WAC FINAL DRAFT

CITY OF BUCKLEY
GRANT NO. G1000038

SHORELINE MASTER PROGRAM
For Shorelines in the City of Buckley: White River

Prepared for:

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

July 23, 2012

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1 INTRODUCTION

1.1 Background

The White River shoreline within the City of Buckley (City) extends from the City boundary east of the Washington State Rainier School to a point west of the Wickersham Basin. By statute, "shorelines" include certain water areas of the state (in our case, the White River), and "shorelands" minimally include *"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 ... associated with the streams ... which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology."* (RCW 90.58.030(2)(d)). The informal term "uplands" is sometimes used for "shorelands," but without a distance limitation. In other words, "upland" can be any distance from the shoreline.

The majority of the shorelands within the City limits are publicly owned, primarily by the City. The remaining portions are owned either by Puget Sound Energy (PSE), Washington State Department of Health and Social Services (DSHS) or Cascade Water Alliance (CWA).

The White River shoreline and associated shorelands include three distinct areas or reaches:

1. **Reach 1**. This section of the City's shoreline extends along the south bank of the White River from the eastern City boundary approximately 800 feet to the barrier dam. This reach includes 3,481 linear feet of the river and 33.3 acres of shorelands.

   The area is nearly completely forested, and contains wetlands, pastureland, and institutional development. This area is affected most by the Mud Mountain Dam to the east.

2. **Reach 2**. This section of the river extends from the end of Reach 1 at the barrier dam and contains 1,332 linear feet of shoreline and 6.3 acres of shorelands. Most of the land in this area is owned by CWA, which purchased the barrier dam and flume in 2009.

   The area contains about 32 percent vegetative cover and the mouth of the flume, which transports water from the White River to Lake Tapps.

3. **Reach 3**. This is the longest section of the City's shoreline and contains the SR 410 White River overpass into King County. This reach contains 11,257 linear feet of shoreline and 106.9 acres of shorelands.

This area is the least affected by human activities and contains wetlands. The City owns a majority of the shoreline parcels, including the old Hwy. 5 right-of-way, which is used as an informal park.

1.2 The Shoreline Planning Process

The 1999 Shoreline Master Program (SMP) was the City's first comprehensive shoreline program containing goals, policies, and regulations related to the protection of the valuable natural resources of the City's shoreline, while fostering all appropriate uses. The previous plan (1975) that the City adopted was the Pierce County SMP, which did not contain any additional data for environment designations for the White River shoreline within City boundaries as they existed at the time.

Just as in previous years, this 2012 SMP must be consistent with the values, policies and regulations stated in the Shoreline Management Act as well as the Growth Management Act. Accordingly, several elements need to be addressed in this SMP, including the incorporation of new science and the development of a shoreline restoration plan.

1.3 Economic Development

The state, through its passage of RCW 43.21H State Economic Policy, recognizes the importance of considering economic values along with environmental, social, health, and safety considerations as each city or agency promulgates rules.

The City's economic development goals can be found in the Buckley Comprehensive Plan and SMP Section 3.2.

1.4 History and Objectives of the SMA

In 1969, the Washington State Supreme Court decided in the case of Wilbur v. Gallagher (77 Wn 2d 302), commonly known as the "Lake Chelan Case," that certain activities along shorelines were contrary to the public interest. The court findings required that the public interest be represented in the proper forum for determining the use of shoreline properties. The ramifications of this decision were significant in that developers, environmentalists and other interested parties began to recognize, although probably for different reasons, the need for a comprehensive planning and regulatory program for shorelines.

Wilbur v. Gallagher was a case primarily involving property rights. It was decided at a time of heightened environmental awareness. Federal legislative committees were hearing the beginnings of what eventually became the National Environmental Policy Act of 1969. "Earth Day" and the concept of "spaceship earth" were part of the American scene. "Conservationists" had become "environmentalists" and some had even gone so far as to call themselves "ecologists." Whatever the name or concept, concern for fragile ecological areas became important, along with the rights of property ownership.

Voters of the state, seeing the failure of the Seacoast Management Bill in the state legislature, validated an initiative petition commonly titled the "Shoreline Protection Act." The state legislature, choosing between adoption of the peoples' initiative petition

or its own alternative, passed into law the "Shoreline Management Act of 1971" (SMA), effective June 1, 1971, which contained the provision for both statutes to be deferred to the electorate in the November 1972 election. The election issue required that voters respond to two questions: (1) did they favor shoreline management; and (2) which alternative management program did they prefer. Most Washington voters favored both shoreline management and the legislature's alternative by an approximate 2 to 1 margin. It is important to keep in mind that the SMA was a response to a peoples' initiative and was ratified by the voters, giving the Act a populist foundation as well as an environmental justification.

The overarching goal of the SMA is "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." With this clear mandate, the provisions of the SMA established a planning and regulatory program, which is initiated at the local level under state guidance (primarily via the SMP Guidelines, which are state standards that local governments must follow in drafting their SMPs). This cooperative effort balances local and state-wide interests in the management and development of shoreline areas by requiring local governments to write SMPs and regulate (through permitting) shoreline development. Local government actions are monitored by the Department of Ecology, which approves new or amended SMPs, reviews substantial development permits and approves conditional use permits and variances.

Since passage of the SMA, state law related to the SMA has continued to evolve. The state legislature directed Ecology in 1995 to update the SMP Guidelines, which had not been revised since 1972 and did not account for advancements in science and shoreline management practices, nor the recent passage of Washington's Growth Management Act. Ecology proposed a first draft in 1999 and adopted a substantially revised draft in 2000 that was challenged in court. Then Governor Gary Locke and former Attorney General Christine Gregoire co-sponsored a year-long mediation effort in 2002 that culminated in a third draft, which was issued for public comment in July 2002. That proposal had the endorsement of all of the parties to the lawsuit, including the Association of Washington Business (representing a coalition of business organizations, cities and counties), the Washington Aggregates & Concrete Association, the Washington Environmental Council and other environmental organizations, all of whom were parties to the lawsuit. The final version was adopted December 17, 2003 and became effective January 17, 2004.

Ecology made additional amendments to the Guidelines between 2003 and 2011 in response to changes in state statute.

1.5 The Shoreline Management Act's Legal Foundation

The Shoreline Management Act of 1971, Chapter 90.58 RCW, is the authority for the enactment and administration of this SMP.

The authority to carry out the provisions of the SMA is derived directly from the Washington State Constitution and from the common law principle known as the Public Trust Doctrine.

The Washington State Constitution and the U.S. Constitution provide both the authority for conducting the activities necessary to carry out the SMA and significant limitations on that authority.

The basic authority comes from the police power provision. This allows the state government and, by delegation from the state, local government, to adopt and enforce laws to protect the public health, safety and general welfare.

Limitations come in the form of the due process provisions. Government activities that constrain private options have to be conducted according to a set of rules that assures an opportunity for participation by the affected parties. The SMA and this SMP comply with this requirement by establishing extensive rules for general public and individual participation in the process of making the rules (i.e. adopting and amending the SMP) and deciding on individual permits.

1.6 Applicability of the Shoreline Master Program

The SMA established a process for managing the state's shorelines through locally administered SMPs with oversight and support from the state. All proposed uses, activities, and development occurring within shoreline jurisdiction must conform to the intent and requirements of this SMP, as well as the SMA (Chapter 90.58 RCW), whether or not a permit or other form of authorization is required.

A SMP is defined as "… the 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 enunciated in RCW 90.58.020….." (RCW 90.58.030(3)(c)).

1.7 Relationship of this SMP to other Regulatory Programs

State and federal agencies have interest in the White River because of authorities given by several different state and federal laws. This leaves the applicant delving into and applying for permits required under local regulations, state regulations, and federal laws. The city may assist an applicant in local regulations, but the applicant is responsible to communicate with representatives from the other agencies.

A. Inter-governmental Coordination

Shoreline management is a combination of efforts from many entities. The U.S. Army Corps of Engineers is interested in any fill or bulkhead, the Department of Fish and Wildlife is interested in habitat and wildlife, and the Department of Ecology is interested in the natural functions of the shoreline and water quality. Tribes are interested in protecting their history and heritage along the river, and the City is interested in maintaining the natural habitat and making the riverfront a place for citizens to learn about nature and the river's natural and historic functions.

Each entity with regulatory jurisdiction has its policies, goals, and regulations that place particular requirements on the shoreline, making the shoreline one of the most challenging areas to develop and/or review. Each development proposal may need not

only to have the City's review and permission, but also federal and state agency approval, and comments from each tribe to ensure no archeological artifact is located in the proposed development area.

These interests are directed to and handled by the City during development review and permitting processes, even though most agencies have independent permits and enforcement actions that are separate from the City.

Knowing the various interests, the City established certain goals:

1. The City should maximize opportunities for mutual gain through coordination with Pierce County and neighboring jurisdictions.

2. The City should establish an annexation policy to address future growth along the shoreline.

3. Pursue and/or continue cost-sharing programs with the White River School District and/or State of Washington Department of Health and Human Services for recreational uses.

4. Pursue and/or obtain grants for shoreline uses or activities, such as park development or education.

The actions and permits within shorelines include the following:

B. State Environmental Policy Act (SEPA)

The SEPA process interacts with the shoreline management process in several ways. Compliance with SEPA is required for issuance of any permit that is not specifically exempt from SEPA, or is part of a larger development that is not exempt from SEPA.

An environmental checklist (also known as the "SEPA checklist") must identify expected impacts to the environment that the proposed development may cause. These are listed under categories, such as air, water, and soil, with specific questions under each category. The goal in the checklist is to declare expected ecological impacts and all local, state, and/or federal permits or approvals that may be required.

The checklist will be reviewed by the lead agency and a threshold determination will be made on the proposed project. Checklist review may result in the following determinations:

1. The development is exempt from SEPA review, at which time no further SEPA action will be taken. This sometimes occurs when a project initially looks like it is not exempt, but after reviewing the details on the checklist, it can be considered exempt.

2. A Determination of Non-Significance (DNS) is issued when it is likely that no negative environmental impacts will be caused by the development.

3. A Mitigated Determination of Non-Significance (MDNS) is issued when no negative environmental impacts will be caused by the development if certain mitigation measures are used.

4. A Determination of Significance (DS) is issued if it is likely negative impacts will be caused by the development. The result of a DS is an environmental impact statement (EIS).

Conditioning or denying a permit may be done under powers granted by the SEPA rules (WAC 197-11-660).

C. Growth Management Act (GMA)

The Growth Management Act (RCW 36.70A) fundamentally changed the focus of environmental protection in Washington State. It both empowers and requires local governments to incorporate environmental protection into each decision. At the same time, the GMA did not repeal any preexisting environmental legislation. The SMA, for example, remains unchanged and is still in full force and effect. This means that local and state governments must closely coordinate implementation of the two laws.

The SMA is a program that involves both comprehensive planning and implementation functions through use regulations. GMA-required comprehensive plan elements are similar in many cases to SMA-required SMP elements. The goals relating to environmental protection are similar, particularly as related to public access, recreation and open space. Many of the environmental resources addressed in the SMA and its guidelines are also addressed in the GMA as "critical areas" and natural resource lands.

The SMA focuses on shorelines, with jurisdiction limited to certain water areas and adjacent shorelands. The SMA applies to all cities and counties with shorelines of the state within their boundaries.

Shorelines and other water resources must be managed for a variety of industrial, agricultural, commercial, recreational and environmental purposes. SMPs (implementing the SMA) must receive state review and approval before becoming effective and are adopted as a state rule (WAC). Certain shoreline permits require state approval. Appeals of permit decisions issued under the Buckley Shoreline Master Program are now heard by the Central Puget Sound Growth Hearings Board.

The GMA is broader and limited to counties and cities required to plan under the Act (except that critical area protections apply to all). The GMA established sanctions for noncompliance, and appeals can be filed with regional growth planning hearings boards.

GMA comprehensive plans contain a jurisdiction's vision of its future. Local governments need to include the state perspective in this vision. The state perspective is reflected in the GMA's comprehensive planning goals found in RCW 36.70A.020. For local governments with shoreline areas within their jurisdiction, the local vision should also consider and incorporate the policies of the SMA (RCW 90.58.020).

D. Shoreline Permits

The state provides four types proposed shoreline development actions that are overseen by the City in addition to the SEPA threshold determination:

1. **Shoreline exemption**. The shoreline exemption is a written statement that identifies the proposal and states the proposal meets the exemption levels of the SMA and meets the minimum requirements of the SMA and the SMP. A shoreline exemption may need SEPA, and federal or state approvals. An exemption may have conditions placed on it to bring the proposal into full compliance with the SMP. Shoreline exemptions are decided administratively by the planning director.

2. **Shoreline Substantial Development Permit (SSDP)**. The SSDP is the next most intensive layer of review and includes items that are not categorically exempt from the SMA. SSDPs are decided administratively by the planning director after notices of application are filed.

3. **Shoreline Conditional Use Permit (SCUP)**. SCUPs are for uses that may cause more impact to the shoreline than permitted uses allowed under the SSDP, or are undefined uses and modifications. SCUPs are first reviewed by the City with a preliminary decision made by the City's Board of Adjustment (BOA). The City's initial decision is then transmitted to the Department of Ecology for a final decision. The state is interested in knowing possible cumulative impacts if the proposed development was built everywhere possible.

4. **Shoreline Variance (SVAR)**. The SVAR is a mechanism that allows variations from the SMP's dimensional and bulk regulations, such as setback and lot coverage. Uses cannot be varied; if a use is specified as prohibited, no variance is possible to allow the use. Like the SCUP, the city's BOA gives a preliminary decision that is submitted to the Department of Ecology for a final decision. The state is interested in knowing possible cumulative impacts if the proposed development was built in similar circumstances.

E. Section 10/404 Permit Programs

The U.S. Army Corps of Engineers regulates construction in navigable waters under the authority granted by the River and Harbors Act of 1899 (Section 10), the Federal Water Pollution Control Act of 1972 (Section 404), the Clean Water Act of 1977, and numerous amendments and related water quality legislation. The Federal Coastal

Zone Management Act requires that federal permits (including Sections 10/404) be consistent with the state's federally approved Coastal Zone Management Program (CZMP), which requires those projects be consistent with the local SMP.

F. Section 401 Water Quality Certification

Section 401 of the Federal Ocean Water Act requires applicants for federal permits to obtain a certification from the state (Department of Ecology) for any activity that could result in the discharge of a pollutant in violation of a state water quality standard. The state must certify that the materials to be discharged will comply with applicable effluent limitations, water quality standards, and any other applicable standards. Typically the 401 certification is administered along with the Section 10/404 permit review, but also applies to other federal permits.

G. Hydraulic Project Approval

The state Hydraulic Code (Chapter 77.55 RCW) requires that anyone proposing construction within or over the waters of the state waterward of the OHWM obtain a permit, called a Hydraulic Project Approval (HPA), from the state Department of Fish and Wildlife. An HPA is required for all types of in-water construction, including streambank protection, pile driving, culvert installation, dredging, gravel removal, and construction of docks, piers, and bulkheads. Shoreline project proponents should be aware that fisheries closure periods (periods when no in-water construction may occur because of spawning or outmigration) can apply to their project. Permitting and project scheduling should take these closure periods into account.

H. Endangered Species Act (ESA)

During development of the 1999 SMP document (March, 1999), the National Marine Fisheries Service listed the Chinook salmon and bull trout as endangered species under the federal ESA. Prior to the petition to list, White River spring Chinook were identified as critical by the 1992 Washington State Salmon and Steelhead Stock Inventory Report. Recovery strategies collectively include functional protection of riparian habitat. South Puget Sound coho are also on the candidate list. All these fish species and others are known to use the White River reach. Chinook and other salmon/steelhead stock status and recovery efforts are significant. All activities within the habitat areas identified for listed species under the ESA will be required to comply with regulations and protection measures enacted under state and federal programs.

Currently, several species are of concern: Puget Sound Chinook is listed as federally threatened, Puget Sound coho is listed as a federal species of concern, and the river may contain migratory bull trout, which is listed as federally threatened.

I. Others

In addition to the regulatory programs listed above, the following laws and programs may also have requirements affecting a proposal, depending on the nature and location of the proposal:

1. Forest Practices Act (RCW 76.09)
2. Flood Plain Management Program (RCW 86.16)
3. Model Toxics Control Act (RCW 70.105)
4. Aquatic Lands Act (RCW 79.90)

1.8 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 be liberally construed to give full effect to the purposes, goals, objectives, and policies for which they are enacted.

1.9 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.

1.10 Effective Date

The SMP is hereby adopted on the 14th day of August, 2012. This SMP and all amendments to it shall become effective immediately upon final approval and adoption by the Department of Ecology.

2 DEFINITIONS

A

ACT. "**Act**" means chapter 90.58 RCW, the Shoreline Management Act of 1971, as amended.

ADMINISTRATOR, OR SHORELINE ADMINISTRATOR. The "**administrator**," or "shoreline administrator," is the city's planning director.

AGRICULTURAL ACTIVITIES.

A. "**Agricultural activities**" means 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, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation;

B. "**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 years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products;

C. "**Agricultural equipment**" and "**agricultural facilities**" includes, but is not limited to:

1. The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;

2. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;

3. Farm residences and associated equipment, lands, and facilities; and

4. Roadside stands and on-farm markets for marketing fruit or vegetables; and

D. "**Agricultural land**" means those specific land areas on which agricultural activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of the master program, land converted to agricultural use is subject to compliance with the requirements of the master program.

AMENDMENT. "**Amendment**" means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

APPURTENANCE. An "**appurtenance**" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program. Construction authorized under this exemption shall be located landward of the ordinary high water mark.

An "**appurtenance**" does not include non-residential development.

AQUACULTURE. "**Aquaculture**" means the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery.

ASSOCIATED WETLANDS. "**Associated wetlands**" means those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.

AVERAGE GRADE LEVEL. "**Average grade level**" means 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

"BARRIER DAM AND FLUME. "**Barrier dam and flume**" means the facilities associated, maintained, and operated by Cascade Water Alliance and/or successors associated with water diversion from the White River into Lake Tapps, including the White River barrier dam, White River headgate and diversion flume, and Rock Chutes Number 1 and Number 2.

BULKHEAD. "**Bulkhead**" means a hard shoreline stabilization structure, often built on a vertical plain at the ordinary high water mark or toe of the slope to prevent upland erosion caused by wave and current energy.

C

CHANNEL MIGRATION ZONE (CMZ). "**Channel migration zone** (**CMZ**)" means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

CLEARING. "**Clearing**" means the destruction or removal of vegetative ground cover and/or trees, including but not limited to, root material removal and/or topsoil removal. This includes such activities as clear cutting or selective harvest of trees, chipping of stumps and hauling off of shrubs, slash piles, etc.

COMMERCIAL. "**Commercial**" means occupied with or engaged in commerce or work intended for commerce.

CONDITIONAL USE. "**Conditional use**" means a use, development, or substantial development which is classified as a conditional use or is not classified within the applicable master program.

CRITICAL AREAS. "**Critical areas**" as defined under chapter 36.70A RCW includes the following areas and ecosystems:

A. Wetlands;

B. Areas with a critical recharging effect on aquifers used for potable waters;

C. Fish and wildlife habitat conservation areas;

D. Frequently flooded areas; and

E. Geologically hazardous areas.

D

DEVELOPMENT. "**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 this chapter at any state of water level.

DEVELOPMENT REGULATIONS. "**Development regulations**" means the controls placed on development or land uses by a county or city, 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.

DIKES. "**Dikes**" and "**levees**" are manmade earthen embankments used for the purpose of flood control, water impoundment projects or settling basins.

DOCUMENT OF RECORD. "**Document of record**" means the most current shoreline master program officially approved or adopted by rule by the department for a given local government jurisdiction, including any changes resulting from appeals filed pursuant to RCW 90.58.190.

DREDGING. "**Dredging**" is the removal or displacement of earth or sediments such as gravel, sand, mud or silt and/or other materials or debris from any river and associated shorelines and wetlands. Dredging is normally done for specific purposes such as for installing submarine pipelines or cable crossings, or for dike or drainage system repair and maintenance. Dredging may also be used to mine for aggregates such as sand and gravel. Removing sediments from the de-watered flume is not dredging under this SMP.

E

ECOLOGICAL FUNCTIONS. "**Ecological functions**" or "shoreline functions" means 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.

ECOLOGICAL RESTORATION. See "**RESTORE.**"

ECOSYSTEM-WIDE PROCESSES. "**Ecosystem-wide processes**" means 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.

EXEMPT. "**Exempt**" developments are those set forth in WAC 173-27-040 and RCW 90.58.030 (3)(e), 90.58.140(9), 90.58.147,90.58.355, and 90.58.515 which are not required to obtain a substantial development permit but which must otherwise comply with applicable provisions of the act and the local master program.

