



City of Cashmere

101 Woodring Street
Cashmere, WA 98815
Phone (509) 782-3513 Fax (509) 782-2840

CASHMERE CITY PLANNING COMMISSION
MONDAY, NOVEMBER 2, 2020
5:00 P.M., CITY HALL

AGENDA

DUE TO THE COVID-19 PANDEMIC AND THE GOVERNOR'S STAY AT HOME ORDER; PLANNING COMMISSION MEMBERS AND THE PUBLIC ARE REQUIRED TO CALL IN TO PARTICIPATE IN A PHONE CONFERENCE PLANNING COMMISSION MEETING. PLEASE CALL IN 5 MINUTES PRIOR TO MEETING.

PH# 1-(978)-990-5308 Access code: 4330749

CALL TO ORDER:

ATTENDANCE:

APPROVAL OF MINUTES:

Approval of minutes from September 8, 2020 meeting. No October meeting.

CORRESPONDENCE:

ANNOUNCEMENTS & INFORMATION:

BUSINESS ITEMS:

1. Accessory Dwelling Units
2. Short-term rentals
3. Chickens
4. Shoreline Master Plan
5. New members
6. Topics for next meeting

ADJOURNMENT:

TO ADDRESS THE COUNCIL, PLEASE BE RECOGNIZED BY THE MAYOR AND STATE YOUR NAME WHEN YOU BEGIN YOUR COMMENTS
Americans with Disabilities Act (ADA) accommodations provided upon request (48-hour notice required)

MINUTES OF THE CASHMERE PLANNING COMMISSION MEETING
TUESDAY SEPTEMBER 8, 2020 5:00 PM VIA PHONE CONFERENCE

OPENING

Chairperson Esmond opened the meeting at 5:05 PM and Croci recorded the meeting minutes.

ATTENDANCE

	<u>Present</u>	<u>Not Present</u>
Board:	Kirk Esmond Maureen Lewison Charlie Cruickshank Rick Shorett Matthew Walgren Paul Nelson	

Staff: Director of Operations, Steve Croci

APPROVAL OF MINUTES

Minutes from the June 1, 2020 meeting were approved (6-0). Motioned by Cruickshank and seconded by Shorett. A recap of the topics from the July and August were mentioned.

CORRESPONDENCE Nothing new to report.

ANNOUNCEMENT & INFORMATION Nothing new to report.

AGENDA ITEMS

- 1) Accessory Dwelling Units – PC discussed comments from Legal Council (Chuck Zimmerman). It was agreed by all to add “Unit” to the definition of “Accessory Dwelling Unit” in the Use Chart, change the section number for ADUs to 17.58.160 and remove the first sentence in section K. Members were comfortable keeping a 90-day rental term. Zimmerman suggested adding a fee to ADU owners and much discussion revolved around that topic. Some questions were raised regarding the fee’s purpose, amount, and enforcement as well as whether it would pertain to all ADUs such as existing versus new, or private use versus income generating ADUs. Additionally, similarities and differences between ADUs and duplex or multifamily units was discussed. It was decided to move forward with the new ADU code revisions and provide a letter describing considerations associated with requiring a fee from ADU owners.
- 2) Chickens – Residents and City Council requested the PC review municipal code regarding chickens and poultry. The benefits and drawbacks were discussed. The PC decided to seek input from residence before the October meeting when further discussion will ensue, and a path forward will be determined.
- 3) Short-term Rentals –The PC is following the development of Chelan County’s short-term rental codes to help guide any new City code associate with short-term rentals. Recently

Chelan County enacted a moratorium on any new short-term rentals until the new rules are codified. The PC requested Croci contact legal counsel on whether the City should also enact a moratorium on short-term rentals and/or develop some simple code changes to address short term rentals, similar to the Entiat Municipal Code before considering what Chelan County enacts.

- 4) Topics for next meeting – Short-term Rentals and Chickens/Poultry.

Meeting adjourned at 7:00 PM.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF CASHMERE, WASHINGTON; REVISING AND ADDING PROVISIONS TO TITLE 17 OF THE CASHMERE MUNICIPAL CODE, REGULATING ACCESSORY DWELLING UNITS; CONTAINING A SEVERABILITY PROVISION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City Council and City Planning Commission have studied the issue of accessory dwelling units for several weeks; and

WHEREAS, the Planning Commission has held a public hearing to consider the amendments to Title 17 of the Cashmere Municipal Code as set forth in this Ordinance and recommends approval of this Ordinance to the City Council; and

WHEREAS, the City Council has considered the recommendation of the Planning Commission and concurs with the recommendation of the Planning Commission and finds that adoption of this Ordinance is in the best interest of public health, safety, and welfare of the citizens of the City of Cashmere; now therefore,

THE CITY COUNCIL OF THE CITY OF CASHMERE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. The definition of “Accessory Dwelling” as set forth in Section 17.08.010 of the Cashmere Municipal Code is hereby repealed.

Section 2. A new definition of “Accessory Dwelling Unit” is hereby added to Section 17.08.010 of the Cashmere Municipal Code to read as follows:

“Accessory Dwelling Unit” means a separate dwelling unit integrated within or attached to a single-family dwelling, or one located as a detached accessory structure located on the same lot as a single-family dwelling.

Section 3. Section 17.18.020 of the Cashmere Municipal Code, the District Use Chart is hereby amended so the existing reference to “Accessory Dwelling” is changed to “Accessory Dwelling Unit” and the District Use Chart designations are amended to read as follows:

17.18.020 District Use Chart.

	SF	SR	AR	MF	P	DB	C/LI	WI
Residential Uses								
Accessory Dwelling Unit	PRM	PRM	PRM	PRM				

Section 4. A new Section 17.58.160 is hereby added to the Cashmere Municipal Code titled "Accessory Dwelling Units" to read as follows:

17.58.160 Accessory Dwelling Units

Accessory dwelling units, as defined in Chapter 17.08, shall be subject to a limited administrative review to determine that the following minimum criteria are met, except accessory dwelling units within the single-family residential zoning district shall be subject to a full administrative review:

A. Only one accessory dwelling unit shall be allowed per building lot or home site in conjunction with a single-family structure, even if such structure is built on more than one platted lot.

B. An accessory dwelling unit may be attached to, created within, or detached from a new or existing primary single-family dwelling unit.

C. The property owner (which shall include the title holder or contract purchaser) shall occupy either the primary dwelling unit or the accessory dwelling unit as their permanent residence for at least six months of the year. An annual ownership certification shall be required to document this condition is maintained.

Prior to issuance of a permit the property owner shall record a restrictive covenant with the Chelan County Auditor's office and provide a copy of the recorded covenant to the City. The recorded covenant shall identify the address and legal description of the property and state the following: the property owner resides in either the principal dwelling unit or the accessory dwelling unit for more than six months each year, that the owner will notify any prospective purchaser of the property of the limitations and requirements of this chapter, and that the City permit will be revoked if the accessory dwelling unit at any time fails to meet the requirements of this Section. The recorded document shall run with the land and bind all current and future property owner, and their successors.

D. The accessory dwelling unit will require two off-street parking spaces, in addition to any off-street spaces required for the primary residential structure located on the property.

E. The floor area for the accessory dwelling unit shall in no case exceed 900 square feet, nor be less than 300 square feet, and the accessory dwelling unit shall contain no more than two bedrooms. Additionally, the square footage of the accessory dwelling unit shall be no more than 50 percent of the area of the primary single-family dwelling.

F. An accessory dwelling unit, together with the primary single-family dwelling unit and other accessory buildings or structures located on the same lot, shall conform to all other provisions of this code, and no variance of yard setback or building lot coverage requirements will be granted.

G. The accessory dwelling unit shall meet the minimum requirements of the International Building Code, International Fire Code, local health district and all other local, state and federal agencies.

H. The accessory dwelling unit shall have separate utility connections when feasible. If separate utility connections are not feasible the utilities will be charged as a duplex. In either case, the property owner, as shown on the Chelan County Assessor records, shall be responsible for ensuring the utility bills associated with both the primary dwelling unit and accessory dwelling unit are paid in a timely fashion.

I. Future subdivision shall require compliance with all applicable provisions of the City Code including, without limitation, minimum lot size and yard area requirements.

J. Conversions of accessory storage structures, including without limitation garages and carports, to accessory dwelling units shall only occur when that existing structure meets the required yard setbacks for a residence, including without limitation the rear and side yard requirements.

K. The design of the accessory dwelling unit shall be consistent with the design of the principal residential structure and shall maintain the style, appearance and character of the principal residential structure, and shall use matching materials, colors, window style, and comparable roof appearance.

L. An accessory dwelling unit may not be rented for a term of less than 30 days.

Section 5. Section 17.72.110 of the Cashmere Municipal Code setting forth minimum conditions for obtaining a Conditional Use Permit for an Accessory Dwelling Unit is hereby repealed.

Section 6. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 7. This Ordinance shall take effect and be in full force five (5) days after this Ordinance or a summary thereof consisting of the title is published.

APPROVED:

MAYOR JAMES FLETCHER

ATTEST/AUTHENTICATED:

CITY CLERK, KAY JONES

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

By: _____
CHARLES D. ZIMMERMAN

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.

SUMMARY OF ORDINANCE NO. _____

Of the City of Cashmere, Washington

On the _____ day of _____, 2020, the City Council of the City of Cashmere, Washington, passed Ordinance No. _____. A summary of the content of said Ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF CASHMERE, WASHINGTON; REVISING AND ADDING PROVISIONS TO TITLE 17 OF THE CASHMERE MUNICIPAL CODE, REGULATING ACCESSORY DWELLING UNITS; CONTAINING A SEVERABILITY PROVISION; AND SETTING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this _____ day of _____, 2020.

CITY CLERK, KAY JONES

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF CASHMERE, WASHINGTON; ADDING AND AMENDING PROVISIONS WITHIN TITLE 17 OF THE CASHMERE MUNICIPAL CODE; REGULATING THE USE OF PROPERTY FOR SHORT TERM RENTALS OF LESS THAN THIRTY DAYS; CONTAINING A SEVERABILITY PROVISION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City Council and City Planning Commission have studied the issue of short term rentals for several weeks; and

WHEREAS, the Planning Commission has held a public hearing to consider the amendments to Title 17 to the Cashmere Municipal Code as set forth in this Ordinance and recommends approval of this Ordinance to the City Council; and

WHEREAS, the City Council has considered the recommendation of the Planning Commission and concurs with the recommendation of the Planning Commission and finds that adoption of this Ordinance is in the best interest of public health, safety, and welfare of the citizens of the City of Cashmere; now therefore,

THE CITY COUNCIL OF THE CITY OF CASHMERE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. A new definition is hereby added to Section 17.08.010 of the Cashmere Municipal Code to read as follows:

“Short Term Rental” means a residential dwelling unit, or portions thereof, that are rented to overnight guests for fewer than 30 consecutive days.

Section 2. The District Use Chart set forth in Section 17.18.020 of the Cashmere Municipal Code is hereby amended to add “Short Term Rental” under “Commercial Uses” as set forth in the table below:

17.18.020 District Use Chart.

	SF	SR	AR	MF	P	DB	C/LI	WI
Commercial Uses								
Short Term Rental						PRM	PRM	PRM

Section 3. A new Section 17.58.170 is hereby added to the Cashmere Municipal Code to read as follows:

17.58.170 Short Term Rentals

A. Where authorized pursuant to the District Use Chart set forth in Section 17.18.020, Short Term Rentals may operate provided they obtain a business license pursuant to Chapter 5.04 of the Cashmere Municipal Code, which license identifies a property representative by address, telephone number, and email address who will be available to respond to complaints and emergencies.

B. All Short Term Rentals shall maintain off street parking as required pursuant to the table set forth in Section 17.54.030 (B).

Section 4. The off street parking table set forth in Sub-Section (B) of Section 17.54.030 of the Cashmere Municipal Code is hereby amended to add the following under the "Commercial" category in the table:

Property Use	Required Parking Spaces	
Commercial		
Short Term Rental	Per Dwelling Unit	1
	Plus for each bedroom over 2 bedrooms within each dwelling unit	1

Section 5. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 6. This Ordinance shall take effect and be in full force five (5) days after this Ordinance or a summary thereof consisting of the title is published.

APPROVED:

MAYOR JAMES FLETCHER

ATTEST/AUTHENTICATED:

CITY CLERK, KAY JONES

**APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:**

By: _____
CHARLES D. ZIMMERMAN

FILED WITH THE CITY CLERK:	_____
PASSED BY THE CITY COUNCIL:	_____
PUBLISHED:	_____
EFFECTIVE DATE:	_____
ORDINANCE NO.	_____

SUMMARY OF ORDINANCE NO. _____

Of the City of Cashmere, Washington

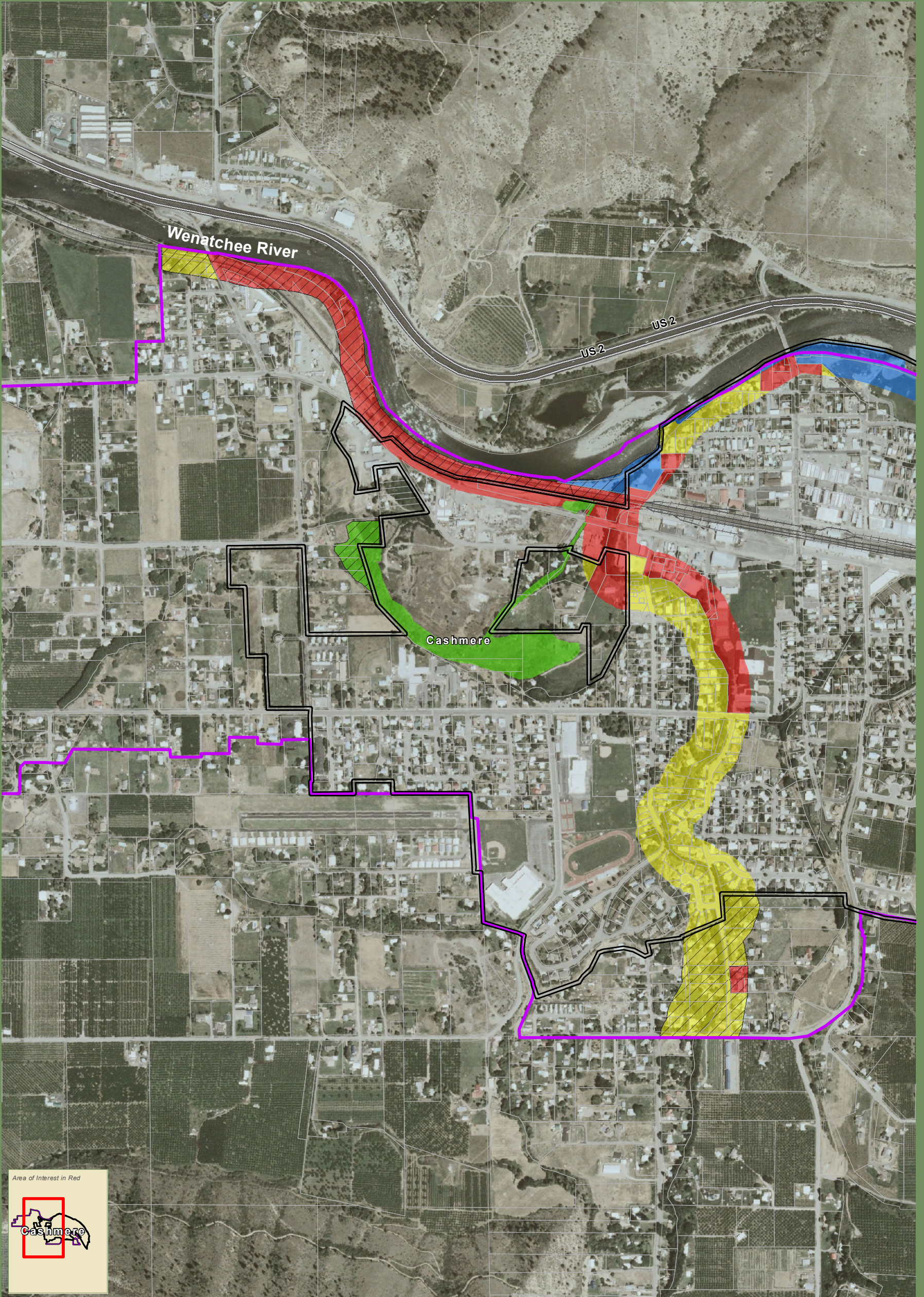
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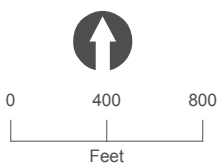
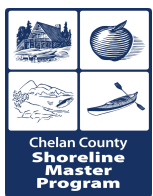
DATED this _____ day of _____, 2020.

CITY CLERK, KAY JONES



Environment Designations Cashmere 01

All features depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/verify information shown on this map.



June 9, 2014.
Data: WA DNR, WA OFM,
Alliance Consulting Group,
Chelan County.



CCA--Environment Designations

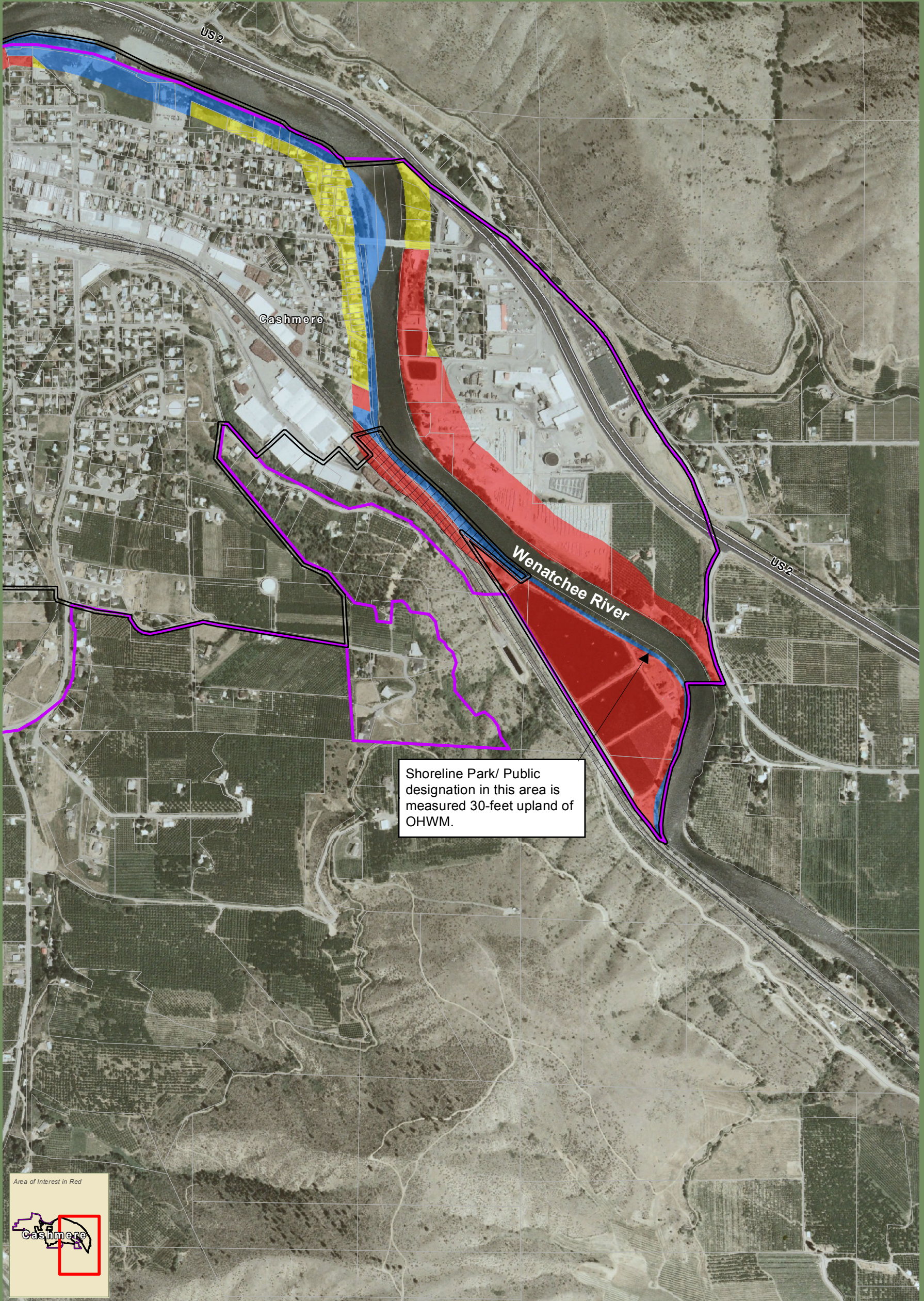
- High Intensity
- Urban Conservancy*
- Shoreline Residential
- Shoreline Park/Public
- UGA Hatching**

- Highways
- Railroads
- Parcels
- City Boundaries
- UGA Boundaries
- WRIA Boundaries

NOTES:

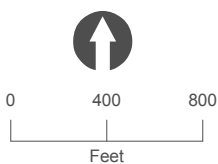
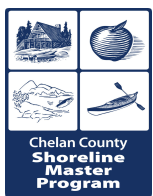
*The boundary of this environment is based on wetland boundaries approximated and/or surveyed by Alliance Consulting Group 2009.

**Hatching indicates shoreline jurisdiction located within the City's Urban Growth Area that is governed by Chelan County. Chelan County will apply the City's Shoreline Master Program standards in these areas.



Environment Designations Cashmere 02

All features depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/verify information shown on this map.



June 9, 2014.
Data: WA DNR, WA OFM,
Alliance Consulting Group,
Chelan County.

CCA--Environment Designations

- High Intensity
- Urban Conservancy*
- Shoreline Residential
- Shoreline Park/Public
- UGA Hatching**

- Highways
- Railroads
- Parcels
- City Boundaries
- UGA Boundaries
- WRIA Boundaries

NOTES:

*The boundary of this environment is based on wetland boundaries approximated and/or surveyed by Alliance Consulting Group 2009.

**Hatching indicates shoreline jurisdiction located within the City's Urban Growth Area that is governed by Chelan County. Chelan County will apply the City's Shoreline Master Program standards in these areas.

SHORELINE MASTER PROGRAM for Shorelines in the City of Cashmere: Wenatchee River and Mission Creek

Prepared for:



City of Cashmere 101 Woodring Street
Cashmere, Washington 98815



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

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CITY-APPROVED SHORELINE MASTER PROGRAM CITY OF CASHMERE

READER'S GUIDE

Chelan County and its Cities developed and adopted Shoreline Master Programs (SMPs) in 1975 for the purpose of “focusing comprehensive, coordinated planning attention at the critical land-water interface” (page 1). That SMP was developed more than 30 years ago and since then much has changed along Chelan County shorelines. In addition, knowledge of best development and conservation practices has evolved. There have also been changes in State laws and rules.

This Draft SMP has been prepared to meet the requirements of the Shoreline Management Act of 1971 (RCW 90.58), the implementing State rules codified as Chapter 173-26 of the Washington Administrative Code (WAC) “State Master Program Approval/Amendment Procedures and Master Program Guidelines” that were revised in 2003, and other applicable local, state, and federal laws. As was the case in 1975 and today, the SMP is developed locally, but must meet the Shoreline Management Act and implementing State rules, and is subject to approval by the Washington State Department of Ecology (Ecology) before it can be implemented.

The Draft SMP has been prepared under a grant agreement with Ecology. For planning purposes and as part of the grant agreement, Chelan County and the Cities of Cashmere, Chelan, Entiat, Leavenworth, and Wenatchee conducted nine Vision Workshops in fall 2008 to capture citizen questions, concerns, goals and aspirations regarding County and City shorelines. The Vision Workshop results have factored into the development of this Draft SMP as well.

The contents of this Draft Shoreline Master Program are structured as follows:

- Chapter 1 Authority and Purpose
- Chapter 2 Goals and Objectives
- Chapter 3 Shoreline Jurisdiction and Environment Designations
- Chapter 4 General Policies and Regulations
- Chapter 5 Shoreline Modifications and Uses
- Chapter 6 Nonconforming Uses and Development Standards
- Chapter 7 Shoreline Permits, Procedures and Administration
- Chapter 8 Definitions

When reading the Draft SMP, it is useful to consider the definitions of the following terms that are based on definitions in the State Shoreline Master Program Guidelines (WAC 173-26-020):

- Shall or must: means a mandate; the action must be done.
- Should: means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and shoreline master program, against taking the action.
- May: means the action is acceptable, provided it conforms to the provisions of this shoreline master program and the Act.

In general, this Draft SMP uses the word “should” in goals, objectives, and policies, and “shall” in the regulations. Additional definitions are located in Chapter 8.

The Draft SMP has a high level of detail for the following reasons: 1) to allow for more shoreline applications to be approved administratively for an efficient and cost-effective process, 2) to cross-reference applicable state and federal laws to help consolidate requirements and be a resource for property owners and local government staff, and 3) to provide some certainty of interpretation and application that benefits property owners and local government staff over time.



1 AUTHORITY AND PURPOSE

1.1 The Shoreline Management Act

Washington State's citizens voted to approve the Shoreline Management Act of 1971 in November 1972. The adoption of the Shoreline Management Act (Act) recognized "that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation" and that "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" (RCW 90.58.020). The Act seeks to provide environmental protection for shorelines, preserve and enhance shoreline public access, and encourage appropriate development that supports water-oriented uses as follows:

The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that 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 the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and 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 insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights

The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting

guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the statewide interest over local interest;*
- (2) Preserve the natural character of the shoreline;*
- (3) Result in long term over short term benefit;*
- (4) Protect the resources and ecology of the shoreline;*
- (5) Increase public access to publicly owned areas of the shorelines;*
- (6) Increase recreational opportunities for the public in the shoreline;*
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.*

In the implementation of this policy 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. To this end 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 state's shoreline.

Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.

Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

Under the Act, shoreline master programs are created and implemented based on a "cooperative program of shoreline management between local government and the state" (RCW 90.58.050). The roles of local governments and the state are:

“Local government shall have the primary responsibility for initiating the planning required by this chapter and administering the regulatory program consistent with the policy and provisions of this chapter. The department [of Ecology] shall act primarily in a supportive and review capacity with an emphasis on providing assistance to local government and on insuring compliance with the policy and provisions of this chapter.” (RCW 90.58.050)

In recognition of the Act and citizen ideas collected through a local shoreline planning process, the City of Cashmere has developed this Shoreline Master Program (SMP), and continually implements and administers it through shoreline permits and reviews. The Washington State Department of Ecology (Ecology) reviews and approves local master programs and certain local permit decisions.

1.2 Authority

This SMP is enacted and administered according to the following state law and rules:

- A. The Shoreline Management Act of 1971, Chapter 90.58 RCW;
- B. State master program approval/amendment procedures and master program guidelines, WAC 173-26; and
- C. Shoreline management permit and enforcement procedures, Chapter 173- 27 WAC.

1.3 Applicability

- A. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to the intent and requirements of the laws and rules cited in Section 1.2 and this SMP whether or not a permit or other form of authorization is required. See Chapter 3 for the definition of shoreline jurisdiction and Chapter 8 for definitions of uses, activities, and development.

- B. This SMP does not apply to the following activities:

1. Interior building improvements that do not change the use or occupancy;
2. Exterior structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure;
3. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and
4. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning), wells, and individual utility service connections.
5. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or

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agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.

6. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for stormwater treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system stormwater general permit.

7. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other local review.

8. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045

4-9. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

C. The shoreline permit procedures, policies and regulations established in this SMP shall apply to all nonfederal uses, activities, and development in the City of Cashmere.

D. This SMP applies to lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.

E. Federal lands include, but are not limited to, National Forests, National Parks, National Wilderness Areas, and lands owned by the Federal Bureau of Land Management (BLM). The following subsections shall guide the determination of SMP applicability on federal lands:

1. Federal development on federally owned land that is under exclusive federal jurisdiction as established through federal or state statutes is not subject to this SMP, ~~nor required to obtain a Shoreline permit unless otherwise required by federal law, or unless the state by statute has ceded all regulatory authority over the federal ownership;~~

~~2. Federal development on federally owned lands is not subject to this SMP nor required to obtain a Shoreline permit unless otherwise required by federal law, or unless the state by statute has ceded all regulatory authority over the federal ownership as long as the development is consistent with the purpose of the lease;~~

3-2. Non-Federal development on federally owned land under a federal lease or easement for a non-federal activity is subject to this SMP and must obtain a Shoreline permit; for example, the SMP applies to private activities on federal land such as leases where the private citizen owns

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the structure but the federal government owns the land;

~~4. Non federal development or use on federally owned land is subject to this SMP and must obtain a Shoreline permit;~~

~~5.3.~~ Development on non-federal land is subject to this SMP and must obtain a Shoreline permit, even if it is leased, rented, etc. to the federal government, or it is within the boundaries of federal ownership unless the state by statute has ceded all regulatory authority over the federal ownership.

- F. As recognized by RCW 90.58.350, the provisions of this SMP shall not affect treaty rights of Indian Nations or tribes.
- G. Where this Program makes reference to any RCW, WAC, or other state or federal law or regulation, the most recent amendment or current edition shall apply.

1.4 Purpose and Intent

The purposes of this SMP are:

- A. To promote the public health, safety, and general welfare of the community by providing comprehensive policies and effective, reasonable regulations for development, use and protection of jurisdictional shorelines; and
- B. To further assume and carry out the local government responsibilities established by the Act in RCW 90.58.050 including planning and administering the regulatory program consistent with the policy and provisions of the Act in RCW 90.58.020; and
- C. Promote reasonable and appropriate use of the shorelines considering State and local interests defined in laws, rules, and plans as well as private property rights; and
- D. Protect against significant adverse effects to the land, its vegetation and wildlife, and the waters and their aquatic life within jurisdictional shorelines; and
- E. To give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon uses of the state's shoreline areas, as illustrated in use allowances of this SMP; and
- F. Reduce use conflicts by including provisions to prohibit or apply special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the state's shoreline, such as through application of vegetation management, water quality, restoration and similar standards. In implementing this provision, preference shall be given first to water-dependent uses, then to water-related uses and water- enjoyment uses in assigning permit

types; and

- G. Assure no net loss of ecological functions associated with the shoreline; and
- H. Protect rights of navigation; and
- I. Recognize private property rights and constitutional limitations on the regulation of private property and protect those rights while implementing this SMP; and
- J. Maintain or recreate a high quality of environment along jurisdictional shorelines; and
- K. Preserve and protect fragile natural resources and cultural significant features; and
- L. Increase public access to publicly owned areas of the shorelines where increased use levels are desirable; and
- M. Protect public and private properties from adverse effects of improper development in hazardous shoreline areas; and
- N. Recognize the importance of an informed and responsible public observing basic rules of good behavior in the use and enjoyment of all shorelines; and
- O. Recognize that this SMP does not alter existing law on access to or trespass on private property and does not give the general public any right to enter private property without the owner's permission.

1.5 Relationship to Other Codes, Ordinances and Plans

- A. All applicable federal, state, and local laws shall apply to properties in the shoreline jurisdiction.
- B. At the time of application or initial inquiry, the Shoreline Administrator shall inform the applicant/proponent of other local laws and rules that may be applicable to the project. The responsibility for determining applicable federal, state or special district statutes and regulations and complying with the same rests with the applicant/proponent or responsible person carrying out the activity, use, or development in question.
- C. Consistent with RCW 36.70A.480, the goals and policies of this SMP approved under chapter 90.58 RCW shall be considered an element of the City's comprehensive plan. All regulatory elements of this SMP, including, but not limited to definitions and use regulations, shall be considered a part of the City's development regulations. The County shall apply City regulations in unincorporated urban growth areas.
- D. Certain non-regulatory elements of this SMP limited to Appendices C and G may be updated and amended at any time without requiring a formal SMP amendment.
- E. All local development regulations including, but not limited to, zoning and subdivision rules shall apply in addition to this SMP. This SMP includes

critical areas regulations applicable only in the shoreline jurisdiction, and shall control within shoreline jurisdiction over other City critical area regulations adopted pursuant to the Growth Management Act.

- F. In the event provisions of this SMP conflict with provisions of Federal, State, County or City regulations, the provision that is most protective of shoreline resources shall prevail, when consistent with policies set out in the Act.

1.6 Liberal Construction

As provided for in RCW 90.58.900, the Act is exempted from the rule of strict construction; the Act and this SMP shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which they were enacted.

1.7 Severability

Should any section or provision of this SMP be declared invalid, such decision shall not affect the validity of this SMP as a whole.

1.8 Effective Date

~~The SMP is hereby adopted on the 9th date of June, 2014.~~ This SMP and all amendments thereto shall become effective 14 days after written notice of final action approval by Ecology.

2 GOALS AND OBJECTIVES

Per WAC 173-26-186(3), all relevant policy goals must be addressed in the planning policies of master programs. This section contains shoreline goals and objectives. Goals express the ultimate aim of the City of Cashmere and its citizens along their shorelines. An objective identifies a measurable step that moves toward achieving a long-term goal. Goals and objectives provide a framework upon which the more detailed SMP shoreline use environments, policies, regulations, and administrative procedures are based in subsequent chapters.

2.1 Economic Development Element

Goal ED-1. Permit those commercial, industrial, recreational, and other developments requiring a shoreline location which may contribute to the economic well-being of the City of Cashmere.

Objective ED-1.1. Encourage shoreline development that has a positive effect upon community economic and social activities.

Objective ED-1.2. Promote new water-dependent, water-related, and water-enjoyment economic development.

Goal ED-2. Encourage the protection and restoration of unique, fragile, and scenic elements in shoreline areas as a means to promote long-term economic well-being.

Objective ED-2.1. Promote environmental education.

Objective ED-2.2: Develop incentives for protection and restoration in shoreline areas without loss of economic development such as by allowing transfer of development rights to less sensitive areas.

2.2 Public Access Element

Goal PA-1. Ensure public access to shorelines:

- Is safe, convenient and diversified;
- Makes provisions for public access to publicly owned shoreline jurisdiction areas;
- Avoids endangering life or adverse effects on property or fragile natural features;
- Minimizes conflicts between the public and private property;
- Enables the public to enjoy the physical and aesthetic qualities of natural shorelines of the state which shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally;
- Is designed for persons with disabilities, where feasible, consistent with federal

standards; and

- Limits altering the natural conditions of the shorelines of the state to instances when development provides an opportunity for substantial numbers of people to enjoy the shorelines of the state.

Objective PA-1.1. Increase public access to shorelines, particularly on public properties, by developing and implementing parks, recreation, and trails plans.

Objective PA-1.2. Require public access as part of public shoreline development where appropriate.

Objective PA-1.3. Require and/or encourage public access as part of private shoreline development in accordance with adopted -shoreline public access plans, where appropriate and in compliance with constitutional limitations.

Objective PA-1.4. Protect and enhance visual and physical access to shorelines.

Objective PA-1.5. Assure that public access improvements do not result in a net loss of shoreline ecological functions.

Objective PA-1.6. Encourage development of public access by using tools such as acquisition of land, incentives, enhancement of existing public land where public access could be developed, etc.

2.3 Recreation Element

Goal REC-1. Promote diverse, convenient, and adequate recreational opportunities along public shorelines for local residents and visitors.

Objective REC-1.1. Encourage cooperation among public agencies, non-profit groups, and private landowners and developers to increase and diversify recreational opportunities.

Objective REC-1.2. Ensure shoreline recreation facilities are preserved and enlarged as necessary to serve projected City growth in accordance with adopted levels of service.

Objective REC-1.3. Ensure recreation facilities are designed for persons with disabilities, where feasible, consistent with federal standards.

2.4 Circulation Element

Goal CIRC-1. Since major transportation and utility systems pre-exist near many shorelines, minimize conflicts between these systems and shoreline uses when considering circulation additions or modifications.

Objective CIRC-1.1. Encourage multiple modes of transportation.

Objective CIRC-1.2. Promote non-motorized travel and public access opportunities.

Objective CIRC-1.3. Encourage water-dependent transportation where appropriate.

Objective CIRC-1.4. Promote the design of new or expanded road corridors for motorized vehicles outside of shoreline jurisdiction unless there is no reasonably feasible alternative or location.

Objective CIRC-1.5. Promote the design of new utilities outside shoreline jurisdiction unless water crossings are unavoidable or utilities are required for authorized shoreline uses consistent with this SMP.

2.5 Shoreline Use Element

Goal LU-1. Assure an appropriate pattern of sound development in suitable locations without diminishing the quality of the environment along shorelines.

Objective LU-1.1. Give preference along the shoreline to water-oriented and single-family residential uses, consistent with the control of pollution and prevention of damage to the natural environment.

Objective LU-1.2. Encourage shoreline uses and development that enhance and/or increase public access to the shoreline or provide significant public benefit.

Goal LU-2. Consider irrigated agriculture as a water-related use and a key factor in the economy of the City. Agricultural lands should be conserved and protected from incompatible uses. Other shoreline uses should not jeopardize production on designated agricultural lands.

Objective LU-2.1. Protect current agricultural activities occurring on agricultural land. Provide for new agricultural uses that are located and designed to assure no net loss of ecological functions and that do not have a significant adverse impact on other shoreline resources and values.

2.6 Conservation Element

Goal CONS-1. Protect shoreline resources by:

- Preserving unique and fragile environments, and scenic elements such as views of natural features that support area tourism;

- Conserving non-renewable natural resources; and
- Managing renewable resources such as timber, water, and wildlife.

Objective CONS-1.1. Provide for no net loss of shoreline ecological function.

Goal CONS-2. Encourage the restoration of shoreline areas which have been modified, blighted, or otherwise disrupted by natural or human activities.

Objective CONS-2.1. Ensure restoration and enhancement is consistent with and prioritized based on adopted watershed and basin plans.

2.7 Historic, Cultural, Scientific, and Educational Element

Goal HIST-1. Protect and restore areas having documented significant historic, cultural, educational or scientific values.

Objective HIST-1.1. Work with property owners to encourage the preservation of outstanding natural and scenic resources, environmentally sensitive areas, and documented significant historic and cultural resources.

Goal HIST-2. Protect shoreline features to prevent the destruction of, or damage to, any site having archaeological, historic, cultural, or scientific value through coordination and consultation with the appropriate local, state, tribal and federal authorities.

Objective HIST-2.1. Protect sites in collaboration with appropriate tribal, state, federal, and local governments and affected property owners.

Encourage cooperation among public and private parties in the identification, protection, and management of cultural resources.

Objective HIST-2.2. When and/or where appropriate, make access to such sites available to parties of interest. Design and manage access to such sites in a manner that gives maximum protection to the resource.

Objective HIST-2.3. Provide opportunities for education related to archaeological, historical and cultural features when and/or where appropriate and incorporate into public and private management efforts, programs and development.

2.8 Flood Hazard Prevention Element

Goal FLOOD-1. Recognize the hydrologic functions of floodplains, and protect frequently flooded areas.

Objective FLOOD-1.1. Avoid or mitigate land use practices that may impede the flow of floodwater or cause danger to life or property. Mitigate the loss of floodplain storage capacity to avoid greater impact of flooding downstream.

Objective FLOOD-1.2. Implement the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

Objective FLOOD-1.3. Seek to map areas that are potential flood hazard areas and/or have experienced historical flooding events, but are not currently included in the Federal Emergency Management Agency's mapping efforts. Work with the Federal Emergency Management Agency to correct maps that are inaccurate.

Objective FLOOD-1.4. Prepare and implement channel migration zone plans.

Objective FLOOD-1.5. Coordinate shoreline jurisdiction flood hazard prevention policies and regulations with Growth Management Act provisions to protect critical areas including frequently flooded areas.

Objective FLOOD-1.6. Monitor stream flows and consider any trends or changes in stream flow regimes due to climatic changes.

3 SHORELINE JURISDICTION AND ENVIRONMENT DESIGNATIONS

3.1 Shoreline Jurisdiction

As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the State plus their associated “shorelands.” The waterbodies designated as shorelines of the State are streams whose mean annual flow is 20 cubic feet per second (cfs) or greater and lakes whose area is greater than 20 acres. Certain shoreline waterbodies and their associated shorelands have elevated status under the Act if they are lakes equal to or larger than 1,000 acres or they are streams and rivers in Eastern Washington that are “...downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer” (RCW 90.58.030(2)(e)(v)(B)). These waterbodies are considered to be “shorelines of statewide significance,” and have unique supplemental provisions outlined in Section 3.4.

Shorelands are minimally 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...” (RCW 90.58.030)

The City of Cashmere and its UGA contains two shorelines that fall under shoreline jurisdiction: the Wenatchee River, a shoreline of statewide significance, and Mission Creek. The upstream extent of shoreline jurisdiction for streams in the City of Cashmere that meet shoreline criteria are indicated on the Official Shoreline Maps included in Appendix A. The purpose of the Official Shoreline Maps is to identify Environment Designations (Section 3.2 below). The maps only approximately identify or depict the lateral extent of shoreline jurisdiction. The actual lateral extent of the shoreline jurisdiction shall be determined on a case-by-case basis based on the location of the ordinary high water mark (OHWM), floodway, and presence of associated wetlands.

In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel within shoreline jurisdiction and any use, activity or development proposed within shoreline jurisdiction on that portion of the parcel is subject to this Shoreline Master Program.

3.2 Environment Designations

3.2.1 Environment Designation System

This SMP is intended to meet the requirements in WAC 173-26-211. It states that:

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

This SMP is consistent with these requirements, deviating from WAC 173-26- 211(4) and (5) with respect only to some environment designation names, or the addition of new environment designations where such provides local government with opportunity to provide further, but complementary, designations consistent with existing land management plans. Each environment designation contains a purpose statement, designation criteria, and management policies components.

A. Urban Conservancy

A.1 Purpose

The purpose of the "Urban Conservancy" environment 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.

A.2 Designation Criteria

In the City of Cashmere, the "Urban Conservancy" environment designation is assigned to an associated wetland complex located in the floodplain of the Wenatchee River and physically connected to the Wenatchee River by a non- shoreline stream.

A.3 Management Policies

Development within the "Urban Conservancy" environment shall be consistent with the following policies:

- A. Uses that preserve the natural character of the area or promote preservation of open space, floodplain or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.
- B. Uses and modifications should be only those allowed per the City of Cashmere's critical areas regulations in Appendix B of this SMP. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

- C. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
- D. Water-oriented uses should be given priority over nonwater-oriented uses.

B. Shoreline Residential

B.1 Purpose

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

B.2 Designation Criteria

A "Shoreline Residential" environment designation will be assigned to the City's shorelands, including the UGA, if they are predominantly single-family or multi-family residential development or are planned for residential development.

B.3 Management Policies

Development within the "Shoreline Residential" environment shall be consistent with the following policies:

- A. Commercial development should be limited to water-oriented uses and not conflict with the residential character of lands in the "Shoreline Residential" environment.
- B. Water-oriented recreational uses should be allowed.
- C. Adequate land area and services should be provided.
- D. Land division and development should be permitted only 1) when adequate setbacks or buffers are provided to protect ecological functions; 2) where there is adequate access, water, sewage disposal, and other utilities systems, and public services available; and 3) where the environment can support the proposed use in a manner which protects or restores the ecological functions.
- E. Development standards for setbacks or buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time.
- F. Recreational developments should provide public access to the shoreline and joint-use for community recreational facilities.
- G. New residential development should be located and designed so that future shoreline stabilization is not required.

C. Shoreline Park/Public

C.1 Purpose

The purpose of the "Shoreline Park/Public" environment in the City of Cashmere is to:

- A. Ensure appropriate management and development of existing and future public parks and recreation areas.
- B. Protect and restore ecological functions of open space, floodplain and other sensitive, public or protected lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

C.2 Designation Criteria

A "Shoreline Park/Public" environment designation will be assigned to shorelines that:

- A. are within existing or planned public parks or public lands intended to accommodate public access and recreational developments that are compatible with maintaining or restoring the ecological functions of the area, and that are not generally suitable for commercial or industrial water-dependent uses;
- B. are suitable for water-related or water-enjoyment uses;
- C. may be designated as open space, floodplain or other sensitive or protected areas that should not be more intensively developed; or
- D. retain important ecological functions, even though partially developed.

C.3 Management Policies

Development within the "Shoreline Park/Public" environment shall be consistent with the following policies:

- A. Public access and public recreation objectives should be implemented in parks or other public lands located within the City or its UGA whenever feasible and when any significant ecological impacts can be mitigated.
- B. When considering park and urban recreational development proposals, water-oriented uses and their accessory uses should be given priority over nonwater-oriented uses. Nonwater-oriented uses should be allowed when located upland of other water-oriented uses or when the nonwater-oriented use would not conflict with or preclude implementation of planned water-oriented uses.
- C. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of this environment and the setting.
- D. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "Shoreline Park/Public" designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

D. High Intensity

D.1 Purpose

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

D.2 Designation Criteria

A "High Intensity" environment designation will be assigned to shorelands designated for commercial or industrial use within the City and the UGA if they currently support or are suitable and planned for high-intensity commercial, industrial, or institutional uses that either include, or do not detract from, the potential for water-oriented uses, shoreline restoration, and/or public access.

D.3 Management Policies

Development within the "High Intensity" environment shall be consistent with the following policies:

- A. In the "High Intensity" environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline, but only if identified in shoreline use analysis or through special area planning as described in WAC 173-26- 201(3)(d)(ix).
- B. Developments in the "High Intensity" environment should be managed so that they enhance and maintain the shorelines for a variety of urban uses, with priority given to water-dependent, water-related, and water-enjoyment uses.
- C. Where feasible, visual and physical public access should be required as provided for in Section 4.4 of this SMP.
- D. Aesthetic objectives should be actively implemented in development proposals and should be in compliance with sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.
- E. No net loss of shoreline ecological functions shall occur as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
- F. Full utilization of existing urban areas should be achieved before considering expanding this environment designation through future SMP amendments. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated "High Intensity." During an analysis of shoreline uses, consideration should be given to the potential for displacement of nonwater-oriented uses with water-oriented uses when analyzing full

utilization of urban waterfronts and before considering expansion of such areas. In order to make maximum use of the available shoreline resource and to accommodate future water- oriented uses, shoreline restoration and/or public access, the redevelopment and renewal of substandard, degraded, obsolete urban shoreline areas is encouraged.

E. Aquatic

E.1 Purpose

The purpose of the "Aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the OHWM.

E.2 Designation Criteria

An "Aquatic" environment designation will be assigned to shoreline areas waterward of the OHWM.

E.3 Management Policies

Development within the "Aquatic" environment shall be consistent with the following policies:

- A. New over-water structures should be prohibited except for water- dependent uses, public access, necessary shoreline crossings, or ecological restoration.
- B. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
- C. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities is encouraged.
- D. All developments and uses on navigable 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.
- E. Uses that adversely impact the ecological functions of critical freshwater habitats should not be allowed. Where those uses are necessary to achieve the objectives of RCW 90.58.020, their impacts shall be mitigated according to the sequence defined in Section 4.2, Ecological Protection and Critical Areas.
- F. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

F. Use Matrix and Development Standards

- A. Table 3.2-1 indicates which uses and modifications may be allowed or are prohibited in shoreline jurisdiction within each shoreline environment. Accessory uses shall be subject to the same shoreline permit process and SMP provisions as its primary use. Where there is a conflict between the chart and

the written provisions in this SMP, the written provisions shall apply.

- B. An accessory use shall not be established on a property prior to the development of its primary use.
- C. Authorized uses and modifications are only allowed in shoreline jurisdiction where the underlying zoning allows for it and subject to the policies and regulations of this SMP.
- D. Any use, development or modification not classified in this Shoreline Master Program or listed below shall require a Shoreline Conditional Use Permit.
- E. Uses and modifications identified as "Permitted" require either a Shoreline Substantial Development Permit or may be exempt from the requirement to obtain a Shoreline Substantial Development Permit, as outlined in the definition of *Substantial Development* included in Chapter 8, Definitions. Exempted uses and modifications, however, are not exempt from the Act or this SMP, and must be consistent with the applicable policies and provisions.
- F. If any part of a proposed development is not eligible for exemption, then a Shoreline Permit is required for the entire proposed development project.
- G. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit.
- H. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, shoreline development standards regarding shoreline buffers, lot frontage, side setbacks, and height are provided in Table 3.2-2. In addition, shoreline developments shall comply with all density, lot area, setback and other dimensional requirements of the City's zoning and subdivision codes.
- I. When a development or use is proposed that does not comply with the shoreline buffer, lot frontage, side yard setback, and other dimensional performance standards of this SMP not otherwise allowed by administrative reduction or administrative modification, such development or use can only be authorized by approval of a Shoreline Variance. Departures from the maximum height limit shall be subject to approval of a Shoreline Conditional Use Permit, including a view corridor analysis and demonstration that criteria are met consistent with Section 7.7.
- J. Except as otherwise stated, in addition to this SMP, the City's comprehensive plan, zoning regulations, subdivision regulations, health regulations, and other adopted regulatory provisions apply within shoreline jurisdiction. In the event the provisions of this SMP conflict with provisions of other City regulations, the more protective of shoreline ecological functions and processes shall prevail.
- K. Where a use or modification may occur in the Aquatic environment as

indicated in Table 3.2-1 and in the corresponding regulations for that use, the more restrictive permit process or prohibition on that use as may be indicated for the adjacent shoreland environment applies to that use in the Aquatic environment.

- L. The permit processes indicated below for each use or modification apply to new, expanded, modified or replacement uses and modifications. For those uses and modifications that meet one of the exemptions outlined in Section 7.6.3, Exemptions, a Shoreline Permit is not required if Table 3.2-1 indicates "SD/E." However, if "SCU" is listed for the use or modification, that use or modification is not eligible for an exemption.

Table 3.2-1. Shoreline Use and Modification Matrix for the City of Cashmere.

The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements SCU = Shoreline Conditional Use X = Prohibited - the use is not eligible for a Variance or Conditional Use Permit N/A = Not Applicable; All permitted and conditional uses are subject to general policies and regulations and use and modification regulations in Chapters 4 and 5 of this SMP and the zoning code.	Urban Conservancy	Shoreline Park/Public	Shoreline Residential	High Intensity	Aquatic
Agriculture	X	X	SD/E	SD/E	X
Agricultural-Commercial	X	X	X	SD/E	X
Aquaculture	X	X	X	SCU	SCU
Boating Facilities					
All docks, including community/public/commercial docks and marinas	X	X	X	X	X
Public boat launch facility	X	SD/E	SCU	SD/E	SD/E
Private commercial boat launch facility	X	X	X	X	X
Community boat launch facility	X	X	SCU	X	SCU
Breakwaters/jetties/weirs/groins/barbs	X	SCU	SCU	SCU	SCU ¹
Commercial Uses					
Water-dependent uses	X	SD/E	X	SD/E	SCU
Water-related & Water-enjoyment	X	SD/E	X	SD/E	X
Nonwater-oriented uses	X	SD/E	X	SD/E	X
Mixed use commercial	X	SD/E	X	SD/E	X
Mixed use residential	X	SD/E	X	SD/E	X

Dredging and dredge materials disposal					
Dredging	N/A	N/A	N/A	N/A	SD/E
In-water disposal	N/A	N/A	N/A	N/A	SCU
Upland disposal outside of channel migration zone (CMZ)	X	SCU	SD/E	SD/E	N/A
Upland disposal inside of CMZ	X	SCU	SCU	SCU	N/A
Fill					
Upland outside of CMZ	SCU	SD/E	SD/E	SD/E	X
Upland inside of CMZ	SCU	SCU	SCU	SCU	X
In-water restoration	N/A	N/A	N/A	N/A	SD/E
In-water non-restoration	N/A	N/A	N/A	N/A	SCU
Forest Practices	X	X	X	X	X
Industrial Uses					
Water-dependent uses	X	SCU	X	SD/E	SCU
Water-related uses	X	SCU	X	SD/E	X
Nonwater-oriented uses	X	X	X	SD/E	X
Institutional ²					
Water-oriented	SCU	SD/E	SD/E	SD/E	SCU
Nonwater-oriented	SCU	SD/E	SCU	SCU	X
In-Stream Structures	X	N/A	N/A	N/A	SD/E
Mining					
In-water mining (recreational)	X	X	X	X	SD/E
All other mining	X	X	X	X	X
Private Moorage or Boat Launch Facilities	X	X	X	X	X
Recreational Uses ²					
Water-dependent	X	SD/E	SD/E	SD/E	SD/E
Water-related	X	SD/E	SD/E	SD/E	SD/E
Water-enjoyment	X	SD/E	SD/E	SD/E	SD/E
Nonwater-oriented	X	S/DE	SCU	SCU	X
Residential Uses					
Single-family	X	X	SD/E	SD/E	X
Multi-family	X	X	SD/E	SD/E	X
Over-water, Floating, Liveaboards	N/A	N/A	N/A	N/A	X
Shoreline habitat and natural systems enhancement projects	SD/E	SD/E	SD/E	SD/E	SD/E
Shoreline Stabilization					
Hard structural shoreline stabilization	X	SCU	SD/E	SCU	SD/E
Bioengineering or Soft structural shoreline stabilization	X	SD/E	SD/E	SD/E	SD/E
Dikes, levees	X	SCU	SCU	SCU	New=X Repair=SD/E
Transportation and Parking					
Local / Regional	SCU	SD/E	SD/E	SD/E	SCU
Utilities					
Small / Large	SCU	SD/E	SD/E	SD/E	SCU
Management Plans per Sections 5.8, 5.15 and 5.21	SD/E	SD/E	SD/E	SD/E	SD/E

¹ Those structures installed to protect or restore ecological functions, such as woody debris installed in streams, may be processed as a Substantial Development Permit.

