# WOODLAND PLANNING COMMISSION AGENDA

Planning Commission Regular Meeting – 7:00 PM

THURSDAY, SEPTEMBER 18, 2014

Woodland City Council Chambers
200 E Scott Avenue, Woodland, Washington

**CALL TO ORDER – 7:00 PM**

**APPROVAL OF MINUTES**

- August 28, 2014 meeting minutes

**WORKSHOP**

- Shoreline Master Program Update
  - Presentation by Parametrix/The Watershed Company
  - Draft Code

- Recreational Marijuana Ordinance
  - Staff Report
  - Draft Code

- Non-conformities
  - Staff Report
  - Draft Code

**UPDATE**

- Project status - Report

**ADJOURN**

cc: Post (City Hall Annex, Library, Post Office, City Hall)
City of Woodland website
Planning Commission (5)
City Council (7)
Mayor
Department Heads

# DRAFT 1 - SHORELINE MASTER PROGRAM

City of Woodland

September 2014

# CITATION

Parametrix and The Watershed Company. 2014. Draft 1 - Shoreline Master Program, City of Woodland. Prepared by Parametrix and The Watershed Company. September 2014.

# ACKNOWLEDGEMENTS

The Woodland Planning Staff would like to extend their thanks and appreciation to the residents of the City of Woodland for their contributions throughout development of this Shoreline Master Program. Special thanks to members of the Shoreline Technical Advisory Committee for their thoughtful input and countless hours of dedication [names].

*Shoreline Master Program Update Resolution #_____ adopted [date].

Please provide the names of the parties to acknowledge:

**CITY COUNCIL**

ADD NAMES

**PLANNING COMMISSION**

ADD NAMES

**PROJECT MANAGEMENT TEAM**

ADD NAMES

**TECHNICAL ADVISORY COMMITTEE**

ADD NAMES

**CONTRIBUTING STAFF**

ADD NAMES

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# 1. Introduction

## 1.1 Title

This document shall be known and may be cited as the City of Woodland (City) Shoreline Master Program (this Program).

## 1.2 Adoption Authority

This Program is adopted under the authority granted by the Shoreline Management Act (SMA, or the Act) of 1971 (Revised Code of Washington [RCW] 90.58) and Chapter 173-26 of the Washington Administrative Code (WAC) as amended.

## 1.3 Purpose and Intent

A. To guide the future use and development of shorelines in the City in a positive, effective, and equitable manner consistent with the Act;

B. To promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of the City's shorelines; and

C. To experience no net loss of shoreline ecological functions and processes and to plan for restoring shorelines that have been impaired or degraded by adopting and fostering the following policy contained in RCW 90.58.020, Legislative Findings for shorelines of the state:

*"It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner, which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto. . . .*

*In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent upon use of the State's shoreline. Alterations of the natural condition of the shorelines of the State, in those limited instances when authorized, shall be given priority for single family residences, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements*

*facilitating public access to shorelines of the State, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the State, and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the State.*

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

## 1.4 Governing Principles

A. The goals, policies, and regulations of this Program are intended to be consistent with the Washington State (State) shoreline master program guidelines in Chapter 173-26 of the WAC. The goals, policies, and regulations are informed by the Governing Principles in WAC 173-26-186 and the policy statements of RCW 90.58.020.

B. Any inconsistencies between this Program and the Act must be resolved in accordance with the Act.

C. Regulatory or administrative actions contained herein in Chapter 8, Shoreline Administration and Permits, must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.

D. The regulatory provisions of this Program are limited to shorelines of the state, whereas the planning functions of this Program extend beyond the designated shoreline boundaries, given that activities outside the shoreline jurisdiction may affect shorelines of the state.

E. The policies and regulations established by this Program must be integrated and coordinated with those policies and rules of the Woodland Comprehensive Plan and development regulations adopted under the Growth Management Act (RCW 36.70A) and RCW 34.05.328, Significant Legislative Rules.

F. Protecting the shoreline environment is an essential statewide policy goal, consistent with other policy goals. This Program protects shoreline ecosystems from such impairments in the following ways:

    1. By using a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by shorelines;

    2. By including policies and regulations that require mitigation of adverse impacts in a manner that ensures no net loss of shoreline ecological functions. The required mitigation shall include avoidance, minimization, and compensation of

impacts in accordance with the policies and regulations for mitigation sequencing in WAC 173-26-201(2)(e), Environmental impact mitigation;

3. By including policies and regulations to address cumulative impacts and by fairly allocating the burden of addressing such impacts among development opportunities; and

4. By including regulations and regulatory incentives designed to protect shoreline ecological functions, and to restore impaired ecological functions where such functions have been identified.

## 1.5 Liberal Construction

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

## 1.6 Severability

Should any section, subsection, paragraph, sentence, clause or phrase of this Program or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation. The City Council of the City of Woodland (City Council) hereby declares that it would have adopted this ordinance and each section, subsection sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

## 1.7 Relationship to Other Plans and Regulations

A. Proponents of shoreline use or development shall comply with all applicable laws prior to commencing any shoreline use or development.

B. Where this Program makes reference to any RCW, WAC, or other local, state, or federal law or regulation, the most recent amendment or current edition shall apply.

C. Uses, developments, and activities regulated by this Program may also be subject to the provisions of the following: the City of Woodland Comprehensive Plan; the Washington State Environmental Policy Act (SEPA; RCW 43.21C and WAC 197-11); other provisions of Woodland Municipal Code (WMC), specifically WMC Title 17 Zoning; and various other provisions of local, state, and federal law, as may be amended.

D. In the event this Program conflicts with other applicable City policies or regulations, they must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous, and unless otherwise stated,

the provisions that provide the most protection to shoreline ecological processes and functions shall prevail.

E. Projects in the shoreline jurisdiction that have been previously approved through local and state reviews are vested. Major changes that were not included in the originally approved permit will be subject to the policies and regulations of this Program.

## 1.8 Effective Date

This Program and all amendments thereto shall take effect fourteen (14) days after written notice of approval from the Washington State Department of Ecology (Ecology) and shall apply to new applications submitted on or after that date and to applications that have not been determined to be fully complete by that date. This program was adopted by City Council with Ordinance # _____ and went into effect after final approval by Ecology on DATE (Resolution #_____).

# 2. Definitions

The following definitions shall be used to guide the implementation of this Program. In the event of any question about the use, applicability, or interpretation of these terms, the City shall make an administrative determination in consultation with Ecology, as appropriate.

**Accessory** - A use, building or structure that is subordinate to and the use of which is incidental to that of the main activity, structure, building or use on the same lot or parcel. If an accessory structure is attached to the main building by a common wall or roof, such accessory building shall be considered a main part of the main building.

**Accretion** - The growth of land by the addition of material transported by wind and/or water.

**Act** - The Washington State Shoreline Management Act of 1971, as amended, chapter RCW 90.58.

**Act** (for the purposes of Appendix B, Critical Areas Regulations) - The Growth Management Act (GMA).

**Adjacent Lands** - Lands adjacent to the shorelines of the state (not within shoreline jurisdiction) (RCW 90.58.340).

**Adjacent to** - Immediately adjoining (in contact with the boundary of the subject area) or within a distance that is less than that needed to separate activities from critical areas to ensure protection of the function and values of the critical areas. **Adjacent to** shall also mean any activity or development located:

1. On a site immediately adjoining a critical area;

2. A distance equal to or less than the required critical area buffer or zoning and building setback requirements;

3. A distance equal to or less than one-half mile (2,640 feet) from a bald eagle's nest;

4. A distance equal to or less than 300 feet upland from a stream, wetland or waterbody;

5. Bordering or within the floodway, floodplain, or channel migration zone; or

6. A distance equal to or less than 200 feet from a critical aquifer recharge area.

**Agriculture** or **agricultural activities** - Agricultural uses and practices including, but not limited to, producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow (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.

**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.

**Agricultural land** – 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.

**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.

**Agricultural uses (existing and ongoing)** (for purposes of implementing Appendix B) - Farming, horticulture, aquaculture, irrigation or grazing of animals, and those activities involved in the production of crops or livestock, for example:

1. The operation and maintenance of farm and stock ponds or drainage ditches;

2. The operation and maintenance of all irrigation systems and their components;

3. Changes between agricultural activities (i.e., crops to grazing, farming to fallow);

4. Fencing activity.

5. Normal maintenance, repair, or operation of existing agricultural-related structures, facilities, or improved areas;

6. Preparation of the land for agricultural uses.

**Alteration** – A human action which results in a physical change to the existing condition of land or improvements including but not limited to: clearing vegetation, filling and grading and construction of structures or facilities including impervious surfaces.

**Amendment** – A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

**Anadromous fish** – Any fish that spans and rears in freshwater and matures in the marine environment.

**Applicant** - Any person or business entity, which applies for a development proposal, permit, or approval, who is the owner of the land on which the proposed activity would be located, a contract purchaser, or authorized agent of such a person.

**Appurtenance** – A structure or development incidental to a primary use.

**Aquaculture** – 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.

**Aquifer** - A geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

**Aquifer recharge area** - Areas which, due to the presence of certain soils, geology, and surface water, act to recharge groundwater by percolation. (Also critical aquifer recharge area.)

**Associated Wetlands** – Those wetlands that are in proximity to and either influence or are influenced by tidal waters or a lake, river or stream subject to the Shoreline Management Act.

**Average grade level** – The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure. In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.

**Base flood** - A flood event having a one percent chance of being equaled or exceeded in any given year, also referred to as the one-hundred-year flood.

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

**Best Management Practices (BMP)** – The schedules of activities, prohibitions of practices, maintenance procedures, and structural or managerial practices approved by Ecology that, when used singly or in combination, control, prevent or reduce the release of pollutants and other adverse impacts to waters of the State.

**Bioengineering** – The use of biological elements, such as the planting of vegetation, often in conjunction with engineered systems, to provide a structural shoreline stabilization measure with minimal negative impact to the shoreline ecology.

**Boating facility for the purposes of this Program** – Any public or private facility for mooring, storing, or transfer of materials from vessels on the water, such as docks and piers, including on-land related facilities such as approaches and ramps, and includes any private and publicly accessible launch sites or facilities. A boating facility does not include on-land accessory facilities such as parking or storage. Docks, buoys, and marine railways that are accessory to four (4) or fewer single-family residences are also not boating facilities.

**Breakwater** – A structure aligned parallel to shore, sometimes shore-connected, that provides protection from waves.

**Buffer** – An area adjacent to a critical area that functions to avoid loss or diminution of the ecologic functions and values of the critical area. Specifically, a buffer may:

1. Preserve the ecologic functions and values of a system including, but not limited to, providing microclimate conditions, shading, input of organic material, and sediments; room for variation and changes in natural wetland, river, or stream characteristics; providing for habitat for lifecycle stages of species normally associated with the resource; and

2. Physically isolate a critical area such as a wetland, river, or stream from potential disturbance and harmful intrusion from surrounding uses using distance, height, visual, and/or sound barriers, and generally including dense native vegetation, but also may include human-made features such as fences and other barriers;

3. Act to minimize risk to the public from loss of life, well-being, or property damage resulting from natural disasters such as from landslide or flooding.

**Building height in Shoreline Management Act jurisdiction only** – The vertical distance between average grade and the highest part of the coping of a flat roof, or the deck line of a mansard roof, or the average height of the highest gable of a pitched or hipped roof. The height of a stepped or terraced building is the maximum height of any segment of the building. Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines. Temporary construction equipment is excluded in this calculation.

**Bulkhead** – A structure of timber, concrete, steel, rock, or similar substance located parallel to the shore, which has as its primary purpose to contain and prevent the loss of soil by erosion, wave, or current action.

**Channel migration zone (CMZ)** – 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. The "channel migration zone" does not include areas that lie behind an arterial road, a public road serving as a sole access route, a state or federal highway or a railroad and may exclude areas that lie behind a lawfully established flood protection facility that is maintained by existing programs for public maintenance consistent with the designation and classification criteria specified by public rule.

**City** - The City of Woodland, Washington.

**Clearing** – The destruction or removal of vegetation from a site by physical, mechanical, chemical or other means. This does not include landscape maintenance or pruning consistent with accepted horticultural practices, which does not impair the health or survival of the trees or native vegetation.

**Commercial** – A business use or activity at a scale greater than a home occupancy business involving retail or wholesale marketing of goods and services. Commercial uses are further defined in CMC Title 18 Zoning.

**Commercial fishing** – The activity of capturing fish and other seafood under a commercial license.

**Compensatory mitigation** - Replacing project-induced losses or impacts to a critical area.

**Conditional Use** – A use, development, or substantial development that is classified as a conditional use, or is not classified within this Program, and requires a Shoreline Conditional Use Permit (SCUP) pursuant to WAC 173-27-160.

**Conservation easement** - An easement on a particular piece of real property that restricts or eliminates the building of structures or other improvements and activities that would result in encroachment onto a designated buffer.

**Covered moorage** – A roofed structure over a boat, either with or without walls and typically supported by posts mounted on the dock.

**Critical Aquifer Recharge Area** – Areas with a critical recharging effect on aquifers used for potable water as defined by the Washington State Growth Management Act and as designated in Appendix B, of this Program.

**Critical areas** – Those areas and ecosystems as defined under RCW 36.70A and this program, which include:

1. Wetlands;

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

3. Fish and wildlife habitat conservation areas;

4. Frequently flooded areas; and

5. Geologically hazardous areas.

**Critical Habitat**- Specific geographical areas that possess physical or biological features that are essential to the conservation of federally listed species. These designated areas may require special management considerations or protection.

**Cumulative impacts or effects** – The results of incremental actions when added to past, present, and reasonably foreseeable future actions. Cumulative impacts can be deemed substantial and subject to mitigation conditions even though they may consist of individual actions having relatively minor impacts.

**Cumulative impact or effect** - Under National Environmental Policy Act (NEPA) regulations, the incremental environmental impact or effect of the action together with the impacts of past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes such other actions (40 CFR 1508.7). Under Endangered Species Act Section 7 regulations, the effects of future state or private activities not involving federal activities, that are reasonably certain to occur within the action area of the federal action subject to consultation (50 CFR 402.02).

**Date of Filing** – The date upon actual receipt by Ecology of the City's decision except as provided for below:

1. With regard to a permit for a variance or a conditional use, "date of filing" means the date the decision of Ecology is transmitted by Ecology to the City.

2. When the City simultaneously transmits to Ecology its decision on a shoreline permit with its approval of either a shoreline conditional use or variance, or both, "date of filing" has the same meaning as defined in 1.

**Degraded** - To have suffered a decrease in naturally occurring functions and values due to activities undertaken or managed by persons on or off a site.

**Department** - The Woodland Department of Public Works.

**Developable area** - A site or portion of a site that may be utilized as the location of development, in accordance with the rules of this chapter.

**Development** – An activity 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 that may interfere with the normal public use of the surface of the waters

overlying lands subject to the Shorelines Management Act of 1971 at any state of water level (RCW 90.58.030(3d)). See also Substantial Development.

**Dike** – An artificial embankment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land.

**Director** - The City of Woodland director of public works, or designee.

**Dock** – A structure built over or floating upon the water and used as a landing place for boats and other marine transport, fishing, swimming, and other recreational uses. A dock typically consists of the combination of one or more of the following elements: pier, ramp, and/or float.

**Dredging** – The removal of earth, sand, gravel, silt, or debris from below the ordinary high water mark of any river, stream, pond, lake, or other water body and beneath the area of seasonal saturation of any wetland.

**Ecological functions** or **shoreline functions** – The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

**Ecosystem-wide processes** – The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

**Edge** - The outer edge of a stream's bank width or, where applicable, the OHWM.

**Enhancement** – Alterations performed to improve the condition of an existing environmentally degraded area so that the functions provided are of a higher quality. Enhancements are to be distinguished from resource creation or restoration projects.

**Erosion** – The general process or the group of processes whereby the material of the earth's crust are loosened, dissolved, or worn away, and simultaneously moved from one place to another, by natural forces, that include weathering, solution, corrosion, and transportation, but usually exclude mass wasting (American Geological Institute, 1998).

**Erosion hazard areas** – See "geologic hazard areas."

**ESA** – The Endangered Species Act, specifically Section (4)(d), Protective Regulations.

**Essential Public Facilities** – Are broadly defined as being those types of facilities that are typically difficult to site. This definition includes but is not limited to, airports, state education facilities, state and regional transportation facilities, state and local correctional facilities, solid waste handling facilities, medical care facilities, mental health facilities, and group homes (RCW 36.70A.200(1)).

**Excavation** - The mechanical removal or displacement of earth material.

**Exempt/Exemption** – Developments that are 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, as hereafter amended, that are not required to obtain a shoreline substantial development permit (SSDP), but which must otherwise comply with applicable provisions of the act and this Program.

**Existing and Ongoing Agricultural Activities** - See "agricultural activities."

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

**Feasible** – That an action, such as a development project, mitigation, or restoration requirement, meets all of the following conditions:

1. 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;

2. The action provides a reasonable likelihood of achieving its intended purpose; and

3. The action does not physically preclude achieving the project's primary intended legal use.

In cases where this Program requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the City may weigh the action's relative public costs and public benefits, considered in short- and long-term timeframes.

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

**Fill material** - A deposit of earth or other natural or man-made material placed by artificial means.

**Filling** - The act of placing fill material (on any critical area) including temporary stockpiling of fill material.

**Fish** - As used in these regulations, refers to resident game fish; anadromous fish; and specified salmonids listed as endangered or threatened under the Federal Endangered Species Act, Section (4)(d), Protective Regulations, or the Washington State List of Threatened and Endangered Species.

Fish and wildlife habitat conservation areas - Includes the following areas:

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

2. Habitats and species of local importance;

3. Commercial and recreational shellfish areas;

4. Smelt spawning areas;

5. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;

6. Water of the state (refer to WAC 222-16-030);

7. Lakes, ponds, streams and rivers planted with game fish by a governmental or tribal entity; and

8. State natural area preserves and natural resource conservation areas.

**Float** – An anchored (not directly to the shore) floating platform that is free to rise and fall with water levels and is used for water-dependent recreational activities such as boat mooring, swimming or diving. Floats may stand alone with no over-water connection to shore or may be located at the end of a pier or ramp.

**Floating Home** – A single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed. (Also see "houseboat")

**Flood** or **flooding** - A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

**Flood Hazard Reduction** – Measures taken to reduce flood damage or hazards. Flood hazard reduction measures may consist of nonstructural or indirect measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, bioengineering measures, and storm water management programs; and of structural measures, such as dikes, levees, and floodwalls intended to contain flow within the channel, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

**Floodplain** – Synonymous with one hundred-year floodplain and that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act.

**Flood protection elevation** - The elevation that is one foot above the base flood elevation.

**Floodway** – The area, as identified in a master program, that either:

1. Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or

2. Consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

**Food web** – The system of interlocking and interdependent food chains.

**Forest Practices** – Any activity conducted on or directly related to forest land and relating to growing, harvesting, or processing timber. These activities include but are not limited to: road and trail construction, final and intermediate harvesting, precommercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control (WAC 222-16-010(21)).

**Frequently Flooded Areas** – Those areas of special flood hazard which are commonly identified as critical areas in local government development regulations.

**Game Fish** - "Game fish," as described in the Washington Game Code, spend their life cycle in freshwater. Steelhead, Sea-Run Cutthroat and Dolly Varden trout are anadromous game fish and should not be confused with resident game fish.

**Geologically hazardous area** - Areas that, because of their susceptibility to erosion, sliding, earthquake, or other geological events, may not be suited to siting commercial, residential, or industrial development due to health, safety or environmental standards. Types of geologically hazardous areas include erosion, landslide, seismic, mine, and volcanic.

**Geologist** - A person who has earned a degree in geology from an accredited college or university or a person who has equivalent educational training and has experience as a practicing geologist and who is state-licensed as a geologist.

**Geotechnical assessment** - An assessment prepared by a geologist or geotechnical engineer licensed with the state of Washington as a civil engineer, which evaluates the site conditions and the effects of a proposal and identifies mitigating measures necessary to insure that the risks associated with geologic hazards will be eliminated.

**Geotechnical engineer** - A practicing geotechnical engineer licensed as a professional civil engineer with the state of Washington with experience in landslide and slope stability evaluation.

**Geotechnical report** or **geotechnical analysis** – A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts 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** – The movement or redistribution, including excavation or fill, of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

**Groin** – A barrier-type structure extending from the stream bank into a waterbody for the purpose of the protection of a shoreline and adjacent upland by influencing the movement of water and/or deposition of material.

**Groundwater** – That part of the subsurface water that is in the saturated zone all waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of this state, including underground streams, from which wells, springs, and groundwater runoff are supplied, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.

**Growth Management Act (GMA)** - RCW 36.70A and as amended.

**Guidelines** – Those standards adopted by the Washington Department of Ecology to implement the policy of RCW 90.58 for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and Ecology in developing and amending master programs.

**Habitat conservation areas** - Areas designated as fish and wildlife habitat conservation areas.

**High intensity land use** - Includes land uses which are associated with high levels of human disturbance or substantial wetland habitat impacts including, but not limited to, commercial, urban, industrial, and residential uses (more than one unit/acre).

**Impervious surface** - A hard surface area that prevents or retards the entry of water into the soil mantle as under natural conditions prior to development or that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.

**In-kind compensation** – To replace wetlands with substitute wetlands whose characteristics closely approximate those destroyed or degraded by a regulated activity.

**Institutional** – These and other similar uses: community centers, educational facilities, government offices, health care facilities, and religious facilities.

**In-stream Structure** – A structure placed by humans within a stream or river waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structure does not apply to stormwater outfalls.

**Intermittent streams** - A stream which flows only at certain times when it receives water from springs or from some other source, such as melting snow or rain.

**Invasive** – A nonnative plant or animal species that either:

1. Causes or may cause significant displacement in range, a reduction in abundance, or otherwise threatens, native species in their natural communities;

2. Threatens or may threaten natural resources or their use in the state;

3. Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or

4. Threatens or harms human health (RCW 77.08.010(28)).

**Isolated wetlands** - Those wetlands that are outside of and not contiguous to any one-hundred-year floodplain of a lake, river, or stream, and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

**Lake** – A naturally existing or artificially created body of standing water, including reservoirs, 20 acres or greater in size, which exists on a year-round basis and occurs in a depression of land or expanded part of a stream.

**Landfill** - A disposal facility or part of a facility at which solid waste is placed in or on land.

**Landslide** - Abrupt downslope movement of a mass of soil or rock.

**Landslide hazard areas** - Areas that are potentially subject to risk of mass movement due to a geologic landslide resulting from a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of

factors including: bedrock, soil, slope gradient, slope aspect (exposure), geologic structure, groundwater, or other factors.

**Lot** - A platted or unplatted parcel of land of record either unoccupied, occupied, or to be occupied by a principal use or structure together with such yards and open spaces.

**Low-intensity land use** - And includes land uses which are associated with low levels of human disturbance or low wetland habitat impacts and are compatible with the natural environment, including, but not limited to, forestry (cutting of trees only), unpaved trails, low-intensity open space and similar low-impact uses.

**Marina** – Any commercial or club-owned facility consisting of docks or piers serving five or more vessels or a shared moorage serving a subdivision serving 10 or more vessels.

**Marine railway** – Inclined tracks extending into the water so that a vessel can be hauled up on a cradle or platform.

**May** – The action is acceptable, provided it conforms to the provisions of this chapter.

**Merchantable Trees** – Live trees, 6 inches in diameter at breast height (DBH) and larger, unless documentation of current, local market conditions are submitted and accepted by the local jurisdiction indicating non-marketability.

**Mining** – The removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses.

**Mitigation** - Compensating action designed to replace project-induced critical area losses or impacts, including, but not limited to, avoiding, minimizing, or compensating for adverse wetland impacts.

1. In-Kind Mitigation. Replacement of wetlands or surface water systems with substitute wetlands or surface water systems whose characteristics and functions and values closely approximate those destroyed or degraded by a regulated activity.

2. Out-of-Kind Mitigation. Replacement of surface water systems or wetlands with substitute surface water systems or wetlands whose characteristics do not closely approximate those destroyed or degraded by a regulated activity.

**Mitigation plan** - A plan that outlines the activities that will be undertaken to alleviate project impacts. The plan generally contains: a site and project description; an environmental assessment of the functions and values of the site that will be impacted; a description of the proposed mitigation; the goals and objectives of the proposed mitigation; the performance standards against which success will be measured; monitoring of and reporting on the success of the mitigation; and a contingency plan in case of failure.

**Mixed use within an area subject to the jurisdiction of the Shoreline Management Act** – A combination of compatible uses within one development, in which water-oriented and non-water-oriented uses are included.

**Moderate-intensity land use** - Includes land uses that have a moderate level of disturbance and impact to wetlands including, but not limited to, residential (less than one unit/acre), paved trails, utility corridor or right-of-way and moderate-intensity open space (parks with biking, jogging, etc.).

**Monitoring** - Evaluating the impacts of development proposals on the biological, hydrologic and geologic elements of a system and assessing the performance of required mitigation measures. Monitoring is achieved through the collection and analysis of data by various methods for the purposes of understanding and documenting changes in natural ecosystems and features, including the gathering of baseline data.

**Multiple use** – A combination of compatible uses within one development, and may include commercial, multi-family, and recreation uses, among others.

**Must** – A mandate; the action is required.

**Native vegetation** - Plant species that are indigenous to the area and which reasonably could have been expected to naturally occur on the site. Native vegetation does not include noxious weeds.