EXEMPTION. "**Exemption**" means authorization from local government which establishes that an activity is exempt from substantial development permit requirements under WAC 173-27-040, but subject to regulations of the act and the local master program.

F

FAIR MARKET VALUE. "**Fair market value**" of a development is 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. "Feasible" means, for the purpose of this SMP, 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 in similar circumstances, or studies or tests have demonstrated in similar circumstances 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; and

C. The action does not physically preclude achieving the project's primary intended legal 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 reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

FILL. "Fill" means 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.

FLOOD HAZARD MANAGEMENT PROJECTS. "Flood hazard management projects" are those actions taken with the primary purpose of preventing or mitigating damage because of flooding. Flood hazard management projects or programs may employ any or several physical or regulatory controls, including dikes, dams, lakes, engineered floodways, bioengineering, planning and zoning (land use management). These provisions also apply to repair and maintenance of flood hazard management systems if the systems are enlarged or otherwise modified.

FLOODPLAIN. "Floodplain" is 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 on flood ordinance regulation maps or a reasonable method that meets the objectives of the Shoreline Management Act.

FLOODWAY. "Floodway" means the area, as identified in a master program that has been established in federal emergency management agency flood insurance rate 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. "Forest practices" means any activity relating to growing, harvesting, or processing timber, including but not limited to: road and trail construction; harvesting, final and intermediate; pre-commercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control, as defined in WAC 222-16-010.

G

GEOTECHNICAL ANALYSIS. See "**GEOTECHNICAL REPORT.**"

GEOTECHNICAL REPORT. "**Geotechnical report**" or "**geotechnical analysis**" means a scientific study or evaluation conducted by a qualified professional that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts 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 professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

GRADING. "**Grading**" means 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.

GUIDELINES "**Guidelines**" means those standards adopted to implement the policy of this chapter for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria to local governments and the department in developing master programs.

H

HEIGHT. "Height" means a measurement from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct that view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further That temporary construction equipment is excluded in this calculation.

L

LEVEES. See "**DIKES.**"

LOW IMPACT. "**Low-impact**" refers to development systems that strive to mimic the natural environment so water can be taken up by trees or vegetation, or soak into the ground.

M

MASTER PROGRAM. "**Master program**" shall mean the 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 enunciated in RCW 90.58.020.

A. **"COMPREHENSIVE MASTER PROGRAM UPDATE"** means a master program that fully achieves the procedural and substantive requirements of the department guidelines effective January 17, 2004, as now or hereafter amended.

MINING. "Mining" means the removal and primary processing of naturally occurring materials from the earth for economic use. For purposes of this definition, "**processing**" includes screening, crushing, and stockpiling, all of which utilize materials removed from the site where the processing activity is located.

MITIGATION SEQUENCING. "**Mitigation sequencing**" means a sequence of mitigation measures as defined in WAC 173-26-201(2)(e) that includes the following in order:

A. Avoid the impact altogether by not taking a certain action or parts of an action;

B. Minimize impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

C. Rectify the impact by repairing, rehabilitating, or restoring the affected environment;

D. Reduce or eliminate the impact over time by preservation and maintenance operations;

E. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and

F. Monitor the required compensation and take remedial or corrective measures when necessary.

N

NATURAL OR EXISTING TOPOGRAPHY. "**Natural or existing topography**" means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling.

NAVIGABLE. "Navigable" or "**navigable waters**" is defined differently between federal and state governments. The federal definition includes waters that are capable of actual navigation as determined by the Army Corps of Engineers. The state uses a commercial standard for navigability.

O

ORDINARY HIGH WATER MARK (OHWM). "Ordinary high water mark" on all lakes, streams, and tidal water is 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: PROVIDED, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

NONWATER-ORIENTED USES. "Nonwater-oriented uses" means those uses that are not water-dependent, water-related, or water-enjoyment.

P

PERMIT. "Permit" means any form of permission required under the act prior to undertaking activity on shorelines of the state, including substantial development permits, variances, conditional use permits, and shoreline exemptions authorized under chapter 90.58 RCW.

PRIORITY HABITAT. "Priority habitat" means 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:

A. Comparatively high fish or wildlife density;

B. Comparatively high fish or wildlife species diversity;

C. Fish spawning habitat;

D. Important wildlife habitat;

E. Important fish or wildlife seasonal range;

F. Important fish or wildlife movement corridor;

G. Rearing and foraging habitat;

H. Important marine mammal haul-out;

I. Refugia habitat;

J. Limited availability;

K. High vulnerability to habitat alteration;

L. Unique or dependent species; or

M. Shellfish bed.

A **priority habitat** may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A **priority habitat** may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a **priority habitat** may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A **priority habitat** may contain priority and/or nonpriority fish and wildlife.

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

A. Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the Department of Fish and Wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

B. Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

C. Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and non-native fish and wildlife species of recreational or commercial importance, and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

D. Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

PROVISIONS. "Provisions" means policies, regulations, standards, guideline criteria or environment designations.

PUBLIC INTEREST. **"Public interest"** means 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 including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development.

Q

QUALIFIED PROFESSIONAL. "Qualified professional" means 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 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 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 years of professional experience in wetland identification and assessment in Western 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 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

RESTORATION. See **"RESTORE."**

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

RESIDENTIAL DEVELOPMENT. "**Residential development**" means residential development on the shoreline and is identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, residential uses can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants, and vegetation modification and removal. Residential development also includes multifamily development and the creation of new residential lots through land division.

S

SCIENTIFIC, HISTORICAL, CULTURAL, OR EDUCATIONAL RESEARCH USES. "**Scientific, historical, cultural, or educational research uses**" are those uses that provide data about the shoreline, such as bird watching, school tours along the trails, and counting flora and fauna within the shoreline area.

SHORELAND AREAS. See "**SHORELANDS.**"

SHORELANDS. "**Shorelands**" or "**shoreland areas**" means 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.

A. Any county or city may determine that portion of a one-hundred-year-flood plain to be included in its master program as long as such portion includes, as a minimum, the floodway and the adjacent land extending landward two hundred feet therefrom.

B. Any city or county may also include in its master program land necessary for buffers for critical areas, as defined in chapter 36.70A RCW, that occur within shorelines of the state, provided that forest practices regulated under chapter 76.09 RCW, except conversions to nonforest land use, on lands subject to the provisions of this subsection (2)(d)(ii) are not subject to additional regulations under this chapter.

SHORELINE AREAS. "**Shoreline areas**" and "**shoreline jurisdiction**" means all "**shorelines of the state**" and "**shorelands**" as defined in RCW 90.58.030.

SHORELINE FUNCTIONS. See "**ECOLOGICAL FUNCTIONS.**"

SHORELINE JURISDICTION. See "**SHORELINE AREAS.**"

SHORELINE MODIFICATIONS. "Shoreline modifications" means 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, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

SHORELINE OF STATEWIDE SIGNIFICANCE "Shorelines **of statewide significance**" means the following shorelines of the state:

A. The area between the ordinary high water mark and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets;

B. Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows:

   1. Nisqually Delta -- from DeWolf Bight to Tatsolo Point,

   2. Birch Bay -- from Point Whitehorn to Birch Point,

   3. Hood Canal -- from Tala Point to Foulweather Bluff,

   4. Skagit Bay and adjacent area -- from Brown Point to Yokeko Point, and

   5. Padilla Bay -- from March Point to William Point;

C. Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide;

D. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark;

E. Those natural rivers or segments thereof as follows:

   1. Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more;

   2. Any east of the crest of the Cascade range 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;

F. Those shorelands associated with A, B, D. and E of this subsection; "**Shoreline of statewide significance**" means rivers and streams that exceed 1,000 cubic feet a second (cfs), such as the White River.

SHORELINES. "**Shorelines**" means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except:

A. Shorelines of statewide significance;

B. Shorelines on segments 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 segments; and

C. Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

SHORELINES OF THE STATE "**Shorelines of the state**" are the total of all "shorelines" and "shorelines of statewide significance" within the state.

SHOULD. "**Should**" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

SIGNIFICANT VEGETATION REMOVAL. "**Significant vegetation removal**" means the removal or alteration of trees, shrubs, and/or ground cover 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.

STATE MASTER PROGRAM. "**State master program**" means the cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by the department.

STRUCTURE. "**Structure**" means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels

SUBSTANTIAL DEVELOPMENT. "**Substantial development**" shall mean any development of which the total cost or fair market value exceeds five thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the Office of Financial Management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "**Consumer price index**" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. The Office of Financial Management must calculate the new dollar threshold and transmit it to the Office of the Code Reviser for publication in the

Washington State Register at least one month before the new dollar threshold is to take effect. The following shall not be considered substantial developments for the purpose of this chapter:

A. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;

B. Construction of the normal protective bulkhead common to single-family residences;

C. Emergency construction necessary to protect property from damage by the elements;

D. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. 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;

E. Construction or modification of navigational aids such as channel markers and anchor buoys;

F. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence for his own use or for the use of his or her 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 jurisdiction thereof, other than requirements imposed pursuant to this chapter;

G. 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 and multiple-family residences. This exception applies if either:

   1. In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars; or

   2. In freshwaters, the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;

H. 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 groundwater for the irrigation of lands;

I. 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;

J. 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;

K. 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 a 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 local jurisdiction 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;

L. The process of removing or controlling an aquatic noxious weed, 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 jointly with other state agencies under chapter 43.21C RCW.

SUBSTANTIALLY DEGRADE. "**Substantially degrade**" means to cause significant ecological impact.

T

TRANSMIT. "**Transmit**" means to send from one person or place to another by mail or hand delivery. The date of transmittal for mailed items it is the date that the document is certified for mailing or, for hand-delivered items, it is the date of receipt at the destination.

TELECOMMUNICATION FACILITIES. "**Telecommunication Facilities**," "Personal wireless service," and "personal wireless service facilities" as used in this SMP, shall be defined in the same manner as in Title 47, USC, Section 332(c)(7)(C), as

they may be amended now or in the future, and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC as well as unlicensed wireless services; **except that** these facilities do not include wires over or under existing roads and/or bridges.

TRANSPORTATION FACILITIES. "Transportation facilities" are those structures and developments that aid in land and water surface movement of people, goods and services. They include roads and highways, bridges and causeways, bikeways, trails, railroad facilities, ferry terminals, float plane terminals, heliports and other related facilities.

U

UPLAND. "Uplands" are generally described as the dry land area (excludes wetlands) above and landward of the OHWM.

UTILITIES. "Utilities" are services and facilities that produce, transmit, carry, store, process or dispose of electric power, gas, water, sewage, communications, oil and similar products.

V

VARIANCE. "Variance" means a process through which relief may be granted from the specific bulk, dimensional or performance standards set forth in the applicable master program and not a means to vary a use of a shoreline.

VESSEL. "Vessel" includes ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water.

W

WATER-DEPENDENT USE. "Water-dependent use" means a use or portion of a use that 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.

WATER-ENJOYMENT USE. "Water-enjoyment use" means 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 through its location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. 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.

WATER-ORIENTED USE. "Water-oriented use" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

WATER QUALITY. "Water quality" means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this SMP, does not mean the withdrawal of groundwater or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

WATER-RELATED USE. "Water-related use" means a use or portion of a use that 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.

WETLANDS. "Wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from 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 non-wetland areas to mitigate the conversion of wetlands.

3 SMP GOALS

Per WAC 173-26-186(3), all relevant policy goals must be addressed in the planning policies of a shoreline master program (SMP). This section contains shoreline goals and objectives.

> **Goals** express the ultimate aims of the City and its citizens.
>
> **Objectives** identify more specific steps that move toward achieving a long-term goal.

Goals and objectives provide a framework on which the more detailed SMP shoreline use **environments**, policies, regulations, and administrative procedures are based in subsequent chapters.

3.1 Shoreline Use

A. Identify and reserve shoreline and water areas with unique attributes for specific long-term uses.

B. Encourage appropriate water-oriented uses that are compatible with natural site conditions.

C. Encourage shoreline uses that enhance specific areas or use innovative features for purposes consistent with this program and/or use joint-use activities in proposed shoreline developments.

D. Ensure that proposed shoreline uses:

1. Are distributed, located, and developed in a manner that will maintain or improve the health, safety and welfare of the shoreline environment when such uses must occupy shoreline areas.

2. Respect the rights of others and the rights of private ownership.

3. Are consistent with all planning, zoning and other regulatory and non-regulatory programs governing lands adjacent to shoreline jurisdiction, including the act and this SMP.

4. Cause no net loss of natural systems and/or quality of the shoreline environment.

3.2 Economic Development

A. In evaluating shoreline proposals, acknowledge the critical importance of a balanced and diversified local economy for Buckley.

B. Ensure healthy, orderly economic growth by allowing those economic activities by ensuring any economic activity taking place along the shoreline, including new economic development, operates without harming the quality of the site's environment or adjacent shorelands.

C. Unless shown to be infeasible, limit new shoreline commercial development to that which is classified as water-dependent, water-related, or water-enjoyment uses and discourage and/or prohibit non-water-oriented uses which are not accessory to a water-oriented use.

D. The City should consider providing some areas of the shoreline for economically productive uses that are particularly dependent on a shoreline location and will cause no permanent damage.

3.3 Circulation

A. Locate land circulation systems that are not shoreline dependent as far from the shoreline as feasible to have the least possible adverse effect on unique or fragile shoreline features and existing ecological systems. Where possible, avoid creating barriers between adjacent uplands and the shoreline.

B. Protect, manage and enhance those characteristics of shoreline roadway corridors that are unique or have historic significance or aesthetic quality, for the benefit and enjoyment of the public.

C. Development that provides public access to the shoreline shall demonstrate it is safe, consistent with the quality of life or property for City residents, and protects fish habitat.

3.4 Conservation

A. Develop and implement management practices that will insure a sustained yield of renewable resources of the shorelines.

B. Protect, enhance, and restore unique and nonrenewable shoreline resources or features, including but not limited to forested areas, wetlands and wildlife habitat.

C. Establish and implement policies and regulations for shoreline use consistent with the Shoreline Management Act of 1971, as amended. These policies and regulations should insure that the overall land use patterns that take place in shoreline areas are compatible with existing shoreline environment designations and are sensitive to, not degrade habitat and ecological systems and other shoreline resources, and provide no net loss of shoreline functions and values.

D. Encourage restoration of shoreline areas that are biologically and aesthetically degraded or diminished in ecological value and function as a result of past activities or catastrophic events.

3.5 Public Access

A. Implement guidelines that incorporate public access with new shoreline development, except where there is potential hazard to public safety or health.

B. Public access should unify individual access elements into an organized system.

C. Shoreline uses that curtail or reduce existing free movement of the public should be disallowed, unless the restriction is in the interest of the environment, public health and safety, or is necessary to a proposed beneficial use.

3.6 Recreation

A. Provide for appropriate recreational opportunities in shoreline areas that can reasonably tolerate public use of the shoreline without undue risk to safety and existing shoreline facilities.

B. Integrate interagency cooperation into shoreline project review:

1. Coordinate efforts with Pierce and King Counties to gain opportunities for water-oriented recreation.

2, Encourage federal, state and local government to acquire additional shoreline properties for public recreational uses.

3.7 Historic/Cultural

A. Protect and/or restore shoreline or water areas that have archaeological, historic, cultural, educational or scientific value through purchase, easement, gift or other means so as to insure their protection and preservation.

B. Encourage and support educational projects and programs that foster a greater appreciation of the importance of shoreline management, riverine activities and environmental conservation.

3.8 Public Participation

A. Public participation in the adoption and revision of the Shoreline Master Program shall be encouraged through any and all reasonable efforts to inform, fully involve and encourage the participation of all interested parties.

4. SHORELINE JURISDICTION AND ENVIRONMENT DESIGNATIONS

4.1 Shoreline Jurisdiction

As defined by the Shoreline Management Act (SMA) of 1971, "shorelines of the state" include certain waters plus their associated "shorelands."

In Buckley, the White River and its associated wetlands are not only considered shorelines of the state, but also "shorelines of statewide significance," because the White River is a river "west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more." As such, the White River and its associated wetlands must use the supplemental provisions outlined in Section 4.4, Shorelines of Statewide Significance.

Local jurisdictions may voluntarily elect to expand shoreline jurisdiction to include part or all of the remaining floodplain area that is located beyond 200 feet from either the ordinary high water mark (OHWM) or the floodway, or to include the buffers of associated wetlands that would otherwise be located outside of shoreline jurisdiction. The City chooses to include as shoreline jurisdiction only the area of the floodplains located 200 feet from the OHWM and the floodways, and associated wetlands; and not to include the buffers of associated wetlands or floodplains located outside of shoreline jurisdiction.

Shoreline jurisdiction for the City is shown on the map of environment designations included in Appendix A (Environment Designations Map). Shoreline jurisdiction includes all areas with an environment designation. Note that the map only approximately depicts shoreline jurisdiction. The actual shoreline jurisdiction shall be determined on a case-by-case basis based on the location of the OHWM, floodplain, and/or presence of associated wetlands.

In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel and any development that is partially in and partially out of shoreline jurisdiction is subject to this SMP. The other portions of the parcel are still subject to applicable City ordinances.

4.2 Environment Designations

This SMP includes a system to classify shoreline areas into specific environment designations. This classification system is based on the existing uses in the shoreline, the biological and physical character of the shoreline, and the goals and aspirations of the City for its shoreline as expressed through its comprehensive plan.

In Section 173-26-211 WAC, the state provides criteria for use in classifying environment designations. Local jurisdictions can use alternate environment designations provided any alternative designations proposed provide equal or better implementation of the SMA.

The City historically used only two shoreline **environments**: conservancy and rural. To be consistent with the State Master Program Approval/Amendment Procedures and Master Program Guidelines (Guidelines), the City revised its environment designation system. The City's environment designations now include the following:

A Special Use;

B. Urban Conservancy;

C Natural; and

D. Aquatic.

Three of these environment designations are from the Department of Ecology's recommended classification system and one is to recognize the barrier dam and flume established by Puget Power. Each environment designation contains a purpose statement, designation criteria, and management policies.

Table 4-1 provides a summary of the environment designations established by this SMP. The map in Appendix A shows the environment designations for all areas of shoreline jurisdiction within the City.

Table 4-1. Summary of Environment Designations in the City of Buckley

Environment Designation	Summary Description
Special Use	A special environment designation is created for the barrier dam and the portion of flume located within shoreline jurisdiction.
Urban Conservancy	Areas designated **urban conservancy** are either currently developed or are planned to accommodate future development, in support of some measure of human interaction, such as recreation.
Natural	Areas designated **natural** are currently undeveloped and largely unaltered by human interaction. These areas provide the most ecological functions (such as wildlife habitat) for the shoreline.
Aquatic	The **aquatic environment** includes the White River, waterward of the OHWM (see definition in Chapter 2, Definitions).

4.2.1. Special use environment.

A. Purpose

The purpose of the **special use environment** is to permit established uses and to allow maintenance activities. These uses include the barrier dam on the east side of the City that diverts a portion of the White River into a flume and to Lake Tapps. It also includes trap and haul activities for fish and a fish ladder. Maintenance activities include periodic sediment removal from the flume and stockpiling the sediment outside of shoreline jurisdiction.

B. Designation Criteria

Local jurisdictions may establish a different environment designation system if it is consistent with the purposes and policies of WAC 173-26-211(4) and (5). A special use designation is assigned to shoreline areas used for the operation and maintenance of the barrier dam and flume, which are existing uses unique to the City, and not classified in the state's designation system. Note that only the portion of barrier dam and flume directly associated with the headworks of the barrier dam lies within the shoreline jurisdiction as described in Section 4.1, Shoreline Jurisdiction.

C. Management Policies

1. The barrier dam is a unique use. It was constructed and used by the prior land owner to create power for Washington residents. It is now to be used to divert and store potable water for residents in a consortium of Washington cities. The barrier dam and related activities may be an appropriate use within the **special use environment** when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26-241.

2. Pre-existing uses and structures that are necessary for the operation of the barrier dam and flume should be allowed.

3. New development necessary for the efficient operation and maintenance of the barrier dam and flume should be allowed.

4. Maintenance activities associated with the barrier dam and flume should be allowed.

5. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the **special use environment**. These standards shall ensure that development or maintenance activity does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

6. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

7. Public uses should be given priority over private uses. Priority should be given to water-dependent over water-oriented uses; water-oriented uses have priority over non-water oriented uses.

D. Regulations.

Development within the **special use environment** will adhere to the following regulations:

1. Uses that are listed in Table 6-1 of Chapter 6 of this SMP shall be construed as permitted, conditionally permitted, or prohibited.