² When the use is also commercial, it is also subject to Commercial use standards and matrix allowances

Table 3.2-2. Shoreline Development Standards Matrix for the City of Cashmere.

Standard	Urban Conservancy	Shoreline Park/Public	Shoreline Residential	High Intensity	Aquatic
Note: All dimensions are in feet. n/a = not applicable					
Shoreline and Critical Area Buffers – All Uses	See Section 4.4.5 of this SMP for shoreline buffers on Wenatchee River and Mission Creek. The Urban Conservancy wetland buffer is outside of shoreline jurisdiction and subject to the City's critical areas buffers in CMC 18.10B. See Appendix B for all other critical area buffers in shoreline jurisdiction.				
Shoreline Lot Frontage Minimum – Residential (feet)	n/a	50	40	40	n/a
Side Yard Setback Minimum – Residential (feet)	n/a	5	5	0	n/a
Height Limit Maximum (feet)	35	35	30	35	35

3.2.2 Official Shoreline Maps and Unmapped or Undesignated Shorelines

- A. Appendix A (Shoreline Jurisdiction Boundaries and Environment Designations Maps) includes a hard copy of the Official Shoreline Maps at the time of SMP adoption, which illustrate the delineation of shoreline jurisdiction and environment designations in the City of Cashmere. The electronic files of the Official Shoreline Maps will be considered the official version and may be updated administratively or through an SMP amendment as indicated in 3.2.2.B, C and D below. The Department of Ecology will be provided with electronic files of the Official Shoreline Maps when any updates are made. Minor mapping errors corrected administratively shall not be greater than 1.0 acre in size. If greater than 1.0 acre in size, a SMP amendment shall be completed within three years of finding the mapping error.
- B. Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline waterbody related to site-specific surveys of ordinary high water mark, floodway, and/or floodplain are automatically assigned the category of the contiguous waterward shoreline environment designation. Where the mapping inaccuracy results in inclusion of an unmapped associated wetland, that wetland shall be assigned an Urban Conservancy environment designation. Correction of these minor mapping inaccuracies may be made and incorporated into the Official Shoreline Maps without an SMP amendment.
- C. All other areas of shoreline jurisdiction that were neither mapped as

jurisdiction nor assigned an environment designation shall be assigned an Urban Conservancy designation in the City and its Urban Growth Area until the shoreline can be redesignated through an SMP amendment process conducted consistent with WAC 173-26-100 and SMP Section 7.16.

- D. The actual location of the OHWM, floodplain, floodway, and wetland boundaries must be determined at the time a development is proposed. Wetland boundary and ordinary high water mark determinations are valid for five years from the date the determination is made. Floodplain and floodway boundaries should be assessed using FEMA maps.
- E. In addition, any property shown in shoreline jurisdiction that does not meet the criteria for shoreline jurisdiction (e.g., is more than 200 feet from the OHWM or floodway, is no longer in floodplain as documented by a Letter of Map Revision from FEMA, and does not contain associated wetlands) shall not be subject to the requirements of this SMP. Revisions to the Official Shoreline Maps may be made as outlined in this Section E without an SMP amendment.

3.2.3 Interpretation of Environment Designation Boundaries

- A. If disagreement develops as to the exact location of an environment designation boundary line, the Official Shoreline Maps shall prevail consistent with the following rules:
 - 1. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.
 - 2. In cases where boundary line adjustments or subdivisions occur, the designation applied to the parent parcel prior to the boundary line adjustment or subdivision shall not change as a result. The shoreline designation can be redesignated through an SMP amendment.
 - 3. Boundaries indicated as approximately following roads or railways shall be respectively construed to follow the nearest right-of-way edge.
 - 4. Boundaries indicated as approximately parallel to or extensions of features indicated in (1), (2), or (3) above shall be so construed.
- B. In the event of an environment designation mapping error where the SMP update or amendment record, including the public hearing process, is clear in term of the correct environment designation to apply to a property, the Shoreline Administrator shall apply the environment designation approved through the SMP Update or Amendment process and correct the map. Appeals of such interpretations may be filed pursuant to Section 7.13. If the use environment criteria were misapplied, but the map does not show an unintentional error, a SMP amendment may be obtained consistent with WAC 173-26-100 and Section 7.16.
- C. All shoreline areas waterward of the OHWM shall be designated Aquatic.
- D. Upland environment designations shall apply to shorelands.

- E. Only one environment designation shall apply to a given shoreland area. In the case of parallel designations, designations shall be divided along an identified linear feature and the boundary shall be clearly noted on the map (for example: “boundary is 100 feet upland from the OHWM”). Application of shoreline buffers to parallel designation is explained in Section 4.5.2.

3.3 Shoreline Use Preferences

This SMP adopts the following policy provided in RCW 90.58.020, and fully implements it to the extent of its authority under this SMP:

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 insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto...

In the implementation of this policy, 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. To this end 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 state’s shoreline.

Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state....

Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public’s use of the water.

When determining allowable uses and resolving use conflicts on shorelines within jurisdiction consistent with the above policy, the following preferences and priorities as listed in WAC 173-26-201(2)(d) shall be applied in the order presented below:

- (i) Reserve appropriate areas for protecting and restoring ecological functions to

control pollution and prevent damage to the natural environment and public health.

- (ii) *Reserve shoreline areas for water-dependent and associated water related uses ... Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.*
- (iii) *Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.*
- (iv) *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.*
- (v) *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.*

3.4 Shorelines of Statewide Significance

3.4.1 Designation Criteria

In the City of Cashmere, shorelines of statewide significance include natural rivers or segments thereof downstream of a point where the annual flow is measured at two hundred (200) cubic feet per second or more, or those portions of rivers downstream from the first three hundred (300) square miles of drainage area, whichever is longer. The Wenatchee River is the only shoreline waterbody in the City of Cashmere that meets these criteria.

3.4.2 Use Preferences

In accordance with RCW 90.58.020, the following management and administrative policies are hereby adopted for the City of Cashmere's shoreline of statewide significance, the Wenatchee River, as defined in RCW 90.58.030(2)(e). Consistent with the policy contained in RCW 90.58.020, preference shall be given to the uses in the following order of preference that are consistent with the statewide interest in such shorelines. These are uses that:

- (1) *Recognize and protect the statewide interest over local interest;*
- (2) *Preserve the natural character of the shoreline;*
- (3) *Result in long term over short term benefit;*
- (4) *Protect the resources and ecology of the shoreline;*
- (5) *Increase public access to publicly owned areas of the shorelines;*
- (6) *Increase recreational opportunities for the public in the shoreline;*
- (7) *Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary. (WAC 173-26-251(2))*

Uses that are not consistent with these preferences should not be permitted on shorelines of statewide significance.

3.4.3 Policies

Consistent with the use preferences for shorelines of statewide significance contained in RCW 90.58.020 and identified in Section 3.4.2, the City will base decisions administering this SMP on the following policies in order of decreasing priority:

- A. Recognize and protect the state-wide interest over local interest.
 - 1. Solicit comments and opinions from groups and individuals representing state-wide interests by circulating amendments to the Master Program, and any proposed amendments affecting Shorelines of Statewide Significance, to state agencies, affected Tribes, adjacent local governments' land areas, citizen's advisory committees and local officials, and state-wide interest groups.
 - 2. Recognize and take into account state agencies' policies, programs and recommendations in developing and administering use regulations and in approving shoreline permits.
 - 3. Solicit comments, opinions and advice from individuals with expertise in ecology and other scientific fields pertinent to shoreline management.
- B. Preserve the natural character of the shoreline.
 - 1. Designate and administer shoreline environments and use regulations to protect and restore the ecology and environment of the shoreline as a result of human intrusions on shorelines.
 - 2. Restore, enhance, and/or redevelop those areas where intensive development already exists in order to reduce adverse impact on the environment and to accommodate future growth rather than allowing high-intensity uses to extend into low-intensity use or underdeveloped areas.
 - 3. Protect and restore existing diversity of vegetation and habitat values, wetlands, and riparian corridors associated with shoreline areas.
 - 4. Protect and restore habitats for State-listed "priority species."
- C. Support actions that result in long-term benefits over short-term benefits.
 - 1. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.
 - 2. Preserve resources and values of shorelines of statewide significance for future generations and restrict or prohibit development that would irretrievably damage shoreline resources.
 - 3. Ensure the long-term protection of ecological resources of statewide

importance, such as anadromous fish habitats, forage fish spawning and rearing areas, and unique environments.

- D. Protect the resources and ecology of the shoreline.
 - 1. All shoreline development should be located, designed, constructed and managed consistent with mitigation sequencing provisions outlined in Section 4.2.2 to minimize adverse impacts to regionally important wildlife resources, including spawning, nesting, rearing and habitat areas, and migratory routes and result in no net loss of shoreline ecosystems and ecosystem-wide processes.
 - 2. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or general enhancement of shoreline areas.
- E. Increase public access to publicly owned areas of the shoreline.
 - 1. Give priority to developing paths and trails to shoreline areas and linear access along the shorelines, especially those trail corridors that would be a regional recreational and transportation resource.
 - 2. Locate development landward of the OHWM so that access is enhanced and opportunities for access are not precluded.
 - 3. Increase public access opportunities for those with disabilities consistent with the Americans with Disabilities Act.
 - 4. Provide incentives to landowners that provide shoreline public access, such as development incentives, tax reductions, or other measures.
- F. Increase recreational opportunities for the public on the shoreline.
 - 1. Plan for and encourage development of facilities for public recreational use of the shoreline, including facilities for boating, swimming, fishing, and other water-oriented activities.
 - 2. Reserve areas for lodging and related facilities on uplands with provisions for appropriate public access to the shoreline.

4 GENERAL POLICIES AND REGULATIONS

Chapter 4 presents general policies and regulations that apply to any developments, uses, or activities in any environment designation in order to protect environmental and cultural resources, reduce likelihood of harm to life or property from hazardous conditions, and promote access to shorelines.

Policies are statements of principles that guide and determine present and future decisions. Regulations are rules that govern developments, uses, or activities.

4.1 Archaeological and Historic Resources

4.1.1 Policies

- A. **Preservation, Restoration, Education.** Whenever possible, archeological or historic sites should be permanently preserved for scientific study and public observation. In areas known to contain significant archaeological and historic data, a condition should be placed on shoreline permits which would allow for site inspection and evaluation to ensure proper salvage of such data.
- B. **Impact Avoidance.** Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation, or that have been inadvertently uncovered.

Any proposed site development and/or associated site demolition work should be planned and carried out so as to avoid impacts to the cultural resource or to provide appropriate mitigation.

- C. **Consultation.** Consultation with professional archaeologists and historians is encouraged to identify areas containing potentially valuable archaeological data, and to establish procedures for salvaging data. Appropriate agencies to consult include, but are not limited to, the Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Colville Reservation, and the Washington State Department of Archaeology and Historic Preservation (DAHP).
- D. **Adjacent Cultural Site.** If development or demolition is proposed abutting an identified historic, cultural or archaeological site, then the proposed development should be designed and operated so as to be compatible with continued protection of the historic, cultural or archaeological site.

4.1.2 Regulations

- A. **Known Archaeological Resources.** The City shall require that permits issued in areas documented to contain archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes.
- B. **Uncovered Archaeological Resources.** Developers and property owners shall immediately stop work and notify the City, the Washington State Department of Archaeology and Historic Preservation, and affected Indian tribes if archaeological resources are uncovered during excavation.
- C. **Historic Resources.** Where a professional archaeologist or historian, recognized by the State of Washington, has identified an area or site as having significant value, or where an area or site is listed in national, state or local historical registers, the City may require an evaluation of the resource, and appropriate conditions, which may include preservation and/or retrieval of data, proposal modifications to reduce impacts, or other mitigation authorized through the State Environmental Policy Act, or other local, state, or federal laws. 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 resources) and development or uses that may impact such sites shall comply with chapter 25-48 WAC, as well as the provisions of this Master Program.

4.2 Ecological Protection and Critical Areas

4.2.1 Policies

- A. **No net loss of ecological functions.** Shoreline use and development should be carried out in a manner that prevents or mitigates adverse impacts, both on site and to the extent that impacts may propagate up- or downstream, so that the resulting ecological condition does not become worse than the current condition. For each development, this means assuring no net loss of ecological functions and processes relative to the existing condition, protecting critical areas designated in Appendix B of this SMP, and protecting additional established shoreline buffers in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property. Shoreline ecological functions that should be protected include, but are not limited to, fish and wildlife habitat, food chain support, and water temperature maintenance.

Shoreline processes that should be protected include, but are not limited to, water flow; erosion and accretion; infiltration; ground water recharge and discharge; sediment delivery, transport, and storage; large woody debris recruitment; organic matter input; nutrient and pathogen removal; and stream channel formation/maintenance.
- B. **Evaluating potential for adverse impacts.** In assessing the potential for new

uses and developments to cause adverse impacts on ecological functions or processes, the City should take into account all of the following:

1. Effects on ecological functions and ecosystem processes; and
2. Effects that occur on-site and effects that may occur off-site; and
3. Immediate effects and long-term effects; and
4. Direct effects of the project and indirect effects; and
5. Individual effects of the project and the incremental or cumulative effects resulting from the project added to other past, present, and reasonably foreseeable future actions; and
6. Compensatory mitigation actions that offset adverse impacts of the development action and/or use.

- C. **Development standards should protect functions.** Development standards for density, frontage, buffers, impervious surface, shoreline stabilization, vegetation conservation, buffers, critical areas, and water quality should protect existing shoreline ecological functions and processes. During permit review, the Shoreline Administrator should consider the expected impacts associated with proposed shoreline development when assessing compliance with this policy.

4.2.2 Regulations

- A. **Applicability.** The provisions of this Section and Appendix B, Critical Areas Regulations, shall apply to any use, alteration or development within shoreline jurisdiction, whether or not a shoreline permit or written letter of exemption is required.
- B. **Mitigation sequencing.** Applicants shall demonstrate all reasonable efforts have been taken to avoid, minimize and then mitigate potential adverse impacts to ecological function resulting from new development and redevelopment in shorelines in the following sequence of steps listed in prioritized order:
1. Avoiding the impact altogether by not taking a certain action or parts of an action;
 2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;
 4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
6. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

- C. **Mitigation required for impacts.** Mitigation shall be required for all projects within shoreline jurisdiction that have adverse impacts resulting in net loss of ecological functions, including those waterward of the OHWM. As part of the analysis of potential impacts, the applicant shall also evaluate whether the project may adversely affect existing hydrologic connections between streams and/or wetlands, and either modify the project or mitigate any impacts as needed. Mitigation must be designed to result in no net loss of ecological functions to the extent feasible. Except where mitigation ratios are otherwise identified for specific critical areas impacts in Appendix B, mitigation for adverse impacts to shoreline ecological functions shall be required at a ratio of one unit of mitigation for one unit of impact by area. However, depending on the nature and extent of adverse impacts and proposed mitigation, a reduction in the ratio may be allowed to meet the no net loss of ecological functions standard if justified in a critical areas report per Appendix B or a habitat management plan per Section E below submitted to the City.

D. **Cumulative effects.**

1. In review of applications for shoreline permits and exemptions, the City shall consider the cumulative impacts of individual uses and developments, including preferred uses, when determining whether a proposed use or development could cause a net loss of ecological functions. The geographic scope of the analysis shall include the shoreline waterbody potentially affected by the proposal within the bounds of the City's geographic authority, unless the Shoreline Administrator determines that a larger or smaller area of analysis is appropriate.
2. The City shall have the authority to require the applicant/proponent to prepare special studies, assessments and analyses as necessary to identify and address cumulative impacts including, but not limited to, impacts on fish and wildlife habitat, public access/use, aesthetics, and other shoreline attributes.
3. Proponents of shoreline use and development shall take the following factors into account when assessing cumulative impacts:
 - a. Current ecological functions and human factors influencing shoreline natural processes; and
 - b. Reasonably foreseeable future use and development of the

- shoreline; and
- c. Beneficial effects of any established regulatory programs under other local, state, and federal laws; and
 - d. Mitigation measures implemented in conjunction with the proposed project to avoid, reduce and/or compensate for adverse impacts.
4. The City shall add conditions as needed based on the findings of H.1-H.3 above to address any adverse cumulative effects, and may prohibit any use or development that would result in unmitigated adverse cumulative impacts.
- E. **Restoration is not required.** Developments shall not be required to provide mitigation in excess of that necessary to assure that development will result in no net loss of shoreline ecological functions and will not have a significant adverse impact on other shoreline functions fostered by the policy of the Act.
- F. **Alternative design and mitigation.** For any development proposal, applicants shall comply with relevant design and mitigation standards found in this SMP. Provided, applicants may submit a habitat management plan that demonstrates how an alternative design or mitigation approach meets the no net loss of ecological functions standard. At a minimum, habitat management plans must contain information about existing and anticipated post-project conditions with a discussion of how the alternative design or mitigation approach is consistent with the SMA and this SMP.
- G. **Location of mitigation.** When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed (e.g., area defined by the Watershed Planning Act and named as Water Resource Inventory Area 45 (Wenatchee)) that addresses limiting factors or identified critical needs for shoreline resource conservation based on the Shoreline Restoration Plan, or WRIA or comprehensive resource management plans applicable to the area of impact may be authorized if it would have a greater positive impact on ecological function. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions.
- H. **Protection of critical areas and buffers.** Any critical areas or their buffers found within shoreline jurisdiction, such as wetlands, frequently flooded areas, geologically hazardous areas, fish and wildlife habitat conservation areas, and critical aquifer recharge areas, shall be regulated by Appendix B, Critical Areas Regulations. Unless otherwise stated, critical area buffers and shoreline buffers located within shoreline jurisdiction shall be protected and/or enhanced pursuant to Section 4.5, Vegetation Conservation and Shoreline Buffers,

applicable provisions of Appendix B - Critical Areas Regulations, and all other applicable provisions of this SMP. Critical areas and their buffers located outside of shoreline jurisdiction are not regulated by this SMP, and instead are regulated under the City's critical area regulations found in CMC 18.10.

4.3 Flood Hazard Reduction

The following provisions apply only in shoreline jurisdiction to actions taken to reduce flood damage or hazard and to uses, development, and shoreline modifications that may increase flood hazards. Flood hazard reduction measures may consist of nonstructural measures, such as shoreline buffers, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and stormwater management programs, and of structural measures, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

Although some flood hazard reduction measures may serve a dual function as shoreline stabilization, their primary purpose is to control the location of flood waters directly. Alternatively, the primary purpose of shoreline stabilization measures is to prevent erosion of land from currents and waves originating in the shoreline waterbody (rather than upland sources of erosion), which is a more indirect control of the location of flood and non-flood water. Shoreline stabilization is addressed in Section 5.18.

The City implements flood hazard reduction through the following means:

- Plans and Policies: Growth Management Act comprehensive plan, Multi-Jurisdiction Natural Hazard Mitigation Plan, and watershed plans have been developed by Chelan County, the Cities, and other agencies, and address flood hazard reduction policies, programs, restoration actions, and other capital improvements.
- Regulations: critical area, floodplain and stormwater regulations.

4.3.1 Policies

- A. **Implement flood hazard plans and regulations.** The City should ensure public and private development applications site and design flood control measures consistent with appropriate engineering principles, including guidelines of the Natural Resource Conservation Service, the U.S. Army Corps of Engineers, Chelan County Multi-Jurisdiction Natural Hazard Mitigation Plan, watershed plans, restoration plans, critical area regulations, floodplain regulations, and stormwater management plans and regulations in order to prevent flood damage, maintain the natural hydraulic capacity of floodways, and conserve limited resources such as fish habitat, water, and soil.

- B. **No net loss of ecological functions.** Flood protection measures should result in no net loss of ecological functions and ecosystem-wide processes associated with rivers and streams. Cumulative impacts associated with flood protection measures should be considered.
- C. **Non-structural methods preferred.** Where feasible, non-structural methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources should be encouraged as an alternative to structural flood control works. Non-structural methods may include, but are not limited to, shoreline buffers, land use controls, use relocation, wetland restoration, dike removal, biotechnical measures, stormwater management programs, land or easement acquisition, voluntary protection and enhancement projects, or incentive programs.
- D. **Avoid structural flood control works.** Land use practices that may impede the flow of floodwater or cause danger to life or property should not be allowed. This includes, but is not limited to, filling, dumping, storage of materials, structures, buildings, and any other works which, when acting alone or in combination with other existing or future uses, would cause damaging flood heights and velocities by obstructing flows. New or expanding development or uses in shoreline jurisdiction, including subdivision of land, that would likely require structural flood control works, such as dikes, levees, revetments, floodwalls, channel realignment, gabions or rip-rap, within a river, channel migration zone, or floodway should not be allowed.
- E. **When non-structural flood control is infeasible.** New structural flood control works should only be allowed in shoreline jurisdiction when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that impacts to ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, that appropriate vegetation conservation actions are undertaken, and where non-structural flood hazard reduction measures are infeasible.
- F. **Bioengineered flood control works.** The City should facilitate returning river and stream corridors to more natural hydrological conditions. The City should permit and encourage land uses compatible with the preservation of the natural vegetation which is a principal factor in the maintenance of constant rates of water flow through the year and which sustain many species of wildlife and plant growth. Unless otherwise determined infeasible by federal or state agencies with permit authority or by the Shoreline Administrator, flood control works should be bioengineered to enhance ecological functions, create a more natural appearance, improve ecological processes, and provide more flexibility for long-term shoreline management.
- G. **Avoid damage to other properties.** Flood control works and shoreline uses, development, and modifications should be located, designed, constructed and maintained so their resultant effects on geo-hydraulic shoreline processes will

not cause significant damage to other properties or shoreline resources, and so that the physical integrity of the shoreline corridor is maintained.

- H. **Condition Development in Frequently Flooded Areas and Avoid Development in Floodways.** New development which has the potential to alter and/or obstruct frequently flooded areas should be conditioned to avoid unacceptable increases in flood elevations, to reduce flood damage, and allow proper conveyance of flood flows. Development within the floodway portion of a floodplain that would alter the course and flow of floodwaters and result in damages to other property owners or natural areas should be prohibited. Activities in flood hazard areas within shoreline jurisdiction are subject to City critical areas and flood hazard regulations in Appendix B.
- I. **Considerations for Shoreline Development.** Frequently flooded areas, which include the 100-year floodplain, should be allocated the uses for which they are best suited and discourage obstructions to flood-flows and uses that pollute or deteriorate natural waters and watercourses. Shoreline developments should incorporate considerations for surface water runoff, floodplain issues, and maintaining water quality during the design and construction of new developments, including roads and utility corridors.
- J. **Natural Drainage.** The City should promote the preservation of the remaining, significant natural drainages that are an important part of the stormwater drainage system.
- K. **Utilities and Public Improvements.** The installation of new or replacement public facilities, utilities or other public improvements within designated floodplains should utilize prevailing flood damage prevention methods, and where feasible give preference to nonstructural flood hazard reduction measures over structural measures.

4.3.2 Regulations

- A. **Avoid increase in flood hazards.** Development in floodplains within shoreline jurisdiction shall, consistent with applicable flood hazard plans and regulations, avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with all City regulations, including critical areas regulations (SMP Appendix B), stormwater regulations (Section 4.6 of this SMP), in-water structure regulations (Section 5.12 of this SMP), as well as guidelines of the Natural Resource Conservation Service, the U.S. Army Corps of Engineers, and the City's comprehensive flood hazard management plan and/or Multi-Jurisdiction Natural Hazard Mitigation Plan.
- B. **Channel migration zone (CMZ) Maps.**
 - 1. Channel migration zone maps prepared consistent with WAC 173- 26- 221(3)(b) are included in Appendix D of this SMP. These maps provide complete coverage of shoreline waterbodies in the City that have potential for channel migration within shoreline jurisdiction. The City

shall utilize these maps in shoreline application reviews.

2. Applicants for shoreline development or modification may submit a site-specific channel migration zone study if they do not agree with the mapping in Appendix D.
- C. **Documentation.** Documentation of alternate channel migration zone boundaries must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification.
- D. **Uses and activities authorized in floodway or CMZ.** The following uses and activities may be authorized in shoreline jurisdiction where appropriate and/or necessary within the channel migration zone (CMZ) or floodway:
1. Actions that protect or restore the ecosystem-wide processes or ecological functions or development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.
 2. Existing and ongoing agricultural practices provided that no new restrictions to channel movement occur.
 3. Mining when conducted in a manner consistent with Section 5.13 Mining, and the shoreline environment designation.
 4. Bridges, utility lines, public stormwater facilities and outfalls, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs and the long-term maintenance or repair costs are not significantly different between options inside or outside of the floodway or channel migration zone. For the purposes of this section “unreasonable and disproportionate” means that locations outside of the floodway or channel migration zone would add more than 20% to the total project cost. Other methods to determine unreasonable and disproportionate cost may be used on a case-by-case basis with approval of the Shoreline Administrator. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected shoreline. New transportation facilities shall be designed so that no significant loss of floodway capacity or measurable increase in predictable flood levels will result based on studies submitted by applicants as required by Appendix B, critical areas regulations for frequently flooded areas.
 5. Repair and maintenance of an existing legally established use or structure, provided that channel migration is not further limited, or flood hazards to other uses increased, and provided that such actions do not cause significant ecological impacts.
 6. New development in incorporated municipalities and designated urban

growth areas, as defined in Chapter 36.70A RCW, located upland of existing structures that prevent active channel movement and flooding.

7. Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and provided that such actions do not cause significant ecological impacts.
 8. Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measures do not interfere with fluvial hydrological and geo-morphological processes normally acting in natural conditions, and that the measures include appropriate mitigation of impacts to ecological functions associated with the river or stream.
- E. **Structural flood hazard reduction measures.** New structural flood hazard reduction measures in shoreline jurisdiction shall be allowed only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate vegetation conservation actions are undertaken consistent with SMP Section 4.5, Vegetation Conservation and Shoreline Buffers. Structural flood hazard reduction measures shall be consistent with the City's comprehensive flood hazard management plan and/or Multi-Jurisdiction Natural Hazard Mitigation Plan.
- F. **Placement of structural flood hazard reduction measures.** New structural flood hazard reduction measures in shoreline jurisdiction shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration; provided no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis.
- G. **Public access.** See Section 4.4.2.
- H. **Gravel removal.** The removal of gravel for flood management purposes shall be consistent with Section 5.8, Dredging and Dredge Material Disposal and Section 5.13, Mining, and be allowed only after a biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.
- I. **New development and subdivisions.** New development or subdivisions in shoreline jurisdiction shall only be approved when it can be reasonably foreseeable that the development or use would not require structural flood hazard reduction measures to be implemented within the channel migration zone or floodway during the life of the development or use consistent with the

following:

1. Floodway: New development and subdivisions shall be subject to applicable floodway regulations in Appendix B.
2. Channel Migration Zone: New development and subdivision in shoreline jurisdiction on lots containing channel migration zones shall also be subject to Appendix B, Critical Areas Regulations for geologically hazardous areas, and Appendix D, Channel Migration Zone Maps.
 - a. New development in the channel migration zone within shoreline jurisdiction is allowed subject to:
 - i. Structures are located on an existing legal lot created prior to July 3, 2014 (Ecology approval of SMP);
 - ii. A feasible alternative location outside of the channel migration zone is not available on-site; and
 - iii. To the extent feasible, the structure and supporting infrastructure is located the farthest distance from the OHWM, unless the applicant can demonstrate that an alternative location is the least subject to risk.
 - b. New subdivisions in the channel migration zone within shoreline jurisdiction may be approved subject to the following design standards:
 - i. Each lot created within the subdivision shall contain five-thousand square feet or more of buildable land either outside of the channel migration zone or inside the channel migration zone but outside of areas that might require new structural flood hazard protection measures; for the purposes of this section, buildable means capable of supporting a dwelling and necessary associated accessory structures and improvements such as access and septic facilities. Channel migration zone areas can be included in total lot area required by zoning provided the buildable area meets the criteria specified above.
 - (a) Open Space Lots or Tracts: Open space lots or tracts are not subject to the minimum lot size in subsection i. above.
 - (b) Boundary Line Adjustments: Boundary line adjustments in a channel migration zone shall not result in a lot, tract or parcel smaller than the minimum size required by the zoning and subdivision code and this SMP; provided that

whenever any one or more lots involved in the proposed adjustment are smaller than the allowable minimum size, the change may be approved so long as the adjustment does not increase the existing nonconformity in consideration of applicable regulations and standards.

- ii. Access to all lots that must cross the channel migration zone in shoreline jurisdiction shall be consolidated in a single location, and shall be accomplished using measures that have the least adverse impact on channel migration, such as a bridge; and
- iii. All other infrastructure is located outside the channel migration zone.

4.4 Public Access

4.4.1 Policies

- A. **Types of public access.** Public access includes both physical and visual approaches to shorelines. Scattered, small access points with low levels of alteration are preferred by some recreators for certain uses (e.g., fishing), but not others (e.g., RV camping, swim beaches, picnicking, event facilities).
- B. **Increase public access where appropriate.** The City should seek to increase the amount and diversity of public access to shorelines consistent with shoreline public access plans, the natural shoreline character, property rights, public rights under the Public Trust Doctrine, and public safety.
- C. **Priorities.** Public access should be maintained, enhanced, and increased in accordance with the following priorities unless found infeasible or unconstitutional:
 - 1. Maintain existing public access sites and facilities, rights of way, and easements.
 - 2. Provide new or enhance existing public access opportunities on existing public lands and easements.
 - 3. Acquire property or easements to add public access opportunities to implement adopted public access plans and/or to recognize opportunities to protect areas that hold unique value for public enjoyment.
 - 4. Encourage public access to shorelines as part of shoreline development activities.
- D. **Findings.** The City should require public access in private development projects where the City can demonstrate nexus, proportionality and reasonable necessity for the public access requirement.

- E. **Public access planning standards.** Through application of the Shoreline Public Access Plan in Appendix E, the City should develop a well-maintained, interconnected system of multi-functional parks, trails, recreation facilities and open spaces that is attractive, safe and available to all segments of the City's population, and supports the community's established neighborhoods and small town atmosphere. The City should implement planning standards that are consistent with its adopted parks and recreation plans as identified in Appendix E.
- F. **Implementation.** The City should implement its shoreline public access plans contained in Appendix E to meet growing resident and tourist populations. Implementation strategies should address public access and recreation standards and a capital improvement program. The City should periodically review the shoreline public access plan, at a minimum every eight years.
- G. **Recreation Concurrent with Development.** The City should implement the following objectives consistent with its Shoreline Public Access Plan:
1. Ensure that new park and recreational services are provided concurrent with new development.
 2. Ensure all new development provides funds or park lands for concurrent park development and maintenance.
 3. Require on-site (or nearby off-site) development of recreation facilities or appropriate and usable park land in conjunction with the approval of any development project.
 4. Require development projects along designated trail routes to be designed to incorporate the trail as part of the project.
- H. **Public access exceptions.** Public access should not be required where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable.
- I. **Willing property owners.** The City and other agencies should seek willing property owners to participate in public access projects, such as through voluntary agreements such as conservation easements and trail easements. Where purchase of property is negotiated, the City, agencies, or private parties seeking off-site mitigation areas are obligated to pay fair market value for private properties included in public access projects.
- J. **Respect private property.** Public access does not include the right to enter upon or cross private property, except on dedicated public rights-of-way or easements or where development is specifically designed to accommodate public access. The design of public access should minimize potential impacts to private property and individual privacy. This may include providing a physical separation to reinforce the distinction between public and private space, and may be achieved by providing signage, adequate space, and/or

through screening with landscape planting or fences.

- K. **Safety and environment.** Public access should be designed consistent with public safety objectives. Public access design should also conserve or protect natural amenities. Where public access is determined to be incompatible due to reasons of safety, security, or impact to the shoreline, the proponent should consider alternate methods of providing public access, such as offsite improvements, viewing platforms, separation of uses through site planning and design and restricting hours of public access. Off-site public access improvements may be allowed if such improvements would provide a greater public benefit and reduce safety and environmental impacts.
- L. **Visual access.** Views to shorelines contribute to the City's quality of life, tourism economy, and property values. The City should consider the following sub-policies when considering new development:
 - 1. Views from Public Properties and Significant Numbers of Single Family Dwellings: Flexible development standards, such as height, bulk, scale, setbacks, lighting, and view corridors, should be established to assure preservation of unique, fragile, and scenic elements and to protect existing views from public property or large numbers of residences, particularly where development would exceed three stories in height.
 - 2. Private views of the shoreline although considered during the shoreline permit review process, are not expressly protected, particularly when development is less than 35 feet in height. Property owners concerned with the protection of views from private properties are encouraged to obtain view easements, purchase intervening property, or seek other means of minimizing view obstruction.
- M. **Roads, streets, and alleys abutting bodies of water.** Roads, streets, and alleys abutting bodies of water should be preserved, maintained, consolidated enhanced, and/or created for public access. Vacations of roads, streets, and alleys should be discouraged and only allowed in strict compliance with RCW 35.79.035 (Streets and Alleys) or RCW 36.87.130 (County Roads).
- N. **Cooperative Effort.** The City should cooperate with other jurisdictions, public agencies, and the private sector to provide park, open space and recreation facilities.
- O. **Fishing easements.** In consultation with the Washington Department of Fish and Wildlife, the City should review fishing easements on the Wenatchee River. The City should work in partnership with Chelan County, the Washington Department of Fish and Wildlife, Chelan County Public Utility District, Cities, land trusts, and others to improve public access to the fishing easements. Actions may include adding identifiable signage, improving access on unused sites, consolidating access points for maintenance purposes, or land surplus, exchanges or purchases, etc.
- P. **Accessibility.** Public access should be provided as close as possible to the water's

edge without causing significant ecological impacts and should be designed in accordance with the Americans with Disabilities Act.

- Q. **Operation and Maintenance.** The City should develop, operate and maintain parks and recreation facilities in a manner that is responsive to the site, and balances the needs of the community with available funding.
- R. **Open Space and Habitat.** Protect and preserve as open space areas that: are ecologically significant sensitive areas; provide significant opportunities for restoration buffers between uses and link open space; provide trails and/or wildlife corridors; or enhance fish habitat. (PRG 5.0)

4.4.2 Regulations

- A. **City public access plan.** The City's shoreline public access plan provides for a connected network of parks and open space connected by a trail. The City's public access planning process provided in Appendix E provides more effective public access than individual project requirements for public access, as provided for in WAC 173-26- 221(4)(d)(iii)(A). The City shall review shoreline developments for consistency with this Shoreline Public Access Plan in Appendix E.
- B. **When Public Access is Required.** Shoreline public access shall be required for the following shoreline uses and activities:
 - 1. Shoreline recreation pursuant to Section 5.15;
 - 2. New structural public flood hazard reduction measures, such as dikes and levees;
 - 3. Shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts; and
 - 4. New boat launches on the Wenatchee River when commercial water-enjoyment uses are associated with the boat launches.
 - 5. New commercial or industrial use is proposed for location on land in public ownership.
- C. **Private development.** Shoreline development along designated trail routes per Appendix E shall be designed to incorporate designated trail routes as part of the project.
- D. **Findings.** When applying public access provisions to private development applications, the City shall consider its adopted plans, regulations, level of service standards, SEPA review, and applicant information, and make the following findings:
 - 1. The proposed project increases demand for public access to the shoreline (nexus);
 - 2. The shoreline access provided is reasonably consistent with the nature and type of demand created (proportionality); and
 - 3. The permit condition requirement for public access is reasonably

necessary at this location or an approved offsite location to mitigate the incremental demand created by the project.

E. **Exceptions.** Public access shall not be required if an applicant/proponent demonstrates to the satisfaction of the City at least one of the criteria 1 through 7 are met and that alternatives have been considered per Subsection F.

1. The development consists of less than five dwellings or lots;
2. Unavoidable health or safety hazards to the public exist and cannot be prevented by any practical means;
3. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
4. Significant environmental impacts will result from the public access that cannot be mitigated;
5. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated;
6. The subject site is separated from the shoreline waterbody by intervening public or private improvements such as highways, railroads, existing structures, or similar significant intervening improvements, and public access is not feasible; or
7. The Shoreline Public Access Plan in Appendix E has been reviewed and public access is neither required nor needed.

F. **Alternatives Analysis.** Except in the case of E.1 and E.7, when an exception from public access requirements is sought, an applicant shall demonstrate that all feasible alternatives have been exhausted, including, but not limited to:

1. providing for visual access where physical access is not feasible;
2. regulating access by such means as limiting hours of use to daylight hours;
3. designing separation of uses and activities, i.e., fences, terracing, hedges, landscaping, signage, etc; or
4. providing an off-site public access or a fee-in-lieu pursuant to Subsection G that allows public access at a site physically separated from, but capable of serving the proposal.

G. **Off-site Public Access or Fee-in-Lieu.**

1. Off-site public access may be permitted by the City where it results in an equal or greater public benefit than on-site public access, or when on-site limitations of security, environment, or feasibility are present. Off-site public access may be visual or physical in nature. Off-site public access may include, but is not limited to, enhancing a nearby public property (e.g. existing public recreation site; existing public access; road, street or alley abutting a body of water; or similar) in

accordance with City standards; providing, improving or enhancing public access on another property under the control of the applicant/proponent; or another equivalent measure.

2. Instead of on-site or off-site public access improvements, the City may require or an applicant may propose a fee-in-lieu. A fee-in-lieu may be assessed through the SEPA process or RCW 82.02.020, where appropriate, such as where the off-site improvement is best accomplished by the City at a later date or better implements the City's Shoreline Public Access Plan in Appendix E. The cost of providing the off-site public access shall be proportionate to the total long-term cost of the proposed development. The fee-in-lieu agreements or mitigation measures shall address the responsibility and cost for operation and maintenance.

- H. **Trail Standards.** The Riverfront Trail standards shall be consistent with the City's Comprehensive Plan and Parks and Recreation Plan. Trail components include, but are not limited to: walking/biking path 10-12 feet wide, landscaping minimum 5 feet wide, and equestrian trail minimum 3 feet wide with 10 feet vertical clearance, with adequate easements to adjust for topography. Trails shall be designed to avoid riparian vegetation to the greatest extent feasible. Private trail development is addressed in Section 4.5.2.D.8.d below.
- I. **Design Standards – Non-Trail Facilities.** The City may consult recognized federal, state, or industry standards for non-trail facilities.
- J. **Buffering Private Property.** Public access facilities shall be compatible with adjacent private properties through the use of buffering or other techniques to define the separation between public and private space, including by not limited to: natural elements such as logs, vegetation, and elevation separations.
- K. **Connectivity.** Physical public access shall be designed to connect to existing or future public access features on adjacent or abutting properties, or shall connect to existing public rights-of-way, consistent with design and safety standards.
- L. **Roads, Streets, and Alleys.** The City may not vacate any road, street, or alley abutting a body of water except as provided under RCW 35.79.035.
- M. **Environmental Protection.** Public access shall be designed to achieve no net loss of ecological functions. Where impacts are identified, mitigation shall be required.
- N. **Conditions of Approval.** The City may condition public access proposals to ensure compatibility with the Shoreline Public Access Plan in Appendix E, compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, compatibility with adjacent properties. Conditions may include, but are not limited to, the following:

1. Use materials appropriate to the character and environmental condition.
2. Include barrier free designs to meet Americans with Disabilities Act.
3. Provide auxiliary facilities such as parking, restrooms, refuse containers or other amenities.
4. Provide landscaping.
5. Provide signage with the appropriate State, County or City logo and hours of access.
6. Establish operation and maintenance responsibilities.
7. Identify dedication and recording requirements.
8. Determine timing of public access installation in relation to the construction of the proposal.
9. Determine ongoing availability to the public or community for which it is designed.

4.5 Shoreline Buffers and Vegetation Conservation

4.5.1 Policies

- A. **Conserve shoreline vegetation.** Where new developments, uses and/or redevelopments are proposed, shoreline vegetation, both upland and waterward of the OHWM, should be conserved to maintain shoreline ecological functions and processes. Vegetation conservation and restoration should be used to mitigate the direct, indirect and cumulative impacts of shoreline development, wherever feasible. Important functions of shoreline vegetation include, but are not limited to:
 1. Providing shade necessary to maintain water temperatures required by salmonids and other organisms that require cool water for all or a portion of their life cycles.
 2. Regulating microclimate in riparian and nearshore areas.
 3. Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macroinvertebrates.
 4. Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence and severity of landslides.
 5. Reducing fine sediment input into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff.
 6. Improving water quality through filtration and vegetative uptake of nutrients and pollutants.
 7. Providing a source of large woody debris to moderate flows, create hydraulic roughness, form pools, and increase structural diversity for

salmonids and other species.

8. Providing habitat elements for riparian-associated and aquatic species, including downed wood, snags, migratory corridors, breeding and rearing sites, food, and/or cover.
- B. **Shoreline buffers.** Regulations for shoreline buffers should be developed for the City consistent with SMA objectives to protect existing ecological functions, accommodate water-oriented and preferred uses, recognize existing development patterns, and minimize creation of non- confirming uses and developments.
- C. **Native plant list.** Chelan County maintains a list of suggested native plants to be utilized in restoration or mitigation plantings. Property owners may choose species from this list when native plants are desired or required, or may use other native species identified by the Washington Native Plant Society, Washington Department of Natural Resources Natural Heritage Program, Washington Department of Fish and Wildlife, or other agency or entity that has expertise.
- D. **Noxious and invasive weeds.** Encourage management and control of noxious and invasive weeds. Control of such species should be done in a manner that retains onsite native vegetation, provides for erosion control, and protects water quality. Use of mechanical, non-toxic or natural controls is preferred.

4.5.2 Regulations

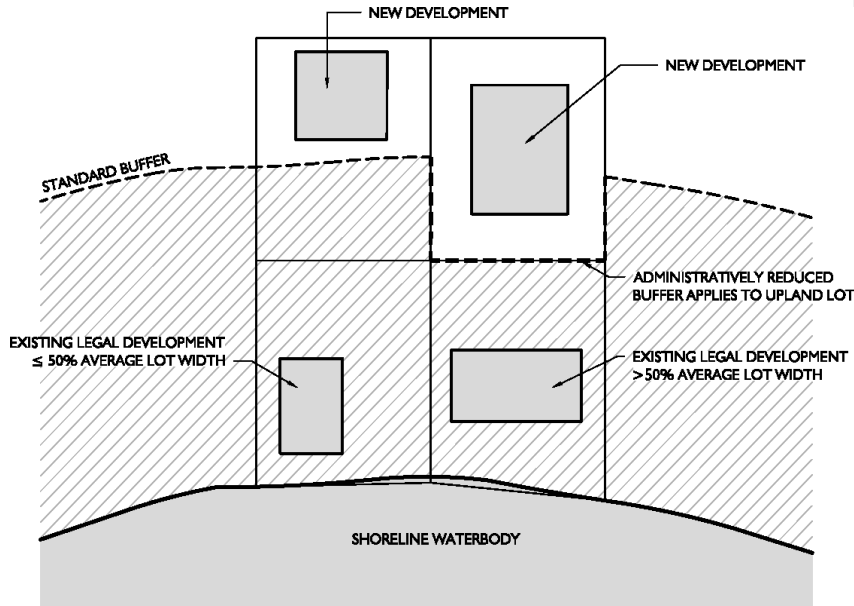
- A. **Conserve vegetation.** Shoreline developments shall address conservation and maintenance of vegetation through compliance with this Section and the critical area standards in Appendix B. Uses and modifications must be designed and located to ensure that the development will not result in a net loss of shoreline ecological functions or have significant adverse impacts to shoreline uses, resources, and values provided for in RCW 90.58.020.
- B. **Existing uses may continue.** Vegetation conservation standards shall not apply retroactively to existing, legally established uses and developments. Existing structures, uses and developments, including residential appurtenances, may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP. In the absence of a development proposal, existing, lawfully established landscaping and gardens within shoreline jurisdiction may be maintained in their existing condition including but not limited to, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and replacement planting of ornamental vegetation or indigenous native species to maintain the condition and appearance of such areas as they existed prior to adoption of this SMP, provided this does not apply to areas previously established as native growth protection areas,

mitigation sites, or other areas protected via conservation easements or similar restrictive covenants.

- C. **Adverse impacts on vegetation.** Adverse impacts to shoreline vegetation are considered to occur when vegetation is removed that would reduce the performance of any of the functions listed in SMP Section 4.5.1.A.
1. For example, the following actions would be considered an adverse impact:
 - a. Removal or alteration of native plant communities in shoreline jurisdiction, except when the alteration is part of an approved restoration plan;
 - b. Removal of native or non-native trees that overhang the stream or river shoreline waterbody;
 - c. Removal of native or non-native vegetation on slopes if that vegetation supports maintenance of slope stability and prevents surface erosion; or
 - d. Removal of vegetation, followed by supplemental grading and alteration of existing drainage patterns.
- D. **Establishment of Buffers.** Table 4.5-1 establishes buffers to be measured landward in a horizontal direction perpendicular to the OHWM of the shoreline waterbody. The standard buffer shall apply to all new development in the Shoreline Residential, Shoreline Park/Public, and High Intensity environment designations on previously undeveloped sites, changes in use, and modifications of existing development that exceed the thresholds established in the non-conforming provisions.
1. Alteration of standard buffer width. The required standard buffer may be administratively modified as outlined below:
 - a. Roads and Railways. Where a legally established road or railway crosses a shoreline or critical area buffer, the Shoreline Administrator may approve a modification of the minimum required buffer width to the waterward edge of the improved road or railway if a study submitted by the applicant and prepared by a qualified professional demonstrates that the part of the buffer on the upland side of the road or railway sought to be reduced:
 - i. does not provide additional protection of the shoreline waterbody or stream; and
 - ii. provides insignificant biological, geological or hydrological buffer functions relating to the waterward portion of the buffer adjacent to the shoreline waterbody or stream.

If the paved roadway or improved railroad corridor is wider than 20 feet, a study is not required.

Table 4.5-1. Shoreline Buffers by Environment Designation for the City of Cashmere.



Environment Designation	Standard Buffer ^{1,3}	Standard Reduced Buffer ^{1,3}	Maximum Reduced Buffer ^{1,3}
Urban Conservancy	This designation is a wetland. The wetland is in shoreline jurisdiction and any uses and developments in the wetland are regulated by this SMP. The wetland's buffer is located outside shoreline jurisdiction and is regulated under the City's Critical Areas Regulations in CMC 18.10B.		
Non-shoreline streams and other critical areas and buffers in shoreline jurisdiction	Regulated under Appendix B of this SMP		
Shoreline Residential	50'	37.5'	25' ²
Shoreline Park/Public	70'	52.5'	35'
High Intensity	70'	52.5'	35'

Note 1: All buffer measurements for all environment designations are measured from the OHWM. See 1- 11 below for criteria guiding buffer reductions and alterations.

Note 2: When the Shoreline Residential environment is upland of the Shoreline Park/Public environment, the maximum reduced buffer in the Shoreline Residential environment is 35' rather than 25'.

Note 3: Standard buffers listed may not be as wide in some areas as the applicable identified floodways. These buffers represent the vegetation conservation buffers necessary to protect fish, wildlife, habitat, and water quality. Where floodways are present, new structural developments or additions to legally existing structural developments at adoption of this SMP, or structural developments on a parcel after it may be further subdivided, shall be set back the greater of the shoreline buffer or 5 feet landward of the upland edge of the floodway, unless such development is otherwise allowed in the floodway per Section 5.190.A in Appendix B.

2. New Development.
 - a. New development in shoreline jurisdiction on undeveloped sites (unaltered or alteration does not include structures) shall be sited to minimize removal of existing significant trees and native vegetation.
 - b. Removal of significant trees shall be compensated as outlined in Subsection E below and removal of other native vegetation must be compensated minimally at a 1:1 ratio with supplemental native shrub and groundcover plantings in the buffer. Mature tree and shrub removal shall be addressed in the mitigation plan and may require a greater replacement ratio to account for temporal loss.
 - c. When the buffer is a fully functioning vegetated area that would not benefit from enhancement, compensatory plantings may be installed in a corridor perpendicular to the OHWM and extending upland of the buffer outside of the development footprint. There should be an emphasis on connectivity of vegetative corridors when this option is chosen.
3. New or expanded nonwater-oriented development must comply with the shoreline buffer identified in Table 4.5-1.
4. Public parks and recreation lands and facilities.
 - a. In recognition of the existing condition of current and planned City shoreline parks and recreation facilities located in the Shoreline Park/Public environment designation or in current or future public easements or dedicated rights-of-way for public access and recreation purposes in other environment designations, the following standards shall guide new development and redevelopment of water-oriented public access and recreation facilities. Applicants shall submit a management plan that addresses compliance with each of the following applicable standards and principles, and contains additional information listed in 4.b. below. The City shall review and condition the project to fully implement the standards below.

Design Element	Design and Management Standards
i. Category of Use	<ul style="list-style-type: none"> • The following use preferences apply in priority order: <ol style="list-style-type: none"> 1. Water-dependent uses located immediately upland of the OHWM 2. Water-related and/or water-enjoyment uses located upland of water-dependent uses. Water-related and water-enjoyment uses shall not displace existing or planned water-dependent uses. If water-dependent uses are not feasible, then water-related or water-enjoyment uses are allowed consistent with applicable performance standards. 3. Nonwater-oriented recreation uses located upland of water-oriented recreation uses. 4. Accessory, nonwater-oriented uses, located upland of water-oriented uses. However, parking for those with disabilities, when no other location is feasible, may be located per "iii" below. • New or expanded public water-oriented development shall avoid, as feasible, existing riparian areas and comply with vegetation management requirements below. Existing primary nonwater-oriented uses may only expand if they are located upland of water-oriented uses and if the expansion does not displace water-oriented uses. • Water-enjoyment recreational uses may be expanded. • Existing water-oriented uses may not be converted to a nonwater-oriented use except when the existing water-oriented use is separated from the OHWM by a levee or another property.
ii. Impervious Surface and Stormwater Management	<ul style="list-style-type: none"> • New and expanded pollution-generating impervious surfaces (e.g., surfaces used predominantly by vehicles, such as parking areas, roads) must provide water quality treatment before discharging stormwater through use of oil-water separators, bioswales, or other approved technique. This provision does not apply to boat launches. • Treated runoff from pollution-generating impervious surfaces and runoff from non-pollution-generating impervious surfaces shall be infiltrated if feasible. • New or expanded pollution-generating impervious surfaces within 50 feet of the OHWM or within already disturbed areas shall be limited to those necessary to provide vehicle access to boat launches, to improve existing informal parking areas, to expand existing parking, or to provide ADA parking as outlined below under iii. Parking. • New or expanded trail systems shall avoid existing riparian areas and comply with vegetation management requirements below. Existing trail systems may only be expanded in response to increased demand, and shall be expanded in the following order of preference, with number 1 being the most preferred: <ol style="list-style-type: none"> 1) upland outside buffers found in Table 4.5.2, 2) landward of existing trail and 3) laterally.