**Natural** or **existing topography** – The topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling;

**Non-conforming lot**, **use**, or **structure** – A pre-existing parcel which was lawfully created prior to the effective date of this Program but does not meet minimum size or other dimensional requirements, a use which was legally established prior to the effective date of this Program, which would not be permitted as a new use in the area in which it is located under the terms of this Program, or a structure lawfully erected prior to the effective date of this Program or a site altered or improved which does not meet current standards for setbacks, buffers, vegetation conservation, landscaping, public access, screening, or other regulations for the area in which it is located due to changes in regulations since its establishment.

**No net loss of ecological functions** – The maintenance of existing ecological processes and functions at the level that existed at the time of approval of relevant policies and regulations.

1. No net loss of ecological functions on the level of the City - that the ecological processes and functions are maintained within a watershed or other functional catchment area. Regulations may result in localized cumulative impacts or loss of some localized ecological processes and functions, as long as the ecological processes and functions of the system are maintained. Maintenance of system ecological processes and functions may require compensating measures that offset localized degradation.

2. On a project basis - that permitted use or alteration of a site will not result in on-site or off-site deterioration of the existing condition of ecological functions that

existed prior to initiation of use or alterations as a direct or indirect result of the project.

3. No net loss is achieved both through avoidance and minimization of adverse impacts as well as compensation for impacts that cannot be avoided. Compensation may include on-site or off-site restoration of ecological functions to compensate for localized degradation.

**Non-Water-Dependent Use** – Those uses which are not dependent on a waterfront location.

**Non-Water-Oriented Use** – Those uses which are not water-dependent, water-related, or water-enjoyment.

**Noxious weeds** - Any plant which, when established, is highly destructive, competitive, or difficult to control. The county maintains a noxious weed list.

**Off-site compensation** - To replace wetlands away from the site on which a wetland has been impacted by a regulated activity.

**On-site compensation** - To replace wetlands on the site on which a wetland has been impacted by a regulated activity.

**Open space** – An area that is intended to provide light and air, view, use, or passage of persons or animals which is almost entirely unobstructed by buildings, paved areas, or other human-made structures, and is designed or preserved for environmental, habitat, scenic, or recreational purposes.

**Ordinary high water mark (OHWM)** - The mark on the shores of all waters 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 ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland; provided, that in any area where the ordinary high water line cannot be found the ordinary high water line adjoining saltwater shall be the line of mean higher high water and the ordinary high water line adjoining freshwater shall be the elevation of the mean annual flood.

**Over-water Structure** – A structure or other construction located waterward of the Ordinary High Water Mark (OHWM) or a structure or other construction erected on piling above the surface of the water, or upon a float.

**Permit** – Any Shoreline Substantial Development Permit, Shoreline Variance, or Shoreline Conditional Use Permit, or revision authorized under the Act (RCW 90.58).

**Pier** – Docks and similar structures consisting of a fixed and/or floating platform extending from the shore over the water. This definition does not include overwater trails.

**Pond(s)** - A naturally existing or artificially created body of standing water under twenty (20) acres which exists on a year-round basis and occurs in a depression of land or expanded part of a stream.

**Potentially Harmful Materials** – Hazardous materials as well as other materials such as the following which, if discharged or improperly disposed, may present a risk to water resources: 1) Petroleum products including but not limited to petroleum fuel and petroleum based coating and preserving materials; 2) oils containing PCB' s; 3) antifreeze and other liquid automotive products; 4) metals, either in particulate or dissolved form, in concentrations above established regulatory standards; 5) flammable or explosive materials; 6) radioactive material; 7) used batteries; 8) corrosives, acids, alkalis, or bases; 9) paints, stains, resins, lacquers or varnishes; 10) degreasers; 11) solvents; 12) construction materials; 13) drain cleaners and other toxic liquid household products; 14) pesticides, herbicides, fungicides or fertilizers unless applied in accordance with local, state and federal standards; 15) steam cleaning and carpet cleaning wastes; 16) car wash water; l7) laundry wastewater; 18) soaps, detergents, ammonia; 19) swimming pool backwash; 20) chlorine, bromine, and other disinfectants; 21) heated water; 22) domestic animal wastes; 23) sewage; 24) recreational vehicle waste; 25) animal carcasses, excluding salmonids; 26) food wastes; 27) collected lawn clippings, leaves or branches; 28) trash or debris; 29) silt, sediment, or gravel; 30) dyes; and 31) untreated or unapproved wastewater from industrial processes.

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

- Comparatively high fish or wildlife density;
- Comparatively high fish or wildlife species diversity;
- Fish spawning habitat;
- Important wildlife habitat;
- Important fish or wildlife seasonal range;
- Important fish or wildlife movement corridor;
- Rearing and foraging habitat;
- Important marine mammal haul-out;
- Refugia habitat;
- Limited availability;
- High vulnerability to habitat alteration;
- Unique or dependent species; or
- Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (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** – 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.

1. 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.

2. 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.

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

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

**Provisions** – Policies, regulations, standards, guideline criteria or shoreline environment designations.

**Public access** – Physical and/or visual approach to and along the shoreline available to the general public.

**Public interest** – The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development (WAC 173-27-030(14)).

**Qualified professional** – A person with experience, education, and/or professional degrees and training pertaining to the critical area in question as described for each critical area below. Qualified professionals will also possess experience with performing site evaluations, analyzing critical area functions and values, analyzing critical area impacts, and

recommending critical area mitigation and restoration. The City shall require professionals to demonstrate the basis for qualifications and shall make final determination as to qualifications. Demonstration of qualifications may include, but not be limited to, professional certification(s) and/or recognition through publication of technical papers or journals. Qualified professionals for each critical area are as follows:

1. Wetlands. Biologist or wetland ecologist who has a bachelor's degree in wetland science from an accredited college or university, at least two years of experience under the supervision of a practicing wetland professional and has experience delineating wetlands, preparing wetland reports, conducting function assessments and developing and implementing mitigation plans.

2. Fish and Wildlife Habitat Areas. Biologist/wildlife biologist/stream ecologist/habitat ecologist who has a bachelor's degree in biological, wildlife and/or stream ecology science from an accredited college or university and has at least two years of experience under the supervision of a practicing professional biologist or ecologist.

3. Geologically Hazardous Areas.

a. Geologist - a person who has a bachelor's degree in geologic sciences from an accredited college or university and at least five years of professional experience as described in WAC 308-15-040 and is licensed as a professional geologist in the State of Washington. The licensed geologist shall have demonstrated experience analyzing geologic hazards and preparing reports for the relevant type of hazard.

b. Hydrogeologist - a licensed geologist in the State of Washington with a specialty license in hydrogeology meeting the requirements of WAC 308-15-057. The licensed hydrogeologist shall have demonstrated experience analyzing hydrogeologic hazards and preparing reports for the relevant type of hazard.

c. Engineering geologist - a licensed geologist in the State of Washington with a specialty license in engineering geology meeting the requirements of WAC 308-15-055. The licensed engineering geologist shall have demonstrated experience analyzing geologic hazards and preparing reports for the relevant type of hazard.

d. Geotechnical engineer - a person who has a bachelor's degree in civil engineering from an accredited college or university and at least five years of experience as a practicing geotechnical engineer, and is a registered professional engineer in the State of Washington (meeting the requirements of RCW 18.43.040). The licensed engineer shall have demonstrated experience conducting geotechnical investigations, analyzing geologic hazards, and preparing reports for the relevant type of hazard.

4. Critical Aquifer Recharge Areas. Hydrogeologist - a licensed geologist in the State of Washington with a specialty license in hydrogeology meeting the requirements of WAC 308-15-057. The licensed hydrogeologist shall have demonstrated experience analyzing hydrogeologic hazards and preparing reports for the relevant type of hazard.

5. Frequently Flooded Areas.

a. Hydrogeologist - a licensed geologist in the State of Washington with a specialty license in hydrogeology meeting the requirements of WAC 308-15-057. The licensed hydrogeologist shall have demonstrated experience analyzing hydrogeologic hazards and preparing reports for the relevant type of hazard.

b. Fluvial geomorphologist - a person who has a bachelor's degree in earth sciences from an accredited college or university with applicable course work in fluvial geomorphology and at least five years of professional experience in fluvial geomorphology.

c. Hydraulics engineer - a person who has a bachelor's degree in civil engineering from an accredited college or university and at least five years of experience as a practicing hydraulics engineer, and is a registered professional engineer in the State of Washington (meeting the requirements of RCW 18.43.040). The licensed engineer shall have demonstrated experience conducting, analyzing and preparing reports for hydraulic investigations.

**Qualified professional** - An accredited or licensed professional with a combination of education and experience in the discipline appropriate for the subject matter that is being commented on. Someone who would qualify as an expert in their field.

**Recreation areas** or **facilities** – Any privately or publicly owned passive or active facility that provides for activities undertaken for pleasure or relaxation and for the refreshment of the mind and body that takes place in the outdoors or in a facility dedicated to the use including walking, fishing, photography, viewing, and bird-watching and may include parks, playgrounds, sports fields, paths and trails, beaches, or other recreation areas or facilities.

**Residential** – Buildings, structures or portions thereof that are designed and used as a place for human habitation. Included are single, duplex or multi-family dwellings, manufactured homes, and other structures that serve to house people, as well as the creation of new residential lots through land division. This definition includes accessory uses common to normal residential use, including but not limited to, residential appurtenances, accessory dwelling units, and home occupations.

**Restore**, **restoration**, or **ecological restoration** – 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.

**Restoration** - The actions taken to return a wetland or other critical area to a state in which its stability, functions and values approach its naturally occurring unaltered state as closely as possible.

**Riparian** - Areas that have vegetation requiring water year-round and seasonally. The width of these areas depends upon slope and vegetation cover.

**Riparian habitat** - Areas adjacent to aquatic systems with flowing water that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife. Widths shall be measured from the ordinary high water mark or from the top of the bank if the ordinary high water mark cannot be identified. It includes the entire extent of the floodplain and the extent of vegetation adapted to wet conditions as well as adjacent upland plant communities that directly influence the stream system. Riparian habitat areas include those riparian areas severely altered or damaged due to human development activities.

**Seismic hazard area** - Areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

**SEPA** - The Washington State Environmental Policy Act, Chapter 43.21C RCW.

**Setback (Activity, Building, Structure)** – The distance an activity, building, or structure must be located from the Ordinary High Water Mark, landward or waterward depending on if the use is allowed in the water or on land.

**Shall** – A mandate; the action must be done.

**Shared** or **Joint-Use Moorage** – Interchangeable terms in this Program. These terms mean moorage constructed and utilized by more than one waterfront property owner or by a homeowner's association that owns waterfront property. Shared moorage includes moorage for pleasure craft and/or landing for water sports for use in common by shoreline residents or for use by patrons of a public park or quasipublic recreation area, including rental of non-powered craft. If a shared moorage provides moorage for more than ten slips then it is a marina. If proposed shared moorage includes a swinging boom or davit style hoist, then it shall be reviewed under the provisions as a marina.

**Shorelands** or **shoreland areas** – Those lands under the jurisdiction of the Shoreline Management Act extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters that are

subject to the provisions of the Shoreline Management Act (RCW 90.58.030); the same to be designated as to location by Ecology.

**Shorelines** – All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of statewide significance; (ii) 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 (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes;

**Shoreline areas** and **shoreline jurisdiction** – All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

**Shorelines Hearings Board (SHB)** – A quasi-judicial body established by the Act to hear appeals by any aggrieved party on the issuance of a substantial development permit, conditional uses, variance or, enforcement penalties. See RCW 90.58.170 and RCW 90.58.190

**Shoreline master program** – 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. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program approved under RCW 90.58 shall be considered an element of the City of Woodland's Comprehensive Plan. All other portions of this Program adopted under RCW 90.58, including use regulations, shall be considered a part of the City of Woodland's development regulations.

**Shoreline modifications** – 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 stabilization** – Structural and non-structural methods to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as currents, floods, tides, wind, or wave action.

**Shoreline Substantial Development Permit (SSDP)** – The permit required by this Program for uses that are substantial developments in shoreline jurisdiction.

**Shoreline Variance** – A means to grant relief from the specific bulk, dimensional or performance standards set forth in this Program and not a means to vary a use of a shoreline. Shoreline Variances must be approved, approved with conditions, or denied by Ecology. See RCW 90.58.160.

**Shorelines of the state** – The total of all "shorelines" and "shorelines of statewide significance" within the state.

**Shorelines of Statewide Significance (SSWS)** – With respect to the City of Woodland, Shorelines of Statewide Significance are identified as the Lewis River (see RCW 90.58.030(2)(e)).

**Should** – That the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this Program, against taking the action.

**Significant** - For the purposes of this Program, to be significant something must be an important aspect or quality inherent in some larger whole. The aspect or quality must be measurable by a factual and scientific standard. The burden of establishing that something is significant must be borne by the party asserting it. A significant adverse impact occurs if a change eliminates some important aspect or quality of the larger whole. The party asserting a significant impact has the burden of:

1. Identifying the aspects or qualities of the larger whole;

2. Identifying the inherent important aspects or qualities;

3. Identifying a factual and scientific standard to be used for measuring the impact;

4. Establishing in a measurable fashion that an important aspect or quality will be impacted by such change.

**Significant vegetation removal** – 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.

**Site** - Any parcel or combination of contiguous parcels, or right-of-way, or combination of contiguous rights-of-way under the applicant's ownership or control where the proposed project occurs.

**Slope** - An inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance. In these regulations, slopes are generally expressed as a percentage; percentage of slope refers to a given rise in elevation over a given run in distance. A forty percent slope, for example, refers to a forty-foot rise in elevation over a distance of one hundred feet.

**Snag** - Any dead, partially dead, or defective (cull) tree at least 10 feet tall and 12 inches in diameter at breast height.

**Species of local importance** - Those species that are of local concern due to their population status or their sensitivity to habitat manipulation or that are game species.

**Species, priority** - Any fish or wildlife species requiring protective measures and/or management guidelines to ensure their persistence as genetically viable population levels as classified by the Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

**Species, threatened** - Any fish or wildlife species that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range without cooperative management or removal of threats, and is listed by the state or federal government as a threatened species.

**Speculative fill** – The placement of fill material when there is no development proposed or development permits, which may lead to piecemeal development that is contrary to the policies of this Program, the Act, and CMC.

**Stream** - Water contained within a channel, either perennial or intermittent, and classified according to WAC 222-16-030 or WAC 22-16-031 as listed under "water typing system." Streams do not include irrigation ditches, waste ways, drains, outfalls, operation spillways, channels, stormwater runoff facilities or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse.

**Structure** – A permanent or temporary edifice or building or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels (WAC 173-27-030(18)).

**Substantial development, shoreline** – 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 (3)(e) 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. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). See WAC 173-27-040 for a list of developments that are not considered substantial.

**Substantially degrade** – To cause significant ecological impact.

**Surface Water** – Water that flows across the land surface, in channels, or is contained in depressions in the land surface, including but not limited to ponds, lakes, rivers, and streams.

**Talus slope** - A slope formed by the accumulation of rock debris at the bottom of steep slopes or cliffs.

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

**Unavoidable and necessary impacts** - Impacts for a use that, if not allowed, would deny all reasonable economic use of the land. The applicant shall demonstrate losses to all reasonable economic use. Such unavoidable impacts shall be mitigated.

**Upland** – Generally described as the dry land area above and landward of the OHWM.

**Utilities** – Services and facilities that produce, convey, store, or process power, water, wastewater, stormwater, gas, communications, oil, and the like. On-site utility features serving a primary use, such as water, sewer, or gas line to a residence, are "accessory utilities" and shall be considered a part of the primary use.

**Utility line** - Pipe, conduit, cable or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electric power, natural gas, communications, and sanitary sewer.

**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 (WAC 173-27).

**View Corridor** – Portion of a viewshed, often between structures or along thoroughfares. View corridors may or may not be specifically identified and reserved through development regulations for the purpose of retaining the ability of the public to see a particular object (such as a mountain or body of water) or a landscape within a context that fosters appreciation of its aesthetic value.

**Water-dependent use** – A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include, but are not limited to, the following: ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, boating facilities, private moorage facilities, aquaculture, float plane facilities, sewer outfalls, hydroelectric generating plants and water diversion facilities, such as agricultural pumphouses.

**Water-enjoyment use** – A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use, or a use that provides for enjoyment or recreational use of the shoreline for a substantial number of people as a general

characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the visual and physical qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

**Water-oriented use** – A use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

**Water quality** – The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this 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 chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

**Water-related use** – A use or portion of a use which is not intrinsically dependent on a waterfront location, but its economic viability is dependent upon a waterfront location because:

1. 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

2. 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.

**Weir** – A structure in a stream or river for measuring or regulating stream flow.

**Wetlands** or **wetland areas** – Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation 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. For identifying and delineating a wetland, the methodology shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements as provided in RCW 90.58.380 and WAC 173-22-035.

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# 3. Applicability, Exemptions, and Nonconforming Uses

## 3.1 Applicability

All new or expanded uses and development within shoreline jurisdiction shall be carried out in a manner consistent with this Program and the policy of the Act as required by RCW 90.58.140(1), regardless of whether a SLE, SSDP, Shoreline Variance, or SCUP is required. Unless described otherwise, this Program does not apply to the continuance of legally established and permitted uses and developments.

A. This Program shall apply to all of the shorelands and waters within the City of Woodland that fall under the jurisdiction of RCW 90.58. Such shorelands shall include those lands extending two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM), floodways and contiguous floodplain areas landward two hundred feet from such floodways, associated wetlands, river deltas associated with the streams, and lakes and tidal waters that are subject to the provisions of this Program, as may be amended; the same to be designated as to location by Ecology, as defined by RCW 90.58.

   Within the City of Woodland, the following waters are considered “shorelines” and are subject to the provisions of this Program: Lewis River and Horseshoe Lake. A copy of the Woodland Shoreline Environment Designations Map is shown in Appendix A.

   All shoreline uses and development activities outside of the city limits are subject to the provisions of the Cowlitz County Shoreline Master Program. The City’s Program will apply concurrent with annexation, and no additional procedures are required by Ecology at the time of annexation (WAC 173-26-150) unless a re-designation is requested.

B. Maps indicating the extent of shoreline jurisdiction and shoreline environment designations (SEDs) are for guidance only. They are to be used in conjunction with the most current, accurate, and complete scientific and technical information available; field investigations; and on-site surveys to accurately establish the location and extent of shoreline jurisdiction when a project is proposed. All areas meeting the definition of a shoreline or a Shoreline of Statewide Significance, whether mapped or not, are subject to the provisions of this Program.

C. This Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity that develops, owns, leases, or administers lands, wetlands, or waters that fall under the jurisdiction of the Act and within the external boundaries of federally owned lands.

D. Non-federal agency actions undertaken on federal lands must comply with this Program and the Act.

E. Native American Tribes' actions on tribal lands and federal agencies' actions on federal lands are not required, but are encouraged, to comply with the provisions of this Program and the Act. Nothing in this chapter shall affect any rights established by treaty to which the United States is a party.

F. Hazardous substance remedial actions pursuant to a consent decree, order, or agreed order issued under RCW 70.105(D) are exempt from all procedural requirements of this Program.

G. Applicants that are responding to an emergency that requires a water withdrawal or facility shall be provided an expedited permit decision from the City, no longer than fifteen (15) calendar days after the date of application in accordance with RCW 90.58.370.

H. Certain forest practices that are not regulated by the Act and are regulated under RCW 76.09 are not subject to additional requirements of this Program.

I. The administrative regulations of this Program are superseded in authority by the terms and provisions of an environmental excellence program or agreement, entered into under RCW 43.21(K), Environmental Excellence Program. The environmental excellence agreement must meet the substantive requirements of this Program. An environmental excellence program agreement must achieve more effective or efficient environmental results than the results that would be otherwise achieved.

J. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this Program whether or not a permit is required.

## 3.2 Exemptions from a Shoreline Substantial Development Permit

A. Substantial development, as defined by this Program and RCW 90.58.030, requires approval from the City through an SSDP (See Chapter 8 for permit review and approval procedures), except that:

1. An SSDP is not required for projects that are below the threshold levels established in WAC 173-27-040(2), Developments Exempt from Substantial Development Permit Requirement.

2. An SSDP is not required for those actions described in WAC 173-27-045, Developments Not Subject to the Shoreline Management Act.

## 3.3 Nonconforming Use and Development

A. Existing uses, structures, and lots legally established prior to the effective date of this Program are allowed to continue. Where lawful uses, structures, and lots exist that could not be established under the terms of this Program, such uses, structures, and lots are deemed nonconforming and are subject to the provisions of this section, unless specific exceptions are provided for in this section.

B. Uses and developments that were legally established and are nonconforming with regard to the use regulations of this Program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded.

C. A use which is listed as a conditional use, but which existed prior to adoption of this Program or any relevant amendment and for which an SCUP has not been obtained, shall be considered a nonconforming use. A use which is listed as a conditional use, but which existed prior to the applicability of this Program to the site and for which and SCUP has not been obtained, shall be considered a nonconforming use.

D. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

E. A structure which is being or has been used for a nonconforming use within the past twelve (12) months may be used for a different nonconforming use only upon the approval of an SCUP. An SCUP may be approved only upon a finding that:

   1. No reasonable alternative conforming use is practical; and

   2. The proposed use will be at least as consistent with the policies and provisions of the Act and this Program and as compatible with the uses in the area as the preexisting use.

   In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of this Program and the Act, and to assure that the use will not become a nuisance or a hazard.

F. A nonconforming structure which is moved any distance must be brought into conformance with this Program and the Act.

G. If a nonconforming development is damaged to an extent not exceeding seventy-five percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within one (1) year of the date the damage occurred, all permits are obtained, and the restoration is completed within two (2) years of permit issuance or the conclusion of any appeal on the permit.

H. If a nonconforming use is discontinued for six (6) consecutive months, the nonconforming rights shall expire and any subsequent use shall be conforming. A use authorized pursuant to Subsection E of this section shall be considered a conforming use for purposes of this section.

I. An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM which was established in accordance with City and state subdivision requirements prior to the effective date of the Act or this Program, but which does not conform to the present lot size standards, may be developed if permitted by other land use regulations of the City and so long as such development conforms to all other requirements of this Program and the Act.

J. Vegetation conservation standards of this Program shall not apply retroactively in a way which requires lawfully existing uses and developments, including residential landscaping and gardens, to be removed except as required as mitigation for new and expanded development.

K. Notwithstanding Sections 3.3.A through 3.3.J, the following shall apply only to pre-existing legal residential structures constructed prior to the effective date of this Program:

1. Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following, shall be considered a conforming structure: Setback, buffers, or yards; area; bulk; height; or density.

2. The City shall allow redevelopment, expansion, or change with the class of occupancy, of the residential structure if it is consistent with this Program, including requirements for no net loss of shoreline ecological functions. For example, vertical, lateral or anterior expansions that do not intrude farther into a required buffer and which are consistent with the maximum height allowed by this Program and underlying zoning may be allowed.

3. Pre-existing legal residential structures that are damaged or destroyed may be replaced to their prior size and location provided:

    a. All other requirements of the Woodland Municipal Code and the Cowlitz County Health Department are satisfied; and

    b. A complete application for a building permit shall be submitted within one (1) year of the act causing damage or destruction to the dwelling unit.

4. For purposes of this section, “appurtenant structures” means garages, sheds, and other legally established structures. “Appurtenant structures” does not include bulkheads and other shoreline modifications or over-water structures.

5. Nothing in this section shall:

    a. Restrict the ability of this Program to limit development, expansion, or replacement of over-water structures located in hazardous areas, such as floodplains and geologically hazardous areas; or

    b. Affect the application of other federal, state, or City requirements to residential structures.

# 4. Shoreline Master Program Goals and Policies

**For Discussion:** It would be possible to integrate certain use and modification policies from Section 4.9 into the appropriate category of Sections 4.1-4.8. For example, the Commercial and Industrial policies under Section 4.9.1 could be relocated into Section 4.4, Economic Development. This would streamline the document, however it would lose the parallel sections with Chapter 7.

## 4.1 General Shoreline Goals

### 4.1.1 Goal

Ensure appropriate conservation and development of City of Woodland's shorelines by allowing those uses which are water-dependent, as well as other development which provides an opportunity for a substantial number of people to enjoy the shorelines. This should be done in a manner which will achieve an orderly balance of shoreline uses that improve the quality of the environment.

### 4.1.2 Policies

A. Ensure that all uses and developments are compatible with the site, the surrounding area and the environment, and do not result in a net loss of shoreline ecological functions.

B. Water-dependent and associated water-related uses are the highest priority for shorelines unless protection of the existing natural resource values of such areas precludes such uses.

C. Water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives are the second highest priority.

D. Limit non-water-oriented uses to those locations where access to the water is not provided or where the non-water-oriented use contributes to the objectives of the Act in providing ecological restoration and public access.

E. Reserve the shoreline areas for uses which allow optimal uses for future generations by recognition of potential long term benefits to the public, and discouragement of short term gain or convenience.

F. Allow multiple uses of shoreline areas where integration of compatible uses or activities is feasible.

G. Work with the public to increase awareness of the Shoreline Management Act, and the importance of protecting shorelines.

# 4.2 Historic, Cultural, Archaeological and Educational Resources

## 4.2.1 Goal

Protect, preserve and encourage restoration of those sites and areas on the shoreline which have significant historical, cultural, educational or scientific value.

## 4.2.2 Policies

A. Identify historic, cultural and archaeological resources within the shoreline in cooperation with federal, state, local and tribal agencies.

B. Preserve permanently for their inherent cultural value and for scientific study, as well as public enjoyment and observation, all areas known to contain significant archaeological data.

C. Preserve for the public benefit, with opportunity for appropriate public utilization, significant historic, scientific, and educational areas of the shoreline.

D. Ensure that the review of development permits includes appropriate assessment of historic, cultural and archaeological resources.