2. Bulk regulations include the following:

a. Building or structure height:	35 feet above the averaged existing grade
b. Setbacks for non-water-dependent uses:	150 feet
c. Setbacks for water-dependent uses:	0 feet
d. Setbacks for water-enjoyment uses:	0 feet
e. Setbacks for water-oriented uses:	25 feet
f. Setbacks for all other uses:	150 feet

3. Site development standards in the **special use environment** include the following:

   a. Any required native growth protection areas shall be shown on plans and marked in the field before construction begins.

   b. Any and all time limits given by state or federal agencies concerning animal and habitat shall be adhered to.

   c. Accessory uses for water dependent and water enjoyment uses shall be located landward of the primary use and not closer than 25 feet to the OHWM.

4. The **special use environment** boundary for Lot Number 0619021006 is roughly half-way through the lot at a line drawn roughly parallel to the eastern lot boundary at a point beginning at the bend in the southern lot line (approximately 442.678 feet west from the eastern lot line).

4.2.2 Urban Conservancy

A. 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.

B. Designation Criteria

An **urban conservancy environment** designation will be assigned to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring of the ecological functions of the area, that are not generally suitable for water-dependent uses if any of the following characteristics apply:

1. They are suitable for water-related or water-enjoyment uses;
2. They are currently used, or are planned for use, for utilities. Such uses include water resource management for city, region, and for conveyance; sewer outfall and conveyance; electricity conveyance; and storm water outfall and conveyance;
3. They are open space, floodplain, or other sensitive areas that should not be more intensively developed;
4. They contain potential for ecological restoration;
5. They retain important ecological functions, even though partially developed; or
6. They contain the potential for development that is compatible with ecological restoration.

C. Management Policies

Development within the **urban conservancy environment** shall be consistent with the following policies:

1. 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.
2. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the urban conservancy 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.

3. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

4. Water-oriented uses should be given priority over nonwater-oriented uses.

5. Public water supply wells and utility conveyance should be allowed.

6. Rock chutes associated with the barrier dam and flume are in this environment and should be periodically maintained by removing debris and vegetation from the chute.

D. Regulations

Development within the **urban conservancy environment** will adhere to the following regulations:

1. Uses that are listed in Table 6-1 of Chapter 6 of this SMP shall be construed as permitted, conditionally permitted, or prohibited.

2. Bulk regulations include the following:

a. Building or structure height:	35 feet above the averaged existing grade
b. Setbacks for non-water-dependent uses:	150 feet
c. Setbacks for water-dependent uses:	0 feet
d. Setbacks for water-enjoyment uses:	25 feet
e. Setbacks for water-oriented uses:	50 feet
f. Setbacks for all other uses:	150 feet

3. Site development standards shall be as follows:

   a. Any required native growth protection areas shall be shown on plans and marked in the field before construction begins.

   b. Any and all time limits given by state or federal agencies concerning animal and habitat shall be adhered to.

   c. Accessory uses for water dependent and water enjoyment uses shall be located landward of the primary use.

   d. Impervious trails that are not parallel to the river may intrude into the buffers for a destination use, such as a bridge or viewing area.

   e. Construction materials for trails may include the following:

i. Permeable trails (dirt) are preferred. Some trails must also be accessible to wheeled chairs and bicycles and will need to be solid (not dirt).

ii. Pervious concrete, grasscrete, or other permeable material is preferred.

iii. Concrete or asphalt.

f. Passive recreational development, specifically bird blinds, may be placed within the buffer up to 50 feet from the OHWM and more than 100 feet from a formal trail.

4. Periodic maintenance of existing rock chutes and established flume drainage channels is permitted.

4.2.3 Natural

A. Purpose

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

B. Designation Criteria

A **natural environment** designation will be assigned to shoreline areas if any of the following characteristics apply:

1. The shoreline is ecologically intact and currently perform an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;

2. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or

3. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

Such shoreline areas include largely undisturbed portions of shoreline areas such as wetlands, unstable bluffs, and ecologically intact shoreline habitats.

C. Management Policies

Development within the **natural environment** shall be consistent with the following policies:

1. Any use that would substantially degrade the ecological functions or natural character of the shoreline area should be prohibited.

2. The following new uses should not be allowed in the **natural environment**:

   a. Commercial uses;

   b. Industrial uses;

   c. Nonwater-oriented recreation; and

   d. Roads, utility corridors (except public water supply well corridors, as detailed below), and parking areas that can be located outside of **natural environment** designated shorelines.

3. Public water supply wells and associated corridors should be allowed in the **natural environment** west of SR410 provided an alternate location in the **urban conservancy environment** is infeasible.

4. Commercial forestry may be allowed as a conditional use in the **natural environment** provided it meets the conditions of the Forest Practices Act and its implementing rules and is conducted in a manner consistent with the purpose of this environment designation.

5. Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses may be allowed provided that no significant ecological impact on the area will result.

6. Agricultural uses of a very low-intensity nature may be consistent with the natural environment when such use is subject to appropriate limitations or conditions to assure that the use does not expand or alter practices in a manner inconsistent with the purpose of the designation.

7. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. The subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions should not be allowed. That is, each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

8. Rock chutes associated with the barrier dam and flume are in this environment and should be periodically maintained by removing debris and vegetation from the chute.

D. Regulations.

Development within the **natural environment** will adhere to the following regulations:

1. Uses that are listed in Table 6-1 of Chapter 6 of this SMP shall be construed as permitted, conditionally permitted, or prohibited.

2. Bulk regulations include the following:

   a. Building or structure height: 35 feet above the averaged existing grade

   b. Setbacks for non-water-dependent uses: 150 feet

   c. Setbacks for water-dependent uses: 0 feet

   d. Setbacks for water-enjoyment uses: 0 feet

   e. Setbacks for water-oriented uses: 100 feet

   f. Setbacks for all other uses: 150 feet

3. Site development standards in the **natural environment** shall be as follows:

   a. Any required native growth protection areas shall be shown on plans and marked in the field before construction begins.

   b. Any and all time limits given by state or federal agencies concerning animal and habitat shall be adhered to.

   c. Accessory uses for water dependent and water enjoyment uses shall be located landward of the primary use.

   d. Impervious trails that are not parallel to the river may intrude into the buffers for a destination use, such as a bridge or viewing area.

   e. Construction materials for trails may include the following in order of preference:

      i. Permeable trails (dirt). Some trails must also be accessible to wheeled chairs and bicycles and will need to be solid (not dirt).

      ii. Pervious concrete, grasscrete, or other permeable material.

      iii. Concrete or asphalt.

   f. Passive recreational development, specifically bird blinds, may be placed within the buffer up to 50 feet from the OHWM and more than 100 feet from a formal trail

4. Periodic maintenance of existing rock chutes and established flume drainage channels is permitted.

4.2.4 Aquatic

A. 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.

B. Designation Criteria

An **aquatic environment** designation will be assigned to shoreline areas waterward of the OHWM.

C. Management Policies

Development within the **aquatic environment** shall be consistent with the following policies:

1. New over-water structures should be prohibited except for water-dependent uses, public access, transportation facilities of statewide significance, or ecological restoration.

2. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

3. To reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.

4. 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.

5. 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 described in regulation 5.7.3(E.)(1.)(a.) of this SMP as necessary to assure no net loss of ecological functions.

6. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

D. Regulations.

Development within the **aquatic environment** will adhere to the following regulations:

1. Uses that are listed in Table 6-1 of Chapter 6 of this SMP shall be construed as permitted, conditionally permitted, or prohibited.

2. Site development standards in the **aquatic environment** shall be as follows:

   a. New over-water structures' heights and sizes shall be limited to the minimum necessary to support the intended use.

4.2.5 Official Shoreline Map and Unmapped or Undesignated Shorelines

A. The Environment Designations Map in Appendix A is the Official Shoreline Map and illustrates the delineation of environment designations in the City. Shoreline jurisdiction includes all areas with an environment designation

B. Any areas within shoreline jurisdiction that are not mapped and/or designated shall carry the same designation as the adjacent environment.

C. Wetlands shall be assigned the environment designation in which the wetland falls.

D. All other areas of shoreline jurisdiction that were neither mapped as jurisdiction, nor assigned an environment designation shall be assigned an urban conservancy designation until the shoreline can be redesignated through an SMP amendment.

E. In addition, any property shown in shoreline jurisdiction that does not meet the criteria for shoreline jurisdiction (e.g. is no longer in floodplain jurisdiction, does not contain associated wetlands) shall not be subject to the requirements of this SMP. Note that the actual location of the OHWM, floodplain, floodway, and wetland boundaries must be determined at the time a development is proposed. Wetland boundary determinations are valid for five years.

4.2.6 Interpretation of Environment Designation Boundaries

A. Boundaries indicated as approximately following lot lines shall be so construed.

4.3 Shoreline Use Preferences

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

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

4.4 Shorelines of Statewide Significance

4.4.1 Designation Criteria

In the City of Buckley, the White River is considered to be a "shoreline of statewide significance," because it is a river "west of the crest of the Cascade range downstream of

a point where the mean annual flow is measured at one thousand cubic feet per second or more."

4.4.2 Use Preferences

In accordance with RCW 90.58.020, the following management and administrative policies are hereby adopted for all shorelines of statewide significance in the City of Buckley, 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:

A. Recognize and protect the statewide interest over local interest;

B. Preserve the natural character of the shoreline;

C. Result in long term over short term benefit;

D. Protect the resources and ecology of the shoreline;

E. Increase public access to publicly owned areas of the shorelines;

F. Increase recreational opportunities for the public in the shoreline;

G. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

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

4.4.3 Policies

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

A. Recognize and protect the statewide interest over local interest.

1. Circulate amendments to the SMP and any proposed shoreline amendments affecting shorelines of statewide significance to state agencies, affected Tribes, adjacent jurisdictions, citizen's advisory committees, local officials and statewide interest groups including the departments of Ecology and Fish and Wildlife, and the cities of Enumclaw, Bonney Lake, and Wilkeson,

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. Protect and restore the ecology and environment of the shoreline.

2. Protect and restore existing diversity of vegetation and habitat values, wetlands, and riparian corridors associated with shoreline areas.

3. 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 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 regulation 5.7.3.E.1. of this SMP to minimize adverse impacts to regionally important wildlife resources and migratory routes and to 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 where it would not threaten ecological function, especially those trail corridors that would be a regional recreational and transportation resource.

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.

5 GENERAL POLICIES AND REGULATIONS

Chapter 5 presents general policies and regulations that apply to all developments, uses, or activities in all areas of shoreline jurisdiction regardless of environmental designation 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.

5.1 Archaeological and Historic Resources

5.1.1 Applicability

The following provisions apply to archaeological and historic resources. These resources are recorded at the Washington State Department of Archaeology and Historic Preservation, available through tribal records, or are inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to Chapter 27.44 RCW (Indian graves and records) and Chapter 27.53 RCW (Archaeological sites and resources). Development or uses that may impact these sites shall comply with Chapter 25-48 WAC (Archaeological excavation and removal permit) as well as the provisions of this section.

5.1.2 Policies

A. Because archaeological and historic resources are limited and irreplaceable, it is imperative to prevent the destruction of or damage to any site that has historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes, such as the Puyallup and Muckleshoot tribes, and the Washington State Department of Archaeology and Historic Preservation.

B. 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. Impacts to neighboring properties and other shoreline uses should be limited to temporary or reasonable levels.

C. If development or demolition is proposed adjacent to 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.

5.1.3 Regulations

A. Permits issued in areas documented to contain archaeological resources shall require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes.

B. Significant archaeological and historic resources shall be permanently preserved for scientific study, education and/or public observation. When the City determines that a site has significant archaeological, natural, scientific or historical value, a shoreline permit shall not be issued that would pose a threat to the site. The City may require that development be postponed in such areas to allow investigation of public acquisition potential and/or retrieval and preservation of significant artifacts.

C. Identified historical or archaeological resources shall be considered in park, open space, public access, and site planning, with access to such areas designed and managed to give maximum protection to the resource and surrounding environment.

D. 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.

E. Archaeological excavations may be permitted subject to the provisions of this program and Chapter 27.44 RCW (Indian graves and records), Chapter 27.53 RCW (Archaeological sites and resources), and Chapter 25-48 WAC (Archaeological excavation and removal permit).

5.2 Critical Areas

5.2.1 Applicability

Within shoreline jurisdiction, critical areas and the associated buffers are regulated by the provisions contained in Appendix B of this SMP and this section. In the circumstance that a critical area extends outside of shoreline jurisdiction so that the buffer is not located inside of shoreline jurisdiction, the critical area will be regulated by Appendix B of this SMP and the buffer will be regulated by Chapters 12.08 through 12.13 BMC.

Appendix B contains regulations that are very similar to those contained in Chapters 12.08 through 12.13 BMC. Notably, the contents of Appendix B differ from the contents of Chapters 12.08 through 12.13 because of the specific requirements of the SMA and the Guidelines. This section contains shoreline-specific provisions to accompany the critical areas regulations found in Appendix B.

5.2.2 Policies

A. Critical areas within shoreline jurisdiction are regulated under the SMP to be consistent with WAC 173-26-221(2).

B. If there are conflicts between the regulations contained in the SMP, those that are the most protective of shoreline ecological functions will apply.

C. By limiting development and alteration of critical areas, the SMP seeks to:

1. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, volcanic eruptions, or flooding;

2. Protect unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats;

3. Direct activities not dependent on critical area resources to less ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas;

4. Prevent cumulative adverse environmental impacts to water quality, wetlands, fish and wildlife habitat, frequently flooded areas, and habitat conservation areas; and

5. Implement the primary goal of achieving no net loss of wetland area, wetland functions and values, including lost time when the wetland doesn't perform its function.

D. The regulations of this SMP are intended to protect critical areas in accordance with the Growth Management Act and through the application of best available science, as determined according to WAC 365-195-900 through 365-195-925, and in consultation with state and federal agencies and other qualified professionals.

5.2.3 Regulations

A. The City of Buckley shall regulate all uses, activities, and developments within, adjacent to, or likely to affect one or more critical areas, consistent with best available science and the provisions of the SMP and its appendixes.

B. Critical areas regulated by the SMP include: wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas.

C. Any action taken pursuant to the SMP shall result in equivalent or greater functions and values of the critical areas associated with the proposed action.

D. All actions and developments shall be designed and constructed in accordance with SMP Section 5.7.3.E.1, and/or SMP Appendix B Section B.1.13, Innovative Mitigation, to minimize and mitigate all adverse impacts.

E. Before affecting any critical area or its buffer, an applicant shall demonstrate that mitigation sequencing was considered in the order given (see definition).

5.3 Flood Hazard Reduction

5.3.1 Applicability

The following provisions apply to actions taken to reduce flood damage or hazard and to uses, development, and shoreline modifications that are proposed in flood hazard areas. 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.

Also please see SMP Appendix B Chapter B.4.

5.3.2 Policies

A. The City should ensure public and private development application sites and design flood control measures consistent with applicable engineering principles, watershed plans, channel migration zone plans, restoration plans, critical areas regulations, floodplain regulations, and stormwater management plans and regulations to prevent flood damage, maintain the natural hydraulic capacity of floodways, and conserve limited resources such as fish habitat, water, and soil.

B. New or expanding development or uses in the shoreline, including subdivision of land, that would likely require structural flood control works within a river, channel migration zone, or floodway should not be allowed.

C. 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, wetland restoration, dike removal, use relocation, biotechnical measures, stormwater management programs, land or easement acquisition, voluntary protection and enhancement projects, or incentive programs.

D. 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.

E. New structural flood hazard reduction measures in shoreline jurisdiction should be allowed only when it can be demonstrated (see 5.3.3(D) below) by a scientific and engineering analysis that:

1. They are necessary to protect existing development;

2. Nonstructural measures are not feasible;

3. Impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss;

4. Appropriate vegetation conservation actions are undertaken consistent with Section 5.5, Vegetation Conservation; and

5. Structural flood hazard reduction measures should be consistent with the City's comprehensive flood hazard management plan.

F. Flood control works and shoreline uses, developments, and shoreline modifications should be located, designed, constructed and maintained so their resultant effects on geohydraulic 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.

G. Flood hazard protection measures should result in no net loss of ecological functions and ecosystem-wide processes associated with rivers.

H. Development in floodplains should be consistent with applicable flood hazard plans and regulations and avoid cumulatively increasing flood hazards.

5.3.3 Regulations

A. Floodplain development shall demonstrate no significant or cumulative increases to flood hazards.

B. New development or uses, including the subdivision of land, shall not be established when it can be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway during the life of the development or use, consistent with C below.

C. The following uses and development may be authorized where appropriate and/or necessary within the channel migration zone or floodway:

1. Actions that protect or restore the ecosystem-wide processes or ecological functions, including development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

2. Bridges, utility lines, outfalls, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs. Where such structures are allowed, mitigation shall address affected functions and processes in the affected section of the watershed.

3. Repair and maintenance of an existing legally established use, provided that such actions do not cause significant ecological impacts or increase flood hazards to other uses.

4. Modifications or additions to an existing non-agricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions.

5. Existing development that prevents active channel movement and flooding.

6. 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 measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and that the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream

D. All applications for new structural flood hazard reduction measures in shoreline jurisdiction shall demonstrate the following:

1. That they are necessary to protect existing development and that nonstructural measures are not feasible, as documented in a scientific and engineering analysis;

2. That impacts on ecological functions and priority species and habitats can be successfully mitigated to assure no net loss;

3. That appropriate vegetation conservation actions will be undertaken consistent with Section 5.5, Vegetation Conservation; and

4. That structural flood hazard reduction measures are consistent with the City's comprehensive flood hazard management plan.

E. New structural flood hazard reduction measures shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration; provided that such flood hazard reduction projects be authorized if it is determined that 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 and hydrological analysis.

F. New structural flood hazard reduction measures shall be limited in size to the minimum height required to protect adjacent land from the protected flood stage as identified in the applicable comprehensive flood control management plan.

G. New structural public flood hazard reduction measures, such as dikes and levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigateable significant ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

H. The removal of gravel for flood management purposes shall be consistent with Section 6.9, Dredging and Dredge Material Disposal, and be allowed only after a biological and geomorphological 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. The City shall require professional design of flood hazard reduction measures where such projects may cause interference with normal geohydraulic processes, lead to erosion of other shoreline properties, or adverse effects to shoreline resources and uses.

J. The City shall require additional information during its review of shoreline flood management projects and programs. Please see SMP 7.2.1.C for specific submittal requirements.

5.4 Public Access

5.4.1 Applicability

Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

5.4.2 Policies

A. Development, uses, and activities on or near the shoreline should not unreasonably impair or detract from the public's legal access to the water and visual access.

B. Physical or visual access to shorelines should be incorporated in all new developments when the development would either generate a demand for one or more forms of access or would impair existing legal access opportunities or rights.

C. Non-water-oriented uses located on the shoreline should provide public access as a public benefit

D. Shoreline development by public entities such as the City, state agencies, and public utility districts should provide public access unless such access is shown to be incompatible because of reasons of safety, security, or impact to the shoreline.

E. Public access should be designed to minimize potential impacts to private property and individual privacy. Physical separation or other means should clearly delineate public and private space to avoid unnecessary user conflict.

F. Public access should be provided as close as possible to the water's edge without causing significant ecological impacts.

G. Publicly accessible viewing areas are encouraged in appropriate locations in shoreline jurisdiction.

H. Public use and access to the water should be a priority in recreational development.

I. Trails should link shoreline parks, recreation areas, and public access points.

J. Public access facilities should be designed to address public health and safety.

K. Public access facilities should be designed with provisions for persons with disabilities, where appropriate.

5.4.3 Regulations

A. Shoreline uses and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual and physical access to the water

B. Except as provided in subsection 5.4.3.D. below, shoreline substantial developments or conditional uses shall provide public access where any of the following conditions are present:

1. A development or use will create increased demand for public access to the shoreline or will interfere with an existing public access way. Such interference may be caused by blocking access or by discouraging use of existing on-site or nearby accesses.

2. New non-water-oriented uses are proposed.

3. A use or activity will interfere with public use of lands or waters subject to the public trust doctrine.

4. The development or use is by public entities such as the City, state agencies, and public utility districts.

C. The shoreline permit application shall describe the impact, the required public access conditions, and how the proposed conditions address the impact.

D. Public access shall not be required where one or more of the following conditions apply:

1. Unavoidable health or safety hazards to the public exist which cannot be prevented by any feasible means.

2. Constitutional or other legal limitations may apply.

3. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions be mitigated will result from the public access.

4. Adverse impacts to shoreline ecological processes and functions that cannot be avoided.

5. Significant unavoidable conflict between any access provisions and the proposed use and adjacent uses would occur and cannot be mitigated.

