the notice of decision, except for shoreline appeals.

C. Shoreline Appeals. Appeals of a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance decision shall be filed with the state shorelines hearings board pursuant to RCW 90.58.180.

D. Preliminary Plat Approval Appeals. Appeals of preliminary plat approval decisions of the Hearing Examiner shall be filed with the City Clerk in accordance with BDMC 17.16.040 and addressed to the City Council.

~~D~~E. Fees. Each appeal filed on a non-shoreline decision shall be accompanied by a filing fee in the amount established in the city's schedule of fees.

~~E~~F. Form of Appeal. A person appealing a Type 1 or 2 decision or a Type 3 preliminary plat approval decision must file a written statement setting forth:

1. Facts demonstrating that the person is aggrieved by the decision;

2. A concise statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;

3. The specific relief requested; and

4. Any other information reasonably necessary to make a decision on appeal.

~~FG.~~ Limitation on new appeal issues. No new substantive appeal issues may be raised or submitted after the close of the time period for filing of the original appeal. The hearing ~~examiner~~ body may allow an appellant not more than fifteen days to perfect an otherwise timely filed appeal.

**Section 5. Amendment of BDMC 18.08.220 (Appeals Process).** Section 18.08.220 of the Black Diamond Municipal Code is hereby amended (amendments shown in legislative revision marks) to read as follows:

18.08.220 - Appeal process.

A. Within fourteen calendar days following timely filing of an administrative appeal, the department shall mail notice of the date time and place for the appeal hearing to all parties who received notice of the decision.

B. Appeals shall be heard and decided within ninety days from the date the appeal is filed unless the hearing ~~examiner~~ body determines by written findings that a specified amount of additional time is necessary because the matter is of unusual complexity or scope or for other good cause shown. The period of time for hearing and deciding an appeal shall be excluded in calculating the one hundred twenty day period for permit issuance established pursuant to Section 18.08.100 or state law.

C. The hearing shall be limited to the issues included in the written appeal statement. Participation in the appeal shall be limited to the city, the applicant, and those persons or entities which have timely filed complete written appeal statements and paid the appeal fee.

D. The appellant shall carry the burden of proof in the appeal. The burden of proof shall be met by a preponderance of the evidence in order for the appellant to prevail.

**Section 6. Severability.** Should any section, paragraph, sentence, 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 regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 7. Effective Date.** This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.



**ADOPTED** BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON  
THE 6TH DAY OF SEPTEMBER, 2012.

CITY OF BLACK DIAMOND

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Rebecca Olness, Mayor

ATTEST/AUTHENTICATED:

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Brenda L. Martinez, City Clerk

Approved as to form:

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Chris D. Bacha,  
Kenyon Disend PLLC  
City Attorney

Filed with the City Clerk:  
Passed by the City Council:  
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