# 4.3 Conservation and Restoration

## 4.3.1 Goal

Ensure protection, preservation, and restoration of Woodland's shoreline resources, while encouraging the use of best management practices to ensure no net loss of shoreline ecological functions.

## 4.3.2 Policies

A. Existing natural resources should be conserved through implementation of this Program, the City’s Comprehensive Plan, and other local development regulations; incorporation of critical areas regulations; and cooperation as feasible with adjacent jurisdictions to implement regional watershed plans.

B. Facilitate publicly and privately initiated restoration projects through adoption of a Shoreline Restoration Plan (Appendix C). The plan identifies degraded areas, sets overall goals and priorities for restoring these areas, identifies existing and proposed restoration projects and programs, and provides implementation strategies.

C. Provide for beneficial utilization of shoreline- and floodplain-related resources without harming other natural systems or the overall quality of the natural environment.

D. Conserve natural features and resources as well as scenic vistas, parkways and habitats of rare or endangered species.

E. Preserve the natural, scenic and aesthetic qualities of shorelines and vistas.

## 4.4 Economic Development

### 4.4.1 Goal

Give priority to those industrial, commercial and recreational developments that are particularly dependent on their location on City of Woodland's shorelines. Encourage development that will provide the public an opportunity to enjoy the shorelines. Ensure no net loss of ecological function in the implementation of this goal.

### 4.4.2 Policies

A. Minimize the adverse effects of new commercial, industrial and recreational development upon the physical environment and natural processes through careful siting and design.

B. Ensure that commercial, industrial, and recreational uses and developments are of an intensity appropriate to the ecological setting and are provided with existing public services appropriate to the use.

C. Ensure that commercial, industrial, and recreational uses and developments do not increase flood hazards, are adequately protected from damage by flooding, and do not require shoreline stabilization.

## 4.5 Flood Prevention and Flood Damage Minimization

### 4.5.1 Goal

Minimize flood hazards to human life and to property while enhancing the ecological processes of the shoreline in the City of Woodland.

### 4.5.2 Policies

A. Manage flood protection based on National Flood Insurance Program development regulations, applicable watershed management plans, comprehensive flood hazard management plans, and other comprehensive planning efforts for the Lewis River.

B. Integrate bioengineering and/or soft engineering approaches where feasible into local and regional flood control measures, infrastructure, and related capital improvement projects.

C. Support measures to increase the natural functions of the Lewis River floodplain.

D. Recognize that flood control works are an existing and important feature to protect life and property in the City of Woodland and the region. Maintenance and expansion of existing flood control works should be allowed provided that no net loss of ecological functions results.

E. Protect existing development from flood damage:

1. Provide for maintenance dredging of the Lewis River affected by continuing deposition of Mt. St. Helens volcanic deposits to maintain flow capacity and control risk of flooding.

2. New structural flood hazard reduction measures shall be avoided whenever possible in order to avoid reducing floodplain functions crucial to fish and wildlife species, bank stability, and water quality. When necessary, they shall be consistent with an adopted comprehensive flood hazard management plan and accomplished in a manner that assures no net loss of ecological functions and ecosystem-wide processes.

3. Long-term programs for flood hazard reduction should include measures to prevent or remove development in flood-prone areas, to manage storm water within the floodplain, and to maintain or restore river and stream systems' natural hydrological and geomorphological processes in addition to structural flood control measures such as levees.

4. Removal of gravel, as opposed to volcanic deposits, for flood management purposes should be avoided unless identified as a necessary part of an adopted flood hazard reduction plan and allowed only after a biological and hydraulic study shows that extraction has a long-term benefit to flood hazard reduction, and does not result in a net loss of ecological functions.

F. Reduce potential hazard to new development by reducing exposure to flood hazards to the extent feasible.

1. New development should be located outside of floodways and should avoid location in floodplains to the maximum extent feasible.

2. New development should be designed and located to preclude the need for flood control structures. New or expanded development or uses in the shoreline, including subdivision of land, that would likely require flood control structures within a stream, channel migration zone, or floodway should be prohibited.

3. Development should be discouraged in the channel migration zone if it would result in interference with the process of channel migration which may cause significant adverse impacts to property or public improvements and/or result in a net loss of ecological functions associated with the rivers and streams.

G. Support measures to restore floodplain and channel migration zone functions, including flood storage, off-channel habitat, associated wetlands, and buffers of native vegetation, through levee setbacks and similar programs.

# 4.6 Public Access

## 4.6.1 Goal

Increase the general public's ability to safely enjoy the publicly owned shorelines in the City of Woodland and ensure that public access will not encroach upon the rights of private property owners and will not adversely affect fragile natural areas.

## 4.6.2 Policies

A. Public access should be provided consistent with the existing character of the shoreline and with consideration of opportunities and constraints for physical and visual access, as well as consideration of ecological functions and public safety.

B. Public access to and along the water's edge should be available throughout publicly owned shoreline areas, although direct physical access to the water's edge may be restricted to protect shoreline ecological values.

C. Future developments and redevelopments shall not adversely affect existing public access, and should provide new opportunities for the public to reach, touch and enjoy the water's edge.

D. Locate, design and maintain public access development in a manner that enhances the natural environment.

E. As opportunities and funds arise, purchase, or otherwise make available to the public, shoreline properties if their value for public use merits such action.

F. Existing highway and road corridors along shorelines should better accommodate public access to the shoreline and provide safe overcrossings to shoreline public access facilities.

G. Coordinate with local, state, and federal agencies to ensure shoreline public access is consistent with regional parks recreation, open space and trails plans.

H. Respect and protect private property rights when considering public access in development.

# 4.7 Recreation

## 4.7.1 Goal

Provide additional opportunities for diverse forms of recreation for the public and improvement of present facilities with an emphasis on water-dependent recreation in both the City of Woodland's shorelines and the region.

## Policies

A. Identify, obtain, preserve and protect areas with high values for recreation.

B. Allow location, design and operation of recreational uses as part of private development where compatible with other uses and activities.

C. Encourage a balanced choice of recreational opportunities, including those requirements of the elderly and the physically challenged.

D. Cultivate innovative and cooperative techniques among public agencies and private persons or groups which increase and diversify recreation opportunities.

E. Provide compatible recreational uses including bicycle and foot paths in transportation and utility corridors where feasible.

F. Prepare management plans for recreation facilities that provide a balance between provision of a range of water-dependent and other recreational opportunities and ecological preservation and enhancement to result in no net loss of shoreline ecological functions or ecosystem-wide processes.

G. Coordinate with local, state, and federal agencies so that shoreline recreational developments are consistent with the City and regional parks recreation, open space and trails plans.

# 4.8 Transportation, Utilities, and Essential Public Facilities

## 4.8.1 Goal

Develop safe, convenient, and multi-modal shoreline circulation systems to ensure efficient movement of goods and people within the City of Woodland and throughout the region with minimum disruptions to the shoreline environment and minimum conflict between the different users.

## 4.8.2 Policies

A. Locate and design major circulation systems and new utilities outside shoreline jurisdiction, except for necessary crossings, unless alternative locations are

infeasible, a shoreline location is required, or the improvement is necessary to support an approved shoreline use..

B. Encourage existing corridors for transportation facilities along shorelines to better accommodate public access to the shoreline and provide safe overcrossings to shoreline public access facilities.

C. Encourage multi-modal uses of any necessary roads.

D. Encourage alternate forms of transportation such as walking and bicycling.

E. Ensure new utilities utilize existing transportation and utility rights-of-way easements, or existing cleared areas to the greatest extent feasible.

## 4.9 Shoreline Uses and Modifications Policies

### 4.9.1 Shoreline Uses

A. Agriculture

There are currently no existing agricultural uses within the City of Woodland and agricultural uses are not consistent with the Comprehensive Plan. New agricultural uses within shoreline jurisdiction should be restricted.

B. Aquaculture

There are currently no existing aquaculture uses with the City of Woodland and aquaculture uses are not consistent with the Comprehensive Plan. New aquaculture uses within shoreline jurisdiction should be restricted. There are no known aquaculture activities existing or anticipated within shoreline jurisdiction. If such operations are established in the future, regulations will be established by amendment to this Program.

C. Boating Facilities

1. New or expanded boating facilities should be located at sites with suitable environmental conditions, shoreline configuration, access, and neighboring upland and aquatic uses.

2. Boating facilities should be located and designed to ensure no net loss of ecological functions or other significant adverse impacts, and should, where feasible, enhance degraded and/or scarce shoreline features.

3. Boating facilities that minimize the amount of shoreline modification, in-water structures, and overwater cover are preferred.

4. Joint use of boating facilities is encouraged.

D. Commercial

1. Priority should be given to water-dependent commercial uses within shoreline jurisdiction.

2. New commercial development that is not water-oriented should be discouraged in shoreline jurisdiction unless such development provides a significant public benefit, such as public access or ecological restoration, or if the site is physically separated from the shoreline by another property, on the landward side of a levee, or public right-of-way.

3. The design of commercial uses should not cause a net loss of shoreline ecological functions.

E. Forest Practices

1. Ensure compliance with the State's Forest Practices Act for commercial forest management.

2. Ensure forest practice conversions and other Class IV-General forest practices are conducted in a manner that assures no net loss of shoreline ecological functions or significant adverse impacts to other shoreline uses, resources and values such as navigation, recreation and public access.

F. Industrial

1. Priority should be given to water-dependent industrial uses within shoreline jurisdiction.

2. New industrial development that is not water-oriented should be discouraged in shoreline jurisdiction unless such development provides a significant public benefit, such as public access or ecological restoration, or if the site is physically separated from the shoreline by another property, on the landward side of a levee, or public right-of-way.

3. The location, design, construction and operation of industrial uses should not cause a net loss of shoreline ecological functions.

G. Institutional

1. Priority should be given to water-oriented institutional uses within shoreline jurisdiction.

2. New or expanded institutional development that is not water-oriented should be discouraged in shoreline jurisdiction unless such development provides a significant public benefit, such as public access or ecological restoration, or if the

site is physically separated from the shoreline by another property, on the landward side of a levee, or public right-of-way.

3. Institutional uses that foster appreciation of shoreline historic, cultural, scientific, and educational resources are encouraged

4. The location, design, construction and operation of institutional uses should not cause a net loss of shoreline ecological functions.

H. In-stream Structures

1. Ensure the location, design, construction and maintenance of in-stream structures give due consideration to the full range of public interests, ecological functions and processes, and environmental concerns.

2. Encourage non-structural and non-regulatory approaches as an alternative to in-stream structures.

I. Mining

1. Mining activities should be prohibited in Residential and Urban Conservancy SEDs.

2. Mining activities should be sited, designed, operated and completed to result in no net loss of shoreline ecological functions and processes after final reclamation of the site.

3. Give preference to mining proposals that result in the creation, restoration or enhancement of habitat for priority species.

J. Recreational

1. Allow shoreline recreational development in order to provide access, use, and enjoyment of shorelines that does not displace water-dependent uses.

2. In providing space for public recreation along the shorelines, give primary emphasis to providing for the local recreation needs for boating, kayaking, canoeing, swimming, bicycling, fishing, picnicking, and other activities benefiting from shoreline access as well as retaining and expanding regional trail systems.

3. Continue to work with neighboring jurisdictions and other governments to support local and regional opportunities for public recreation, shoreline access and use.

4. Develop recreational activity areas in a manner which complements commercial and residential uses and/or natural habitats.

5. Prioritize recreational development in coordination with the City of Woodland Comprehensive Plan goals and policies for recreation.

K. Residential

1. Recognize single-family uses as a preferred use when developed in a manner that does not result in a net loss of ecological functions.

2. The design of residential uses should minimize the need for shoreline stabilization.

3. New multi-family and single-family residential development in shoreline jurisdiction comprising more than four (4) dwelling units should provide for public access to the shoreline consistent with this Program.

L. Transportation Uses

1. Allow parking facilities within shoreline jurisdiction only to support an authorized use when locations outside of shoreline jurisdiction are not suitable or feasible.

2. New or expanded facilities should be designed to result in no net loss of ecological functions and processes in shoreline jurisdiction.

M. Utilities Uses

1. Whenever feasible, locate new non-water-oriented domestic water, electrical, communication, natural gas and other utilities outside shoreline jurisdiction.

2. Utilities that must be located within shoreline jurisdiction should be located within existing rights of way or corridors whenever feasible.

3. Locate, install and maintain utility facilities and corridors to prevent loss of ecological function and preserve the natural landscape, including avoiding impacts to critical areas and minimizing clearing of vegetation.

### 4.9.2 Shoreline Modifications

A. General Policies

1. Allow shoreline modifications only where it can be demonstrated that the proposed activities are necessary to support or protect an allowed use or development.

2. Allow shoreline modifications only when adverse impacts are avoided, minimized, and mitigated resulting in no net loss of shoreline ecological functions.

3. The individual and cumulative effects of shoreline modification should not result in a net loss of ecological functions. Ecological impacts should be avoided and mitigated in accordance with the mitigation sequence of this Program and WAC 173-26-201 (2)(e).

B. Shoreline Stabilizations

1. New structural shoreline stabilization should be allowed only where demonstrated to be necessary to support or protect an allowed primary structure or legally existing shoreline use that is in danger of loss or substantial damage or where structural modifications are necessary for mitigation or enhancement purposes.

2. Types of shoreline stabilization that have a lesser impact on ecological functions are preferred.

3. Where adverse impacts are unavoidable from stabilization measures, mitigation should be required to assure no net loss of ecological function.

4. Where feasible, plan for enhancement of impaired ecological functions while accommodating permitted uses.

C. Breakwaters, Jetties, Rock Weirs, and Groins

1. Types of shoreline stabilization that have a lesser impact on ecological functions are preferred.

2. Residential Moorage Facilities: Docks, Buoys, and Marine Railways

3. Moorage buoys are preferred over docks where appropriate to minimize shallow water impacts.

4. Residential boating structures, including docks, buoys, and marine railways, should be designed and constructed to avoid or, if that is not possible, to minimize and mitigate the impacts to ecological functions, critical areas and aquatic habitats, and ecosystem-wide processes.

D. Fill and Excavation

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

E. Dredging and Dredge Material Disposal

1. Dredging and dredge material disposal are allowed provided they are done in a manner which avoids or minimizes significant ecological impacts, and impacts

which cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.

2. Dredging operations should conform to the operating standards specified on any federal and state permits required for such operations. Operations not requiring federal or state permits should have similar standards imposed as conditions for obtaining a permit.

3. New development should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

4. The necessary and ongoing maintenance dredging of the Cowlitz River for flood control purposes, including actions by the U.S. Army Corps of Engineers, should be supported.

F. Shoreline Habitat and Ecological Enhancement Projects

1. Facilitate the projects described within the Shoreline Restoration Plan (Appendix D).

2. Shoreline restoration and enhancement activities designed to restore shoreline ecological functions and processes and/or shoreline features should be targeted toward meeting the needs of sensitive and/or regionally important plant, fish, and wildlife species.

3. Shoreline restoration and enhancement activities should be designed to create or improve dynamic and sustainable ecosystems.

4. All shoreline restoration and enhancement projects should protect the integrity of adjacent natural resources, including aquatic habitats and water quality.

5. Where possible, restoration and enhancement activities should be integrated and coordinated with other parallel natural resource management efforts.

# 5. Shoreline Environment Designations

## 5.1 Introduction

The intent of assigning shoreline environment designations (SEDs) to specific geographies is to encourage development that will enhance the present or desired character of the shoreline. To accomplish this, segments of shoreline are given a SED based on existing development patterns, natural capabilities and limitations, and the vision of the City of Woodland. The SEDs are intended to work in conjunction with the comprehensive plan and zoning.

Management policies are an integral part of the shoreline environment designations and are used for determining uses and activities that can be permitted in each shoreline environment designation.

Chapter 6, General Shoreline Regulations, and 7, Specific Shoreline Use and Modification Regulations, contain development regulations to specify how and where permitted development can take place within each SED.

## 5.2 Authority

Local governments are required under the Act to develop and assign a land use categorization system known as “shoreline environment designations” for shoreline areas as a basis for effective shoreline master programs.

The City of Woodland accounted for different shoreline conditions is by assigning a SED to each distinct shoreline section in the City. The SEDs provide the framework for implementing shoreline policies and regulatory measures for environmental protection, use and modification provisions, and other regulatory measures specific to each SED.

## 5.3 Shoreline Environment Designations

The City classification system consists of SEDs that are consistent with and implement the Act, the Program, and the City of Woodland Comprehensive Plan.

These designations have been assigned consistent with the corresponding criteria provided for each SED. In delineating SEDs, the City aims to ensure that existing shoreline ecological functions are protected with the proposed pattern and intensity of development. Such designations should be consistent with the policies for restoration of degraded shorelines. The five SEDs are:

- High-Intensity
- Residential
- Urban Conservancy
- Aquatic

- Recreation

## 5.3.1 High-Intensity

### Purpose

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

### Management Policies

A. Priority should be given to water-dependent, water-related, and water-enjoyment uses in that order of preference. Non-water-oriented uses within shoreline jurisdiction are appropriate on sites where there is no direct access to the shoreline because of levees, public roads, or other intervening features.

B. Non-water-oriented uses on sites adjacent to the water should provide public benefit in the form of ecological enhancement and/or public access in compliance with the provisions of this Program.

C. No net loss of shoreline ecological functions should result due to development of a site. Where unavoidable impacts to ecological functions occur, appropriate mitigation should be provided in accordance with this Program. Where applicable, development should include environmental cleanup and restoration of the shoreline in accordance with relevant state and federal law.

D. Where feasible as described by this Program, visual and/or physical public access should be provided.

E. Aesthetic objectives of this Program should be in character with high intensity development and include height limits, screening, and other standards consistent with the primary purpose of accommodating high-intensity uses.

F. Full utilization of existing urban and extensively altered areas should be achieved before further expansion of intensive development is allowed.

### Designation Criteria

The High-Intensity SED is given to shoreline areas within incorporated municipalities and urban growth areas if they currently support or are planned for high-intensity uses related to commerce or transportation.

## 5.3.2 Residential

### Purpose

The purpose of the Residential SED is to accommodate residential development and appurtenant structures that are consistent with this Program.

### Management Policies

A. Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be set to assure no net loss of shoreline ecological functions. These standards should take into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

We would like to discuss how Woodland prefers to establish standards for density or minimum frontage width, and lot coverage (see A, above). We have not proposed standards yet.

B. Multi-family and multi-lot residential (greater than four [4] lots) developments should provide public access and joint use for community facilities in compliance with this Program.

C. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

D. New commercial development should be limited to water-oriented uses.

### Designation Criteria

The Residential SED is assigned to shoreline areas inside urban growth areas and incorporated municipalities if they are predominantly single-family or multi-family residential development or are planned and platted for residential development.

## 5.3.3 Urban Conservancy

### Purpose

The purpose of the Urban Conservancy SED 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, including recreational areas and facilities and utilities. Activities permitted in these areas are intended to have minimal adverse impacts upon the shoreline.

### Management Policies

A. Primary allowed uses within this designation should preserve the natural character of the area or promote preservation of open space, floodplain or other sensitive lands where they exist in urban and developed settings, either directly or over the long term.

B. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the Urban Conservancy environment designation. These standards ensure that new development does not result in a net loss of shoreline ecological functions and significant ecological impacts can be mitigated.

C. Public access and public recreation objectives should be implemented whenever feasible, but only when any resulting significant ecological impacts can be mitigated.

D. Water-oriented uses should be given priority over non-water-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

### Designation Criteria

The Urban Conservancy SED is assigned to shoreline areas where development could occur while maintaining or having the ability to restore ecological functions. These are shoreline areas that are not generally suitable for water-dependent uses within incorporated municipalities or urban growth areas that display any of the following characteristics:

A. Suitability for water-related or water-enjoyment uses;

B. Open space, floodplain or other sensitive areas that should not be more intensively developed;

C. Potential for ecological restoration;

D. Retention of ecological functions, even though partially developed; or

E. Potential for development that is compatible with ecological restoration.

## 5.3.4 Aquatic

### Purpose

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

### Management Policies

A. Allow new overwater and in-water structures only for water-dependent uses, public access, or ecological restoration. In order to reduce the impacts, multiple use of overwater facilities should be encouraged, and the size of new overwater structures should be limited to the minimum necessary to support the structure's intended use.

B. 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.

C. Uses that adversely impact the ecological functions of critical freshwater habitats should not be allowed, except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the preferred mitigation sequence of this Program, Section 6.1, No Net Loss of Ecological Function, to assure no net loss of ecological functions.

D. New dredging may be approved as a conditional use provided it meets all of the conditions of this Program.

E. Maintenance dredging is permitted provided it meets all of the conditions of this Program.

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

### Designation Criteria

A. The Aquatic SED is applied to lands waterward of the OHWM.

## 5.3.5 Recreation

### Purpose

The Recreation SED is intended to provide areas for new and continued recreational and public access opportunities along shorelines, including public and private parks and recreational facilities. An additional purpose is to maintain ecological functions and open space.

### Management Policies

A. New recreation development should result in no net loss of ecological function.

B. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails, and swimming beaches, are preferred uses provided significant adverse impacts to the shoreline can be mitigated.

C. To the extent possible, recreational opportunities should be accessible by all populations.

D. New recreation design should encourage ecological stewardship by locating non-water-dependent activity areas away from the water's edge and planting and maintaining native vegetation buffers along the water.

### Designation Criteria

The Recreation SED is applied to shoreline areas where public and private lands are devoted to or designated for recreation use including parks and open space and water-dependent uses such as marinas which provide recreational moorage, as well as where lands are not yet developed but are planned for water-oriented recreation.

## 5.4 Shorelines of Statewide Significance

The Act designated certain shoreline areas as Shorelines of State-wide Significance (SSWS). Because these shorelines are major resources from which all people in the state derive benefit, the City shall give preference to uses which favor long-range goals and support the overall public interest.

Within the City of Woodland the Lewis River is designated as a shoreline of SSWS. SSWS are of value to the entire state. In accordance with RCW 90.58.020, SSWS will be managed as follows:

A. Every project located on a SSWS shall demonstrate consistency with the following priorities, in order of preference, in all permit review, in addition to compliance with other criteria provided by this Program:

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

    a. Solicit comments and opinions from groups and individuals representing statewide interests by circulating amendments to the Program, and any proposed amendments affecting SSWS, to state agencies, affected tribes, adjacent jurisdictions, citizen's advisory committees and local officials, and statewide interest groups.

    b. Recognize and take into account state agencies' policies, programs, and recommendations in developing and administering use regulations and in approving shoreline permits.

    c. Solicit comments, opinions, and advice from individuals with expertise in ecology and other scientific fields pertinent to shoreline management.

2. Preserve the natural character of the shoreline.

a. Designate and administer shoreline environments and use regulations to minimize damage to the ecology and environment of the shoreline as a result of man-made intrusions on shorelines.

b. Restore, enhance, and/or redevelop those areas where intensive development or uses already exist in order to reduce adverse impact on the environment and to accommodate future growth rather than allowing high-intensity uses to extend into low-intensity use or underdeveloped areas.

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

3. Support actions that result in long-term over short-term benefit.

a. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.

b. Protect resources and values of SSWS for future generations by modifying or prohibiting development that would irretrievably damage shoreline resources.

c. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or general enhancement of shoreline areas.

4. Protect the resources and ecological function of the shoreline:

a. Minimize development activity that will interfere with the natural functioning of the shoreline ecosystem, including, but not limited to, stability, drainage, aesthetic values and water quality.

b. All shoreline development should be located, designed, constructed, and managed to avoid disturbance of and minimize adverse impacts to wildlife resources, including spawning, nesting, rearing, and habitat areas and migratory routes.

c. Restrict or prohibit public access onto areas which cannot be maintained in a natural condition under human use.

d. Shoreline materials including, but not limited to, bank substrate, soils, beach sands and gravel bars should be left undisturbed by shoreline development. Gravel mining should be severely limited in shoreline areas.

e. Preserve environmentally sensitive wetlands for use as open space or buffers and encourage restoration of currently degraded wetland areas.

5. Increase public access to publicly owned areas of the shoreline.

a. Retain and enhance public access to the shoreline including passive enjoyment, recreation, fishing, and other enjoyment of the shoreline and public waters consistent with the enjoyment of property rights of adjacent lands.

b. Give priority to developing a system of linear access consisting of paths and trails along the shoreline areas, providing connections across current barriers.

c. Provide multi-purpose non-motorized trail facilities also serving the mobility impaired wherever feasible.

6. Increase recreational opportunities for the public on the shoreline.

a. Plan for and encourage development of facilities for recreational use of the shoreline.

# 6. General Shoreline Regulations

This chapter describes general regulations which apply to all shorelines of the state that are located in the City of Woodland. The general regulations section is used in conjunction with more specific use and modification regulations found in Chapter 7.

## 6.1 No Net Loss of Ecological Function

A. All shoreline use and development, including preferred uses and uses that are exempt from permit requirements, shall be located, designed, constructed, conducted, and maintained in a manner that maintains shoreline ecological functions, in accordance with the mitigation sequencing provisions of this Program.

B. Shoreline ecological functions that shall be protected include, but are not limited to, fish and wildlife habitat, food web support, and water quality maintenance.

C. Shoreline processes that shall be protected include, but are not limited to, water flow; erosion and accretion; infiltration; groundwater recharge and discharge; sediment delivery, transport, and storage; large woody debris recruitment; organic matter input; nutrient and pathogen removal; and stream channel formation/maintenance.

D. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and benthic productivity). In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.

E. An application for any permit or approval shall demonstrate all reasonable efforts have been taken to provide sufficient mitigation such that the activity does not result in net loss of ecological functions. Mitigation shall occur in the following prioritized order:

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

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

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

    4. Reduce or eliminate the adverse impact over time by preservation and maintenance operations during the life of the action.