E. To meet any of the conditions in subsection 5.4.3.D. above, the applicant must first demonstrate, and the City determine in its findings, that all reasonable alternatives to provide public access are exhausted, including but not limited to:

1. Regulating access by such means as maintaining a gate and/or limiting hours of use.

2. Separating uses and activities (e.g. fences, terracing, use of one-way glazings, hedges, landscaping).

3. Developing access at a site geographically separated from the proposal such as a street end, vista or trail system.

4. Sharing the cost of providing and maintaining public access between public and private entities.

F. Projects that meet the criteria of subsection 5.4.3.D. above shall build off-site public access facilities.

G. Public access provisions shall run with the land and be recorded in an easement or dedication. Such legal instruments shall be recorded prior to the time of building permit approval, occupancy or plat approval, whichever comes first (RCW 58.17.110). Future actions by the applicant's successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.

H. The minimum width of public access easements shall be 20 feet.

I. Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or development.

J. Public access provided by existing shoreline street ends and public rights-of-way shall be preserved, maintained, and enhanced consistent with RCW 35.79.035.

K. Public access shall be marked with a sign.

L. Public access sites shall be connected directly to the nearest public street, park, right of way, etc.

M. Public access sites shall be made barrier-free for the physically disabled, where feasible, and in accordance with the Americans with Disabilities Act.

N. Public restrooms, facilities for disposal of animal waste and other appropriate public facilities shall be required at developments that attract a substantial number of persons.

O. Publicly accessible viewing areas, where allowed, shall not include in-water structures.

P. Public access improvements shall be located, designed, constructed, and maintained in a manner that does not result in a net loss of shoreline ecological functions.

5.5 Vegetation Conservation

5.5.1 Applicability

Vegetation conservation includes activities to protect and restore vegetation along or near shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species.

Clearing and grading is the activity associated with developing property for a particular use, including commercial and recreational uses.

Vegetation conservation includes those forestry activities over which the City has authority. As with all SMP provisions, vegetation conservation provisions apply even to those shoreline uses and developments that are exempt from the requirement to obtain a permit. Like other SMP provisions, vegetation conservation standards do not apply retroactively to existing uses and structures, such as existing agricultural practices.

5.5.2 Policies

A. Vegetation conservation should be undertaken to:

1. Protect and restore the ecological functions and ecosystem-wide processes performed by vegetation along shorelines;
2. Protect human safety and property;
3. Increase the stability of river banks;
4. Reduce the need for structural shoreline stabilization measures;
5. Improve the visual and aesthetic qualities of the shoreline;
6. Protect plant and animal species and their habitats; and
7. Enhance shoreline uses.

B. Where new developments and/or uses or redevelopments are proposed, native shoreline vegetation should be conserved to maintain shoreline ecological functions and/or processes. Vegetation conservation and restoration should be used to mitigate the direct, indirect, and/or cumulative impacts of shoreline development, wherever feasible. Important functions of shoreline vegetation include and are not limited to:

1. Provide 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. Regulate microclimate in riparian and nearshore areas.

3. Provide organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macroinvertebrates.

4. Stabilize banks, reduce erosion and sedimentation, and reduce the occurrence/severity of landslides.

5. Reduce fine sediment input into the **aquatic environment** by:

   a. minimizing erosion;

   b. increasing infiltration; and

   c. retaining runoff.

6. Improve water quality through filtration and vegetative uptake of nutrients and pollutants (including the retention of forest duff to support the biological components of pollutant transformation).

7. Provide a source of large woody debris to moderate flows, create hydraulic roughness, form pools, and increase structural diversity for salmonids and other species.

8. Provide habitat elements for riparian-associated species, including downed wood, snags, migratory corridors, food, and cover.

C. Clearing and grading activities should minimize environmental impacts through proper site planning, construction timing, and best management practices, which may include mitigation sequencing.

D. The management and control of noxious and invasive weeds should be authorized through a shoreline exemption. Control of such species should be done in a manner that minimizes impacts to native vegetation, provides for erosion control, and protects water quality. The use of non-toxic or natural controls is preferred.

E. Aquatic weed management should stress prevention first. Where active removal or destruction is necessary, it should be the minimum to allow water-dependent activities to continue, minimize negative impacts to native plant communities, and include appropriate handling or disposal of weed materials.

F. All vegetation conservation activities should be designed with the objective of maintaining natural diversity in vegetation species, age, and cover density.

5.5.3 Regulations

A. Before any clearing and/or grading work is performed, a replanting plan and specific information shall be submitted for approval. Please see SMP 7.2.1.C for submittal requirements.

B. Clearing and grading activities within shoreline jurisdiction shall be limited to the minimum necessary to accommodate approved shoreline development.

C. All cleared areas shall be replanted with native vegetation following development activity and irrigated (if necessary) to ensure that within three years all vegetation is fully reestablished. Areas that fail to adequately reestablish vegetation shall be replanted until such time as the plantings are viable.

D. Restoration of any shoreline that was disturbed or degraded shall revegetate with native plants. The use of commercial nursery stock in the restoration of disturbed or degraded shorelines shall emulate the previously existing vegetation in size, structure, and diversity at maturation.

E. Tree removal may be allowed as follows:

1. Selective, nondestructive pruning of trees for safety is allowed. 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 from shoreline and critical area buffers if the hazard cannot be removed.

2. All other tree removal in shoreline jurisdiction shall be minimized through site design, and mitigated.

3. Trees that are cut down shall be retained in the area where the trees were removed to provide continued biological or soil stabilization functions.

F. Vegetation removal by handheld equipment of invasive nonnative shoreline vegetation or plants listed on the State Noxious Weed List may be authorized through a shoreline exemption in shoreline locations if native vegetation is promptly reestablished in the disturbed area. A replanting plan and erosion control devices, if needed, shall be approved by the City before vegetation is removed.

G. Aquatic weed control shall only occur when native plant communities and associated habitats are threatened or where an existing water dependent use is restricted by the presence of weeds.

H. Vegetation removal conducted without the appropriate review and approvals requires the submittal and approval of a mitigation plan prepared by a qualified professional, and must be consistent with the requirements of the SMP critical areas regulations. The mitigation plan must use only native vegetation, and should be designed to compensate for temporal loss of function and address the specific functions adversely affected by the unauthorized vegetation removal.

I. For each proposal, the applicant shall supply application information to the city for review in addition to the standard submittal requirements. Please see SMP 7.1.2.C. I.

J. When clearing and/or grading is allowed, it shall follow the following regulations:

1. Grading is allowed only during the dry season, which is typically regarded as beginning on May 1st and ending on October 1st of each year, provided, that the City of Buckley may extend or shorten the dry season on a case-by-case basis, determined on actual weather conditions.

2. The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed shall be redistributed to other areas of the project area.

3. The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.

4. Erosion and sediment control that meets or exceeds the city's stormwater management standards set forth in Chapter 14.30 as amended shall be provided.

5.6 Water Quality, Stormwater and Nonpoint Pollution

5.6.1 Applicability

The following section applies to all development and uses in shoreline jurisdiction that affect water quality (for areas shown to be aquifer recharge areas, please also see Section 12.10.050 of Appendix B).

5.6.2 Policies

A. This SMP shall protect against adverse impacts to the public health, to the land and its vegetation and wildlife, and to the waters of the state and their aquatic life, through implementation of the following principles:

1. Prevent impacts to water quality and stormwater quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities.

2. Ensure mutual consistency between shoreline management provisions and other regulations that address water quality and stormwater quantity, including public health, stormwater, and water discharge standards. The regulations that are most protective of ecological functions shall apply.

B. Shoreline use and development, including invasive or noxious weed control, should minimize the need for chemical fertilizers, pesticides, or other similar chemical treatments to prevent contamination of surface and ground water and/or soils and adverse effects on shoreline ecological functions and values.

C. The location, design, construction, and management of all shoreline uses and development shall protect the quality and quantity of surface and ground water adjacent to the site. The development shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and related regulatory agencies.

5.6.3 Regulations

A. The location, design, construction, and management of all shoreline uses and development shall protect the quality and quantity of surface and ground water adjacent to the site.

1. The development shall adhere to Buckley Municipal Code Sections 14.30 (Stormwater Management) and 14.40 (Stormwater Maintenance).

B. New development shall provide stormwater management facilities designed, constructed, and maintained in accordance with the current stormwater management manual in effect at the time, including the use of best management practices. Additionally, new development shall implement low impact development techniques where feasible and necessary to fully implement the core elements of the stormwater management manual.

C. All shoreline development, both during and after construction, shall avoid or minimize significant ecological impacts, including any increase in surface runoff, through control, treatment, and release of surface water runoff so that water quality and quantity are not adversely affected. Control measures include and are not limited to low impact development techniques, catch basins, settling ponds, oil interceptor drains, grassy swales, planted buffers, and fugitive dust controls.

D. BMPs for control of erosion and sedimentation shall be implemented for all development in shoreline jurisdiction through an approved temporary erosion and sediment control in accordance with the current federal, state, and/or local stormwater management standards in effect at the time.

E. Low impact development 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, and retrofitting techniques.

F. All materials that may come in contact with water shall be constructed of materials that will not adversely affect water quality or aquatic plants or animals.

H. The application of pesticides or herbicides in shoreline jurisdiction is prohibited except where no reasonable alternative exists and its use is demonstrated to be in the public interest.

1. Only products specifically approved for use in aquatic situations by the Department of Ecology shall be allowed, and then only if used according to approved methods of and standards for application.

2. Herbicides and pesticides shall not be applied or allowed to enter water bodies or wetlands unless approved by the appropriate state and/or federal agencies.

3. Alternatives to the use of chemical fertilizers, herbicides, and pesticides shall be preferred BMPs.

4. The use of time release fertilizer and herbicides shall be preferred over liquid or concentrate application.

5.7 Environmental Impacts

5.7.1 Applicability

The following section applies to all development and uses in shoreline jurisdiction.

5.7.2 Policies

A. The adverse impacts of shoreline uses and activities on the environment should be minimized during all phases of development.

B. All phases of shoreline use and development, including site planning, design, construction, and maintenance, 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.

1. Each use and development must ensure no net loss of ecological functions and processes relative to the existing condition, consistent with all relevant constitutional and other legal limitations on the regulation of private property.

2. Shoreline ecological functions that should be protected include and are not limited to fish and wildlife habitat, wildlife migration corridors, food chain support, and water temperature maintenance.

3. Shoreline processes that should be protected include and 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.

C. In assessing the potential for net loss of ecological functions or processes, project-specific and cumulative impacts should be considered.

5.7.3 Regulations

A. All shoreline uses and activities shall be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is aesthetically compatible with the affected area.

B. All shoreline developments shall be located, designed, constructed, and managed so as not to be a hazard to public health and safety.

C. All shoreline uses and activities shall be located, designed, constructed, and managed to avoid disturbance of and minimize adverse impacts to fish and wildlife resources, including spawning, nesting, rearing and habitat areas and migratory routes.

D. All shoreline uses and activities shall be located, designed, constructed and managed to minimize interference with beneficial natural shoreline processes such as water circulation, sand and gravel movement, erosion, and accretion.

E. For all projects, the applicant shall provide, in addition to the standard permit information requirements contained in WAC 173-27, a report prepared by a qualified professional describing existing conditions/ecological functions and anticipated shoreline environmental impacts (if any). Note that if a critical areas report must also be prepared pursuant to Appendix B, the shoreline and critical areas reports may be submitted as a single report.

1. If shoreline environmental impacts are identified, the applicant shall develop and implement a mitigation plan prepared by a qualified professional consistent with the requirements of the critical areas regulations in Appendix B.

   a. The mitigation plan shall demonstrate that all reasonable efforts were taken to mitigate potential adverse impacts to ecological function resulting from new development and redevelopment in shorelines through mitigation sequencing (see definition). Lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

   b. When compensatory mitigating measures are appropriate pursuant to the mitigation sequencing parts (2) through (5), preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact.

      i. Alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized.

      ii. Performance and maintenance bonds may be required for the following:

         (A) To ensure required mitigation measures provide no net loss of ecological functions; and

(B) To ensure the proposal meets all conditions of approval.

c. The mitigation plan shall achieve no net loss of ecological functions.

F. Mitigation sequencing shall be used for all shoreline projects, which means following a sequence of mitigation measures as defined in WAC 173-26-201(2)(e) that includes the following in order:

1. Avoid the impact altogether by not taking a certain action or parts of an action;

2. Minimize impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

3. Rectify the impact by repairing, rehabilitating, or restoring the affected environment;

4. Reduce or eliminate the impact over time by preservation and maintenance operations;

5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and

6. Monitor the required compensation and take remedial or corrective measures when necessary.

6 SHORELINE USES AND MODIFICATIONS

Chapter 6 presents specific policies and regulations that apply to particular uses and modifications. Each section includes policies and regulations.

Policies are statements of principles that guide and determine present and future decisions.

Regulations are rules that govern uses and modifications.

6.1 Shoreline Use and Modification Matrix

A. Table 6-1 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 as its primary use. In the event of conflict between the chart and the written provisions in this SMP, the written provisions shall apply.

B. 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.

C. Except as otherwise stated, the City's comprehensive plan, zoning regulations, health regulations, and other adopted regulatory provisions apply within shoreline jurisdiction. In the event the provisions of this SMP conflict with other provisions of the City's regulations, the more protective of shoreline ecological functions and processes shall prevail.

D. Uses and modifications that are designated as "P" in the use and modification matrix require either a Shoreline Substantial Development Permit or may be exempt from the requirement to obtain a Shoreline Substantial Development Permit, if identified as exempt in WAC 173-27-040 or as subsequently amended.

E. Exempted uses and modifications are not exempt from the SMA or this SMP and must be consistent with the applicable policies and provisions. An exemption from the Shoreline Substantial Development Permit doesn't exempt the proposed development from obtaining either a Shoreline Variance or Shoreline Conditional Use Permit, if applicable. Exempt uses and modifications are to be construed narrowly and meet the exact terms of the exemption to be considered

F. If any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.

G. Uses and modifications that are designated as "C" in the use and modification matrix, or are not addressed by the SMP and are considered unclassified, or are specified in the written text in this SMP as requiring a Shoreline Conditional Use Permit are

required to obtain a Shoreline Conditional Use Permit. Modifications and uses must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit or is exempt from the Shoreline Substantial Development Permit process as listed in WAC 173-27-040.

Table 6-1. Shoreline Use and Modification Matrix.

LEGEND: P = May be allowed subject to Shoreline Substantial Development Permit or Shoreline Exemption requirements C = May be allowed subject to Shoreline Conditional Use Permit requirements D = Dependent on adjacent upland environment X = Prohibited or not applicable (use or modification is not eligible for a Shoreline Variance or Shoreline Conditional Use Permit)	**Special Use**	**Urban Conservancy**	**Natural**	**Aquatic**
Agricultural Activities (SMP 6.5)	X	C	X	X
Aquaculture (SMP 6.6)	C	C	X	P[11]
Boating facilities (SMP 6.7)				
Public, nonmotorized watercraft launch	X	P[1]	X	D
Commercial development (SMP 6.8)	X	P[2]	X	X
Dredging and dredge material disposal (SMP 6.9)				
Water-dependent use	P	C	C	P
Bridge or essential public facility	P	C	C	P
Habitat improvement project	P	C	C	P
Clean up contaminated sediments	P	C	C	P
Dredging for other ecological restoration	C	C	C	C
All other dredging	P	X	X	C
Dredge material disposal	C[4]	C[4]	C[4]	C[4]
Sediment removal from flume	P	NA	NA	NA
Fill (SMP 6.10)	P	P	C[5]	C[6]
Flood hazard reduction (SMP 5.3)				
Dikes, levees	C	C	C	C
Forest practices (SMP 6.11)	C	C	C	X
Industry (SMP 6.12)	X	X	X	X
In-water structural uses (SMP 6.13)				
Barrier dam/flume maintenance activities	P	P	X	D
Barrier dam modification or replacement	C	P	X	D
Flume modification or replacement	P	X	X	D
Other in-water structural uses	C	C	C	C
Mining (SMP 6.14)	X	X	X	X
Piers and docks (SMP 6.15)	X	X	X	X
Recreational development (SMP 6.16)				

LEGEND: P = May be allowed subject to Shoreline Substantial Development Permit or Shoreline Exemption requirements C = May be allowed subject to Shoreline Conditional Use Permit requirements D = Dependent on adjacent upland environment X = Prohibited or not applicable (use or modification is not eligible for a Shoreline Variance or Shoreline Conditional Use Permit)	**Special Use**	**Urban Conservancy**	**Natural**	**Aquatic**
Water-dependent (e.g. boat launch)	P	P	P	P
Water-enjoyment (e.g. public trail)	P	P	P[7]	C
Nonwater-oriented (e.g. restrooms, play fields)	C	C	X	X
Residential development (SMP 6.17)	X	X	X	X
Scientific, historical, cultural, or educational research uses	P	P	P	P
Shoreline habitat and natural systems enhancement projects[9] (SMP 6.18)	P	P	P	P
Shoreline stabilization (SMP 6.19)	P	C	C	C
Signs (SMP 6.20)	P	P	P	C
Transportation and parking (SMP 6.21)				
New road construction	C	C	X[13]	X[12]
Parking, primary	X	X	X	X
Parking, accessory	P	P	C	C
Pedestrian/bicycle trail (impervious trails, 6.16)	P	P	C	D[8]
Pedestrian/bicycle trail (pervious trails, 6.16)	P	P	P	X
Utilities (primary) (SMP 6.22)				
Solid waste disposal	X	X	X	X
Telecommunications facilities	X	X	X	X
New wastewater treatment plant	X	X	X	X
Public water supply wells and corridors	X	P	P[10]	X
Other utilities	P	C	C	X[14]
Vegetation conservation (SMP 5.5)				
Clearing and grading	P	P	C	X

[1] A public, non-motorized watercraft launch only is allowed on public property.

[2] For publicly-owned recreational developments, low-impact, seasonal commercial development that supports or enhances recreational activities may be allowed.

[3] Reserved

[4] Only dredge material or flume sediment disposal for the purpose of shoreline restoration may be allowed.

[5] Minor fills related to the development of unpaved trails may be allowed in the **natural environment** subject to Shoreline Substantial Development Permit.

[6] Fill requires a conditional use permit waterward of the OHWM for all uses except shoreline restoration projects. Also see SMP 6.10.4.B.

[7] Only passive activities, such as nature watching and footpaths, which require minimal development may be allowed in the **natural environment**.
[8] A bridge for the Foothills Trail may be allowed using existing abutments.
[9] Hazardous waste remediation may be allowed.
[10] Public water supply wells and associated corridors only may be allowed in the **natural environment** west of SR410.
[11] Trap and haul facilities, and temporary in-water aquaculture activities are permitted (SMP 6.6.4)
[12] Pedestrian and highway bridges may be allowed for public use.
[13] Highway bridges may be allowed for public use.
[14] Utility lines may be permitted above the water as an ancillary structure to another structure.

6.2 Shoreline Development Standards Matrix

A. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, shoreline development standards regarding shoreline setbacks and height are provided in Table 6-2. In addition, shoreline developments shall comply with all dimensional requirements of other applicable City codes and the applicable buffer requirements found in Appendix B of this SMP.

B. Consistent with the use allowances for each environment designation, water-dependent uses and permeable public trails may be located at the setbacks identified in Table 6-2 when an intrusion to the shoreline buffer is mitigated. Accessory uses and developments related to the water dependent use shall be located consistent with the applicable setback founding Table 6-2 and buffer found in Appendix B of this SMP. All other uses and development proposed within a shoreline buffer must obtain a Shoreline Variance.

C. The outer 25 percent of the shoreline buffer may be averaged through the process described in SMP Appendix B Section B.2.3.F.3 to accommodate the uses and development in 6.2.D, 6.2.E, and 6.2.F below.

D. Consistent with the use allowances for each environment designation and the setbacks required in Table 6-2 the following uses and development can be placed in the outer 25 percent of the shoreline buffer essential public facilities and public access facilities may be located in the shoreline buffer if the use or activity cannot be accommodated or accomplished outside of the standard or averaged shoreline buffer. These uses and modifications must be designed and located to minimize intrusion into the buffer and shall also be consistent with all other applicable provisions of this SMP.

E. Where no other practical alternative exists to the excavation for and placement of public water supply wells in a shoreline and critical area buffer, these uses may be permitted in the outer 25 percent of the buffer. A mitigation plan must be prepared by a qualified professional, and must be consistent with the requirements of the critical areas regulations in Appendix B.

F. Impervious trails roughly parallel to the river and associated facilities are considered as water-oriented uses and may be permitted in the outer 25 percent of the shoreline buffers, consistent with the SMP Appendix B. Trails roughly perpendicular to the river may be permitted to the river's edge provided a mitigation plan is prepared by a qualified professional, is consistent with the requirements of the critical areas regulations in Appendix B, and is approved by the city.