Design Element	Design and Management Standards
iii. Parking	<ul style="list-style-type: none"> • New parking accessory to shoreline parks shall be at least 70 feet upland of the OHWM, except where a minimum number of parking spaces are provided closer than 70 feet to accommodate those with disabilities or where parking is provided in existing impervious surfaces. • Existing parking closer than 70 feet upland of the OHWM may only be expanded in response to increased demand. Expanded parking shall be expanded in the following order of preference, with 1) being the most preferred: 1) upland, 2) landward of existing parking and 3) laterally of the existing parking, if it is serving a previously existing authorized use and is located on existing impervious surface. Parking shall not be located closer than 50 feet upland of the OHWM unless the proposed expansion area is already an impervious surface or is necessary to accommodate those with disabilities.
iv. Vegetation Management	<ul style="list-style-type: none"> • New and expanded uses in shoreline jurisdiction shall be located to avoid and minimize intrusion into riparian areas, as well as avoid tree and shrub removal.
v. Chemical Applications	<ul style="list-style-type: none"> • A lawn and landscape management strategy for any allowed uses in the shoreline buffer shall be developed that incorporates the following: <ol style="list-style-type: none"> 1. A site-specific plan for use of integrated pest management technique, if applicable. 2. A detailed plan identifying anticipated use of fertilizers, herbicides and pesticides, to include method of application that ensures these materials will not enter the water. Phosphorus-containing fertilizer treatments shall not be applied to turf or landscaping within 50 feet of the OHWM. Natural applications and hand removal are preferred over synthetic applications.
vi. Pools	<ul style="list-style-type: none"> • Pools and other upland recreational uses that utilize chemically treated water must either be connected to a sewer system or must collect the water for later discharge into a sewer system. • Pools and other upland recreational uses that utilize chemically treated water shall be located a minimum of 75 feet upland of the OHWM.
vii. Lighting	<ul style="list-style-type: none"> • Outdoor lighting fixtures and accent lighting must be shielded and aimed downward, and shall be installed at the minimum height necessary. The shield must mask the direct horizontal surface of the light source. The light must be aimed to ensure that the illumination is only pointing downward onto the ground surface, with no escaping direct light permitted to contribute to light pollution by shining upward into the sky. • Outdoor lighting fixtures and accent lighting shall not directly illuminate the stream or river, unless it is a navigational light subject to state or federal regulations.

- b. Application requirements:
- i. Drawings of existing park facilities, including a narrative that identifies area (sq. feet or sq. meters) and description of trails, parking, riparian vegetation, campsites, recreational facilities (ball parks, picnic table, grilling areas), upland vegetation and lawn areas.
 - ii. Drawings of proposed park facilities, including a narrative that identifies area (sq. feet or sq. meters) and description of trails, parking, riparian vegetation,

- campsites, recreational facilities (ball parks, picnic table, grilling areas), upland vegetation and lawn areas.
- iii. Any increases in impervious surfaces (trail size, parking facilities, recreational facilities, etc.) shall be accompanied by a needs analysis that addressed the requirement for increased public facilities, what size facilities are needed by existing and projected park users, and the nearest locations of similar facilities.
 - iv. Expansion of public/park facilities shall be accompanied by a mitigation plan that addresses the design elements and the design and management standards above, addresses critical area impacts, and addresses the incorporation of applicable SMP restoration goals that have been accomplished by the development, and demonstrates a net improvement in ecological shoreline functions.
5. Existing Development.
- a. Landward of Standard Buffer. Existing development located landward of the standard buffer may redevelop or expand to the edge of the standard buffer consistent with the following:
 - i. Where such redevelopment results in removal of native vegetation, minimally an equivalent area of native vegetation shall be planted in the buffer. Mature tree and shrub removal shall be addressed in the mitigation plan and may require a greater replacement ratio to account for temporal loss.
 - ii. Where such redevelopment results in removal of significant trees, compensation shall be provided as outlined in Subsection E below.
 - b. Inside the Standard Buffer. Existing development located inside the standard buffer may expand vertically or landward of the development. Expansions waterward are prohibited except when the reduced buffer is consistent with D.6 below. All other waterward expansions within the standard buffer must obtain a Shoreline Variance. Expansions within the standard buffer laterally toward the side lot lines may be allowed provided any impacts to vegetation are mitigated consistent with this Section, and any new impervious surfaces are infiltrated or treated prior to discharge into a waterbody.
6. Standard Buffer Reduction. Reductions of up to twenty-five (25) percent of the standard buffer may be approved if the applicant demonstrates

to the satisfaction of the Shoreline Administrator that:

- a. A mitigation plan pursuant to Subsection D.10 indicates that enhancing the buffer (by removing invasive plants or impervious surfaces, planting native vegetation, installing habitat features such as downed logs or snags, or other means) will result in a reduced buffer that functions at a higher level than the existing standard buffer through demonstration of improved ecological function; or
- b. Conditions unique to the site, including existing uses, developments, or other barriers (e.g., levees), exist between the proposed development and the OHWM, which substantially prevent or impair delivery of most riparian functions from the upland portions of the subject property to the waterbody.
- c. The buffer has not been reduced under any other provisions of this Chapter. The buffer has not been varied or reduced by any prior actions administered by the City. Sites which utilize buffer width averaging are not eligible for any future buffer width reductions under any other provisions of this Program, except as administered under Shoreline Variances.

7. Maximum Buffer Reduction.

- a. If the applicant can demonstrate that a use or development cannot be accommodated or accomplished outside of the standard or standard reduced buffer, a reduction in the buffer width not exceeding 50 percent of the required standard buffer may be approved administratively. The applicant must demonstrate need for any buffer reduction greater than 25 percent by submitting the following:
 - i. A site plan showing clearly the boundaries of the parcel, shoreline jurisdiction, the standard buffer, the proposed reduced buffer, and existing and proposed developments.
 - ii. A narrative description of the design alternatives considered as part of each mitigation sequencing step outlined in Section 4.2.2.A, and how the applicant's proposal incorporates mitigation sequencing to the maximum extent practicable.
 - iii. A narrative description of the spatial needs of the proposed use. Adequate space for a single-family residence and associated yard is considered to be available when the buildable lot depth after application of either the standard buffer or standard reduced buffer is seventy (70) feet or greater. For other uses, the

Shoreline Administrator will decide what the minimum space requirements are based on the information provided by the applicant.

- iv. A mitigation plan as outlined in Subsection D.10 below. If justification for the buffer reduction is provided by subsection 6.b. above, the applicant does not need to provide a mitigation plan. The applicant must provide instead a narrative describing how the proposed development does not result in a net loss of ecological functions compared to the existing condition, and a site plan illustrating the elements of the existing and proposed condition that support a determination of no net loss of ecological functions. The narrative and site plan must also address how the project will prevent potential short-term construction- related impacts by providing erosion- and sedimentation-control details. If the applicant does not present conclusive evidence that the project will not result in a net loss of ecological functions, then a mitigation plan must be prepared.
- b. The Shoreline Administrator may approve the maximum buffer reduction according to the following review criteria:
 - i. Modification of building height or setback standards pursuant to Subsection D.9 would not allow the standard or standard reduced buffer to be achieved.
 - ii. The applicant has demonstrated a hardship whereby the proposed use could not be accommodated without a reduced buffer, and the approved buffer reduction is no more than that necessary to accommodate the proposed shoreline use/development.
 - iii. The applicant's mitigation plan demonstrates that the selected mitigation options in Subsection D.10 achieve an equal or greater protection of ecological functions than the standard buffer.
 - iv. The buffer has not been reduced under any other provisions of this chapter. The buffer has not been varied or reduced by any prior actions administered by the city. Sites which utilize buffer width averaging are not eligible for any future buffer width reductions under any other provisions of this Program, except as administered under shoreline variances.
- 8. Buffer Width Averaging. Averaging of standard buffer widths may be approved by the Shoreline Administrator for single or multi- family

dwellings, for existing legal lots of record in place at the time of adoption of this Program, based on a report submitted by the applicant and prepared by a qualified professional biologist. Buffer width averaging shall only be allowed where the applicant demonstrates all of the following:

- a. Averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property;
 - b. The designated buffer contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation;
 - c. The width averaging shall not adversely affect or impact the buffer's functional value;
 - d. The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging.
 - e. The minimum buffer width at its narrowest point shall not be less than seventy-five (75) percent of the width established under the required standard buffer found in Table 4.2-1;
 - f. The buffer has not been reduced under any other provisions of this chapter. The buffer has not been varied or reduced by any prior actions administered by the City. Sites which utilize buffer width averaging are not eligible for any future buffer width reductions under any other provisions of this Program, except as administered under Shoreline Variances.
 - g. The variation of buffer widths on a site, via buffer width averaging, must be supported by the most current, accurate, and complete scientific and technical information available as demonstrated in a submitted and approved mitigation plan.
9. Modification of other setback standards. The City may allow a reduction in other property setback standards if those actions will reduce or eliminate the need for the buffer reduction. These modifications of standards may be approved without a Shoreline Variance if the modification is consistent with underlying zoning regulations and is not anticipated to have adverse impacts on adjacent properties.
10. Buffer Reduction Mitigation Plan. Applicants seeking a reduced buffer must submit a mitigation plan that addresses the specific habitat components and/or ecological functions that may be lost as a result of the proposed reduction. Mitigation plan elements, including monitoring and maintenance, shall be included in the plan consistent with applicable mitigation plan requirements outlined in the City of

Cashmere critical areas regulations (see Appendix B). Plan elements may include one or more of the mitigation options provided in the chart below to achieve an equal or greater protection of ecological functions. Each reduction allowance applied for shall provide justification in the mitigation plan of an improvement to shoreline ecological functions.

Shoreline Setback Reduction Options		Reduction Allowance
Water Related Conditions or Actions		
1	Currently existing natural shorelines that include native vegetation along at least 75 percent of the linear shoreline frontage of the subject property may be credited with a buffer reduction allowance. Existing hard structural shoreline stabilization may also receive the reduction allowance if it is replaced with non- structural or soft structural bio-engineered shoreline stabilization measures located at, below, or within 5 feet landward of the OHWM along at least 75 percent of the linear shoreline frontage of the subject property. If this option is selected, the applicant is not eligible for future hard structural shoreline stabilization. This option cannot be used in conjunction with Option 2 below.	35 percent
2	Currently existing natural shorelines that include native vegetation along at least 25 percent of the linear shoreline frontage of the subject property may be credited with a buffer reduction allowance. Existing hard structural shoreline stabilization may also receive the reduction allowance if it is replaced with non- structural or soft structural bio-engineered shoreline stabilization measures located at, below, or within 5 feet landward of the OHWM along at least 25 percent of the linear shoreline frontage of the subject property. If this option is selected, the applicant is not eligible for future hard structural shoreline stabilization. This option cannot be used in conjunction with Option 1 above.	20 percent
3	Opening of previously piped on-site watercourse to allow potential rearing opportunities for native fish for a minimum of 25 feet in length. Opened watercourses must be provided with a native planted buffer at least 10 feet wide on both side of the stream, and must not encumber adjacent properties without express written permission of the adjacent property owner. A qualified professional must design opened watercourses. The opened watercourse shall be exempt from the buffer requirements and standards of Appendix B.	15 percent
4	Existing hard structural shoreline stabilization measures are set back from the OHWM more than five (5) feet and/are sloped at a maximum 3 vertical (v): 1 horizontal (h) angle to provide dissipation of wave energy and increase the quality or quantity of nearshore habitat. This reduction option shall include bio- engineered shoreline stabilization measures.	20 percent
5	Install large woody debris (minimum three pieces), plant and maintain aquatic emergent vegetation (minimum 25 ft ²), or restore aquatic substrate (minimum 250 ft ²) depending on the site's particular ecological condition and needs. This reduction is allowed only if the proposal results in improvement of ecological function.	10 percent

6	Implement any other enhancement measure indicated by the Shoreline Restoration Plan, to an extent proportional to the proposed project's impacts.	10 percent
Upland Related Conditions or Actions		
7	<p>Develop and implement a City-approved shoreline native vegetation enhancement plan that achieves the following.</p> <ul style="list-style-type: none"> • At least three (3) trees (conifer or deciduous) per 100 linear feet of shoreline; • Native trees and shrubs provide at least 70% aerial coverage of the buffer enhancement area within 10 years of installation; • Trees are placed to shade and/or overhang the watercourse. • Vegetation enhancement is maintained for the duration of the use or facility. <p>The remaining 30% of space may be maintained for access to the water or to over-water structures. The City may approve, on a case by case basis, enhancement plans that include the removal of terrestrial and aquatic invasive species provided that best management practices are taken to control erosion and minimize exposure of toxic materials.</p> <p>Note: For properties with existing native woody vegetation coverage greater than 50% by area of the applicable standard buffer, allowed buffer reduction widths will be commensurate with the amount of proposed shoreline enhancement as determined by the Shoreline Administrator</p> <p>Note: Vegetation installed in the buffer as required mitigation for a shoreline stabilization measure or over-water structure proposal may not be counted towards this mitigation option.</p>	1% reduction in buffer width for every one foot (maximum of 15% reduction) (measured perpendicular to the OHWM) of vegetation enhancement area, minimum 10- foot average width
8	Installation of pervious material for 50 percent of all new pollution generating surfaces such as driveways, parking or private roads that allows water to pass through at rates similar to or greater than pre-developed conditions.	15 percent
9	Restoring or preserving native vegetation within at least 50 percent of the total lot area remaining outside of the reduced buffer, the developed footprint, and outside any critical areas and their associated buffers. The mitigation plan shall address temporal loss. This reduction is not allowed if riparian vegetation removal would be needed inside the standard buffer to accomplish the development.	10 percent
10	Implement any other enhancement measure indicated by the Shoreline Restoration Plan, to an extent proportional to the proposed project's impacts.	10 percent

- a. Measures identified in the buffer reduction table may not be applied if they are required by federal, state, or local regulations or are offered as mitigation for other actions or impacts.
- b. Prior to issuance of a certificate of occupancy or final inspection, the applicant shall provide a final as-built plan of any completed improvements authorized or required under this subsection.
- c. Applicants who obtain approval for a reduction in the buffer must record the final approved buffer and corresponding conditions, including maintenance of the conditions throughout

the life of the development, including changes in ownership, in a form acceptable to the City and recorded with the County Auditor.

- d. Where opportunities to mitigate in kind and on site are not available or adequate, the mitigation plan may include off-site or out-of-kind mitigation, or contributions to a fee in lieu restoration program when established. When off-site mitigation is proposed, projects included in the Restoration Plan found in Appendix C of this SMP shall be considered first.
11. Developments or Uses Allowed in Buffers.
- a. Those portions of water-dependent or public access development that require improvements or uses adjacent to the water's edge, such as boat launch ramps for boat launch facilities, swimming beaches, direct water access portions of shoreline trails (trails paralleling the shoreline do not qualify for this allowance unless located on or landward of the levee/dike), or re-development of existing park areas, are allowed in the buffer. Vegetation mitigation shall be required when the alteration removes significant trees or other vegetation.
 - b. Improvements such as balconies, patios, and any other improvements providing physical or visual public access may be placed no closer than the upland edge of the reduced buffer.
 - c. Native landscaping may be installed in the shoreline buffer, provided existing native vegetation is not removed. Use of noxious or invasive species is strictly prohibited. Areas of previously developed lawn or other impervious surfaces may be replaced with non-native landscaping, except those areas required to be maintained as mitigation areas. Chemical treatment of landscaping in shoreline buffers is discouraged, and any application of chemicals must be in strict conformance to the manufacturer's instructions.
 - d. Shoreline residential access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide, through the shoreline buffer to the OHWM. Impervious materials may be used only as needed to comply with ADA requirements to construct a safe, tiered pathway down a slope. Applicants shall consult the ADA standard in order to identify if the lot has sufficient space to comply with ADA standards prior to applying for an impervious ADA pathway on a slope. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most

direct route feasible consistent with any applicable Americans with Disabilities Act standards.

- E. **Tree Retention.** To maintain the ecological functions that trees provide to the shoreline environment, significant trees shall be retained as follows:
1. Within shoreline jurisdiction, significant trees shall not be removed or topped for the purpose of creating views, except as allowed under G below. Tree removal activities would include direct or indirect actions, including, but not limited to: (1) clearing, damaging or poisoning resulting in an unhealthy or dead tree; (2) removal of at least half of the live crown; or (3) damage to roots or trunk that is likely to destroy the tree's structural integrity.
 2. Within any shoreline buffer, significant trees shall be retained to the maximum extent possible, except where the tree is dead, diseased, dying or hazardous as determined by a qualified professional.
 3. If removal of a non-hazard significant tree in the shoreline buffer area is approved, minimally a two-for-one replacement is required. Mature conifers may require greater replacement ratios depending on planting plan proposal. For hazard trees, a one-for-one replacement is required. The required minimum size of the replacement tree(s) shall be 5 feet tall for a conifer and 1 ¾ inch caliper for deciduous or broad-leaf evergreen tree.
 4. For required replacement trees, a planting plan showing location, size and species of the new trees is required. All replacement trees in the shoreline buffer must be native species.
- F. **Tree Pruning and Removal for Safety and Development.**
1. Selective pruning of trees for safety is allowed if consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas; and Appendix B, Critical Areas Regulations.
 2. Where trees pose a significant safety hazard as indicated in a written report by a certified arborist or other qualified professional, they may be removed if the hazard cannot be removed by topping or other technique that maintains some habitat function. Stumps should be retained in the ground to provide soil stabilization unless another soil stabilization technique, which may trigger additional review by regulatory agencies, is utilized immediately after stump removal.
 3. All other tree removal in shoreline jurisdiction proposed as part of an approved use or development shall be minimized through site design, and mitigated if the tree removal has an adverse impact as outlined in SMP Section 4.5.2.C. When required, tree replacement shall occur minimally at a 1:1 ratio, with native trees replaced with a similar native tree. Outside the shoreline buffer, non-native trees may be replaced

with a native tree or another non-native tree, provided that no invasive or noxious trees are allowed.

- G. **View Corridors.** The development or maintenance of view corridors can provide opportunities for visual access to waterbodies associated with waterfront lots. One view corridor, limited to 25 percent of the width of the lot frontage, or 25 feet, whichever distance is less, may be permitted per lot, when consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas; Appendix B, Critical Areas Regulations; and this Section. A mitigation plan as required by 1below must be submitted for review and approval. View corridors are also addressed in SMP Section 5.1.2.E.
1. In addition to the submittal of a complete mitigation plan, an applicant must submit the following materials:
 - a. A graphic and/or site photos for the entire shoreline frontage which demonstrates that the existing or proposed development does not or will not have a view corridor of the waterbody, taking into account site topography and the location of existing shoreline vegetation on the parcel.
 - b. Demonstration that where the applicant already has an accessible shoreline physical access corridor per Section 4.5.2.D.11.d, the view corridor will include the existing shoreline physical access corridor to minimize alteration of the shoreline buffer.
 2. Applications for view corridors must also be consistent with the following standards:
 - a. Native vegetation removal shall be prohibited, unless the entire shoreline buffer between the primary structure or use and the shoreline waterbody consists of native vegetation and only when local topography prevents pruning or topping from providing the use or development with a view. Under those circumstances, native vegetation removal may be allowed only as needed to create or maintain the view corridor and provided that the view corridor is located to minimize removal of native trees and shrubs, in that order.
 - b. Pruning of native trees shall be conducted by or under the supervision of a qualified professional such that the tree's long-term health shall not be compromised. Native shrubs shall not be pruned to a height less than 4 feet. Tree topping is discouraged. Pruning of vegetation waterward of the OHWM is prohibited.
 - c. Non-native vegetation within a view corridor may be removed when the mitigation plan can demonstrate a net gain in site functions, and where any impacts are mitigated.

- d. Whenever possible, view corridors shall be located in areas dominated with non-native vegetation and invasive species.
 - e. A view corridor may be issued once for a property. No additional vegetation pruning for the view corridor is authorized except as may be permitted to maintain the approved view corridor from regrowth. Limitations and guidelines for this maintenance shall be established in the mitigation plan.
- H. **Clearing and grading.** Clearing and grading in shoreline jurisdiction shall be limited to the minimum necessary to accommodate approved shoreline development and shall also be in conformance with the provisions of Section 4.2, Ecological Protection and Critical Areas; and Appendix B, Critical Areas Regulations. All earth-altering activities shall utilize best management practices to minimize and control erosion.
- I. **Mitigation required.** The following standards apply specifically to projects that may adversely impact ecological functions provided by vegetation. See also the requirements of Section 4.2 of this SMP, which more generally address mitigation requirements for impacts to all ecological functions.
 - 1. Where adverse impacts to shoreline ecological functions provided by vegetation are proposed, and after mitigation sequencing has been applied as outlined in Section 4.2.2.A, new developments or site alterations shall be required to develop and implement a mitigation plan.
 - 2. When required, mitigation plans shall be prepared by a qualified professional and shall be consistent with the relevant mitigation plan requirements of the City in Appendix B, including a three- year monitoring plan, or other monitoring timeframe specified by local, state or federal permitting agencies, and scaled drawings of existing and proposed conditions.
 - 3. Mitigation plans shall describe actions that will ensure no net loss of ecological functions to the maximum extent practicable at the site scale, and shall describe the functions impacted per the list of potential functions provided in SMP Section 4.5.1.A above, and how the mitigation plan addresses those specific functions. For example, if vegetation removal results in loss of overhanging vegetation that provides shade, detritus and insects, the mitigation plan shall include supplemental overhanging vegetation where feasible. If the vegetation removal could destabilize a slope and increase erosion, the mitigation plan shall include re-vegetation in combination with erosion control measures to protect water quality and other measures that help stabilize slopes.
 - 4. Mitigation plans shall include a performance standard of 100 percent

survival for the first year of growth post installation, with no less than 80 percent survival at the end of the third year.

5. Mitigation measures specified in the mitigation plan shall be maintained over the life of the use and/or development and recorded on an appropriate document recorded with the County Auditor which can be passed to future owners.
6. All mitigation areas shall be permanently identified and protected by means of a conservation easement or similar legal instrument recorded with the County Auditor.

- J. **Unauthorized vegetation removal.** Vegetation removal within shoreline jurisdiction that is not allowed under this Section and is conducted without the appropriate review and approvals is subject to enforcement provisions in Section 7.15 and requires the submittal and approval of a restoration plan prepared by a qualified professional, and shall be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas and appropriate requirements of Appendix B, Critical Areas Regulations. The restoration plan shall utilize only native vegetation, and shall be designed to compensate for temporal loss of function and address the specific functions adversely impacted by the unauthorized vegetation removal.
- K. **Non-native vegetation.** With the exception of hand removal or spot- spraying of invasive or noxious weeds, the determination of whether non-native vegetation removal may be allowed in a shoreline buffer or critical area buffer must be evaluated in conformance with Section 4.2, Ecological Protection and Critical Areas and appropriate requirements of Appendix B, Critical Areas Regulations. Such removal of noxious weeds and/or invasive species shall be incorporated in mitigation plans, as necessary, to prevent erosion and facilitate establishment of a stable community of native plants. Non-native vegetation removal outside of shoreline buffers or critical area buffers does not require mitigation, except as noted under Subsections C, E and F above, but must incorporate necessary erosion control measures.
- L. **New structures or developments prohibited.** New structures or developments, including, but not limited to, pools, decks, patios, residence additions, sheds, fences, or other residential appurtenances, are not permitted in shoreline buffers except as specifically allowed in this section and Chapter 6, Nonconforming Structures and Uses of this Master Program.
- M. **Essential public facilities.** Consistent with the use allowances for each environment designation, other essential public facilities as defined by RCW 36.70A.200, may be located in the shoreline buffer if the use or activity cannot be reasonably accommodated or accomplished outside of the standard or reduced shoreline buffer. Essential public facilities must also demonstrate that alternative sites are not available. These uses and modifications must be

designed and located to minimize intrusion into the buffer and should also be consistent with Section 4.2, Ecological Protection and Critical Areas and Section 4.4, Public Access.

- N. **Passive allowed activities.** Education, scientific research, and passive recreational activities, including, but not limited to: fishing, bird watching, hiking, hunting, boating, horseback riding, snowshoe or cross-country skiing, swimming, canoeing, and bicycling, are allowed within shoreline jurisdiction and within established shoreline and critical area buffers without a shoreline permit, provided the activity does not include elements that meet the definition of “development.” For example, hiking through the woods or along a shoreline is allowed outright and does not require a permit; however, construction of a new trail on which to hike would constitute a development that must be permitted and may be allowed subject to all the provisions of this SMP. For other parks and recreation activities, see Section 4.5.2.D.4.
- O. **Site investigation allowed.** Site investigative work necessary for land use application submittals such as surveys, soil logs, drainage tests and other related activities, may occur within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP. In every case, buffer impacts should be avoided and/or minimized and disturbed areas shall be immediately restored.
- P. **Siting of roads.** Where other options are available and feasible, new roads or road expansions shall not be built within shoreline jurisdiction. Crossings, where necessary, shall cross shoreline and critical area buffers as near perpendicular as possible, unless an alternate path would minimize disturbance of native vegetation or result in avoidance of other critical areas such as wetlands or geologically hazardous areas. If no alternative exists to placing a roadway in shoreline jurisdiction, a mitigation plan prepared by a qualified professional must be submitted, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas and appropriate requirements of Appendix B, Critical Areas Regulations.
- Q. **Utilities.** Where no other practical alternative exists to the excavation for and placement of wells, tunnels, utilities, or on-site septic systems in a shoreline and critical area buffer, these uses may be permitted if also allowed under Section 5.20, Utilities. A mitigation plan must be prepared by a qualified professional, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas, and appropriate requirements of Appendix B.
- R. **Trails.** Trails and associated facilities may be permitted in shoreline buffers, but should conform to design guidelines found in Public Access sections of this SMP. A mitigation plan must be prepared by a qualified professional, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas, and appropriate requirements of Appendix B, Critical Areas

Regulations.

- S. **Conflicts with flood hazard reduction measures.** In those instances where management of vegetation as required by this SMP conflicts with vegetation provisions included in state, federal or other flood hazard agency documents governing licensed or certified flood hazard reduction measures, the requirements of this SMP will not apply. However, the applicant shall submit documentation of these conflicting provisions with any shoreline permit applications, and shall comply with all other provisions of this section and this SMP that are not strictly prohibited by certifying or licensing agencies.

4.6 Water Quality, Stormwater and Nonpoint Pollution

4.6.1 Policies

- A. **Do not degrade waters.** The location, construction, operation, and maintenance of all shoreline uses and developments should maintain or enhance the quantity and quality of surface and groundwater over the long term.
- B. **Assess and mitigate stormwater impacts.** New developments or expansions or retrofits of existing developments should assess the effects of additional stormwater runoff volumes and velocities, and mitigate potential adverse affects on shorelines through design and implementation of appropriate stormwater management measures.
- C. **Low impact development.** Low Impact Development (LID) techniques should be considered and implemented to the greatest extent practicable throughout the various stages of development including site assessment, planning and design, vegetation conservation, site preparation, retrofitting and built-out management techniques.
- D. **Minimize need for synthetic chemical applications.** Shoreline use and development, including invasive or noxious weed control, should minimize the need for synthetic chemical fertilizers, pesticides or other similar synthetic chemical treatments to prevent contamination of surface and ground water and/or soils and adverse effects on shoreline ecological functions and values. Use of natural and non-synthetic applications are encouraged when treatment is necessary.
- E. **Provide and maintain buffers.** Appropriate buffers along all wetlands, streams, and rivers should be provided and maintained for new development in a manner that avoids the need for chemical treatment for vegetation management and be consistent with critical areas ordinances and best management practices.
- F. **Existing development.** For existing development, implementation of management plans that minimize or avoid the need for chemical treatments of vegetation in shoreline buffers is encouraged. When lands owned by the City are leased to private parties, a vegetation management plan should be

negotiated during lease renewal.

4.6.2 Regulations

- A. **Do not degrade waters.** Shoreline use and development shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws.
- B. **Requirements for new development.** New development shall manage stormwater to avoid and minimize potential adverse affects on shoreline ecological functions through the use of best management practices and/or through compliance with the current Stormwater Management Manual for Eastern Washington in effect at the time if applicable to the project. When the Stormwater Management Manual applies, deviations from the standards may be approved where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan.
- C. **Low impact development.** Low Impact Development (LID) techniques shall be considered and implemented to the greatest extent practicable throughout the various stages of development, including site assessment, planning and design, vegetation conservation, site preparation, retrofitting and built-out management techniques.
- D. **Existing public systems retrofitted.** Existing public stormwater management systems and facilities shall be retrofitted and improved to incorporate LID techniques whenever feasible.
- E. **Maintain storm drainage facilities.** Maintenance of storm drainage facilities on private property shall be the responsibility of the property owner(s). This responsibility and the provision for maintenance shall be clearly stated on any recorded subdivision, short plat, or binding site plan map, building permit, property conveyance documents, maintenance agreements and/or improvement plans.
- F. **Use BMPs.** Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all development in shoreline jurisdiction through an approved temporary erosion and sediment control (TESC) plan, identified in the Stormwater Management Manual for Eastern Washington, as amended or the most recent adopted stormwater manual, or administrative conditions, in accordance with the current federal, state, and/or local stormwater management standards in effect at the time.
- G. **Sewage management.** To avoid water quality degradation by malfunctioning or failing septic systems located within shoreline jurisdiction, on-site sewage systems shall be located and designed to meet all applicable water quality, utility, and health standards, in addition to requirements outlined below.
 - 1. All buildings within the City limits designed and constructed for

residential, business, commercial, public, or industrial purposes shall have all sanitary facilities connected to the City wastewater system.

2. Existing on-site wastewater treatment systems serving allowed uses in conformance with this Master Program shall be subject to regulations administered by the Chelan-Douglas Health District.
3. Existing Large On-site Sewage Systems (LOSS) and any future proposed LOSS in the City's UGAs shall be subject to regulations administered by the Washington State Department of Ecology or Department of Health as required by rule adopted under RCW 70.118B.020. Such sewage treatment systems shall be located to prevent or minimize entry of nutrients, including phosphorus and nitrogen, or other pollutants, into ground and surface water within shoreline jurisdiction.
4. In the City's UGAs, all individual and community on-site wastewater treatment systems, also called sewage treatment systems, including septic tanks and drainfields or alternative systems approved and inspected by the Chelan-Douglas Health District, the Washington Department of Ecology, or Washington Department of Health, shall be located landward of designated shoreline buffers.
4. The Chelan-Douglas Health District requires a standard horizontal separation of on-site sewage treatment systems from surface waters of 100 feet from the OHWM. In instances where shoreline buffers are less than 100 feet in width, an approval from the Chelan-Douglas Health District is required to locate sewage system components closer than 100 feet to the OHWM. Buffer reductions shall be the minimum necessary and shall be based on feasibility, lot size, or lot configuration. Where residential structures are permitted within 100 feet of the OHWM, tightlines from structures or septic tanks may be located within 100 feet from the OHWM.
5. Whenever feasible while meeting Chelan-Douglas Health District or Washington Department of Health standards, all components of on-site sewage treatment systems, including subsurface soil absorption systems, shall be located landward of the residential structures they serve.

- H. **Materials requirements.** All materials that may come in contact with water shall be constructed of materials, such as untreated or approved treated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state or federal agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote or pentachlorophenol is prohibited in shoreline waterbodies and other waters.

5 SPECIFIC POLICIES AND REGULATIONS

Chapter 5 presents specific policies and regulations that apply to particular developments, uses, or activities in any environment designation.

Each section includes policies and regulations. Policies are statements of principles that guide and determine present and future decisions. Regulations are rules that govern developments, uses, or activities.

The Use Matrix and Development Standards sections found in Section 3.2.1.F, Chapters 4 through 8, and Appendices A, B, E, F and G are considered part of the regulations.

Shoreline application requirements are found in Section 7.4 of this SMP. Chapter 5 may contain specific submittal requirements for a particular use or modification beyond those stated in Section 7.4. Chapter 5 also contains performance standards for shoreline modifications and uses. Further, the Shoreline Administrator may condition a proposal in order to comply with the Act or this SMP consistent with the provisions in Section 7.5.3, 7.7.3, 7.8.3, and 7.9.

5.1 General Upland Shoreline Modification and Use Regulations

This section provides policies and standards addressing preferred layouts of shoreline development and appropriate signage serving the intended use and recognizing shoreline locations.

5.1.1 Policies

- A. **Designs Avoid Sensitive Areas.** Development and uses should be designed in a manner that directs land alteration to the least sensitive portions of the site to maximize vegetation conservation, both upland and aquatic; minimize impervious surfaces and runoff; protect riparian, nearshore, aquatic and wetland habitats; protect wildlife and habitats; protect archaeological, historic and cultural resources; and preserve aesthetic values.
- B. **Location of Nonwater-Oriented Accessory Uses.** Nonwater-oriented accessory development or use that does not require a shoreline location should be located landward of shoreline jurisdiction unless such development is required to serve approved water-oriented uses and/or developments. When sited within shoreline jurisdiction, uses and/or developments such as parking, service buildings or areas, access roads, utilities, signs, and materials storage should be located landward of shoreline, riparian and/or wetland buffers and landward of water-oriented developments and/or other approved uses.

- C. **Minimize Impacts on Shoreline and Upland Uses.** Development should be located, designed, and managed to minimize impacts on shoreline or upland uses through bulk and scale restrictions, setbacks, buffers, light shielding, noise attenuation, and other measures.
- D. **Vistas and Viewpoints.** Vistas and viewpoints from public properties and rights of way should not be degraded and visual access to the water from such vistas should not be impaired by the placement of signs.

5.1.2 Regulations

- A. **Design features for compatibility.** Shoreline use and development activities shall be designed to complement the character and setting of the property, minimize noise and glare, and avoid impacts to view corridors. Shoreline applicants shall demonstrate efforts to minimize potential impacts to the extent feasible, including:
 - 1. Building mechanical equipment shall be incorporated into building architectural features, such as pitched roofs, to the maximum extent possible. Where mechanical equipment cannot be incorporated into architectural features, a visual screen shall be provided consistent with building exterior materials that obstructs views of such equipment.
 - 2. Outdoor storage shall be screened from public view through techniques such as landscaping, berming, fencing and/or other equivalent measures.
 - 3. Property screening in the form of fences or berms shall be subject to Section 5.1.2.E below.
- B. **Preference for water-oriented facility location.** Shoreline developments shall locate the water-oriented portions of their developments along the shoreline and place all other facilities landward or outside shoreline jurisdiction.
- C. **Minimize changes to topography.** To the extent feasible, design of structures, and motorized and nonmotorized vehicular improvements, shall conform to natural contours and minimize disturbance to soils and native vegetation and natural features while meeting applicable government standards.
- D. **Soil disturbance.** All disturbed areas shall be restored and protected from erosion using vegetation and other means.
- E. **View corridors.**
 - 1. **Heights Greater than 35 Feet:** Per WAC 173-27-180(9)(l), applicants for structures exceeding 35 feet in height shall provide a depiction of the impacts to views from substantial numbers of residences and public areas. To mitigate impacts, site design shall provide for view corridors between buildings through the use of building separation, setbacks, upper story setbacks, pitched roofs, and other mitigation. In order to determine appropriate view corridor location, applicants and the City

shall review the shoreline public access plan (Appendix E), location of Federal- or State-designated scenic highways, government-prepared view studies, SEPA documents, or applicant-prepared studies. The maximum width of a view corridor shall be 25% of the lot width of the lot frontage; where the view corridor requires vegetation removal, the view corridor may be limited to 25% or 25 feet, whichever is less.

2. Height Adjustments: In order to allow for public access pursuant to Section 4.4, and/or to allow for buffer accommodations pursuant to Section 4.5, building height may be increased when consistent with the criteria in 3a to 3b.
3. View Analysis Standards: In the case of heights proposed above 35 feet in Subsection E.1 or when adjusted per E.2, the following view analysis standards and procedures apply:
 - a. The applicant shall prepare a view analysis conducted consistent with Section 7.4. The analysis shall address such considerations as cumulative view obstruction within a 1,000-foot radius with implementation of the proposed development combined with those of other developments that exceed 35-feet in height. The cumulative impact analysis shall address overall views that are lost, compromised, and/or retained; available view corridors; and surface water views lost, compromised, and/or retained. For phased developments, the view analysis shall be prepared in the first phase and include all proposed buildings.
 - b. Applicants proposing building or structure heights above 35 feet, but otherwise consistent with this SMP and underlying zoning allowances, may be approved as part of a Shoreline Conditional Use Permit if the following criteria are affirmatively met:
 - (1) The building or structure will not impact a substantial number of residences. The applicant shall review residences involved on or in an area adjoining the project area.
 - (2) The development will not cause an obstruction of view from public properties or substantial number of residences. The applicant shall demonstrate through photographs, videos, photo-based simulations, and/or computer-generated simulations that the proposed development will obstruct less than 30% of the view of the shoreline enjoyed by a substantial number of residences on areas adjoining such shorelines.

F. **Lighting.** Interior and exterior lighting shall be designed and operated to avoid

illuminating nearby properties or public areas; prevent glare on adjacent properties, public areas or roadways to avoid infringing on the use and enjoyment of such areas; and to prevent hazards. Methods of controlling spillover light include, but are not limited to, limits on height of structure, limits on light levels of fixtures, light shields, setbacks, buffer areas and screening. Lighting shall be directed away from critical areas, unless necessary for public health and safety.

G. Sign regulations.

1. Sign Size, Location, and Lighting Standards: Signs are allowed subject to the following:
 - a. Signs shall comply with lighting standards of subsection 5.1.2.F above.
 - b. Signs required by law shall not be subject to limitations with respect to the number, location, and/or size, provided that they are the minimum necessary to achieve the intended purpose. Signs required by law include, but are not limited to, official or legal notices issued and posted by any public agency or court, or traffic directional or warning signs.
 - c. Any signs or other devices which flash, blink, flutter, rotate, oscillate, or otherwise purposely fluctuate in lighting or position, in order to attract attention through their distractive character are prohibited in shoreline jurisdiction. Pennants, banners and other devices of seasonal, holiday, or special event character may be utilized on a temporary basis based on the City's zoning code and sign standards.
 - d. Freestanding signs authorized by this SMP are subject to the shoreline and critical area buffers and vegetation conservation standards in Section 4.5 and Appendix B. Building mounted signs are subject to shoreline buffers and other setbacks applicable to buildings. Height of wall signs shall not exceed the development standards in this SMP.
2. Views: Signs shall not significantly obstruct visual access to the water or scenic vistas nor impair driver vision. Signs shall be subject to the review of Section 5.1.2.E.
3. Natural Features: Signs shall not be posted or painted on natural features such as trees, rocks, and hillsides, etc., not including Numeral Mountain which has traditionally been painted by graduating seniors at a local high school, within shoreline jurisdiction.
4. Moved Signs: Signs that are moved, replaced, or substantially altered shall conform with SMP requirements and City regulations. For the purposes of this section, "substantial alterations" includes modifying

structural elements of the sign.

5.2 General Aquatic Shoreline Modification and Use Regulations

These policies and regulations apply to all modifications and uses taking place waterward of the OHWM, whether or not a shoreline permit or written statement of exemption is required.

5.2.1 Policies

- A. **Protect beneficial uses, including ecological functions and water-dependent uses.** Shoreline modifications and uses should be designed, located and operated in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological functions and processes. Modifications should not be permitted where they would result in a net loss of shoreline ecological functions, adversely affect the quality or extent of habitat for native species, adversely impact other habitat conservation areas, or interfere with navigation or other water-dependent uses.
- B. **Minimize and mitigate unavoidable impacts.** All significant adverse impacts to the shoreline should be avoided or, if that is not possible, minimized to the extent feasible and then mitigated.
- C. **Protect water quality and hydrograph.** Shoreline modifications and uses should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

5.2.2 Regulations

The following regulations shall apply to in-water work, including, but not limited to, installation of new structures, repair or maintenance of existing structures, replacement projects, restoration projects, and aquatic vegetation removal:

- A. **Siting and design requirements.** In-water structures and activities shall be sited and designed to avoid the need for future shoreline stabilization activities and dredging, giving due consideration to watershed functions and processes, with special emphasis on protecting and restoring priority habitat and species. Modifications and uses located in the Aquatic environment shall be the minimum size necessary.
- B. **Buffers.** Water-dependent in-water structures, activities and uses are not subject to the shoreline buffers established in this SMP.
- C. **Required permits.** Projects involving in-water work must obtain all applicable state and federal permits or approvals, including, but not limited to, those from the U.S. Army Corps of Engineers, Ecology, Washington Department of Fish and Wildlife, Washington Department of Natural Resources, and/or

Chelan County Public Utility District.

- D. **Timing restrictions.** Projects involving in-water work shall comply with timing restrictions as set forth by state and federal project approvals.
- E. **Structure removal.** Removal of existing structures shall be accomplished so the structure and associated material does not re-enter the waterbody.
- F. **Disposal of waste material.** Waste material, such as construction debris, silt, excess dirt or overburden resulting from in-water structure installation, shall be deposited outside of shoreline jurisdiction in an approved upland disposal site. Proposals to temporarily store waste material or re-use waste materials within shoreline jurisdiction may be approved provided that use of best management practices is adequate to prevent erosion or water quality degradation and that an on-site location outside of shoreline jurisdiction is not available.
- G. **Hazardous materials.** Extreme care shall be taken to ensure that no petroleum products, hydraulic fluid, fresh cement, sediments, sediment-laden water, chemicals, or any other toxic or deleterious materials are allowed to enter or leach into the waterbody during in-water activities. Necessary refueling of motorized equipment, other than watercraft, shall be conducted outside of shoreline buffers and a minimum of 50 feet from the OHWM if feasible. Appropriate spill clean-up materials must be on-site at all times, and any spills must be contained and cleaned immediately after discovery.
- H. **Over- and In-water Materials.** See SMP Section 4.6.2.F.
- I. **Prevent siltation of adjacent areas.** In-water work shall be conducted in a manner that causes little or no siltation to adjacent areas. A sediment control curtain shall be deployed in those instances where siltation is expected. The curtain shall be maintained in a functional manner that contains suspended sediments during project installation.
- J. **Below-OHWM excavations.** Any trenches, depressions, or holes created below the OHWM shall be backfilled prior to inundation by high water or wave action.
- K. **Concrete management.** Fresh concrete or concrete by-products shall not be allowed to enter the waterbody at any time during in-water installation. All forms used for concrete shall be completely sealed to prevent the possibility of fresh concrete from entering the waterbody.
- L. **Protection of bank and vegetation.** Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to perform the in-water work. All disturbed areas shall be restored and protected from erosion using vegetation or other means.
- M. **Trash and unauthorized fill removal required.** All trash and unauthorized fill, including concrete blocks or pieces, bricks, asphalt, metal, treated wood, glass, and paper, found below the OHWM at the time of project implementation

shall be removed if the project includes use of equipment suited for that purpose. Where the trash or fill is visibly providing some habitat function, consultation with Washington Department of Fish and Wildlife and/or the U.S. Army Corps of Engineers should occur before removal. Disposal should occur in an approved upland disposal location, outside of shoreline jurisdiction if feasible, but at a minimum landward of the OHWM and the channel migration zone. See Sections 5.8, Dredging and Dredge Material Disposal and 5.9, Fill for potentially applicable policies and regulations regarding dredging, fill and disposal.

- N. **Notification when fish harmed.** If at any time, as a result of in-water work, fish are observed to be in distress or killed, immediate notification shall be made to appropriate state or federal agency(ies), including the Washington Department of Fish and Wildlife, National Marine Fisheries Service and/or U.S. Fish and Wildlife Service.
- O. **Notification of water quality problems.** If at any time, as a result of in-water work, water quality problems develop, immediate notification shall be made to the appropriate state or federal agency(ies), including Ecology, National Marine Fisheries Service and/or U.S. Fish and Wildlife Service.
- P. **Retain natural features.** Natural in-water features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are actually causing bank erosion, higher flood stages, or a hazard to navigation or human safety.
- Q. **Floatation materials.** Floatation material (floats, buoys) must be encapsulated within a commercially manufactured shell, typically polyethylene or another material specifically approved for use in aquatic environments, that prevents breakup or loss of the floatation material into the water, and is not readily subject to damage by ultraviolet radiation or abrasion. During maintenance, existing un-encapsulated floatation material must be replaced. Tires may not be modified for use as floatation devices.
- R. **Tire use.** Tires shall not be allowed as part of above- or below-water structures or where tires could potentially come in contact with the water (e.g., floatation, fenders). Existing tires used for floatation should be replaced with inert or encapsulated materials such as plastic or encased foam during maintenance or repair of the structure.
- S. **Anchors.** Floats, rafts, mooring buoys, and navigational aids, such as channel markers or buoys, must use helical screw anchors or other embedded anchors and midline floats or other technologies to prevent anchors or lines from dragging or scouring. Floats and rafts may also be anchored with piles as provided in SMP Sections 5.5 and 5.14.
- T. **Mitigation.** All aquatic shoreline modifications and uses are subject to the mitigation sequencing requirements in Section 4.2, Ecological Protection and Critical Areas, with appropriate mitigation required for any unavoidable

impacts to ecological functions. If critical areas in shoreline jurisdiction are impacted, the project is also subject to relevant requirements of Appendix B, Critical Areas Regulations.

5.3 Agriculture

5.3.1 Policies

- A. **Maintain Agriculturally Productive Lands.** Lands well suited for agriculture may be maintained in agricultural production. However, the City recognizes that agricultural lands within the city limits and urban growth area will eventually be converted to another land use consistent with City policies and development regulations.
- B. **Encourage Vegetative Buffer.** The maintenance of a buffer of permanent vegetation along the shoreline in agricultural areas should be encouraged in order to retard surface runoff, reduce siltation, and provide sanctuary for fish and other wildlife.
- C. **Protect Airsheds.** Natural airsheds, made up of ravines, swales, tributaries, and other topographic features which direct the flow of cold air down to major streams, should be protected. Obstructions which would create frost pockets should be avoided. Adverse effects of highways, buildings, dikes, landfills, and dense plantings which may obstruct airflow and threaten existing orchards should be minimized.
- D. **Avoid Water Pollution.** Agricultural activities should be conducted and buildings designed to avoid surface or groundwater pollution.
- E. **Avoid Structures in Floodplains.** Agricultural structures should be located outside of the floodway. Agricultural structures should be discouraged in the 100-year floodplain unless no other suitable location is available and adequate protective measures are implemented.
- F. **Manage Water Resources.** Water resources should be managed in accordance with federal and state laws and adopted County watershed plans.
- G. **Best Management Practices.** Agricultural activities, including commercial and hobby farms, are encouraged to incorporate best management practices concerning animal keeping, animal waste disposal, fertilizer use, pesticide use, and stream corridor management.
- H. **Agriculture in Suburban Residential Areas.** In the suburban residential areas, the City should allow agricultural activities, including the keeping and raising of livestock and/or poultry, provided those activities are conducted according to accepted best management practices and in compliance with any applicable regulations, including the City's provisions governing the keeping and raising of livestock and poultry.
- I. **Agricultural Lands in UGA.** The City recognizes that agricultural lands within an urban growth area are still viable economic operations. In order to provide

for public health and safety, while allowing common commercial agricultural/orchard management practices to continue, the City should establish guidelines for new developments adjacent to agricultural lands.

- J. **Support Agri-Tourism.** The City should encourage and develop a plan to promote or assist the city's agricultural environment through agricultural tourism.

5.3.2 Regulations

- A. **Existing Agriculture.** The provisions of this SMP do not limit or require modification of agricultural activities on agricultural lands as of the date of adoption of the SMP.
- B. **Applicability.** SMP provisions shall apply in the following cases:
 - 1. new agricultural activities on land not meeting the definition of agricultural land;
 - 2. expansion of agricultural activities on non-agricultural lands or conversion of non-agricultural lands to agricultural activities;
 - 3. conversion of agricultural lands to other uses;
 - 4. other development on agricultural land that does not meet the definition of agricultural activities; and
 - 5. agricultural development and uses not specifically exempted by the Act.
- C. **No Net Loss of Ecological Function.** Agricultural uses and development in support of agricultural uses shall be located and designed to assure no net loss of ecological functions and no significant adverse impact on other shoreline resources and values.
- D. **Development Standards.**
 - 1. A Substantial Development Permit shall be required for all agricultural development not specifically exempt by the provisions of RCW 90.58.030(3)(a)(vi) and for activities listed in Section B.
 - 2. Feedlots shall comply with the following standards.
 - a. Shall be located outside of shoreline buffers, vegetation conservation areas, and 100-year floodplains.
 - b. Shall have a minimum of four feet between the ground surface and the upper surface of the water table.
 - c. Shall be conditioned to meet best management practices promulgated by federal or state agencies.
 - 3. Agricultural-Commercial Uses. Agricultural-commercial uses are allowed where specified in Table 3.2-1 and when consistent with Commercial use standards in Section 5.7.
 - 4. Non-agricultural activities on agricultural lands. New non- agricultural

activities proposed on agricultural lands shall be consistent with other applicable shoreline use standards in Chapters 4 and 5, for example Commercial or Industrial, and with other General Policies and Regulations.

5. New agricultural uses such as feedlots of any size, all processing plants, other activities of a commercial nature, upland finfish facilities and other activities which require alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities and shall comply with the applicable development standards found in regulations in Chapters 4 and 5.
6. New agricultural uses on non-agricultural lands are allowed where specified in Table 3.2-1 and when consistent with other applicable standards in Chapters 4 and 5.

5.4 Aquaculture

5.4.1 Policies

- A. **Water-dependent and preferred use.** Aquaculture is a water-dependent use and, when consistent with control of pollution and avoidance of adverse impacts to the environment and preservation of habitat for resident or anadromous native species, is a preferred use of the shoreline.
- B. **Recognize limited availability of suitable locations.** Potential locations for aquaculture activities are relatively restricted because of specific requirements related to water quality, temperature, oxygen content, currents, adjacent land use, wind protection and navigation.
- C. **Recognize and facilitate non-commercial aquaculture.** Aquaculture can be commercial or non-commercial. Non-commercial aquaculture is used for the purpose of enhancement and restoration of fish and wildlife resources. The goals and objectives of non-commercial aquaculture include, but are not limited to, supplementation, conservation, restoration, supplementation, mitigation, recreation, education, reintroduction, research, and harvest. Non-commercial aquaculture is location dependent because of the requirement for natal waters. Permitting should be streamlined for facilities that support propagation and acclimation of desirable salmonid species, particularly those covered by the Upper Columbia Salmon Recovery Plan.
- D. **Preference for lower-impact methods.** Preference should be given to those forms of aquaculture that involve lesser environmental and visual impacts, and lesser impacts to native plant and animal species. In general, projects that require either no structures or submerged structures are preferred over those that involve substantial floating structures. Projects that involve little or no substrate modification are preferred over those that involve substantial

modification. Projects that involve little or no supplemental food sources, pesticides, herbicides or antibiotic application are preferred over those that involve such practices.