5. Compensate for the adverse impact by replacing, enhancing, or providing similar substitute resources or environments. Preference shall be given to measures that replace the impacted functions on site or in the immediate vicinity of the impact. However, 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 may be authorized.

6. Monitor the adverse impact and take appropriate corrective measures.

F. Applicants for permits have the burden of proving that the proposed development is consistent with the criteria set forth in this Program and the Act, including demonstrating all reasonable efforts have been taken to provide sufficient mitigation such that the activity does not result in net loss of ecological functions.

## 6.2 Archaeological, Cultural, and Historic Resources

A. If historic, cultural, or archaeological sites or artifacts are discovered in the process of development, work on that portion of the site shall be stopped immediately, the site secured, and the find reported as soon as possible to the City. The property owner also shall notify the Washington Department of Archaeology and Historic Preservation and affected tribes. Tribal contacts will be provided by the City. The City may require a site investigation by a qualified professional and may require avoidance or conservation of the resources in coordination with appropriate agencies. All shoreline permits shall contain a special provision notifying permittees of this requirement. Failure to comply with this requirement shall be considered a violation of the shoreline permit and shall subject the permittee to legal action as specified in Section 8.11, Enforcement, of this Program.

B. Prior to approval of development in an area of known or probable cultural resources, the City shall require a site assessment by a qualified professional archaeologist in coordination with affected tribes. Conditions of approval may require preservation or conservation of cultural resources as provided by applicable federal, state, and local statutes. All permits issued for development in areas known to be archaeologically significant shall provide for monitoring of any development activity for previously unidentified cultural resources.

## 6.3 Critical Areas Protection

Critical Areas Regulations that apply in shoreline jurisdiction are found in Appendix B of this program.

### 6.3.1 Applicable Critical Areas

For purposes of this Program, the following critical areas, as defined in Chapter 2 and Appendix B, will be protected under this Program: Wetlands, Critical Aquifer Recharge Areas, Frequently Flooded Areas, Geologically Hazardous Areas, and Fish and Wildlife Habitat Conservation Areas.

### 6.3.2 General Provisions

A. Shoreline uses, activities, developments, and their associated structures and equipment shall be located, designed, and operated to protect the ecological processes and functions of critical areas.

B. Where appropriate, new and expanded development proposals shall integrate protection of wetlands, fish and wildlife habitat, and flood hazard reduction with other stream management provisions, such as retention of channel migration zones, to the extent they are within shoreline jurisdiction, to ensure no net loss of ecological functions.

C. Critical areas within the shoreline jurisdiction shall be regulated for any use, development, or activity as provided in accordance with this Program and Appendix B whether or not a permit or Shoreline Letter of Exemption is required.

D. If provisions of Appendix Band other parts of this Program conflict, the provisions most protective of ecological resources shall apply, as determined by the City.

E. Unless otherwise stated, critical area buffers shall be protected and/or enhanced in accordance with this Program and Appendix B.

F. These provisions do not extend the shoreline jurisdiction beyond the limits specified in this Program as defined in Section 3.1, Applicability.

G. In addition to compensatory mitigation, unavoidable adverse impacts may be addressed through restoration efforts.

## 6.4 Flood Prevention and Flood Damage Minimization

This Program addresses flooding in two different ways. This section includes flood hazard reduction measures, including flood control works, intended to avoid increasing hazards and minimize damage. Appendix B includes flood hazard protections through the Critical Areas Regulations.

A. Development or uses in floodplains shall avoid significantly or cumulatively increasing flood hazards and shall be consistent with WMC 14.40, Flood Damage Prevention.

B. New residential, commercial, or industrial development and uses, including subdivision of land, within shoreline jurisdiction are prohibited if it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures in the channel migration zone or floodway over the life of the development.

C. The following uses and activities may be authorized in floodways or channel migration zones when otherwise permitted by this Program:

1. Actions and development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

2. Forest practices in compliance with the Washington State Forest Practices Act and its implementing rules.

3. Existing and ongoing agricultural practices, provided that no new restrictions to channel movement occur.

4. Mining when conducted in a manner consistent with the SED and with Subsection 7.2.9 of this Program.

5. Bridges, utility lines, public stormwater and wastewater facilities and their outfalls, and other public utility and transportation structures where no other feasible alternative exists, or where the alternative would result in unreasonable and disproportionate costs. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected shoreline.

6. Repair and maintenance of an existing legally established use, provided flood hazards to other uses are not increased and that the activity does not cause significant ecological impacts that cannot be mitigated.

7. Development in the City and urban growth areas, as defined in RCW 36.70A, where structures exist that prevent active channel movement and flooding.

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

9. Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measures do not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and that the measures include appropriate mitigation of impacts to ecological functions associated with the river or stream.

D. Removal of materials for flood management purposes shall be consistent with an adopted flood hazard reduction plan and is 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, except when the removal is part of a U.S. Army Corps of Engineers dredging activity.

E. Channel Migration Zones:

1. Channel migration zones must be evaluated on a site by site basis when required by the City.

2. The Channel Migration Zone Map is included as Appendix D. Applicants may submit a site-specific channel migration zone study if they believe these conditions do not exist on the subject property and the map is in error. The study must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. The study must be prepared by a licensed geologist or engineer with at least five years of applied experience in assessing fluvial geomorphic processes and channel response.

F. Flood Control Works:

1. New or substantially altered structural flood hazard reduction measures, such as dikes, levees, berms, and similar flood control structures, shall be consistent with flood hazard regulations or management plans adopted pursuant to RCW 86.12, provided the plan has been adopted after 1994 and approved by Ecology.

2. New or substantially altered structural flood hazard reduction measures shall be permitted only when it can be demonstrated by a scientific and engineering analysis that:

   a. They are necessary to protect existing development.

   b. Non-structural flood hazard reduction measures are infeasible.

   c. Impacts to ecological processes and functions, and priority fish and wildlife species and habitats can be successfully mitigated to ensure no net loss of functions as set forth in Section 6.1, No Net Loss of Ecological Function.

   d. Appropriate vegetation conservation actions are undertaken consistent with Section 6.6, Vegetation Conservation.

3. Require that new structural public flood hazard reduction measures, such as dikes and levees, dedicate and improve public access pathways, if feasible, unless public access improvements would cause:

a. Unavoidable health or safety hazards to the public,

b. Inherent and unavoidable security problems,

c. Unacceptable and unmitigable significant ecological impacts,

d. Unavoidable conflict with the proposed use, or

e. A cost that is disproportionate and unreasonable to the total long-term cost of the development.

4. To the maximum extent feasible, new or altered dikes and levees shall be designed to be:

a. No greater than the minimum height required to protect adjacent lands from the predicted flood stage as identified in the applicable comprehensive flood control management plan or as required by the U.S. Army Corps of Engineers for dike certification.

b. Placed landward of associated wetlands and designated buffers, except for actions that increase ecological functions, unless there is no other feasible alternative to reduce flood hazard to existing development.

c. Located and designed so as to protect and restore the natural character of the stream, avoid the disruption of channel integrity, and provide the maximum opportunity for natural floodway functions to take place, including levee setbacks to allow for more natural functions of floodplains, channel migration zones, off-channel habitat, and associated wetlands directly interrelated and interdependent with the stream.

d. Planted with appropriate vegetation meeting the certification requirements while providing the greatest amount of ecological function possible.

5. A geotechnical or geofluvial report prepared by a qualified professional shall demonstrate that new or altered flood protection structures will not increase downstream flooding and will not adversely affect the integrity of downstream ecological functions including disruption of natural drainage flows and stormwater runoff.

G. Information Required. In addition to any information required as part of a critical areas assessment per Appendix B, the City shall require the applicant to provide the following information as part of an application for development within a flood hazard area. The City may also request additional information listed in WMC Chapter 14.40, Flood Damage Prevention.

1. Flood hazard area characteristics up- and downstream or up- and downcurrent from the project area;

2. Existing shoreline stabilization and flood protection works within the area;

3. Physical, geological, and soil characteristics of the area;

4. Biological resources and predicted impact to fish, vegetation, and animal habitat associated with shoreline ecological systems;

5. Predicted impact upon adjacent area shore and hydraulic processes, adjacent properties, and shoreline and water uses; and

6. Analysis of alternative flood protection measures, both structural and nonstructural.

## 6.5 Public Access

Public access provisions apply to all shorelines of the state, if feasible, unless stated otherwise and are intended to protect 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.

A. Applicability (also see Figure 6-1):

Should revisit Figure 6-1 below after the City has confirmed its intent with regards to Shoreline Public Access Plan and Public Access Fund.

1. Public access shall be required in the following circumstances:

    a. The use or development is a public project; or

    b. The project is a water-enjoyment or non-water-oriented use or development; or

    c. The project is a residential development of more than four (4) dwelling units; or

    d. The project is a subdivision of land into more than four (4) parcels; or

    e. The project is a private water-dependent or water-related use or development and one of the following conditions exists:

        i. The project increases or creates demand for public access;

        ii. The project impacts or interferes with existing access by blocking access or discouraging use of existing access; or

iii. The project impacts or interferes with public use of waters subject to the Public Trust Doctrine.

2. Public access to the shoreline shall not be required for the following:

   a. Activities qualifying for a shoreline permit exemption; or

   b. New single-family residential development of four (4) or fewer units.

3. Physical public access shall not be required where the new or expanded use or development would be physically separated from the shoreline by another property, public right-of-way, or levee.

4. The City may approve alternatives to on-site, physical access to the shoreline if the applicant can demonstrate with substantial evidence that at least one of the following conditions exist:

   a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any reasonable means;

   b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;

   c. The cost of providing the access, easement, or an alternative amenity, is unreasonably disproportionate to the total long term cost of the proposed development;

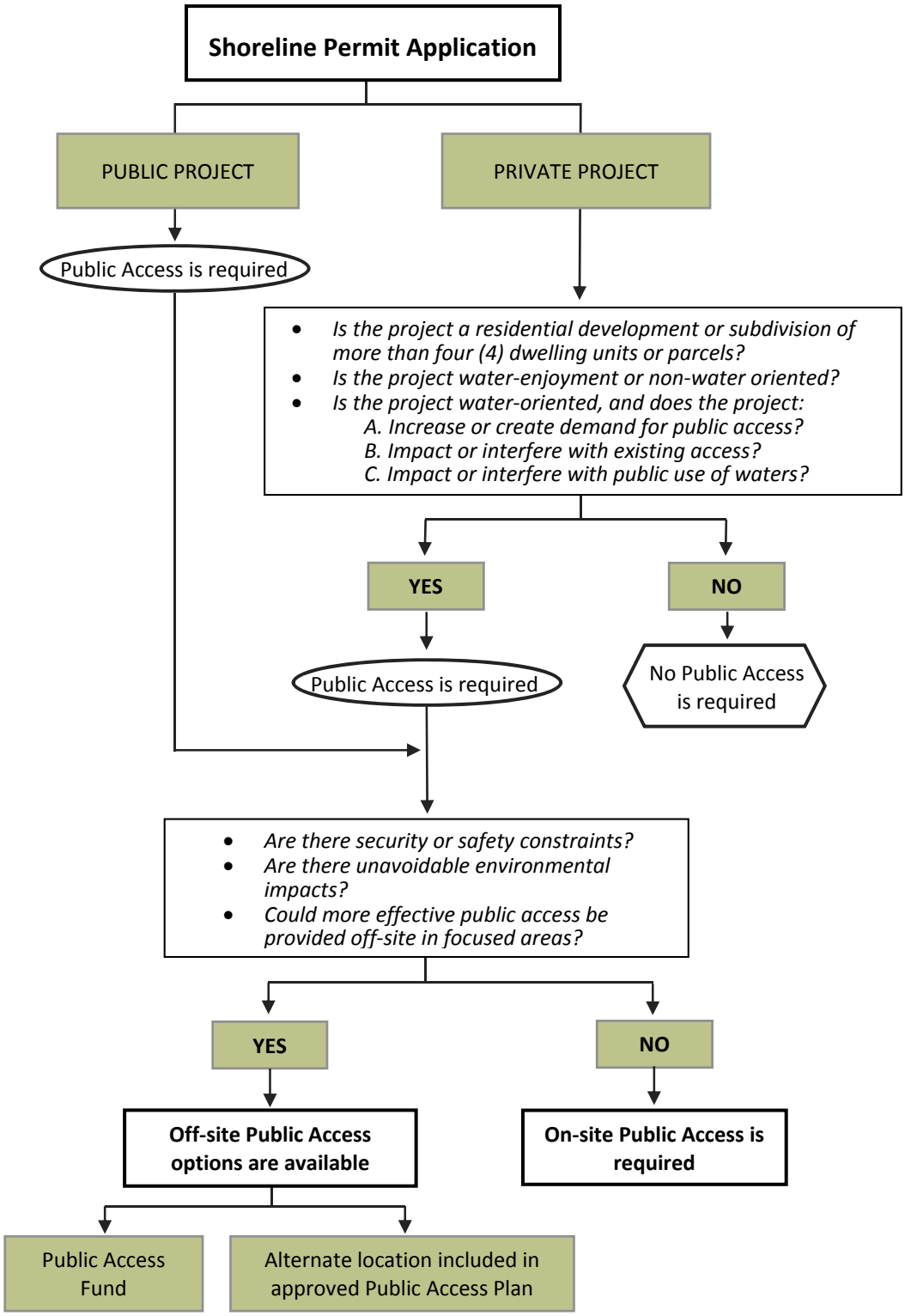
   d. Environmental impacts that cannot be mitigated, such as damage to spawning areas or nesting areas, would result from public access on-site;

   e. Significant undue and unavoidable conflict between access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated; and/or

   f. More effective public access can be provided off-site by focusing public access improvements at sites identified in the City's public access planning process conducted per WAC 173-26-221(4)(c).

**For Discussion:** Will the City of Woodland be completing a public access plan? If so, we can refer to it here. If not, this language allows for a future plan to be adopted.

**Figure 6-1. Public Access Applicability**



5. To be approved for alternative public access as described, the applicant shall demonstrate that all feasible alternatives have been considered, including, but not limited to, regulating access through allowed hours of use, maintaining access gate, and/or separating uses and activities with fences, terracing, hedges, etc.

B. Public Access Standards:

1. When public access is required and provided on-site, it shall be:

    a. Located and designed to be compatible with the natural shoreline character, to avoid adverse impacts to shoreline ecological functions, and to ensure public safety.

    b. Allowed to encroach into the shoreline buffer when necessary to provide physical and or visual access to the water's edge when otherwise consistent with this Program and Appendix B, Critical Areas Regulations.

    c. Connected to the nearest public street and shall include improvements that conform to the requirements of the ADA when feasible or required by law.

    d. Fully developed and available for public use prior to final occupancy when required for public land, commercial, port or industrial use/development.

    e. Clearly identified by signage installed and maintained in easily visible locations indicating the public's right of access, hours of access, and other information as needed to control or limit access according to conditions of approval.

    f. Recorded by easement and permit conditions on the deed of title and/or the face of a short or long plat. Recordation shall occur at the time of final plat approval or prior to final occupancy.

    g. Consistent with all relevant constitutional and other legal limitations on regulation of private property.

2. Off-site or Alternative Public Access:

    a. When public access is provided off-site, its location, design, and access type shall be consistent with the City's adopted Shoreline Public Access Plan.

    b. When public access is allowed off-site, an applicant may elect to make a payment into the jurisdiction's Shoreline Public Access Fund in lieu of developing the access directly.

3. Public access requirements for a single-family residential development of greater than four (4) parcels but less than ten (10) parcels can be met by providing

community access to the shoreline or to a common waterfront lot/tract for non-commercial recreation use by the property owners and guests within the subdivision.

## 6.6 Vegetation Conservation

A. Unless otherwise specified, all shoreline uses and development shall comply with the setback and buffer provisions of this Program included in Table 7-1 and Appendix B, Critical Areas Regulations, to protect and maintain shoreline vegetation.

B. Vegetation clearing in shoreline jurisdiction shall be limited to the minimum necessary to accommodate approved shoreline development. Clearing nonnative vegetation is allowed.

C. In cases where approved development results in unavoidable adverse impacts to existing shoreline vegetation, mitigation shall be required to ensure that there will be no net loss of ecological functions as set forth in Section 6.1. Mitigation plans shall be approved before initiation of other permitted activities unless a phased schedule that ensures completion prior to occupancy has been approved.

D. Aquatic weed control shall only occur to protect native plant communities and associated habitats or where an existing water-dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with applicable laws and standards.

## 6.7 Water Quality and Quantity

A. All shoreline development shall comply with the applicable requirements of the City's Comprehensive Stormwater Plan, Comprehensive Plan, and best management practices to prevent impacts to water quality and stormwater quantity that would result in a net loss of shoreline ecological functions and/or a significant impact to aesthetic qualities or recreational opportunities.

B. Stormwater management structures including ponds, basins, and vaults shall be located outside of shoreline jurisdiction where possible, as far from the water's edge as feasible, and shall minimize disturbance of vegetation conservation buffers. Low impact development facilities (which do not substantially change the character of the shoreline) such as vegetation filter strips, grass-lined swales, and vegetated bioretention and infiltration facilities, are encouraged in association with development allowed in shoreline jurisdiction.

C. Aerial application of pesticides, herbicides and fertilizers within shoreline jurisdiction is prohibited unless as part of a public agency program for control of noxious species or specific pests, for quarantine or public health purposes, or for a crisis exemption.

D. Sewage management. To avoid water quality degradation, sewer service is subject to the requirements outlined below.

1. Any existing septic system or other on-site system that fails or malfunctions will be required to connect to an existing municipal sewer service system if feasible, or make system corrections approved by the Cowlitz County Environmental Health Unit.

2. Any new development, business, single-family or multi-family unit will be required to connect to an existing municipal sewer service system if feasible, or install an on-site septic system approved by Cowlitz County Environmental Health Unit.

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# 7. Specific Shoreline Use and Modification Regulations

The regulations in this chapter apply to specific uses and modifications within shoreline jurisdiction. In many circumstances, more than one section of use or modification regulations will apply to a specific proposal. Guiding policies for uses and modifications are located in Chapter 4, Shoreline Master Program Goals and Policies.

## 7.1 Shoreline Use, Modification, and Standards Tables

A. Table 7-1 Shoreline Use, Modification, Setbacks, and Heights, shall be used to determine which uses may be permitted, approved with conditions, or prohibited in each SED.

B. All uses and development activities proposed for jurisdictional shoreline areas must comply with all provisions of the Woodland Municipal Code, as determined by the City.

C. Any non-exempt uses not defined in the following table shall be reviewed through an SCUP.

**Table 7-1. Shoreline Use, Modification, Setbacks, and Heights**

| **Table Key:**<br>P = May be permitted through SSDP or SLE<br>CU = May be permitted through SCUP<br>X = Prohibited<br>N/A = Not Applicable | **Shoreline Environment Designations** | | | | |
|---|---|---|---|---|---|
| | **High-Intensity** | **Residential** | **Urban Conservancy** | **Recreation** | **Aquatic** |
| **Uses (See Section 7.2, Shoreline Use Regulations for specific use regulations)** | | | | | |
| **Agriculture** | P | P | P | P | X |
| **Aquaculture** | P | CU | P | P | P |
| **Boating Facilities** | | | | | |
| Boat launches | P | P | P | P | P |
| Other Moorage | P | P | P | P | P |
| **Commercial** | | | | | |
| Water-dependent | P | CU | X[10] | CU[10] | CU |
| Water-related | P | CU | X[10] | CU[10] | X |
| Water-enjoyment | P | CU | CU[10] | CU[10] | CU[10] |
| Non-water-oriented | CU[12] | X | X | X | X |
| **Forest Practices** | X | X | X | X | N/A |
| **Industrial** | | | | | |

| **Table Key:**<br>P = May be permitted through SSDP or SLE<br>CU = May be permitted through SCUP<br>X = Prohibited<br>N/A = Not Applicable | **Shoreline Environment Designations** | | | | |
|---|---|---|---|---|---|
| | **High-Intensity** | **Residential** | **Urban Conservancy** | **Recreation** | **Aquatic** |
| Water-dependent | P | X | X | X | P |
| Other water-oriented | P | X | X | X | X |
| Non-water-oriented | CU[12] | X | X | X | X |
| **Institutional** | | | | | |
| Water-dependent | P | CU | CU | CU | CU |
| Other water-oriented | CU | X | X | X | X |
| Non-water-oriented | CU[12] | X | X | X | X |
| **Mining** | CU | X | X | X | CU |
| **Recreation** | | | | | |
| Water-dependent | P | P | P | P | P |
| Other water-oriented | P | CU | P | P | CU |
| Non-water-oriented | P | CU | X | CU | X |
| **Residential** | | | | | |
| Single-family | P[1] | P | P | CU[1] | X |
| Multi-family | P | P | X | X | X |
| New floating residence | X | X | X | X | X |
| **In-stream structures[11]** | P[3] | X | X | X | CU |
| **Transportation** | | | | | |
| Roads and railroads | P | P | P | P | CU |
| Bridges | P[4] | P[4] | P[4] | P[4] | P[4] |
| Non-motorized facilities | P | P | P | P | CU |
| Parking | P[5] | P[5] | P[5] | P[5] | X |
| **Utilities** | P | P[6] | P[6] | P[6] | CU |
| **Uses not Specified** | CU | CU | CU | CU | CU |
| **Modifications (See Section 7.3, Shoreline Modification Regulations for specific modification regulations)** | | | | | |
| **Flood Control Works (see Section 6.4)** | | | | | |
| Modification of Existing Flood Control Works (including relocation further landward) | P | P | CU | CU | CU |
| New Flood Control Works | P | CU | CU | CU | X |
| **Residential Moorage Facilities** | | | | | |
| Buoys | N/A | N/A | N/A | N/A | P |
| Docks | X | P | P | X | P |
| Marine Railways | X | P | P | X | P |

| **Table Key:**<br>P = May be permitted through SSDP or SLE<br>CU = May be permitted through SCUP<br>X = Prohibited<br>N/A = Not Applicable | **Shoreline Environment Designations** | | | | |
|---|---|---|---|---|---|
| | **High-Intensity** | **Residential** | **Urban Conservancy** | **Recreation** | **Aquatic** |
| **Shoreline Stabilization** | | | | | |
| New soft structural stabilization | P | P | P | P | P |
| Replacement soft structural stabilization | P | P | P | P | P |
| New hard structural stabilization | CU | CU | CU | CU | CU |
| Replacement hard structural | P | P | P | P | P |
| **Breakwaters, Jetties, Rock Weirs, and Groins[11]** | CU | CU | CU | CU | CU |
| **Fill / Excavation** | P[7] | P[7] | P[7] | P[7] | CU[7] |
| **Dredge and Dredge Material Disposal** | | | | | |
| Dredging | N/A | N/A | N/A | N/A | P |
| Dredge disposal | P | CU | CU | CU[9] | P |
| **Shoreline Habitat and Ecological Enhancement** | P | P | P | P | P |
| **General Buffers and Setbacks** | | | | | |
| **Buffer** | See Table B-4 in Subsection 8.4.D of Appendix B | | | | |
| **Building setback from Buffer in Table B-4** | 10’ | 10’ | 10’ | 10’ | N/A |
| **Structure Height** | | | | | |
| **Maximum Height** | 35’[8] | 35’ | 35’ | 35’ | 35’ |

**Table Notes**

1. Caretaker residence only.
2. Only free standing informational, educational, and navigation signs are permitted in the Aquatic environment designation.
3. Limited to hydro-power dams.
4. Expansion of a bridge by 50% or more may be reviewed through an SCUP, rather than an SSDP Permit, at the discretion of the City.
5. Parking must support an allowed primary use. Parking as a primary use is prohibited.
6. Gas or oil transmission lines greater than 6 inches in diameter, electrical transmission lines greater than 50kv, and structural utility buildings, such as pump stations, electrical substations, dams or other facilities, require a SCUP.
7. All fill below the OHWM, except that required for ecological restoration, requires a SCUP.
8. Additional height may be approved in accordance with Section 7.2.6.I.
9. Dredge disposal allowed through an SSDP on lands already covered by legally deposited dredge spoils.
10. Commercial uses that are accessory to a public access or recreation use (such as kayak rental or concession stand) are allowed through an SSDP.
11. Structures that support fish habitat enhancement are allowed in all environments through an SSDP.

12. Non-water-oriented uses may be permitted through an SSDP where the use would be physically separated from the shoreline by another property, public right-of-way, or flood control structure.

# 7.2 Shoreline Use Regulations

## 7.2.1 Agriculture

A. For the purposes of this Program, the definitions in Chapter 2, Definitions, and WAC 173-26-020 apply for the terms agricultural activities, agricultural products, agricultural equipment and facilities, and agricultural land.

B. In accordance with RCW 90.58.065, this Program shall not restrict existing or ongoing agricultural activities occurring on agricultural lands. The regulations in this Program apply to:

   1. New agricultural activities on land not meeting the definition of agricultural land,

   2. Conversion of agricultural lands to other uses, and

   3. Other development on agricultural land that does not meet the definition of agricultural activities.

C. New agricultural uses and developments are limited to indoor crop production and shall conform to the requirements of this Program. All other new or expanded agricultural uses are prohibited.

## 7.2.2 Aquaculture

Aquaculture is the farming or culturing of food fish or other aquatic plants and animals in lakes, streams and other natural or artificial waterbodies. At the time of Adoption of this Program, these activities are not applicable to the City of Woodland. There are no known aquaculture activities existing or anticipated within shoreline jurisdiction. If such operations are established in the future, regulations will be established by amendment to this Program.

## 7.2.3 Boating Facilities

A. General Requirements:

   1. New and modified boating facilities shall be sited and designed to ensure no net loss of shoreline ecological functions and shall meet Washington Department of Natural Resources requirements and other state guidance if located in or over state-owned aquatic lands.