G. Where impacts to shoreline or critical area buffers are permitted, and after mitigation sequencing is applied, all projects having impacts on ecological functions shall be required to develop and implement a mitigation plan prepared by a qualified professional consistent with the requirements of the critical areas regulations in Appendix B. All mitigation must be designed to result in no net loss of ecological functions to the extent feasible.

Table 6-2. Shoreline Development Standards Matrix.

LEGEND: **N/A** = Not applicable	**Special Use**	**Urban Conservancy**	**Natural**	**Aquatic**
Setback from OHWM for water-dependent uses	0'	0'	0'	N/A
Setback from OHWM for permeable trails	50'	50'	50'	N/A
Setback from OHWM for impervious trails running parallel to shoreline	150'	150'	150'	N/A
Setback from OHWM for all other development*	150'	150'	150'	N/A
Height – to be measured from averaged existing grade for land sites or the OHWM for **aquatic environment**	35'	35'	35'	N/A

*River crossings for utilities are subject to 6.22.

6.4 General Shoreline Use and Modification Provisions

6.4.1 Applicability

The following section applies to all upland uses and modifications in shoreline jurisdiction.

6.4.2 Policies

A. Non-water-oriented accessory development that does not require a shoreline location should be located landward of shoreline jurisdiction unless required to serve approved water-oriented uses.

B. When within shoreline jurisdiction, development such as parking, service buildings or areas, access roads, utilities, signs, and materials storage should be located landward of shoreline and/or wetland buffers and landward of water-oriented developments and/or other approved uses.

C. Shoreline use and modifications should be designed to maintain the following functions:

1. Support long-term beneficial use of the shoreline;
2. Protect and maintain shoreline ecological functions and processes;
3. Direct land alteration to the least sensitive portions of the site to maximize vegetation conservation;
4. Minimize impervious surfaces and runoff;
5. Protect riparian, nearshore, and wetland habitats;
6. Protect wildlife and habitats;
7. Protect archaeological, historic and cultural resources, and preserve aesthetic values;
8. Minimize impact to shoreline or upland uses through setbacks, buffers, light shielding, noise attenuation, and other measures; and
9. Prevent degradation of water quality and alteration of natural hydrographic conditions, including disturbance of groundwater recharge and/or discharge points.

D. Development should minimize impacts on shoreline or upland uses through setbacks, buffers, light shielding, noise attenuation, and other measures.

E. All significant adverse impacts to the shoreline should be avoided or, if that is not possible, minimized to the extent feasible and mitigated.

F. Vistas and viewpoints should not be degraded and visual access to the water from such vistas should not be impaired by signs.

G. Shoreline modifications should not be permitted if a modification would:

1. Result in a net loss of shoreline ecological functions;
2. Adversely affect the quality or extent of habitat for native species;
3. Adversely impact other habitat conservation areas; or
4. Interfere with navigation or other water-dependent uses.

6.4.3. Regulations.

A. All shoreline uses and modifications are subject to the mitigation sequencing requirements in Section 5.7, Environmental Impacts, with appropriate mitigation required for any unavoidable impacts to ecological functions. If critical areas in shoreline jurisdiction are affected, the project is also subject to relevant requirements in Appendix B, Shoreline Critical Areas Regulations.

B. All activity on the shoreline shall be accomplished so the structure and associated material does not impair water quality.

C. All disturbed areas shall be temporarily protected from erosion through the use of BMPs, and permanently restored and protected using vegetation and BMPs.

D. Alteration or disturbance of the bank and/or bank vegetation shall be limited to that which is necessary to perform the work.

E. Proposals to temporarily store waste material or re-use waste materials within shoreline jurisdiction may be approved provided that the use of best management practices is adequate to prevent erosion or water quality degradation.

1. For this section, "temporary" shall mean any time limitation given in writing by a state or federal agency, or three months, whichever is longer.

2. Waste storage shall be addressed in the permit or exemption request and be shown on the plans to be outside wetland and shoreline buffers.

3. Construction stockpiling or materials and equipment storage shall be considered with the permit or exemption application and the effects mitigated as appropriate.

F. Development design shall employ the following techniques and/or practices:

1. Structure placement shall conform to natural contours and minimize disturbance to soils and native vegetation;

2. Development shall complement the character and setting of the property;

3. Development shall minimize noise and glare;

a. Building surfaces on or adjacent to the water shall employ materials that minimize reflected light.

b. Interior and exterior lighting shall be designed and operated to avoid illuminating or causing glare on adjacent properties, public areas, the river, or critical areas or their buffers to prevent hazards, to avoid infringing on the use and enjoyment of such areas, and to avoid harming wildlife (including breeding and migration).

c. Roadway or trail lighting shall control light spillover through the following methods: limits on height of structure, limits on fixture light levels, light shields, setbacks, buffer areas, light flow direction, and screening.

4. Development shall avoid impacts to views:

   a. Property screening in the form of fences shall not block visual access to the shoreline.

5. 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.

6. Outdoor storage areas, if allowed, shall be screened from public view through techniques such as landscaping, fencing and/or other equivalent measures.

7. The release of oil, chemicals, or hazardous materials onto land is prohibited.

   a. Necessary refueling of motorized equipment shall be done outside shoreline jurisdiction.

   b. Equipment for the transportation, storage, handling, or application of such materials shall be set back a distance equal to the setback required for the proposed development and placed securely using BMPs. It shall be maintained in safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency is satisfactorily corrected.

   c. 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 a waterbody during in-water development.

   d. Appropriate spill clean-up materials must be on-site at all times, and any spills must be contained and cleaned immediately after discovery.

   e. Any spills or leakages must be immediately reported to the Department of Ecology and the shoreline administrator.

8. In addition to all regulations in this section, the following regulations shall apply to in-water work, including but not limited to new structure installation, existing structure repair, restoration projects, and aquatic vegetation removal.

   a. Water-dependent in-water developments are not subject to the shoreline buffers established in this SMP.

b. In-water work shall be conducted in a manner that causes little or no siltation to adjacent areas.

c. Modifications and uses located in the **aquatic environment** shall be the minimum size necessary.

d. A sediment control curtain shall be deployed in those instances in which siltation is possible or expected. The curtain shall be maintained in a functional manner that contains suspended sediments during project installation.

e. If fish are observed to be in distress or are killed, immediate notification shall be made to appropriate state or federal agency(ies), including the city, Washington Department of Fish and Wildlife, National Marine Fisheries Service and/or US Fish and Wildlife Service.

f. If water quality problems develop, immediate notification shall be made to the appropriate state or federal agency(ies), including the city, Washington Department of Ecology, National Marine Fisheries Service and/or US Fish and Wildlife Service.

g. In-water development shall be sited and designed to avoid the need for future shoreline stabilization activities and dredging, shall consider watershed functions and processes, and shall emphasize protecting and restoring priority habitat and species.

h. Fresh concrete or concrete by-products shall not 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. Waste material resulting from in-water structure installation, such as construction debris, silt, excess dirt, or overburden, shall be deposited outside the shoreline jurisdiction in an approved upland disposal site.

i. Natural in-water features such as snags, uprooted trees, or stumps should be left in place.

j. Any trenches, depressions, or holes created waterward of the OHWM shall be backfilled.

6.5 Agricultural Activities

6.5.1 Applicability

Please see the definition of "agricultural activities" in Chapter 2 of this SMP.

6.5.2 Policies

A. A vegetative buffer should be maintained between agricultural lands and water bodies or wetlands to:

1. Reduce harmful bank erosion and sedimentation;

2. Enhance water quality by slowing and filtering runoff; and

3. Maintain habitat for fish and wildlife.

B. Appropriate farm management techniques should be used to prevent contamination of nearby water bodies and adverse effects on valuable plant, fish or animal life from fertilizer and pesticide use.

C. Certain agricultural facilities should be placed outside shoreline jurisdiction and constructed to prevent contamination of waterbodies or degradation of the adjacent shoreline environment:

1. Animal feeding operations;

2. Retention and storage ponds; and

3. Feed lot waste and manure storage.

D. Agricultural practices shall prevent and control erosion of soils and bank materials within shoreline areas and minimize siltation, turbidity, pollution, and other environmental degradation of watercourses and wetlands.

6.5.3 Regulations

A. Agricultural development shall be 150 feet from the OHWM and shall adhere to other applicable state and federal policies and regulations provided they are consistent with the SMA and this SMP to ensure no net loss of ecological function.

B. River banks and water bodies shall be protected from damage caused by livestock by placing fencing to prevent bank compaction, bank erosion, or damage to buffer vegetation.

C. Agricultural activities shall use hay bales, properly-installed fabric silt fencing, and other BMPs to control erosion.

D. Agricultural activities shall adhere to the provisions in Section 5.6, Water Quality, Stormwater and Nonpoint Pollution.

E. New manure lagoons, confinement lots, feeding operations, lot wastes, stockpiles of manure solids, aerial spraying, and storage of noxious chemicals are prohibited within shoreline jurisdiction.

F. New agriculture on lands not meeting the definition of agricultural lands shall be outside wetlands and their buffers.

G. Conversion of existing agricultural activities to other uses or uses that don't meet the shoreline definition of agriculture shall be in accordance with the policies and regulations for the proposed use.

6.5.4. Environments

A. Agriculture is a conditional use in the urban conservancy, subject to the policies and regulations of this SMP.

B. Agriculture is prohibited in the special use, natural, and **aquatic environments**.

6.6 Aquaculture

6.6.1 Applicability

Aquaculture is the culture or farming of fish or other aquatic plants and animals, as defined in Chapter 2. In-water aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, it is a preferred use of the water area. Upland aquaculture facilities are water-related and are subject to setbacks. Trap and haul facilities adjacent to the barrier dam shall be regulated as aquaculture.

6.6.2 Policies

A. The city should provide limits and conditions to assure appropriate compatible types of aquaculture for the local conditions as necessary to assure no net loss of ecological functions.

B. Potential locations for aquaculture are relatively restricted because of specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, and wind protection.

C. The technology associated with some forms of present-day aquaculture is still in its formative stages and experimental. The city recognizes the need for some latitude in the development of this use as well as its potential impact on existing uses and natural systems.

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

E. Aquacultural facilities should be designed and located so as not to spread disease to native aquatic life, establish new nonnative species that may cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.

F. Impacts to ecological functions should be mitigated.

6.6.3 Regulations

A. Aquaculture activity shall produce no net loss of shoreline ecological function.

B. Aquaculture facilities shall be designed and located so as not to spread disease to native aquatic life, introduce new nonnative species, or affect the aesthetic qualities of the shoreline.

C. Aquaculture facilities shall be located in areas that will not inhibit public use or enjoyment of the river.

D. Aquaculture facilities shall be located in areas that will not conflict with other water-dependent uses.

E. Impacts to ecological functions shall be mitigated according to mitigation sequencing as defined in SMP Chapter 2.

F. Upland aquaculture facilities shall be set back 150 feet from the OWHM.

G. In-water aquacultural facilities that include capture and haul facilities for wild stock relocation shall be placed in areas where access does not disturb the natural environment.

H. Temporary in-water aquacultural activities shall be those that are placed in the water for less than two weeks.

6.6.4. Environments

A. Trap and haul facilities are allowed in the **aquatic environment**.

B. Temporary in-water aquacultural activities are permitted in the **aquatic environment** according to policies and regulations in this SMP.

C. Upland aquaculture facilities are allowed in the **urban conservancy** and **special use environments** as a conditional use permit.

6.7 Boating Facilities

6.7.1 Applicability

The White River is not a commercially navigable water body. Large commercial vessels will not be used on this section of the White River; it is doubtful that small private motorized vessels or sailboats could be used in this river. The types of vessels most likely to be used on this river include canoe, rafts, and kayaks, which have little draw under them.

6.7.2 Policies

A. Boating facilities are water-dependent uses and, as such, are preferred uses of the shoreline.

B. Boating facilities should be limited to launches along the White River for small, non-motorized watercraft such as kayaks and rafts.

C. Non-motorized watercraft launches should only be located at publicly owned recreational developments where existing or planned facilities would provide accessory uses such as parking, restrooms, and trash receptacles.

D. Non-motorized watercraft launches should be located only where suitable environmental conditions, shoreline configuration, and access exist.

E. Non-motorized watercraft launches should be located and designed to ensure that no net loss of ecological functions or other significant adverse impacts will result.

F. Non-motorized watercraft launches should ensure that health, safety, and welfare requirements are met.

F. Non-motorized watercraft launches should be compatible with neighboring uses.

6.7.3 Regulations

A. Boating facilities shall be limited to launches along the White River for small, non-motorized watercraft such as kayaks and rafts.

B. Non-motorized watercraft launches shall only be located at publicly owned recreational developments where existing or planned facilities would provide accessory uses such as parking, restrooms, and trash receptacles.

C. Parking for non-motorized watercraft launches shall be nine spaces for each launch.

D. Non-motorized watercraft launches shall be located and designed to ensure that no net loss of ecological functions or other significant adverse impacts will result.

E. Non-motorized watercraft launches shall be located and designed to minimize any necessary shoreline modification.

F. Non-motorized watercraft launches shall be up to 20 feet wide per launch and may extend waterward of OHWM five feet.

1. Construction material shall be as recommended by state or federal agencies.

2. Mitigation or restoration measures shall be in accordance with this SMP to cause no net loss of shoreline functions and habitat.

6.7.4. Environments

A. Public non-motorized watercraft boating facilities on public lands are permitted in the **urban conservancy environment** west of the barrier dam, subject to the policies and regulations of this SMP.

B. Boating facilities are permitted in the **aquatic environment** if they are permitted on the adjacent upland environment, subject to the policies and regulations of this SMP.

6.8 Commercial Development

6.8.1 Applicability

The following section applies to all commercial development in shoreline jurisdiction.

6.8.2 Policies

A. Preference should be given to water-dependent commercial uses over non-water-dependent commercial uses.

B. Preference should be given to water-related and water-enjoyment commercial uses over non-water-oriented commercial uses.

C. Commercial development should only be located at publicly owned recreational developments where existing or planned facilities would provide accessory uses such as parking, restrooms, and trash receptacles.

D. Only low-impact, seasonal commercial development that supports or enhances recreational activities should be allowed. Such development might include recreational equipment rentals (e.g. rafts, canoes, or fishing gear), bicycle repair, bait sales, or food and beverage concessions.

6.8.3 Regulations

A. The applicant shall demonstrate to the satisfaction of the City that proposed uses meet the definitions of water-dependent, water-related, or water-enjoyment.

1. Preference shall be given to water-dependent commercial uses over non-water-dependent commercial uses.

2. Preference shall be given to water-related and water-enjoyment commercial uses over non-water-oriented commercial uses.

B. Non-water-oriented commercial uses may be located within shoreline jurisdiction provided that such uses:

1. Are part of a publicly owned recreational development that includes water-oriented uses and/or public access;

2. Are low-impact, seasonal, and in support of recreational activities;

3. Comply with the buffer requirements of this SMP; and

4. Comply with shoreline restoration requirements of this SMP.

C. Commercial development shall only be located at publicly owned recreational developments where existing or planned facilities would provide accessory uses such as parking, restrooms, and trash receptacles.

D. Parking for commercial development shall be the same as provided for other users of publicly owned recreational developments. No additional vehicular access to commercial development shall be provided.

E. Commercial development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions or significant adverse impacts to other shoreline uses, resources, and values will result.

6.8.4. Environments

A. Commercial development and uses are permitted in the **urban conservancy environment**, subject to the policies and regulations of this SMP.

1. The use must be on publicly-owned land;

2. The commercial use or development must be low-impact, seasonal uses that support or enhance recreational activities; and

3. Setbacks for commercial development shall be as specified in table 6-2.

B. Commercial development or uses are prohibited in the **special use, natural,** and **aquatic environments**.

6.9 Dredging and Dredge Material Disposal

6.9.1 Applicability

Please see the definitions of "dredging" and "dredge material disposal" in Chapter 2 of this SMP.

6.9.2 Policies

A. New development should be sited and designed to avoid or, where avoidance is not possible, to minimize the need for new maintenance dredging.

B. Dredging should be permitted for water-dependent uses and/or essential public facilities when necessary and when alternatives are infeasible or less consistent with this SMP. Dredging as part of ecological restoration or enhancement, public access or public recreation should be permitted if consistent with this SMP.

C. Dredging 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.

D. Dredging should be planned and conducted to minimize adverse impacts to other shoreline uses, properties, and values.

E. Dredging of bottom materials for the primary purpose of obtaining the material for fill or other purposes is strongly discouraged.

F. Dredge material disposal should be prohibited in shoreline jurisdiction, except where dredge material would benefit shoreline resources.

6.9.3 Regulations

A. New development shall be sited and designed to avoid or, where avoidance is not possible, to minimize the need for new maintenance dredging.

B. Dredging shall be permitted only during state or federally specified times to not disturb biological systems for one of the following uses:

1. In conjunction with a water-dependent use of water bodies or adjacent shorelands;

2. In conjunction with a bridge or essential public facility for which there is documented public need and where other feasible sites or routes do not exist;

3. As part of an approved habitat improvement project; or

4. To clean up contaminated sediments.

C. In evaluating permit applications for any dredging project, the adverse effects of the initial dredging and subsequent maintenance dredging shall be considered. Dredging shall be permitted only where it is demonstrated that the proposed actions will not:

1. Result in significant and/or ongoing damage to water quality, fish, and other essential biological elements; and

2. Adversely alter natural drainage and circulation patterns or significantly reduce flood water capacities.

D. When dredging is permitted, the dredging shall be the minimum necessary.

E. Dredging shall employ best management practices to prevent water quality impacts or other environmental degradation.

F. Dredging shall not occur in wetlands.

G. Consistent with the mitigation sequencing steps outlined in Section 5.7.3.E., dredging proposals should be first designed to avoid and minimize ecological impacts, prior to pursuing mitigation. When required, mitigation plans shall be prepared by a qualified professional and shall be consistent with the City's requirements for mitigation plans.

H. Dredging shall be carefully scheduled to protect biological productivity (e.g. fish runs) and to minimize interference with other shoreline activities (e.g. fishing).

I. Limitations on dredging operations may be imposed to reduce proximity impacts, protect 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.

J. Dredging waterward of the OHWM for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the OHWM. The project must either be associated with a Model Toxics Control Act or Comprehensive Environmental Response, Compensation, Liability Act habitat restoration project or, if approved through a Shoreline Conditional Use Permit, any other significant habitat enhancement project.

K. Dredge material disposal is prohibited in shoreline jurisdiction under this SMP, except when for one or more of the below-listed reasons and a Shoreline Conditional Use Permit is obtained:

1. For wildlife habitat improvement or shoreline restoration; or

2. To correct problems of material distribution adversely affecting fish and wildlife resources.

6.9.4. Environments

A. Dredging for restoration purposes related to MTCA and CRCLA is permitted in the **aquatic environment**.

1. Dredging for other ecological restoration is a conditional use in all **environments**, subject to the policies and regulations of this SMP.

B. Dredging is a conditional use in the **natural** and **urban conservancy environments** for ecological restoration and/or removing toxic substances.

C. Dredge material disposal may be allowed as a conditional use in **all environments** for approved shoreline restoration activities.

6.10 Fill

6.10.1 Applicability

Please see the definition of "fill" in Chapter 2 of this SMP. Note that the regulations in this section apply to fills in both aquatic and upland **environments**.

6.10.2 Policies

A. Fills should be the minimum necessary to provide for the proposed use and permitted only when tied to a specific development proposal that is allowed by this master program.

B. Shoreline fills should be designed and located so that no significant damage will occur to existing ecological functions and processes or natural resources.

   1. Shoreline fills should prevent alteration of local currents, surface water drainage, or flood waters that could result in a hazard to adjacent life, property, and natural resource systems.

C. The perimeter of fills should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial fill activities and over time.

   1. Fills that do not require containment structures are preferred.

D. In addition to other permit review criteria, when evaluating fill projects, the following factors should also be reviewed:

   1. Potential and current public use of the shoreline and water surface area;

   2. Water flow and drainage;

   3. Water quality impacts; and

   4. Habitat impacts.

6.10.3 Regulations

A. Where fills are allowed, the fill shall be the minimum necessary to accommodate the proposed use.

B. Fills may be permitted when tied to a specific development proposal that is allowed by this master program.

C. Fills waterward of the OHWM shall require a Shoreline Conditional Use Permit, and shall be shown to be necessary to support:

   1. A water-dependent use;

   2. Public access;

   3. Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan; and/or

4. Expansion or alteration of transportation facilities currently located on the shoreline, and then only on a demonstration that alternatives to fill are not feasible.