- E. **Protect ecological functions.** Aquaculture activities should be designed, located and operated in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological functions and processes. Aquaculture should not be permitted where it would result in a net loss of shoreline ecological functions, adversely affect the quality or extent of habitat for native species, adversely impact other habitat conservation areas, or interfere with navigation or other water- dependent uses.
- F. **Prevent cumulative adverse effects.** Aquaculture that involves risk of cumulative adverse effects on water quality, sediment quality, benthic and other aquatic organisms, and/or wild fish populations through potential contribution of antibiotic resistant bacteria, escapement of non- native species, or other adverse effects on ESA-listed species should not be permitted unless the potential benefits outweigh the potential risks as determined by the appropriate state or federal agencies..
- G. **Consult with stakeholders.** The City should actively seek substantive comment on any shoreline permit application for aquaculture from all appropriate Federal, State, Tribal and local agencies and the general public regarding potential adverse impacts. Comments of nearby residents or property owners directly affected by a proposal should be considered and evaluated, especially in regard to use compatibility and aesthetics.
- H. **Coordinate with Tribes.** The rights of treaty tribes to aquatic resources within their usual and accustomed areas should be addressed through the permit review process. Direct coordination between the applicant and the tribe should be encouraged.
- I. **Consider beneficial and adverse impacts.** Consideration should be given to both the potential beneficial impacts and potential adverse impacts that aquaculture development might have on the physical environment; on other existing and approved land and water uses, including navigation; and on the aesthetic qualities of a project area.
- J. **Restrictions on experimental aquaculture.** Experimental aquaculture means an aquaculture activity that uses methods or technologies that are unprecedented or unproven in the State of Washington. The technology associated with some forms of aquaculture is still experimental and in formative stages. Therefore, some latitude should be given when implementing the regulations of this section in the development of this use. However, experimental aquaculture projects in waterbodies should be limited in scale and should be approved for a limited period of time, as specified by the regulatory agency.
- K. **Protect existing aquaculture.** Legally established aquaculture enterprises,

including authorized experimental projects, should be protected from incompatible uses that may seek to locate nearby. Uses or developments that have a high probability of damaging or destroying an existing aquaculture operation are not consistent with these policies.

5.4.2 Regulations

A. Location.

1. Water-dependent portions of commercial and non-commercial aquaculture facilities and their necessary accessories may be located waterward of the OHWM or in the shoreline buffer. Water intakes and discharge structures, water and power conveyances, and fish collection and discharge structures are all considered water-dependent or accessory to water-dependent.
2. All other elements of commercial and non-commercial facilities shall be located outside the shoreline buffer, unless those facilities are deemed to be water-related and proximity to the water-dependent project elements is critical to the successful implementation of the facility's purpose.
3. Sites shall be selected to avoid and minimize the need for and degree of floodplain or floodway alteration, channel migration zone alteration, shoreline stabilization, native vegetation removal, and/or wetland alteration. Aquaculture operations may be required to submit a site alternatives analysis. Recognizing the limited number of sites that are suitable for aquaculture, applicants for aquaculture operations shall be required to demonstrate that the location of the proposed facilities on the available site avoids and minimizes impacts to any on-site critical areas and habitats to the maximum extent feasible.
4. Aquacultural facilities shall be designed and located so as not to spread disease to native aquatic life significantly impact the aesthetic qualities of the shoreline, or interfere with navigation and other water-dependent uses.
5. To the extent that a location in channel migration zones, floodplains or floodways, or wetlands is allowed after mitigation sequencing and is necessary for non-commercial aquaculture facilities, low-intensity, moderate-intensity and high-intensity aquaculture is preferred in that order as defined in Chapter 8.

- B. **Substrate modification.** Aquaculture that involves substantial aquatic substrate modification or sedimentation through dredging, trenching, digging, or other similar mechanisms, shall not be permitted in areas where the proposal would have long-term adverse impacts on important fish or wildlife habitats. If substrate modification will not have long-term adverse impacts or the adverse impacts will be short-term, the applicant shall further demonstrate

that the degree of proposed substrate modification is the minimum necessary for feasible aquaculture operations at the site.

- C. **Mitigation sequencing.** New and expanded aquaculture proposals shall comply with mitigation sequencing requirements as outlined in Section 4.2.2.A, and shall comply with general standards in Chapter 4. Aquaculture activities that would have a significant adverse impact on natural, dynamic shoreline processes, or that would result in a net loss of shoreline ecological functions, shall be prohibited. Aquaculture practices shall be designed to minimize use of artificial substances and shall use chemical compounds that are least persistent and have the least impact on plants, animals and water quality.
- D. **Agency review.** All aquaculture projects shall be reviewed by local, State and Federal agencies, and as applicable by FERC-licensed hydro-projects review authorities.
- E. **New aquatic species.** New aquatic species that were not previously found or cultivated in Chelan County shall not be introduced into fresh waters without prior written approval of the Director of the Washington Department of Fish and Wildlife and the Director of the Washington Department of Health.
- F. **Fish kill.** In the event of a fish kill at the site of a net pen facility, the aquaculture operator shall immediately report to the Chelan-Douglas Health District and Washington Department of Fish and Wildlife stating the cause of death and shall detail remedial action(s) to be implemented to prevent reoccurrence.
- G. **U.S. Coast Guard requirements.** All floating and submerged aquaculture structures and facilities in navigable waters shall be marked in accordance with U.S. Coast Guard requirements.
- H. **Coordination with Tribes.** The rights of treaty tribes to aquatic resources within their usual and accustomed areas shall be addressed through direct coordination between the applicant and the affected tribe(s) during the permit review process.
- I. **Submerged and floating structures.** The installation of submerged structures and floating structures shall be allowed only when the applicant demonstrates that no alternative method of operation is feasible.
- J. **Potential impacts.** If uncertainty exists regarding potential impacts of a proposed aquaculture activity, and for all experimental aquaculture activities, baseline and periodic operational monitoring by a qualified professional may be required, at the applicant's expense, and shall continue until adequate information is available to determine the success of the project and/or the magnitude of any probable significant adverse environmental impacts. Aquaculture operators may submit monitoring reports prepared by qualified professional as part of monitoring required by other state or federal agencies. Permits for such activities shall include specific performance measures and provisions for adjustment or termination of the project at any time if

monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.

- K. **Over-water structures.** For water-dependent portions of aquaculture projects which may require over-water structures, storage of necessary tools and apparatus waterward of the OHWM shall be limited to containers of not more than 3 feet in height, as measured from the surface of the raft or dock; provided that, in locations where the visual impact of the proposed aquaculture structures will be minimal, the City may authorize storage containers of greater height. In such cases, the burden of proof that the container is the minimum size necessary and the visual impact is minimal shall be on the applicant. Materials that are not necessary for the immediate and regular operation of the facility shall be stored outside of the shoreline buffer.
- L. **Permanent instream facilities.** Permanent water-dependent instream facilities must be properly anchored or keyed to prevent the channel from migrating around it and causing erosion or creating a safety hazard, and must evaluate and mitigate any potential adverse effects on adjacent properties upstream and downstream.
- M. **Product processing.** No processing of any aquaculture product, except for the sorting or culling of the cultured organism and the washing or removal of surface materials or organisms after harvest, shall occur in or over the water unless specifically approved by permit. All other processing and processing facilities shall be located on land and shall be subject to the policies and regulations of Section 5.7, Commercial Development and/or Section 5.11, Industry, when located within shoreline jurisdiction, in addition to the policies and regulations in this section.
- N. **Waste disposal.** Aquaculture wastes shall be disposed of in a manner that will ensure strict compliance with all applicable governmental waste disposal standards, including, but not limited to, the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (RCW 90.48).
- O. **Construction, maintenance and bonding.** Aquaculture structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures and/or equipment shall be removed or repaired promptly by the owner. Where any structure might constitute a potential hazard to the public in the future, the City may require the posting of a bond commensurate with the cost of removal or repair. The City may abate an abandoned or unsafe structure, following notice to the owner, if the owner fails to respond in thirty (30) days and may impose a lien on the related shoreline property or other assets in an amount equal to the cost of the abatement. Bonding requirements shall not duplicate requirements of other agencies.

5.5 Boating Facilities

Public, community or private boat launch facilities shall be subject to the policies and regulations of this Section. Buoys associated with these facilities are also subject to these policies and regulations. Policies and regulations for moorage or launch facilities serving four or fewer single-family residences would be located in Section 5.14, Private Moorage or Boat Launch Facilities, and are prohibited in the City of Cashmere.

All boating facilities that extend onto State-owned aquatic lands must also comply with Washington Department of Natural Resources standards and regulations.

5.5.1 Policies

- A. **Recognize that boating facilities are water-dependent uses.** Boating facilities, including public boat launch facilities, are water-dependent uses. When facilitating public access or providing an opportunity for substantial numbers of people to enjoy the shoreline, these uses should be given priority for shoreline location. Shorelines particularly suitable for public boat launch facilities are limited and should be identified and reserved to prevent irreversible commitment for other uses having less stringent site requirements.
- B. **Plan and coordinate boating facilities regionally.** Regional needs for boat launch facilities should be carefully considered in reviewing new proposals as well as in allocating shorelines for such development. Such facilities should be coordinated with park and recreation plans and, where feasible, collocated with other compatible water-dependent uses. Review of such facilities should be coordinated with recreation providers, including other local governments, adjacent counties, the Washington State Parks and Recreation Commission, and the Washington State Department of Natural Resources, to efficiently provide recreational resources, avoid unnecessary duplication, and minimize adverse impacts to shoreline ecological functions and processes.
- C. **Minimize modifications.** Boating facilities that minimize the amount of shoreline modification, in-water structure, and overwater cover are preferred.
- D. **Limitations on accessory uses.** Accessory uses at boating facilities should be limited to water-oriented uses, or uses that provide physical and/or visual shoreline access for substantial numbers of the general public. Nonwater-dependent accessory uses should be located outside of the shoreline buffer or outside of shoreline jurisdiction whenever possible.
- E. **Protect other water-dependent uses.** Boating facilities should be located, designed and operated so that other appropriate water-dependent uses are not adversely affected.
- F. **Minimize impacts to adjacent uses and users.** Boating facilities should be located, designed, constructed and maintained to avoid adverse impacts such as noise, light and glare; aesthetic impacts to adjacent land uses; and impacts to public visual access to the shoreline.

- G. **Site facilities appropriately.** New boating facilities should be located only at sites where suitable environmental conditions, shoreline configuration, access, and compatible or similar uses are present. For these reasons, all docks and marinas should be prohibited in the City of Cashmere.
- H. **No net loss of ecological functions.** Boating facilities should be located and designed to ensure no net loss of ecological functions or other significant adverse impacts, and should, where feasible, enhance degraded and/or scarce shoreline features.
- I. **Consider navigation and other recreation opportunities.** Boating facilities should not unduly obstruct navigable waters and should consider adverse effects to recreational opportunities such as fishing, pleasure boating, swimming, beach walking, picnicking and shoreline viewing.

5.5.2 Regulations

A. Location Standards.

1. Boating facilities shall not be permitted within the following shoreline habitats because of their scarcity, biological productivity and sensitivity unless no alternative location is feasible, the project results in a net enhancement of shoreline ecological functions, and the proposal is otherwise consistent with this SMP:
 - a. Native aquatic vegetation or wetlands with emergent vegetation (marsh type areas), or
 - b. Spawning and holding areas for priority anadromous or priority resident fish.Projects located in these habitats must obtain a Shoreline Conditional Use Permit.
2. New boating facilities shall not be permitted in channel migration zones, or areas where dredging will be required to create or maintain the new facility, where a flood hazard will be created, or where impacts to shoreline ecological functions and processes cannot be mitigated. To the extent feasible, expansions of existing boating facilities should be designed to minimize the need for new or maintenance dredging.
3. Boating facilities shall be located and designed in a manner that eliminates the need for shoreline stabilization. When the need for stabilization is unavoidable, as indicated by a study prepared consistent with SMP Section 5.18, only the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft from floods or destructive storms shall be permitted.
4. Boating facilities shall not be located within 200 feet of beaches commonly used for public swimming, valuable public fishing areas, aquaculture facilities, or commercial navigation areas unless no

alternative location exists and appropriate measures are installed or best management practices are implemented to minimize impacts to such areas and protect the public health, safety and welfare. For example, clearly delineating swimming, fishing or boating areas through upland signage, wake limit buoys, and/or floating swim area marker ropes.

5. Launch ramps shall be located where 1) there is adequate water mixing and flushing; 2) they will not adversely affect flood channel capacity or otherwise create a flood hazard; 3) water depths are adequate to eliminate or minimize the need for dredging or filling; and 4) critical areas, active channel migration areas, and salmonid spawning habitat is not present.
6. Boating facilities shall be located only where adequate utility services that are necessary to meet applicable health, safety and welfare requirements, such as water, power and/or wastewater collection and treatment, are available or where they can be provided concurrent with the development.
7. Long-term boat storage located landward of the OHWM is regulated as a nonwater-oriented commercial use under Section 5.7, Commercial Development of this SMP, unless it is equipped with a boat launch facility (either launch ramp, crane, hoist or similar device). If the storage use is equipped with a boat launch facility, it is regulated as a water-related commercial use. The dry boat storage portion shall be located landward of the shoreline buffers, unless there are site constraints that prevent the boats from being moved inland. In all cases, boat storage shall comply with applicable height restrictions.

B. Facility Design.

1. Consistent with requirements for mitigation sequencing in Section 4.2, Ecological Protection and Critical Areas and provisions in Section 5.2, General Aquatic Shoreline Modification and Use Regulations of this SMP, all private and public boating facilities shall be designed and located to avoid and then minimize potential adverse impacts. All unavoidable adverse impacts must be mitigated, and a mitigation plan submitted consistent with Subsection F, Submittal Requirements, below.
2. All private and public boating facilities shall be no larger than the minimum size necessary to accommodate the anticipated demand. Specifically, 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 private and public boating facility components shall be based on the results of the analyses conducted under Subsection F,

Submittal Requirements, below.

3. Launch ramps shall be designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available, with consideration for site-specific conditions and the particular needs of that use outlined in the submittal requirements in F below. At a minimum, they shall minimize the obstruction of currents, alteration of sediment transport, and the accumulation of drift logs and debris.
4. New over-water residences, including floating homes and liveaboards, are not a preferred use and shall be prohibited.
5. Replacement of Existing Boating Facilities. Proposals involving replacement of 75 percent or more of an existing boat launch are considered a new boating facility and must be designed consistent with any dimensional, materials and mitigation standards for new boating facilities as outlined above in Sections 5.5.2.A and B.1-3, except the Shoreline Administrator may approve an alternative design without a Shoreline Variance if it meets all of the following criteria:
 - a. All appropriate Federal agencies have already approved the proposal; and
 - b. The total square footage of the replacement facility is no larger than the existing facility.
6. Additions to Boating Facilities. Proposals involving the modification and/or enlargement of existing boating facilities must comply with the following measures:
 - a. The applicant must demonstrate to the satisfaction of the City that there is a need for the enlargement of an existing boating facility. Proposals that demonstrate an enlargement is necessary due to increased or changed use or demand, safety concerns, or inadequate depth of water will be considered.
 - b. Enlarged portions of boating facilities must comply with applicable dimensional, design, materials and mitigation standards for new boating facilities as described in Sections 5.5.2.A and B.1-3.
7. Repair of Existing Boating Facility.
 1. Repair proposals which replace 75 percent or greater of the boat launch area are considered replacements and must comply with requirements for replacement facilities.
 2. Other repairs to existing legally established boating facilities are permitted consistent with all other applicable codes and regulations and provided that materials standards for new facilities are followed.

C. Site Design and Operation.

1. Boating facilities shall be designed so that lawfully existing or planned public shoreline access is not blocked, obstructed nor made dangerous.
2. Accessory uses at boating facilities shall be limited to water-oriented uses or uses that support physical or visual shoreline access the 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.

D. Parking and Vehicle Access. Public boat launch facilities shall include parking spaces for boat trailers commensurate with projected demand. All boating facilities shall provide parking facilities commensurate with projected demand and consistent with Section 5.19 of this SMP and local zoning standards.

E. Waste Disposal.

1. Discharge of solid waste or sewage into a waterbody is prohibited. Garbage or litter receptacles shall be provided and maintained by the operator at several locations convenient to users.
2. Commercial disposal or discarding of fish-cleaning wastes, scrap fish, viscera, or unused bait into water or in other than designated garbage receptacles is prohibited. Private recreational fish waste disposal is allowed.

F. Submittal Requirements.

1. Applicants shall provide an assessment of demand for new or expanded boating facilities, including, but not limited to, the following:
 - a. For new or expanded boat launch ramps, identification of the nearest existing boat launch facility, the expected or current level of use of the new or expanded boat launch ramp, and any other relevant factors related to the need for safe or efficient access to public waters, if that information supports justification for specific design elements;
 - b. The expected service population and boat ownership characteristics of the population, if that information supports justification for specific design elements related to facility length or necessary water depth; and/or
 - c. Existing approved facilities, or pending applications, within the service range of the proposed new facility.
2. Applicants for new or expanded boating facilities shall provide habitat surveys and critical area studies consistent with Section 4.2, Ecological Protection and Critical Areas and Appendix B, Critical Areas Regulations. If the project results in unavoidable adverse impacts to ecological functions or processes, a mitigation plan must be prepared

using the process and standards outlined in Section 5.5.2.G, Mitigation. In addition, the mitigation plan shall discuss how the proposed project avoids and minimizes impacts consistent with the facility's sizing needs, which are to be based on the results of any habitat survey/critical area study and the demand analysis prepared under F.1 above. A slope bathymetry map may be required when deemed beneficial by the Shoreline Administrator for the review of the project proposal.

3. Applicants for new or expanded boating facilities shall provide an assessment of existing water-dependent uses in the vicinity, including, but not limited to, navigation, fishing, hunting, pleasure boating, swimming, beach walking, picnicking and shoreline viewing, and document potential impacts and mitigating measures. The City will assist the applicant in identification of area water-dependent uses. Potential impacts on these resources shall be considered in review of proposals and specific conditions to avoid or minimize impacts shall be imposed.
4. New boat launch facilities shall be approved only if they provide public access to public waters that are not adequately served by existing access facilities, or if use of existing facilities is documented to exceed the designed capacity. Prior to providing boat launch facilities at a new location, documentation shall be provided demonstrating that expansion of existing launch facilities would not be adequate to meet demand.

G. Mitigation

1. Consistent with the mitigation sequencing steps outlined in Section 4.2.2, Ecological Protection and Critical Areas, new or expanded boating facilities should be first designed to avoid and then minimize impacts, prior to pursuing mitigation.
2. Mitigation proposals shall provide mitigation at a one to one (1:1) ratio by area of aquatic alteration to mitigation action using any of the potential measures listed under G.4 below. Applicants should consult with other permit agencies, such as Washington Department of Fish and Wildlife and/or U.S. Army Corps of Engineers, for additional specific mitigation requirements.
3. Applicants wishing to propose an alternate mitigation strategy may submit a mitigation plan prepared by a qualified professional that provides one unit of mitigation for each unit of lost function unless justified as outlined in regulation 4.2.2.F. The type and degree of potential adverse impacts typically associated with boating facilities varies considerably by waterbody, location with a waterbody, and design of the structure. Potential adverse impacts may include substrate disturbance and alteration, vegetation disturbance or

alteration, increases in sensitive species predation, increases in shoreline hardening, or reduction in presence or benefit of terrestrial vegetation adjacent to the water, among others. The mitigation provided shall be consistent with Section 4.2, Ecological Protection and Critical Areas. The proposed mitigation plan shall include a discussion of how the proposed mitigation adequately compensates for any lost functions.

4. For new development and modification or reconstruction of legally existing structures, appropriate mitigation may include one or more of the following measures, or other measures when consistent with objective of compensating for adverse impacts to ecological function:
 - a. Removal of any additional legal existing over-water and/or in-water structures that are not the subject of the application or are not otherwise required to be removed because they are not legal.
 - b. Planting of native vegetation along the shoreline immediately landward of the OHWM consisting of trees and/or shrubs native to Chelan County and typically found in undisturbed areas adjacent to the subject waterbody. When shoreline plantings are the only mitigation option for a given proposal, the additional aquatic alteration area shall be compensated for at a 1:1 planting area ratio (unless modified as described in Section 4.2.2.C or 4.2.2.F) with required trees planted on 10-foot centers and/or shrubs planted on 5-foot centers. Native groundcover can be supplemental to the planted shoreline area, but does not count toward the total square footage requirement. Applicants may utilize species found on the native plant list described in SMP Section 4.5.1.C.
 - c. Removal or ecological improvement of hardened shoreline, including existing launch ramps or hard structural shoreline stabilization. Improvements may consist of softening the face and toe of the stabilization with soil, gravel and/or cobbles and incorporating vegetation or large woody debris.
 - d. Removal of man-made debris waterward of the OHWM, such as car bodies, oil drums, concrete or asphalt debris, or other material detrimental to ecological functions and ecosystem-wide processes.
 - e. Placement of large woody debris if consistent with local, state and/or federal regulations.
 - f. Participation in an approved mitigation banking or in-lieu-fee program.

5.6 Breakwaters, Jetties, Groins, Weirs and Barbs

Breakwaters, jetties, groins, weirs and barbs are generally intended to protect harbors, moorages, navigation activity, or stream banks or bed from wave and wind action or stream flow by creating slow- or stillwater areas along shore. A secondary purpose is to protect shorelines from wave- or flow-caused erosion.

In addition to this section, development of breakwaters, jetties, groins, weirs, and barbs is also subject to provisions in Section 5.12 (In-stream Structures).

5.6.1 Policies

- A. **Allowed circumstances.** Breakwaters and jetties should be prohibited. Groins, weirs and barbs located waterward of the OHWM should be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.
- B. **Regional benefit and no net loss of ecological functions.** Groins, weirs and barbs should be permitted only for water-dependent uses when the benefits to the region outweigh short-term resource losses from such works, and only where mitigated to provide no net loss of shoreline ecological functions and processes.
- C. **Shoreline Conditional Use Permit required.** Groins, weirs, barbs and similar structures should require a Shoreline Conditional Use Permit, except for those structures installed to protect or restore ecological functions, such as woody debris, engineered log jams, or habitat-forming rock weirs.
- D. **Protect critical areas.** Groins, weirs and barbs should be designed to protect critical areas and should provide for mitigation according to the sequence defined in Section 4.2.2.A.

5.6.2 Regulations

- A. **No net loss of ecological functions.** New, expanded or replacement structures shall only be permitted if it can be demonstrated that the proposed development will not result in a net loss of shoreline ecological functions. All structures must be designed using mitigation sequencing as defined in Section 4.2.2.A to minimized adverse impacts on ecological functions and critical areas, and must mitigate any adverse impacts.
- B. **Allowed circumstances.** New, expanded or replacement structures shall only be permitted if they support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.
- C. **Prohibited and Conditional Uses.** Jetties and breakwaters are prohibited. Groins, weirs, barbs and similar structures shall require a Shoreline Conditional Use Permit, except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams.

- D. **Limitations on groins.** Groins are prohibited except where installed to protect or restore shoreline ecological functions or processes.
- E. **Limit size of structures.** The size of groins, weirs and barbs shall be limited to the minimum necessary as determined by a qualified professional (see 5.6.2.F) to provide protection for the structure or use it is intended to protect.
- F. **Professional design.** Proposed designs for new or expanded structures shall be designed and certified by a qualified professional, including an engineer, hydrologist, or geomorphologist.
- G. **State-owned aquatic lands.** Proposals on state-owned aquatic lands shall be consistent with the Washington Department of Natural Resources Aquatic Land Management standards (WAC 332-30, RCW 79.105).

5.7 Commercial Development

5.7.1 Policies

- A. **Encourage water-oriented uses.** Water-oriented commercial developments which provide an opportunity for substantial numbers of people to enjoy the amenities of the shorelines should be encouraged to locate near the water. Nonwater-oriented commercial development should be encouraged to locate landward or outside shoreline jurisdiction.
- B. **Commercial use preferences.** Preference should be given for water- dependent commercial uses above water-related uses. Water-related uses should have priority above water-enjoyment uses. All water-oriented commercial uses have preference over nonwater-oriented commercial uses.
- C. **Shoreline Tourist Facilities.** Development of additional resort, motel, restaurant and related tourist facilities should be encouraged.
- D. **Location in existing commercial areas.** New commercial development should be encouraged to locate in those areas where current commercial uses exist. The City should promote the development of incentive programs that reward the continued use, maintenance, development and revitalization of land and buildings within established commercial areas.
- E. **Design.** The City should encourage new businesses that will, through excellence of design and the nature of the use, provide long-term benefit to the people of Cashmere. New commercial development should be designed to provide economic activity meeting the needs of residents, businesses, and tourists, protect the public's health, safety, and welfare, protect shoreline ecological functions, and provide public access where feasible and consistent with constitutional limits. The City should implement the following design objectives when considering commercial uses in shoreline jurisdiction:
 - 1. Encourage adequate vehicular and pedestrian circulation patterns in commercial areas and provide linkages to other land use activities where practical.

2. Develop adequate standards for off-street parking sensitive to the diverse needs of commercial uses.
3. Encourage landscaping that provides unity to commercial developments, and which screens or softens parking lots and unsightly areas, particularly in the transition areas between commercial and residential land uses.
4. Require on-site commercial preparation such as street access, parking, surface drainage, utilities, water systems and sewer systems, by private developers or through appropriate public/private partnerships.

5.7.2 Regulations

- A. **Water-oriented uses allowed.** Water-dependent, water-related, and water-enjoyment uses are permitted where allowed by zoning and this SMP. Water-dependent commercial uses shall be given preference over water-related and water-enjoyment uses. The applicant shall demonstrate to the satisfaction of the City that proposed uses meet the definitions of water-dependent, water-related or water-enjoyment (water-oriented use).
- B. **Residential uses as part of mixed use development.** Nonwater-oriented uses, including but not limited to residential uses, may be located with water-oriented commercial uses provided:
 1. The mixed-use project includes one or more water-dependent uses.
 2. Water-dependent commercial uses as well as other water-oriented commercial uses have preferential locations along the shoreline.
 3. The underlying zoning district permits residential uses together with commercial uses.
 4. Public access is provided for significant number of persons in accordance with Section 4.4, and/or ecological restoration is provided as a public benefit.
 5. Residential uses meet requirements of Section 5.16 of this SMP.
- C. **Nonwater-oriented commercial uses limited.** In areas designated for commercial use, nonwater-oriented commercial uses are allowed if the site is physically separated from the shoreline by another property or public right of way. On properties fronting the shoreline, new nonwater-oriented commercial development is prohibited in shoreline jurisdiction, except where such use provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration and meets one of the following conditions:
 1. The use is part of a mixed-use project that includes water-dependent uses; or
 2. Navigability is severely limited at the proposed site, such as not available for commercial navigation.

- D. **Overwater uses.** Nonwater-dependent commercial uses shall not be located over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.
- E. **Accessory uses to water-oriented commercial activities.** Accessory commercial development that does not require a shoreline location shall be located landward of the water-oriented portions of the development and comply with shoreline buffers for nonwater-oriented uses. Accessory uses may be allowed in existing structures or where necessary in support of water-oriented uses. Accessory development includes, but is not limited to, parking, storage and service areas, and circulation.
- F. **Environmental protection.** Commercial development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions and without significant adverse impacts to other preferred land uses and public access features.
- G. **Public access.** See Section 4.4.

5.8 Dredging and Dredge Material Disposal

As regulated in this SMP, dredging is the excavation or displacement of the bottom or shoreline of a waterbody (waterward of the OWHM) for purposes of flood control, navigation, utility installation (excluding on-site utility features serving a primary use, which are “accessory utilities” and shall be considered a part of the primary use), the construction or modification of essential public facilities and regional transportation facilities, and/or restoration (of which the primary restoration element is sediment/soil removal rather than being incidental to the primary restoration purpose). This section is not intended to cover other excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement). These in-water substrate modifications should be conducted pursuant to regulations found in Section 5.2, General Aquatic Shoreline Modification and Use Regulations, Section 5.9, Fill and Excavation, and regulations found in sections of this Master Program governing the use or modification with which the excavation is associated, such as Section 5.5, Boating Facilities or Section 5.18, Shoreline Stabilization.

All dredging and dredge material disposal on state-owned aquatic lands must comply with all state and federal standards, regulations, and permitting.

5.8.1 Policies

- A. **Permitted.** Dredging should be permitted for water-dependent uses and/or essential public facilities only when necessary and when alternatives are infeasible or less consistent with this SMP. Dredging as part of flood hazard abatement, ecological restoration or enhancement, beach nourishment, public

access or public recreation should be permitted if consistent with this SMP.

- B. **Prohibited.** Dredging of bottom materials for the primary purpose of obtaining material for fill, construction, or beach nourishment should not be permitted.
- C. **Disposal.** Spoil disposal on land outside of shoreline jurisdiction is generally preferred over open water disposal. Disposal of dredged material on shorelands or wetlands within a river's channel migration zone should be discouraged.
- D. **Cooperative management programs.** Long-term cooperative management programs that rely primarily on natural processes, and involve land owners and applicable local, State and Federal agencies and tribes, should be pursued to prevent or minimize conditions which make dredging necessary.
- E. **Siting and design.** New development should be sited and designed to avoid or, where avoidance is not possible, to minimize the need for new maintenance dredging.
- F. **Ecological impacts.** Dredging and dredge material disposal shall be done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.
- G. **Navigation channels and basins.** Dredging for the purpose of establishing, expanding, relocating or reconfiguring navigation channels and basins should be allowed where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized locations, depths and widths.

5.8.2 Regulations

- A. **Siting and design.** New development shall be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
- B. **Allowed dredging activities.** Dredging shall only be permitted for the following activities:
 1. Development of new or expanded wet moorages, harbors, ports or water-dependent industrial uses only when there are no feasible alternatives or other alternatives may have a greater ecological impact and only where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided.
 2. Development of essential public facilities when there are no feasible alternatives.
 3. Maintenance of irrigation reservoirs, drains, canals, or ditches for

agricultural purposes. The City may approve five-year management plans addressing maintenance dredging, use of best management practices, and other measures to assure no-net-loss of shoreline ecological functions.

4. Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat.
 5. Trenching to allow the installation of underground utilities (excluding “accessory utilities” associated with a primary use) if no practicable alternative exists, and:
 - a. Impacts to fish and wildlife habitat are minimized to the maximum extent possible, which may require mitigation sequencing and implementation of a mitigation plan.
 - b. The utility installation shall not increase or decrease the natural rate, extent, or opportunity of channel migration.
 - c. Appropriate best management practices are employed to prevent water quality impacts or other environmental degradation.
 6. Establishing, expanding, relocating or reconfiguring navigation channels and basins where necessary to assure safe and efficient accommodation of existing navigational uses.
 7. Maintenance dredging of established navigation channels and basins, which shall be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.
 8. Flood hazard reduction, including dam maintenance.
- C. **Prohibited dredging activities.** Dredging shall be prohibited for the primary purpose of obtaining fill material, except that permitted under Section 5.13, Mining and except when necessary for restoration of ecological functions. In the latter circumstance, the fill must be placed waterward of the OHWM. The project must be either associated with a MTCA (Model Toxins Control Act) or CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act) habitat restoration project or, if approved through a Shoreline Conditional Use Permit, any other significant habitat enhancement project.
- D. **Maintain ecological functions and processes.** The physical alignment and ecological functions and processes of shoreline waterbodies shall be maintained, except to improve hydraulic function, water quality, fish or wildlife habitat, or fish passage. Consistent with the mitigation sequencing steps outlined in Section 4.2.2, Ecological Protection and Critical Areas, dredging and dredge disposal proposals should be first designed to avoid and then minimize potential adverse impacts. Where adverse impacts are unavoidable, mitigation shall be required. When required, mitigation plans shall be prepared by a qualified professional and shall be consistent with the

relevant plan requirements of the appropriate responsible government in Appendix B, Critical Areas Regulations.

- E. **Conditions may be applied.** Limitations on dredge or disposal operation may be imposed to reduce proximity impacts, protect the public safety and assure compatibility with the interests of other shoreline users. Conditions may include limits on periods and hours of operation, type of machinery, and may require provision of landscaped buffer strips and/or fencing to address noise and visual impacts at land disposal or transfer sites.
- F. **Circumstances when disposal is allowed.** Dredge material disposal within shoreline jurisdiction is permitted under the following conditions:
1. Shoreline ecological functions and processes will be preserved, restored or enhanced, including protection of surface and groundwater; and
 2. Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property.
- G. **Disposal of dredge material within channel migration zone discouraged.** Disposal of dredge material on shorelands or wetlands within a river's channel migration zone is discouraged. In the limited instances where it is allowed, such disposal requires a Shoreline Conditional Use Permit. This provision is not intended to address discharge of dredge material into the flowing current of the river or in deep water within the channel where it does not substantially affect the geohydrologic character of the channel migration zone.
- H. **Circumstances when open water dredge disposal is allowed.** Dredge material disposal in open waters may be approved only when authorized by applicable agencies, which may include the U.S. Army Corps of Engineers pursuant to Section 10 (Rivers and Harbors Act) and Section 404 (Clean Water Act) permits, and Washington State Department of Fish and Wildlife Hydraulic Project Approval (HPA); and when one of the following conditions apply:
1. Land disposal is infeasible, less consistent with this SMP, or prohibited by law; or
 2. Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible.
- I. **Open water dredge disposal conditions.** Dredge materials approved for disposal in open waters shall comply with the following conditions:
1. Offshore habitat will be protected, restored, or enhanced;
 2. Adverse effects on water quality or biologic resources from contaminated materials will be mitigated;
 3. Shifting and dispersal of dredge material will be minimal; and
 4. Water quality will not be adversely affected.
- J. **Submittal requirements.** The following information shall be required for all

dredging applications:

1. A description of the purpose of the proposed dredging and an analysis of compliance with the policies and regulations of this SMP.
2. An analysis of the existing shoreline and potential adverse impacts, including the following:
 - a. A site plan map outlining the perimeter of the proposed dredge area. The map must also include the existing bathymetry and have data points at a minimum of 2-foot depth increments.
 - b. A detailed description of the existing physical character, shoreline geomorphology, and biological resources provided by the area proposed to be dredged. This description should include information on the stability of bedlands adjacent to proposed dredging and spoils disposal areas.
 - c. A detailed description of potential adverse impacts to ecological functions and processes.
 - d. A mitigation plan to address any identified adverse impacts to ecological functions or processes.
3. A detailed description of the physical, chemical and biological characteristics of the dredge materials to be removed, including:
 - a. Physical analysis of material to be dredged (material composition and amount, grain size, organic materials present, source of material, etc.).
 - b. Chemical analysis of material to be dredged (volatile solids, chemical oxygen demand (COD), grease and oil content, mercury, lead and zinc content, etc.).
 - c. Biological analysis of material to be dredged.
4. A description of the method of materials removal, including facilities for settlement and movement.
5. Dredging procedure, including the estimated length of time it will take to complete dredging, method of dredging, and amount of materials removed.
6. Frequency and quantity of project maintenance dredging.
7. Detailed plans for dredge spoil disposal, including specific land disposal sites and relevant information on the disposal site, including, but not limited to:
 - a. Dredge material disposal area;
 - b. Physical characteristics including location, topography, existing drainage patterns, surface and ground water;
 - c. Size and capacity of disposal site;
 - d. Means of transportation to the disposal site;

- e. Proposed dewatering and stabilization of dredged material;
 - f. Methods of controlling erosion and sedimentation; and
 - g. Future use of the site and conformance with land use policies and regulations.
- 8. Plan for disposal of maintenance spoils for at least a 50-year period, if applicable.
 - 9. Hydraulic modeling studies sufficient to identify existing geo-hydraulic patterns and probable effects of dredging.

5.9 Fill and Excavation

Fill regulations in this section apply to fills anywhere in shoreline jurisdiction, in both aquatic and upland environments. "Fill" is 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.

Excavation regulations in this section apply to excavation anywhere in shoreline jurisdiction. "Excavation" is the disturbance or displacement of unconsolidated earth material such as silt, sand, gravel, soil, rock or other material. In addition to upland excavation, this section is intended to cover excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement). See Section 5.8, Dredging and Dredge Material Disposal for dredging for purposes of flood control, navigation, primary utility installation, the construction of water-dependent portions of essential public facilities, and/or restoration whose primary project element is removal of material waterward of the OHWM.

All fill and excavation on state-owned aquatic lands must comply with all state and federal agency standards, regulations, and permitting.

5.9.1 Policies

- A. **Minimize fill and excavation.** Fill and excavation should only be permitted to the minimum extent necessary to accommodate an approved shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes. Enhancement and voluntary restoration of landforms and habitat are encouraged.
- B. **Location.** Fills and excavation should be located and developed so that water quality, hydrologic and runoff patterns are not altered.
- C. **Shoreline stabilization.** Fill should not be allowed where shoreline stabilization would be required to maintain the materials placed.

- D. **Restoration.** Excavation and grading may be permitted landward of the OHWM of a waterbody for projects with the primary purpose of restoring ecological functions and natural character.
- E. **Creation of uplands.** Fill in waterbodies, floodways, channel migration zones, and/or wetlands should not be permitted for creation of new uplands, unless it is part of an approved ecological restoration activity or provides some other public benefit.
- F. **Permitted Fill.** Fill should be permitted in limited instances to restore uplands where recent erosion has rapidly reduced upland area where the erosion has not been caused by the landowners own actions of vegetation removal or improper stormwater handling, to build protective berms outside required buffers and nourish beaches for shore stabilization or recreation, to restore or enhance degraded shoreline ecological functions and processes, or to facilitate upland development outside required buffers otherwise allowed by and consistent with this SMP.
- G. **Benefits and impacts.** The predicted economic benefits of fills and excavation should be weighed against long-term cumulative impacts on ecological processes and functions.

5.9.2 Regulations

- A. **Protect ecological function.** All fills and excavations shall be located, designed and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration. Fill and excavation shall be minimized to the maximum extent practicable and necessary to accommodate approved shoreline uses and development activities that are consistent with this SMP. When fill or excavation causes adverse impacts to ecological functions, a mitigation plan must be prepared and implemented consistent with Section 4.2 of this SMP.
- B. **Permissible fill and excavation.** Fill and excavation within wetlands, floodways, channel migration zones, or waterward of the OHWM shall only be permitted in limited instances for the following purposes and when other required state or federal permits have been obtained, with due consideration given to specific site conditions, and only along with approved shoreline use and development activities that are consistent with this SMP, such as:
 - 1. Water-dependent uses, public access, and cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
 - 2. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Department of Natural Resources and/or the Dredged Material Management Office of the U.S. Army Corps of Engineers (see Section 5.8.2 of this SMP);

3. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible;
4. Ecological restoration or enhancement, including, but not limited to, beach nourishment, habitat creation, culvert upgrades to improve fish and flow passage, or bank restoration when consistent with an approved restoration plan; or
5. Protection of cultural or historic resources when fill is the most feasible method to avoid continued degradation, disturbance or erosion of a site. Such fills must be coordinated with any affected Indian tribes and comply with applicable provisions of Section 4.1.2 of this SMP.

All fills and excavation waterward of the OHWM not associated with ecological restoration, flood control or approved shoreline stabilization shall require a Shoreline Conditional Use Permit.

All other upland fills are permitted provided they are conducted outside required buffers and as part of an approved shoreline use or modification or are necessary to provide protection to cultural or historic resources, are the minimum necessary to implement the approved use or modification, do not significantly change the topography of the landscape in a manner that affects the hydrology or increases the risk of slope failure, and are consistent with applicable provisions of Appendix B, particularly regulations governing floodways and 100-year floodplains.

- C. **Shoreline stabilization.** Fills or excavation shall not be located where shoreline stabilization will be necessary to protect materials placed or removed, except when part of an approved plan for protection of cultural resources.
- D. **Physical and visual consistency.** Fills, beach nourishment and excavation shall be designed to blend physically and visually with existing topography whenever possible, so as not to interfere with long term appropriate use including lawful access and enjoyment of scenery.
- E. **Maximum slopes.** Cut and fill slopes shall generally be sloped no steeper than one foot vertical for every two feet horizontal (1:2) unless a specific engineering analysis has been provided.
- F. **Erosion control.** A temporary erosion and sediment control (TESC) plan, including BMPs, consistent with the Stormwater Management Manual for Eastern Washington, or the most recent adopted stormwater manual, shall be provided for all proposed fill and excavation activities, and approved by the Shoreline Administrator prior to commencement of activity. Disturbed areas shall be immediately protected from erosion using weed-free straw, mulches, hydroseed, or similar methods and revegetated, as applicable.

5.10 Forest Practices

Forest practices are prohibited in the City of Cashmere.

5.11 Industry

5.11.1 Policies

- A. **Industrial use preference.** Industries are an appropriate land use along shorelines where compatible with existing land use plans and zoning. However, first priority should be given to water-dependent industries over nonwater-dependent uses, and second priority to water-related industries over nonwater-oriented uses.
- B. **Promote Existing Sites.** The City should promote retention, expansion, and revitalization of existing industrial areas that are desirable for continued use. The City should promote revitalization of existing vacant industrial sites, and vacant structures.
- C. **Industries requiring navigable water.** Water-dependent industries which require frontage on navigable water should be given priority over other industrial uses.
- D. **Environmental limitations.** Lands designated for industrial development should not include shoreline areas with severe environmental limitations, such as critical areas.
- E. **Water and wastewater facilities.** Sewage treatment and potable water facilities should be located with consideration for economic operation and compatibility with surrounding uses, designed to assure no net loss of ecological functions, and designed not to have significant adverse impacts to other shoreline resources and values.
- F. **Cleanup and restoration.** Industrial development and redevelopment should be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.
- G. **Design.** The City should promote the following design objectives when reviewing new industrial development in shoreline jurisdiction:
 - 1. Require standards that place service entrances and storage facilities in the areas least visible to the public and any adjacent, less intense land uses.
 - 2. Locate industrial activities where roads have capacity to provide for the heavy demands of industrial traffic.
 - 3. Promote industrial site planning that internalizes negative effects by incorporating greenbelt buffers; landscaping; adequate utilities; noise, air and water pollution control devices; and attractive fencing or similar measures.

4. Encourage variety and innovative design in industrial site development, and promote an attractive, high quality environment for industrial activities through good landscaping, parking and building designs, particularly where land uses of distinct character or intensity adjoin.
5. Integrate parking area design with landscape design in a way that reduces the visual impact of impervious surfaces and provides screening of parking from public view. Design features should include provisions for landscaping adjacent to buildings and walkways, and for parking areas to be located behind buildings and away from areas of high public visibility.

5.11.2 Regulations

- A. **Water-dependent or water-related uses allowed.** Industrial facilities and structures that are water-dependent or water-related are permitted where allowed by zoning and this SMP. The applicant shall demonstrate to the satisfaction of the City that proposed uses are water-dependent and/or water-related.
- B. **Nonwater-oriented industrial uses limited.** In areas designated for industrial use, new nonwater-oriented industrial uses are allowed only if the site is physically separated from the shoreline by another property or public right-of-way or railroad prior to adoption of this SMP July 3, 2014. On properties fronting the shoreline, new nonwater-oriented industrial development is prohibited in shoreline jurisdiction, except where such use provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration, and meets one of the following conditions:
 1. The use is part of a mixed-use project that includes water- dependent uses; or
 2. Navigability is severely limited at the proposed site such as not available for commercial navigation.
- C. **Accessory uses to water-dependent or water-related industrial activities.** Accessory industrial development that is not water-dependent and does not require a shoreline location shall be located upland of the water-dependent or water-related portions of the development and comply with shoreline buffers found in Section 4.5.2. Accessory development includes, but is not limited to, parking, warehousing, open- air storage, waste storage and treatment, and transportation corridors.
- D. **Environmental protection.** Industrial development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions and without significant adverse impacts to other preferred land uses and public access features.

- E. **Public access.** See SMP Section 4.4.
- F. **Clean up and Restoration.** Industrial development and redevelopment are encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated. Federal and state requirements for hazardous materials clean up or management shall be addressed.

5.12 In-Stream Structures

In-stream structures include those placed by humans within streams and rivers for hydroelectric generation, irrigation, water supply, flood control, transportation, utilities, fish habitat enhancement, recreation, or other purpose. Structures placed waterward of the OHWM have the potential to cause water impoundment or the diversion, obstruction, or modification of water, and are therefore regulated by this section.

5.12.1 Policies

- A. **Long-term compatibility.** In-stream structures should be planned and designed to be compatible with appropriate multiple uses of resources over the long-term, especially in Shorelines of Statewide Significance. Appropriate multiple uses include, but are not limited to, public access, recreation, and fish migration. **Considerations.** The location, design, construction and maintenance of in-water structures should give due consideration to the full range of public interests; watershed processes, including prevention of damage to other properties and other shoreline resources from alterations to geologic and hydrologic processes; and ecological functions, with special emphasis on protecting and restoring priority habitats and species.
- C. **Siting and design.** In-stream structures shall be sited and designed consistent with appropriate engineering principles, including, but not limited to, guidelines of the Washington Department of Fish and Wildlife, Natural Resources Conservation Service, and the U.S. Army Corps of Engineers. Planning and design of in-stream structures should be consistent with and incorporate elements from applicable watershed management and restoration plans and/or surface water management plans.
- D. **Non-structural and non-regulatory alternatives.** Non-structural and non-regulatory methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources should be encouraged as an alternative to in-water structures. Non-regulatory and non-structural methods may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs.
- E. **Prohibited development and uses.** New or expanding development or uses in the shoreline, including subdivision of land, that would likely require structural flood control works within a stream, river, channel migration zone,

or floodway should not be allowed.

- F. **Enhance ecological function.** In-stream structure proposals should incorporate native vegetation to enhance ecological functions, create a more natural appearance, improve ecological processes, and provide more flexibility for long-term shoreline management. Such features include vegetated berms; vegetative stabilization including brush matting and buffer strips; and retention of existing trees, shrubs and grasses on stream banks, if possible.

5.12.2 Regulations

- A. **Prohibited projects.** Channelization projects that damage fish and wildlife resources, degrade recreation and aesthetic resources, result in a net loss of ecological functions or result in high flood stages and velocities are prohibited.
- B. **Soil stabilization.** Upland cut-and-fill slopes and back-filled areas resulting from installation of in-water structures shall be stabilized with bioengineering approaches, including, but not limited to brush matting and buffer strips and revegetated with native grasses, shrubs, or trees to prevent loss of shoreline ecological functions and processes. In order to ensure soil stabilization, revegetation must include native shrubs or trees and may not be limited to native grasses.
- C. **Water quality.** In-stream structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters. The City shall require reasonable conditions to achieve this objective.
- D. **Prohibited structures.** No motor vehicles, appliances, other similar structures or parts thereof; nor structure demolition debris; nor any other solid waste shall be used as in-water structures.
- E. **Natural features.** Natural in water features such as snags, uprooted trees, or stumps shall be left in place unless it can be demonstrated that they are actually causing bank erosion or higher flood stages or pose a hazard to navigation or human safety.
- F. **Protect functions, processes and cultural resources.** In-stream structures shall provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas. The location and planning of in-stream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.
- G. **Design.** In-stream structures shall be designed by a qualified professional. In-stream structures shall allow for natural groundwater movement and surface runoff, and shall preserve valuable recreation resources and aesthetic values such as point and channel bars, islands, and braided channels. In-stream

structures shall not be a safety hazard or obstruct water navigation as determined by the Shoreline Administrator.

- H. **Dam siting and design.** The design of all dams and the suitability of the proposed site for dam construction shall be certified by a professional engineer licensed in the State of Washington. The professional design shall include a maintenance schedule. Evaluation of the suitability of the dam shall include a downstream safety analysis.
- I. **Dam maintenance agreement and bond.** For all dams that are not regulated by either the Federal Energy Regulatory Commission licensing procedures, or the Ecology reservoir permit requirements, a construction bond and maintenance agreement shall be filed with the City prior to construction. The bond or surety shall be approved by the Shoreline Administrator and shall be in a form acceptable to the City. The construction bond shall be equal to at least one hundred fifty percent of the estimated cost of the improvement(s) to be performed, to be utilized by the City to perform any necessary work, to reimburse the City for performing any necessary work, and to reimburse the City for documented administrative costs associated with action on the device. To determine this value, the applicant must submit two cost estimates for the improvements to be performed. If costs incurred by the City exceed the amount provided by the assurance device, the property owner shall reimburse the City in full, or the City may file a lien against the subject property for the amount of any deficit. The maintenance agreement shall specify who is responsible for maintenance, shall incorporate the maintenance schedule specified by the design engineer, shall require annual inspections by a civil engineer licensed in the State of Washington, and shall stipulate abandonment procedures which shall include, where appropriate, provisions for site restoration.
- J. **Public access.** Design of in-water structures by public entities, including local governments, state agencies, and public utility districts, shall include access to public shorelines whenever possible, unless it is demonstrated that public access would cause unavoidable public health and safety hazards, security problems, unmitigatable ecological impacts, unavoidable conflicts with proposed uses, or unreasonable cost. At a minimum, in-water structures should not decrease public access or use potential of shorelines.

5.13 Mining

5.13.1 Policies

- A. **Type.** Only recreational in-water mining should be allowed in shoreline jurisdiction.
- B. **Ecological function.** Mining should be designed and conducted to result in no net loss of shoreline ecological functions and processes.

5.13.2 Regulations

- A. **Type.** Recreational in-water mining is allowed in shoreline jurisdiction. All other types of mining in shoreline jurisdiction are prohibited.
- B. **Recreational mining.** Mining using hand-held mineral prospecting tools, such as gold pans, and more intensive recreational mining, using devices such as suction dredges, shall strictly follow the requirements of the Washington Department of Fish and Wildlife's Gold and Fish Pamphlet, including any applicable timing restrictions.
- C. **No Net Loss.** Recreational in-water mining operations shall not cause permanent impairment or loss of floodwater storage, wetland, or other stream corridor features and habitats. Mitigation, if needed, shall provide for the feature's replacement at equal value.

5.14 Private Moorage or Boat Launch Facilities

Private moorage and boat launch facilities serving four or fewer residential units are prohibited in the City of Cashmere.

5.15 Recreational Development

5.15.1 Policies

- A. **Promote recreation and public access.** Developments and uses should be designed and operated to provide the public with recreational areas, facilities, and access to the shorelines.
- B. **Support facilities and access.** Recreational areas should be supported by multi-use trails and parking to prevent undue concentration and pressure on fragile natural areas. Parking is not a preferred shoreline use, and should be located only as necessary to support an authorized use, minimizing environmental and visual impacts.
- C. **Pedestrian-oriented.** Direct access to the water should be via paths, walkways, or other pedestrian-oriented features. Vehicular traffic on beaches and fragile shorelines should be prohibited.
- D. **Public acquisition.** To reduce overcrowding of current facilities and avoid adverse impacts on adjacent properties, the increased public acquisition and dedication of land for shoreline parks and recreation areas are encouraged.
- E. **Grounds management.** The use of fertilizers, herbicides, and pesticides to maintain recreational facilities such as golf courses and playfields should be closely monitored to prevent contamination of waterbodies by runoff. Management that utilizes organic treatments, integrated pest management, or non-synthetic chemicals is preferred where feasible and practical over management that utilizes synthetic chemicals.
- F. **Prevent impact to private property.** The location, design, construction and

operation of recreational facilities should prevent undue adverse impacts on adjacent or nearby private properties.

- G. **Scenic views and vistas.** Scenic views and vistas should be preserved in the design of recreational facilities, wherever practical.
- H. **State and Federal recreation use preferred to local acquisition.** As an economical alternative to new acquisition by local agencies, the use of State and Federal lands for recreational facilities should be considered.
Federal and state-owned shorelines are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses for the public.