   2. Boating facilities shall locate in areas where:

      a. There is adequate water mixing and flushing;

b. The structure would not block or obstruct lawfully existing or planned public shoreline access;

c. Such facilities will not adversely affect flood channel capacity or otherwise create a flood hazard;

d. Water depths are adequate to minimize new or maintenance dredging and other channel maintenance activities;

e. The structure would minimize the obstruction of currents, alteration of sediment transport, and the accumulation of drift logs and debris;

f. New shoreline stabilization would not be needed. Where the need for stabilization is unavoidable, only the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft may be allowed; and

g. Water depths are adequate to prevent floating structures from grounding out at the lowest low water or else stoppers are installed to prevent grounding out.

2. Boating facilities shall not be located:

   a. Along braided or meandering river channels where the channel is subject to change in alignment;

   b. On point bars or other accretion beaches;

   c. Where existing in-water navigation uses would impaired or obstructed.

3. Boating facilities shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Materials used for submerged portions, decking, and other components that may come into contact with water shall be approved by applicable state agencies for use in water.

4. Boating uses and facilities shall be located far enough from public swimming beaches, and fishing and aquaculture areas within the City or County to avoid adverse impacts, safety concerns, and potential use conflicts.

5. Accessory uses at boating facilities shall be:

   a. Limited to water-oriented uses, including uses that provide physical or visual shoreline access for the general public.

   b. Located as far landward as possible while still serving their intended purposes.

6. Parking and storage areas shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas.

7. Lighting associated with overwater structures shall be beamed, hooded, or directed to avoid causing glare on adjacent properties or waterbodies. Illumination levels shall be the minimum necessary for safety.

8. Boating facilities shall locate where access roads are adequate to handle the traffic generated by the facility and shall be designed so that lawfully existing or planned public shoreline access is not obstructed.

9. New uses, developments and activities accessory to boating facilities should be located outside any applicable shoreline buffer unless at least one of the following is met:

    a. Proximity to the water-dependent project elements is critical to the successful implementation of the facility's purpose, and the elements are supportive of the water-dependent use and have no other utility (e.g., a road to a boat launch facility);

    b. The applicant's lot/site has topographical or other constraints where no other location of the development is feasible (e.g., the water-dependent use or activity is located on a parcel entirely or substantially encumbered by the required buffer).

    In these circumstances, uses and modifications accessory to water-dependent boating facilities must be designed and located to minimize intrusion into the buffer, and any adverse impacts to ecological functions shall be mitigated.

B. Boat Launches

1. Launch ramps shall be designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available with consideration for site-specific conditions and the particular needs of that use.

2. There is no maximum length or width for boat launches; however, the proponent must demonstrate that the size proposed is the minimum necessary to allow the use proposed.

3. Non-motorized boat launches shall use gravel or other permeable material.

4. Additional standards for public boat launches are as follows:

    a. Public boat launches shall include adequate restroom and sewage and solid waste disposal facilities in compliance with applicable health regulations.

b. When overwater development is proposed in association with a public boat launch facility, it may be permitted only where such use requires direct water access and/or where such facilities will substantially increase public opportunities for water access.

c. Public boat launches shall be located and designed to prevent traffic hazards and to minimize traffic impacts on nearby access streets.

d. Public boat launch sites shall include parking spaces for boat trailers commensurate with projected demand.

C. Docks

1. New dock construction, excluding docks accessory to single-family residences (regulated under Section 7.3.3, Residential Moorage Facilities: Docks, Buoys, and Marine Railways), shall be permitted only when the applicant has demonstrated that a specific need exists to support the intended primary water-dependent use. The applicant shall demonstrate need by providing a needs analysis or comprehensive master plan projecting future needs for dock or moorage space for approval. If approved by staff, the document may serve as the necessary justification for design, size, and construction to the extent that the plans are consistent with this Program.

D. Covered moorage is only permitted within a marina or as a necessary component of a water-dependent industrial or commercial use. Covered moorage shall be designed and located to minimize adverse impacts caused by shading the water and blocking views.

### 7.2.4 Commercial

A. Water-dependent commercial uses are preferred over non-water-dependent commercial uses.

B. Non-water-dependent commercial uses shall not be allowed if they displace existing viable water-dependent uses or if they are proposed to occupy space designated for water-dependent uses identified in a previously approved SSDP or other approval.

C. Non-water-oriented commercial uses may be permitted only as part of a mixed-use development that:

1. Has a formally approved master plan that complies with this Program; and

2. Includes water-dependent uses; and

3. Provides a significant public benefit such as public access and/or ecological restoration.

D. Non-water-dependent commercial uses may occupy:

   1. Up to a total of 25 percent of the total frontage length of all parcels in the master-planned development (regardless of ownership); or

   2. Up to a total of 25 percent of the total project area within shoreline jurisdiction of all parcels in the master-planned development (regardless of ownership).

E. Water-enjoyment and water-related commercial uses shall provide public access and/or ecological restoration where feasible, and shall avoid impacts to existing navigation, recreation and public access uses.

F. An applicant for a new commercial use or development shall demonstrate that:

   1. There will not be a net loss of shoreline ecological function due to the use or development; and

   2. The use or development will have no significant adverse impacts to other shoreline resources or other shoreline uses.

G. Accessory development or use that does not require a shoreline location, such as parking, service buildings or areas, access roads, utilities, signs, and storage of materials, shall be located outside of the shoreline jurisdiction, where practicable.

H. Overwater structures, or other structures waterward of the OHWM, are allowed only for those portions of water-dependent commercial uses that require overwater facilities as an essential feature of their function or for public access facilities. Design of overwater structures or structures beyond the OHWM shall demonstrate that they will not interfere with normal stream geomorphic processes, require additional future shoreline stabilization, or interfere with navigation or normal public use of the water.

I. Where commercial developments are proposed in locations that would interrupt existing shoreline views, primary structures shall provide for reasonable view corridors. The City may adjust the project dimensions and/or prescribe development operation and screening standards as deemed appropriate. Need and special considerations for landscaping and buffer areas shall also be subject to review.

J. New or expanded commercial development shall meet the criteria of no net loss of ecological functions and the preferred mitigation sequence of this Program, Section 6.1.

K. Only water-dependent elements for commercial use of a proposal may encroach on required vegetated buffers of this Program (see Section 8.4.D of Appendix B, Critical Areas Regulations).

## 7.2.5 Forest Practices

A. Commercial harvest of timber undertaken on shorelines shall comply with the applicable policies and provisions of the Forests and Fish Report (U.S. Fish and Wildlife Service, et al., 1999) and the Forest Practices Act, RCW 76.09 as amended, and any regulations adopted pursuant thereto (WAC 222) as administered by the Department of Natural Resources.

B. When timberland is to be converted to another use, such conversion shall be clearly indicated on the forest practices application. Failure to indicate the intent to convert the timberland to another use on the application will result in subsequent conversion proposals being reviewed pursuant to conversion Option Harvest Plan. Failure to declare intent to convert on the application shall provide adequate grounds for denial of subsequent a conversion proposals for a period of six (6) years from the date of the forest practices application approval per RCW 76.09.060(3)(d), (e), and (f); RCW 76.09.460; and RCW 76.09.470 subject to the provisions of Sections 40.260.080(A)(4)(a)(2) and (C).

C. With respect to timber situated within two hundred (200) feet landward of the OHWM within SSWS, Ecology or the City shall allow only selective commercial timber cutting so that no more than thirty (30) percent of the merchantable trees may be harvested in any ten (10) year period of time; provided that other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions, or silviculture practices necessary for regeneration render selective logging ecologically detrimental; and provided further, that clear cutting of timber which is solely incidental to the preparation of land for other uses authorized by this Program may be permitted. Exceptions to this standard shall be by SCUP only.

D. For the purposes of this Program, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered forest practices and shall be reviewed in accordance with the provisions for the proposed non-forestry use and the general provisions of this Program, including vegetation conservation.

## 7.2.6 Industrial

A. Water-dependent industrial uses are preferred over non-water-dependent industrial uses.

B. Water-related industrial uses shall not be allowed if they displace existing viable water-dependent uses or if they are proposed to occupy space designated for water-dependent uses identified in a previously approved SSDP or other approval.

C. New or expanded non-water oriented industrial development may be allowed if they are part of a mixed-use project, navigation at the site is limited, and the use provides a significant public benefit in the form of public access or shoreline ecological restoration.

D. Where industrial use is proposed for location on land in public ownership, public access shall be required, if feasible. Industrial development and redevelopment should be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.

E. Proposed developments shall maximize the use of existing industrial facilities and avoid duplication of dock or pier facilities before expanding into undeveloped areas or building new facilities. Proposals for new industrial and port developments shall demonstrate the need for expansion into an undeveloped area.

F. New or expanded industrial development shall meet the criteria of no net loss of ecological functions and the preferred mitigation sequence of this Program, set forth in Section 6.1.

G. Only water-dependent elements of a proposal for industrial use may encroach on required vegetated buffers of this Program (see Section 8.4.D of Appendix B, Critical Areas Regulations).

H. Siting of accessory development or use within shoreline jurisdiction shall be limited to facilities required to serve approved water-oriented uses.

I. Water-oriented structures may be allowed to exceed a height of thirty-five (35) feet. Such structures may include, but are not limited to facilities which must be of a greater height in order to function, such as cranes or other facilities designed to move or place products, fixed loading facilities that must provide clearance over vessels, storage facilities such as grain elevators, as well as accessory features such as lighting required for operations. The applicant must demonstrate compliance with the following criteria:

    1. The public interest will be served by accommodating the increased height.

    2. The view of a substantial number of residences in areas adjoining such shorelines will not be obstructed.

    3. Increased height will not substantially interfere with views from a designated public place, vista, or feature specifically identified in an adopted local, state, or federal plan or policy.

J. Where industrial developments are proposed in locations that would interrupt existing shoreline views, primary structures shall provide for reasonable view corridors. The City may adjust the project dimensions and/or prescribe development

operation and screening standards as deemed appropriate. Need and special considerations for landscaping and buffer areas shall also be subject to review.

### 7.2.7 Institutional

A. Water-oriented institutional uses and developments are preferred.

B. Where allowed, non-water-oriented institutional uses may be permitted as part of a mixed use development provided that a significant public benefit such as public access and/or ecological restoration is provided.

C. Loading, service areas, and other accessory uses shall be located landward of a primary structure or underground whenever possible, but shall in no case be waterward of the structure.

D. Where institutional uses are allowed as a conditional use, the following must be demonstrated:

    1. A water-dependent use is not reasonably expected to be located on the proposed site due to topography, surrounding land uses, physical features of the site, or the site's separation from the water;

    2. The proposed use does not displace a current water-oriented use and will not interfere with adjacent water-oriented uses; and

    3. The proposed use will be of substantial public benefit by increasing the public use, enjoyment, and/or access to the shoreline consistent with protection of shoreline ecological function.

E. New or expanded institutional development shall meet the criteria of no net loss of ecological function, set forth in Section 6.1, and the preferred mitigation sequence of this Program.

### 7.2.8 In-Stream Structures

A. In-stream structural uses include, but are not limited to, hydroelectric power generation, irrigation, water transmission, and fish habitat enhancement projects. Operation, maintenance, and repair of in-stream structures may be permitted when:

    1. The proposed activity will not increase the permanent footprint of the structure.

    2. Areas impacted by temporary construction or stockpiling of materials is limited to the minimum area feasible, and all disturbed areas will be returned to their pre-project or improved ecological condition.

B. Applications for new or permanent expansion of in-stream structural uses shall include the following information prior to final approval, unless the City determines that the issues are adequately addressed via another regulatory review process:

1. A hydraulic analysis prepared by a licensed professional engineer that describes anticipated effects of the project on stream hydraulics, including potential increases in base flood elevation, changes in stream velocity, and the potential for redirection of the normal flow of the affected stream.

2. A habitat management plan prepared by a qualified professional biologist that describes the anticipated effects of the project on fish and wildlife resources, provisions for protecting in-stream resources during construction and operation, and measures to compensate for impacts to resources that cannot be avoided.

3. A description of sites proposed for the depositing of debris, overburden, and other waste materials generated during construction.

4. The proposed location and design of powerhouses, penstocks, accessory structures, and access and service roads for hydropower facilities.

5. Proposed provisions for accommodating public access to and along the affected shoreline, as well as any proposed on-site recreational features.

### 7.2.9 Mining

Mining in Washington is controlled by the Surface Mining Act of 1970 (RCW 78.44) and is administered by the Washington Department of Natural Resources. The provisions of this legislation shall be followed in all cases.

A. An applicant for mining and associated activities within the shoreline jurisdiction shall demonstrate that the proposed activities are dependent on a shoreline location consistent with this Program and WAC 173-26-201(2)(a).

B. Mining and associated activities shall be designed and operated to result in no net loss of shoreline ecological functions and processes, set forth in Section 6.1. To be approved, the applicant must demonstrate that there will be no:

1. Adverse impact on the structural integrity of the shoreline that would change existing aquatic habitat or aquatic flow characteristics; and

2. Changes in hydraulic processes to or from adjacent waterbodies that would damage aquatic habitat, shoreline habitat, or groundwater.

C. Mining waterward of the OHWM may be permitted only when the applicant demonstrates that:

1. Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect natural gravel transport or other stream processes for the system as a whole.

2. The proposed mining and associated activities will not have significant adverse impacts on habitat for priority species and will not cause a net loss of shoreline ecological functions.

3. Determinations required by the above requirements must be made consistent with RCW 90.58.100(1) and WAC 173-26-201(2)(a). Such evaluation of impacts should be appropriately integrated with relevant environmental review requirements of SEPA (RCW 43.21C) and the SEPA rules (WAC 197-11).

4. In considering renewal, extension, or reauthorization of other mining operations waterward of the OHWM in locations where they have previously been conducted, the City must require compliance with this subsection to the extent that no such review has previously been conducted. Where there has been prior review, the City must review previous determinations comparable to the requirements of this section to assure compliance with this subsection under current site conditions.

D. Aggregate washing and ponding of wastewater are prohibited in floodways.

E. Disposal of overburden or other mining spoils or nonorganic solid wastes shall comply with fill policies and regulations of this Program.

F. To ensure future use and visibility of the shoreline areas after completion of mining activities, the following provisions for land reclamation shall be met and shall be demonstrated in a reclamation plan approved by the Washington Department of Natural Resources that complies with the format and standards of RCW 78.44 and WAC 332-18:

1. All reclamation shall be completed within two (2) years after discontinuance of mining operations.

2. All equipment, machinery, buildings, and structures shall be removed from the site upon discontinuance or abandonment of mining operations.

3. Backfill material used in site reclamation shall be natural materials. Combustible, flammable, noxious, toxic, or solid waste materials are not permitted as backfill or for on-site disposal.

4. Reclamation shall prevent future erosion and sedimentation. Topography of the site shall be restored to contours compatible with the surrounding land and shoreline area.

5. Final topography of the site shall not cause standing water to collect and remain on the site except as part of a sedimentation collection and removal system.

6. All exposed areas shall be revegetated utilizing native, self-sustaining plants suitable to the immediate shoreline environment.

G. The provisions of this section do not apply to dredging of authorized navigation channels or management, placement, or beneficial reuse of dredged materials when conducted in accordance with WAC 173-26-231 and the provisions of this Program.

## 7.2.10 Recreational

This section regulates recreation uses other than boating facilities, non-motorized transportation facilities, and residential moorage facilities which are regulated by Sections 7.2.3, 7.2.12, and 7.3.3, respectively.

A. Recreation areas or facilities on the shoreline shall provide physical or visual access to the shoreline.

B. Recreation facilities and activities are permitted when they do not displace water-dependent uses and are consistent with existing water-related and water-enjoyment uses.

C. Only water-dependent elements of a proposal may encroach on required vegetated buffers of this Program, except as outlined in Subsection 8.4.D of Appendix B.

D. Recreational development shall meet the criterion of no net loss of ecological functions and the preferred mitigation sequence of this Program, set forth in Section 6.1.

E. Parking areas shall be located upland, away from the immediate shoreline with pedestrian trails or walkways providing access to the water. Unavoidable impacts shall be mitigated consistent with this Program, Section 6.1, No Net Loss of Ecological Function.

F. Provisions shall be made for adequate vehicular parking and safe pedestrian crossings. Design of parking areas shall ensure that surface runoff does not discharge to adjacent waters.

G. Motorized vehicular use on beaches, bars, spits, and streambeds, except for boat launching and maintenance activities, is prohibited.

H. All permanent, substantial recreational structures and facilities shall be located outside officially mapped floodways. Minor accessory uses (including, but not limited to, picnic tables and playground equipment) may be allowed in the floodway when it can be demonstrated by the applicant that there will be no net loss of

ecological functions as set forth in Section 6.1, and all flood hazard criteria of this Program and the City's flood protection code in WMC 14.40, Flood Damage Prevention, are met.

I. New overwater structures for recreation use shall be allowed only when:

1. They accommodate water-dependent recreation use or facilities; or
2. They provide access for the public to enjoy the shorelines of the state; and
3. They are not located in a critical area or the associate buffer; and
4. No net loss of ecological functions will be achieved as set forth in Section 6.1.

J. Trailer spaces, camping sites, and similar facilities shall not be located on beaches.

K. Recreational facilities shall provide adequate facilities for potable water supply, sewage disposal, and/or garbage collection where practicable.

### 7.2.11 Residential

A. Single-family residential development is a priority use on the shoreline when designed and developed to create no net loss of ecological functions and in compliance with this Program as set forth in Section 6.1.

B. Single-family residential uses shall be allowed on all shorelines not subject to a preference for commercial or industrial water-dependent uses and shall be located, designed, and used in accordance with applicable policies and regulations of this Program. However, single-family residences are prohibited in the Aquatic and Natural environment designations.

C. New residential construction:

1. Shall be designed such that no shoreline stabilization measures are necessary.
2. Shall be located and designed to minimize view obstructions to and from the shoreline.
3. Shall be prohibited in, over, or floating on the water.
4. Shall be prohibited in floodways and channel migration zones including associated sewage disposal systems.

D. Appurtenances, accessory uses, and facilities serving a residential structure shall be located outside setbacks, critical areas, and buffers unless otherwise allowed by this Program to promote community access and recreational opportunities.

E. New residential lots shall be configured such that structural flood hazard reduction and shoreline stabilization measures are not now and will not be required during the life of the development or use.

F. New residential lots shall be configured such that siting and construction are feasible while achieving no net loss of ecological functions as set forth in Section 6.1.

G. New overwater residential communities of one or more floating homes are not a preferred use and are prohibited.

H. Where multi-family developments are proposed in locations that would interrupt existing shoreline views, primary structures shall provide for reasonable view corridors. The City may adjust the project dimensions and/or prescribe development operation and screening standards as deemed appropriate. Need and special considerations for landscaping and buffer areas shall also be subject to review.

I. For new residential construction, no fence or landscape wall shall be placed waterward of the OHWM or closer to the water than the landward edge of the required buffers and setback lines identified in Table 7-1 and Appendix B, Critical Areas Regulations.

### 7.2.12 Transportation and Parking

A. Roads, Railroads and Bridges

1. New or expanded surface transportation facilities not related to and necessary for the support of shoreline activities shall be located outside of the shoreline jurisdiction wherever possible unless location outside of shoreline jurisdiction is infeasible or standards for ADA accessibility and functionality cannot be met. Where location outside of the shoreline jurisdiction is not possible, facilities (except for bridge components) shall comply with the buffers identified in Table 7-1 and Section 8.4.D of Appendix B, be set back from the OHWM a distance sufficient to make shoreline stabilization unnecessary, and shall demonstrate the need for the facility within shoreline jurisdiction.

2. The applicant shall demonstrate that new or expanded facilities are designed to:

   a. Minimize impacts to critical areas and associated buffers and to minimize alterations to the natural or existing topography to the extent feasible;

   b. Avoid or minimize the need for shoreline stabilization; and

   c. Follow the mitigation sequence of this Program to achieve no net loss of ecological functions as set forth in Section 6.1.

3. New transportation crossings over streams shall be avoided, but where necessary shall utilize bridges rather than culverts to the extent possible.

4. Requirements for bridge and culvert installation crossing all streams shall be consistent with the Washington Department of Fish and Wildlife standards.

5. All excavation materials and soils exposed to erosion by all phases of road, bridge and culvert work shall be stabilized and protected by seeding, mulching or other effective means, both during and after construction.

6. New transportation crossings over wetlands shall be avoided or minimized, but where necessary shall utilize bridges, that do not obstruct the movement of surface or groundwater, unless it can be demonstrated that fill and compensatory mitigation will produce equal or greater ecological functions.

7. Private access roads or driveways providing ingress and egress for individual single-family residences or lots shall be limited to the minimum width allowed by the fire code.

8. In wide streamways, bridges shall provide the maximum length of clear spans feasible with pier supports to produce the minimum amount of deflection feasible.

B. Non-Motorized Facilities

1. Non-motorized facilities, such as trails, shall comply with provisions for public access that are part of this Program.

2. New or expanded non-motorized transportation facilities shall be located outside of critical areas and their associated buffers or in the outer 25 percent of the critical area buffer with the exception of non-motorized facilities constructed for water access when standards for ADA accessibility and functionality cannot otherwise be met.

3. Elevated walkways shall be utilized where feasible to cross wetlands and streams.

C. Parking facilities are not a preferred use and shall be allowed only where necessary to support an authorized use. Parking facilities accessory to a permitted use shall be:

1. Set back as far as possible from the OHWM and outside shoreline jurisdiction where feasible; and

2. Located outside of critical areas and associated buffers where feasible.

D. Facility lighting must be designed and operated to avoid illuminating nearby properties or public areas; prevent glare on adjacent properties, public areas, or

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

### 7.2.13 Utilities

These provisions apply to services and facilities that produce, convey, store, or process power, gas, wastewater, communications, and similar services and functions. On-site utility features serving a primary use, such as a water, sewer, or gas line to a residence or other approved use, are accessory utilities and shall be considered a part of the primary use.

A. New or substantially expanded utilities may be located within shoreline jurisdiction only when the applicant demonstrates based on analysis of alternative locations and technologies that:

    1. No alternative location outside of shoreline jurisdiction is feasible;

    2. If a new corridor is proposed, utilization of existing corridors is not feasible, including expansion or replacement of existing facilities;

    3. The proposal follows the mitigation sequencing requirements of this Program, Section 6.1, No Net Loss of Ecological Function; and

    4. The proposal minimizes changes to the visual character of the shoreline environment as viewed from the water and surrounding views to the water.

    5. The above requirements do not apply to stormwater facilities.

B. Construction and operation of the facility shall result in no net loss of ecological functions as set forth in Section 6.1.

C. The presence of existing utilities shall not justify more intense development. Rather, the development shall be consistent with the County Comprehensive Plan, zoning code, and this Program, and shall be supported by adequate utilities.

D. Where overhead electrical transmission lines must parallel the shoreline, they shall be outside of shoreline jurisdiction unless infeasible due to site constraints, including but not limited to topography or safety.

E. Transmission, distribution, and conveyance facilities shall be located in existing rights of way and corridors or shall cross shoreline jurisdictional areas by the shortest, most direct route feasible, unless such route would cause significant environmental damage.

F. Utility crossings of waterbodies shall be attached to bridges where feasible. Where attachment to a bridge is not feasible, underground construction methods that avoid surface disturbance are preferred.

G. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially harmful to water quality shall be equipped with automatic shut-off valves.

H. Structural utility buildings, such as pump stations, electrical substations, or other facilities, shall be allowed in the High-Intensity SED and permitted as a conditional use in all other designations. These facilities shall be visually compatible in scale with surrounding development and landscape to provide compatibility with natural features and adjacent uses.

I. Stormwater outfalls may be placed below the OHWM to reduce scouring. New outfalls and modifications to existing outfalls shall be designed and constructed to avoid impacts to existing native aquatic vegetation attached to or rooted in substrate. In river and stream shorelines, stormwater outfall structures may require permanent bank hardening to prevent failure of the outfall structure or erosion of the shoreline.

## 7.3 Shoreline Modification Regulations

To be authorized, all shoreline modification activities in shoreline jurisdiction shall be planned and implemented in a manner consistent with this Program. In considering the approval of shoreline modifications, the City shall make findings that the following policies and regulations are met based on information provided by the applicant, including studies by qualified professionals when necessary.

### 7.3.1 Shoreline Stabilization

A. Proposals for new or modified shoreline stabilization shall demonstrate that proposed structures are the minimum size necessary, and comply with mitigation sequencing requirements in Section 6.1, No Net Loss of Ecological Function.

B. Compliance with the following criteria shall be documented through geotechnical analysis by a qualified professional. Geotechnical reports pursuant to this section shall address the necessity for shoreline stabilization by estimating timeframes and rates of erosion and shall report on the urgency associated with the specific situation.

    1. New lots created by subdivision shall demonstrate that new shoreline stabilization will not be necessary in order for reasonable development to occur.

2. Development on steep slopes shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure (see Chapter 7 of Appendix B, Critical Areas Regulations).

3. Development that would require new shoreline stabilization that would cause significant impacts to adjacent or down-current properties and shoreline areas, shall not be allowed.

4. Hard armoring solutions shall be authorized only:

    a. When a report finds that a primary structure will be damaged within three (3) years from shoreline erosion without hard armoring measures;

    b. If waiting to provide erosion protection would foreclose the opportunity to use measures that avoid impacts on ecological functions; or

    c. When hard armoring is not justified based on the above criteria, a geotechnical report may be used to justify protection against erosion using soft shoreline stabilization measures.