D. In addition to permit review criteria, fill may be permitted only where it is demonstrated that the proposed action will not:

1. Result in significant damage to water quality, fish, and/or wildlife habitat;

2. Adversely alter natural drainage and circulation patterns, currents, river and tidal flows or significantly reduce flood water capacities; or

3. Intrude into wetlands unless it is shown that no alternative exists.

E. Fills shall be located, designed and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.

F. Fills shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area.

1. Perimeters of permitted fill projects shall be designed and constructed with silt curtains, vegetation buffer areas or other methods, and be appropriately sloped to prevent erosion and sedimentation both during initial fill activities and afterwards. Containment practices will be implemented until the fill is stabilized and the risk or erosion is past.

2. The placement of fills shall be designed to not require stabilization or containment structures unless demonstrated to be infeasible because of existing site conditions.

G. Fills shall be designed to blend physically and visually with existing topography whenever possible, and not interfere with long term appropriate uses including lawful access and enjoyment of scenery.

H. Fill materials shall be sand, gravel, soil, rock or similar material. Use of polluted dredge spoils, solid waste, and sanitary landfill materials are prohibited.

6.10.4. Environments

A. Fill is permitted in the **special use** and **urban conservancy environments** subject to the policies and regulations of this SMP.

B. Fill in the **aquatic environment** for ecological restoration, beach nourishment or enhancement project(s) is permitted, subject to the policies and regulations of this SMP.

1. Fill for all other uses require a Shoreline Conditional Use Permit and shall be allowed only when necessary to support the following:

a. Water-dependent use(s);

b. Public access;

c. Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;

d. Disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the Department of Natural Resources;

e. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline, and then only on a demonstration that alternatives to fill are not feasible; and/or

f. Mitigation action.

C. Fill is a conditional use in the **natural environment** subject to the policies and regulations of this SMP, provided the fill is minor and related to the development of permeable trails.

6.11 Forest Practices

6.11.1 Applicability

Please see the definition of "forest practices" in Chapter 2 of this SMP. Forest practices does not include tree marking, surveying and road flagging, removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, or mushrooms.

6.11.2 Policies

A. Forest practices should be conducted to maintain or enhance existing:

1. Water quality, water quantity, and fish habitat; and

2. Upland wildlife habitat.

B. Forest practices should be avoided on shorelines with slopes of such grade and/or soil type that would likely cause serious sediment runoff, unless adequate restoration and erosion control can be accomplished.

C. Special attention should be directed to forest practices activities including logging and thinning to prevent the accumulation of slash and other debris in contiguous waterways and their floodplains.

D. Skid roads and fire trails should not disturb shoreline resources. They should be rehabilitated as necessary to prevent erosion and import of sediments into contiguous waterways.

E. Reforestation in shorelines should be done as quickly as possible:

1. Replanting or seeding should be done with native species common to the area.

F. All forest practices undertaken on shorelines shall comply with the applicable policies and provisions of the Forest Practices Act, RCW 76.09 as amended (WAC 222).

6.11.3 Regulations

A. Conversion from forest to non-forest uses, as defined by the Forest Practices Act Type IV General, shall show no net loss of shoreline habitat or function. The following minimum standards shall be used:

1. Low-impact development standards shall be used;

2. Revegetation in accordance with this Shoreline Master Program;

3. Deforestation shall not occur until the development's building permits are approved. Time may be added to the shoreline permit's expiration date to accommodate this requirement; and

4. Cutting shall be outside required wetland buffers and setbacks.

B. Within shoreline jurisdiction along shorelines of statewide significance, only selective commercial timber cutting may be permitted so that no more than 30 percent of the merchantable timber may be harvested in any 10-year period; provided that other timber harvesting methods may be permitted with a Shoreline Conditional Use Permit in those limited instances where topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental.

C. Buffer strips on or adjacent to steep slopes shall be protected by leaving stumps high enough to prevent any subsequently felled upslope trees from sliding or rolling into the strips.

D. Skid roads, fire trails, and other erosion-prone conditions caused by forest practices operations shall be water-barred, as needed, on completion of the activity.

1. Shorelines that contain steep slopes or a soil type that may cause sediment runoff require adequate restoration and erosion control measures. An erosion control plan shall be submitted with the application. A restoration plan shall also be submitted with the application.

2. Logged areas on slopes exceeding 40 percent shall also be replanted and stabilized, as necessary, within one year of harvest.

E. Trees shall be directionally felled away from wetlands.

F. Replanting or seeding required under the Forest Practices Act shall be done within eighteen months of harvest.

G. Site preparation by burning is prohibited.

6.11.4. Environments

A. Forest practices are a conditional use in the **special use, urban conservancy,** and **natural environments**, subject to the policies and regulations of this SMP.
B. Forest practices are prohibited in the **aquatic environment**.

6.12 Industry

Industry is prohibited in shoreline jurisdiction under this SMP.

6.13 In-Water Structures

6.13.1 Applicability

In-water structure means a structure placed by humans within a 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-water structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

6.13.2 Policies

A. In-water structures should be planned and designed to be compatible with appropriate multiple uses of resources over the long-term. Appropriate multiple uses include and are not limited to public access, recreation, and fish migration.

B. The location, design, construction, and maintenance of in-water structures and any associated facilities should consider:

1. The full range of public interests;

2. Watershed processes, including prevention of damage to other properties and other shoreline resources from alterations to geologic and hydrologic processes; and

3. Ecological functions, with special emphasis on protecting and restoring priority habitats and species.

C. In-water 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 US Army Corps of Engineers.

D. Non-structural and non-regulatory methods to protect, enhance and restore shoreline ecological functions and processes, and other shoreline resources, such as public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs, should be encouraged as an alternative to in-water structures.

E. Planning and design of in-water structures should be consistent with and incorporate elements from applicable watershed management and restoration plans and/or surface water management plans.

F. In-water structure proposals, if applicable, should:

1. Incorporate native vegetation to enhance ecological functions;

2. Create a more natural appearance; and

3. Improve ecological processes.

G. In-water features, if applicable, should include:

1. Vegetative stabilization including brush matting and buffer strips; and

2. Retention of existing trees and shrubs on stream banks.

H. New or expanded development or uses in the shoreline, including subdivision of land, that would likely require structural flood control works within the river, channel migration zone, or floodway should be prohibited.

I. In-water structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters.

6.13.3 Regulations

A. To prevent loss of shoreline ecological functions and processes, upland cut-and-fill slopes and back-filled areas resulting from installation of in-water structures and any associated facility located upland shall be stabilized with brush matting and buffer strips and revegetated with native grasses, shrubs, or trees.

B. Best available science shall be used to eliminate siltation and erosion before, during, and after the development is installed.

C. Natural in-water features such as snags, uprooted trees, or stumps shall be left in place unless it is demonstrated that they cause severe bank erosion or higher flood stages, or pose a hazard to navigation or to human safety.

D. In-water structures and any associated facility located upland shall allow natural groundwater movement and surface runoff.

E. In-water structures and any associated facility located upland shall preserve valuable recreation resources and aesthetic values, including point and channel bars, islands, and braided channels.

F. In-water structures and any associated facility located upland shall be designed by a qualified professional.

G. Design of in-water structures shall include access to public shorelines unless it is demonstrated that public access would cause:

1. Unavoidable public health and safety hazards;

2. Security problems;

3. Unmitigatable ecological impacts;

4. Unavoidable conflicts with proposed uses; or

5. Unreasonable cost.

H. In-water structures shall not decrease public access or shoreline use potential.

I. In-water structures shall be designed to prevent safety hazards or obstructions for recreational navigation.

J. 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.

6.13.4. Environments

A. Barrier dam maintenance activities for in-water structures are regulated as follows in the **environments** and are subject to the policies and regulations of this SMP:

1. Permitted in the **special use environment** subject to the policies and regulations of this SMP.

2. Prohibited in the **urban conservancy** and **natural environments**.

3. The same in the **aquatic environment** as in the adjacent upland environment.

B. Barrier dam/flume modification or replacement is regulated as follows in the **environments** and are subject to the policies and regulations of this SMP:

1. A conditional use permit is required in the **special use environment**.

2. Prohibited in the **urban conservancy** and **natural environments**.

3. The same as in the **aquatic environment** as the adjacent upland environment.

C. Other in-water structures and their associated upland structures are conditional uses in all **environments**, subject to the policies and regulations of this SMP.

6.14 Mining

Mining is prohibited in shoreline jurisdiction under this SMP.

6.15 Piers and Docks

Piers and docks are prohibited in shoreline jurisdiction under this SMP.

6.16 Recreational Development

6.16.1 Applicability

Recreational development includes commercial and public facilities designed and used to provide recreational opportunities to the public.

6.16.2 Policies

A. Shoreline recreational development should be primarily related to access to, enjoyment of, and use of the water and shoreline of the state.

B. The coordination of local, state, and federal recreation planning should be encouraged to satisfy recreational needs.

1. Shoreline recreational developments should be consistent with all adopted park, recreation and open space plans.

C. A variety of compatible recreational experiences and activities should be encouraged to satisfy diverse recreational needs.

D. The use of shoreline street ends and publicly owned lands for public access and development of recreational opportunities should be encouraged.

E. The linkage of shoreline parks, recreation areas, and public access points with linear recreational features, such as hiking and bicycle trails, should be encouraged.

F. Recreational developments should be compatible with natural features and adjacent land and water uses.

G. All recreational developments should make adequate provisions for:

1. Vehicular and non-motorized access, both on-site and off-site;

2. Water supply, wastewater, and trash disposal;

3. Security and fire protection;

4. The prevention of overflow and trespass onto adjacent properties, including but not limited to landscaping, fencing and posting of property; and

5. Buffering adjacent areas.

H. Development related to the Foothills Trail, including a potential crossing over the White River using existing abutments, is encouraged.

I. Non-water-oriented recreational development should be located outside shoreline jurisdiction.

6.16.3 Regulations

A. Non-water-oriented accessory recreational development, such as restrooms, access roads, parking lots, and maintenance facilities shall be located outside shoreline jurisdiction if feasible.

1. If infeasible, the development shall be set back as far as possible landward from the associated recreational development.

2. All accessory recreational development shall comply with the buffer requirements of this SMP.

B. Recreational development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.

C. For recreation developments such as playfields that require the use of fertilizers, pesticides, or other chemicals, the applicant shall submit plans demonstrating the best management practices and methods to be used to prevent these applications and resultant leachate from entering adjacent water bodies. Natural management methods are preferred over synthetic methods where feasible and practical. See Section 5.5, Vegetation Conservation.

D. No recreational buildings or structures shall be built in or over water, except water-dependent and/or public access structures.

E. Recreational developments shall provide facilities for non-motorized access to the shoreline, such as pedestrian and bicycle paths.

F. Proposals for recreational development shall include adequate facilities for water supply, wastewater, and trash disposal.

G. Recreational facilities shall make adequate provisions, such as screening, buffer strips, fences and signs, to prevent overflow and to protect the value and enjoyment of adjacent or nearby private properties and natural areas.

H. Trail development shall follow topographic lines to reduce the amount of cut and fill. Trail development shall follow the following preferences:

1. Permeable trails are preferred. Some trails must also be accessible to wheeled chairs and bicycles and will need to be impervious;

2. Pervious concrete, grasscrete, or other permeable material is preferred;

3. Concrete or asphalt is the last choice for trails; and

4. Trails around wetlands, if allowed, may be raised above the vegetation.

6.16.4. Environments

A. Water-dependent recreational development is permitted in the **all environments**, subject to the policies and regulations of this SMP:

B. Water-enjoyment recreational development is permitted in the all landward **environments**, subject to the policies and regulations of this SMP, provided only passive activities is allowed in the **natural environment**, for which minimal development is required (e.g. trails)

C. Water-enjoyment recreational development is a conditional use in the **aquatic environment** subject to the policies and regulations of this SMP.

D. Impervious trail development for pedestrians and bicycles is permitted in the **special use** and **urban conservancy environments**, subject to the policies and regulations of this SMP.

E. Impervious trail development for pedestrians and bicycles is a conditional use in the **natural environment**, subject to the policies and regulations of this SMP.

F. Impervious trail development for pedestrians and bicycles may be permitted over the **aquatic environment**, subject to the policies and regulations of this SMP.

G. Pervious trail development is permitted in **all upland environments**, subject to the policies and regulations of this SMP.

H. Non-water-oriented recreational development is a conditional use in the **special use** and **urban conservancy environments**, subject to the policies and regulations of this SMP

I. Non-water-oriented recreational development is prohibited in the **natural,** and **aquatic environments**.

6.17 Residential Development

Residential development is prohibited in shoreline jurisdiction under this SMP.

6.18 Shoreline Habitat and Natural Systems Enhancement Projects

6.18.1 Applicability

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.

6.18.2 Policies

A. This SMP supports habitat and natural systems enhancement projects, provided the primary purpose is clearly restoration of the natural character and ecological functions of the shoreline.

B. Shoreline habitat and natural systems enhancement projects may include shoreline modification actions such as:

1. Modification of vegetation;
2. Removal of nonnative or invasive plants;
3. Shoreline stabilization;
4. Dredging; and
5. Filling.

C. Restoration and enhancement actions should:

1. Improve shoreline ecological functions and processes; and
2. Target meeting the needs of sensitive plant, fish, and wildlife species, as identified by the Washington Department of Fish and Wildlife, Washington Department of Natural Resources, National Marine Fisheries Service and/or US Fish and Wildlife Service.

D. The City should give priority to projects consistent with the restoration plan approved as part of this SMP update or other approved restoration plans.

E. Funding should be sought 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 other approved restoration plans.

6.18.3 Regulations

A. Shoreline restoration and ecological enhancement projects may be permitted provided:

1. The project's purpose is the restoration of natural character and ecological functions of the shoreline; and
2. It is consistent with this SMP's restoration plan.

B. Shoreline restoration and enhancement projects shall be designed using the best available scientific and technical information, and implemented using best management practices.

C. Shoreline restoration and enhancement shall not create negative secondary impacts on ecological processes or functions, natural resources, or adjacent properties.

D. Shoreline restoration and enhancement shall not interfere with the normal public use of the waters of the state.

E. Any unavoidable effect or interference shall provide mitigation to restore ecological processes, functions, and/or public use of the shorelines.

F. Maintenance and monitoring, at least annually for a period of five years, is required for shoreline habitat and natural systems enhancement and restoration projects.

1. Maintenance and monitoring shall be backed by a performance bond.

6.18.4. Environments

A. Shoreline habitat and natural systems enhancement is permitted in **all environments** subject to the policies and regulations of this SMP.

6.19 Shoreline Stabilization

6.19.1 Applicability

Shoreline stabilization includes measures taken to address erosion impacts to property, businesses, or structures caused by natural processes, such as flood, wind, or water action. These measures 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.

Structural methods include "hard" and "soft" structural stabilization measures. Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

"Hard" structural shoreline stabilization means 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, riprap, and similar structures.

"Soft" structural shoreline stabilization means 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.

For purposes of this section:

Enlargement of an existing structural shoreline stabilization shall include additions to, or increases in size (such as height, width, length, or depth) of, existing shoreline stabilization measures and these enlargements shall be considered new structures.

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. Replacement structures must be comparable to the original structure including but not limited to its size, shape, configuration, location, and external appearance, and the replacement does not cause substantial adverse effects to the shoreline resources or environment.

6.19.2 Policies

General Policies

A. Shorelines existing in their natural state should be preserved in their natural state, free of shoreline modification.

B. Where feasible, structures should be located and designed to avoid the need for future shoreline stabilization.

C. Land subdivisions should be designed to assure that future development of the created lots will not require shore stabilization for reasonable development to occur.

D. New development that would require shoreline stabilization that would likely cause significant impacts to adjacent or down-current properties and shoreline areas should be prohibited.

E. Shoreline stabilization should not be permitted when it interferes with public access to shorelines of the state or other appropriate shoreline uses.

F. Shoreline stabilization should be developed in a coordinated manner among affected property owners and public agencies, particularly those that cross jurisdictional boundaries.

   1. Where erosion threatens existing development, a comprehensive program for shoreline management should be established by the affected property owners.

G. Provisions for multiple use, restoration, and/or public shore access should be incorporated into the location, design, and maintenance of shore stabilization for public or quasi-public developments whenever safely compatible with the primary purpose.

H. Shoreline stabilization should be located, designed, and maintained to protect, restore and maintain:

   1. Shoreline ecological functions;

2. Ongoing shoreline processes; and

3. The integrity of shoreline features.

I. Shoreline stabilization should not be developed for the purpose of filling shorelines.

J. When stabilization is necessary, mitigation for the loss of ecological function should be required.

K. Alternative methods (such as "log jams") that can provide stabilization as well as fish habitat should be included in project alternatives.

L. Shoreline stabilization 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.

M. The hierarchy of preference for shoreline stabilization should be based on the following:

1. No action (allow the shoreline to retreat or change naturally), increase buffers, and relocate structures;

2. Non-structural solutions;

3. Soft shoreline structural stabilization; and

4. Hard shoreline structural stabilization. Hard structural shoreline stabilization measures should only be used when soft stabilization methods are determined to be:

a. Infeasible; or

b. Insufficient to achieve enhancement, restoration or remediation objectives.

N. New or expanded structural shoreline stabilization should only be permitted only if demonstrated to be necessary to protect an existing primary structure 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.

O. Materials used for construction of shoreline stabilization should be selected for long-term durability, ease of maintenance, and compatibility with local shoreline features, including aesthetic values, ability to provide fish and wildlife habitat, and flexibility for future uses.

1. The preferred "soft" or "non-structural stabilization" measures are more natural and flexible, and include placing the development farther from the OHWM, planting vegetation, installing on-site drainage improvements, and bioengineering techniques.

P. Projects that use vegetative materials to stabilize shorelines or treat erosion should follow recommended BMPs for establishing or restoring vegetation in shoreline and riparian areas, including that from:

1. The Natural Resources Conservation Service;
2. The Washington Department of Fish and Wildlife;
3. The Washington Department of Ecology; and
4. Local conservation districts.

Q. 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.

6.19.3 Regulations

General

A. New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible for the life of the development. This shall be shown using geotechnical analysis of the site and shoreline characteristics.

B. Subdivision of land shall be designed to insure the lots created will not require shoreline stabilization for the life of the plat in order for reasonable development to occur.

C. New development on steep slopes or bluffs shall be set back in accordance with a geotechnical analysis that shows that shoreline stabilization is unlikely to be necessary during the life of the development.

D. New development that would likely require shoreline stabilization shall be prohibited.

E. In all cases, the feasibility of non-structural and soft-structural shoreline stabilization methods shall be evaluated and shown to be infeasible before hard structural stabilization may be allowed.

F. In all cases, shoreline stabilization shall be designed so that net loss of ecological functions does not occur.

G. New structural shoreline stabilization measures, including both hard and soft structural shoreline stabilization measures, shall include measures installed to address erosion impacts.

New or Enlarged Hard or Soft Structural Stabilization Measures

H. New or enlarged structural stabilization measures shall not be allowed, except that in addition to any permit requirements the following are also met:

1. The stabilization is to protect an existing primary structure. The primary structure must be shown by a geotechnical analysis that the primary structure is in danger of failing within three years. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis must evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering hard or soft structural shoreline stabilization.

2. The stabilization supports new non-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 placing the 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 because of erosion is demonstrated through a geotechnical report; and

   d. The damage must be caused by natural processes.

3. The stabilization supports water-dependent development when all of the following conditions 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; and

   c. The need to protect primary structures from damage from erosion is demonstrated through a geotechnical report.

4. To protect projects for the restoration of ecological functions or 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.

Replacement Hard or Soft Structural Stabilization Measures

I. An existing shoreline stabilization structure may be replaced with a similar structure to perform a shoreline stabilization function if the applicant demonstrates a need to protect the principal use or structure from erosion caused by the river. The following regulations apply to replacement of existing hard and soft structural shoreline stabilization measures:

1. Hard and soft shoreline stabilization measures may allow some fill waterward of the OHWM to provide enhancement of shoreline ecological functions;

2. The replacement structure shall be designed, located, sized and constructed with no net loss of ecological functions;

3. For shoreline stabilization projects, replacement occurs when the existing structure, including its footing or bottom course of rock, is removed before installing new shoreline stabilization materials. Repairs that involve only removal of material above the footing or bottom course of rock are not considered replacements; and

4. Areas of temporary disturbance within the shoreline buffer shall be returned to their pre-project condition or better;

   a. Any required replanting shall be installed in the first available planting season; and

   b. Other areas of temporary disturbance shall be returned to their pre-project condition or better within one week of project completion.