5.15.2 Regulations

- A. **Design.** Recreational uses and facilities, both commercial and public, shall be designed to be primarily related to access, enjoyment and use of the water and shorelines of the state.
- B. **Use consistency.** Proposed recreation uses shall be designed, located and operated consistent with the purpose and intensity of the shoreline environment designation and environmental conditions.
- C. **Accessory uses.** Accessory uses and support facilities such as maintenance facilities and parking lots shall be consolidated and located in upland areas outside shoreline, wetland and riparian buffers to the extent feasible, except for access to water-dependent facilities such as boat launches.
- D. **Public access.** See SMP Section 4.4.
- E. **Fertilizer and chemical management.** For recreation developments such as golf courses and playfields that use fertilizers, pesticides, or other chemicals, the applicant shall submit plans demonstrating the best management practices and methods to be used to prevent these chemical applications and resultant leachate from entering adjacent waterbodies. Management that utilizes organic treatments, integrated pest management, or non-synthetic chemicals are preferred over management that utilizes synthetic chemicals where feasible and practical.
- F. **Compatibility with adjacent private properties.** Recreational facilities shall make adequate provisions, such as screening, buffer strips, fences, and signs, to prevent overflow onto adjacent private properties.
- G. **Adequate utilities and services.** Proposals for recreational development shall include facilities for water supply, wastewater, and garbage disposal in conformance with City standards.
- H. **Environmental protection.** Recreational development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.
- I. **Management Plans.** In order to simplify the future review of exempt and non-

exempt activities that are or will be ongoing in association with new or redeveloped public parks and recreation proposals, the City shall develop and review five-year recreation management plans addressing public recreation facility operations and maintenance, use of best management practices, and other measures to assure no net loss of shoreline ecological function.

Management plans are optional for existing public parks and recreation facilities or expansions of existing parks and recreation facilities that impact areas equal to or smaller than one-half acre.

1. New recreation proposals or redevelopment of park areas shall prepare a plan that shall minimally contain the following categories when applicable:
 - a. Description of in-stream habitat protection measures, and commitment to implement mitigation for any new or expanded development that has adverse impacts;
 - b. Description of riparian and wetland protection measures, and commitment to implement mitigation for any new or expanded development that has adverse impacts;
 - c. Description of site-appropriate water use management activities, including use of less water-dependent landscaping, maximizing the efficiency of the application system, and reducing the area irrigated;
 - d. Description of stormwater management practices to treat stormwater runoff to reduce both water quantity and water quality impacts, including maximizing use of infiltration, bio-filtration, and detention;
 - e. Description of erosion and sediment control practices that prevent off-site movement of sediment for new construction, stored soils, and potential surface erosion areas; and
 - f. Description of chemical and nutrient use and containment practices that demonstrate minimization of overall inputs of these contaminants, restrict the type of inputs, and develop an acceptable method of application through a comprehensive management program, such as Integrated Pest Management (IPM).
2. Each category specified in I.1 above shall be comprised of one to several standards. Each standard should describe the management objective or desired outcome for habitat conditions, specific performance requirements for each standard, and corrective actions that would be implemented if the performance requirement(s) is not met.

- J. **Public Recreation Performance Standards in Lieu of Buffers:** Public parks and recreation facilities or those facilities proposed on public easements or

dedicated rights of way shall follow the performance standards of Section 4.5.2.D.4 in lieu of buffers, as well as comply with Section 5.15.2. The City shall review and condition the project to fully implement the standards.

5.16 Residential Development

5.16.1 Policies

- A. **Compatibility with shoreline.** All subdivisions and residential development should be designed at a level of site coverage and density compatible with the physical capabilities of the shoreline and water in order to minimize probabilities of damage to life, property and the environment.
- B. **Cluster development.** Cluster development should be encouraged outside shoreline jurisdiction wherever feasible to minimize shoreline impacts by residential development, to maintain both on-site and off-site aesthetic appeal, and to minimize disruption of the natural shoreline. The City should encourage use of "Planned Unit Development" to provide for flexible, innovative developments.
- C. **Encourage restoration and environmental design.** Ecological restoration and measures to minimize environmental impacts, such as low impact development and vegetation conservation and enhancement, should be encouraged.
- D. **Aesthetics.** All subdivisions and residential development should be designed to adequately protect and/or improve the water and shoreline aesthetic qualities.
- E. **Overwater residential development.** New over-water residential development, including floating homes and liveaboards, should be prohibited.
- F. **Adequate streets and utilities.** Residential development should have adequate provision for sanitary sewage disposal, storm drainage, and water supply which minimizes harmful effects on shorelines. The City should ensure that applicants provide adequate and safe access to the City's public street system for all new development. Adequate public facilities and services should be available to serve new developments as they occur.
- G. **Focus residential development into areas with utilities and streets.** Residential development should be encouraged upland of areas presently having such improvements as utilities and streets so as to minimize additional expenditures of public funds, maximize use of existing public facilities, and not decrease availability of open space. The City should provide for the orderly development of residential neighborhoods by controlling the availability of City utilities, services and roads to encourage residential development to occur at appropriate densities.
- H. **Provide public access.** Residential developments should be encouraged to provide public access to shorelines within the development.

- I. **Scenic views.** Residential development should be designed to avoid impacts to scenic views and vistas.
- J. **Variety and Design.** Offer a variety of housing densities throughout the community, and implement development criteria to ensure compatibility within and among different neighborhoods.

5.16.2 Regulations

- A. **Subdivisions and plats.** Subdivisions and plats shall:
 - 1. Comply with all applicable subdivision, critical area, and zoning regulations.
 - 2. Include facilities for water supply, wastewater, stormwater, solid waste, access, utilities and other support facilities in conformance with City standards and which do not result in harmful effects on the shoreline or waters. See Section 4.6.2.E for specific wastewater requirements.
 - 3. Be designed to prevent the need for new hard or soft shoreline stabilization or flood hazard reduction measures per Section 4.3. A note limiting shoreline stabilization shall be placed on the face of the plat at the time of subdivision.
 - 4. Be designed, configured and developed in a manner that assures that no net loss of ecological functions results from division of land at full build-out of all lots and throughout all phases of development.
 - 5. Be required to cluster residential units and structures where necessary and when allowed by the City to avoid critical areas and to preserve natural features and minimize physical impacts.
 - 6. Identify locations for public or community access when consistent with Section 4.4, or conservation and utility easements, where proposed.
 - 7. Lots shall be configured in a way so as not to require a Shoreline Variance in the future for residential development. Lot configurations shall plan for building sites behind the required shoreline buffer. Shoreline buffer reductions shall be determined at the time of residential development; not at the time of subdivision.
- B. **Environmental protection.** Residential development, including accessory uses and appurtenant structures, shall:
 - 1. Meet all applicable critical area, vegetation conservation, and water quality standards of Chapter 4 and Appendix B of this SMP.
 - 2. Be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses. To accomplish this, the City shall apply critical area buffers established in Appendix B and shoreline buffers found in Section 4.5, Shoreline Buffers and Vegetation Conservation of this SMP. The City

- may require greater buffers to protect health and safety based on a geotechnical analysis or other information in the application record.
3. Be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.
- C. **Public access.** See SMP Section 4.4.
 - D. **Over-water residences.** New over-water residences, including floating homes and liveaboards, shall be prohibited.
 - E. **Accessory uses.** Residential accessory uses or appurtenances shall not be located in required shoreline buffers unless specifically authorized in Section 4.5, Shoreline Buffers and Vegetation Conservation, and Appendix B. Residential accessory uses shall be prohibited over the water unless clearly water-dependent.
 - F. **Underground Utilities.** See Section 5.20.

5.17 Shoreline Habitat and Natural Systems Enhancement Projects

Shoreline habitat and natural systems enhancement and restoration projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines. Examples of shoreline habitat and natural systems enhancement projects include floodplain restoration projects, fish passage barrier removal or improvement, and projects to increase shoreline habitat complexity, among others.

Stabilization of eroding banks may be considered under this section provided that the purpose of the project is clearly restoration of the natural character and ecological functions of the shoreline, and the project uses bioengineering approaches, including limited use of rock as a stabilization only at the toe of the bank as necessary, and with primary emphasis on using native vegetation to control erosive forces. Projects that qualify as streamlined fish enhancement projects per RCW 77.55.181 will be considered under this section.

5.17.1 Policies

- A. **Design.** Restoration and enhancement of shorelines should be designed using principles of landscape and conservation ecology and should restore or enhance chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.
- B. **Improve shoreline ecological functions.** Restoration and enhancement actions should improve shoreline ecological functions and processes and should target meeting the needs of sensitive plant, fish and wildlife species as identified by Washington Department of Fish and Wildlife, Washington Department of Natural Resources, National Marine Fisheries Service and/or U.S. Fish and Wildlife Service.

- C. **Pursue funding.** The City should, and private entities are encouraged to, seek funding from State, Federal, private and other sources to implement restoration, enhancement, and acquisition projects, particularly those that are identified in the Restoration Plan of this SMP or the local watershed plans.
- D. **Streamline review.** The City should develop processing guidelines that will streamline the review of restoration-only projects.
- E. **Coordination.** Restoration and enhancement projects should be coordinated with local public utility and conservation districts.
- F. **Alternative mechanisms.** Allow for the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs, as they are developed, to encourage restoration and enhancement of shoreline ecological functions and to protect habitat for fish, wildlife and plants.

5.17.2 Regulations

- A. **Approved plan.** Restoration and enhancement shall be carried out in accordance with an approved shoreline restoration plan.
- B. **Protect adjacent resources.** All shoreline restoration and enhancement projects shall protect the integrity of adjacent natural resources, including aquatic habitats and water quality.
- C. **Maintenance and monitoring.** Long-term maintenance and monitoring (minimum of three years, but preferably longer) shall be arranged by the project applicant and included in restoration or enhancement proposals.
- D. **Adverse affects.** Shoreline restoration and enhancement may be allowed if the project applicant demonstrates that no significant change to sediment transport or river current will result and that the enhancement will not adversely affect ecological processes, properties, or habitat.
- E. **Use of best information and BMPs.** Shoreline restoration and enhancement projects shall be designed using the best available scientific and technical information, and implemented using best management practices.
- F. **Public use of waters.** Shoreline restoration and enhancement shall not significantly interfere with the normal public use of the navigable waters of the state, as determined by the Shoreline Administrator, without appropriate mitigation. For projects on state-owned aquatic lands, prior to the solicitation of permits from regulatory agencies, project proponents must coordinate with the Washington Department of Natural Resources to ensure the project will be appropriately located.
- G. **Permitted.** Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments, provided the project's purpose is the restoration of the natural character and ecological functions of the shoreline.
- H. **Relief for OHWM shifts.** Applicants seeking to perform restoration projects are advised to work with the City to assess whether and how the proposed

project is allowed relief under ~~WAC 173-27-215~~[RCW 90.58.580](#), in the event that the project shifts the OHWM landward.

5.18 Shoreline Stabilization

Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods. Nonstructural methods include shoreline buffers or setbacks, relocation of the structure to be protected, groundwater management, planning and regulatory measures to avoid the need for structural stabilization.

Shorelines are by nature unstable, although in varying degrees. Erosion and accretion are natural processes that provide ecological functions and thereby contribute to sustaining the natural resource and ecology of the shoreline.

Human use of the shoreline has typically led to hardening of the shoreline for various reasons including reduction of erosion or providing useful space at the shore or providing access to docks. The impacts of hardening any one property may be minimal, but cumulatively the impact of this shoreline modification is significant.

Shoreline hardening typically results in adverse impacts to shoreline ecological functions such as:

- Beach starvation. Sediment supply to nearby beaches is cut off, leading to "starvation" of the beaches for the gravel, sand, and other fine-grained materials that typically constitute a beach.
- Habitat degradation. Vegetation that shades the upper beach or bank is eliminated, thus degrading the value of the shoreline for many ecological functions, including spawning habitat for salmonids and forage fish.
- Sediment impoundment. As a result of shoreline hardening, the sources of sediment on beaches (eroding "feeder" bluffs) are progressively lost and longshore transport is diminished. This leads to lowering of down-drift beaches, the narrowing of the high tide beach, and the coarsening of beach sediment. As beaches become more coarse, less prey for juvenile fish is produced. Sediment starvation may lead to accelerated erosion in down-drift areas.
- Exacerbation of erosion. The hard face of shoreline armoring, particularly concrete bulkheads, reflects wave energy back onto the beach, exacerbating erosion.
- Groundwater impacts. Erosion control structures often raise the water table on the landward side, which leads to higher pore pressures in the beach itself. In some cases, this may lead to accelerated erosion of sand-sized material from the beach.
- Hydraulic impacts. Shoreline armoring generally increases the reflectivity of the shoreline and redirects wave energy back onto the beach. This leads to

scouring and lowering of the beach, to coarsening of the beach, and to ultimate failure of the structure.

- Loss of shoreline vegetation. Vegetation provides important "softer" erosion control functions. Vegetation is also critical in maintaining ecological functions.
- Loss of large woody debris. Changed hydraulic regimes and the loss of the upper beach, along with the prevention of natural erosion of vegetated shorelines, lead to the loss of beached organic material. This material can increase biological diversity, can serve as a stabilizing influence on natural shorelines, and is habitat for many aquatic-based organisms, which are, in turn, important prey for larger organisms.
- Restriction of channel movement and creation of side channels. Hardened shorelines along rivers slow the movement of channels, which, in turn, prevents the input of larger woody debris, gravels for spawning, and the creation of side channels important for juvenile salmon rearing, and can result in increased floods and scour.

Additionally, hard structures, especially vertical walls, often create conditions that lead to failure of the structure. In time, the substrate of the beach coarsens and scours down to bedrock or a hard clay. The footings of bulkheads are exposed, leading to undermining and failure. This process is exacerbated when the original cause of the erosion and "need" for the bulkhead was from upland water drainage problems. Failed bulkheads and walls adversely impact beach aesthetics, may be a safety or navigational hazard, and may adversely impact shoreline ecological functions.

"Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on less rigid materials, such as biotechnical vegetation measures or beach enhancement. There is a range of measures varying from soft to hard that include: vegetation enhancement, upland drainage control, biotechnical measures, beach enhancement, anchor trees, gravel placement, rock revetments, gabions, concrete groins, retaining walls and bluff walls, and bulkheads.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. Structural shoreline stabilization often results in vegetation removal and damage to near-shore habitat and shoreline corridors. Therefore, shoreline stabilization proposals shall also be consistent with SMP Section 4.5, Shoreline Buffers and Vegetation Conservation, and where applicable, the City's critical areas regulations found in Appendix B.

5.18.1 Policies

- A. **Ecological functions and processes.** Shoreline stabilization should be located, designed, and maintained to protect and maintain shoreline ecological functions, ongoing shoreline processes, and the integrity of shoreline features. Ongoing stream processes and the probable effects of proposed shoreline

stabilization on other properties and shoreline features should be considered. Shoreline stabilization should not be developed for the purpose of filling shorelines or creating additional property.

- B. **Alternatives.** Structural shoreline stabilization measures should only be used when more natural, flexible, non-structural methods such as placing the development farther from the OHWM, planting vegetation, or installing on-site drainage improvements, beach nourishment and bioengineering have been determined infeasible. Alternatives for shoreline stabilization should be based on the following hierarchy of preference:
1. No action. Allow the shoreline to retreat naturally, increase buffers, and relocate structures.
 2. Flexible defense works constructed of natural materials including soft shore protection, bioengineering, including beach nourishment, protective berms, large woody debris, or vegetative stabilization.
 3. Rigid works constructed of artificial materials such as riprap or concrete.
- C. **Future stabilization.** Structures should be located and designed to avoid the need for future shoreline stabilization where feasible. Land subdivisions should be designed to assure that future development of the created lots will not require shoreline stabilization for reasonable development to occur.
- D. **Protect existing structures.** New or expanded structural shoreline stabilization should only be permitted where demonstrated to be necessary to protect an existing primary structure, including residences, that is in danger of loss or substantial damage, and where mitigation of impacts would not cause a net loss of shoreline ecological functions and processes.
- E. **Enhancement, restoration and remediation.** New or expanded structural shoreline stabilization for enhancement, restoration, or hazardous substance remediation projects should only be allowed when non- structural measures, native vegetation planting, or on-site drainage improvements would be insufficient to achieve enhancement, restoration or remediation objectives.
- F. **Site-specific design.** Shoreline stabilization on streams should be located and designed to fit the physical character and hydraulic energy potential of a specific shoreline reach, which may differ substantially from adjacent reaches.
- G. **Public access and other uses.** Shoreline stabilization should not be permitted when it interferes with public access to shorelines of the state, nor with other appropriate shoreline uses including, but not limited to, navigation or private recreation.
- H. **Non-regulatory methods.** In addition to conformance with the regulations in this section, non-regulatory methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources should be encouraged for shore stabilization. Non-regulatory methods may include public facility and

resource planning, technical assistance, education, voluntary enhancement and restoration projects, or other incentive programs.

- I. **Coordination.** Shoreline stabilization should be developed in a coordinated manner among affected property owners and public agencies, particularly those that cross boundaries between local governments or other entities with authority over specific land or water areas, to address ecological and geo-hydraulic processes, sediment conveyance, and beach management issues. Where beach erosion threatens existing development, a comprehensive program for shoreline management should be established by the multiple affected property owners.
- J. **Public or quasi-public developments.** Provisions for multiple use, restoration, and/or public shoreline access should be incorporated into the location, design and maintenance of shoreline stabilization for public or quasi-public developments whenever safely compatible with the primary purpose. Shoreline stabilization on publicly owned shorelines should not be allowed to decrease long-term public use of the shoreline. For the purposes of this section, a 'quasi-public development' shall mean a privately-owned development with a public mandate and/or public funding.
- K. **Materials.** Materials used for construction of shoreline stabilization should be selected for long-term durability, ease of maintenance, compatibility with local shoreline features including aesthetic values, and flexibility for future uses.
- L. **Adjacent properties.** New development that would require shoreline stabilization which causes adverse impacts to adjacent or down-current properties and shoreline areas should not be allowed.

5.18.2 Regulations

- A. **General.** The purpose of this section is to provide standards and guidelines for the location and design of hard structural and soft structural shoreline stabilization measures that have the potential to adversely impact the shoreline natural environment.
 - 1. New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible.
 - 2. Land subdivisions shall be designed to assure that future development of the created lots will not require shoreline stabilization for reasonable development to occur.
 - 3. New development on slopes or bluffs with 30 percent of greater slope shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis.
 - 4. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.

5. In all cases, the feasibility of soft structural shoreline stabilization shall be evaluated prior to hard structural stabilization.
6. Shoreline stabilization shall be designed so that net loss of ecological functions does not occur.

B. **New or enlarged structural shoreline stabilization.** New structural shoreline stabilization measures, including both hard and soft structural shoreline stabilization measures, shall include measures installed to address erosion impacts. Enlargement of an existing structural shoreline stabilization shall include additions to or increases in size (such as height, width, length, or depth) to existing shoreline stabilization measures and these enlargements shall be considered new structures. New or enlarged structural stabilization measures shall not be allowed, except as follows:

1. To protect an existing primary structure, including residences, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering hard or soft structural shoreline stabilization; or
2. In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:
 - a. The erosion is not being caused by upland conditions, such as drainage and the loss of vegetation.
 - b. Nonstructural measures, such as placing the proposed development farther from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion impacts.
 - c. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical analysis. The damage must be caused by natural processes, such as currents or waves; or
3. In support of water-dependent development when all of the conditions below apply:
 - a. The erosion is not being caused by upland conditions, such as drainage and the loss of vegetation.
 - b. Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.
 - c. The need to protect primary structures, including residences,

from damage due to erosion is demonstrated through a geotechnical analysis; or

4. To protect projects for the restoration of ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts; or
5. To protect cultural or historic resources when nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient to avoid continued degradation, disturbance or erosion of a site. Cultural resource protection projects shall be coordinated with any affected Indian tribes and comply with applicable provisions of Section 4.1.2 of this SMP; or
6. Where no alternatives existing, including relocation or reconstruction of existing structures, are found to be feasible and less expensive than the proposed stabilization measures; stabilization structures or measures to protect existing primary residential structures may be allowed and then only if no net loss of ecological functions will result.

C. **Repair of existing shoreline stabilization measures.** This section allows repair and maintenance of existing shoreline stabilization measures, subject to all of the following standards. [Note: repair of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, but they are not exempt from the policies and regulations of this Section or the SMP.]

1. Maintenance and repair shall include modifications or improvements to an existing shoreline stabilization measure that are designed to ensure the continued function of the stabilization measure by preventing failure of any part of the stabilization measure.
2. Modifications or improvements that include additions to or increases in size of existing shoreline stabilization measures shall be considered new structures, and are not maintenance and/or repair.
3. Replacement of greater than 50 percent or 35 feet, whichever is smaller, of linear length of existing shoreline stabilization on a waterfront parcel is not considered a repair or maintenance for purposes of these regulations, and must be designed and reviewed as a replacement subject to the provisions contained in Subsection 5.18.2.D below. For shoreline stabilization projects, "replacement" occurs when the existing structure, including its footing or bottom course of rock, is removed prior to placement of new shoreline stabilization materials. Repairs and maintenance that involve only removal of material above the footing or bottom course of rock are not considered replacements. Replacement of existing shoreline stabilization may still qualify for an exemption from

a Shoreline Substantial Development Permit as listed in Section 7.6.3 of this SMP. Further limitations on non-conforming shoreline stabilization are located in Section 6 of this Master Program.

4. Areas of temporary disturbance within the shoreline buffer shall be expeditiously restored to their pre-project condition or better.
5. The placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure shall be considered a new structure, and is not maintenance or repair.

D. **Replacement.**¹ The following standards apply to replacement of existing hard and soft structural shoreline stabilization measures [Note: repair of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, but they are not exempt from the policies and regulations of this Section or the SMP]:

1. For purposes of this section, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure that can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall also be considered new structures.
2. Replacement shall be treated as a new shoreline stabilization measure subject to the restrictions of Subsection 5.18.2.B. above, as well as the submittal requirements of Subsection 5.18.2.H. below, except for the requirement to prepare a geotechnical analysis. A geotechnical analysis is not required for replacements of existing hard or soft structural shoreline stabilization with a similar or softer measure if the applicant demonstrates need to protect principal uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM.
3. Replacement hard structural shoreline stabilization measures shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the primary residence was constructed prior to January 1, 1992, and there is overriding safety or environmental concerns. In such cases, the replacement structure shall abut (attached to and waterward of) the existing shoreline stabilization structure. All other replacement hard structural shoreline stabilization measures shall be located at or landward of the existing shoreline stabilization structure.
4. Limited fill associated with hard and soft shoreline stabilization

¹ Nonconforming shoreline stabilization measures are not governed by nonconforming structure provisions located in Chapter 6; instead, they are governed by regulations found in SMP Section 5.18.2.D and other provisions of Section 5.18.2 that relate to modification of existing nonconforming structures.

measures may be allowed waterward of the OHWM to provide enhancement of shoreline ecological functions through creation of nearshore shallow-water habitat.

- E. **General design standards.** When a hard or soft structural shoreline stabilization measure is demonstrated to be necessary, the following design standards shall be incorporated into the stabilization design:
1. Soft structural shoreline stabilization measures shall be used to the maximum extent practicable for new, enlarged, or replacement shoreline stabilization measures, limiting hard structural shoreline stabilization measures to the portion or portions of the site where necessary to protect or support existing shoreline structures or trees, or where necessary to connect to existing shoreline stabilization measures on adjacent properties. Hard structural shoreline stabilization transition areas between the applicant's otherwise soft shoreline measure and the adjacent hardened shoreline, when needed on the subject property to prevent destabilization of adjacent hardened shorelines, should be minimized and extend into the subject property from the property line no more than 10 feet.
 2. For enlarged or replacement soft and hard structural shoreline stabilization measures, the following location and design standards are preferred in descending order:
 - a. Conduct excavation and fill activities associated with the soft or hard structural shoreline stabilization landward of the existing OHWM to the maximum extent practicable.
 - b. Where a, above, is not practicable because of overriding safety or environmental concerns, conduct necessary excavation and fill activities waterward of the existing OHWM as needed to implement a soft structural shoreline stabilization technique or to mitigate the impacts of hard structural shoreline stabilization. Fill material waterward of the OHWM may be sand, gravel, cobble or boulders provided the placement of boulders does not effectively present a continuous wall or face to oncoming waves (also known as rip rap).
 3. All approved new, enlarged, repair, or replacement shoreline stabilization measures must minimize and mitigate any adverse impacts to ecological functions resulting from short-term construction activities, consistent with Section 4.2, Ecological Protection and Critical Areas and Appendix B, Critical Areas Regulations. Impact minimization techniques may include compliance with appropriate timing restrictions, use of best management practices to prevent water quality impacts related to upland or in-water work, and stabilization of exposed soils following construction.

4. All new, enlarged, or replacement hard structural shoreline stabilization measures shall minimize any long-term adverse impacts to ecological functions by incorporating the following measures into the design:
 - a. Limiting the size of hard structural shoreline stabilization measures to the minimum necessary, including height, depth, and mass.
 - b. Shifting the hard structural shoreline stabilization landward and/or sloping the hard structural shoreline stabilization landward to provide some dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat.
5. Approved new and enlarged shoreline stabilization measures shall mitigate any adverse impacts to ecological functions by incorporating the following measures at a minimum into the design if appropriate for local conditions:
 - a. Restoration of appropriate substrate conditions waterward of the OHWM, to include substrate composition and gradient. The material should be sized and placed to remain stable during a two-year flood event on rivers, including storm events.
 - b. Plant native riparian vegetation, as necessary, along at least 75 percent of the shoreline linear frontage affected by the new or enlarged stabilization, located along the water's edge. The vegetated portion of the shoreline buffer shall average 10 feet in depth from the OHWM, but may be a minimum of 5 feet wide to allow for variation in landscape bed shape and plant placement. Restoration of native vegetation shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. At least 3 trees per 100 linear feet of shoreline must be included in the plan. Plant materials must be native to the ecosystem of the project area. An alternative planting plan or mitigation measure in lieu of meeting these requirements may be allowed if approved by other State and Federal agencies.
 - c. Additional mitigation measures may be required by the City, or State or Federal agencies, depending on the level of impact.
6. The shoreline stabilization measure shall be designed to not significantly interfere with normal surface and/or subsurface drainage into the adjacent waterbody.
7. The shoreline stabilization measure shall be designed so as not to constitute a hazard to navigation.

8. Stairs or other water access measures may be incorporated into the shoreline stabilization (e.g., steps integrated into the bulkhead, coved area with shallow entry), but shall not extend waterward of the shoreline stabilization measure and the OHWM.
9. The shoreline stabilization measure shall be designed to ensure that it does not restrict appropriate public access to the shoreline. When a structural shoreline stabilization measure is required at a public access site, provisions for safe access to the water shall be incorporated into the shoreline stabilization structure design (e.g., steps integrated into the bulkhead, coved area with shallow entry). Access measures should not extend farther waterward than the face of the shoreline stabilization measure and the OHWM.
10. Shoreline stabilization measures shall not extend waterward more than the minimum amount necessary to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.
11. When repair or replacement shoreline stabilization measures intended to improve ecological functions shift the OHWM landward of the pre-modification location, any buffers from the OHWM or lot area for the purposes of calculating lot coverage shall be measured from the pre-modification location. The pre-modification OHWM shall be recorded in a form approved by the City and recorded at the Chelan County Auditor's Office.
12. If repair or replacement shoreline stabilization measures intended to improve ecological functions shift the OHWM landward of the pre-modification location and result in expansion of the shoreline jurisdiction on any property other than the subject property, the plan shall not be approved until the applicant submits a copy of a statement signed by the property owners of all affected properties, in a form approved by the City and recorded at the Chelan County Auditor's Office, consenting to the shoreline jurisdiction creation and/or increase on such property.

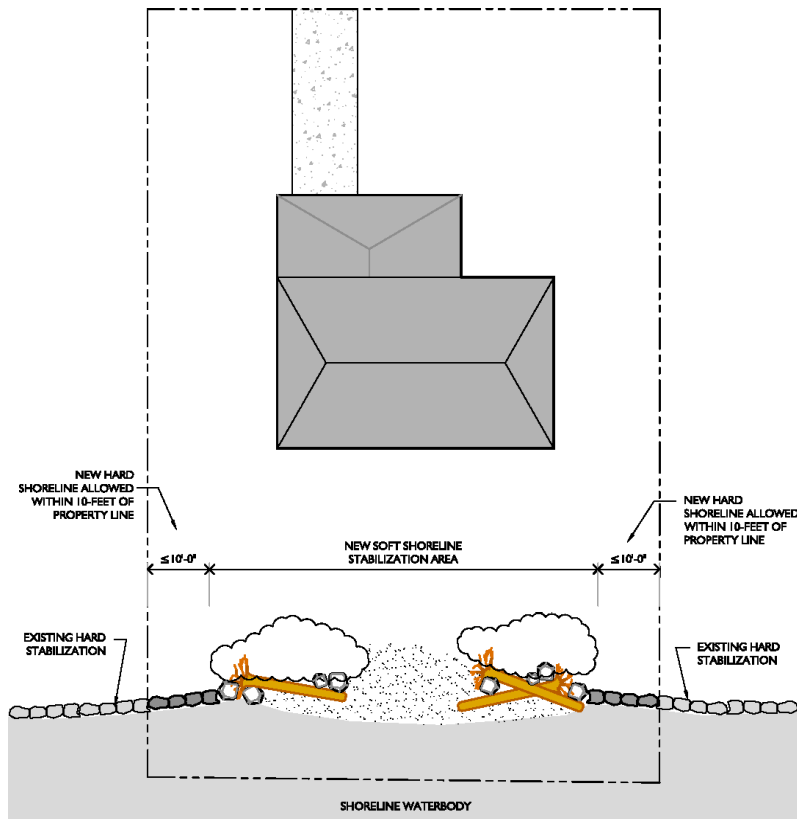
F. **Specific hard structural shoreline stabilization design standards.** In those limited instances when hard structural shoreline stabilization measures, such as bulkheads, are demonstrated to be necessary as outlined in H.1 below, the following standards shall be incorporated into the design:

1. In those limited cases when hard structural shoreline stabilization is proposed on a site where hard structural shoreline stabilization is not located on adjacent properties, the construction of hard structural shoreline stabilization shall tie in with the existing contours of the adjoining properties, as feasible, such that the proposed stabilization would not cause erosion of the adjoining properties.

2. When hard structural shoreline stabilization is proposed on a site where hard structural shoreline stabilization is located on adjacent properties, the proposed stabilization may tie in flush with existing stabilization measures on adjoining properties, provided that the new stabilization does not extend waterward of the OHWM, except as necessary to make the connection to the adjoining stabilization, and does not extend onto the adjacent property. In such circumstances, the remaining portion of the stabilization shall be placed landward of the existing OHWM such that no net intrusion into the waterbody occurs nor does net creation of uplands occur. The length of hard structural shoreline stabilization transition area to adjacent properties should be minimized to the maximum extent practicable, and extend into the subject property from adjacent properties no more than 10 feet.
3. Fill behind hard structural shoreline stabilization shall be limited to 1 cubic yard per running foot of stabilization. Any filling in excess of this amount shall be considered a regulated activity subject to the regulations in this Chapter pertaining to fill activities and the requirement for obtaining a Shoreline Substantial Development Permit or Shoreline Conditional Use Permit.

G. **Specific soft structural shoreline stabilization design standards.** In addition to applicable general design standards and hard structural shoreline stabilization standards above, the following standards shall be incorporated into the design:

1. The soft shoreline stabilization design shall provide sufficient protection of adjacent properties by tying in with the existing contours of the adjoining properties to prevent erosion at the property line, provided the stabilization measure does not extend onto the adjacent property. Soft shoreline stabilization projects that include necessary use of hard structural shoreline stabilization measures, as indicated by the appropriate study prepared per H below, only near the property lines to tie in with adjacent properties shall be permitted as soft shoreline stabilization measures. The length of hard structural shoreline stabilization transition area to adjacent properties shall be minimized to the maximum extent practicable, and extend into the subject property from adjacent properties no more than 10 feet (see diagram below). The hard structural shoreline stabilization transition area shall not extend waterward of the OHWM, except as necessary to make the connection to the adjoining stabilization, and shall not extend onto the adjacent property.



2. The soft shoreline stabilization design shall size and arrange any gravels, cobbles, logs, and boulders so that the project remains stable during a two-year flood event on rivers and dissipates wave and current energy, without presenting extended linear faces to oncoming waves or currents.

H. **Submittal requirements.** In addition to submitting an application for the appropriate shoreline permit, the applicant shall submit the following as part of a request to construct a new, enlarged, or replacement shoreline stabilization measure:

1. For a new or enlarged hard or soft structural shoreline stabilization measure, a geotechnical analysis prepared by a qualified professional with an engineering license. The analysis shall include the following:
 - a. An assessment of the necessity for structural shoreline stabilization by estimating time frames and rates of erosion and

reporting on the urgency associated with the specific situation. New hard structural shoreline stabilization measures shall not be authorized, except when an analysis confirms that there is a significant possibility that an existing structure will be damaged within three years as a result of shoreline erosion in the absence of such hard structural shoreline stabilization measures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions. Where the geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, that analysis may still be used to justify more immediate authorization to protect against erosion using soft measures.

- b. An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM.
 - c. An assessment of alternative measures to shoreline stabilization, including:
 - i. Placing the stabilization structure farther from the OHWM.
 - ii. Correcting any on-site groundwater or drainage issues that may be causing shoreline erosion.
 - d. Where structural shoreline stabilization is determined to be necessary, the assessment must evaluate the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures. Soft shoreline stabilization may include the use of gravels, cobbles, boulders, and logs, as well as vegetation.
 - e. Design recommendations for minimum sizing of hard structural or soft structural shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.
2. For replacements of existing hard structural shoreline stabilization measures with a similar measure, the applicant shall submit a written narrative providing a demonstration of need. The narrative must be prepared by a qualified professional. The demonstration of need shall consist of the following:
- a. An assessment of the necessity for continued structural shoreline stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch or flow velocities, and location of the nearest primary structure.

- b. An assessment of erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the hard structural shoreline stabilization.
 - c. An assessment of alternative measures to shoreline stabilization, including:
 - i. Relocating the development farther from the OHWM.
 - ii. Correcting any on-site groundwater or drainage issues that may be causing shoreline erosion.
 - d. An assessment of the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures. Soft structural shoreline stabilization may include the use of gravels, cobbles, boulders, and logs, as well as vegetation.
 - e. Design recommendations for minimizing impacts of any necessary hard structural shoreline stabilization.
3. A demonstration of need may be waived when an existing hard structural shoreline stabilization measure is proposed to be repaired or replaced using bio-engineered soft structural shoreline stabilization measures, resulting in significant restoration of shoreline ecological functions or processes.
4. For all structural shoreline stabilization measures, including bio-engineered soft structural shoreline stabilization, detailed construction plans, including, but not limited to, the following:
- a. Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs.
 - b. Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation. The sizing and placement of all materials shall be selected to accomplish the following objectives:
 - (1) Protect the primary structures from erosion and other damage over the long term, and accommodate the normal amount of alteration from currents and wind- or boat-driven waves;
 - (2) Allow safe passage and migration of fish and wildlife; and
 - (3) Minimize or eliminate juvenile salmon predator habitat.
 - c. For projects that include native vegetation, a detailed five- year vegetation maintenance and monitoring program to include the following:

- i. Goals and objectives of the shoreline stabilization plan;
- ii. Success criteria by which the implemented plan will be assessed;
- iii. A five-year maintenance and monitoring plan, consisting of at least one site visit per year by a qualified professional, with annual progress reports submitted to the Shoreline Administrator and all other agencies with authority;
- iv. A performance standard of 100 percent survival for the first year of growth post installation, with no less than 80 percent survival at the end of the third year; and
- v. A contingency plan and a bond in an amount and form acceptable to the City in case of failure.

5.19 Transportation and Parking

5.19.1 Policies

- A. **Circulation.** Public agencies and developments should provide circulation facilities including roads, streets, alleys, pedestrian, bicycle, and public transportation facilities, consistent with federal, state, or local standards and sufficient to meet adopted levels of service.
- B. **Essential public facilities.** Comprehensive Plans, which include Shoreline Master Programs, may not preclude the siting of essential public facilities, which include state or regional transportation facilities as defined in RCW 47.06.140.
- C. **Minimize land consumption.** When transportation facilities must be located along shorelines, efforts should be made to minimize the amount of land consumed. Where feasible, such transportation facilities should be sufficiently set back so that a usable shoreline area remains. Where feasible, roads should not run parallel to shorelines.
- D. **Erosion and groundwater.** Roads in shoreline areas should be designed and maintained to prevent erosion and to permit a natural movement of groundwater.
- E. **Protect shorelands.** All construction should be designed to protect the adjacent shorelands from erosion, uncontrolled drainage, slides, pollution, and other factors detrimental to the environment. Transportation facilities and parking facilities should be planned, located, and designed where routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.
- F. **Fit topography.** Road locations should be planned to fit the topography so that minimum alterations of natural conditions will be necessary.

- G. **Scenic highways and bridges.** Scenic highways and major bridge crossings should have provisions for safe pedestrian and other non- motorized travel. Also, provision should be made for sufficient viewpoints, rest areas and picnic areas along shorelines of the state, if feasible.
- H. **Maintain streets.** The City should maintain existing roads to provide safe travel for all modes of transportation. On a priority basis the City should improve existing roads to meet applicable standards specified in the City's transportation plan. Extensive loops or sections of streets with high aesthetic quality or multi-use potential should be kept in service.
- I. **General maintenance and reconstruction.** Road maintenance and reconstruction should be allowed in accordance with best management practices adopted by the City and the State of Washington Department of Transportation.
- J. **Trails.** Multi-purpose trails should be encouraged in shoreline jurisdiction consistent with public access policies and regulations in Section 4.4.
- K. **Appropriate bridges and culverts.** Road design for stream crossings should consider appropriate bridge and culvert designs based on federal, state, or local standards, for example, Washington Department of Fish and Wildlife's 2003 *Design of Road Culverts for Fish Passage*.
- L. **Coordinate land use and transportation.** Since land use and transportation facilities are so highly interrelated, the plans for each should be closely coordinated and consider shoreline goals, objectives, policies, and standards.
- M. **Parking.** Parking facilities in shorelines are not a preferred use and should be allowed only as necessary to support an authorized use. Parking facilities should be located as far inland as possible from the OHWM.

5.19.2 Regulations

- A. **Roads and railroads limited in shoreline jurisdiction.** Where other options are available and feasible, new roads, road expansions or railroads shall not be built within shoreline jurisdiction. If subdivisions are being proposed, new road placement shall be evaluated at the time of the plat application, or site development planning.
- B. **Criteria if roads or railroads are unavoidable.** When railroads, roads or road expansions are unavoidable in the shoreline jurisdiction, proposed transportation facilities shall be planned, located, and designed to achieve the following:
 - 1. Minimize possible adverse effects on unique or fragile shoreline features;
 - 2. Maintain no net loss of shoreline ecological functions and implement mitigation standards of Section 4.2, Ecological Protection and Critical Areas and Section 4.5, Shoreline Buffers and Vegetation Conservation;

3. Avoid adverse impacts on existing or planned water-dependent uses; and
 4. Set back from the OHWM to the maximum feasible to allow for a usable shoreline area for vegetation conservation and planned shoreline uses unless infeasible, standards for ADA accessibility and functionality cannot be met, or the cost is disproportionate to the cost of the proposal. For the purposes of this Section, disproportionate means the shoreline buffer requirement would add more than 20% to the total project cost.
- C. **Visual access.** Public roads, within shoreline jurisdiction, shall, where possible, provide and maintain visual access to scenic vistas. Visual access may include, but is not limited to, turn-outs, rest areas, and picnic areas.
- D. **Shoreline crossings.** Shoreline crossings and culverts shall be designed to minimize impact to riparian and aquatic habitat and shall allow for fish passage. Crossings shall occur as near to perpendicular with the waterbody as possible, unless an alternate path would minimize disturbance of native vegetation or result in avoidance of other critical areas such as wetlands.
- E. **Shoreline crossings for private property.** Crossings that are to be used solely for access to private property shall be designed, located, and constructed to provide access to more than one lot or parcel of property, where feasible, to minimize the number of crossings.
- F. **Floodway.** See Section 4.3.
- G. **Construction standards.** Construction standards of the appropriate governmental agency, together with SMP standards, shall be conditions for granting shoreline permits. Seasonal work windows may be required based on federal or state requirements, or if the proposal involves crossing shorelines or altering the waterbody.
- H. **Trails.** See public access standards in Section 4.4.
- I. **Parking facilities.** Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use and when minimizing environmental and visual impacts. For the purposes of this section, authorized means a use or activity included in the use matrix and associated definitions in Chapter 8. New or expanded parking areas shall:
1. Be sited outside of shoreline jurisdiction unless no feasible alternative location exists; for example where a property does not extend outside jurisdiction;
 2. Be planted or landscaped to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas. The Shoreline Administrator may condition proposals to incorporate the following performance standards:
 - a. Select species that are suitable to the local climate, having

minimal demands for water, minimal vulnerability to pests, and minimal demands for fertilizers; and

- b. Incorporate native species.
3. Observe critical area and shoreline buffers. Parking shall be located outside critical area and shoreline buffers unless one of the following is met:
- a. ADA parking requirements are not met and placing the limited number of needed ADA parking spaces within the shoreline buffer facilitates better and safer public access to the shoreline.
 - b. Parking is located on parcel a landward of allowed uses and the applicant's lot/site has topographical constraints where no other location outside the buffer yet within the proposed development is feasible (e.g., the use or activity is located on a parcel entirely or substantially encumbered by the required buffer)
- In the above cases, parking shall be located as far upland from the OHWM as feasible, recognizing the limited supply of shoreline areas and parking allowed in buffer shall follow mitigation sequencing; and
4. Be designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extent feasible.
- J. **Modifications of Existing Roads and Parking Areas:** Existing roads and parking areas that are of a non-paved surface (e.g. gravel) may be paved provided such facilities comply with all applicable water quality, stormwater, landscaping, and other applicable requirements of this SMP. Roadways or paved parking areas shall be designed to incorporate low- impact development practices, such as pervious surfaces and bioswales, to the extent feasible.
- K. **Private Driveways:** A driveway for an individual single family home is considered a residential appurtenance and is considered part of the primary use, and subject to Residential standards of this SMP. Private driveways or private roads serving more than one home are subject to the standards of Section 5.19, Transportation and Parking.
- L. **Maintenance Standards for New or Expanded Road or Parking Facility:** When a new or expanded roadway or new or expanded parking facility is proposed, the City may condition the proposal to provide a maintenance plan that promotes best management practices to achieve no-net-loss of shoreline ecological function. For example, maintenance standards may include restrictions on the use of herbicides, hazardous substances, sealants or other liquid oily substances, or de-icing practices adjacent to shoreline buffers or critical areas and their buffers. See also Section 5.21.

5.20 Utilities

Utilities provisions apply to services and facilities that produce, convey, store, or process power, gas, sewage, stormwater, communications, oil, waste, and the like. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence, are "accessory utilities" and shall be considered a part of the primary use. Consult standards of the primary use of the property, e.g.

Residential, Commercial, Industrial, or Recreational, for any additional standards relevant to the placement of accessory activities such as utilities. Water intake and water and/or fish conveyances between a waterbody and an aquaculture facility are not considered a "utility" under this section of the SMP; consult standards for Aquaculture.

5.20.1 Policies

- A. **Meet demand for utilities.** Utilities should be located to meet the needs of current underserved areas or future growth.
- B. **Use existing corridors.** Intensified use of existing utility corridors should be encouraged, as opposed to the addition of new corridors. Efforts should be made to reduce the visual impact of existing utility corridors.
- C. **Minimize visual impact.** Whenever utilities must be placed in a shoreline area, the location should be chosen so as to minimize their visual impact. Whenever feasible, utilities should be placed underground or designed to do minimal damage to aesthetic qualities of the shoreline area. For example, agencies and property owners should be encouraged to consolidate utility transmission and distribution systems into common service corridors, installing new systems underground. The City should require effective and timely coordination of all new utility trenching and combining compatible utilities into common trenches. In new residential developments, the City should require all new utilities to be installed underground and in cooperation with other compatible utilities.
- D. **Upland and underwater utilities.** Upland locations are recommended for utility pipelines and cables. If an underwater location becomes necessary, easements for the utility must include proper provisions to insure against substantial or irrevocable damage to the waterway or the resident aquatic ecosystems.
- E. **Restoration of disturbed areas.** Upon completion of installation or maintenance projects on shorelines, all disturbed areas within shoreline jurisdiction should be restored to pre-project configuration where feasible, replanted with suitable plant species, and maintained until the newly planted vegetation is established consistent with Vegetation Conservation policies and standards in Section 4.5.
- F. **Outfalls.** Site outfalls to avoid impacts to critical areas. Design outfalls to reduce impacts to aquatic vegetation and water quality.

- G. **Safety Standards.** All aboveground utilities should comply with minimum safety standards for height to protect public safety and prevent damage to property.

5.20.2 Regulations

- A. **Design considerations.** Utility systems are permitted provided such systems:
 - 1. Are designed and constructed to meet all adopted engineering standards of the City;
 - 2. Avoid paralleling the shoreline or following a down-valley course near the channel, except where located in an existing road or easement footprint; and
 - 3. Do not alter processes affecting the rate of channel migration or shoreline erosion; the Shoreline Administrator may require a monitoring plan and adaptive management measures prepared by a qualified professional as appropriate.
- B. **Preference – existing footprints.** Preference shall be given to utility systems contained within the footprint of an existing right-of-way or utility easement over new locations for utility systems.
- C. **Undergrounding.** All new permanent utility systems shall be underground except where environmental or geological conditions makes undergrounding prohibitive; provided that facilities which are temporary or infeasible to underground are exempt from undergrounding, including but not limited to electric transmission lines in excess of 15kV, utilities attached to undersides of bridges, and public stormwater facilities, outfalls, and associated structures.
- D. **Minimum clearing.** Where utility systems must be located in shoreline jurisdiction areas, clearing necessary for installation or maintenance shall be kept to the minimum width necessary to prevent interference by trees and other vegetation with proposed transmission facilities. Impacts associated with removal of vegetation or clearing shall be mitigated on the property.
- E. **Restoration of disturbed areas.** Upon completion of utility system installation, or any maintenance project, the disturbed area shall be regraded to compatibility with the natural terrain and replanted to prevent erosion and provide appropriate vegetative cover, including meeting standards of Section 4.5, Shoreline Buffers and Vegetation Conservation, and Appendix B, Critical Areas Regulations.
- F. **Underwater utilities.** If an underwater location is necessary, the following performance standards apply:
 - 1. The design, installation and operation shall minimize impacts to the waterway or the resident aquatic ecosystems.
 - 2. Seasonal work windows may be made a condition of approval.
 - 3. Standards of Section 5.8, Dredging and Dredge Material Disposal;

Section 4.2, Ecological Protection and Critical Areas; Section 4.5, Shoreline Buffers and Vegetation Conservation (for any aquatic vegetation impacts); and Section 5.2, General Aquatic Shoreline Modification and Use Regulations must be met.

4. All federal or state permits must be obtained.
 5. A maintenance schedule and emergency repair protocol shall be prepared and recorded.
- G. **Nonwater-oriented processing and production facilities.** Nonwater-oriented utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities that are nonwater-oriented, shall not be allowed in shoreline jurisdiction unless it can be demonstrated that no other feasible option is available. Where no other practical alternative exists to the excavation for and placement of wells, tunnels, utilities, or on-site septic systems in a shoreline and critical area buffer, while permitted a mitigation plan must be prepared by a qualified professional, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas, and appropriate requirements of Appendix B.
- H. **Outfall design principles.** New and reconfigured outfalls, diffuser, and discharge points shall be located to avoid impacts to these areas and must be in compliance with the most recent local and state standards. The Shoreline Administrator may require a mixing zone analysis for the outfall from a qualified party to determine the diffuser or discharge point. **No net loss of ecological function.** All utility system projects and maintenance shall be designed, located and installed in a manner which results in no-net-loss of ecological function.

5.21 Redevelopment, Repair, and Maintenance

5.21.1 Policies

- A. The SMP should recognize existing legally established uses and developments in the shoreline and allow them to continue consistent with their lawfully established condition.
- B. The City should apply relevant SMP provisions in proportion to the shoreline use or development proposed.

5.21.2 Regulations

- A. SMP provisions shall not apply retroactively to existing uses and developments.
- B. Legally established uses and developments may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP. Normal maintenance and repair, as specified in

Section 7.6.3, Exemptions, do not require shoreline permits.

- C. Consistent with the Applicability provisions of Section 1.3, SMP standards shall apply to expansions or alterations of uses or developments and to new development or redevelopment of a property as follows:
1. The Shoreline Administrator shall determine the extent of compliance with SMP provisions.
 2. The required provisions shall be related to and in proportion to the proposal. For example, if an upper story is added to a structure, requirements related to building heights and views may apply. If vegetation is removed beyond normal maintenance pursuant to 7.6.3.B, vegetation conservation and shoreline buffer standards may apply.
- D. Maintenance or repair activities which exceed the specifications of 7.6.3.B in Exemptions or which are required for new development or re-development may be authorized through the establishment of multi-year maintenance or repair plans, as follows:
1. Five-year recreation management plans consistent with Section 5.15.2.
 2. Five-year dredging maintenance plans consistent with Section 5.8.2.
 3. Other multi-year plan for other maintenance or repair activities that are used to establish best management practices or protocols to ensure no-net-loss of shoreline ecological function such as roadway, utility, or other facility maintenance. Other maintenance or repair management plans shall be prepared to address the following:
 - a. Description of proposed maintenance activities and best management practices;
 - b. Type, methods, and frequency of maintenance or repair activities;
 - c. Description of in-stream habitat protection measures;
 - d. Description of riparian and wetland protection measures;
 - e. Description of stormwater management practices to reduce both water quantity and water quality impacts;
 - f. Description of erosion and sediment control practices that prevent off-site movement;
 - g. Description of re-vegetation or restoration activities following maintenance or repair; and
 - h. Description of chemical and nutrient use and containment practices such as Integrated Pest Management (IPM).

6 NONCONFORMING STRUCTURES AND USES

6.1 Policies

- A. **Continuation of nonconforming uses and structures.** Nonconforming existing legal uses and structures may continue according to City standards.
- B. **Transition to conforming uses.** Transitions from nonconforming uses to conforming uses should be encouraged.
- C. **Expansion of nonconforming structures.** Owners of nonconforming structures that wish to expand the structure should not increase the nonconformity according to City standards.
- D. **No-net-loss of ecological function.** The SMP no-net-loss of ecological function objective should guide review of proposed expansions or other changes to nonconforming uses and new development on nonconforming vacant lots. This objective may be addressed in an area-wide manner consistent with the SMP cumulative impacts analysis.
- E. **Balance historic character.** The City should consider balancing historic character of the community with conformity to SMP rules when considering changes to nonconforming uses, structures, and lots.

6.2 Regulations

The nonconforming standards below shall apply to nonconforming uses and structures, with the exception of Boating Facilities, which shall be governed by SMP Section 5.5; and Shoreline Stabilization, which shall be governed by SMP Section 5.18.

6.2.1 Nonconforming lots.

A structure and its customary accessory buildings may be erected on any legal lot created before the effective date of this SMP. This provision shall apply even though such lot fails to meet the minimum dimensional requirements of this SMP provided, that such structure is allowed within the shoreline use environment and all uses of the nonconforming lot shall comply with all other provisions of the SMP and underlying zoning requirements including setbacks, dimensional standards and lot coverage requirements. Structures and customary accessory building on non-conforming lots shall be setback from the OHWM to the greatest extent feasible, maximizing riparian buffer (Table 4.5-1) compliance.

Development proposed inside required buffers shall go through mitigation sequencing and shall require a mitigation plan.