C. Shoreline stabilization shall be designed and constructed to avoid or minimize stream channel direction modification, realignment, and straightening or to result in increased channelization of normal stream flows or impacts to sediment transport.

D. New or expanded shoreline stabilization shall follow this hierarchy of preference:

1. No action (allow the shoreline to retreat naturally).

2. Non-structural methods such as increased building setbacks, relocating structures, and/or other methods to avoid the need of stabilization.

3. Stabilization constructed of soft structural protection and bioengineering, including, but not limited to, beach nourishment, protective berms, or vegetative stabilization.

4. Soft structural stabilization, as described above, in combination with hard structure stabilization, as described below, constructed as a protective measure.

5. Hard structure stabilization constructed of artificial materials such as, but not limited to, riprap or concrete.

Applicants should consult applicable shoreline stabilization guidance documents, such as the Integrated Streambank Protection Guidelines, promulgated by state or federal agencies.

E. New structural shoreline stabilization measures to protect an existing primary structure, including residences, are only allowed when there is conclusive evidence,

documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by currents or waves rather than from upland conditions. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. Any new or expanded erosion control structures shall not result in a net loss of shoreline ecological functions.

F. New shoreline structural stabilization may be permitted in support of a water-dependent development when all of the conditions below are met as demonstrated in a geotechnical report by a qualified professional:

1. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

2. There is a need to protect primary structures from damage due to erosion.

3. Non-structural measures, such as placing the development farther from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

4. The stabilization structure will not result in a net loss of shoreline ecological functions.

G. New shoreline structural stabilization may be permitted in support of a new non-water-dependent development (including single-family residences) when all of the conditions below are met as demonstrated in a geotechnical report by a qualified professional:

1. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

2. There is a need to protect primary structures from damage due to erosion caused by natural processes, such as currents or waves.

3. Non-structural measures, such as placing the development farther from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

4. The stabilization structure will not result in a net loss of shoreline ecological functions.

H. New shoreline structural stabilization may be permitted to protect ecological restoration or hazardous substance remediation projects when the conditions below are met as demonstrated in a geotechnical report by a qualified professional:

1. Non-structural measures, such as placing the development farther from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

2. The stabilization structure will not result in a net loss of shoreline ecological functions.

I. The construction of shoreline protection for the primary purpose of creating dry land is prohibited.

J. Replacement of an existing shoreline stabilization structure with a similar structure is permitted if there is a demonstrated need to protect existing primary uses or structures from erosion caused by current or wave action. Replacement walls or bulkheads shall not encroach waterward of the OHWM or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall about the existing shoreline stabilization structure. Replacement must result in no net loss of ecological functions. For purposes of this subsection regarding standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure that can no longer adequately serve its purpose. Additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.

K. A publicly financed or subsidized shoreline stabilization project shall not restrict existing public access, except where such access is determined to be infeasible due to incompatible uses, safety or security concerns, or harm to ecological functions. Where feasible, such structural stabilization shall incorporate ecological restoration and public access. See Section 6.5, Public Access, for additional information.

L. Bioengineered projects shall be designed by a qualified professional in accordance with the most current, accurate, and complete scientific and technical information available, and shall incorporate a variety of native plants, unless demonstrated infeasible for the particular site.

M. Gabions (wire-mesh baskets filled with concrete or rocks) shall not be used in bulkhead construction, where alternatives more consistent with this Program are feasible, because of their limited durability and the potential hazard they present to shore users and the shoreline environment.

### 7.3.2 Breakwaters, Jetties, Weirs, and Groins

A. Breakwaters, jetties, groins and weirs located waterward of the OHWM shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

B. Breakwaters, jetties, groins, weirs, and similar structures should require an SCUP, except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams.

C. Breakwaters, jetties, groins, and weirs shall be designed to protect critical areas and shall provide for mitigation according to the sequence defined in Section 6.1, No Net Loss of Ecological Function.

D. Open pile or floating breakwater designs shall be used unless it can be demonstrated that riprap or other solid construction would not result in any greater net impacts to shoreline ecological functions, processes, fish passage, or shore features.

### 7.3.3 Residential Moorage Facilities: Docks, Buoys, and Marine Railways

This section applies to docks, buoys, and marine railways that are accessory to four (4) or fewer single-family residences. A dock associated with a single-family residence is considered a water-dependent use if it is designed and intended for access to watercraft and complies with the requirements of this Program. All other docks, marinas, or other boating facilities are addressed as a use in Section 7.2.3, Boating Facilities.

A. A new moorage structure (dock or buoy) to serve a single-family residence may be allowed only when the lot does not have access to a shared structure and there is no homeowners association or other corporate entity capable of developing shared structure.

B. Prior to approving a new residential dock, an applicant shall demonstrate that a mooring buoy is not feasible to provide moorage.

C. New residential development of two or more dwellings with new accessory docks shall provide joint use or community dock facilities to reduce ecological impacts of new overwater facilities, where possible. When the development serves five (5) or more dwellings, the structure is permitted as a Boating Facility under Subsection 7.2.3, Boating Facilities.

D. All new or modified private moorage and launch structures shall meet the general requirements for boating facilities found in Subsection 7.2.3.A.1-4.

E. Docks shall meet the following standards:

1. Docks shall be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use. The length of docks accessory to residential use/development shall be no greater than that required for safety and practicality for the residential use. The maximum length for residential docks shall be limited to either sixty (60) feet as measured horizontally from the OHWM or the length necessary to provide a minimum of six (6) feet of water depth. The maximum width for residential docks shall be limited to six (6) feet.

The dimensional standards may be adjusted as required by state and federal agencies if the decision maker finds that such adjustment will better preserve ecological functions.

2. New or expanded covered moorage is prohibited.

3. Floats shall be constructed and attached so that they do not ground out on the substrate. Float stops, tubs, or similar structures may be used. A minimum of one (1) foot of elevation above the substrate is required.

4. Pile spacing shall be the maximum feasible to minimize shading and avoid a "wall" effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.

5. Piling diameter shall be sized to use the minimum possible while meeting the structural requirements of expected loads.

6. Grating, or clear translucent material, shall cover the entire surface area of the pier and ramp and all portions of float(s) not underlain by float tubs or other material that provides buoyancy. The open area of grating shall have a minimum of sixty (60) percent open space, or as otherwise required by state or federal agencies during permit review, unless determined to be infeasible due to specific site or project considerations. Clear translucent material shall have greater than ninety (90) percent light transmittance as rated by the manufacturer.

7. Docks shall be set back a minimum of ten (10) feet from side property lines, except that joint-use facilities may be located closer to, or upon, a side property line when agreed to by contract or covenant with the owners of the affected properties. This agreement shall be recorded with the county auditor and a copy filed with the shoreline permit application.

F. Unavoidable impacts from new or expanded private boat moorage or launch construction pursuant to this section shall be minimized and mitigated consistent with the requirements of this Program.

G. Private boat ramps are prohibited. Marine railways are allowed, provided they are designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available.

H. Moorage or launch structures shall not be allowed in critical freshwater aquatic habitats, unless it can be established that the structure, including auxiliary impacts and established mitigation measures, will not be detrimental to the natural habitat or species of concern, and will not result in loss of ecological function.

## 7.3.4 Fill and Excavation

A. Fill may be placed in flood hazard areas only when otherwise allowed by the frequently flooded areas regulations in this Program (Chapter 6 in Appendix B) and where it is demonstrated in a hydrogeological report prepared by a qualified professional that adverse impacts to hydrogeologic processes will be avoided.

B. Fill below or waterward of the OHWM for any use except ecological restoration requires an SCUP. Fill may be placed below the OHWM only when it is demonstrated that the fill is necessary to:

   1. Accomplish an aquatic habitat restoration plan.

   2. Support a mitigation action, environmental restoration, beach nourishment or other enhancement project.

   3. Correct the adverse results of past shoreline modification that have disrupted natural stream geomorphic conditions and adversely affected aquatic or terrestrial habitat.

   4. Support a water-dependent use.

   5. Serve as part of a public access proposal.

   6. Support cleanup of contaminated sediments as part of an interagency environmental clean-up plan.

   7. Expand or alter transportation facilities of statewide significance currently located on the shoreline only when demonstrated that alternatives to fill are not feasible.

C. Fill is restricted in wetlands or fish and wildlife habitat conservation areas in accordance with the critical areas standards in this Program, Appendix B.

D. Excavation of previously deposited dredge spoils above the OHWM may be permitted if the spoils site is part of a dredge materials management plan and the spoils were not originally placed as part of a beach nourishment or other shoreline restoration project.

E. Excavation below the OHWM is considered dredging and is subject to provisions in Subsection 7.3.5, Dredging and Dredge Material Disposal.

## 7.3.5 Dredging and Dredge Material Disposal

A. Consistent with mitigation sequencing principles outlined in Section 6.1, No Net Loss of Ecological Function, dredging and dredge material disposal shall be done in a

manner which avoids or minimizes significant ecological impacts, and impacts which cannot be avoided shall be mitigated in a manner that assures no net loss of shoreline ecological functions.

B. Dredging and in-water dredge disposal must be approved by state and federal agencies with jurisdiction, with documentation provided to the City as a condition of any shoreline permit.

C. New dredging shall be permitted only:

1. When establishing, expanding, or reconfiguring navigation channels, anchorage areas, and basins in support of existing navigational uses;

2. When implementing an approved regional dredge management plan for flood control purposes;

3. As part of an approved habitat improvement project;

4. As part of a Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act project;

5. In conjunction with a new port, bridge, navigational structure, wastewater treatment facility, essential public facility, hydroelectric facility, fish hatchery, or other water-dependent use for which there is a documented public need and where other feasible sites or methods are not feasible; or

6. When otherwise approved by state and federal agencies.

D. New development shall be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

E. Maintenance dredging of established navigation channels, anchorage areas, essential public facilities, hydroelectric facilities, fish hatcheries, other water-dependent use areas, and basins shall be restricted to maintenance of previously dredged or existing authorized location, depth, and width.

F. Dredging waterward of the OHWM for the primary purpose of obtaining fill material is allowed only 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 be either associated with a Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act habitat restoration project or, if approved through an SCUP, any other significant habitat enhancement project.

G. Dredge materials exceeding Ecology criteria for toxic sediments shall be disposed of according to state and federal law. Proof of proper disposal at an upland permitted facility may be required.

H. Disposal of dredge material on shorelands or wetlands within a river's channel migration zone shall be discouraged. In the limited instances where it is allowed, such disposal shall require an SCUP. Disposal of dredge material within wetlands or within a river's channel migration zone shall be allowed only when proposed as part of an ecological restoration project demonstrated by a qualified professional to:

1. Improve wildlife habitat;

2. Correct the adverse results of past shoreline modification that have disrupted natural stream geomorphic conditions and adversely affected aquatic or terrestrial habitat; or

3. Create, expand, rehabilitate, or enhance a beach when permitted under this Program and any required state or federal permit.

This provision is not intended to address discharge of dredge material into the flowing current of the river or in deep water within the channel where it does not substantially affect the geohydrologic character of the channel migration zone.

I. When allowed, dredge material disposal must meet the following standards:

1. Dredge disposal in shoreline jurisdiction shall be permitted only where it is demonstrated by a qualified professional that the disposal will not result in significant or ongoing adverse impacts to water quality, fish and wildlife habitat conservation areas and other critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, prime agricultural land, and public access to shorelines. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of functions.

2. Dredge disposal both above and below the OHWM may be approved if it is demonstrated that it complies with the provisions of Subsection 7.3.5.I.1 above and one or more of the following:

a. It benefits shoreline resources; or

b. If applicable, it utilizes the guidance from the 2007, or as amended, U.S. Army Corps of Engineers and Environmental Protection Agency publication EPA842-B-07-001, *Identifying, Planning, and Financing Beneficial Use Projects Using Dredged Material – Beneficial Use Planning Manual*; or

c. For dredging projects under U.S. Army Corps of Engineers jurisdiction, the disposal has been identified and evaluated through an approved Corps Dredge Management Material Program.

J. Upland disposal in shoreline jurisdiction of dredge material that is extracted for flood control purposes is a water-dependent use when it is cost-prohibitive to dispose of the material outside shoreline jurisdiction; an SSDP is required. Other upland disposal requires an SCUP unless the disposal is in an existing approved site or results in expansion of the footprint of an existing approved site by no more than twenty-five (25) percent.

K. Dredging and dredge disposal shall be scheduled to minimize impacts to biological productivity (including, but not limited to, fish runs, spawning, and benthic productivity) and to minimize interference with fishing activities and other water-dependent uses.

### 7.3.6 Shoreline Habitat and Ecological Enhancement Projects

Shoreline habitat and ecological enhancement projects are those in which public and/or private parties engage to establish, restore, or enhance valued ecological sites.

A. Long-term maintenance and monitoring shall be included in restoration or enhancement projects.

B. Shoreline restoration and enhancement projects shall be designed using scientific and technical information and implemented using best management practices. Applicants should consult applicable guidance documents, such as the most current version of the Washington Department of Fish and Wildlife's Stream Habitat Restoration Guidelines, promulgated by state or federal agencies.

C. Habitat creation, expansion, restoration, and enhancement projects may be permitted in all shoreline environment designations subject to required state or federal permits when the applicant has demonstrated that:

1. Spawning, nesting, or breeding fish and wildlife habitat conservation areas will not be adversely affected;

2. Water quality will not be degraded;

3. Flood storage capacity will not be degraded;

4. Streamflow will not be reduced;

5. Impacts to critical areas and buffers will be avoided and where unavoidable, minimized and mitigated; and

6. The project will not interfere with the normal public use of the navigable waters of the state.

# 8. Shoreline Administration and Enforcement

## 8.1 Purpose

The purpose of this chapter is to provide provisions for the administration and enforcement of a permit system that shall implement the State Shoreline Management Act of 1971, Chapter 90.58 RCW; Ecology regulations and guidelines adopted as Chapters 173-26 and 173-27 WAC; and the Woodland Shoreline Master Program, together with amendments and/or additions thereto.

Issuance of any shoreline permit or exemption by the City does not remove requirements for compliance with other federal, state and county permits, procedures and regulations.

## 8.2 Procedure

All shoreline permits shall be processed in accordance with WMC Title 19 Development Code Administration.

## 8.3 Shoreline Overlay

Shoreline regulations shall apply as an overlay and in addition to development regulations, including but not limited to zoning, environmental regulations, development standards, subdivision regulations, and other regulations established by the City.

A. Allowed uses shall be governed by both the zoning regulations in Chapter 17 and this Program. The most restrictive provisions of the applicable zoning district and SED shall apply.

B. Allowed uses shall be limited by the general polices and specific regulations regarding use preferences for water-dependent and water-oriented uses. Allowed uses may be specified and limited in specific shoreline permits. In the case of non-conforming development, the use provisions of this code shall be applied to any change of use, including occupancy permits (see Section 3.3, Nonconforming Use and Development).

C. In the event of any conflict between shoreline policies and regulations and any other regulations of the City, shoreline policies and regulations shall prevail unless other regulations provide greater protection of the shoreline environment and aquatic habitat.

D. All regulations applied within the shoreline shall be liberally construed to give full effect to the objectives and purposes for which they have been enacted. Shoreline Master Program policies, found in Chapter 4, establish intent for the shoreline regulations in addition to RCW 90.58 and Chapters 173-26 and 173-27 WAC.

## 8.4 Coordination with Other Agencies

The City will coordinate on issues relating to ecological conditions, functions and processes and on wetland and OHWM delineations with Ecology, the Washington Department of Natural Resources and the Washington Department of Fish and Wildlife as well as other agencies with permit authority over a project to the extent that agencies are timely in their response and coordination does not unduly extend review times.

## 8.5 Development Compliance

A. All uses and developments within the jurisdiction of Act shall be planned and carried out in a manner that is consistent with this Program and the policies of the Act as required by RCW 90.58, regardless of whether an SSDP, SLE, Shoreline Variance, or SCUP is required. The City shall ensure all proposed uses and development occurring within shoreline jurisdiction conforms to RCW 90.58, the Act, and this Program whether or not a permit is required.

B. Regulation of private property to implement any Program goals such as public access and protection of ecological functions, must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to, property rights guaranteed by the United States Constitution and the Washington State Constitution, applicable federal and state case law, and state statutes, such as RCW 34.05.328 and 43.21C.060.

C. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Washington Department of Fish and Wildlife Hydraulic Project Approvals (HPAs), U.S. Army Corps of Engineers Section 404 permits, Washington Department of Ecology Water Quality Certification (Section 401) and National Pollution Discharge Elimination System (NPDES) permits). The applicant is responsible for complying with these requirements, apart from the process established in this chapter.

D. The City will provide a mechanism for tracking, and periodically evaluating the cumulative effects of all project review actions in shoreline areas.

## 8.6 Shoreline Permit Application Procedures

### 8.6.1 Application Requirements.

A. A complete application for an SSDP, SCUP, or Shoreline Variance shall contain, at a minimum, the information required for a complete application specified in WAC 173-27-180, as determined by the City.

B. Critical Area Submittal Requirements.

1. When an applicant submits a shoreline application for any development proposal, the application shall submit a complete critical area identification checklist.

2. The City shall review the critical area identification checklist and conduct a preliminary environmental review, based on existing in-house resources and data, to determine if critical areas are known or suspected to exist on the applicant's parcel. However, the ultimate burden of proof is on the applicant to provide sufficient data to the City should the City suspect critical areas are present. If it is determined that the information presented is not sufficient to adequately evaluate a proposal, the City shall notify the applicant that additional studies as specified herein shall be provided.

3. Site Inspection. Upon receipt of a completed critical area identification checklist, the Director shall conduct a site visit of the proposed project site to determine if any critical area conditions exist on site. The Director shall notify the applicant prior to the inspection. Reasonable access shall be provided for the purposes of site inspections.

4. Review of Available Information. The Director may determine if a critical area report (see Section 3.3 in Appendix B) is needed by using the following indicators:

    a. Information obtained from the critical area identification checklist;

    b. Maps depicting critical areas, soil types and other appropriate features;

    c. Information and scientific opinions from appropriate agencies;

    d. Washington Department of Fish and Wildlife Priority Habitats and Species (PHS) and Salmonscape maps;

    e. Documentation from other scientific sources;

    f. Findings by qualified professionals or a reasonable belief by the Director that a critical area may exist on or adjacent to the proposed activity.

5. Determination if Critical Area Report is Needed.

    a. No Critical Areas Present. If the Director determines the proposed project is not within or adjacent to a critical area or buffer or that the project is not likely to degrade the functions or values of a critical area, then the Director shall rule that no further critical area review is required. The Director shall consult with resource agencies or individuals with special expertise, as necessary, to assist in the determination of critical areas and potential

impacts associated with project proposals. A summary of the Director's decision and review shall be included in the file and/or staff report.

b. Critical Area Present but No Impact. If the Director determines there are critical areas within the proposed project, but that the project is not likely to degrade the functions or values of a critical area, then the Director may waive the requirements of a critical area report. The Director shall consult with resource agencies or individuals with special expertise, as necessary, to assist in the determination of critical areas and potential impacts associated with project proposals. A waiver may be granted if all of the following are met:

   i. No alteration of the critical area or buffer will occur;

   ii. No impact to the critical area will occur that is contrary to the intent of this Program;

   iii. The proposal is consistent with other applicable regulations and standards.

c. Critical Areas May Be Affected. If the Director determines that a critical area may be affected by a proposal, then the applicant shall be required to submit a critical area report prior to any further project activity. The Director shall inform the applicant within ten (10) business days following the site visit of his findings and indicate what critical area types should be addressed in the report.

A Determination by the Director is not an expert classification regarding the presence of critical areas. If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances. If a qualified professional determines no critical areas exist or will not be affected by the proposal, the Director may reconsider their determination.

6. The City shall have the option of soliciting comments or technical assistance on the shoreline permit application from resource agencies. These agencies shall have fourteen (14) days from the date the application is circulated by the City for comments. If a response is not received from the resource agency within the 14-day review period, the City will assume there are no comments on the project or activity forthcoming from the resource agency.

7. Any person preparing to submit an application for development or use of land located within a critical area or associated buffer shall first apply for a pre-application conference, unless waived by the City in concurrence with the applicant. At this meeting, the City shall discuss the requirements of these regulations and provide applicable critical areas maps, scientific information, and

other source materials. The City shall summarize the application review process and work with the proponent to identify potential issues that may arise during the review process in addition to discussing other permit procedures and requirements.

C. In addition to the public notice requirements of WMC 19.06.02, the following notice shall be provided for each application for a SSDP, SCUP, or Shoreline Variance.

1. Within fourteen (14) days after the City has made a determination of completeness on the project permit application, the City shall issue public notice including:

a. The date of application, the date of the notice of completion for the application, and the date of the notice of application;

b. A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070, RCW 36.70B.090 and WAC 173-27-180;

c. The identification of other permits not included in the application to the extent known by the City;

d. The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a City land use bulletin, the location where the application and any studies can be reviewed;

e. A statement of the public comment period, which shall be not less than fourteen (14) days following the date of notice of application;

f. A statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. Public comments shall be accepted at any time prior to the closing of the record of an open record hearing, if any, or, if no open record hearing is provided, prior to the decision on the project permit;

g. The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;

h. A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency; and

i. Any other information determined appropriate by the City.

2. Public notice shall include:

   a. Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred (300) feet of the boundary of the property upon which the development is proposed.

   b. Posting of Project Site. Posting of the project site shall be provided in accordance with WMC 19.06.030A and 19.06.070A.

   c. Publication shall be in accordance with WMC 19.06.030A and 19.06.070A. If an open record public hearing is required, an additional notice shall be published at least ten (10) days prior to the hearing. The shoreline notice shall be published twice, the second at least thirty days prior to the date of the public hearing on the underlying project permit. This notice shall include the project location in other than a legal description, a brief description of the project, type of permit(s) required, comment period dates, hearing dates if applicable, and a location where the complete application may be reviewed.

## 8.6.2 Critical Areas Determination

A. Determination and Review.

1. The Director shall make a determination as to whether the proposed activity and mitigation is consistent with the provisions of this Program. Any alteration to a critical area, unless otherwise provided for in this Program, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

   a. Impacts to critical areas are avoided or minimized in accordance with Section 3.6 of Appendix B, Mitigation Sequencing;

   b. There is no unreasonable threat to public health, safety, or welfare;

   c. The proposal is consistent with this Program and the public interest;

   d. Permitted alterations are mitigated in accordance with Section 3.7 of Appendix B, Mitigation Plan Requirements;

   e. The critical area functions and values are protected in accordance with the most current, accurate, and complete scientific and technical information available; and

   f. The proposal is consistent with other applicable regulations and standards.

2. The City may condition a proposed activity as necessary to mitigate for impacts to critical areas and to conform to standards of this Program.

3. Any project that cannot adequately mitigate for impacts to critical areas shall be denied except as provided in this Program.

4. When the determination of critical areas has been completed, a written report will be issued to the applicant, placed in an address file, and a copy sent to the property owner if different from the applicant. A property owner may request a re-evaluation by the City once in any twelve (12)-month period when a change in physical conditions or government institutional actions warrants such re-evaluation.

5. Determination, Favorable. Upon determination that a proposed activity meets the requirements of Subsection 8.6.2, and complies with the requirements of this Program, the Director shall prepare a written notice of determination and identify any conditions of approval. Any changes to the conditions of approval shall void the previous determination pending a review of the alternative proposal and conditions by the Director.

6. Determination, Unfavorable. Upon determination that a proposed activity does not meet the above criteria and/or does not adequately mitigate for impacts to critical areas, the Director shall prepare a written notice of determination and identify the findings. A revised critical area report may be submitted by the applicant for consideration, following notice of the determination. The Director may make a new determination based on the revised critical area report.

B. Critical Area Review, Complete. The City's determination shall be complete upon determination to approve, approve with conditions, or deny the proposal or activity. No activity or shoreline permit shall be approved or issued for an activity that does not adequately mitigate for impacts to critical areas and/or does not fully comply with the provisions of this Program.

### 8.6.3 Approval Criteria

In order to approve any development within shoreline jurisdiction, the City must find that a proposal is consistent with the following criteria in addition to the requirements of WMC 18B.06:

A. All use regulations of this Program appropriate to the shoreline environment designation and the type of use or development proposed shall be met, particularly the preference for water-oriented uses. If a non-water-oriented use is approved, the decision maker shall enter specific findings documenting why water-oriented uses are not feasible.

B. All bulk and dimensional regulations of this Program appropriate to the SED and the type of use or development proposed shall be met, except those bulk and dimensional standards that have been modified by approval of a Shoreline Variance.

C. All policies of this Program appropriate to the SED and the type of use or development activity proposed shall be considered and compliance demonstrated, subject to liberal construction to give full effect to the objectives and purposes for which they have been enacted.

### 8.6.4 Written Findings Required

All permits or Shoreline Letters of Exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Director addressing compliance with policies and regulations of this Program. The Director may attach conditions to the approval of exempt developments and/or uses as necessary to assure consistency of the project with the Act and the Program.

### 8.6.5 Time Requirements for Shoreline Permits

A. The time requirements of this Section shall apply to all SSDPs and SCUPs and to any development authorized pursuant to a variance authorized under this Program.

B. No construction pursuant to such permit shall begin or be authorized and no building, grading or other construction permits or use permits shall be issued by the City until 21 days from the date an SSDP was filed with Ecology and the Attorney General, or until all review proceedings are completed as were initiated within the twenty one (21) days of the date of filing. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130.

C. No permits and construction pursuant to an SCUP or Shoreline Variance shall begin or be authorized until 21 days from the date of notification of approval by Ecology, or until all review proceedings are completed as were initiated within the twenty one (21) days of the date of filing. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130.