<u>Maintenance and Repair of Hard or Soft Structural Stabilization Measures</u>

J. Maintenance and repair of existing shoreline stabilization measures shall be allowed, subject to all of the following standards. Note that although repair of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, 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. Temporarily disturbed areas within the shoreline buffer shall be returned to their pre-project condition or better:

   a. Any replanting required shall be installed in the first available planting season; and

b. Other areas of temporary disturbance shall be returned to their pre-project condition or better within one week of project completion.

Hard or Soft Structural Stabilization Design

K. When a hard or soft structural shoreline stabilization measure is demonstrated to be necessary, the following design regulations shall be followed:

1. The size of all structural stabilization measures shall be the minimum necessary.

2. Soft structural shoreline stabilization shall be used to the maximum extent practicable for new, enlarged, or replacement shoreline stabilization measures.

   a. Hard structural shoreline stabilization shall be limited to the portion or portions of the site necessary to protect or support existing shoreline structures or trees, or where necessary to connect to existing shoreline stabilization measures on adjacent properties.

3. Shoreline stabilization measures shall not extend waterward more than the minimum amount necessary, except for those elements that enhance shoreline ecological functions and minimize impacts.

4. The shoreline stabilization measure shall be designed to not interfere with normal surface and/or subsurface drainage into the adjacent waterbody.

5. The shoreline stabilization measure shall be designed to ensure that it does not restrict 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.

   a. Access measures shall not extend farther waterward than the face of the shoreline stabilization measure or the OHWM.

6. Natural features such as snags, stumps or uprooted trees that support fish and other aquatic systems shall be left undisturbed.

7. For enlarged or replacement soft and hard structural shoreline stabilization measures, the following location and design standards are preferred in descending order:

   a. Excavation and fill activities associated with the soft or hard structural shoreline stabilization landward of the existing OHWM; and/or

   b. Where Subsection a above is not practicable because of overriding safety or environmental concerns, necessary excavation and fill activities may be 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.

8. Shoreline stabilization measures shall mitigate any harmful impacts to ecological functions by incorporating the following measures, at a minimum, into the design:

    a. Restore 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;

    b. Plant native riparian vegetation, as necessary, along the shoreline frontage affected by the new or enlarged stabilization; and

    c. Additional mitigation measures may be required by the City, or state or federal agencies.

9. 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. 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.

10. Upon project completion, all disturbed shoreline areas shall be restored to as near pre-project configuration as possible and replanted with native grasses, shrubs, and/or trees in keeping with existing bank vegetation.

11. 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 with Pierce County, consenting to the shoreline jurisdiction creation and/or increase on such property.

<u>Soft Structural Stabilization Design</u>

L. In addition to the above design regulations applicable to both hard or soft structural shoreline stabilization measures, soft structural shoreline stabilization measures shall adhere to the following design regulations:

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.

    a. When hard structural shoreline stabilization measures are required because of neighboring hard-structural measures, the tie into existing hard structures shall be allowed only within 10 feet of the property lines.

b. The length of hard structural shoreline stabilization transition area to adjacent properties should be minimized to the greatest extent practicable.

c. The hard structural shoreline stabilization transition area shall not extend waterward of the OHWM, except as necessary to connect 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 and dissipates current energy, without presenting extended linear faces to oncoming currents.

Hard Structural Stabilization Design

M. In addition to the above design regulations applicable to both hard or soft structural shoreline stabilization measures, hard structural shoreline stabilization measures shall adhere to the following design regulations if feasible:

1. Hard structural shoreline stabilization measures shall be sloped landward to provide some dissipation of river energy and increase the quality or quantity of nearshore shallow-water habitat.

2. In those cases when hard structural shoreline stabilization is approved 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 so the proposed stabilization will not cause erosion of the adjoining properties.

3. When hard structural shoreline stabilization is approved 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.

4. Fill behind hard structural shoreline stabilization shall be limited to one cubic yard per lineal foot of stabilization. Any filling in excess of this amount shall be considered a regulated activity subject to the regulations in this SMP pertaining to fill activities.

5. The following regulations apply to the use of riprap:

a. Riprap material shall consist of clean quarried rock, free of loose dirt and any pollutants, and shall be of sufficient size and weight to prevent movement by river action;

b. Use of downed logs, snags, or rock to enhance habitat and to provide a more natural appearance to the shoreline shall be incorporated into the design; the

logs may be anchored to the shoreland to reduce the possibility of unplanned transport; and

c. Where on-site environmental conditions allow, vegetation shall be incorporated into the riprap design to reduce erosion, provide cover, shade and habitat and improve the natural appearance of the shoreline, consistent with the applicable vegetation management provisions of this master program.

6. Because of their limited durability and the potential hazard to shore users and the shoreline environment, gabions (wire mesh filled with concrete or rocks) shall not be used where alternatives more consistent with this program are feasible.

7. All structures should include fish habitat elements.

6.19.4. Environments

A. Shoreline stabilization is a permitted use in the **special use environment**, subject to the policies and regulations of this SMP.

B. Shoreline stabilization conditional use in the **urban conservancy**, **natural**, and **aquatic environments**, subject to the policies and regulations of this SMP.

6.20 Signs

6.20.1 Applicability

A sign is any communication device, structure, or fixture that is intended to aid an establishment in identification and to advertise and/or promote a business, service, activity, or interest. A sign shall not be considered to be a building or structural design, but shall be restricted solely to graphics, symbols, or written copy used for any identification, promotional, or advertising purpose.

6.20.2 Policies

A. Signs should be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses.

B. Signs should not block or otherwise interfere with visual access to the water or shorelands.

C. Signs should be only for safety, directions, navigation, recreational, or environmental education purposes.

6.20.3 Regulations

A. All signs shall avoid interference with habitat, vistas, viewpoints, and physical or visual access to the shoreline.

B. Signs for access, easements, safety, directions, navigation, recreational or environmental education purposes are permitted within shoreline jurisdiction.

C. The following types of signs are prohibited in shoreline jurisdiction:

1. Animated or moving signs (rotating, flashing, blinking, chasing or scintillating) either mechanically, by illumination or by electronics;

2. Displays or banners, clusters of flags, posters, pennants, ribbons, streamers, spinners, twirlers or propellers, balloons, searchlights, portable signs, bubble machines and similar devices of a carnival nature or containing elements creating sound or smell;

3. Off-premises signs, except:

   a. Community bulletin board signs;

   b. Off-premises public service signs; or

   c. Off-premises non-commercial permanent directional signs.

4. Signs placed on trees or other natural features; and

5. Internally or externally illuminated signs.

6.20.4. Environments

A. Sign placement is a permitted use in the **special use, urban conservancy,** and **natural environments**, subject to the policies and regulations of this SMP.

B. Sign placement is a conditional use in the **aquatic environment**, subject to the policies and regulations of this SMP.

6.21 Transportation and Parking

6.21.1 Applicability

Transportation facilities are those structures and developments that aid in the movement of people, goods, and services. Such facilities include roads, bridges, and trails, among others.

Parking is the temporary storage of automobiles or other motorized vehicles.

Also see SMP 6.16 for more information on trails.

6.21.2 Policies

General Policies

A. Where other options are available and feasible, new transportation and parking facilities (including new roads or road expansions, but excluding trail facilities) should not be built within shoreline jurisdiction.

B. New transportation and parking facilities in shoreline jurisdiction should be allowed only when necessary to support allowed shoreline development.

C. Proposed transportation and parking facilities should be planned, located, and designed where routes:

1. Will have the least possible adverse effect on shoreline features;
2. Will not result in a net loss of shoreline ecological functions; or
3. Will not interfere with existing or planned water-dependent uses.

D. When transportation and parking facilities must be located along shorelines, they should be planned, located, and designed to minimize:

1. The amount of land consumed;
2. The need for shoreline protection measures;
3. Modifications to natural drainage systems; and
4. Alterations to the existing topography.

Transportation Policies

E. Roads should not run parallel to shorelines.

F. Joint use of transportation facilities for multiple purposes, such as utility collocation, should be encouraged.

G. Trails, including the Foothills Trail, should be encouraged along shorelines where they are compatible with the natural character, resources, and ecology of the shoreline.

H. Abandoned or unused transportation corridors that offer opportunities for public access to the water should be acquired and/or retained for such use.

Parking Policies

I. Where possible, parking should serve more than one use.

J. Parking should be designed to incorporate low-impact development practices, such as pervious surfaces.

K. Safe pedestrian access from parking lots to shoreline uses should be provided.

L. Parking should not be allowed as a primary use.

6.21.3 Regulations

General Regulations

A. New roads and parking facilities are allowed in association with authorized shoreline uses that are located in shoreline jurisdiction, unless the new road or parking facility is proven infeasible. When allowed, new roads and parking facilities shall be located as far landward as possible.

1. Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading, and alteration of topography and natural features, especially natural drainage patterns and springs.

2. Road alignment shall follow the natural contours of the site and minimize road or trail width to the greatest extent feasible while meeting applicable government standards.

B. Transportation and parking facilities shall avoid critical areas and their buffers.

C. When transportation and parking facilities must be located along shorelines, they shall be planned, located, and designed to minimize:

1. The amount of land consumed;

2. Modifications to natural drainage systems; and

3. Alterations to the existing topography.

D. All transportation and parking facilities shall be designed, constructed, and maintained to contain and control all debris, overburden, runoff, erosion and sediment generated from the affected areas.

E. Transportation and parking facility planning shall include systems for pedestrian, bicycle, and public transportation.

F. Vacated streets abutting the shoreline shall be maintained as public access points when feasible.

G. Fill for transportation and parking facility development is prohibited in water bodies, associated wetlands and their buffers. Fill may be allowed as a conditional use in support of a state highway crossing below the OHWM, when it is demonstrated to be necessary and the impact is mitigated in accordance with section 5.7.3 of this SMP.

1. New transportation and parking facilities shall be located or constructed in such a way that shoreline protection measures likely will be unneeded.

Transportation Regulations

H. Transportation facilities shall use existing transportation corridors whenever possible, provided that facility additions and/or modifications will not adversely impact shoreline resources and are otherwise consistent with this program.

I. Transportation and primary utility facilities shall make joint use of rights-of-way and consolidate crossing water bodies to reduce adverse impacts to the shoreline.

J. Transportation facilities shall minimize the need to route surface waters through culverts.

1. Culverts and similar devices encountered by fish shall not impede fish-passage or hydrology.

K. Transportation facilities allowed to cross over water bodies and/or wetlands shall use elevated, open pile or pier structures. Waterway crossings shall be designed to provide minimal disturbance to banks. New bridge abutments and necessary approach fills shall be located landward of the OHWM and any wetlands.

L. The City shall give preference to mechanical means rather than the use of herbicides for roadside brush control on City roads in shoreline jurisdiction.

1. Herbicide use shall follow the provisions in Section 5.5, Vegetation Conservation and Section 5.6, Water Quality, Stormwater and Nonpoint Pollution.

M. Transportation facilities shall not be located over water with the exception of bridges that are part of a public road system and/or for pedestrian trails.

Parking Regulations

N. Parking in shoreline jurisdiction is allowed only to support an authorized use.

O. Parking that does not require a shoreline location to carry out its functions shall be located outside of shoreline jurisdiction.

P. Parking facilities for shoreline activities shall provide safe and convenient pedestrian circulation within the parking area and to the shorelines.

Q. Parking facilities shall provide adequate measures to prevent surface water runoff from contaminating water bodies, using best available technologies, and include a maintenance program that will assure proper functioning of such facilities over time.

R. Parking facilities shall be designed and landscaped to minimize adverse impacts on adjacent shoreline and abutting properties.

S. Parking lot landscaping shall consist of native vegetation and be planted before completion of the parking area in such a manner that plantings provide effective screening within three years of project completion.

T. Parking as a primary use is prohibited within shoreline jurisdiction.

6.21.4. Environments

A. New road construction is a conditional use in the **special use** and **urban conservancy environments**, subject to the policies and regulations of this SMP.

B. Except for pedestrian bridges and highway bridges for public uses, road construction is prohibited in the **aquatic environment**.

C. Except for a demonstrated need to expand the highway, road construction is a prohibited use in the **natural environment**.

D. Parking as a primary use is prohibited in **all environments**.

E. Parking as an accessory use is a permitted use in the **special use** and **urban conservancy environments**, subject to the policies and regulations of this SMP.

F. Parking as an accessory use is conditional use in the **natural environment**, subject to the policies and regulations of this SMP.

G. Parking as an accessory use is prohibited in the **aquatic environment**.

6.22 Utilities (primary)

6.22.1 Applicability

Utilities provisions apply to services and facilities that produce, convey, store, or process power, gas, sewage, communications, oil, waste, and the like. On-site utility features serving a primary use, such as water, sewer or gas lines to a residence, are accessory utilities.

6.22.2 Policies

A. Utility facilities and corridors should preserve the natural landscape and minimize conflicts with present and planned land uses.

B. Utility facilities and corridors should protect scenic views.

C. Utility corridors should be placed underground to avoid aesthetic impacts to the shoreline.

D. Placement of utilities in existing rights-of-way is encouraged; whenever feasible, utilities should be placed in existing transportation corridors, rights-of-way, or easements to minimize adverse impacts to the shoreline.

E. Facility maintenance that disrupts shoreline ecological functions should be discouraged.

F. All utility facilities should assure no net loss of shoreline ecological functions.

6.22.3 Regulations

A. Non-water oriented utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities that are non-water-oriented, shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.

B. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of shoreline jurisdiction where feasible.

C. Transmission and distribution facilities, if allowed, shall cross areas of shoreline jurisdiction by the shortest, most direct route feasible, unless such a route would cause significant environmental damage.

D. Where major facilities must be placed in shoreline jurisdiction, the location and design shall be chosen so as not to destroy or obstruct scenic views.

E. New utility lines including electricity, communications, and fuel lines shall be located underground, except where infeasible.

F. Utility lines shall use existing rights-of-way, corridors, and/or bridge crossings whenever possible.

G. Utility development shall, through coordination with the City and other entities, provide for compatible, multiple uses of sites and rights-of-way. Multiple uses might include shoreline public access points, trail systems, or other uses, provided that such uses will not unduly interfere with utility operations, endanger public health and safety, or create a significant and disproportionate liability for the owner.

H. All utility system projects and maintenance shall be designed, located, and installed in a manner that results in no-net-loss of ecological function.

I. All new pipelines not exempt under WAC 173-27-040, transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality, require a conditional use permit. All project applications for said pipelines must convincingly demonstrate that the pipeline includes adequate measures to prevent impacts to aquatic life and water quality, including automatic shut-off valves on both sides of the water body.

6.22.4. Environments

A. The following uses are prohibited in **all environments**:

1. Solid waste disposal facilities;
2. Telecommunications facilities; and
3. New wastewater treatment plants.

B. Public water supply wells are prohibited in the **special use** and **aquatic environments**.

C. Public water supply wells and associated corridors are permitted in the **urban conservancy** subject to the policies and regulations of this SMP. Public water supply wells are permitted in the **natural environment** west of SR 410 only when it is demonstrated that the placement of such a well is not feasible in the **urban conservancy environment**, subject to the policies and regulations of this SMP.

D. Sewage, gas, electricity and other utility lines not mentioned in SMP 6.22.4.A and B as prohibited are conditional uses in the **aquatic environment** (i.e. in the water), but any utility may be permitted above the **aquatic environment** as an ancillary structure to a bridge, for example, or may be bored under the river.

E. Sewage, gas, electricity and other utility lines not mentioned in SMP 6.22.4.A and B as prohibited are permitted in the **special use environment**, subject to the policies and regulations of this SMP.

F. Sewage, gas, electricity and other utility lines not mentioned in SMP 6.22.4.A and B as prohibited are conditional uses in the **urban conservancy** and **natural environments**, subject to the policies and regulations of this SMP.

6.23 Utilities (accessory)

6.23.1 Applicability,

Accessory utilities are on-site utility features serving a primary use, such as a power or water line. Accessory utilities do not carry significant capacity to serve other users and are considered a part of the primary use. They are addressed in this section because they concern many types of development and have the potential to impact the quality of the shoreline and its waters.

6.23.2 Policies

A. Accessory utilities are necessary to serve shoreline uses and should be properly installed to protect the shoreline and its waters from contamination and degradation to ensure no net loss of ecological functions.

B. Accessory utility facilities and access ways should be located outside shoreline jurisdiction. When infeasible to place outside the shoreline jurisdiction, the following policies should be followed:

1. Utilities should be placed underground.

2. Shoreline views should not be affected; above-ground utilities should be screened with native vegetation.

3. Revegetation should be in accordance with SMP 5.5.

4. Pollutants should be avoided.

C. Accessory utility facilities should preserve the natural landscape and shoreline ecological processes and functions and minimize conflicts with present and planned land uses.

6.23.3 Regulations

A. In shoreline areas, accessory utility transmission lines, pipelines and cables shall be placed underground.

1. Accessory utility transmission lines, pipelines and cables shall be placed in existing rights-of-way, driveways, corridors and/or bridge crossings whenever possible.

2. Proposals for new corridors in shoreline areas involving water crossings must demonstrate the need for a shoreline location.

3. Accessory utilities shall be placed landward from above-ground structures.

B. Through coordination with government agencies, accessory utility development shall provide for compatible multiple use of sites and rights-of-ways.

1. Such uses include shoreline access points, trails, and other forms of recreation and transportation systems, provided such uses will not unduly interfere with utility operations or endanger public health and safety.

C. Sites disturbed for accessory utility installation shall be stabilized during and following construction to avoid adverse impacts from erosion.

1. See vegetation conservation section SMP 5.5.

D. Utility discharges and outfalls shall be located, designed, constructed, and operated in accordance with best management practices to ensure water quality is maintained.

E. Utilities that need water crossings shall be placed deep enough to avoid the need for bank stabilization and stream/riverbed filling both during construction and in the future because of flooding and bank erosion that may occur over time.

1. Utility water crossings shall be installed using boring (as opposed to open trenching) unless infeasible.

6.23.4. Environments

A. Accessory utilities are permitted in **all environments**, subject to the policies and regulations of this SMP.

7 ADMINISTRATIVE AND NON-CONFORMING DEVELOPMENT PROVISIONS

7.1 Purpose and Applicability

The purpose of this chapter is to establish an administrative system design to assign responsibilities for SMP implementation and to outline the process of review for shoreline proposals and applications.

All proposed uses and development occurring within shoreline jurisdiction must conform to chapter RCW 90.58, the Shoreline Management Act, and this master program.

If inconsistencies or conflicts with other administrative sections of the City's municipal code occur, this chapter shall prevail.

7.2 Permits

In 1971, the Washington State Legislature passed into law the Shoreline Management Act (SMA), which regulates the uses and management of Washington's shorelines. Local government is given the primary responsibility for administrating the Act through the City's Shoreline Management Program (SMP). The White River is the only waterbody presently under the jurisdiction of the City of Buckley that is covered by the Act. Shoreline jurisdiction in the City includes any portions of properties located in:

A. All areas waterward of the ordinary high water mark (OHWM);

B. All landward areas within 200 feet of the OHWM;

C. All landward areas 200 feet from a floodway; and

D. All associated wetlands.

Please see Section 4.1, Shoreline Jurisdiction, for a more detailed discussion of the City's shoreline jurisdiction.

The SMP requires review of any development within shoreline jurisdiction. These reviews are divided into four basic permissions: a Letter of Exemption (SSDE), a Shoreline Substantial Development Permit (SSDP), a Shoreline Variance (SVAR), and a Shoreline Conditional Use Permit (SCUP).

7.2.1 General Permit Information

All shoreline permits require a fee. All aspects of development are to be disclosed in the shoreline permit application.

Shoreline exemptions (SSDE) and shoreline substantial development (SSDP) permits are issued after review by the City. SSDPs are sent to the Attorney General's Office (AGO)

and the State Department of Ecology (DOE). The DOE reviews the requests, determines whether the submittal is complete according to state laws, reviews the requests against the city's SMP, and files the city's final decision. A Notice of Filing is sent to the applicant and city. Appeals may be filed within 21 days from the date of filing.

SVARs and SCUPs follow a similar process, but instead of the state merely reviewing the city's decision, it has the responsibility to approve or disapprove the permit.

Information common to all shoreline permit applications includes the following:

A. Applicants shall apply for permission to use or develop shorelines on forms provided by the City. Additional submittal requirements are given for state review in WAC 173-27-180.

B. SSDPs are administrative applications with decisions given by the shoreline administrator. SCUPs and SVARs require public hearings with the city's Board of Adjustment, which renders the city's decisions.

C. Submittal Requirements.

For all shoreline applications, all items listed in the applications are minimum requirements. For various development permits, additional items are required, as follows:

1. Applicants shall demonstrate that reasonable efforts were examined with the intent to minimize impacts to the shoreline jurisdiction. Mitigation plans shall be submitted for all proposed impacts.

2. **Clearing and Grading (SMP Section 5.5)**
   See Vegetation Conservation below.