6.2.2 Nonconforming use of land.

Where lawful use of the land existed as of the effective date of this SMP, which is not permissible under the terms of this SMP, such use may be continued so long as it remains otherwise lawful:

- A. **Size of use.** No such use shall be enlarged or increased, nor extended to occupy a greater area of land, dimensions or volume than was occupied at the effective date of this SMP without the issuance of a Shoreline Conditional Use Permit.
- B. **Change of use.** No such use shall be changed in any manner which will increase its nonconformity to the requirements of this SMP.
- C. **Discontinued nonconforming use.** If a nonconforming use is discontinued or inactive for a period of 12 months, it shall be deemed a discontinued nonconforming use. A discontinued nonconforming use cannot be re-established. Further use of property must conform to the provisions of this title. An application for a shoreline and building permit within the 12-month period shall be conclusive evidence of resumption of activity or rebuilding within the meaning of this section; provided, however, if the shoreline or building permit expires before rebuilding is completed, no extension of the permit shall be granted.

6.2.3 Nonconforming structures.

Where a structure lawfully exists as of the effective date of this SMP, which structure could not be built under the terms of this title, such structure may be continued as long as it remains otherwise lawful, subject to the following provisions:

- A. **Size of use.** No such structure shall be enlarged or altered in a way which increases its nonconformity without the issuance of a Shoreline Conditional Use Permit.
- B. **Changes.** Nothing in this title shall require any change in plans, construction, alteration or designated use of a structure for which a legal valid building permit, and shoreline permit if applicable, existed prior to the effective date of the SMP, except that if the structure will be nonconforming it shall be built to conforming standards if substantial construction is not commenced within two years of the effective date of the Shoreline Substantial Development Permit.
- C. **Damage, loss or destruction not more than 80 percent.** Any nonconforming structure which has been destroyed, damaged or has incurred a loss of not more than 80 percent of its value, which destruction, damage or loss is not the result of the intentional act of the property owner, may be rebuilt within the existing footprint of the damaged or destroyed building, provided no more than 12 months will be allowed in which to resume activity or rebuild, or the structure will be deemed nonconforming and any rebuilding must conform to

the provisions of this SMP. Any rebuilding must conform to all other provisions of applicable City ordinances and state laws.

D. **Damage, loss or destruction more than 80 percent.** Any nonconforming structure which has been destroyed, damaged or has incurred a loss more than 80 percent of its value may not be rebuilt or repaired unless it conforms to all provisions of this SMP and all other applicable City ordinances and state laws. If rebuilt on a nonconforming lot, the structure shall meet Section 6.2.1.

E. **Remodeling, alterations and repairs.** For the purpose of this section, remodeling, alterations, or repairs to a nonconforming structure means work that does not exceed 80 percent of the latest County assessed or appraised value by a state-certified/licensed real estate appraiser of the building or structure before the improvements are started.

E.F. **Legally established structures. Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for setbacks, buffers, or yards, area, bulk, height, or density shall be considered a conforming structure.**

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6.2.4 Repairs, maintenance and safety of nonconforming structures.

Other than repairs prohibited by 6.2.3.D, repairs and maintenance work may be undertaken on a nonconforming structure and nothing shall prevent the city from requiring repair of any nonconforming structure to protect health and safety. Maintenance work and repair on a nonconforming structure shall conform to city building and construction codes.

6.2.5 Moving a nonconforming structure.

If a nonconforming structure is moved, it shall conform to the SMP environment designation requirements to which it is moved.

6.2.6 Changes to a nonconforming use.

A nonconforming use shall not be changed to another nonconforming use. A nonconforming use changed to a conforming use may not thereafter be changed back to a nonconforming use.

6.2.7 Abatement of public nuisance.

Regardless of any provision in this SMP, any nonconforming use or structure deemed to present a hazard to the public health or safety or deemed to be a public nuisance by the city council may be terminated through civil legal proceedings commenced in Chelan County superior court.

6.2.8 Nonconforming sign provisions.

A. **Abatement.** Any sign which is nonconforming in that it does not conform to the City's zoning code and sign standards shall either be removed or brought

into compliance with SMP requirements within the time period prescribed herein:

1. Permanent signs that were in compliance with previous city codes and are now nonconforming solely because of the adoption of this SMP shall be allowed to continue until any one of the provisions in Subsection B of this section occurs;
2. Any nonconforming portable signs, temporary signs and sandwich board signs shall be discontinued or be brought into compliance no later than 120 calendar days from the effective date of the SMP;
3. Any nonconforming sign in an area subsequently annexed into the City of Cashmere shall be discontinued or brought into compliance as described in Subsection B of this section.

B. Conditions under Which Nonconforming Signs Brought Into Compliance.

Nonconforming signs that were in conformance with prior City codes at the time of adoption of the SMP shall immediately be brought into compliance with this chapter and a new sign permit secured if any one of the below events occurs:

1. The sign is altered in any way or moved; excepting for routine maintenance and updating of business information; or
2. The sign is damaged requiring structural repairs; or
3. The business changes or the sign advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted on the site; or
4. The advertising message it displays becomes illegible in whole or substantial part; or
5. The sign is replaced; or
6. Any new sign is erected or placed in connection with the enterprise using the nonconforming sign.

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7 SHORELINE PERMITS, PROCEDURES AND ADMINISTRATION

7.1 Roles and Responsibilities

The City shall administer this Shoreline Master Program according to the following roles and responsibilities.

7.1.1 Shoreline Master Program Administrator

The Shoreline Master Program Administrator in Cashmere is the Planning Director. The Shoreline Administrator, or his/her designee, shall make administrative decisions and interpretations of the policies and regulations of this SMP and the Act. The Shoreline Master Program Administrator or his/her designee is hereby vested with the authority to:

- A. Administrate this SMP.
- B. Grant or deny exemptions from Shoreline Substantial Development Permit requirements of this SMP per Section 7.6.3.
- C. Grant or deny time extensions and revisions to Shoreline Permits under this SMP.
- D. Authorize, approve or deny Shoreline Substantial Development Permits except for those for which the Hearing Examiner ~~or local government legislative authority~~ is the designated decision maker.
- E. Make field inspections as needed, and prepare or require reports on shoreline permit applications.
- F. Make written recommendations to the Hearing Examiner, Planning Commissions, or City Councils, ~~or Board of County Commissioners~~ as appropriate.
- G. Advise interested persons and prospective applicants as to the administrative procedures and related components of this SMP.
- H. Collect fees for all necessary permits as provided in City ordinances or resolutions. The determination of which fees are required shall be made by the City.
- I. Make administrative decisions and interpretations of the policies and regulations of this SMP and the Act.

7.1.2 SEPA Official

The responsible SEPA official or his/her designee is authorized to conduct environmental review of all use and development activities subject to this SMP, pursuant to WAC 197-11 and RCW 43.21C. The responsible SEPA official is

designated in accordance with the City's SEPA implementation ordinance.

7.1.3 Hearing Examiner

In the City of Cashmere, the Hearing Examiner shall have the authority to:

- A. ~~Decide on Shoreline Substantial Development Permits for which the Hearing Examiner is the designated decision maker, as well as d~~Decide on appeals from administrative decisions issued by the Administrator of this SMP.
- B. Grant or deny conditional uses under this SMP not issued administratively.
- C. Grant or deny variances from this SMP.

7.1.4 Planning Commission

The Planning Commission is vested with the responsibility to review the Master Program as part of regular SMP updates required by RCW 90.58.080 as a major element of the City's planning and regulatory program, and make recommendations for amendments thereof to the City Council.

7.1.5 City Council

The Cashmere City Council shall maintain a policy role, and is vested with authority to:

- A. Initiate an amendment to this SMP according to the procedures prescribed in WAC 173-26-100 ~~or 173-26-104~~.
- B. Adopt all amendments to this SMP, after consideration of the recommendation of the Planning Commission. Amendments shall become effective immediately upon approval by Ecology.

7.2 Interpretation

The Shoreline Administrator, or his/her designee, shall provide administrative interpretations in accordance with Cashmere Municipal Code Section 14.03.020. The Shoreline Administrator shall consult with Ecology to ensure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and 173-26 WAC.

7.3 Statutory Noticing Requirements

Applicants shall follow the noticing requirements of Cashmere Municipal Code Chapter 14.07 and WAC 173-27-110. Per WAC 173-27-120, the City shall comply with special procedures (public notice timelines, appeal periods, etc.) for limited utility extensions and bulkheads.

The following subsections provide a summary of noticing days. The City shall consult the most current version of WAC 173-27-110 and 120 to confirm the days. In case of conflict, state statutes or rules shall control:

- A. Issuance of notice of application. Notice of application shall be provided within fourteen days after the determination of completeness of the application.
- B. Statement of public comment period. The notice of application shall state the public comment period which shall be not less than thirty days following the date of notice of application, unless otherwise specified for limited utility extensions or single family bulkheads below.
- C. Notice of application prior to hearing. If an open record predecision hearing, as defined in RCW 36.70B.020, is required for the requested project permits, the notice of application shall be provided at least fifteen days prior to the open record hearing.
- D. Limited utility extension or single family bulkhead. An application for a Shoreline Substantial Development Permit for a limited utility extension or for the construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion shall be subject to all of the requirements of this chapter except that the following time periods and procedures shall be used:
 - 1. The public comment period shall be twenty days. The notice provided shall state the manner in which the public may obtain a copy of the City's decision on the application no later than two days following its issuance;
 - 2. The City shall issue its decision to grant or deny the permit within twenty-one days of the last day of the comment period specified in subsection (2)(a) of this section; and
 - 3. If there is an appeal of the decision to grant or deny the permit to the City's legislative authority, the appeal shall be finally determined by the legislative authority within thirty days.

7.4 Application Requirements

- A. A complete application for a Shoreline Substantial Development, Shoreline Conditional Use, or Shoreline Variance Permit shall contain, at a minimum, the information listed in WAC 173-27-180 and in Chapter 14.05 of the Cashmere Municipal Code. Chapter 14.05 of the Cashmere Municipal Code also codifies the form upon which the application must be submitted. In addition, the applicant, including those applying for exemption status, shall provide the following materials:
 - 1. An assessment of the existing ecological functions and/or processes provided by topographic, physical and vegetation characteristics of the site and any impacts to those functions and/or processes, to accompany development proposals, provided that proposals for single-family residences, as long as they meet the exemption criteria, shall be exempt from this requirement if proposal is located outside required buffers. When the project results in adverse impacts to ecological function

- and/or processes, a mitigation plan must be provided that describes how proposed mitigation compensates for the lost function or process.
2. Site plan or division of land depicting to scale the location of buildable areas, existing and proposed impervious surfaces (building(s), accessory structures, driveways), and allowed landscaping and yards (including proposed water access trails, view corridors, wildfire defensible space, if applicable), general location of utilities, well and septic system, if applicable and location of storage and staging of materials and equipment during construction. Plans shall show area calculations of each feature.
 3. The location of any mapped channel migration zone (see Section 4.3.2, Flood Hazard Reduction), floodplain, and/or floodway boundary and critical areas, if known, and respective setback/buffer areas on and within 250 ft of the vicinity of the project site and all applicable buffers.
 4. Where a view analysis is required per WAC 173-27-180, or Section 5.1.2, due to location of nearby residential or public properties or designated scenic highways, it shall address the following:
 - a. The analysis shall include vacant existing parcels of record as well as existing structures. Vacant parcels of record shall be assumed to be developed with structures complying with the applicable regulations of the City and the maximum height limitation allowed under the SMP and the City's zoning.
 - b. The view corridor analysis shall include residential buildings or public properties located outside of shoreline jurisdiction if it can be clearly demonstrated that the subject property has significant water views.
- B. The Shoreline Administrator may vary or waive these additional application requirements of Section 7.4 according to administrative application requirements on a case by case basis, but all applications for a Shoreline Substantial Development, Shoreline Conditional Use, or Shoreline Variance Permit shall contain the information found in WAC 173-26-180. The Shoreline Administrator may require additional specific information depending on the nature of the proposal and the presence of sensitive ecological features or issues related to compliance with other City requirements, and the provisions of this SMP.

7.5 Shoreline Substantial Development Permits

7.5.1 Permit Required

A Shoreline Substantial Development Permit shall be required for all development of shorelines, unless the proposal is specifically exempt per Section 7.6.

7.5.2 Permit Review Criteria

In order for the permit to be approved, the decision maker must find that the proposal is affirmatively consistent with the following criteria:

- A. How is the proposal consistent with the policies and procedures of the Act (RCW 90.58)?
- B. How is the proposal consistent with the provisions of Chapter 173-27 WAC, Shoreline Management Permit and Enforcement Procedures?
- C. How is the proposal consistent with this SMP?

7.5.3 Conditions of Approval

The City may attach conditions to the approval of permits as necessary to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws and plans.

7.6 Exemptions from Shoreline Substantial Development Permits

7.6.1 Compliance with Applicable Regulations Required

An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the Act or this SMP, or from any other regulatory requirements. To be authorized, all uses and development must be consistent with the policies, requirements and procedures of this SMP and the Act.

7.6.2 Interpretation of Exemptions

- 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 Shoreline Substantial Development Permit process.
- B. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline 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 Shoreline Variance.
- C. The burden of proof that a development or use is exempt from the permit process is on the applicant. The City may require the applicant to provide additional documentation to support their exemption request.
- D. If any part of a proposed development is not eligible for exemption, then a Shoreline Permit is required for the entire proposed development project.
- E. The City may attach conditions to the approval of exempted developments

and/or uses as necessary to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws and plans.

- F. Except for the exemption based on fair market value in 7.6.3.A, activities consistent with the exemptions listed in 7.6.3 are exempt regardless of the value of the project.

7.6.3 Exemptions

The City shall exempt from the Shoreline Substantial Development Permit requirement the shoreline developments listed below, or as thereafter amended in WAC 173-27-040; RCW 90.58.030 (3)(e), 90.58.140(9), 90.58.147, 90.58.355 and 90.58.515. Written Letters of Exemption or other written documentation are required for exempt activities and shall be issued consistent with Section 7.6.4.

- A. Any development of which the total cost or fair market value, whichever is higher, does not exceed ~~seven thousand and forty seven dollars (\$7,047) six thousand four hundred sixteen dollars (\$6,416)~~ or dollar value as amended by the State of Washington Office of Financial Management provided such development does not materially interfere with the normal public use of the water or shorelines of the state.
- 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, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. 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 the 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 OHWM 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.

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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 OHWM 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 OHWM. 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 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 this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the 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 chapter 90.58 RCW, WAC 173-27-040, or this Shoreline Master Program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and this Shoreline 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 and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: Provided, that a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;
- F. Construction or modification of navigational aids such as channel markers and anchor buoys;
- G. Construction on shorelands 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-five feet above average

grade level and which meets all requirements of the state agency or local government having authority thereof, other than requirements imposed pursuant to chapter 90.58 RCW. See Chapter 8 for definitions of single-family residence and residential appurtenances. Construction authorized under this exemption shall be located landward of the OHWM;

H. 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 in fresh waters the fair market value of the dock does not exceed-

1. twenty-two thousand five hundred dollars (\$22,500) for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or
2. Eleven thousand two hundred (\$11,200) dollars for all other docks constructed in fresh waters.

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However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

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~~H. 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 Shoreline Master Program.~~

- I. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands;
- J. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
- K. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;
- L. Any project with a certification from the governor pursuant to chapter 80.50 RCW, Energy Facilities -Site Locations;
- M. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

1. The activity does not interfere with the normal public use of the surface waters;
 2. 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;
 3. 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;
 4. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the City to ensure that the site is restored to preexisting conditions; and
 5. The activity is not subject to the permit requirements of RCW 90.58.550, Oil or natural gas exploration in marine waters;
- N. 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;
- O. Watershed restoration projects as defined below. The City shall review the projects for consistency with the Shoreline Master Program in an expeditious manner and shall issue its decision along with any conditions within forty-five 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 as used in this section.
1. "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:
 - a. A project that involves less than ten (10) miles of stream reach, in which less than twenty-five (25) cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings; or
 - b. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

- c. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the OHWM of the stream.
 2. "Watershed restoration plan" means a plan developed or sponsored by the Washington Departments of Fish and Wildlife, Ecology, or Transportation; a federally recognized Indian tribe acting within and 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 chapter 43.21C RCW, the State Environmental Policy Act;
- P. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:
 1. The project has been approved in writing by the State of Washington Department of Fish and Wildlife;
 2. The project has received Hydraulic Project Approval (HPA) by the State of Washington Department of Fish and Wildlife pursuant to chapter 77.55 RCW; and
 3. The City has determined that the project is substantially consistent with this SMP. The City shall make such determination in a timely manner and provide it by letter to the project proponent. Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with this SMP, as follows.
 - a. In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under P.3.a.i and ii of this subsection:
 - i. A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:
 - Elimination of human-made fish passage barriers, including culvert repair and replacement; or
 - Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive

forces of flowing water; or

- Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.

The Washington Department of Fish and Wildlife shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the Department of Fish and Wildlife determines that the scale of the project raises concerns regarding public health and safety; and

- ii. A fish habitat enhancement project must be approved in one of the following ways:
 - By the Washington Department of Fish and Wildlife pursuant to chapter 77.95 or 77.100 RCW; or
 - By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW; or
 - By the Department of Fish and Wildlife as a Department of Fish and Wildlife-sponsored fish habitat enhancement or restoration project; or
 - Through the review and approval process for the jobs for the environment program; or
 - Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States Fish and Wildlife Service and the Natural Resources Conservation Service; or
 - Through a formal grant program established by the legislature or the Washington Department of Fish and Wildlife for fish habitat enhancement or restoration; and
 - Through other formal review and approval processes established by the legislature.
- b. Fish habitat enhancement projects meeting the criteria of P.3.a of this subsection are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of P.3.a of this

subsection and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030 (2)(c).

- c. A Hydraulic Project Approval (HPA) permit is required for projects that meet the criteria of P.3.a of this subsection and are being reviewed and approved under this section. An applicant shall use a Joint Aquatic Resources Permit Application (JARPA) form developed by the Office of Regulatory Assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the Washington Department of Fish and Wildlife and to the City. The City shall accept the application as notice of the proposed project. The Washington Department of Fish and Wildlife shall provide a fifteen-day comment period during which it will receive comments regarding environmental impacts. Within forty-five days, the Department of Fish and Wildlife shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The Department of Fish and Wildlife shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the Department of Fish and Wildlife determines that the review and approval process created by this section is not appropriate for the proposed project, the Department of Fish and Wildlife shall notify the applicant and the City of its determination. The applicant may reapply for approval of the project under other review and approval processes.
- d. Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may formally appeal the decision to the Hydraulic Appeals Board pursuant to the provisions of this chapter.
- e. The City may not require permits or charge fees for fish habitat enhancement projects that meet the criteria of P.3.a of this subsection and that are reviewed and approved according to the provisions of this section.

Q. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with disabilities act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

7.6.4 Letters of Exemption

- A. Letters of exemption shall be issued by the City when required by the provisions of WAC 173-27-050.
- B. When projects are exempt consistent with this SMP, the Act, and WAC 173-27-040, but do not require a letter of exemption per WAC 173-27-050, the City may create its own documentation process for record keeping.
- C. The City may provide letters of exemptions or written documentation for programmatic exempt activities such as those that occur in plans detailing operations and maintenance

7.6.5 Letters of Exemption – Application

Applicants for proposals that meet shoreline exemptions criteria shall contain, at a minimum, the information listed in WAC 173-27-180, unless waived by the Shoreline Administrator as unnecessary to determine applicability of SMP provisions to the permit exempt activity.

7.7 Shoreline Conditional Use Permits

7.7.1 Purpose

This section provides procedures and criteria guiding the review of Shoreline Conditional Use Permits, which require careful review to ensure the use can be properly installed and operated in a manner that meets the goals of the Act and this Program in accordance with any needed performance standards.

7.7.2 Determinations of Conditional Use Permits

- A. Uses specifically classified or set forth in this Shoreline Master Program as conditional uses shall be subject to review and condition by the Hearing Examiner of the City and by the Department of Ecology.
- B. Other uses which are not classified or listed 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 this SMP.
- C. Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.

7.7.3 Review Criteria

- A. **Conditional use criteria.** An applicant proposing a conditional use shall affirmatively demonstrate compliance with review criteria below or as thereafter amended in WAC 173-27-160.
 - 1. How is the proposed use consistent with the policies of RCW 90.58.020 and this SMP?
 - 2. How will the proposed use avoid interference with the normal public use of public shorelines?

3. How will the proposed use of the site and design of the project be compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this SMP?
4. How will the proposed use cause no significant adverse effects to the shoreline environment in which it is to be located?
5. How will the public interest suffer no substantial detrimental effect?

B. **Additional criteria for exceeding maximum height.** Applicants proposing to exceed maximum height limits, not otherwise specifically allowed by a Substantial Development Permit in Chapter 5, shall also affirmatively comply with the following criteria:

1. Does the building or structure impact a substantial number of residences? Are the residences involved on or in an area adjoining the project area? Does the building or structure exceed 35 feet in height? Is there an obstruction of view?
2. Has the applicant demonstrated through photographs, videos, photo-based simulations, or computer-generated simulations that the proposed development will obstruct less than 30% of the view of the shoreline enjoyed by a substantial number of residences or from public properties on areas adjoining such shorelines?
3. Has the applicant located and oriented structures on the subject property in a manner that diminishes the potential view impact? For example, side yard setbacks may need to be increased. No side yard setbacks shall be reduced to accommodate the proposed structure.
4. Has the applicant demonstrated extraordinary circumstances?
5. To address "overriding considerations of the public", has the applicant prepared a cumulative impacts analysis that documents the public benefits served by issuance of a Conditional Use Permit?

C. **Consideration of cumulative impact.** In the granting of all Shoreline Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Shoreline 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.

1. The applicant shall prepare a cumulative impact analysis by a qualified professional for the type of application proposed:
 - a) documenting other properties or uses on the same waterbody that are similarly situated and could request a similar Shoreline Conditional Use Permit;
 - b) demonstrating consistency with the policies of RCW 90.58.020 (Legislative findings); and
 - c) demonstrating no substantial adverse effects to the shoreline environment and achievement of no-

net-loss of ecological function. The City shall determine whether the additional potential for Shoreline Conditional Use Permits will produce substantial adverse effects to the shoreline environment considering the characteristics of the proposed use, the ability to achieve no-net-loss of ecological function principles, and capability of accommodating preferred shoreline uses in the future if the conditional use and cumulative potential requests occur.

2. For requests to exceed maximum heights, the analysis shall address such considerations as cumulative view obstruction results of height adjustments (within a 1,000-foot radius) of the proposed development combined with those of other developments that exceed the 35-foot height limitation, environmental benefits (enhancement or restoration), public access/open space benefits, and economic benefits. The cumulative impact analysis shall address overall views that are lost, compromised, and/or retained; available view corridors; and surface water views lost, compromised, and/or retained.

7.7.4 Conditions of Approval

In authorizing a conditional use, special conditions may be attached to the permit by the City and/or Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws, plans, and regulations.

7.8 Shoreline Variance Permits

7.8.1 Purpose and Review Process

The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Shoreline Master Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Shoreline Master Program would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited.

After a Shoreline Variance application has been approved by the City, Ecology shall review the permit and make its final decision, in accordance with WAC 173-27-200.

7.8.2 Review Criteria

Shoreline Variances may be authorized, provided the applicant can demonstrate compliance with the following criteria or as thereafter amended in WAC 173-27-170.

- A. **General provisions.** Shoreline Variance Permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must

demonstrate that extraordinary circumstances exist and the public interest shall suffer no substantial detrimental effect.

B. **Shoreline variances landward of the OHWM.** Shoreline Variance Permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant demonstrates affirmatively all of the following:

1. How would the strict application of the bulk, dimensional or performance standards set forth in this SMP preclude or significantly interfere with reasonable use of the property?
2. How is the hardship described in B.1 above specifically related to the property, and is the hardship the result of unique conditions such as irregular lot shape, size, or natural features and the application of this SMP, and not, for example, from deed restrictions or the applicant's own actions?
3. How is the design of the project compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and SMP and will the project design not cause adverse impacts to the shoreline environment?
4. How will the variance not constitute a grant of special privilege not enjoyed by the other properties in the area?
5. How is the variance requested the minimum necessary to afford relief?
6. How will the public interest suffer no substantial detrimental effect?

C. **Shoreline variances waterward of OHWM.** Shoreline Variance Permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant demonstrates affirmatively all of the following:

1. How would the strict application of the bulk, dimensional or performance standards set forth in this SMP preclude all reasonable use of the property?
2. How is the proposal consistent with the criteria established under subsection 7.8.2.B.2 through B.6 of this section?
3. How will the public rights of navigation and use of the shorelines not be adversely affected?

D. **Cumulative impacts.** In the granting of all Shoreline Variance Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. The applicant shall submit a cumulative impact analysis prepared by a qualified professional for the subject of the variance: a) documenting other properties or uses on the same waterbody that are similarly situated and could request a similar variance; b) demonstrating consistency

with the policies of RCW 90.58.020; and c) demonstrating no substantial adverse effects to the shoreline environment and achievement of no-net-loss of shoreline ecological function. 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 the Act and shall not cause substantial adverse effects to the shoreline environment. The City shall determine whether the additional potential for variances will produce substantial adverse effects to the shoreline environment considering the characteristics of the proposed variance request, the ability to achieve no-net-loss of ecological function principles, and capability of accommodating preferred shoreline uses in the future if the variance and cumulative potential requests occur.

7.8.3 Conditions of Approval

In authorizing a variance, special conditions may be attached to the Shoreline Variance Permit by the City and/or Ecology to prevent undesirable effects of the proposed development or activity and/or to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws, plans, and regulations.

7.9 Permit Conditions

In granting, revising, or extending a Shoreline Permit, the City may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other elements of the proposed development deemed necessary to assure that the development will be consistent with the policy and provisions of the Act and this SMP, as well as the supplemental authority provided in RCW 43.21C, as applicable. In cases involving unusual circumstances or uncertain effects, a condition may be imposed to require monitoring with future review or re-evaluation to assure conformance with the Act and this SMP. If the monitoring plan is not implemented, the permittee may be found to be noncompliant and the permit may be rescinded.

7.10 Duration of Permits

Time duration requirements for Shoreline Substantial Development, Shoreline Variance, and Shoreline Conditional Use Permits shall be consistent with the following provisions.

- A. **General provisions.** The time requirements of this section shall apply to all Shoreline Substantial Development Permits and to any development authorized pursuant to a Shoreline Conditional Use Permit or Shoreline Variance Permit authorized by this Chapter. Upon a finding of good cause,

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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 Subsections 7.10.B and C of this section as a part of an action on a Shoreline Substantial Development Permit.

- B. **Commencement.** 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 Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance Permit. Commencement means taking the action on the shoreline project for which the permit was granted shall begin. For example, beginning actual construction or entering into binding agreements or contractual obligations to undertake a program of actual construction. However, the City 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 with a complete extension application submittal before the expiration date and notice of the proposed extension is given to parties of record on the Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance Permit and to Ecology.
- C. **Termination.** Authorization to conduct development activities shall terminate five years after the effective date of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance Permit. However, the City 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 Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance Permit, and to Ecology.
- D. **Effective date.** The effective date of a Shoreline Substantial Development Permit, ~~Shoreline Conditional Use Permit, or Shoreline Variance Permit~~ shall be the date of filing receipt as provided in RCW 90.58.140(6). The effective date of a Shoreline Conditional Use Permit or Shoreline Variance Permit shall be the date at which Ecology transmits the decision to the City. The permit time periods in subsections B and C of this section do not include the time during which a use or activity was not actually pursued due to pending 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. The applicant shall be responsible for informing the City of the pendency of other permit applications filed with agencies other than the City and of any related administrative and legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given by the applicant to the City prior to the date of the last action by the City to grant permits and approvals necessary to

authorize the development to proceed, including administrative and legal actions of the City, and actions under other City development regulations, the date of the last action by the City shall be the effective date.

- E. **Revisions.** Revisions to permits under Section 7.14 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.
- F. **Notification to Ecology.** The City shall notify 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.

7.11 Initiation of Development

- A. **Amortization to begin construction.** Each permit for a Substantial Development, Shoreline Conditional Use or Shoreline Variance 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 ~~receipt-filing~~ filing with Ecology as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one (21) days from the date of ~~receipt-filing~~ filing of the decision ~~are terminated~~, except as provided in RCW 90.58.140(5)(a) and (b). The date of ~~receipt-filing~~ filing for a Substantial Development Permit means ~~that the date Ecology the applicant receives written notice from Ecology that it has received~~ the decision. With regard to a permit for a Shoreline Variance or a Shoreline Conditional Use, date of ~~filing receipt~~ filing means the date ~~the City or applicant receives the Ecology transmits the written decision to the City of Ecology.~~
- B. **Forms.** Permits for Substantial Development, Shoreline Conditional use, or Shoreline Variance may be in any form prescribed and used by the City including a combined permit application form. Such forms will be supplied by the City and are codified in Chapter 14.05 of the Cashmere Municipal Code.
- C. **Data sheet.** A permit data sheet shall be submitted to Ecology with each shoreline permit. The permit data sheet form shall be consistent with WAC 173-27-990.
- D. **Construction Prior to Expiration of Appeal Deadline.** Construction undertaken pursuant to a permit is at the applicant's own risk until the expiration of the appeals deadline.

7.12 Review and Filing Process

A. The application shall be reviewed by the City of Cashmere in accordance with Cashmere Municipal Code Chapters 14.05, 14.07, and 14.09.

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A.B. Special procedures for WSDOT projects

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1. Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.

2. Optional process allowing construction to commence twenty-one days after date of filing. Pursuant to RCW 90.58.140, Washington State Department of Transportation projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.

C. After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the City will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require both Conditional Use Permits and or Variances shall be mailed simultaneously with any Substantial Development Permits for the project. The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents.

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7.13 Appeals

7.13.1 Appeals of Shoreline Administrator Determinations and Decisions

- A. Administrative review decisions by the Administrator, based on a provision of this SMP, may be the subject of an appeal to the Hearing Examiner by any aggrieved person. Such appeals shall be an open record hearing before the Hearing Examiner consistent with Cashmere Municipal Code Section 14.11.
- B. Appeals of exemptions are allowed only for exemptions where a letter is required pursuant to Section 7.6.4, Letters of Exemption, of this SMP
- C. Appeals must be submitted within fourteen (14) calendar days after the date of decision or written interpretation together with the applicable appeal fee. Appeals submitted by the applicant or aggrieved person shall contain:
1. The decision or interpretation being appealed, including the file number reference and the specific objections in the decision document;
 2. The name and address of the appellant and his/her interest(s) in the application or proposed development;
 3. The specific reasons why the appellant believes the decision or interpretation to be erroneous, including identification of each finding

of fact, each conclusion, and each condition or action ordered which the appellant alleges is erroneous. The appellant shall have the burden of proving the decision or interpretation is erroneous;

4. The specific relief sought by the appellant; and
 5. The appeal fee established by the City.
- D. Per WAC 173-27-120, the City shall comply with special procedures for limited utility extensions and bulkheads. If there is an appeal of the decision to grant or deny the permit to the City legislative authority, the appeal shall be finally determined by the legislative authority within thirty days.

7.13.2 Appeals to Shorelines Hearings Board

Appeals to the Shoreline Hearings Board of a final decision on a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, Shoreline Variance Permit, or a decision on an appeal of an administrative action, may be filed by the applicant or any aggrieved party pursuant to RCW 90.58.180. ~~within thirty (30) days of receipt of the final decision by the City or by Ecology as provided for in RCW 90.58.140(6).~~ Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one day appeal period starts with the date of filing, which is defined below:

- A. For projects that only require a Shoreline Substantial Development Permit: the date that Ecology receives the City decision.
- B. For a Conditional Use Permit or Variance: the date that Ecology's decision on the Conditional Use Permit or Variance is transmitted to the applicant and City.
- C. For Shoreline Substantial Development Permit simultaneously mailed with a Conditional Use Permit or Variance to Ecology: the date that Ecology's decision on the Conditional Use Permit or Variance is transmitted to the applicant and the City.

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7.14 Amendments to Permits

7.14.1 Revision – When Required

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

When an applicant seeks to revise a permit, the City shall request from the applicant detailed plans and text describing the proposed changes. Proposed changes must be within the scope and intent of the original permit, otherwise a new permit may be required, pursuant to Section 7.14.2.

7.14.2 Determination of Scope and Intent

If the City determines that the proposed changes are within the scope and intent of the original permit, and are consistent with this SMP and the Act, the City may approve a revision.

"Within the scope and intent of the original permit" means all of the following:

- A. No additional over water construction is involved;
- B. Ground area coverage and height may be increased a maximum of ten percent (10%) from the provisions of the original permit;
- C. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of this SMP except as authorized under a Shoreline Variance or Shoreline Conditional Use Permit (for height) granted as the original permit or a part thereof;
- D. Additional or revised landscaping is consistent with any conditions attached to the original permit and with this SMP;
- E. The use authorized pursuant to the original permit is not changed; and
- F. No adverse environmental impact will be caused by the project revision.

7.14.3 Filing of Revision

- A. The revision approval, including the revised site plans and text consistent with the provisions of Section 7.4 and 7.14 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section shall be filed with Ecology. In addition, the City shall notify parties of record of their action.
- B. If the revision to the original permit involves a Shoreline Conditional Use Permit or Shoreline Variance Permit, the City shall submit the revision to Ecology for approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of this subsection. Ecology shall render and transmit to the City and the applicant its final decision within fifteen (15) days of the date of ~~filing Ecology's receipt~~ of the submittal from local government. The City shall notify parties of record of Ecology's final decision.

7.14.4 Effective Date of Revised Permit

The revised permit is effective immediately upon final decision by the City or, when

appropriate under Subsection 7.14.3, upon final action by Ecology.
Construction undertaken pursuant to a permit is at the applicant's own risk until the expiration of the appeals deadline.

7.14.5 Appeal of Revised Permit

- A. **Filing.** Appeals of a revised permit shall be in accordance with RCW 90.58.180 and shall be filed within twenty-one (21) days from the date of ~~receipt filing as described in Subsection 7.13.2. of the City's action by Ecology or, when appropriate under Subsections 7.7 and 7.8, the date Ecology's final decision is transmitted to the City and the applicant.~~
- B. **Basis of appeals.** Appeals shall be based only upon contentions of noncompliance with the provisions of Subsection 7.14.1. Appeals shall be based on the revised portion of the permit.
- C. **Risk.** Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline.
- D. **Scope of decision.** If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

7.15 Enforcement

- A. The City shall apply 173-27 WAC Part II, Shoreline Management Act Enforcement, to enforce the provisions of this SMP.
- B. Specific violation requirements in this SMP, include, but are not limited to, Section 4.5.2.J, Unauthorized vegetation removal.

7.16 Amendments to Shoreline Master Program

7.16.1 General

- A. This Shoreline Master Program carries out the policies of the Shoreline Management Act for the City of Cashmere. It shall be reviewed and amended as appropriate in accordance with the review periods required in the Act and in order to:
 - 1. To assure that this SMP complies with applicable law and guidelines in effect at the time of the review; and
 - 2. To assure consistency of this SMP with the City's comprehensive plan and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.
- B. This SMP and all amendments thereto shall become effective 14 days from the date of Ecology's approval letter ~~immediately upon final approval and adoption by Ecology.~~
- C. The SMP may be amended annually or more frequently as needed pursuant to the Growth Management Act, RCW 36.70A.130(2)(a)(iii).

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7.16.2 Amendment Process and Criteria

- A. Initiation. Future amendments to this Shoreline Master Program may be initiated either by any person, resident, property owner, business owner, governmental or non-governmental agency, Shoreline Administrator, Planning Commission, or City Council.
- B. Application. Applications for SMP amendments shall specify the changes requested and any and all reasons therefore. Applications shall be made on forms specified by the City. Such applications shall contain information specified in the City's procedures for Comprehensive Plan and development regulation amendments pursuant to RCW 36.70A, the Growth Management Act, and information necessary to meet minimum public review procedures in Subsection C.
- C. Public Review Process – Minimum Requirements. The City shall accomplish the amendments in accordance with the procedures of the Shoreline Management Act, Growth Management Act, and implementing rules including, but not limited to, RCW 90.58.080, WAC 173-26-100, WAC 173-26-104, RCW 36.70A.106 and 130, and Part Six, Chapter 365-196 WAC. The City can choose to use either the standard local review process or the optional joint review process.
- D. Roles and Responsibilities. Proposals for amendment of this SMP shall be heard by the Planning Commission, per the provisions of Section 7.1.4. ~~After conducting a hearing and evaluating testimony regarding the application, including a recommendation from the Shoreline Administrator per Section 7.1.1, the Planning Commission shall submit its recommendation to the~~ City Council, ~~who~~ shall approve or deny the proposed amendment consistent with Section 7.1.5.
- E. Finding. Prior to approval, the City shall make a finding that the amendment would accomplish #1 or #2, and must accomplish #3:
 - 1. The proposed amendment would make this Program more consistent with the Act and/or any applicable Department of Ecology Guidelines;
 - 2. The proposed amendment would make this Program more equitable in its application to persons or property due to changed conditions in an area;
 - 3. This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of the effective date of this SMP **July 3, 2014**.

F. Submittal of the proposed amendment to Ecology shall include all of the information required by WAC 173-26-110.

F.G. County and City Coordination. The County applies the City's SMP in the

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UGA. Where the City makes an amendment to this SMP, it shall provide the Ecology-approved amendment to the County in accordance with terms of any interlocal agreements or the County's Comprehensive Plan Amendment procedures to ensure the County makes the revisions consistent with the City's SMP.

~~G. After approval or disapproval of an SMP amendment by the Department of Ecology as provided in RCW 90.58.090, the City shall publish a notice that the SMP amendment has been approved or disapproved by Ecology pursuant to the notice publication requirements of RCW 36.70A.290.~~

7.17 Monitoring

The City will track all shoreline permits and exemption activities to evaluate whether the SMP is achieving no net loss. Project monitoring is required for individual restoration and mitigation projects consistent with Section 4.2 (Ecological Protection and Critical Areas) and Appendix B (Critical Areas Regulations) of this SMP. In addition, the City shall conduct system-wide monitoring of shoreline conditions and development activity that occur in shoreline jurisdiction outside of critical areas and their buffers, to the degree practical. Activities to be tracked using the City's permit system include development, conservation, restoration and mitigation, such as:

- A. New shoreline development
- B. Shoreline Variances and the nature of the variance
- C. Compliance issues
- D. Net changes in impervious surface areas, including associated stormwater management
- E. Net changes in fill or armoring
- F. Net change in linear feet of levee and/or distance between OHWM and any levees
- G. Net changes in vegetation (area, character)

Using this information and information about the outcomes of other actions and programs of the other City departments as well, a no net loss report shall be prepared every eight years as part of the City's SMP evaluation or Comprehensive Plan Amendment process. Should the no net loss report show degradation of the baseline condition documented in the Shoreline Analysis Report (2012), changes to the SMP and/or Shoreline Restoration Plan shall be proposed at the time of the eight-year update to prevent further degradation and address the loss in ecological functions.

8 DEFINITIONS

The terms used throughout this Shoreline Master Program shall be defined and interpreted as indicated below. When consistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular. Definitions established by WAC 173 have been incorporated herein and should these definitions in the WAC be amended, the most current WAC definition shall apply. Except where specifically defined in this chapter, the RCW or the WAC, all words used in this Shoreline Master Program shall carry their customary meanings.

The definition of any word or phrase not listed in the definitions that is in question when administering this chapter shall be defined from one of the following sources, using the following hierarchy, starting with number 1:

1. The Shoreline Management Act or the Shoreline Master Program Guidelines;
2. Any City resolution, ordinance, code, regulation, or formally adopted comprehensive plan, shoreline master program or other formally adopted land use plan;
3. Any statute or regulation from the State of Washington;
4. Legal definition from Washington common law or a law dictionary;
5. The common dictionary

A

ACCESSORY. Any use or development incidental to and subordinate to a primary use of a shoreline use or development. See also APPURTENANCE, RESIDENTIAL.

ACT. The Washington State Shoreline Management Act, chapter 90.58 RCW.

ADEQUATE. Sufficient to satisfy an adopted requirement. If the City does not have an adopted requirement, adequate means to meet a need or demand generated by the proposed shoreline development or use as determined by the authority responsible to determine compliance with the Shoreline Master Program per Chapter 7.

ADMINISTRATOR OR SHORELINE ADMINISTRATOR. Administrator or Shoreline Administrator means the director of the City's community development department or his/her designated representative, who is vested with the duty of administering Shoreline Master Program regulations within the City's area of authority.

ADVERSE IMPACT. An impact that can be measured or is tangible and has a reasonable likelihood of causing moderate or greater harm to ecological functions or

processes or other elements of the shoreline environment. See also SIGNIFICANT ECOLOGICAL IMPACT

AGRICULTURAL ACTIVITIES. Agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities; and maintaining agricultural lands under production or cultivation. See also EXISTING AND ONGOING AGRICULTURAL ACTIVITIES.

AGRICULTURAL-COMMERCIAL. The following activities are considered agricultural-commercial activities:

- A. "Agricultural tourism" refers to the act of visiting a working farm or any agricultural, horticultural or agribusiness operation for the purpose of enjoyment, education or active involvement in the activities of the farm or operation.
- B. "Nursery" means land or structures, such as greenhouses, used to raise plants, flowers and shrubs for sale.
- C. "Roadside stand" means a temporary use which is primarily engaged in the sale of fresh agricultural products, locally grown on- or off-site, but may include, incidental to fresh produce sale, the sale of limited prepackaged food products and non-food items. This use is to be seasonal in duration, open for the duration of the harvest season. For existing roadside stands see AGRICULTURAL ACTIVITIES and AGRICULTURAL EQUIPMENT and AGRICULTURAL FACILITIES.
- D. "Value added operation" means any activity or process that allows farmers to retain ownership and that alters the original agricultural product or commodity for the purpose of gaining a marketing advantage. Value added operations may include bagging, packaging, bundling, pre-cutting, food and beverage service, etc.
- E. "Winery" means a facility where fruit or other products are processed (i.e., crushed, blended, aged, and/or bottled) and may include as incidental and/or accessory to the principal use a tasting room, food and beverage service, places of public/private assembly, and/or retail sales area.

AGRICULTURAL EQUIPMENT AND AGRICULTURAL FACILITIES. Include, but are not limited to:

- A. The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;
- B. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;
- C. Farm residences and associated equipment, lands, and facilities; and
- D. Roadside stands and on-farm markets for marketing fruit or vegetables.

AGRICULTURAL LAND. Areas on which agricultural activities are conducted as of the date of adoption of this SMP pursuant to the State Shoreline Guidelines as evidenced by aerial photography or other documentation. After the effective date of this SMP, land converted to agricultural use is subject to compliance with the requirements herein.

AGRICULTURAL PRODUCTS. Includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty (20) years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, poultry and poultry products, and dairy products.

ALTERATION. Any human induced change in an existing condition of a shoreline, critical area and/or its buffer. Alterations include, but are not limited to grading, filling, channelizing, dredging, clearing (vegetation), draining, construction, compaction, excavation, or any other activity that changes the character of the area.

AMENDMENT. A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program or to a permit as appropriate.

ANADROMOUS FISH. Fish species that spend most of their lifecycle in saltwater, but return to freshwater to reproduce.

APPEAL. A request for a review of the City's interpretation of any provision of this chapter or a request for a variance.

APPLICABLE. The shoreline goal, objective, policy, or standard is relevant or appropriate, or the shoreline development meets the threshold upon which a requirement is based as determined by the authority responsible to determine compliance with the Shoreline Master Program per Chapter 7.

APPROVAL, SHORELINE MASTER PROGRAM. An official action by a local government legislative body agreeing to submit a proposed shoreline master program

or amendments to the department for review and official action pursuant to this chapter; or an official action by the department to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program.

APPROVAL, PERMIT. Approval of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, revision, or Shoreline Variance Permit or any combination thereof.

APPURTENANCE, RESIDENTIAL. An improvement necessarily connected to the use and enjoyment of a single-family residence when located landward of the OHWM or the perimeter of a wetland. Appurtenances may include: a garage and/or shop; driveway; utilities; water craft storage (upland); fences; decks; 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 OHWM.

AQUATIC. Pertaining to those areas waterward of the OHWM.

AQUACULTURE. Aquaculture is defined as the propagation and rearing of aquatic organisms in controlled or selected aquatic environments for any commercial, recreational, or public purpose. The broad term "aquaculture" refers to the breeding, rearing, and harvesting of plants and animals in all types of water environments, including ponds, rivers, and lakes. Aquaculture can take place in the natural environment or in a manmade environment. Using aquacultural techniques and technologies, researchers and the aquaculture industry are "growing," "producing," "culturing," "ranching", and "farming" all types of freshwater species. Aquaculture can be classified as either commercial aquaculture or non-commercial aquaculture.

- A. **Commercial Aquaculture:** Commercial aquaculture is defined as the rearing of aquatic organisms, including the incidental preparation of these products for human use, with the goal of maximizing profit.
- B. **Non-Commercial Aquaculture:** Non-commercial aquaculture is defined as fish and wildlife activities that are not primarily for profit and are supported by a recognized federal, tribal, or state resource manager.
 - 1. **Low Intensity Non-Commercial Aquaculture:** Activities which support non-commercial aquaculture, including well and water supply development, surveys, ground disturbance of less than 10 cubic yards, no permanent structures, and minimal land clearing.
 - 2. **Medium Intensity Non-Commercial Aquaculture:** Activities which support non-commercial aquaculture, including well and water supply development, surveys, development of acclimation ponds or other acclimation vessels, and removable/portable structures.
 - 3. **High Intensity Non-Commercial Aquaculture:** Activities which support

non-commercial aquaculture including well and water supply development, surveys, development of acclimation ponds, and permanent structures.

ARCHAEOLOGICAL OBJECT. An object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, graves, skeletal remains and technological by-products.

ARCHAEOLOGICAL RESOURCES/SITE. A geographic locality in Washington, including, but not limited to, submerged and submersible lands and the bed of the sea within the state's authority, that contains archaeological objects.

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

ARCHAEOLOGIST, PROFESSIONAL. A person who meets qualification standards promulgated by DAHP and the National Park Service and published in 36 CFR Part 61 and which define minimum education and experience required to perform identification, evaluation, registration and treatment activities for archaeological sites. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the properties involved.

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet, clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

ASSOCIATED WETLANDS. Wetlands that are in proximity to tidal waters, lakes, rivers or streams that are subject to the Act and either influence or are influenced by such waters. Factors used to determine proximity and influence include, but are not limited to: location contiguous to a shoreline waterbody, formation by tidally influenced geo-hydraulic processes, presence of a surface connection including through a culvert or tide gate, location in part or whole within the floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.

AUTHORIZED USE. Any use allowed in shoreline jurisdiction either by appropriate shoreline permit or exemption.

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. In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.”

B

BARB. Used primarily in streams, barbs are low relief projections from a bank, angled upstream, to redirect flow away from the bank towards the center of the channel. As opposed to groins or jetties, barbs are not barrier types of structures; they function by re-directing flows that pass over the top of the structure.

BASE FLOOD. The flood having a one percent chance of being equaled or exceeded in any given years. Also referred to as the “100 year flood.” Designation on maps always include the letters A or V.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

BEACH. The zone of unconsolidated material that is moved by waves and wind currents, including areas both above and below the OHWM.

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. See also ENHANCEMENT.

BERM. A linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the OHWM. Also, a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.

BEST MANAGEMENT PRACTICES. Conservation practices or systems of practices and management measures, often promulgated by state and federal agencies or the City, that:

- A. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;
- B. Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of waters, wetlands, and other fish and wildlife habitats;
- C. Control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material.
- D. Provide standards for proper use of chemical herbicides within critical areas.

BIOENGINEERING. The use of biological elements, such as the planting of vegetation,

often in conjunction with engineered systems, to provide a structural shoreline stabilization measure with minimal negative impact to the shoreline ecology.

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, biofiltration systems are designed to include grassy swales, retention ponds and other vegetative features.

BOATHOUSE. Any roofed and enclosed structure built over water for storage of watercraft or float planes. See also **COVERED MOORAGE**.

BOATING FACILITIES. Developments and uses that support access to shoreline waters for purposes of boating, including marinas, community docks serving more than four single-family residences or multi-family units, public piers, and community or public boat launch facilities.

BOAT LAUNCH FACILITY. Any structure or apparatus used for transferring watercraft between uplands and the water. Boat launches are typically launch ramps, but may also include other mechanisms such as a hoist or crane often used at dry storage locations. See also **LAUNCH RAMP**.

BOG. A low nutrient, acidic wetland with organic soils and characteristic bog plants, which is sensitive to disturbance and impossible to re-create through compensatory mitigation..

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

BREAKWATER. An aquatic structure that is generally built parallel to shore, but may be built perpendicular to the shoreline, that may or may not be connected to land, and may be floating or stationary. The primary purpose is to protect harbors, moorages and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave caused erosion. See also **JETTIES**.

BUFFER or SHORELINE BUFFER. The area adjacent to a shoreline that separates and protects the waterbody from adverse impacts associated with adjacent land uses. It is designed and designated to remain vegetated in an undisturbed and natural condition to protect an adjacent aquatic or wetland site from upland impacts, to provide habitat for wildlife, to afford limited public or private access, and to accommodate certain other specified uses that benefit from a shoreline location. Buffers are distinct from setbacks. The dimensions of the shoreline buffer are established in the specific local government Vegetation Conservation and Shoreline Buffers sections of this SMP.

BUILDING. Any combination of materials constructed, placed or erected permanently on the ground or attached to something having a permanent location on the ground, for the purpose of shelter, support or enclosure of persons, animals or property, or when supporting any use, occupancy or function. Excluded from this definition are structures waterward of the OHWM, all forms of vehicles even though immobilized, residential fences, retaining walls less than three feet in height, rockeries and similar improvements of a minor nature. Docks and bulkheads are not buildings under this definition. For structures waterward of the OHWM, see OVER-WATER STRUCTURES.

BULKHEAD. A solid wall erected generally parallel to and at or near the OHWM for the purpose of protecting adjacent uplands from waves or current action. A bulkhead is an example of hard structural shoreline stabilization.

BUOY, MOORING. An anchored float for the purpose of mooring vessels.

BUOY, NAVIGATION. An anchored float for the purpose of identifying navigational hazards or directing watercraft traffic.

C

CHANNEL MIGRATION ZONE (CMZ). The area along a river or stream within which the channel(s) can reasonably be expected to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river or stream and its surroundings. It encompasses that area of current and historic lateral stream channel movement that is subject to erosion, bank destabilization, rapid stream incision, and/or channel shifting, as well as adjacent areas that are susceptible to channel erosion.

CHANNELIZATION. The straightening, relocation, deepening or lining of stream channels, including construction of continuous revetments or levees for the purpose of preventing gradual, natural meander progression.

CITY/CITIES. Local governments with shorelines in Chelan County. Cities include, but are not limited to, the Cities of Cashmere, Chelan, Entiat, Leavenworth, and Wenatchee and those that may incorporate in accordance with applicable State and County laws.

CLASSIFICATION. The defining value and hazard categories to which critical areas will be assigned.

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 DEVELOPMENT. Those developments whose primary use is for

retail, service or other commercial business activities. Included in this definition are developments including but not limited to hotels, motels, bed and breakfast establishments, or other commercial accommodations, shops, restaurants, banks, professional offices, grocery stores, laundromats, recreational vehicle parks, and indoor or outdoor commercial recreation facilities.

COMMERCIAL USES. Commercial uses are those activities engaged in commerce and trade and involving the exchange of money, including but not limited to, retail, services, wholesale, or business trade activities. Examples include, but are not limited to, hotels, motels, or other commercial accommodations, grocery stores, restaurants, shops, commercial recreation facilities, and offices.

COMMUNITY ACCESS. The ability of all property owners or members of a residential development to reach and use the waters of the State, the water/land interface, and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or community corridor to the shore), and/or visual access facilitated by scenic roads and overlooks, viewing platforms, and other community sites or facilities.
Community access is not intended for the general public.