D. Unless a different time period is specified in the shoreline permit as authorized by RCW 90.58.143, construction activities, or a use or activity for which a permit has been granted pursuant to this Program, must be commenced within two (2) years of the effective date of a shoreline permit, or the shoreline permit shall terminate and a new permit shall be necessary. However, the City may authorize a single extension for a period not to exceed one year based on reasonable factors if a request for extension has been filed with the City before the expiration date and notice of the proposed extension is given to parties of record and Ecology. Construction activities or commencement of construction means that construction applications must be

submitted, permits must be issued, and foundation inspections must be approved and completed.

E. A permit authorizing construction shall extend for a term of no more than five (5) years after the effective date of a shoreline permit, unless a longer period has been specified pursuant to RCW 90.58.143 and Subsection F of this Section. If an applicant files a request for an extension prior to expiration of the shoreline permit, the City shall review the permit and upon a showing of good cause may authorize a single extension of the shoreline permit for a period of up to one year. Otherwise said permit shall terminate. Notice of the proposed permit extension shall be given to parties of record and Ecology. To maintain the validity of a shoreline permit, it is the applicant's responsibility to maintain valid construction permits in accordance with adopted Building Codes.

F. If it is determined that standard time requirements of Subsections D and E should not be applied, the Hearing Examiner, upon a finding of good cause, may establish shorter time limits, provided that as a part of action on an SCUP or Shoreline Variance the approval of Ecology shall be required. "Good cause" means that the time limits established are reasonably related to the time actually necessary to perform the development on the ground and complete the project that is being permitted.

G. For purposes of determining the life of a shoreline permit, the effective date of a SSDP, SCUP, or Shoreline Variance shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods do not include the time during which a use or activity was not actually pursued due to the pendency of appeals or legal actions, or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed.

H. It is the responsibility of the applicant to inform the City of the pendency of other permit applications filed with agencies other than the City, and of any related administrative or legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given to the City prior to the expiration date established by the shoreline permit or the provisions of this Section, the expiration of a permit shall be based on the effective date of the shoreline permit.

I. If the granting of a shoreline permit by the City is appealed to the Shoreline Hearings Board, and the Shoreline Hearings Board has approved the granting of the permit, and an appeal for judicial review of the Shoreline Hearings Board decision is filed, construction authorization may occur subject to the conditions, time periods, and other provisions of RCW 90.58.140(5)(b).

### 8.6.6 Surety Devices

The City may require the applicant to post a surety device in favor of the City to assure full compliance with any terms and conditions imposed on any shoreline permit. Said surety device shall be in an amount to reasonably assure the City that any deferred improvement will be carried out within the time stipulated and in accordance with approved plans.

### 8.6.7 Construction Permit Compliance

For all development within shoreline jurisdiction, the Building Official shall not issue a construction permit for such development until compliance with this Program has been documented. If a shoreline permit is required, no building permit shall be issued until all comment and appeal periods have expired. Any permit issued by the Building Official for such development shall be subject to the same terms and conditions that apply to the shoreline permit.

### 8.6.8 Rulings to State

Any ruling on an application for an SSDP or SCUP under authority of this Program, whether it is an approval or denial, shall, with the transmittal of the ruling to the applicant, be filed concurrently with Ecology and the Attorney General by the City. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130.

### 8.6.9 Appeals

Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may seek review from the shorelines hearings board by filing a petition for review within twenty-one days of the date of receipt of the decision as provided for in RCW 90.58.140(6).

## 8.7 Shoreline Letter of Exemption (SLE)

A. An SSDP shall be required for all proposed use and development of shorelines unless the proposal is specifically exempt pursuant to RCW 90.58.140(1). Any development which occurs within the regulated shorelines of the state, whether it requires a permit or not, must be consistent with the intent of the Act and this Program.

B. Any person claiming exemption from the permit requirements of this Program as a result of the exemptions specified in this section shall make application for a Shoreline Letter of Exemption (SLE). Requests or applications for an SLE shall be submitted in a format prescribed by the City and include such documentation as may be required by the City.

C. If any part of a proposed development is not eligible for exemption, then a shoreline permit is required for the entire proposed development project.

D. The City may issue a SLE for proposed development activities or programs in jurisdictional shoreline areas that do not require an SSDP or SCUP per Section 3.2, Exemptions from a Shoreline Substantial Development Permit.

E. An SLE may be approved by the Director and shall be processed in accordance with the provisions of Title 19 WMC as it now exists or as subsequently amended.

F. An SLE may be issued for project-specific development activities or for programmatic, routine activities that may be repeated on a regular basis in accordance with approved standards such as the repair and maintenance of roads, right-of-ways, trails, parks, and/or storm water facilities.

G. Activities authorized through the issuance of an SLE must comply with all applicable provisions of the Woodland Municipal Code or comply with conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of this Program and the Act.

H. If the exemption is approved, the City Director shall prepare and provide an SLE to the applicant and Ecology indicating the specific applicable exemption provisions from WAC 173-27-040 and providing a summary of the project's consistency with this Program and the Act, as amended.

I. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial.

## 8.8 Shoreline Substantial Development Permit (SSDP)

A. An SSDP shall be required for projects occurring within the City's shoreline jurisdiction pursuant to the requirements and procedures contained in WAC 173-27 (Shoreline Management Permit and Enforcement Procedures); except for those projects described in Section 3.2, Exemptions from a Shoreline Substantial Development Permit:

B. Upon the review of materials submitted by an applicant the City may, at its discretion, require peer review be completed by a consultant chosen by the City, at the sole expense of the applicant.

C. Time requirements for SSDPs are as follows (See WAC 173-27-090 for complete language.):

1. Construction activities shall commence, or where no construction activities are involved, the use or activity shall commence within two (2) years of the effective date of an SSDP.

2. The period for commencement of construction or use may be extended once for a one (1)-year period if a request based on reasonable factors is filed before the

expiration date and notice of the proposed extension is given to parties of record.

3. The authorization to conduct certain development activities (see WAC 173-27-090) shall terminate five (5) years after the effective date of an SSDP.

4. The authorization period to conduct development activities may be extended once for a one (1)-year period if a request based on reasonable factors is filed before the expiration date and notice of the proposed extension is given to parties of record and the department.

5. The time periods in Subsections C.1 and C.3, above, do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

D. Appeals to the Shorelines Hearings Board shall be consistent with RCW 90.58.140. Construction pursuant to a shoreline permit may not begin or be authorized until twenty-one (21) days from the date the permit decision was filed with Ecology.

## 8.9 Shoreline Conditional Use Permit (SCUP)

The objective of a conditional use provision is to provide more control and flexibility for implementing the regulations of this Program.

A. An SCUP is required for non-exempt uses and development that are not classified in the Program and for those uses and modifications as indicated in Table 7-1 of this Program. In authorizing a conditional use, the City or Ecology may attach special conditions to the permit to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and this Program.

B. In addition to the approval criteria in Section 8.6.3, Approval Criteria, the criteria for approving conditional uses shall be consistent with WAC 173-27-160 *Review Criteria for Conditional Use Permits* and shall include the following:

1. That the proposed use is consistent with the policies, regulations and standards of RCW 90.58.020 and this 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 is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this Program;

4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

5. That the public interest suffers no substantial detrimental effect.

C. In the granting of all SCUPs, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if SCUPs were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

D. Other uses which are not classified or set forth in this Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in this Program.

E. Uses which are specifically prohibited by this Program may not be authorized pursuant to either Subsection A or C of this section.

F. Conditional uses must be submitted to Ecology for their approval, approval with conditions, or denial pursuant to WAC 173-27-200.

## 8.10 Shoreline Variances

A. A development may be granted which is at variance with the criteria established in this Program where, owing to special conditions pertaining to the specific piece of property, the literal interpretation and strict application of the criteria established in this Program would cause undue and unnecessary hardship or practical difficulties. A variance may be required for a use that does not require an SSDP but which may not be approved because it does not comply with the provisions of this Program.

B. The fact that the applicant might make a greater profit by using his property in a manner contrary to the intent of this Program is not, by itself, sufficient reason for a variance.

C. For a variance to be approved, the City must find each of the following:

1. Variance permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:

a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;

b. That the hardship described in 1.a of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this program and will not cause adverse impacts to the shoreline environment;

d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

e. That the variance requested is the minimum necessary to afford relief; and

f. That the public interest will suffer no substantial detrimental effect.

2. Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

   a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;

   b. That the proposal is consistent with the criteria established under subsection 1.b through 1.f of this section; and

   c. That the public rights of navigation and use of the shorelines will not be adversely affected.

3. In the granting of all Shoreline Variances, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

## 8.11 Enforcement

All provisions of this Program shall be enforced by the City. For such purposes, the City or authorized representative shall have the power of a police officer.

## 8.11.1 Rescission of Permits

A. Any shoreline permit issued under the terms of this Program may be rescinded or suspended upon a finding that a permittee has not complied with conditions of the permit.

B. Such rescission and/or modification of an issued permit shall be initiated by serving written notice of noncompliance on the permittee, which shall be sent by registered or certified mail, return receipt requested, to the address listed on the application or to such other address as the applicant or permittee may have advised the City; or such notice may be served on the applicant or permittee in person or his agent in the same manner as service of summons as provided by law.

C. Before any such permit can be rescinded, a public hearing shall be held by the Hearing Examiner. Notice of the public hearing shall be made in accordance with WMC 19.06.070. The decision of the Hearing Examiner shall be the final decision of the City on all rescinded applications. A written decision shall be transmitted to Ecology, the Attorney General's office, the applicant, and such other departments or boards of the City as are affected thereby and the legislative body of the City.

D. Ecology may petition the Shoreline Hearings Board for a rescission of the permit if Ecology is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, as provided by RCW 90.58.140(8).

## 8.11.2 Violation and Penalties

A. General

1. Every person violating any of the provisions of this Program or the Shoreline Management Act of 1971 shall be punishable under conviction by a fine not exceeding one thousand dollars ($1,000.00), or by imprisonment not exceeding 90 days, or by both such fine and imprisonment, and each day's violation shall constitute a separate punishable offense.

2. The City Attorney may bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are made of the Shorelines of the State within the City's jurisdiction which are in conflict with the provisions and programs of this Program or the Shoreline Management Act of 1971, and to otherwise enforce provisions of this Section and the Shoreline Management Act of 1971.

3. Any person subject to the regulatory program of this Program who violates any provision of this Master Program or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition

prior to such violation. The City Attorney shall bring suit for damages under this subsection on behalf of the City. Private persons shall have the right to bring suit for damages under this subsection on their own behalf and on behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by violation, the Court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the Court in its discretion may award attorney's fees and costs of the suit to the prevailing party.

B. Unauthorized Critical Area Alterations and Enforcement.

1. When a critical area or buffer has been altered in violation of this Program, the City shall have the authority to issue a stop-work order to cease all ongoing development work and order restoration, rehabilitation or replacement at the owner's or responsible parties' expense.

2. Restoration Plan Required. No work on the site shall be allowed until a restoration plan has been prepared and approved by the City in accordance with this Program and Appendix B.

3. Minimum Performance Standards.

   a. For unauthorized alterations to critical aquifer recharge areas, frequently flooded areas, wetlands habitat conservation areas, or associated buffers, the following shall be required at a minimum in accordance with an approved restoration plan:

      i. Historic functional and structural values, water quality, habitat, and soils shall be restored;

      ii. Critical areas and buffers shall be replanted with native vegetation, types, sizes and densities, historically found on the site;

      iii. Historic functions and values shall be replicated.

   b. For flood and geological hazards, the following standards shall be met:

      i. Risk of public or personal hazard resulting from the alteration shall be eliminated or significantly reduced to a level equal to the pre-altered state;

      ii. Hazard areas and buffers shall be replanted with native vegetation to minimize the hazard.

4. Site Visits/Inspections. Reasonable access shall be provided. The Director is authorized to make site visits/inspections as necessary to enforce this Program.

### 8.11.3 Shoreline Moratorium

A. The City Council may adopt moratoria or other interim official controls as necessary and appropriate to implement the provisions of the Shoreline Management Act.

B. Prior to adopting such moratorium or other interim official controls, the City Council shall:

   1. Hold a public hearing on the moratorium or control within 60 days of adoption;

   2. Adopt detailed findings of fact that include, but are not limited to, justifications for the proposed or adopted actions and explanations of the desired and likely outcomes; and

   3. Notify Ecology of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing held.

C. Said moratorium or other official control shall provide that all lawfully existing uses, structures, or other development shall continue to be deemed lawful conforming uses and may continue to be maintained, repaired, and redeveloped, so long as the use is not expanded, under the terms of the land use and shoreline rules and regulations in place at the time of the moratorium.

D. Said moratorium or control adopted under this section may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review. A moratorium or control may be renewed for two six-month periods if the City Council complies with Subsection B before each renewal.

E. If a moratorium or control is in effect on the date a proposed Shoreline Master Program or amendment is submitted to Ecology, the moratorium or control must remain in effect until Ecology's final action under RCW 90.58.090; however, the moratorium expires six months after the date of submittal if Ecology has not taken final action.

## 8.12 Restoration Project Relocation of OHWM

The City may grant relief from development standards and use regulations in this Program when the following apply:

A. A shoreline restoration project causes, or would cause, a landward shift in the OHWM, resulting in the following:

1. Land that had not been regulated under this chapter prior to construction of the restoration project is brought under shoreline jurisdiction; or

2. Additional regulatory requirements apply due to a landward shift in required shoreline buffers or other regulations of this Program; and

3. Application of Program regulations would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent.

B. The proposed relief meets all of the following criteria:

1. The proposed relief is the minimum necessary to relieve the hardship.

2. After granting the proposed relief, there is net environmental benefit from the restoration project.

3. Granting the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with this Program.

4. Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under this section.

C. The application for relief must be submitted to Ecology for written approval or disapproval. This review must occur during the Ecology's normal review of and SSDP, SCUP, or Shoreline Variance. If no such permit is required, then Ecology shall conduct its review when the City provides a copy of a complete application and all supporting information necessary to conduct the review.

1. Except as otherwise provided in Subsection D of this section, Ecology shall provide at least twenty (20) days of notice to parties that have indicated interest to Ecology in reviewing applications for relief under this section, and post the notice on to their website.

2. Ecology shall act within thirty (30) calendar days of close of the public notice period, or within thirty (30) days of receipt of the proposal from the local government if additional public notice is not required.

D. The public notice requirements of Subsection C of this section do not apply if the relevant shoreline restoration project was included in the Shoreline Restoration Plan (see Appendix C) as defined in WAC 173-26-201, as follows:

1. The restoration plan has been approved by the Ecology under applicable Shoreline Master Program guidelines; and

2. The shoreline restoration project is specifically identified in the Shoreline Restoration Plan or is located along a shoreline reach identified in this Program or Shoreline Restoration Plan as appropriate for granting relief from shoreline regulations; and

3. This Program or Shoreline Restoration Plan includes policies addressing the nature of the relief and why, when, and how it would be applied.

## 8.13 Land Division

Prior to approval of any land division, such as short subdivisions, preliminary long plats, and boundary line adjustments within shoreline jurisdiction, the City shall document compliance with bulk and dimensional standards as well as policies and regulations of this Program and attach appropriate conditions and/or mitigating measures to such approvals to ensure the design, development activities, and future use associated with such lands are consistent with this Program.

## 8.14 Amendments Authorized

The provisions of the Use Regulations or the Shoreline Environment Designation Map in this Program may be amended as provided for in RCW 90.58.120 and RCW 90.58.200 and Chapter 173-26 WAC.

### 8.14.1 Burden of Proof

Proponents for Shoreline Environment Designation Map redesignations (i.e., amendments to the Shoreline Environment Designation Map) shall bear the burden of proof for demonstrating consistency with the criteria of this Program, Chapter 173-26 WAC, and the goals and policies of the City of Woodland Comprehensive Plan.

### 8.14.2 Transmittal to the Department of Ecology

Subsequent to final action by the council adopting or amending the Shoreline Master Program or official control, said Shoreline Master Program, official control, or amendment thereto shall be submitted to Ecology for approval. No such Shoreline Master Program, official control, or amendment thereto shall become effective until approval by Ecology is obtained pursuant to RCW 90.58.90.

# APPENDIX A

## Shoreline Environment Designations Map

# APPENDIX B

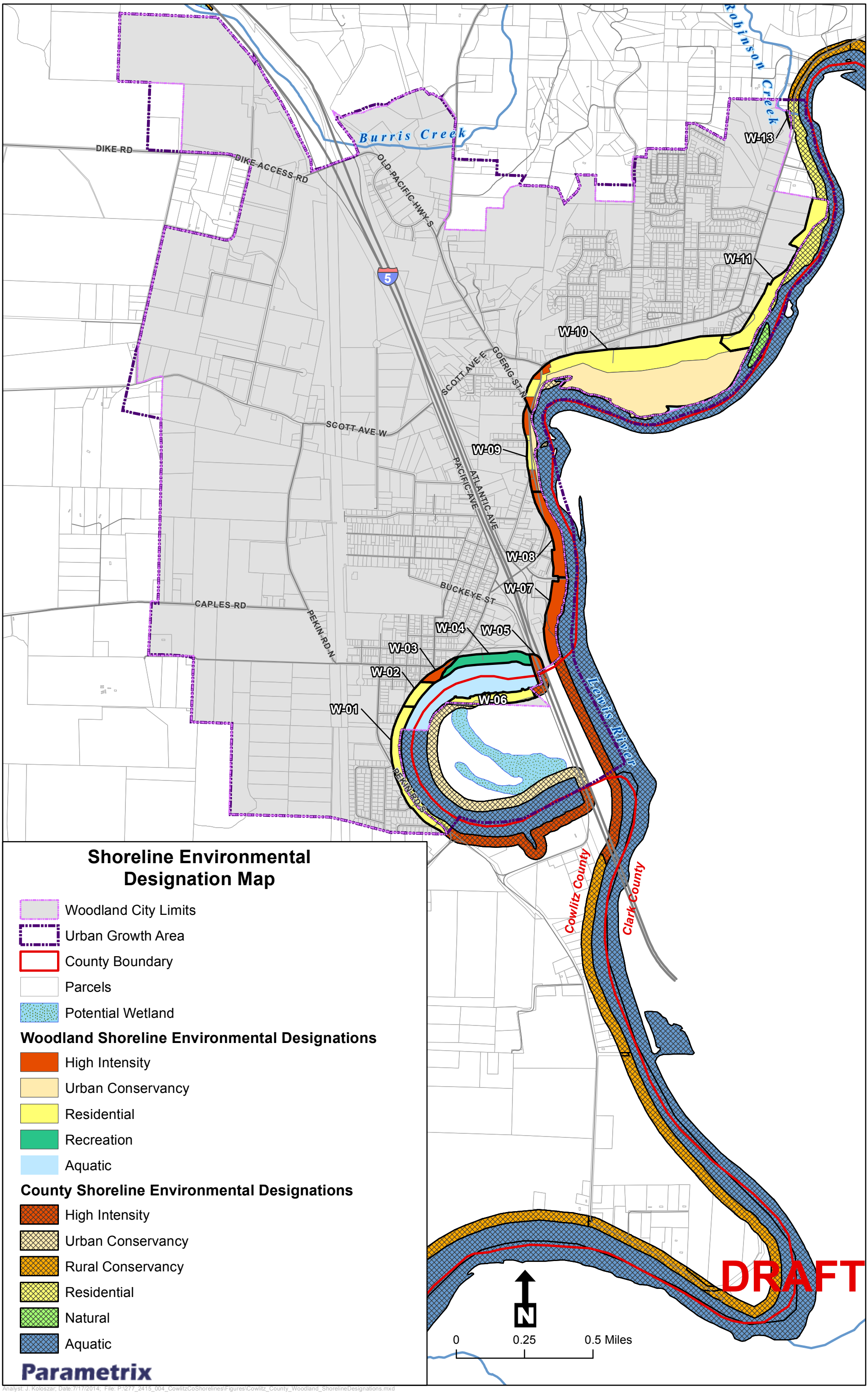
## Critical Areas Regulations

# APPENDIX C

## Shoreline Restoration Plan

# APPENDIX D

## Channel Migration Zone Map




Analyst: J. Koloszar; Date:7/17/2014; File: P:\277_2415_004_CowlitzCoShorelines\Figures\Cowlitz_County_Woodland_ShorelineDesignations.mxd

# APPENDIX B
## CRITICAL AREAS REGULATIONS

# CRITICAL AREAS REGULATION

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# 1. Introduction.

These Critical Areas Regulations are based on the Woodland Municipal Code Chapter 15.08 and have been modified to comply with Shoreline Management Act requirements.

## 1.1 Purpose.

All new uses and development activities proposed for shoreline areas in the City of Woodland must comply with the provisions of the Washington State Shoreline Management Act (RCW 90.58), the Washington Administrative Code (WAC 173-26 and 173-27), the updated Woodland Shoreline Master Program, and the Woodland Municipal Code. In addition, it is important to note that in many instances shoreline areas under the jurisdiction of the Shoreline Management Act (SMA) also involve environmentally sensitive areas, or critical areas, that are subject to protection under the provisions of the Washington State Growth Management Act (GMA). In those instances where the requirements of both the SMA and the GMA apply, the courts have ruled that the provisions of the SMA must prevail. As a result, any new use or development activity proposed for an area under the jurisdiction of the Shoreline Management Act that also involves one or more of the protected critical areas, must also comply with the following regulations in this Appendix B. For new uses and development activities outside of shoreline jurisdiction that involve critical areas, please refer to Chapter 15.08 of the Woodland Municipal Code (WMC).

The City finds that critical areas provide a variety of valuable biological and physical functions that benefit the City and its residents. Critical areas may also pose a threat to human safety and public and/or private property. The purpose of these regulations includes, but is not limited to, the following:

A. Protect the public health, safety, and welfare by preventing adverse impacts of development;

B. Preserve and protect critical areas by regulating development within and adjacent to critical areas;

C. Mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to environmentally sensitive areas;

D. Prevent adverse cumulative impacts to wetlands, streams, shoreline environments, and fish and wildlife habitat;

E. Protect the public and public resources and facilities from injury, loss of life, property damage or financial loss due to flooding, erosion, landslides, soils subsidence or steep slope failure;

F. Protect groundwater recharge capacity to the greatest extent practicable;

G. To strive for no net loss of the functions and values of regulated wetlands by requiring restoration and/or enhancement of degraded wetlands;

H. To designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values using the most current, accurate, and complete scientific and technical information available, while also allowing for reasonable use of private property.

## 1.2 Permits

No separate critical areas permit is required for a development proposal that requires a shoreline permit or Shoreline Letter of Exemption (SLE). All applicable critical areas requirements in Appendix B shall be incorporated into a Shoreline Substantial Development Permit (SSDP), Shoreline Conditional Use Permit (SCUP), Shoreline Variance, or SLE as applicable, and the applicable shoreline permit shall be obtained prior to undertaking any development activity regulated by the SMP.

## 1.3 Protection.

Any action taken pursuant to these regulations shall result in an equivalent or greater function of the critical area. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.

## 1.4 Use of Best Available Information.

Critical area reports or decisions to alter critical areas shall rely on the most current, accurate, and complete scientific and technical information available to protect the functions and values of critical areas.

# 2. Definitions.

Definitions for Appendix B are located in Chapter 2 of this Program.

# 3. Applicability and Exemptions.

## 3.1 Applicability.

A. All development proposals within the City of Woodland's shoreline jurisdiction, whether public or private, shall comply with these regulations, whether or not a permit or authorization is required. For the purposes of these regulations, development proposals shall include, but are not limited to the following:

1. Any project or development that requires a federally issued permit;

2. Any project or development that requires compliance with the Washington State Shoreline Management Act (RCW 90.58) or Growth Management Act (RCW 36.70A);

3. Alteration of a wetland or riparian habitat area as defined herein;

4. Any project or development that requires a permit under the adopted building code;

5. Any development or use that requires approvals under existing or subsequently adopted Woodland codes and/or ordinances (e.g., subdivision, zoning, conditional use, etc.).

## 3.2 Exemptions.

A. Exempt Activities and Impacts to Critical Areas. Upon determination by the City, the following activities may be exempt from the provisions of this Appendix B, but are not exempt from other requirements of the Shoreline Master Program, or the need to obtain a Shoreline Permit or Shoreline Letter of Exemption, if applicable. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas. To be exempt from this Appendix B does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not necessarily the outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense.

B. The following developments, activities, and associated uses shall be exempt from the provisions of this chapter:

1. Development occurring within frequently flooded areas and aquifer recharge areas, and containing no other critical area as defined by this chapter, provided the development meets the requirements of Chapter 14.40, Floodplain Management, of the WMC;

2. Existing and ongoing agricultural activities not involving chemical applications as defined in this chapter;

3. Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees, or drainage systems, that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed maintenance or repair;

4. The removal or control of noxious weeds not involving chemical application, excavation, mechanical weed control with the use of hand-held tools;

5. Maintenance of intentionally created artificial wetlands or surface water systems including irrigation and drainage ditches, grass-lined swales and canals, detention facilities, farm ponds, and landscape or ornamental amenities. Wetlands, natural streams, natural streams that are channelized, lakes or ponds created as mitigation for approved land use activities or that provide critical habitat are not exempt and shall be regulated according to the mitigation plan;

6. Minimal site investigative work required by the City, state or a federal agency, or any other applicant such as surveys, soil logs, percolation tests, and other related activities, provided that impacts on environmentally critical areas are minimized and disturbed areas are restored to the pre-existing level of function and value within one year after tests are concluded;

7. Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed activity;

8. Passive recreational uses, sport fishing or hunting, scientific or educational study, or similar minimum impact activities;

9. The policies, regulations, and procedures of this chapter do not apply to those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, RCW 76.09 and WAC 222, where state law specifically limits local authority, except with regard to developments and conversions requiring local approval, and when the City is the lead agency for environmental review.