3. **Dredging (SMP Section 6.9)**
   In addition to the information required for a Shoreline Conditional Use Permit application, the following information shall be required for all dredging applications:

   a. A description of the purpose of the proposed dredging and an analysis of compliance with the policies and regulations of this SMP.

   b. An analysis of the existing shoreline and potential adverse impacts, including the following:

      i. 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 two-foot depth increments. Topographical references are to be in NAVD 1929 until such time as the FEMA maps are updated, and the vertical datum is in 1988 terms;

ii. 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;

iii. A detailed description of potential adverse impacts to ecological functions and processes; and

iv. A mitigation plan to address any identified adverse impacts to ecological functions or processes.

c. A detailed description of the physical, chemical, and biological characteristics of the dredge materials to be removed, including:

i. Physical analysis of material to be dredged (material composition and amount, grain size, organic materials present, source of material, etc);

ii. Chemical analysis of material to be dredged (volatile solids, chemical oxygen demand, grease and oil content, mercury, lead and zinc content, etc); and

iii. Biological analysis of material to be dredged.

d. A description of the method of materials removal, including facilities for settlement and movement.

e. Dredging procedure, including the estimated length of time it will take to complete dredging, method of dredging, and amount of materials removed.

f. Frequency and quantity of project maintenance dredging.

g. Detailed plans for dredge spoil disposal, including specific land disposal sites and relevant information on the disposal site, including but not limited to:

i. Dredge material disposal area;

ii. Physical characteristics including location, topography, existing drainage patterns, surface and ground water;

iii. Size and capacity of disposal site;

iv. Means of transportation to the disposal site;

v. Proposed dewatering and stabilization of dredged material;

vi. Methods of controlling erosion and sedimentation; and

vii. Future use of the site and conformance with land use policies and regulations.

h. Plan for disposal of maintenance spoils for at least a 50-year period, if applicable.

i. Hydraulic modeling studies sufficient to identify existing geohydraulic patterns and probable effects of dredging.

4. Environmental Impacts (SMP Section 5.7)

a. For all projects, the applicant shall provide, in addition to the standard permit information requirements contained in WAC 173-27, a report prepared by a qualified professional describing existing conditions/ecological functions and anticipated shoreline environmental impacts (if any). Note that if a critical areas report must also be prepared pursuant to Appendix B, the shoreline and critical areas reports may be submitted as a single report.

b. If shoreline environmental impacts are identified, the applicant shall develop and implement a mitigation plan prepared by a qualified professional consistent with the requirements of the critical areas regulations in Appendix B.

i. The mitigation plan shall demonstrate that all reasonable efforts were taken to mitigate potential adverse impacts to ecological function resulting from new development and redevelopment in shorelines in the mitigation sequencing. Lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

(A) Avoid the impact altogether by not taking a certain action or parts of an action.

(B) Minimize impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.

(C) Rectify the impact by repairing, rehabilitating, or restoring the affected environment.

(D) Reduce or eliminate the impact over time by preservation and maintenance operations.

(E) Compensate for the impact by replacing, enhancing, or providing substitute resources or **environments**.

(F) Monitor the required compensation and take remedial or corrective measures when necessary.

ii. When compensatory mitigating measures are appropriate pursuant to the mitigation sequencing parts (2) through (5), preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact.

(A) Alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized.

(B) Performance and maintenance bonds may be required for the following:

(1) To ensure required mitigation measures provide no net loss of ecological functions; and

(2) To ensure the proposal meets all conditions of approval.

iii. The mitigation plan shall achieve no net loss of ecological functions.

5. Fill. (SMP Section 6.10)

In addition to shoreline permit application requirements, applications for fill shall include the following:

a. Proposed use of the fill area;

b. Physical, chemical, and biological characteristics of the fill material;

c. Source of fill material;

d. Method of placement and compaction;

e. Location of fill relative to natural and/or existing drainage patterns and wetlands;

f. Location of the fill perimeter relative to the OHWM;

g. Perimeter erosion control or stabilization means; and

h. Type of surfacing and runoff control devices.

6. **Floods (SMP 5.3)**

In addition to shoreline permit application requirements, applications for development in the flood plain shall include the following:

a. Existing shoreline stabilization and flood protection works within the area;

b. Physical, geological and soil characteristics of the area;

c. Biological resources and predicted impact to fish, vegetation and animal habitat associated with shoreline ecological systems;

d. Predicted impact on area shore and hydraulic processes, adjacent properties and shoreline and water uses; and

e. Analysis of alternative flood protection measures both structural and nonstructural.

7. **In-water work. (SMP Section 6.13)**

a. Applications shall include a copy of the JARPA application submitted to state and/or federal agencies and a list of to whom the JARPA was sent.

b. Applicants shall state that the project will comply with timing restrictions as set forth by state and federal project approvals.

8. **Shoreline stabilization permits. (SMP Section 6.19)**

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:

a. A geotechnical report prepared by a qualified professional with an engineering degree. The report shall include the following:

i. An assessment of the need for structural shoreline stabilization;

ii. An estimate of time frames and rates of erosion;

iii. A report on the urgency associated with the specific situation;

(A) New hard structural shoreline stabilization measures shall not be authorized, except when a report confirms that that an existing structure likely will be damaged within three years as a result of shoreline erosion and that in the absence of such hard structural shoreline stabilization measures, or where waiting until the need is immediate likely will result in the loss of opportunity to use measures that would avoid impacts on ecological functions.

(B) Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, the report may still be used to permit using soft measures.

iv. An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM;

v. An assessment of alternative measures to shoreline stabilization, including:

(A) Placing the development farther from the OHWM;

(B) Correcting any on-site groundwater or drainage issues that may be causing shoreline erosion; and/or

(C) Placing of "log jam" structures in the channel to pull the erosive force away from the eroding bank.

vi. 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; and

vii. Design recommendations for minimum sizing of hard structural or soft structural shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate river energy, eliminate scour, and provide long-term shoreline stability.

b. 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:

i. An assessment of the necessity for continued structural shoreline stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, flow velocities, and location of the nearest primary structure;

ii. An assessment of erosion potential resulting from natural processes operating at or waterward of the OHWM in the absence of the hard structural shoreline stabilization;

iii. An assessment of alternative measures to shoreline stabilization, including:

(A) Relocating the development farther from the OHWM; and

(B) Correcting any on-site groundwater or drainage issues that may be causing shoreline erosion.

iv. 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; and

v. Design recommendations for minimizing impacts of any necessary hard structural shoreline stabilization.

c. A demonstration of need is not required when an existing hard structural shoreline stabilization measure is to be repaired.

i. A demonstration of need is required when an existing hard stabilization measure is to be replaced.

ii. Soft measures can be waterward of the OHWM.

d. For all structural shoreline stabilization measures, including soft structural shoreline stabilization, detailed construction plans are required, including, but not limited to, the following:

i. Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs;

ii. 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:

(A) Protect the primary structures from erosion and other damage over the long term, and accommodate the normal amount of alteration from ecological processes; and

(B) Allow safe passage and migration of fish and wildlife.

iii. For projects that include native vegetation, a detailed five-year vegetation maintenance and monitoring program shall include the following:

(A) Goals and objectives of the shoreline stabilization plan;

(B) Success criteria by which the implemented plan will be assessed;

(C) 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

(D) A contingency plan in case of failure.

e. All soft structural shoreline stabilization projects shall include a program for monitoring and maintenance.

9. Utilities, Primary. (SMP Section 6.22)

In addition to permit application criteria, applications for installation of utility facilities in shoreline areas shall include the following:

a. Description of the proposed facilities;

b. Reasons(s) why the utility facility requires a shoreline location;

c. Alternative locations considered and reasons for their elimination;

d. Location of other utility facilities in the vicinity of the proposed project and any plans to include the facilities of other types of utilities in the project;

e. Plans for reclamation of areas disturbed both during construction and following decommissioning and/or completion of the primary utility's useful life;

f. Plans for control of erosion and turbidity during construction and operation; and

g. An analysis of the potential for locating the proposed facility at another existing utility facility site or within an existing utility right-of-way.

10. Vegetation Cnservation (SMP Section 5.5.3)

a. The City shall require and use the following information, in addition to the standard permit information requirements contained in WAC 173-27-180, in its review of all requests for vegetation removal:

i. Proposed timing of all construction phases of the project;

ii. Existing soil types, bank materials, and analysis of slope stability;

iii. Proposed materials that will be used on-site including:

A. Rock size, shape, and quantity;

B. Plant materials;

C. Soil preparations that provide optimal planting mediums for the vegetation proposed;

D. Areas to be seeded; and

E. Fencing;

iv. Existing and proposed slope profiles, including location of OHWM;

v. Design of transition areas between bioengineering site and adjacent properties; and

vi. Documentation (including photos) of existing preconstruction shoreline characteristics.

b. When clearing and/or grading is proposed, the application shall contain the following:

i. Existing vegetation to be removed and new vegetation to be planted to restore its function;

ii. An analysis how no net loss of vegetative habitat function will be achieved;

iii. A greater amount of new plantings to compensate for permanent development plans;

iv. Method of removal, soil amendment, plantings, and maintenance; and

v. Suggested amounts for performance and maintenance bonds.

D. Public Notice.

A notice of application shall be issued for all shoreline permit applications and provide specifically that the comment period for the notice of application for a shoreline permit shall be not less than 30 days, in accordance with WAC 173-27-110(2)(e).

E. Application Review.

The shoreline administrator shall make decisions on applications for SSDPs, and recommendations on applications for SCUPs and SVARs based on the following. (Also see SMP 7.2.2 and 3.):

1. The policies and procedures of the Shoreline Management Act and related sections of the Washington Administrative Code;

2. The City's SMP; and

3. The Buckley Municipal Code.

F. Board of Adjustment.

The Board of Adjustment (BOA) shall review an application for a SVARs and SCUPs and make decisions based on the following (Also see SMP 7.2.4 and 5):

1. This SMP;
2. The policies and procedures of the Shoreline Management Act and related sections of the Washington Administrative Code;
3. Written and oral comments from interested persons; and
4. Reports from the shoreline administrator.

G. Filing with Department of Ecology and Attorney General's Office.

All final shoreline permit decisions are filed with Ecology and the AGO when the local appeal period is completed.

Along with the city's decision on a SSDP, SCUP, or SVAR, a complete application as defined in WAC 173-27-180 and a transmittal letter shall be filed.

The city's decisions on shoreline variances are also accompanied by the review criteria found in WAC 173-27-170 when filed with Ecology and the AGO.

The city's decisions on shoreline conditional use permits are accompanied by the review criteria found in WAC 173-27-160 when filed with Ecology and the AGO.

H. Hold on Construction.

Each permit issued by the City shall contain a provision that construction pursuant to the permit shall not begin and is not authorized during the 21-day appeal period, which is considered from the date of filing with the Department of Ecology, per WAC 173-27-190 or as subsequently amended.

The "date of filing" was changed in July, 2011, to "date of receipt" and refers to the date that the applicant receives written notice from Ecology that the department received the decision for an SSDP. With regard to a permit for a variance or a conditional use, "date of receipt" means the date a local government or applicant receives the written decision of the department rendered on the variance or conditional use permit.

I. Duration Of Permits.

Construction, use, or activity shall commence within two years after approval of the permits. Authorization to conduct development activities shall terminate within five years after the effective date of a shoreline permit. The shoreline administrator may authorize a single extension before the end of either of these time periods, with prior

notice to parties of record and the Department of Ecology, for up to one year based on reasonable factors.

J. Compliance With Permit Conditions.

When permit approval includes conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity.

7.2.2 Exemptions

All development within the shoreline is subject to the requirements of this SMP, regardless of whether a substantial development permit is required.

Certain development is exempt from the requirement to obtain a substantial development permit. Exempt development still may require a variance or conditional use permit. Development that is exempt from needing a substantial development permit is identified in WAC 173-27-040, as amended.

The SSDE is the simplest authorization to obtain, and is a formal letter that states the City reviewed the proposal and declares it to be exempt from needing a Shoreline Substantial Development Permit. It also says the development complies with the goals and policies of the SMA, the city's SMP, and any other relevant city codes and may place conditions of approval to make the proposal meet the SMP and code requirements. The SSDE is decided by the shoreline administrator.

Further, WAC 173-27-050 states SSDEs are to be given when an exempt shoreline proposal requires a federal permit. This section reads:

> *Some projects conducted on shorelines of the state also require review and approval by federal agencies. Ecology is designated as the coordinating agency for the state with regard to permits issued by the U.S. Army Corps of Engineers. The following is intended to facilitate ecology's coordination of local actions, with regard to exempt development, with federal permit review.*
>
> *(1) The local government shall prepare a letter of exemption, addressed to the applicant and the department, whenever a development is determined by a local government to be exempt from the substantial development permit requirements and the development is subject to one or more of the following federal permit requirements:*
>
> *(a) A U.S. Army Corps of Engineers section 10 permit under the Rivers and Harbors Act of 1899; (The provisions of section 10 of the Rivers and Harbors Act generally apply to any project occurring on or over navigable waters. Specific applicability information should be obtained from the Corps of Engineers.) or*
>
> *(b) A section 404 permit under the Federal Water Pollution Control Act of 1972.*

(The provisions of section 404 of the Federal Water Pollution Control Act generally apply to any project which may involve discharge of dredge or fill material to any water or wetland area. Specific applicability information should be obtained from the Corps of Engineers.)

(2) The letter shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the local government's analysis of the consistency of the project with the master program and the act.

(3) Local government may specify other developments not described within subsection (1) of this section as requiring a letter of exemption prior to commencement of the development. [Statutory Authority: RCW 90.58.140(3) and [90.58].200. 96-20-075 (Order 95-17), § 173-27-050, filed 9/30/96, effective 10/31/96.]

7.2.3 Shoreline Substantial Development Permits

Review Criteria for Shoreline Substantial Development Permits are found in WAC Sections 173-27-140, 150, and 200.

The SSDP is a standard shoreline permit for development that is not exempt, such as docks on freshwater that cost more than $10, 000, and for other development that costs more than $6,416 or interferes with public use of the shoreline. The SSDP is decided by the shoreline administrator and is then sent to the state Department of Ecology and Attorney General's Office. The $6,416 cost figure is effective as of August 2012, and subject to change by the Office of Financial Management every five years.

7.2.4 Shoreline Conditional Use Permits

Review Criteria for Shoreline Conditional Use Permits are found in WAC Sections 173-27-140, 160, 200, and 210.

SCUPs can allow greater flexibility in applying use regulations. In authorizing SCUPs, special conditions may be attached to the permit by the City or the Department of Ecology to prevent undesirable effects of the proposed use.

A. Uses classified or set forth in the Shoreline Master Program as conditional uses may be authorized provided the applicant can demonstrate all of the following:

   1. That the proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the master program;

2. That the proposed use will not interfere with the normal public use of public shorelines;

3. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area;

4. That the proposed use will cause no unreasonably adverse· effects to the shoreline environment designation in which it is to be located;

5. That the public interest suffers no substantial detrimental effect; and

6. The proposal complies with all other applicable requirements, criteria and standards of the City.

B. Other uses that aren't classified or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate, in addition to the criteria set forth in SMP 7.2.4.A above, that extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of the master program.

C. Uses that are specifically prohibited by the master program cannot be authorized.

D. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses should also remain consistent with the policies of RCW 90.58.020 and should not produce substantial adverse effects to the shoreline environment.

7.2.5 Shoreline Variances

Review criteria for variance permits are found in WAC Sections 173-27-170 and 200.

The SVAR is used to allow development within shoreline jurisdiction that requires modified dimensional or bulk standards found in this SMP because of unique conditions on the project site. Such conditions might include the lot depth being too shallow to accommodate the proposed structure and prescribed setback. Like the SCUP, the SVAR is decided first by the City Board of Adjustment and then finally by the state.

The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the SMP where extraordinary or unique circumstances exist. These extraordinary or unique circumstances must relate to the property in such a way that the strict implementation of the SMP will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

Of the decision criteria listed in WAC 173-27-170, if one criterion cannot be met, the variance must be denied. The criteria are written for both landward and in- or over-water proposals.

These criteria include:

A. Variance permits should be granted in a circumstance where denial of the application would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances, extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect. Any permit for a variance must be submitted to the Department of Ecology for approval or disapproval.

B. Except within wetlands, applications for variances where the development authorized by the variance will be located landward of the ordinary high water mark may be approved or approved with conditions or modifications provided the applicant can demonstrate all of the following:

   1. That the strict application of the bulk, dimensional or performance standards set forth in this SMP precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by the SMP;

   2. That the hardship described in 2(a) above is specifically related to the property, and is a result of unique conditions such as irregular lot shape, size, or natural features and the application of the SMP, and not, for example, from deed restrictions or the applicant's own actions;

   3. That the design of the project is compatible with other allowed activities and uses in the area and will not cause adverse effects to adjacent properties or the shoreline environment;

   4. The variance will not constitute a grant of special privilege not enjoyed by the other properties in the area, and is the minimum necessary to afford relief per WAC 173-27-170(2)(e); and

   5. The public interest will suffer no substantial detrimental effect.

   Shoreline variances for work within wetlands are not allowed.

C. Applications for variances where the development authorized by the variance will be located either waterward of the ordinary high water mark or within wetlands may be approved or approved with conditions or modifications provided the applicant can demonstrate all of the following:

   1. That the strict application of the bulk, dimensional or performance standards set forth in this SMP precludes a reasonable use of the property not otherwise prohibited by the SMP;

   2. That the proposal is consistent with the criteria established under (2)(b) through (e) of this section; and

3. That the public rights of navigation and use of the shorelines will not be adversely affected.

D. In the granting of all variances, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted for other developments in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

E. Requests for varying the use to which a shoreline area is to be put are not requests for variances but rather for conditional uses. Such requests shall be evaluated using the criteria set forth in Section 7.2.4, Shoreline Conditional Use Permits.

7.3 Nonconforming development

Nonconforming shoreline development includes structures and uses. A structure could be a fence, building, or bulkhead; a use is what the land or structure is used for, such as commercial, residential, or recreational. Unless specifically called out, the term "nonconforming development" means both structures and uses.

Legal nonconforming development shall follow the following standards:

A. Nonconforming development may be continued; provided, it is not enlarged, intensified, increased, or altered in any way that increases its nonconformity;

B. A nonconforming development that is moved any distance must be brought into conformance with the Buckley master program and the Shoreline Management Act;

C. If a nonconforming structure is damaged to an extent not exceeding 75 percent replacement cost of the original development, it may be reconstructed to those configurations existing immediately before the structure was damaged, as long as restoration is completed within one year from the date of damage;

D. If a nonconforming use is discontinued for 12 consecutive months or for 12 months during any two-year period, any subsequent use shall be conforming. It shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire;

E. A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming or nonconforming status of the building or structure in which it is housed; and

F. An undeveloped lot, tract, parcel, site, or division that was established prior to the effective date of the Act or this master program and does not conform to the current lot size or density standards may be developed as long as such development conforms to other requirements of this master program and the Act.

7.4 Enforcement and Penalties

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. ... There is, therefor, 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 incidental thereto. ...

Writing and implementing a plan is one part of the state's goal. Enforcing the plan is another part. Enforcement can come through establishing conditions of approval to make a proposal meet each criterion listed in the SMP, and it can come through notices of violation and penalty assessment when work is performed without permits or when development doesn't comply with the approved permit.

To better adapt permit and enforcement procedures and to best integrate them into the City's processes, the City provides for permit and enforcement procedures in Chapters 1.12, 19.42 and 20.01 BMC. These procedures must conform to RCW 90.58.140, 90.58.143, 90.58.210, and 90.58.220, as well as Chapter 173-27 WAC.

A. It is a violation of the SMP to initiate or maintain or cause to be initiated or maintained the use of any structure, land or property within the shorelines of the City without first obtaining the permits or authorizations required for the use.

B. It is a violation of the SMP for any person to use, construct, locate, or demolish any structure, lands or property within shorelines of the City in any manner that is not permitted by the terms of any permit or authorization issued through this SMP, provided that the terms or conditions are explicitly stated on the permit or the approved plans.

C. It is a violation of the SMP to remove or deface any sign, notice, or order required by or posted in accordance with this SMP.

D. It is a violation of this SMP to misrepresent any material fact in any application, plans, or other information submitted to obtain any shoreline use or development authorization.

E. It is a violation of the SMP for anyone to fail to comply with any other requirement of this SMP.

F. Except for emergencies (see WAC 173-27-040(2.d)), for permits requested after development is performed, or for restoration work that is required because a permit was not first requested before the work was done, all associated permit fees shall be triple that which is ordinarily charged (hourly charge fees shall also be triple and include maintenance oversight).