COMMUNITY DOCK. A private water-dependent facility designed for moorage of pleasure craft as its primary use that serves a specified residential development of more than four single-family residences or multi-family units.
Other water-enjoyment uses, such as fishing or viewing, may occur on community docks. Community docks are different from marinas.

COMPENSATORY MITIGATION. Mitigation for wetland losses or impacts resulting from alteration of wetlands and/or their buffers. It includes but is not limited to: creation, enhancement, and restoration.

CONDITIONAL USE, SHORELINE. A use, development, or substantial development which is classified as a Conditional Use or is not classified within this SMP. Those activities identified as conditional uses or not classified in this SMP must be treated according to the review criteria established in WAC 173-27-160.

CONSERVATION. The prudent management of rivers, streams, wetlands, wildlife and other environmental resources in order to preserve and protect them. This includes the careful use of natural resources to prevent depletion or harm to the environment.

CONSERVATION EASEMENT. A legal agreement that the property owner enters into to restrict uses of the land for purposes of natural resources conservation. 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.

CONTAMINANT. Any chemical, physical, biological, or radiological substance that does not occur naturally in ground water, air, or soil or that occurs at concentrations greater than those in the natural levels.

COUNTY. Chelan County, Washington.

COVERED MOORAGE. Boat moorage, with or without walls, that has a roof to protect the vessel. See also **BOATHOUSE**.

CREATION. The manipulation of the physical, chemical, or biological characteristics to develop a wetland on an upland or deepwater site where a wetland did not previously exist. Creation results in a gain in wetland and acreage [and function]. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.

CRITICAL AQUIFER RECHARGE AREA. Areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers (i.e., maintain the quality and quantity of water) used for potable water as defined by WAC 365-190-030(2).

CRITICAL AREAS. The following areas as designated in critical area standards as established in Appendix B:

- A. Critical aquifer recharge areas
- B. Wetlands
- C. Geologically hazardous areas
- D. Frequently flooded areas
- E. Fish and wildlife habitat conservation areas

CRITICAL FACILITY. A facility for which even a slight chance of flooding might be too great for operations to continue. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

CRITICAL HABITAT. Habitat areas with which endangered, threatened, sensitive or monitored plant, fish, or wildlife species have a primary association (e.g., feeding, breeding, rearing of young, migrating). Such areas are identified in reference to lists, categories, and definitions promulgated by the Washington Department of Fish and Wildlife as identified in WAC 232-12-011 or 232-12-014; in the Priority Habitat and Species (PHS) program of the Department of Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or other agency with authority for such designations.

CUMULATIVE IMPACTS or EFFECTS. The combined, incremental effects of human

activity on ecological or critical areas functions and values. Cumulative impacts result when the effects of an action are added to or interact with the effects of other actions in a particular place and within a particular time. It is the combination of these effects, and any resulting environmental degradation, that should be the focus of cumulative impacts analysis and changes to policies and permitting decisions.

D

DAHP. The State of Washington Department of Archaeology and Historic Preservation.

DEPARTMENT OF ECOLOGY or ECOLOGY. The Washington State Department of Ecology.

DEVELOPABLE AREA. A site or portion of a site that may be used as the location of development, in accordance with the rules of this SMP.

DEVELOPMENT. A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, minerals or vegetation; 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 stage of water level. Development does not include the following activities:

- A. Interior building improvements that do not change the use or occupancy;
- B. Exterior structure maintenance activities, including painting and roofing as long as it does not expand the existing footprint of the structure;
- C. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; ~~and~~
- D. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; and individual utility service connections; ~~and~~
- ~~D-E. Dismantling or removing structures if there is no other associated development or re-development.~~

DEVELOPMENT REGULATIONS. The controls placed on development or land uses by local government, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under Chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

DIKE. An artificial embankment or revetment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating

adjacent land.

DOCK. All platform structures or anchored devices in, suspended over, or floating on waterbodies to provide moorage for pleasure craft (including watercraft and float planes) or landing for water-dependent recreation including, but not limited to, piers, floats, swim floats, float plane moorages, and water ski jumps. Excluded are launch ramps. Docks often consist of a nearshore pier with a ramp to an offshore float. See also **PIER**.

DOCUMENT OF RECORD. The most current shoreline master program officially approved or adopted by rule by the Department of Ecology for a given local government, including any changes resulting from appeals filed pursuant to RCW 90.58.190.

DREDGING. Excavation or displacement of the bottom or shoreline of a waterbody (waterward of the OHWM) for purposes of flood control, navigation, utility installation (excluding on-site utility features serving a primary use, which are “accessory utilities” and shall be considered a part of the primary use), the construction or modification of essential public facilities and regional transportation facilities, and/or restoration (of which the primary restoration element is sediment/soil removal rather than being incidental to the primary restoration purpose). Dredging, as regulated in this SMP under Section 5.8, is not intended to cover other excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., , bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement).

E

ECOLOGICAL FUNCTIONS (or SHORELINE FUNCTIONS). The work performed or 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.

ECOLOGY. See **DEPARTMENT OF ECOLOGY**.

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.

ELEVATED BUILDING. For insurance purposes, a nonbasement building, which has its lowest elevated floor raised above ground level by foundational walls, shear walls, posts, piers, pilings, or columns.

EMBANKMENT. A wall or bank of earth or stone built to prevent a river flooding an area.

EMERGENCY/EMERGENCY CONSTRUCTION. 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 and facilities from the elements. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the 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 Chapter 90.58 RCW, these regulations, or this SMP, shall be obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and this SMP. As a general matter, flooding or seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

ENHANCEMENT. The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify or improvise specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. [Examples are planting vegetation, controlling non-native or invasive species, and modifying site elevations to alter hydroperiods.. See also BEACH ENHANCEMENT/RESTORATION.

ENVIRONMENTAL IMPACT STATEMENT (EIS). An environmental impact statement is a document that must be prepared in accordance with the State Environmental Policy Act or National Environmental Policy Act when the lead agency determines a proposal is likely to have significant adverse environmental impacts. The EIS provides an impartial discussion of significant environmental impacts, reasonable alternatives, and mitigation measures that would avoid or minimize adverse impacts. A draft EIS is issued with a comment period to allow other agencies, tribes, and the public to comment on the environmental analysis and conclusions. The lead agency uses these comments to finalize the environmental analysis and issue a final EIS.

EROSION. The wearing away of land by the action of natural forces.

ESSENTIAL PUBLIC FACILITIES: Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities, and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities, as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 30 71.09.020.

EXCAVATION. The disturbance or displacement of unconsolidated earth material such as silt, sand, gravel, soil, rock or other material. In addition to upland excavation, this definition covers excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement). See also DREDGING.

EXEMPTION. Certain specific developments as listed in WAC 173-27-040 are exempt from the definition of substantial developments and are therefore exempt from the Shoreline 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 this SMP. Conditional use and/or variance permits may also still be required even though the activity does not need a Shoreline Substantial Development Permit.

EXISTING AND ONGOING AGRICULTURAL ACTIVITIES. Those activities conducted on lands defined in RCW 36.70A.030 and those activities involved in the production of crops and livestock, including, but not limited to, operation and maintenance of existing farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and maintenance or repair of existing serviceable structures and facilities. Activities that result in the filling of an area or bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted has been converted to a non-agricultural use, or has lain idle for more than five (5) years unless that idle land is registered in a federal or state soils conservation program. Forest practices are not included in this definition. See also AGRICULTURAL ACTIVITIES.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

F

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. The fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment, or materials.

FEASIBLE. For the purpose of this master program, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

- A. The action can be accomplished with technologies and methods that have been used in the past, or studies or tests have demonstrated that such approaches are currently available and likely to achieve the intended results.
- B. The action provides a reasonable likelihood of achieving its intended purpose. Reasonable means acceptable and according to common sense or normal practice.
- C. The action does not physically preclude achieving the project's primary intended use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the City may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. See **INFEASIBLE**

FEED LOT. A confined area or structure for feeding, breeding or holding livestock for eventual sale or slaughter and in which animal waste accumulates faster than it can naturally dissipate without creating a potential for a health hazard, particularly with regard to surface and groundwater; but not including barns, pens or other structures used in a dairy operation or structures on farms holding livestock primarily during winter periods.

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.

FINGERS or DOCK FINGERS. Narrow extensions of piers perpendicular to the pier or float that provide additional watercraft moorage.

FISH AND WILDLIFE HABITAT CONSERVATION AREAS. Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-080(5). These areas include:

1. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;

2. Habitats of local importance, including, but not limited to, areas designated as priority habitat by the State Department of Fish and Wildlife;
3. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish and wildlife habitat;
4. Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, and all other surface water and watercourses within the authority of the state of Washington;
5. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; state natural area preserves and natural resources conservation areas; and
6. Land essential for preserving connections between habitat blocks and open spaces.

FLOATING HOMES. Any floating structure that is designed, or has been substantially and structurally remodeled or redesigned, to serve primarily as a residence. "Floating homes" include house boats, house barges, or any floating structures that serve primarily as a residence and do not qualify as a vessel. A floating structure that is used as a residence and is capable of navigation, but is not designed primarily for navigation, nor normally is capable of self propulsion and use as a means of transportation is a floating home, not a vessel.

FLOATS. A detached, anchored platform that is free to rise and fall with water levels, used for boat mooring, swimming (including a SWIM FLOAT) or similar recreational activities that is not anchored to the shoreline or accessed directly from the shoreline.

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland or tidal waters; and/or 2) the unusual and rapid accumulation of runoff of surface waters from any source.

FLOAT, SWIM. A floating platform designed and intended expressly for facilitating safe swimming. Swim floats are anchored in deeper waters, are not connected to uplands, and are not motorized. Water ski/wake board jumps are also considered swim floats.

FLOOD CONTROL WORKS. Methods or facilities designed to reduce flooding of adjacent lands, to control or divert stream flow, to retard bank erosion, or to create a reservoir.

- A. Nonstructural measures include, but are not limited to, shoreline buffers, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, stormwater management programs, land or easement acquisition, voluntary protection and enhancement projects, or incentive programs.
- B. Structural measures include, but are not limited to, dikes, levees, revetments,

floodwalls, channel realignment, or embankments.

FLOOD INSURANCE RATE MAP (FIRM) or FLOOD INSURANCE STUDY. The official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

FLOODPLAIN. Synonymous with one hundred-year floodplain and means that land area susceptible to inundation 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.

FLOODWAY. The area, as identified in a master program, that has been established in federal emergency management agency flood insurance rate maps or floodway maps. 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.

FOREST PRACTICES. Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: road and trail construction; harvesting, final and intermediate; precommercial thinning and fire protection; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. Forest practices do not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

FREQUENTLY FLOODED AREA. Means an area subject to flooding, as defined by the Flood Insurance Rate Maps (FIRM), once every one hundred years, also known as the floodplain.

FUNCTIONS AND VALUES. The services provided by critical areas to society; including, but not limited to, improving and maintaining water quality; providing fish and wildlife habitat; supporting terrestrial and aquatic food chains; reducing flooding and erosive flows; wave attenuation; historical or archaeological importance; educational opportunities; and recreation.

G

GEOLOGICALLY HAZARDOUS AREA. Areas that may not be suited to development consistent with public health, safety or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-080(4). Types of geologically hazardous areas include erosion,

landslide, seismic, volcanic hazards, and mine.

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 impacts of the proposed development, 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 engineers or geologists who are knowledgeable about the regional and local shoreline geology and processes.

GEOTECHNICAL REPORT. See **GEOTECHNICAL ANALYSIS**. **GRADE.** See **AVERAGE GRADE LEVEL**.

GRADING. The movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

GRASSY SWALE. A vegetated drainage channel that is designed to remove various pollutants from stormwater runoff through biofiltration.

GRAY WATER. Sewage from bathtubs, showers, bathroom sinks, washing machines, dishwashers, and kitchen sinks. It includes sewage from any source in a residence or structure that has not come into contact with toilet wastes.

GROINS. A barrier type of structure extending from the backshore or stream bank into a waterbody for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials. In a stream environment, groins may serve a variety of functions, including bank protection, pool formation, and increased roughness, and may include rock structures, debris jams, or pilings that collect wood debris. See also **BARB** and **WEIR**.

GROUNDWATER. All water that exists beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of the state, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

GROWTH MANAGEMENT ACT. RCW 36.70A and 36.70B, as amended.

GUIDELINES. Those standards adopted by the Department of Ecology into the Washington Administrative Code (WAC) to implement the policy of Chapter

90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards also provide criteria for local governments and the Department of Ecology in developing and amending master programs.

H

HABITAT. The place, including physical and biotic conditions, where a plant or animal usually occurs or could occur and is fundamentally linked to the actual or potential distribution and abundance of species. A species may use a habitat or a structural component of the habitat for all or part of its lifecycle, and may adapt to use various habitats. Habitat is scale-dependent and refers to a large geographic area, a species' home range, a local setting, or a site-specific feature.

Habitat may perform a specific function for a species or multiple species, and may include those elements necessary for one or more species to feed, migrate, breed, or travel.

HARD STRUCTURAL SHORELINE STABILIZATION. Shoreline erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders, dimensional lumber or other materials to construct linear, vertical or near-vertical faces. These include bulkheads, rip-rap, groins, and similar structures.

HAZARDOUS SUBSTANCES. Any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100.

HEIGHT. The vertical dimension measured from average grade to the highest point of a structure; provided that, antennas, chimneys, and similar appurtenances shall not be used in calculating height, unless such appurtenance obstructs the view of a substantial number of adjacent residences. Temporary construction equipment is excluded in this calculation. Average grade shall be defined consistent with the definition of average grade level, and shall be the grade existing as of effective date of this SMP or pursuant to any legal alterations consistent with the SMP and applicable federal, state, or local laws.

HISTORIC CONDITION. Condition of the land including flora, fauna, soil, topography, and hydrology that existed before the area and vicinity were developed or altered by Euro-American settlement, or in some cases before any human habitation occurred.

HISTORIC PRESERVATION PROFESSIONAL. Individuals who meet standards promulgated by the DAHP as well as the National Park Service and published in 36 CFR Part 61. These standards address minimum education and experience required to perform identification, evaluation, registration and treatment activities for historic

properties. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the properties involved.

HISTORIC SITE. Sites that are eligible or listed on the Washington Heritage Register, National Register of Historic Places or any locally developed historic registry formally adopted by the City.

HYDROLOGICAL. Referring to the science related to the waters of the earth including surface and ground water movement, evaporation and precipitation. Hydrological functions in shoreline include, water movement, storage, flow variability, channel movement and reconfiguration, recruitment and transport of sediment and large wood, and nutrient and pollutant transport, removal and deposition.

IMPACT. See SIGNIFICANT ECOLOGICAL IMPACT.

IMPERVIOUS SURFACE. A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. For purposes of determining whether thresholds for application of core elements are exceeded, open, uncovered retention or detention facilities shall not be considered as impervious surfaces. Open, uncovered retention or detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

INDUSTRIAL DEVELOPMENT. Facilities for processing, manufacturing, and storage of finished or semi-finished goods, including but not limited to oil, metal or mineral product refining, power generating facilities, including hydropower, ship building and major repair, storage and repair of large trucks and other large vehicles or heavy equipment, related storage of fuels, commercial storage and repair of fishing gear, warehousing construction contractors' offices and material/equipment storage yards, wholesale trade or storage, and log storage on land or water, together with necessary accessory uses such as parking, loading, and waste storage and treatment. Excluded from this definition are mining including onsite processing of raw materials, and off site utility, solid waste, road or railway development, and methane digesters that are accessory to an agricultural use.

INDUSTRIAL PARK. A tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses with special attention to circulation, parking, utility needs and compatibility.

INDUSTRIAL USES. The production, processing, manufacturing, or fabrication of goods or materials, including warehousing and storage of materials or production.

INFEASIBLE. To determine that an action, such as a development project, mitigation, or preservation requirement, is infeasible, the following conditions are found:

- A. The action cannot be accomplished with technologies and methods that have been used in the past, or studies or tests have demonstrated that such approaches are currently not available or unlikely to achieve the intended results.
- B. The action does not have a reasonable likelihood of achieving its intended purpose. Reasonable means acceptable and according to common sense or normal practice.
- C. The action precludes achieving the project's primary intended use.
- D. The action's relative public costs and public benefits, considered in the short- and long-term time frames, show the costs far outweigh the benefits.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the City may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. See FEASIBLE.

INFILTRATION. The passage or movement of water into the soil surface.

INSTITUTIONAL. Those public and/or private facilities including, but not limited to, police and fire stations, libraries, activity centers, schools, educational centers, water-oriented research facilities, and similar uses.

IN KIND COMPENSATION. To replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

IN-STREAM STRUCTURE. Structure placed by humans within a stream or river waterward of the OHWM that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, recreation, or other purpose.

INVASIVE SPECIES. A species that is 1) non-native (or alien) to Chelan County and 2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health. Invasive species can be plants, animals, and other organisms (e.g., microbes).

ISOLATED WETLANDS. Those wetlands that are outside of and not contiguous to

any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water, including other wetlands.

J

JETTIES. A barrier type of structure generally built singly or in pairs perpendicular to the shoreline at harbor entrances or river mouths to prevent sediment from depositing in the harbor or channel. They also protect channels and inlets from crosscurrents and storm waves. See also **BREAKWATERS**.

JOINT-USE DOCKS. Those constructed and utilized by two, three or four property owners, whether on adjacent lots as single-family residences or as multi-family units, or by a homeowner's association. Marinas, public docks and community docks that serve more than four single-family residences or multi-family units are regulated as Boating Facilities under Section 5.5 of this SMP. Residential joint-use docks are regulated as Private Moorage Structures under Section 5.14 of this SMP.

L

LANDSLIDE. A general term covering a wide variety of mass movement landforms and processes involving the down slope transport, under gravitational influence of soil and rock material en masse; included are debris flows, debris avalanches, earthflows, mudflows, slumps, mudslides, rock slides, and rock falls.

LARGE WOODY DEBRIS. Logs, limbs, or root wads 4 inches or larger in diameter, delivered to waterbodies from adjacent riparian or upslope areas or from upstream areas. Large woody debris also includes logs, limbs, or root wads 4 inches or larger that are placed in a waterbody for the purpose of providing habitat and/or mitigation.

LAUNCH RAMP. An inclined slab, set of pads, rails, planks, or graded slope which extends waterward of the OHWM, and is used for transferring watercraft between uplands and the water with trailers or occasionally by hand. See also **BOAT LAUNCH FACILITY**.

LEGALLY ESTABLISHED. A use or structure in compliance with the laws and rules in effect at the time of creation of the use or structure.

LETTERS OF EXEMPTION. A letter prepared by the City addressed to the applicant whenever a development is determined by the City to be exempt from the Shoreline Substantial Development Permit process according to the exemption provisions of this program. Also see **EXEMPTION**.

LEVEE. A natural or artificial embankment on the bank of a stream or river for the purpose of keeping floodwaters from inundating adjacent land. Some levees have revetments on their sides.

LIMITED UTILITY EXTENSION. For the purposes of Section 7.3.D, the extension of a utility service that:

- A. Is categorically exempt under chapter 43.21C RCW for one or more of the following: Natural gas, electricity, telephone, water, or sewer;
- B. Will serve an existing use in compliance with WAC 173-27; and
- C. Will not extend more than two thousand five hundred linear feet within the shorelines of the state.

LIVEABOARD. A floating vessel that serves as a residence, and is self-powered by sail or motor.

LOCAL GOVERNMENT. Any county, incorporated city or town which contains within its boundaries shorelines of the state subject to chapter 90.58 RCW. For the purposes of this SMP, this means Chelan County or the City of Cashmere. Chelan County is the responsible local government within unincorporated territory, including urban growth areas, and the City of Cashmere is the responsible local government within its City limits.

LOW IMPACT DEVELOPMENT. An approach to land development or re-development that works with nature to manage stormwater as close to its source as possible. LID principles for site design, construction, and maintenance include: preserving native vegetation, protecting critical areas, minimizing impervious surfaces, minimizing grading and compaction of site soils, preserving existing flow paths, infiltrating stormwater runoff, dispersing stormwater to vegetated facilities, utilizing naturalistic surface conveyance facilities, and utilizing small-scale, distributed low impact development best management practices.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of Appendix B found in section 5.150(A)(2).

M

MAINTENANCE, NORMAL. Those usual acts to prevent a decline, lapse, or cessation from a legally established condition. See REPAIR, NORMAL.

MAJOR DEVELOPMENT. An activity that is required to obtain a permit from the City that is classified by CMC Title 14 as a "full administrative" or "quasi-judicial" review process.

MANUFACTURED HOME. A structure, transportable in one or more sections, which

is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. The term “manufactured home” does not include park trailers, travel trailers, or other similar vehicles.

MANUFACTURED HOME PARK or SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARINA. A public or private water-dependent wet moorage facility for pleasure craft and/or commercial craft where goods, moorage or services related to boating may be sold commercially or provided for a fee, e.g. yacht club, etc.

Dry storage and launching facilities, either launch ramp, crane or hoist, may also be provided. Marinas may be open to the general public or restricted on the basis of property ownership or membership. Community docks that do not provide nonwater-oriented uses or water-oriented commercial services, other than to the specific residential community served by the community dock, are not considered marinas.

MARSH. A low flat wetland area on which the vegetation consists mainly of herbaceous plants such as cattails, bulrushes, tules, sedges, skunk cabbage or other hydrophytic plants. Shallow water usually stands on a marsh at least during part of the year.

MATURE FORESTED WETLAND. A wetland where at least 1 acre of the wetland surface is covered by woody vegetation greater than 20 feet in height with a crown cover of at least 30 percent and where at least 8 trees/acre are 80 to 200 years old OR have average diameters (dbh) exceeding 21 inches (53 centimeters) measured from the uphill side of the tree trunk at 4.5 feet up from the ground.

MAY. Refers to actions that are acceptable, provided they conform to the provisions of this master program and the Act.

MINERAL EXTRACTION. The removal of topsoil, gravel, rock, clay, sand or other earth material, including accessory activities such as washing, sorting, screening, crushing and stockpiling. Not included is the leveling, grading, filling, or removal of materials during the course of normal site preparation for an approved use (e.g., residential subdivision, commercial development, etc.) subject to the provisions of this SMP.

MINOR DEVELOPMENT. An activity that is required to obtain a permit from the City that is classified by CMC Title 14 as “limited administrative” review process.

MITIGATION (or MITIGATION SEQUENCING). The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal. The following

sequence of steps is listed in prioritized order:

- A. Avoiding the impact altogether by not taking a certain action or parts of an action;
- B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
- C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;
- D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- 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.

Lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

MIXED USE. A combination of uses within the same building or site as a part of an integrated development project with functional interrelationships and coherent physical design.

MIXED USE COMMERCIAL. Developments that include water-dependent commercial uses combined with water-related, water-enjoyment uses and/or nonwater-oriented commercial uses. Mixed-use developments can be a tool for water-dependent activities, civic revitalization, and public access to the shoreline.

MIXED USE RESIDENTIAL. Mixed use developments that include water-dependent and water-oriented commercial uses together with single-family or multi-family uses while promoting public access for significant numbers of the public and/or providing an ecological restoration resulting in a public benefit.

This mix of uses is intended to reduce transportation trips, use land efficiently, and provide for waterfront commerce and housing options.

MIXING ZONE ANALYSIS. Refers to the determination of a limited area in a waterbody where water quality standards may be exceeded as long as acutely toxic conditions are prevented. Typically a mixing zone is an area where discharged water enters a waterbody and mixes with a stream or water body. The accurate determination of the mixing zone is essential for environmental impact and risk assessment.

MODIFICATION. A change or alteration in existing materials, including structures, plans and uses.

MODIFICATION, SHORELINE. Those 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, dock, weir, dredged basin, fill, bulkhead, or other shoreline structures. They can include other actions, such as clearing, grading, or application of chemicals.

MOORAGE FACILITY. Any device or structure used to secure a boat or a vessel, including docks, piers, floats, piles, watercraft lifts or buoys.

MOORAGE PILE. A permanent vertical column generally located in open waters, often in close proximity to a dock or pier, to which the vessel is tied to prevent it from excessive movement generated by wind, or wind- or boat-driven waves.

MONITORING. Evaluation of the impacts of development proposals on the biological, hydrological, and geological elements of such systems, and assessing the performance of required mitigation measures through the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features, including gathering baseline data.

MULTI-FAMILY DWELLING (OR RESIDENCE). A building containing two or more dwelling units, including, but not limited to, duplexes, apartments and condominiums.

MUST. A mandate; the action is required. See **SHALL**.

N

NATIVE VEGETATION. Plant species that occur naturally in a particular region or environment and were not introduced by human activities.

NAVIGABLE WATERS. Navigable waters of the United States are those waters that are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the waterbody, and is not extinguished by later actions or events which impede or destroy navigable capacity.

NECESSARY: A word describing an element that is essential, indispensable or needed to achieve a certain result or effect.

NEW CONSTRUCTION. A structure for which the "start of construction" commenced on or after the effective date of the Shoreline Master Program.

NO NET LOSS. A public policy goal and requirement to maintain the aggregate total

of the County's shoreline ecological functions at its current level of environmental resource productivity. For purposes of reviewing and approving this SMP, "current" is equivalent to the date of the Final Shoreline Inventory and Analysis Report (April 23, 2012). As a development and/or mitigation standard, no net loss requires that the impacts of a particular shoreline development and/or use, whether permitted or exempt, be identified and prevented or mitigated, such that it has no resulting adverse impacts on shoreline ecological functions or processes relative to the legal condition just prior to the proposed development and/or use.

NONCONFORMING USE OR DEVELOPMENT. A shoreline use or development which was lawfully constructed or established prior to the effective date of the Act (June 1, 1971; RCW 90.58.920) or this SMP (July 3, 2014), or amendments thereto, but which does not conform to present regulations or standards of the SMP.

NONPOINT POLLUTION. Pollution that enters any waters of the state from any dispersed land-based or water-based activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

NONWATER-ORIENTED USES. Those uses that are not water-dependent, water-related, or water-enjoyment.

NORMAL MAINTENANCE. See MAINTENANCE, NORMAL and REPAIR, NORMAL"

NORMAL PROTECTIVE BULKHEAD. Those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion.

NORMAL REPAIR. See REPAIR, NORMAL and MAINTENANCE, NORMAL

NOXIOUS WEEDS. A special sub-class of invasive plant species listed as Class A or B by the Chelan County Noxious Weed Control Board.

O

OFF-SITE REPLACEMENT/MITIGATION. To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by a regulated activity.

ON-SITE REPLACEMENT/MITIGATION/COMPENSATION. Replacement of wetlands or other shoreline environmental resources at or adjacent to the site on which a resource has been impacted.

ORDINARY HIGH WATER MARK (OHWM). That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology: provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.

OVERWATER STRUCTURES. Any structure located above the water surface waterward of the OHWM. Common examples include, but are not limited to, residential docks, marinas, and pedestrian or vehicular bridges over waterways.

P

PARKING. A place where vehicles are temporarily stored while an activity is being conducted. Local parking is located onsite intended to serve and support a primary use(s) of a property. Regional parking is a parking area intended to support a district with multiple uses.

PARTY OF RECORD. All persons, agencies, or organizations who have submitted written or verbal 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 or email.

PERIODIC. Occurring at regular intervals.

PERSON. An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.

PIER. Fixed platform above the water and supported by piles, usually perpendicular to the shoreline. See also DOCK.

PRACTICAL ALTERNATIVE. An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and has less impacts to critical areas than the proposal.

PRESERVATION. The removal of a threat to or prevention of the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easements, repairing water control structures or fences, or structural protection. Preservation does not result in a gain of wetland areas (but may result in a gain in

functions over the long term).

PRIMARY USE. Uses or activities on a shoreline site that is identified as serving the main purpose of the site in terms of its land occupancy or use intensity, and any other uses within the site are supportive or accessory to it.

PRIOR CONVERTED CROPLANDS. PCCs are defined in federal laws as wetlands that were drained, dredged, filled, leveled, or otherwise manipulated, including the removal of woody vegetation, before December 23, 1985, to enable production of an agricultural commodity, and that: 1) have had an agricultural commodity planted or produces at least once prior to December 23, 1985; 2) do not have standing water for more than 14 consecutive days during the growing season; and 3) have not since been abandoned.

PRIORITY HABITAT. A habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes: Comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridor; rearing and foraging habitat; refuge; limited availability; high vulnerability to habitat alteration; unique or dependent species; or 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. A priority habitat may also be described by a successional stage. Alternatively, a priority habitat may consist of a specific habitat element (such as talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat 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. 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. 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. 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. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

PROJECT AREA. All areas within fifty (50) feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

PROVISIONS. Policies, regulations, standards, guideline criteria or designations.

PUBLIC ACCESS. The public's ability to reach and use the State's public waters, the water/land interface, and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and visual access facilitated by means such as scenic roads and overlooks, viewing platform, and other public sites or facilities. See also **COMMUNITY ACCESS.**

PUBLIC FACILITIES. Facilities that include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

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.

Q

QUALIFIED PROFESSIONAL. A person with expertise and training appropriate for the relevant subject. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, soil science, engineering, environmental studies, fisheries, geology, hydrology, geomorphology or related field, and at least five years of related work experience. Specific qualified professionals must also meet the following criteria, or any other criteria included in Appendix B, Critical Areas Regulations:

- A. A qualified professional providing a geotechnical analysis as required under Section 5.18 of this Master Program must be a licensed engineer in the State of Washington, with specific training in geology, hydrology and/or geomorphology.
- B. A qualified professional providing a demonstration of need as required under

Section 5.18 of this Master Program must have a M.S. or equivalent degree in geology, hydrology, or geomorphology.

- C. A qualified professional for wetlands means a biologist who has a degree in biology, ecology, botany, or a closely related field, or has been certified as a Professional Wetland Scientist, and a minimum of five (5) years of professional experience in wetland identification and assessment in Eastern Washington.
- D. A qualified professional for habitat conservation areas means a biologist who has a degree in wildlife biology, ecology, fisheries, or closely related field and a minimum of five (5) years professional experience related to the subject species/habitat type.
- E. A qualified professional for geologically hazardous areas must be an engineer or engineering geologist licensed in the state of Washington. An engineer must be licensed as a civil engineer pursuant to Chapter 18.43 RCW, to qualify. An engineering geologist must be a practicing geologist licensed as a professional geologist pursuant to Chapter 18.22, RCW.
- F. A qualified professional for critical aquifer recharge areas means a Washington State licensed hydro-geologist, geologist, or engineer.
- G. A qualified professional for vegetation management must be a registered landscape architect, certified arborist, biologist, or professional forester with a corresponding degree or certification.

R

RAMP. Walkway that connects a pier or land to a float, often used in areas where water levels change due to seasonal variations. LAUNCH RAMP is defined above.

RCW. Revised Code of Washington.

REASONABLE. Reasonable means acceptable and according to common sense or normal practice.

RECREATION. An experience or activity in which an individual engages for personal enjoyment and satisfaction. Most shore-based outdoor recreation such as: fishing, hunting, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling, horseback riding, camping, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

RECREATIONAL DEVELOPMENT. Commercial and public facilities designed and used to provide recreational opportunities to the public.

RECREATIONAL USES. Uses which offer activities, pastimes, and experiences that allow for the refreshment of mind and body. Examples include, but are not limited to,

parks, camps, camping clubs, launch ramps, golf courses, viewpoints, viewpoint platforms, trails, public access facilities, public parks and athletic fields, hunting blinds, and other low-intensity use outdoor recreation areas.

Recreational uses that do not require a shoreline location, nor are related to the water, nor provide significant public access, are considered nonwater-oriented. For example, a recreation use solely offering indoor activities would be considered nonwater-oriented.

RECREATIONAL VEHICLES. Is a vehicular-type units primarily designed for recreational camping or travel use that has its own power source or is mounted on or towed by another vehicle. The units include travel trailers, fifth-wheel trailers, folding camp trailers, truck campers, and motor homes defined in the American National Standards Institute A119.2 standards for recreational vehicles. They are built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck and designed primarily not for use as permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

RE-ESTABLISHMENT. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres (and functions). Activities could include removing fill, plugging ditches, or breaking drain titles.

REHABILITATION. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions (and processes) of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

REPAIR, NORMAL. To restore a development or structure to a state comparable to its original, legally established condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. 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. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition. See also MAINTENANCE, NORMAL.

RESIDENTIAL DEVELOPMENT. Single-family residences, multifamily development, and the creation of new residential lots through land division.

RESIDENTIAL USES. Buildings, structures or portions thereof that are designed and used as a place for human habitation. Included are single, duplex or multi-family dwellings, apartment/condominium buildings, manufactured homes, modular homes, and other structures that serve to house people. This definition includes accessory uses common to normal residential use, including but not limited to, residential appurtenances, accessory dwelling units, home occupations, family day care homes, and adult care homes.

RESTORE (RESTORATION or ECOLOGICAL RESTORATION). Measures taken to restore an altered or impaired natural feature, including active steps taken to restore damaged wetlands, streams, protected habitat, or associated buffers to the function or condition that existed prior to an unauthorized alteration and actions performed to reestablish structural and functional characteristics of the critical area that have been lost to alteration, past management activities, or catastrophic events. This may be accomplished through measures including but not limited to re-vegetation, 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.

REVTMENT. Facing of rock, concrete, etc., built to protect a steep slope, cliff, embankment, or shore structure against erosion by waves or currents.

RIPARIAN VEGETATION. Vegetation that tolerates and/or requires moist conditions and periodic free flowing water thus creating a transitional zone between aquatic and terrestrial habitats which provides cover, shade and food sources for aquatic and terrestrial insects for fish species. Riparian vegetation and their root systems stabilizes stream banks, attenuates high water flows, provides wildlife habitat and travel corridors, and provides a source of limbs and other woody debris to terrestrial and aquatic ecosystems, which, in turn, stabilize stream beds.

RIPRAP. A layer, facing, or protective mound of dense, hard, angular rock used to prevent erosion, scour, or sloughing of a structure or embankment for revetments, armoring or hardening of shorelines, or other flood/erosion control works.

ROAD. Road shall mean and include contiguous streets, alleys, sidewalks, curbs and gutters, planting strips, roads, highways, thoroughfares, parkways, bridges, viaducts, public grounds and public improvements within the City's territory. Lands for public right of ways are reserved for use and maintenance of the road system. Bridges are roads which cross over water. Sidewalks or paths independent of the rest of typical roadway cross-sections shall be considered trails.

RUNOFF. Water that is not absorbed into the soil but rather flows along the ground

surface following the topography.

S

SANITARY SEWER. A system designed to accept sewage to be deposited into and carried off by a system of lateral sewers, drains, and pipes to a common point, or points, for transfer to treatment or disposal.

SEDIMENT. The fine grained material deposited by water or wind.

SEPA (STATE ENVIRONMENTAL POLICY ACT). SEPA 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, environmental impact statements (EISs) may be required to be prepared and public comments solicited. (RCW 43.21c and WAC 197-11 guide this process)

SETBACK. The distance between property line and the foundation wall or load-bearing member of the primary structure. Meaning is distinct from BUFFER.

SETBACK, SIDE. The distance between side lot line and the foundation wall of the primary structure.

SEWAGE: Any urine, feces, and the water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments or other places.

SHALL. A mandate; the action must be done. See also MUST.

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 floodplain 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 this chapter; the same to be designated as to location by the Department of Ecology.

SHORELINE AREAS. All "shoreslines of the state" and "shorelands" as defined in RCW 90.58.030.

SHORELINE BUFFER. See BUFFER OR SHORELINE BUFFER.

SHORELINE ENVIRONMENT DESIGNATIONS. The classifications of shoreslines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.

SHORELINE FUNCTIONS. See ecological functions.

SHORELINE JURISDICTION. The term describing all of the geographic areas covered by the SMA, related rules and this SMP. Also, such areas within a specified local government's authority under the SMA. See **SHORELINES, SHORELINES OF THE STATE, SHORELINES OF STATE-WIDE SIGNIFICANCE** and **WETLANDS**. See also Section 3.1 of this SMP.

SHORELINE MANAGEMENT ACT. Washington's Shoreline Management Act was passed by the State Legislature in 1971 and adopted by voters in 1972. The overarching goal of the Act is "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." There are three basic policy areas to the Act: shoreline use, environmental protection and public access. The Act emphasizes accommodation of appropriate uses that require a shoreline location, protection of shoreline environmental resources and protection of the public's right to access and use the shorelines (RCW 90.58.020). Under the Shoreline Management Act (SMA), each city and county with "shorelines of the state" must prepare and adopt a Shoreline Master Program (SMP) that is based on state laws and rules but is tailored to the specific geographic, economic and environmental needs of the community.

SHORELINE MASTER PROGRAM, MASTER PROGRAM, or SMP. A comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies articulated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

SHORELINE PERMIT. A Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, revision, or Shoreline Variance Permit or any combination thereof.

SHORELINE PROPERTY. An individual property wholly or partially within shoreline jurisdiction.

SHORELINE STABILIZATION. Structural or non-structural modifications to the existing shoreline intended to reduce or prevent erosion of uplands or beaches. They are generally located parallel to the shoreline at or near the OHWM.

SHORELINES HEARINGS BOARD (SHB). A six member quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government on Department of Ecology approval of master programs, rules, regulations, guidelines or

designations under the SMA.

SHORELINES OF STATEWIDE SIGNIFICANCE. A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special policies apply. This includes rivers that have either a mean annual flow of 200 cubic feet per second or more, or; the portion downstream from the first 300 square miles of drainage areas.

SHORELINES OF THE STATE. The total of all “shorelines” and “shorelines of state-wide significance” within the state.

SHORELINES. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of state-wide significance; (ii) shorelines on areas of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream areas; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

SHOULD. The particular action is required unless there is a demonstrated, compelling reason, based on policy of the Act and this SMP, 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.

SIGNIFICANT ECOLOGICAL IMPACT. An effect or consequence of an action if any of the following apply:

- A. The action measurably or noticeably reduces or harms an ecological function or ecosystem-wide process.
- B. Scientific evidence or objective analysis indicates the action could cause reduction or harm to those ecological functions or ecosystem-wide processes under foreseeable conditions.
- C. Scientific evidence indicates the action could contribute to a measurable or noticeable reduction or harm to ecological functions or ecosystem-wide processes as part of cumulative impacts, due to similar actions that are occurring or are likely to occur.

SIGNIFICANT TREE. A significant tree shall be defined as any tree over eight inches in diameter as measured four feet above grade.

SIGNIFICANT VEGETATION REMOVAL. The removal or alteration of trees, shrubs, and/or groundcover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect

ecological functions, does not constitute significant vegetation removal.

SINGLE-FAMILY RESIDENCE (SFR). A single detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance.

SMA. The Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended. **SMP.**

See **SHORELINE MASTER PROGRAM.**

SOIL SURVEY. The most recent soil survey for the local area or county by the National Resources Conservation Service, U.S. Department of Agriculture.

SOFT STRUCTURAL SHORELINE STABILIZATION: Shoreline erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft structural shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a non-linear, generally sloping arrangement. Linear, vertical faces are an indicator of **HARD STRUCTURAL SHORELINE STABILIZATION** (see above definition).

SPECIES. Any group of animals classified as a species or subspecies as commonly accepted by the scientific community.

SPECIES, ENDANGERED. Any wildlife species native to the state of Washington that is seriously threatened with the extinction throughout all or a significant portion of its range within the state (WAC 232-12-297, Section 2.4).

SPECIES, PRIORITY. Any fish or wildlife species requiring protective measure and/or management guidelines to ensure their persistence at genetically viable population levels as classified by the Washington Department of Fish and Wildlife, included endangered, threatened, sensitive, candidate and monitor species, and those of recreation, commercial, or tribal importance.

SPECIES, SENSITIVE. Any wildlife species native to the State of Washington that is vulnerable to declining and is likely to become endangered or threatened throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-197, Section 2.6).

SPECIES, THREATENED. Any wildlife species native to the state of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-197, Section 2.5).

START OF CONSTRUCTION. The date the building permit is issued for a substantial

improvement, provided the actual start of construction, repair, reconstruction, placement or other improvement is within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garage or sheds not occupied as dwelling units or not part of the main structure.

STATE MASTER PROGRAM. The cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by Ecology.

STORMWATER. That portion of precipitation that does not normally percolate into the ground or evaporate but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or constructed infiltration facility.

STORMWATER FACILITY: A constructed component of a stormwater drainage system designed or constructed to perform a particular function or multiple functions. Stormwater facilities include, but are not limited to: pipes, swales, ditches, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and biofiltration swales.

STREAM. Any portion of a channel, bed, bank, or bottom waterward of the ordinary high water mark of waters of the state, including areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks, which influence the quality of fish habitat downstream. This includes watercourses which flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall. This definition does not include irrigation ditches, canals, stormwater run-off devices, or other entirely artificial watercourses, except when they are used by salmonids or where they exist in a natural watercourse that has been altered by humans. A shoreline stream is a naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty cubic feet per second and b) the water is contained within a channel. A channel is an open conduit either naturally or artificially created. This definition does not include artificially created irrigation, return flow, or stockwatering channels.

STRUCTURE. A permanent or temporary walled and roofed 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. This includes a gas or liquid storage tank that is principally above ground.

SUBDIVISION. The division or redivision of land, including short subdivision, for the purpose of sale, lease or conveyance.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
3. The term does not, however, include either:
 - a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

Any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

SUBSTANTIAL DEVELOPMENT, SHORELINE. Any development which meets the criteria of RCW 90.58.030(3)(e). See also **DEVELOPMENT** and **EXEMPTION**.

SUBSTANTIALLY DEGRADE. See **SIGNIFICANT ECOLOGICAL IMPACT**

SURFACE WATER. All water that exists on the land surface, including streams, lakes or reservoirs, or other bodies of water within the boundaries of the state.

SWAMP. A depressed area flooded most of the year to a depth greater than that of a marsh and characterized by areas of open water amid soft, wetland masses vegetated with trees and shrubs. Extensive grass vegetation is not characteristic.

T

TERRESTRIAL. Of or relating to land as distinct from air or water.

TRAIL. Trails are clearly identified paved, semi-paved or unpaved but defined (e.g. gravel) pathways for pedestrians in a natural or urban setting used for recreational or circulation purposes. A trail by itself is not considered a road.

TRANSPORTATION FACILITIES. Roads and railways, including their related bridges and culverts, transportation structures, public transit and bus facilities, pedestrian transportation including foot bridges over rivers/streams and trails, fills, embankments, causeways, truck terminals and rail switchyards, sidings, spurs, air fields and other associated minor facilities. Not included are, highway rest areas, ship terminals, nor logging roads. Local transportation refers to facilities provide direct access to abutting land and to higher order roads.

Regional transportation refers to facilities serving more than one city or community or major destinations.

U

UNAVOIDABLE. Adverse impacts that remain after all appropriate mitigation sequencing measures have been implemented.

UPLAND. Generally described as the dry land area above and landward of the OHWM.

UTILITIES. Lines and facilities related to the provision, distribution, collection, transmission or disposal of water, stormwater, sanitary sewage, oil, gas, power, and telephone cable, and includes facilities for the generation of electricity.

- A. "Large facilities" serve more than one community (e.g. more than one neighborhood, town, city or other defined place) or major attractions. Examples include, but are not limited to, 230 kv power transmission lines, natural gas transmission lines, and regional water storage tanks and reservoirs, regional water transmission lines or regional sewer collectors and interceptors. Large facilities may also include facilities serving an entire community, such as subregional switching stations (one hundred fifteen (115) kv and smaller), and municipal sewer, water, and stormwater facilities.
- B. "Small facilities" serve adjacent properties and include, but are not limited to, power lines not specified under "large facilities," water, sanitary sewer, and stormwater facilities, fiber optic cable, pump stations and hydrants, switching boxes, and other structures normally found in a street right-of-way. On-site utility features serving primary use such as a water, sewer, or gas line to a residence are accessory utilities and shall be considered part of the primary use.

V

VARIANCE, SHORELINE. A means to grant relief from the specific bulk, dimensional, or performance standards set forth in this master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in this SMP and RCW 90.58.020; variance is not a means to vary a use of a shoreline. Variance permits

must be specifically approved, approved with conditions, or denied by the Administrator and the Department of Ecology.

VESSEL. A floating structure that is designed primarily for navigation, is normally capable of self propulsion and use as a means of transportation, and meets all applicable laws and regulations pertaining to navigation and safety equipment on vessels, including, but not limited to, registration as a vessel by an appropriate government agency.

VIEW ANALYSIS. An analysis to evaluate the ability of the general public to view the water and the shoreline from adjacent locations such as public places or from substantial numbers of residences.

VISUAL ACCESS. The ability of the general public to view the water and the shoreline from adjacent locations.

VIEW CORRIDOR. The line of sight (identified as to height, width, and distance) of an observer looking toward shoreline from upland locations, public spaces, such as parks, trails, or streets that have particular significance in preserving the unique character of the shoreline.

W

WAC. Washington Administrative Code.

WASTE STORAGE AND TREATMENT. Facilities for collecting and treating, as an accessory use only, garbage, solid waste or sewage generated by the development and its users. This definition does not include municipal sewage treatment facilities.

WATERBODY. A body of still or flowing water, fresh or marine, bounded by the OHWM.

WATERCRAFT LIFT. An in-water structure used for the dry berthing of vessels above the water level and lowering of vessels into the water. A watercraft lift is generally a manufactured unit without a canopy cover and may be placed in the water adjacent to a pier or float, and may be floating or ground-based. Watercraft lifts include, but are not limited to, lifts for motorized boats, kayaks, canoes, jet skis, and float planes. A watercraft lift is different from a hoist or crane used for the launching of vessels.

WATER-DEPENDENT USE. A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include but are not limited to ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, boating facilities, private moorage facilities, aquaculture, float plane facilities, sewer outfalls, hydroelectric generating plants and water diversion facilities, such as agricultural

pumphouses.

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. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to, parks, viewing and walking piers and other improvements facilitating public access to the shorelines of the State, including public view or fishing platforms; and general water-enjoyment uses may include, but are not limited to restaurants, museums, aquariums, scientific/ecological reserves, resorts/hotels (as part of mixed use development or with significant public access or restoration components), and mixed-use commercial/office.

WATERFRONT. A parcel of property with upland characteristics which includes within its boundary a physical interface with the existing shoreline of a body of water.

WATER-ORIENTED USE. A use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

WATER QUALITY. The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this SMP, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impervious surfaces and stormwater handling practices. Water quantity, for purposes of this master program, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

WATER-RELATED USE. A use or 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. The use has 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 uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, gravel storage when transported by barge, oil refineries where transport is by tanker, log storage, and agriculturally related water

transportation systems.

WATERSHED. A geographic region within which water drains into a particular river, stream or body of water.

WATERSHED RESTORATION PLAN. A plan, developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, the Department of Natural Resources, the Department of Transportation, a federally recognized Indian tribe acting within and 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 chapter 43.21C RCW, the State Environmental Policy Act.

WATERSHED RESTORATION PROJECT. A public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

- A. A project that involves less than 10 miles of stream or lake reach, in which less than 25 cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings; or
- B. A project for the restoration of an eroded or unstable stream bank or lake shore that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of wave energy; or
- C. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure (e.g., project equipment shed), other than a bridge or culvert or in-water habitat enhancement structure associated with the project, is less than 200 square feet in floor area and is located above the ordinary high water mark of the stream or lake.

WEIR. A structure generally built across a stream channel for the purpose of diverting water or trapping sediment or other moving objects transported by water.

WETLAND OR WETLANDS. Areas that are inundated or saturated by surface water 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 marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland 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. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

WETLAND MITIGATION BANK. A site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing advance mitigation to compensate for future, permitted impacts to similar resources.

WETLAND MOSAIC. An area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50 percent of the total area of the entire mosaic, including uplands and open water.

VADOSE ZONE. Also known as the unsaturated zone. The vadose zone extends from the top of the ground surface to the water table.

Z

ZONING. The system of land use and development regulations and related provisions of Chelan County, the City of Cashmere, the City of Chelan, the City of Entiat, the City of Leavenworth, the City of Wenatchee, and any other future Cities that may incorporate.

Universal Note

In addition, the definitions and concepts set forth in RCW 90.58.030, as amended, and implementing rules in the Washington Administrative Code shall also apply as used herein.

SHORELINE MASTER PROGRAM PERIODIC REVIEW

Periodic Review Checklist

This document is intended for use by counties, cities and towns subject to the Shoreline Management Act (SMA) to conduct the “periodic review” of their Shoreline Master Programs (SMPs). This review is intended to keep SMPs current with amendments to state laws or rules, changes to local plans and regulations, and changes to address local circumstances, new information or improved data. The review is required under the SMA at [RCW 90.58.080\(4\)](#). Ecology’s rule outlining procedures for conducting these reviews is at [WAC 173-26-090](#).

This checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2019 that may trigger the need for local SMP amendments during periodic reviews.

[How to use this checklist](#)

See the associated *Periodic Review Checklist Guidance* for a description of each item, relevant links, review considerations, and example language.

At the **beginning of the periodic review**, use the review column to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b)(i).

Ecology recommends reviewing all items on the checklist. Some items on the checklist prior to the local SMP adoption may be relevant.

At the end of your review process, use the checklist as a final summary identifying your final action, indicating where the SMP addresses applicable amended laws, or indicate where no action is needed. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b).

Local governments should coordinate with their assigned [Ecology regional planner](#) for more information on how to use this checklist and conduct the periodic review.

Prepared By	Jurisdiction	Date

Row	Summary of change	Review	Action
2019			
a.	OFM adjusted the cost threshold for building freshwater docks	Old language used	Updated 7.6.3(A) with adjusted value
b.	The Legislature removed the requirement for a shoreline permit for disposal of dredged materials at Dredged Material Management Program sites (<i>applies to 9 jurisdictions</i>)		N/A
c.	The Legislature added restoring native kelp, eelgrass beds and native oysters as fish habitat enhancement projects.		N/A
2017			
a.	OFM adjusted the cost threshold for substantial development to \$7,047.	Old value used	Updated 7.6.3(H) with adjusted value.
b.	Ecology permit rules clarified the definition of “development” does not include dismantling or removing structures.	New language not included	Updated definitions Chapter 8
c.	Ecology adopted rules clarifying exceptions to local review under the SMA.	New language not included	Updated 1.3(B).
d.	Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute.	Old language used	Updated several sections in Chapter 7 to be consistent with amended rules.
e.	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.		N/A
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	Existing language was repetitive and not consistent.	Added new language and simplified section 1.3(E) to remove repetitive language.
g.	Ecology clarified “default” provisions for nonconforming uses and development.	Plan has non-conforming provisions	N/A

Row	Summary of change	Review	Action
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	No mention of process	N/A
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	Current language limited review to standard process	Updated section 7.16.2 to include joint review process.
j.	Submittal to Ecology of proposed SMP amendments.	Not mentioned	Updated section in 7.16.2 to direct to WAC requirements.
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the Americans with Disabilities Act .	Not included	Added in section 7.6.3(Q)
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	Wetlands section refers to old rating system.	Update required
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	Not included	Added new section 7.12(B)
2014			
a.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.		N/A
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .		N/A
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	Plan uses recommended language	N/A

Row	Summary of change	Review	Action
b.	Ecology adopted rules for new commercial geoduck aquaculture .		N/A
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.		N/A
d.	The Legislature authorizing a new option to classify existing structures as conforming .	Not included.	Added reference in 6.2.4(F).
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications .	Correctly noted but uses inconsistent language.	Updated language in Section 1.8 to be consistent with recommended language.
2009			
a.	The Legislature created new “relief” procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.	Language referenced RCW.	Updated language in Section 5.17(H) to reference WAC.
b.	Ecology adopted a rule for certifying wetland mitigation banks .	Mitigation banks allowed.	N/A
c.	The Legislature added moratoria authority and procedures to the SMA.	Not included.	N/A
2007			
a.	The Legislature clarified options for defining "floodway" as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	Correct FEMA definition used.	N/A
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.	No new streams or lakes are identified.	N/A
c.	Ecology’s rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that	Includes exemption.	N/A

<i>Row</i>	<i>Summary of change</i>	<i>Review</i>	<i>Action</i>
	conform to the provisions of RCW 77.55.181.		

Additional amendments

Modify this section, as needed, to reflect additional review issues and related amendments. The summary of change could be about Comprehensive Plan and Development regulations, changes to local circumstance, new information, or improved data.

Two example formats:

SMP section	Summary of change	Review	Action

SMP Section	Summary of change	Discussion

SHORELINE MASTER PROGRAM PERIODIC REVIEW

Periodic Review Checklist Guidance

This document is a guide to Ecology’s checklist that counties, cities and towns subject to the Shoreline Management Act (SMA) use to conduct the periodic review of their Shoreline Master Programs (SMPs).¹

This guidance summarizes state law, rules and applicable updated guidance adopted between 2007 and 2019 that may trigger the need for local SMP amendments. The guidance includes general observations to aid local review.

This document is not intended as a definitive interpretation of statutes or regulations. This document will be revised based on new information. For information, or suggestions to improve this document, please contact [Ecology's regional shoreline planner](#).

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¹ RCW 90.58.080(4); WAC 173-26-090

2019

2019a. Cost thresholds for freshwater docks

In addition to the general Substantial Development Permit (SDP) cost threshold (*see item 2017a below*), the SMA includes a separate dollar threshold for “construction of a dock on freshwater, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple family residences.”

In 2014 the Legislature raised these cost thresholds, and required the Office of Financial Management (OFM) to adjust the cost threshold for inflation every five years, starting in 2018. OFM adopted the first adjustment to these thresholds effective November 4, 2018. (*Notice of the new thresholds was published in the State Register on October 4, 2018 in WSR 18-21-013.*)

The new thresholds are:

- (I) **22,500 dollars for docks that are constructed to replace existing docks**, and are of equal or lesser square footage than the existing dock being replaced, *or*
- (II) **\$11,200 for all other docks constructed in fresh waters.**

Bill: [SHB 1090](#), effective 6/12/2014. RCW [90.58.030\(3\)\(e\)\(vii\)](#). Rule WAC [173-27-040\(2\)\(h\)](#)

Review considerations

Local governments were required to apply the new thresholds starting November 4, 2018, regardless of the threshold amount that is included in their SMP.

If an SMP does not include an absolute number but relies on reference to statute (*which includes an indication that the threshold changes based on inflation*) no change to the SMP is required.

If a local SMP includes a specific cost threshold, it should be revised to match the current numbers.

If a city or county has no freshwater systems, this provision does not apply and the checklist should indicate “not applicable.”

Example language

The new rule language could be incorporated directly into the SMP section on permit exemptions. For example:

(XX) 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 either:

- (i) In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars; or
- (ii) In fresh waters the fair market value of the dock does not exceed:

(A) twenty-two thousand five hundred dollars (\$22,500) for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or

(B) Eleven thousand two hundred (\$11,200) dollars for all other docks constructed in fresh waters.

However, if subsequent construction occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

ADMINISTRATIVE TIP: Consider revising permit application forms, websites or other administrative documents to reflect the new cost threshold. There is no need to wait for an SMP amendment to make these changes as the change implements a statutory directive.

2019 b. Dredged material disposal at DMMP sites

The Legislature amended the SMA to remove the requirement for a local shoreline permit for disposal of dredged materials at open water disposal sites approved through the auspices of the [Dredged Material Management Program \(DMMP\)](#).

Bill: [HB 1480](#), effective 7/28/2019. Law: [RCW 90.58.140](#). See also [RCW 79.105.500](#)

Review considerations

The statutory direction not to apply the SMA to use of DMMP sites applies whether or not a local SMP has been amended. This bill only applies to counties or cities that have open water disposal sites managed by DMMP within their jurisdiction: Clallam, Grays Harbor, Pacific, Pierce, Skagit, and Whatcom Counties, and the cities of Everett, Seattle, and Port Angeles. These jurisdictions should consult with Ecology's regional planner for suggestions.

2019 c. Kelp, eelgrass, and native oyster restoration

The Legislature amended the SMA to update a dated cross-reference to the WDFW statute that defines fish habitat enhancement projects. The amendments also added kelp, eelgrass and native oyster restoration to the list of activities eligible for the streamlined permit review for these kinds of enhancement projects.

Bill: [SB 5404](#), effective 7/28/2019. Law: [RCW 77.55.181](#); [RCW 90.58.147](#)

Review considerations

This SMA amendment applied on its effective date, regardless of whether the exemption is specifically listed in the SMP. For SMPs that include a full list of fish habitat enhancement projects types, add "kelp, eelgrass and native oyster restoration projects."

2017

2017a. Cost threshold for substantial development (\$7,047)

The Office of Financial Management (OFM) revised the cost threshold above which a development will require a Substantial Development Permit (SDP) to **\$7,047**. OFM is required to adjust the cost threshold for inflation every five years. From 2012 – 2017 the amount was \$6,416. The new threshold was effective September 2, 2017. (*Notice of the new threshold was published in the State Register on August 3, 2017 in WSR 17-17-007.*)

Law: RCW [90.58.030\(3\)\(e\)](#).

Review considerations

Local governments are required to apply the new threshold of \$7,047 starting September 2, 2017, regardless of the threshold amount that is included in their SMP.

If an SMP does not include an absolute number but relies on reference to statute, which includes an indication that the threshold changes based on inflation, no change to the SMP is required.

If a local SMP includes a specific cost threshold, it should be revised to \$7,047.

ADMINISTRATIVE TIP: *Revise permit application forms, websites or other administrative documents to reflect the new cost threshold. There is no need to wait for an SMP amendment to make these changes as the change is implementing a statutory directive.*

2017 b. Definition of development

Ecology amended permit rules to clarify the definition of “development” does not include projects that involve only dismantling or removing structures without any associated development or re-development. This is not really a new interpretation, it simply codifies the primary holding in the 1992 WA State Supreme Court decision in *Cowiche Canyon v Bosley (118 Wn.2d 801)*. Ecology included the clarification in rule to address a question about applicability of the SMA that arises frequently.

Rule: WAC [173-27-030\(6\)](#), effective 9/7/2017

Review considerations

This definition applies whether or not the clarification is added to local SMPs. If a jurisdiction finds the clarification helpful, it may be incorporated into the SMP.

Example language

If a local government chooses to incorporate this clarification, one option is to add a sentence in the SMP definition of development. For example:

(XX) “Development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level.

“Development” does not include dismantling or removing structures if there is no other associated development or re-development.

2017 c. Exceptions to local review under the SMA

Ecology adopted WAC 173-27-044 to consolidate three separate laws that create special exceptions to applicability of local Shoreline Master Programs. The rule clarifies that requirements to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other review conducted by a local government to implement the SMA do not apply to:

- Remedial hazardous substance cleanup actions (1994 law),
- Boatyard improvements to meet NPDES requirements (2012), and
- Certain WSDOT maintenance and safety projects and activities (2015 law).

Ecology also made housekeeping revisions to WAC 173-27-045, a separate rule that describes developments that are not required to meet SMA requirements. The revisions delete reference to RCW 90.58.390 (an emergency law that has since expired), and relocate the reference to the 1994 hazardous substance law to the new WAC 173-27-044.

Bills: [ESSB 5994](#), effective 7/6/2015, [EHB 2469](#), effective 6/7/2012. Laws: RCW [90.58.355](#); RCW [90.58.356](#); also see RCW [90.58.045](#); RCW [80.50](#). Rule: WAC [173-27-044](#) & WAC [173-27-045](#), effective 8/7/2017

Review considerations

The exceptions to SMP review covered under the statutes in these two rules apply whether or not they are included in local SMPs.

However, Ecology recommends local governments maintain a consolidated section in their SMP that addresses these exceptions to ensure consistent implementation.

We do not recommend the SMP combine these “exceptions” from SMA permit review directly into the list of “exemptions” from the requirement for a Substantial Development Permit under [WAC 173-27-040](#). Projects that are listed as “permit-exempt” still need to meet substantive standards of the SMA – whereas for these projects there is no local review.

Example language

A local SMP may consolidate all the SMA exceptions to incorporate Ecology’s recently revised rules with all applicable statutes as follows:

(XX) Developments not required to obtain shoreline permits or local reviews

Requirements to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

(i) Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.

(ii) Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.

(iii) WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other local review.

(iv) Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

(v) Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

2017 d. Permit filing procedures

Ecology amended WAC 173-27-044 to incorporate a 2011 law relating to permit filing. These details are important because the date of filing establishes the start of the Shorelines Hearings Board appeal period. Changes include:

- “Date of filing” replaces “date of receipt” for shoreline permits sent to Ecology.
- Requires concurrent filing of permits if there are separate Substantial Development, Conditional Use Permits, and/or Variances.
- Ecology will notify local government and the applicant of the date of filing by telephone or electronic means followed by written communication.

The law clarified that local permit decisions shall be submitted to Ecology by return receipt requested mail. This intent is to bring consistency and predictability to the timing of the appeal period. Using return receipt mail allows local governments to calculate when the appeal period starts and ends without contacting Ecology on every permit. This also helps them administer other related authorizations like building permits. Using return receipt mail allows local governments to control the timing of the SHB appeal for Shoreline Substantial Development Permits and creates a record of the transmittal, alleviating the scenario where a submittal is lost or delayed by the mail service.

Bill: [SSB 5192](#), effective 7/22/2011. Law: RCW [90.58.140\(6\)](#). Rule: [WAC 173-27-130](#)

Review considerations

The SMA amendment applied on its effective date in 2011, regardless of whether permit procedures are specifically outlined in local SMPs. However, if an SMP describes the permit filing process, it should be reviewed for consistency with the 2011 statutory amendments.

Example language

Below is an example of local permit filing procedures which incorporates the 2011 statute:

(XX) After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes,

[COUNTY/CITY] will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require both Conditional Use Permits and or Variances shall be mailed simultaneously with any Substantial Development Permits for the project.

(i) The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents.

(ii) Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one day appeal period starts with the date of filing, which is defined below:

(A) For projects that only require a Substantial Development Permit: the date that Ecology receives the [COUNTY/CITY] decision.

(B) For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and [COUNTY/CITY].

(C) For SDPs simultaneously mailed with a CUP or VAR to Ecology: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the [COUNTY/CITY].

2017 e. Forestry use regulations

Ecology amended forestry use regulations to clarify that a forest practice that only involves timber cutting is not considered development under the SMA and does not require permits, but forestry activities other than timber cutting may require a Substantial Development Permit (SDP). Ecology adopted this housekeeping amendment to address a regularly recurring question which is partly answered in Forest Practices Board laws and rules but not addressed in SMA rules. Forest Practices rule WAC 222-50-020(2) states "A substantial development permit must be obtained prior to conducting forest practices which are "substantial developments" within the "shoreline" area as those terms are defined by the Shoreline Management Act." The authority for that rule is RCW 76.09.240(6). Timber cutting alone is not development because it does not meet the statutory definition in RCW 90.58.030(3)(e)(a).

Rule: [WAC 173-26-241\(3\)\(e\)](#), effective 9/7/2017.

Review considerations

It is not necessary to amend local SMP forestry regulations to reflect this clarification. However, it could be helpful for jurisdictions with extensive commercial forestry, if questions about applicability of forest practices laws and rules arise frequently.

Example language

The language from the revised rule could be incorporated into forest use regulations:

A forest practice that only involves timber cutting is not a development under the act and does not require a shoreline Substantial Development Permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be

a development under the act and may require a Substantial Development Permit, as required by WAC 222-50-020.

2017 f. Lands under exclusive federal jurisdiction

Ecology amended a permit rule that addressed lands within federal boundaries to clarify that areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of the SMA. For example, exclusive jurisdiction ceded to the United States in Mount Rainier National Park (RCW 37.08.200), Olympic National Park (RCW 37.08.210), and for acquisition of land for permanent military installations (RCW 37.08.180).

Rule: WAC [173-22-070](#), effective 9/7/2017.

Review considerations

It is not necessary to amend local SMPs to reflect this clarification. However, it could be included if a jurisdiction faces questions about applicability of the SMP on lands with exclusive jurisdiction.

Example language

The language from the revised rule could be incorporated as follows:

(XX) Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of chapter 90.58 RCW.

Another option, or in addition to this general approach, could be to state specifically where the exclusive jurisdiction applies locally (e.g., National Park or military base).

2017 g. Nonconforming uses and development

Ecology revised its rules for nonconforming uses and development. A primary goal was to improve the structure of the rule to separate nonconforming uses, nonconforming structures, and nonconforming lots. The introductory paragraph of the rule was amended to clarify that unlike other permit and enforcement rules, this rule is a default rule that only applies if a local government has no provisions in its local SMP addressing nonconforming uses. Many of the clarifications in this default rule were borrowed from local government innovations during the comprehensive SMP updates.

Rule: [WAC 173-27-080](#), effective 9/7/2017

Review considerations

For local governments that adopted their own tailored provisions for nonconforming use and development during the comprehensive update, Ecology's rule amendments will have no effect.

This rule will apply where a local government either has no provisions for nonconforming use and development or has adopted WAC 173-27-080 by reference. Local governments that adopted this WAC by reference or included its provisions within their SMP should review the new rule to determine whether and how to modify how nonconforming use and development is regulated in their jurisdiction.

If a local government has already addressed nonconforming use and development but is considering adopting clarifications, review the revised rule for ideas. Below is a summary of changes from Ecology's previous nonconforming use and development rule to help identify what is different:

(1) Definitions

This section creates separate definitions for nonconforming "use," "structure" and "lots." In the previous version "use" and "structure" were combined into one definition, and the definition of "lots" had been incorporated into the regulation itself rather than having a separate definition.

(2) Nonconforming structures

§ (2)(a) clarifies that existing legal nonconforming structures may continue. This addresses a concern raised during comprehensive updates about the legal rights of nonconforming structures.

§ (2)(b) provides a general rule for expansions of nonconforming structures. The amendments clarify that enlargement or expansions should meet applicable provisions of the SMP. (Many comprehensively updated SMPs created specific allowances for expansion of nonconforming structures, embedded within specific use regulations.) It also clarifies a general rule that a Variance would be required for expansions that increase the nonconformity if the SMP does not provide a specific allowance.

§ (2)(c) was not amended from the previous rule. It retains the existing authorization for expansions of preferred single-family residences or addition of appurtenances through a Conditional Use Permit.

§ (2)(f) adds a qualifier to a previous provision that required any nonconforming structure that is moved any distance to meet all applicable provisions of the SMP. This provision was potentially a disincentive to move structures away from the shoreline in circumstance where all dimensional standards (e.g., buffer width) could not be met because of existing constraints (e.g., lot width, presence of a road). The change requires a nonconforming structure that is moved to move "as far as practical" from the shoreline. This allows for the realities of any given parcel to be taken into account.

§ (2)(g) extends the time period for obtaining permits to replace damaged development from 6 months to 2 years. Even in normal circumstances applications can take 6 months to prepare, so a longer timeframe is warranted where a development has been damaged.

§ 3. Nonconforming uses

§ (3)(a) preserves the existing regulation which clarifies that existing nonconforming uses may continue.

§ (3)(b) sets out the general rule that nonconforming uses shall not be enlarged or expanded without a CUP, unless more specific regulations in the SMP apply.

§ (3)(c) modified an existing rule that said nonconforming rights expire if the use is discontinued for 12 months, by clarifying the nonconforming uses may be re-established through a CUP. It was also modified to clarify that water-dependent uses that are episodically dormant or include phased or rotational operations should not be considered "discontinued."

Note the previous WAC 173-27-080(4) was deleted in its entirety. The rule had said if an updated SMP requires a CUP for an existing use, that use should be considered a nonconforming use. The previous rule was deleted because those uses should be treated no differently from other existing uses.

§ 4. Nonconforming lots

The only change was to move the definition into the definition section.

Example language

Local governments may incorporate the language from the revised rule either directly into their SMP, or by reference. If the provisions are incorporated directly they may be modified or tailored.

(1) Definitions

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

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

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

(2) Nonconforming structures

(a) Structures that were legally established and are used for a conforming use but are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may continue as legal nonconforming structures and may be maintained and repaired.

(b) Nonconforming structures may be enlarged or expanded provided that said enlargement meets the applicable provisions of the master program. In the absence of other more specific regulations, proposed expansion shall not increase the extent of nonconformity by further encroaching upon or extending into areas where construction would not be allowed for new structures, unless a shoreline variance permit is obtained.

(c) Nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC 173-27-040 (2)(g) upon approval of a Conditional Use Permit.

(d) 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.

(e) In the absence of other more specific regulations,-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.

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.

(f) A nonconforming structure which is moved any distance must be brought as closely as practicable into conformance with the applicable master program and the act.

(g) If a nonconforming development is damaged to an extent not exceeding seventy-five percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within two years of the date the damage occurred.

(3) Nonconforming uses

(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) In the absence of other more specific regulations in the master program, such uses shall not be enlarged or expanded, except upon approval of a Conditional Use Permit.

(c) If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming unless re-establishment of the use is authorized through a Conditional Use Permit which must be applied for within the two-year period. Water-dependent uses should not be considered discontinued when they are inactive due to dormancy, or where the use includes phased or rotational operations as part of typical operations. A use authorized pursuant to subsection (2)(e) of this section shall be considered a conforming use for purposes of this section.

(4) Nonconforming lot

A nonconforming lot may be developed if permitted by other land use regulations of the local government and so long as such development conforms to all other requirements of the applicable master program and the act.

2017 h. Periodic reviews

Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews of SMPs required by RCW 90.58.080(4).

Rule: WAC [173-26-090](#), effective 9/7/2017.

Review considerations

This rule describes the process local governments must follow when conducting periodic reviews. It is not necessary to include any of these new provisions in local SMPs – they provide direction on how to undertake the periodic review process. If an SMP describes the periodic review scope and procedures, consider reviewing that section of code for consistency with the periodic review rule.

Example language

If an SMP includes a description of periodic review procedures, and would like to add further clarification, one option would be to cite Ecology’s WAC by reference. For example:

(X) The CITY/COUNTY will conduct the periodic review process consistent with requirements of RCW 90.58.080 and WAC 173-26-090.

2017 i. Optional SMP amendment process

This new rule establishes an optional SMP amendment process that allows for a shared local/state public comment period for efficiency.

Rule: WAC [173-26-104](#), effective 9/7/2017.

Review considerations

Local governments that want to use these provisions should review local amendment procedures to ensure there are no impediments to using this new option. (These provisions may be contained either in the SMP or elsewhere in the land use code.) A key consideration is coordinating with Ecology on the public comment period, as Ecology needs to send notice to the state interested parties list at the same time as the local governments notice. Note that the optional process also asks local governments to send a draft to Ecology for an initial determination before final local adoption. This has been a common practice on an informal basis for many years and can be done without amending the SMP.

2017 j. Submittal to Ecology of proposed SMP amendments

Ecology made a few minor amendments to WAC 173-26-110, the rule that describes what local governments provide to Ecology for final review of SMP amendments. The rule clarifies that submittals may be in digital form, and deleted the requirement to send two paper copies. It clarified that the submittal should include a summary of amendments made in response to public comments. It also clarified that local governments will submit their final periodic review checklist when taking action on the periodic review.

NOTE: Ecology also made a few housekeeping amendments to WAC 173-26-120, which describes the state process for reviewing SMPs. Those amendments should not trigger any amendments to SMPs. The one exception might be the clarification from statute that SMPs are effective 14 days after Ecology’s approval letter - this was adopted by the Legislature as described under 2010 amendments.

Rule: WAC [173-26-110](#), WAC [173-26-120](#), effective 9/7/2017.

Review considerations

If a local SMP includes a description of the SMP submittal process, they should review the amendments for consistency.

2016

2016 a. Americans with Disabilities Act permit exemption

The legislature created a new shoreline permit exemption in 2016. Retrofitting an existing structure does not require an SDP if the project is undertaken to comply with the Americans with Disabilities Act or otherwise provide physical access to a structure by individuals with disabilities. The amended law was incorporated into Ecology's rule in 2017.

Bill: [SHB 2847](#), effective 6/9/2016. RCW [90.58.030\(3\)\(e\)\(xiii\)](#), [WAC 173-27-040\(2\)\(q\)](#)

Review considerations

This SMA amendment applied on its effective date, regardless of whether the exemption is specifically listed in the SMP. For SMPs that simply cite the RCW list of exemption, no change is needed.

For SMPs that spell out all the statutory exemptions, add the new exemption to the list.

Example language

Local governments may incorporate the revised rule directly into exemption language:

(xx) The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

2016 b. Wetlands critical areas guidance

Ecology published a revised *Wetland Guidance for CAO Updates* in 2016. The new guidebook replaces the former "Guidance for Small Cities." There are separate versions for Eastern and Western Washington. Ecology's rule directs local governments to consult the department's technical guidance documents on wetlands. The primary changes in this document are related to the new 2014 Washington state wetland rating system. Ecology's 2003 rule directs local governments to use either the state wetland rating system, or to develop their own scientifically based method for categorizing wetlands.

Other changes addressed include: addition of a buffer table to be used if minimizing measures are not used; emphasis on the requirement to provide wildlife corridors where possible in exchange for buffer reduction; guidance on using wetlands for stormwater management facilities; revisions to exemptions for small wetlands; recommended language addressing agricultural activities in non-VSP jurisdictions; and addition of recent mitigation documents and guidance.

Rule: WAC [173-26-221\(2\)\(c\)\(i\)\(A\)](#) and (B); [Wetland Guidance for CAO Updates: Western Washington Version](#); [Wetland Guidance for CAO Updates: Eastern Washington Version](#); [Washington State Wetland Rating System for Western Washington: 2014 Update](#); [Washington State Wetland Rating System for Eastern Washington: 2014 Update](#)

Review considerations

The updated wetlands guidance is directed at updating critical areas ordinances (CAOs). The key provision is the updates to the 2014 [Wetland](#) Rating System. Other guidance in the 2016 guidance document may also be applicable. How this guidance applies to individual local government will vary widely depending on how critical areas are addressed in the SMP. Consult Ecology's regional planner for tailored assistance on potential SMP wetland revisions.

2015

2015 a. 90-day target for local review for WSDOT project

The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects. The law also allows WSDOT projects that address safety risks to begin 21 days after the date of filing if the project will achieve no net loss of ecological functions.

Bill: [ESSB 5994](#), effective 7/6/2015. Laws: [RCW 47.01.485](#); [RCW 90.58.140](#). Rule: WAC [173-27-125](#)

Review considerations

It is not necessary to include these provisions in SMPs, but a reference could help ensure SMPs are implemented consistent with the statute.

Example language

If a local government chooses to incorporate this legislative direction into an SMP, one option is to use the following language from the revised rule.

(XX) Special procedures for WSDOT projects.

(i) Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.

(ii) Optional process allowing construction to commence twenty-one days after date of filing. Pursuant to RCW 90.58.140, Washington State Department of Transportation projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.

2014

Note: In 2014 the Legislature revised the cost threshold for requiring a Substantial Development Permit (SDP) for replacement docks on lakes and rivers [SHB 1090, amending RCW [90.58.030\(3\)\(e\)](#)]. The fair market value for purposes of an SDP exemption for a dock in fresh water was raised. This amount was adjusted for inflation by OFM in late 2018. See Item 2019a for review considerations and example language.

2014 a. Floating on-water residences

The Legislature created a new definition and policy for “floating on-water residences (FOWRs).” FOWRs that meet the new definition and were legally established before 7/1/2014 shall be considered a conforming use, and must be accommodated through SMP regulations that will not effectively preclude maintenance, repair, replacement, and remodeling. This bill responded to concerns raised in Seattle regarding preservation of the existing floating home community. *(See provisions for “floating homes” under 2011 statutes. The statutes are similar but slightly different.)*

Bill: [ESSB 6450](#) effective 6/12/2014. Law: [RCW 90.58.270](#). Rules: Definition: [WAC 173-26-030\(3\)\(d\)\(18\)](#); Use regulation: WAC [173-26-241\(3\)\(j\)](#)

Review considerations

If a jurisdiction has no existing FOWRs, no amendments are needed.

If a jurisdiction has existing FOWRs, the SMP should include a reference to the statute, or a definition consistent with the statute, and a policy or regulation that clarifies the legal status of FOWRs. If the jurisdiction’s SMP specifically regulates FOWRs, then the regulations should be reviewed to make sure they appropriately recognize on-going maintenance of FOWRs. Local governments may apply reasonable SMP regulations, permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating on-water residences and their moorages by rendering these actions impracticable.

Example language

The new statutory definition can be included in the definition section or in the Residential Use section of the SMP together with the new policy clarification. SMPs should already include a prohibition on establishment of new overwater residences, as the Legislative amendments did not change this long-standing policy. Additional policies or general development standards specific to floating on-water residences can be added if existing floating on-water residences will be managed by a local SMP.

An example of how an SMP could incorporate the new statute in the context of the existing prohibition on new floating homes:

(XX) “Floating on-water residence” means any floating structure other than a floating home, as defined by this chapter: (a) that is designed or used primarily as a residence on the water and has detachable utilities; and (b) whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

(XX) New over-water residential developments are prohibited. Existing floating on-water residences legally established and moored within a marina within the [COUNTY/CITY] prior to July 1, 2014 are considered a conforming use and should be accommodated through reasonable permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating on-water residences and their moorages by rendering these actions impracticable.

2012

2012 a. SMP appeal procedures

The Legislature amended the SMA to clarify SMP appeal procedures. These provisions are not about appeals of individual permits. They describe the appeal pathway after Ecology's approval of a Shoreline Master Program. For jurisdictions "fully planning" under GMA, Ecology's approval of an SMP is to the Growth Management Hearings Boards. For jurisdictions "partially planning" (Critical Areas and Resource Lands only), appeals are to the Shorelines Hearings Board.

Bill: [EHB 2671](#), effective 6/7/2012. Law: RCW [90.58.190](#)

Review considerations

This law should not affect most SMPs, which do not typically outline the SMP appeal process. If an SMP does describe the appeal steps for amendments to shoreline master programs, it should be reviewed for consistency with RCW 90.58.190.

2011

2011 a. Federal wetlands delineation manual

Ecology repealed the State Delineation Manual rule and replaced it with a rule requiring that identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements.

Rule: WAC [173-22-035](#), effective 3/14/2011. Guidance: [Corps of Engineers Wetlands Delineation Manual](#)

Review considerations

All SMPs should use language from the new WAC because the state delineation manual rule has been repealed. Consult [Ecology's website for wetland delineation resources](#).

Example language

The following language should be included in the applicable section of the SMP (or the applicable critical areas code if wetland delineation is addressed in a CAO adopted by reference):

Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements.

2011 b. Geoduck aquaculture

Ecology adopted extensive new rules for new commercial geoduck aquaculture. This rule was adopted with advice from a stakeholder committee consistent with Legislative requirements of [RCW 43.21A.681](#).

Rules: WAC [173-26-020\(2\)](#); WAC [173-26-241\(3\)\(b\)](#), effective 3/14/2011

Review considerations

If a local government has no saltwater shorelines, no SMP amendments are needed.

If a local government has saltwater shorelines, aquaculture regulations should be reviewed for consistency with the geoduck rules. Consult your Ecology regional planner for recommendations.

Review for the following elements:

Review the **definition** of "aquaculture" to clarify it does not include wild geoduck harvest.

Review **siting considerations** to ensure commercial geoduck aquaculture is only allowed where sediments, topography, land and water access support geoduck aquaculture operations without significant clearing or grading.

Review **permit requirements**:

- Ensure that planting, growing, and harvesting of farm-raised geoducks requires a Substantial Development Permit if a specific project or practice causes substantial interference with normal public use of the surface waters, but not otherwise. (The source of this provision is [Attorney General Opinion 2007 No. 1.](#)) This provision clarifies that even though new geoduck operations require a CUP, in some cases they may also need an SDP but only if the project causes substantial interference with public access or passage.
- Ensure that local permit process provides public notice to all property owners within 300 feet of the proposed project boundary, and notice to tribes with usual and accustomed fishing rights to the area.
- The SMP should minimize redundancy between federal, state and local commercial geoduck aquaculture permit application requirements. Measures to consider include accepting documentation that has been submitted to other permitting agencies, and using permit applications that mirror federal or state permit applications (such as the JARPA form). Permit application requirements should be reviewed to ensure they include the following:
 - A narrative description and timeline for all anticipated geoduck planting and harvesting activities,
 - A baseline ecological survey of the proposed site to allow consideration of the ecological effects,
 - Measures to achieve no net loss of ecological functions consistent with the mitigation sequence described in Ecology rules [WAC- 173-26-201 (2)(e)], and
 - A description of management practices that address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations.
- Ensure new geoduck aquaculture projects require a Conditional Use Permit (CUP). However, local governments have discretion to determine whether to require a CUP for projects that convert existing non-geoduck aquaculture to geoduck aquaculture. Review for the following:
 - Subsequent cycles of planting and harvest shall not require a new CUP.
 - Applicants may submit a single CUP for multiple sites within an inlet, bay or other defined feature, as long as all sites are under control of the same applicant and within the same local government jurisdiction.
 - Review permit requirements to ensure the SMP allows work during low tides. SMP have discretion to require limits and conditions to reduce impacts, such as noise and lighting, to adjacent existing uses.

- Local governments should establish monitoring and reporting requirements necessary to verify that geoduck aquaculture operations are in compliance with shoreline limits and conditions set forth in CUPs and to support cumulative impacts analysis.
 - Conditional use permits should be reviewed using the best scientific and technical information available.
 - Review requirements to apply best management practices to accomplish the intent of limits and conditions.
 - Local governments should review the detailed considerations found in WAC 173-26-241(3)(b)(iv)(L)(I)-(XII).

2011 c. Floating homes

The Legislature declared floating homes permitted or legally established prior to January 1, 2011 must be classified as a "conforming preferred use." SMPs may only impose reasonable conditions and mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating homes and floating home moorages by rendering these actions impracticable. The law includes a definition of "floating homes." This bill responded to concerns raised by the Seattle floating home community regarding preservation of historic floating homes.

Bill: [SHB 1783](#), effective 7/22/2011. RCW [90.58.270](#)(5 and 6). Rules: Definition: WAC [173-26-030\(3\)\(d\)\(17\)](#);
Use regulation: WAC [173-26-241\(3\)\(j\)](#)

Review considerations

Local governments without floating homes need not amend their SMP to address this statute.

Jurisdictions with floating homes must include a definition consistent with the statute, and a policy or regulation that clarifies the legal status of floating homes. In addition, regulations that address floating homes should be reviewed to ensure the SMP only imposes reasonable conditions and mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating homes and floating home moorages by rendering these actions impracticable.

Example language

The example definition can be included in the definition section or in the Residential Use section with the example policy statement. Note that SMPs should already include a prohibition on establishment of new overwater residences, as the Legislative amendments did not change this long-standing policy. Additional policies or general development standards specific to floating homes can be added if existing floating homes will be managed by a local SMP.

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

(XXI) New over-water residences are not a preferred use and should be prohibited.

(XXII) A floating home permitted or legally established prior to January 1, 2011 is considered a conforming preferred use. "Conforming preferred use" means that applicable development and shoreline master program regulations may only impose reasonable conditions and mitigation that will not effectively preclude maintenance,

repair, replacement, and remodeling of existing floating homes and floating home moorages by rendering these actions impracticable. Floating homes should be accommodated to allow improvements associated with life safety matters and property rights to be addressed provided that any expansion of existing communities is the minimum necessary to assure consistency with constitutional and other legal limitations that protect private property.

2011 d. Option to classify existing structures as conforming

The Legislature created a new option: SMPs amended after September 1, 2011 may classify legally established residential structures as conforming, even if they do not meet updated standards for setbacks, buffers, or yards; area; bulk; height; or density. Redevelopment, expansion and replacement is allowed, so long as it is consistent with the local SMP and No Net Loss requirements. Appurtenant structures are included; bulkheads and other shoreline modifications and over-water structures are excluded.

Bill: [SSB 5451](#), effective 7/22/2011. RCW [90.58.620](#). Rule: WAC 173-26-241(3)(j)

Review considerations

This law is optional. It is one way local government can address existing development. Local governments may also address existing structures by clarifying the existing rights and allowances for nonconforming use and development without changing the legal status.

2010

2010 a. Growth Management Act – Shoreline Management Act clarifications

Both the GMA and SMA were amended to resolve differing and occasionally contrary legal interpretations that had been issued at that time regarding the relationship between the laws.

The law included a number of provisions that clarified the applicability of SMA provisions during the interim period before Ecology approved a comprehensively updated SMP that are no longer applicable. For example, RCW 36.70A.480 clarifies that critical area regulations adopted under GMA apply within shorelines until Ecology approves a comprehensive SMP update. It also created special GMA provisions for existing “grandfathered” uses in the shoreline. The amendments clarified that critical areas in shorelines must be regulated to “assure no net loss of shoreline ecological function” as provided in Ecology’s SMP Guidelines rules. This provision applies to Ecology’s test for review of SMP amendments. The Legislature also amended the effective date for SMP amendments. The effective date is fourteen days from the date of Ecology’s written notice of final action to the local government stating Ecology has approved or rejected the proposed SMP.

Bill: [EHB 1653](#), effective 3/18/2010. Laws: RCW [90.58.610](#); RCW [36.70A.480](#). Rule: WAC [173-26-221\(2\)\(a\)](#)

Review considerations

The statutory amendments were effective immediately upon adoption independent of local SMPs. Jurisdictions with comprehensive SMP updates that were adopted before this law went into effect may

consider reviewing how their SMP address critical areas. Key considerations include clarifying what critical area provisions are adopted by reference and whether or not exclusions apply. Contact Ecology's regional planner for assistance.

If an SMP describes the "effective date" of SMP amendments, it should be revised to clarify SMPs are effective 14 days from Ecology's written notice of final action.

2009

2009 a. Shoreline restoration projects within a UGA

The Legislature created new "relief" procedures for instances in which a shoreline restoration project within an Urban Growth Area creates a shift in Ordinary High Water Mark, and this shift creates a hardship for properties subject to new or extra regulation. The Legislature was responding to concerns that SMP regulations on the Duwamish River in Seattle and other urban rivers have in some cases stopped habitat restoration projects or resulted in a redesign that reduced the restoration benefits.

In most locations, the land area where shoreline regulations apply is measured 200 feet landward from the Ordinary High Water Mark. The new law could be applied in cases where a habitat restoration projects changes the location of the ordinary high water mark and therefore shifts the 200-foot area where shoreline regulations apply. Property owners may request relief from shoreline regulations triggered by a restoration project, if the regulations would "preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent."

Applications for relief are filed with the local government as part of a required permit such as a shoreline permit (or a building permit if no shoreline permit is required). The request must meet the criteria outlined in the Act. After local approval, the request is submitted to Ecology for review and approval. A 20-day public notice period is required prior to Ecology's decision, unless the relief issue is already addressed in an SMP. Ecology must act within 30 days of the close of the public notice period or within 30 days of receipt of the proposal if public notice is not required.

Bill: [HB 2199](#), effective 7/26/2009. RCW [90.58.580](#). Rule: WAC [173-27-215](#)

Review considerations

Local governments may want to include this option in local SMPs – though the process may be used even if the provision is not in the SMP.

Example language

Option 1. Adopt Ecology rule by reference. If a local government elects to incorporate Ecology's rule by reference, a simple reference to the rules could be inserted into an applicable section of SMP code. For example:

(X) The [COUNTY/CITY] may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215.

Option 2. Incorporate Ecology’s rule into an SMP. A more elaborate option is to incorporate the rule provisions into their SMP. For example:

(X) Shoreline restoration projects—relief from shoreline master program development standards and use regulations.

(1) Purpose of section. This section incorporates statutory direction from RCW 90.58.580. In adopting RCW 90.58.580, the legislature found that restoration of degraded shoreline conditions is important to the ecological function of our waters. However, restoration projects that shift the location of the shoreline can inadvertently create hardships for property owners, particularly in urban areas. Hardship may occur when a shoreline restoration project shifts Shoreline Management Act regulations into areas that had not previously been regulated under the act or shifts the location of required shoreline buffers. The intent of this section is to provide relief to property owners in such cases, while protecting the viability of shoreline restoration projects.

(2) Conditions and criteria for providing relief. The [COUNTY/CITY] may grant relief from shoreline master program development standards and use regulations within urban growth areas when the following apply:

(a) A shoreline restoration project causes or would cause a landward shift in the ordinary high water mark, resulting in the following:

(i) Land that had not been regulated under this chapter prior to construction of the restoration project is brought under shoreline jurisdiction; or

(ii) Additional regulatory requirements apply due to a landward shift in required shoreline buffers or other regulations of the applicable shoreline master program; and

(iii) Application of shoreline master program regulations would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent;

(b) The proposed relief meets the following criteria:

(i) The proposed relief is the minimum necessary to relieve the hardship;

(ii) After granting the proposed relief, there is net environmental benefit from the restoration project;

(iii) Granting the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with the shoreline master program; and

(iv) Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under this section; and

(c) The application for relief must be submitted to the department of Ecology for written approval or disapproval. This review must occur during Ecology's normal review of a shoreline Substantial Development Permit, Conditional Use Permit, or Variance. If no such permit is required, then Ecology shall conduct its review when [COUNTY/CITY] provides a copy of a complete application and all supporting information necessary to conduct the review.

(i) Except as otherwise provided in subsection (3) of this section, Ecology shall provide at least twenty days notice to parties that have indicated interest to Ecology in reviewing applications for relief under this section, and post the notice on its web site.

(ii) Ecology shall act within thirty calendar days of the close of the public notice period, or within thirty days of receipt of the proposal from [COUNTY/CITY] if additional public notice is not required.

(3) The public notice requirements of subsection (2)(c) of this section do not apply if the relevant shoreline restoration project was included in the [COUNTY/CITY] shoreline master program, provided:

(a) The restoration plan has been approved by Ecology under applicable shoreline master program guidelines;

(b) The shoreline restoration project is specifically identified in the shoreline master program or restoration plan or is located along a shoreline reach identified in the shoreline master program or restoration plan as appropriate for granting relief from shoreline regulations; and

(c) The shoreline master program or restoration plan includes policies addressing the nature of the relief and why, when, and how it would be applied.

(4) A Substantial Development Permit is not required on land within urban growth areas as defined in RCW 36.70A.030 that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the ordinary high water mark.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(6) For the purposes of this subsection, "Shoreline restoration project" means a project designed to restore impaired ecological function of a shoreline.

2009 b. Wetland mitigation banks

Pursuant to RCW 90.84, Ecology adopted a rule for certifying wetland mitigation banks. The purpose of the rules is to encourage banking by providing an efficient, predictable statewide framework for the certification and operation of environmentally sound banks. The goal of the rule is to (a) Provide timely review of bank proposals; (b) Establish coordination among state, local, tribal, and federal agencies involved in the certification of banks; (c) Ensure consistency with existing federal mitigation rules; and

(d) Provide incentives to encourage bank sponsors (sponsors) to locate and design banks that provide the greatest ecological benefits.

The extensive rule includes an overview section, outlines the certification process, describes how to establish and operate banks and use bank credits, establishes certification compliance requirements, describes the roles of the parties involved in a bank, and establishes an appeals process.

Law: [RCW 90.84](#). Rule: [WAC 173-700](#), effective 10/4/2009, WAC [173-26-221\(2\)\(c\)\(i\)\(F\)](#). Guidance: Ecology webpage on [wetland mitigation banks](#).

Review considerations

Ecology recommends local governments include SMP provision authorizing use of mitigation banks.

Example language

It is not necessary to adopt the contents of the state rule into SMPs. If mitigation banking is not already allowed in a CAO adopted by reference, a simple statement could be incorporated into applicable SMP section addressing wetlands compensatory mitigation:

(x) Credits from a certified mitigation bank may be used to compensate for unavoidable impacts.

2009 c. Moratoria authority

This law adds moratoria authority and procedures to the SMA, including a maximum duration of 18 months at the local level, plus a six-month review period at Ecology for a local Shoreline Master Program amendment that is subject to a moratorium.

Review considerations

The moratoria procedures may be included in an SMP but it is not necessary – local governments can simply rely on the statute or adopt these provisions into other ordinances. Or local governments may incorporate statutory requirements into the SMP or other development regulations if desired, as long as they are consistent with the statute.

Bill: [HB 1379](#), effective 7/26/2009. Law: RCW [90.58.590](#). Rule: WAC [173-27-085](#)

Example language

If a local government elects to address moratoria authority, the following incorporates RCW 90.58.590:

(X) Moratoria authority and requirements

(1) [COUNTY/CITY] has authority to adopting a moratorium control or other interim control on development under RCW 90.58.590.

(2) Before adopting the moratorium must:

(i) Hold a public hearing on the moratorium or control;

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

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

(b) The public hearing must be held within sixty days of the adoption of the moratorium or control.

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

(4) A moratorium or control may be renewed for one or more six-month period if [COUNTY/CITY] complies with the requirements in subsection (2) above before each renewal.

2007

2007 a. Options for defining floodway

The Legislature clarified options for defining "floodway" as either the area that has been established in Federal Emergency Management Agency maps, or the floodway criteria set in the SMA. The "SMA floodway" described in the SMA is essentially a biological definition, unlike the FEMA floodway which is derived from a model.

Bill: [HB 1413](#), effective 7/22/2007. Law: RCW [90.58.030](#)

Review considerations

Local governments should review their definition of "floodway" for consistency with the two options under this statute.

Example language

Option 1. If a local government elects to use FEMA maps to define the floodway, Ecology recommends the SMP include the following definition:

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

The word "established" in this suggested definition is consistent with the SMA definition and "effective" indicates that the map is FEMA's approved FIRM – not a preliminary or draft map – and also takes into account potential future changes to the maps. Reference to a specific dated version of the FIRM is not required.

Option 2. If the SMA floodway is used, the definition in the SMP should be consistent with RCW 90.58.030(2)(b)(ii).

The SMA floodway “...consists of those portions 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.”

2007 b. List and map of streams and lakes

These rule amendments clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction. (*The SMP list and map will then supersede the list in Ecology rules*). The amendments also clarify that if a stream segment or lake is subsequently discovered to meet the SMA criteria, the SMP shall be amended within three years of the discovery.

Rules: WACs [173-18-044](#); [173-18-046](#); [173-20-044](#); [173-20-046](#); and [173-22-050](#), effective 2/2/2007

Review considerations

If a jurisdiction has identified any new streams or lakes since the comprehensive update, the lists and maps should be updated.

2007 c. Fish habitat enhancement projects

Ecology’s rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of [RCW 77.55.181](#). (Also see 2019 c. above regarding [kelp, eelgrass and native oyster restoration](#).)

Review considerations

This SMA amendment applied on its effective date, regardless of whether the exemption is specifically listed in the SMP.

For SMPs that simply cite the RCW list of exemptions, no change is needed. For SMPs that list the exemptions in detail, review to ensure fish habitat enhancement projects are included.

Rule: WAC [173-27-040\(2\)\(p\)](#), effective 2/2/2007

Example language

SMPs can include the lengthy exemption language directly from WAC 173-27-040, or may include a simple reference to the relevant Ecology WAC and WDFW statute. For example:

(x) Consistent with WAC 173-27-040, a public or private project designed to improve fish or wildlife habitat or fish passage, that conforms to the provisions of [RCW 77.55.181](#).

Other review elements

In addition to ensuring consistency with changes to state laws and rules, local governments will review changes to their comprehensive plan or development regulations since their last SMP amendment and revise the SMP for internal consistency, where necessary. For example, consider zoning code amendments, annexations of shoreline areas, and amendments to critical area regulations.

Local governments should also incorporate changes deemed necessary to address changing local circumstances, new information or improved data. This is an intentionally broad review category and circumstances will vary widely. For example, an issue that might trigger a close review is a levee setback project or natural channel migration that brought significant new areas into shoreline jurisdiction. Local governments may also review implementation challenges that have arisen since the comprehensive SMP update. Consider insights learned from permit review that could improve the efficiency or effectiveness of the SMP. Consider reviewing Administrative Interpretations that have been issued as a potential source of ideas to clarify the SMP.

The table below is one simple option for documenting these kinds of revisions. This table is likely too simplistic for more complex amendments. This table may be revised and modified as needed, or local governments may present information in whatever format makes sense. See WAC 173-26-090(3)(b)(i). If the local government chooses to use the checklist, any additional amendments to the SMP should be listed in the last section titled “Additional Amendments.” Please add additional rows as needed to capture all of the proposed amendments. Complex amendments may require a different approach to presenting amendments than a simple table.

Additional revisions table

SMP section	Summary of change	Review	Action

Example checklist

The following is an example checklist for a hypothetical City that comprehensively updated its SMP in 2015. This example illustrates how a checklist might look after final review and action at the end of the review process.

Review: The Review column is used at the beginning of the review process to document how the item applies to the city’s SMP to determine if local amendments are needed to maintain compliance. In some cases the review may be iterative, if a review is extensive. This example checklist illustrates how the review column might be written at the end of the review process to capture the final city finding and recommendation for action.

Action: The Action column documents the City’s final action, indicating a citation to where the SMP code addresses applicable amended laws, or indicates where no action is needed.

Example checklist table

Row	Summary of change	Review	Action
2019			
a.	OFM adjusted the cost threshold for dock construction.		
b.	The Legislature removed the requirement for a shoreline permit for disposal of dredged materials at Dredged Material Management Program sites.		
c.	The Legislature added restoring native kelp, eelgrass beds and native oysters as fish habitat enhancement projects.		
2017			
d.	OFM adjusted the cost threshold for substantial development to \$7,047.	2015 SMP includes reference to previous \$6,416 cost threshold.	X.2.14: Definition of Substantial Development amending SDP cost threshold to new inflation-adjusted amount of \$7,047. <i>NOTE:</i> City website and permit application forms were revised with new cost thresholds.

Row	Summary of change	Review	Action
e.	Ecology permit rules clarified the definition of “development” does not include dismantling or removing structures.	2015 SMP does not clarify that removing structures does not constitute “development.” This issue has come up at the counter frequently enough that staff recommend adding this optional clarification to the SMP.	X.2.10: Amended definition of development to include Ecology example language.
f.	Ecology adopted rules clarifying exceptions to local review under the SMA.	Ecology’s revised rule addressing exceptions incorporated 2015 Legislative statutory exceptions for WSDOT projects that went into effect after the 2015 SMP was approved. Other statutory exceptions in WAC 173-27-044 and WAC 173-27-045 were in the SMP but included among the list of permit exemptions.	X.2.15: Statutory exceptions moved from list of permit exemptions to new section. X.2.17: Created new section consolidating all exceptions into new section based on Ecology example language.
g.	Ecology amended rules clarifying permit filing procedures consistent with a 2011 statute.	2015 SMP describes filing procedures for permit by stating “permits shall be filed with Department of Ecology pursuant to WAC 173-27-130.” Ecology amendments apply to the city, but no local amendments are needed.	N/A. Note: Administrator amended the <i>SMP Staff Manual</i> to clarify concurrent filing of SDPs, CUPs and Variances.
h.	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.	Not applicable. No commercial forestry in City.	N/A
i.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	Not applicable. No lands with exclusive federal jurisdiction in city limits.	N/A
j.	Ecology clarified “default” provisions for nonconforming uses and development.	2015 SMP includes tailored nonconforming use and development provisions.	No amendments needed. City will retain existing nonconforming use and development provisions.
k.	Ecology adopted rule amendments to clarify the scope and process for	2015 SMP already referenced statutory obligation to conduct reviews under RCW 90.58.080. City may follow	No amendments needed.

Row	Summary of change	Review	Action
	conducting periodic reviews .	Ecology procedures for conducting reviews without amending the SMP.	
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	2015 SMP does not address the details of the SMP amendment process. Staff identified minor amendment to Land Use Code ZZ.24.10 defining the local amendment process to include reference to joint notice process for SMP amendments.	No amendment to SMP needed. Minor amendment to Land Use Code ZZ.24.10 added to the docket for amendments in 2019 to ensure the process for shared local/state comment period on SMPs is clear.
m.	Submittal to Ecology of proposed SMP amendments.	2015 SMP does not address the details of the SMP submittal process, relies on state rule.	No amendments to SMP needed. NOTE: Staff updated internal procedures manual to clarify SMP amendments are sent via email attachment rather than 2 paper copies.
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the Americans with Disabilities Act .	2015 SMP does not include new permit exemption for retrofits to comply with ADA	X.2.15: New permit exemption added consistent with Ecology example language. NOTE: City website and permit application forms were revised with new cost thresholds.
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	City's 2017 Critical Areas Ordinance amended by Ord. 17-012 incorporated Ecology's new rating system and other clarifications. City had incorporated Ecology recommendations on wetlands (Ecology comment letter of July 12, 2017).	X.5.23: Updated date of Critical Areas Code adopted by reference.
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	2015 SMP was adopted prior to effective date of 2015 legislation.	X.3.14: Adopted Ecology example language incorporating direction to conduct review consistent with legislative targets.
2014			
a.	The Legislature raised the cost threshold for	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update.

Row	Summary of change	Review	Action
	requiring a Substantial Development Permit (SDP) for replacement docks on lakes and rivers to \$20,000 (from \$10,000).		
b.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	The city has no floating on-water residences.	N/A
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	SMP does not clarify SMP appeal process. City will rely on state laws and rules.	N/A
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update.
b.	Ecology adopted rules for new commercial geoduck aquaculture .	No marine shorelines in city.	N/A
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	No floating homes in city.	N/A
d.	The Legislature authorizing a new option to classify existing structures as conforming .	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update.
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications .	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update.
2009			
a.	The Legislature created new “relief” procedures for instances in which a	City had not incorporated this new statutory option in the 2015 SMP. An applicant had	X. 17.3.7: SMP amended to include Ecology example language.

Row	Summary of change	Review	Action
	shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.	requested use of this process in 2017, and new staff were not aware of the provision. It is not necessary to include these into the SMP but including it will help ensure the option is better understood.	
b.	Ecology adopted a rule for certifying wetland mitigation banks .	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update.
c.	The Legislature added moratoria authority and procedures to the SMA.	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update.
2007			
a.	The Legislature clarified options for defining "floodway" as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update.
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update.
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.	Incorporated into 2015 SMP.	N/A. Addressed during comprehensive update.

Additional amendments

In addition to items from the checklist, document review and action for other amendments. Local governments may take different approaches in how to present changes efficiently. For relatively small number of changes, a simple table listing items:

Additional amendments (simple)

#	Summary	Review	Action
a.	Update to SED Map to incorporate most recent FEMA Firm adopted in 2017.	The floodway has expanded in the most recent FEMA Firm resulting in an expansion of shorelands within the contiguous floodplain in the Downtown core area of the city.	See SED Map, SMP Appendix B and shoreline justification memo.
b.	Consolidate development standards to improve clarity.	The SMP has redundant submittal requirements for stream habitat studies and certain standards.	Amended B.5. Building and Development Location. Removed redundant language on site planning. Provide a cross reference to the submittal requirements for a stream or lake study so they are not repeated. Relocated fencing standards to the development standards table.
c.	etc.		

To capture more complex changes, one option is to create a table that follows the structure of the SMP:

Additional amendments (complex)

SMP Section	Summary of change	Discussion
B. General development standards		
1. Applicability	Add reference to city-wide standards for tree retention	Clarifies that tree retention standards apply outside the SMP buffer if applicable.
2. Use Compatibility	Amend to refer to bulk standards table	Change for clarity and consistency
5. Building and Development Location.	The SMP has redundant submittal requirements for stream habitat studies and certain standards	Removed redundant language on site planning. Provide a cross reference to the submittal requirements for a stream or lake study so they are not repeated. Relocated fencing standards to the development standards table.
etc.		