C. Emergency Actions.

1. Emergency actions which must be undertaken immediately or for which there is insufficient time for full compliance with this chapter when it is necessary to:

a. Prevent an imminent threat to public health or safety;

b. Prevent imminent danger to public or private property; or

c. Prevent an imminent threat of serious environmental degradation.

2. In the event a person or emergency agency determines that the need to take emergency action is so urgent that there is insufficient time for review by the department, such emergency action may be taken immediately.

3. The person or agency undertaking such action shall notify the Public Works Department (Department) within one working day following the commencement of the emergency activity. Following such notification, the department shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the Department determines that the action taken or part of the action taken is beyond the scope of allowed emergency actions, enforcement action is authorized, as outlined in Section 8.11, Enforcement, of this Program.

4. Emergency actions shall be limited to the minimum necessary to alleviate the emergency. The critical area damaged by the emergency work shall be restored, if feasible, and appropriate mitigation shall be required.

# 4. Administration.

## 4.1 Critical Area Reports—Requirements.

A. Prepared by Qualified Professional. The applicant shall submit a critical area report prepared by a qualified professional.

B. Best Available Information. The critical area report shall use the most current, accurate, and complete scientific and technical information available in the analysis of critical area data and field reconnaissance. All scientific sources shall be referenced. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with this Program.

C. Minimum Report Contents. A critical area report shall contain at a minimum:

1. A copy of the site plan including identified critical areas, buffers, development proposal(s), limits of any proposed clearing, a stormwater management plan;

2. The date, name(s) and qualifications of the person(s) preparing the report and documentation of any fieldwork performed on the site;

3. Identification and characterization of all critical areas and buffers;

4. A statement specifying the accuracy of the report and all assumptions;

5. An analysis of development alternatives;

6. An assessment of the probable cumulative impacts to critical areas resulting from the proposed development;

7. A description of reasonable efforts made to apply mitigation sequencing to avoid, minimize, and mitigate impacts to critical areas;

8. Plans for mitigation to offset any impacts including, but not limited to:

   a. Impacts of any proposed development within or adjacent to a critical area or buffer,

   b. Impacts of any proposed alteration of a critical area or buffer by the proposed project;

9. A discussion of the performance standards applicable to the critical area and proposed activity;

10. Financial guarantees to ensure compliance; and

11. Any additional information required for the specific critical area as required by the corresponding regulations.

## 4.2 Critical Area Report—Modifications.

A. Study Area—Limitations. The Director of Public Works (Director) may modify the geographic area of the critical area report if:

   1. Permission to access adjacent properties cannot be obtained;

   2. Only a limited portion of the site will be affected by the activity.

B. Required Contents—Modifications. The Director may modify the required contents of the critical area report if, in the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and mitigation.

C. Additional Information. The Director may require additional information to be included with the critical area report when deemed necessary to the review of the proposed project.

## 4.3 Mitigation Requirements.

A. The applicant shall avoid all impacts that degrade the functions and values of a critical area(s). Unavoidable alteration to a critical area or buffer resulting from a development proposal or alteration shall be mitigated with an approved critical area report and SEPA documents, in accordance with this Program.

B. Mitigation shall be in-kind and on-site, when possible, and shall be sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard.

C. No mitigation shall be implemented until after the City has approved the applicable shoreline permit or SLE that includes a mitigation plan. All mitigation shall be in accordance with the provisions of this Program and approved critical area report.

## 4.4 Mitigation Sequencing.

A. Applicants shall demonstrate that all reasonable efforts have been examined to avoid or minimize impacts to critical areas. When alteration to a critical area is proposed, such alteration shall be avoided, minimized or compensated for in the following order of preference:

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

2. Minimize impacts by limiting the degree or magnitude of the action or its implementation, by using appropriate technology, or by taking steps such as project redesign, relocation, or timing to avoid or reduce impacts.

3. Repair, rehabilitate, or restore the affected environment (wetlands, critical aquifer recharge areas, frequently flooded areas, habitat conservation areas) to historical conditions or conditions existing at the time of project initiation.

4. Minimize or eliminate the hazard by restoring or stabilizing the hazard area through engineered or other approved methods.

5. Reduce or eliminate the impact or hazard over time by preservation and maintenance operation during the life of the action.

6. Compensate for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, or habitat conservation areas by replacing, enhancing, or providing resources or environments.

7. Monitor the mitigation and provide remedial action when necessary.

## 4.5 Mitigation Plan Requirements.

When mitigation is required, the applicant shall submit the following as part of a critical area report. The plan shall include:

A. Environmental Goals and Objectives. The mitigation plan shall include a written report that identifies the environmental goals and objectives of the proposed compensation, including:

   1. A description of the anticipated impacts to the critical area(s) and the proposed mitigation actions. Compensation measures, including the site selection criteria; compensation goals, identification of resource functions; and dates for beginning and completion of site construction and compensation activities. The goals and functions shall be related to the functions and values of the impacted critical area;

   2. A review of the most current, accurate, and complete scientific and technical information available supporting the proposed mitigation and a narrative of the author's experience to date in restoring or creating the type of critical area proposed;

   3. An analysis of the likelihood of success of the compensation project.

B. Performance Standards. The mitigation plan shall include specific criteria that are measurable for evaluating whether or not the goals and objectives of the mitigation

project have been successfully attained and that the requirements of this Program have been met.

C. Detailed Construction Plans. The mitigation plan shall include written specification and descriptions of the proposed mitigation including, but not limited to:

1. Grading and excavation details;

2. Erosion and sediment control measures;

3. Planting plans showing plant species, location, quantities, size, spacing and density;

4. Proposed construction timing, sequence and duration;

5. Measures to protect and maintain plants until established;

6. Detailed site diagrams, topographic maps showing slopes in two-foot intervals, final grade elevations, and any other appropriate drawings, shall accompany written specifications.

D. Monitoring Program. A mitigation-monitoring program shall be included with any mitigation plan. The monitoring program shall be as specified by the qualified professional who prepared the mitigation plan. The Director shall determine the frequency of site monitoring. The report shall document milestones, successes, problems and failures and contingency actions to compensate for mitigation shortfalls. The site shall be monitored for a period to establish that performance standards have been met, and not for a period of less than five years.

E. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring indicates project performance standards are not being met.

F. Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented.

## 4.6 Markers and Signs.

A. Critical area boundaries shall be permanently delineated using iron or concrete markers in accordance with survey standards.

B. The outer boundary of a critical area or buffer shall be identified with temporary signs prior to any site development or alteration. Permanent signs may be required by the Director upon completion of the project.

## 4.7 Notice on Title.

A. Notice of the existence of a critical area and/or buffer on a site, shall be noted as a deed restriction for the property. The restriction shall state the presence of a critical area and/or buffer and note that limitations to development may exist.

B. The applicant shall submit proof of the deed restriction prior to final project approval.

## 4.8 Setbacks.

A. Unless otherwise provided in this Program, buildings and other structures shall be set back a distance of fifteen (15) feet from the edges of all critical area buffers or critical area if no buffer is required.

B. The following may be allowed in the setback areas dependent upon shoreline environmental designation:

1. Landscaping;
2. Uncovered decks;
3. Building overhangs not greater than eighteen inches;
4. Driveways and patios provided runoff does not affect the critical area; and/or
5. Storage sheds not greater than ten feet by ten feet.

# 5. Wetlands.

A. Designating Wetlands. Wetlands are those areas, designated in accordance with the currently approved Federal Wetland Delineation Manual and applicable regional supplement, that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to: swamps, marshes, bogs, ponds, and similar areas. All areas within the City's shoreline jurisdiction meeting the wetland designation criteria in the Federal Wetland Delineation Manual and applicable regional supplement, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Program.

B. Wetland Ratings. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system found in the Washington State Wetland Rating System documents for Western Washington, Ecology Publication No. 14-06-007, or as revised by Ecology. This document contains the definitions and methods for determining if the criteria below are met.

   1. Category I Wetlands. Those wetlands that meet one of the following criteria:

      a. High conservation value;

      b. Bogs;

      c. Mature or old growth forested wetlands;

      d. Wetlands that perform functions at high levels.

   2. Category II Wetlands. Those wetlands that are difficult, though not impossible, to replace, and provide high levels of some functions

   3. Category III Wetlands. Those wetlands with a moderate level of functions. They generally have been disturbed in some ways, and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

   4. Category IV Wetlands. Those wetlands with a low level of functions and are often heavily disturbed.

C. Date of Rating. Wetland rating categories shall be applied as the wetland exists on the date of the adoption of the rating system, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Illegal modifications to wetlands shall not result in changes to wetland rating categories.

## 5.2 Initial Project Review.

A. Wetlands shall be identified and designated through a site visit and/or site assessment utilizing the definitions, methods, and standards as set forth in the Federal Wetland Delineation Manual and applicable regional supplement.

B. A site visit shall be conducted by the Director to confirm the presence of wetland indicators listed in the critical areas identification checklist (see Subsection 8.6.1.B in this Program) or identified in the State Environmental Policy Act (SEPA) checklist. The site visit shall be used to determine if a wetland or wetland buffer area are within two hundred feet of a proposed project or activity. A positive confirmation that wetland indicators are present or that the proposed project may impact the wetland area will then require a professional site assessment. The Director shall use the following map references to assist in making a determination: (1) National Wetland Inventory Map; and (2) any records of previously mapped wetlands.

## 5.3 Activities Allowed in Wetlands.

A. The following activities are allowed in wetlands in addition to those activities listed in, and consistent with, the provisions established in Exemptions (Section 3.2 of this Appendix B), and do not require a critical area report, except where such activities result in a loss to the functions and values of a wetland or wetland buffer area. These activities include:

1. Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing wetland; and

2. The harvesting of wild crops in a manner that is not injurious to natural reproduction such as crops and provided the harvesting does not require tilling of soil, planting of crops, or alteration of the wetland by changing existing topography, water conditions or water resources.

## 5.4 Critical Area Report—Requirements for Wetlands.

In addition to the general critical area report requirements of Section 3.3 of this Appendix B, wetland critical area reports must meet the requirements of this section. Critical area reports that include two or more types of critical areas must meet the report requirements for each type of critical area. If a wetland critical area report is required, the report shall meet the following requirements:

A. Wetland Reconnaissance by Qualified Professional. A wetland reconnaissance shall be performed by a qualified wetlands professional. The reconnaissance shall identify the presence of wetlands within three hundred (300) feet of the proposed project or activity area. If this reconnaissance demonstrates no wetlands within two

hundred feet of the activity area, then no further study is required. If the reconnaissance identifies wetlands present within two hundred feet of the proposed project or activity, then a wetland critical areas report shall be prepared by a qualified professional.

B. Preparation of Report by Qualified Professional. A wetland critical areas report shall be prepared by a qualified professional meeting the requirements defined in Chapter 2 of this Program.

C. Area Addressed in Wetland Critical Area Report. The following areas shall be addressed in a wetland critical area report:

1. The project area of the proposed activity;

2. All wetlands and recommended buffers within three hundred (300) feet of the project area; and

3. All shoreline areas, water features, floodplains, and other critical areas, and related buffers within two hundred feet of the project area.

D. Wetland Analysis. A wetland critical area report shall contain an analysis of the wetlands including the following site and proposal related information:

1. A written assessment of the wetlands and buffers within two hundred feet of the project area including:

   a. Maps of the wetland and buffer areas;

   b. Wetland delineation and required buffers;

   c. Acreage of the existing wetland;

   d. The wetland category including vegetation, faunal, and hydrologic characteristics;

   e. Soil and substrate conditions;

   f. Topographic contours at five-foot contours.

2. Proposed measures to avoid damaging the existing wetland and current levels of function or ways to minimize damage to the wetland and current levels of function.

3. A habitat and native vegetation plan that addresses methods to protect and/or enhance wetland functions and habitat.

4. Proposed mitigation, if needed.

a. Existing and proposed wetland acreage;

b. Existing and proposed vegetative, faunal, and hydrologic conditions;

c. Relationship to wetland with existing waterbodies and to the watershed;

d. Existing and proposed adjacent site conditions;

e. Required buffers;

f. List of all property owners.

5. A list of management practices that will be used to protect and maintain the quality of the wetland and/or covenants and restrictions that will be used in managing the wetland.

E. Additional Information. When appropriate, the Director may also require the critical area assessment to include an evaluation by the State Department of Ecology or an independent qualified expert regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, and to include any recommendations as appropriate.

## 5.5 Wetland Performance Standards—General Requirements.

A. Activities within wetland or wetland buffer areas may only be permitted if the applicant can show that the proposed activity will not degrade the functions and values of the wetland and/or other critical areas.

B. Activities and uses shall be prohibited within wetlands and wetland buffer areas except as permitted in this Program.

C. Category I Wetlands. Alteration of Category I wetlands is prohibited unless the alteration would improve habitat to threatened or endangered species occupying the habitat. This improvement of both functions and values must be demonstrated within the wetland technical study and the mitigation plan. A qualified expert may use best professional judgment to design a plan to allow such alterations to Category I wetlands.

D. Category II and III Wetlands. The following standards shall apply to activities within Category II and III wetlands and wetland buffers:

1. Water-dependent activities are allowed when no practical alternatives having less adverse impact on the wetland or other critical areas are available and appropriate mitigation measures are proposed; and

2. Nonwater-dependent activities are prohibited unless:

a. All alternative designs of the proposed project to avoid adverse impacts to the wetland functions or wetland buffer are not feasible and appropriate mitigation measures are proposed.

b. Category IV Wetlands. Activities and uses may be permitted in Category IV wetlands that result in unavoidable impacts in accordance with an approved critical area report and mitigation plan, and only if the proposed activity is the only reasonable alternative available.

## 5.6 Wetland Buffers.

A. Measurement of Wetland Buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. Buffer widths shall be determined according to wetland category, habitat score and/or water quality score, and intensity of the proposed land use. The buffer of a created, restored, or enhanced wetland shall be in conformance with the category of the wetland upon maturity.

B. Standard Buffer Widths. The standard buffer width is intended to protect the wetland functions and values in relation to the project intensity at the time of the proposed activity. Required buffer widths are as follows:

**Table B-1. Wetland Buffers**

| Wetland Category | Wetland Characteristics | Buffer Widths by Impact of Proposed Land Use |
|---|---|---|
| **Category I** | Natural Heritage Wetlands | Low - 125 feet<br>Moderate - 190 feet<br>High - 250 feet |
| | Bogs | Low - 125 feet<br>Moderate - 190 feet<br>High - 250 feet |
| | High level of function for habitat (score for habitat 8-9 points) | Low - 150 feet<br>Moderate - 225 feet<br>High - 300 feet |
| | Moderate level of function for habitat (score for habitat 5-7 points) | Low - 75 feet<br>Moderate - 110 feet<br>High - 150 feet |
| | High level of function for water quality improvement (8-9 points) and low for habitat (<5 points) | Low - 50 feet<br>Moderate - 75 feet<br>High - 100 feet |
| | Not meeting any of the above characteristics | Low - 50 feet<br>Moderate - 75 feet<br>High - 100 feet |
| **Category II** | High level of function for habitat (score for habitat 8-9 points) | Low - 150 feet<br>Moderate - 225 feet<br>High - 300 feet |
| | Moderate level of function for habitat (score for habitat 5-7 points) | Low - 75 feet |

| Wetland Category | Wetland Characteristics | Buffer Widths by Impact of Proposed Land Use |
|---|---|---|
| | | Moderate - 110 feet<br>High - 150 feet |
| | High level of function for water quality improvement and low for habitat (score for water quality 8-9 points; habitat <5 points) | Low - 50 feet<br>Moderate - 75 feet<br>High - 100 feet |
| | Not meeting above characteristics | Low - 50 feet<br>Moderate - 75 feet<br>High - 100 feet |
| **Category III** | Moderate level of function for habitat (score for habitat 5-7 points) | Low - 75 feet<br>Moderate - 110 feet<br>High - 150 feet |
| | Not meeting above characteristic | Low - 40 feet<br>Moderate - 60 feet<br>High - 80 feet |
| **Category IV** | Score for all 3 basic functions is less than 16 points | Low - 25 feet<br>Moderate - 40 feet<br>High - 50 feet |

C. Increased Wetland Buffer Widths. The Director shall require increased buffer widths when recommendations by a qualified professional biologist and the most current, accurate, and complete scientific and technical information available deem additional buffer widths necessary. The determination shall be based on the following:

1. An increased buffer area is necessary to protect other critical areas within the same project area;

2. The buffer area or adjacent uplands have a slope greater than fifteen percent or the buffer is susceptible to erosion where standard erosion controls will not prevent adverse impacts to the wetland;

3. Where an increased buffer is recommended due to minimal vegetation cover, a vegetation planting plan may be implemented as a substitute to the increased buffer width. A vegetation planting plan shall not result in a decrease in the buffer area. The vegetation planting plan shall include measures to monitoring and maintenance of the vegetated area.

D. Reduction of Wetland Buffer Widths.

1. The Director may allow for a reduction in the buffer width in accordance with an approved critical areas report and following the most current, accurate, and complete scientific and technical information available. Reductions in buffer widths shall be done on a case-by-case basis and only when it has been

determined that a smaller buffer area is adequate to protect the wetland functions and values based on site- specific characteristics.

2. A determination for reduced wetland buffer area shall be supported by documentation that shows that a reduced buffer is adequate based on the following criteria:

   a. The critical area report provides sound rationale for a reduced buffer based on the most current, accurate, and complete scientific and technical information available and site-specific conditions;

   b. The existing buffer area is densely vegetated or will be significantly enhanced with native species and has less than ten percent slopes; and

   c. No present or future adverse impacts to the wetland will result from the proposed activity.

   d. The Director may determine that long-term monitoring is required. The Director may require monitoring of the wetland to determine if there are any adverse impacts as a result of the project. If adverse impacts are discovered, corrective actions may be required.

3. Under no circumstances may the standard buffer width be reduced by more than twenty-five (25) percent, nor shall the buffer width be less than fifty (50) feet except where the standard buffer width is already less than fifty (50) feet.

E. Special Conditions for a Possible Reduction in Buffer Widths. The buffer widths recommended for proposed land uses with high- intensity impacts to wetlands can be reduced to those recommended for moderate-intensity impacts under the following conditions, and only after submittal of a critical areas report prepared by a qualified professional that provides clear justification for the reduced buffer:

1. For wetlands that score moderate or high for habitat (5 points or more for the habitat functions), the width of the buffer can be reduced if both of the following criteria are met:

   a. A relatively undisturbed, vegetated corridor at least one hundred feet wide is protected between the wetland and any other priority habitats as defined by the Washington Department of Fish and Wildlife ("relatively undisturbed" and "vegetated corridor" are defined in questions H 2.1 and H 2.2.1 of the Washington State Wetland Rating System for Western Washington—Revised. The corridor must be protected for the entire distance between the wetland and the priority habitat by some type of legal protection such as a conservation easement.

b. Measures to minimize the impacts of different land uses on wetlands, such as the examples summarized in Table B-2, are applied.

**Table B-2 Examples of Measures to Minimize Impacts to Wetlands from Proposed Change in Land Use That Have High Impacts**
(This is not a complete list of measures.)

| Examples of Disturbance | Activities and Uses that Cause Disturbances | Examples of Measures to Minimize Impacts |
|---|---|---|
| Lights | Parking lots<br>Warehouses<br>Manufacturing<br>Residential | Direct lights away from wetland |
| Noise | Manufacturing<br>Residential | Locate activity that generates noise away from wetland |
| Toxic runoff* | Parking lots<br>Roads<br>Manufacturing | Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered |
| | Residential areas | Establish covenants limiting use of pesticides within 150 feet of wetland |
| | Application of agricultural pesticides<br>Landscaping | Apply integrated pest management |
| Stormwater runoff | Parking lots | Retrofit stormwater detention and treatment for roads and existing adjacent development |
| | Roads<br>Manufacturing<br>Residential areas<br>Commercial<br>Landscaping | Prevent channelized flow from lawns that directly enters the buffer |
| Change in water regime | Impermeable surfaces<br>Lawns<br>Tilling | Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns |
| Pets and human disturbance | Residential areas | Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place wetland and its buffer in a separate tract |
| Dust | Tilled fields | Use best management practices to control dust |

* These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.

2. For wetlands that score less than 5 points for habitat, the buffer width can be reduced to that required for moderate land-use impacts by applying measures to minimize the impacts of the proposed land uses (see examples in Table B-2).

F. Averaging of Buffer Widths. The Director may allow for the standard buffer width to be averaged in accordance with an approved critical area report on a case-by-case basis. Averaging of buffer widths shall only be allowed when a qualified wetlands professional demonstrates that:

1. Averaging will not reduce wetland functions or values;

2. The wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places due to varying wetland quality;

3. The total area of the averaged buffer is not less than would be contained if there were no buffer averaging; and

4. The buffer width at its narrowest point is never less than ¾ of the required width.

G. Buffer Conditions Shall Be Maintained. Wetland buffers in their natural state shall not be altered and shall be maintained in an undisturbed condition except as allowed in this Program.

H. Mitigation Buffers. Any wetland that is created, restored, or enhanced as compensation for approved regulated wetland alterations shall have the standard buffer required for the category of the created, restored, or enhanced wetland.

I. Altered Wetland and/or Buffer Areas. Wetlands or buffer areas that have been altered and have lost their ecological functions and values are encouraged to be restored in order to replace these lost functions. Prior to the issuance of a development permit that is proposed adjacent to degraded wetlands or buffers, the property owner shall agree to undertake restoration activities or authorize such activities to occur, through an approved legal device such as a conservation program or restoration effort, or by legal agreement with restoration agencies or groups. Access shall be granted by the property owner for such restoration activities.

J. Functionally Isolated Buffer Areas. Areas which are functionally separated from a wetland and do not protect the wetland from adverse impacts due to preexisting roads, structures, or vertical separation shall be excluded from buffers otherwise required by this Program on a case-by-case basis subject to a critical area report and review as determined by the Director.

K. Use of Buffer Areas. The following uses may be permitted within a required wetland buffer unless otherwise prohibited:

1. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

2. Passive Recreation. Passive recreation in accordance with an approved critical area report. Such activities include but are not limited to:

    a. Walking paths or trails (no motorized use) located in the outer twenty-five percent of the buffer area. Trails shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed area and may need to be enhanced with screening. Trails or paths within a wetland or buffer area shall be planned to minimize removal of vegetation (trees, shrubs, etc.) and important wildlife habitat. Trail widths shall not be wider than three feet for private trail and ten feet for public use or publicly owned trails. Trail surfaces shall be comprised of natural materials (gravel, rock, bark) and permanent surfacing materials (asphalt or concrete) shall require a variance. No construction or surfacing materials shall significantly alter the existing drainage or negatively affect the wetland or buffer area;

    b. Wildlife viewing structures, platforms, interpretive areas, picnic areas, benches and associated activities shall be designed and located to minimize disturbance to wildlife habitat and/or critical wetland and/or buffer values or functions;

    c. Access to fishing areas.

3. Hazard Tree Removal. When a threat to human life or property is determined, the Director may allow the falling of a danger or hazard tree subject to the following criteria:

    a. Tree removal shall be the minimum necessary to balance the protection of the wetland or buffer area with the protection of life or property;

    b. For every hazard tree removed, a minimum of two should be planted as mitigation.

4. Stormwater Management Facilities. Stormwater management facilities such as bioswales or retention ponds may be allowed within the outer twenty-five (25) percent of the required buffer area for Category III and IV wetlands only, provided that:

    a. No other location is feasible; and

    b. Locating such facilities within the buffer area will not degrade the wetland values or functions or alter the hydroperiod of the wetland or adversely affect water quality; and

    c. Compensatory mitigation shall be included for all losses of wetland function as a result of the stormwater management facility.

## 5.7 Signing and Fencing Wetlands.

A. Temporary Markers. The outer perimeter of a wetland or buffer area and the limit of the wetland or buffer area to be disturbed pursuant to an approved permit, shall be marked in the field in such a way as to prevent unauthorized disturbance of the wetland or buffer area. Temporary marking shall be maintained throughout the permitted activity and shall not be removed until final inspections are completed and approved permanent signs, if required, are in place. The location of temporary markers shall be shown on all site plans and final plats associated with the proposal. Temporary markers shall be composed of one-half inch galvanized pipe or equivalent monument, at least eighteen inches long, and shall show above the surface at least two inches. Temporary markers shall be spaced no more than fifty feet apart or as determined by the Director.

B. Permanent Signs. The Director may require the applicant to install permanent signs along the boundary of Category I and Category II wetlands or buffer areas as a condition of any permit. The Director may also require signs for Category III or Category IV wetlands.

C. Temporary Fencing. All wetlands shall be temporarily fenced between the permitted activity and the buffer with a highly visible and durable protective barrier during the proposed activity to prevent access and to protect the critical area and buffer. The Director may waive this requirement if an alternative to fencing which achieves the same objective is proposed and approved.

D. Permanent Fencing. The Director may require the wetland and/or buffer area to be fenced for any proposed project. Permanent fencing shall be installed at the applicant's expense and height and type shall be such that it provides protection yet is not sight-obscuring.

## 5.8 Stormwater Management.

The following stormwater management standards are required as they apply to each activity:

A. New developments shall utilize best management practices to minimize stormwater quantity and quality impacts to wetlands, both during and following construction.

B. Stormwater runoff from new development shall not significantly change the rate of flow or the hydroperiod, which is the seasonal period and duration of water saturation or inundation, nor decrease the water quality of wetlands.

C. Authorized modifications of wetlands or buffer areas for construction of discharge from drainage facilities shall protect wetland hydrologic functions classified pursuant to this section.

D. Stormwater runoff shall not be diverted from the watershed of wetlands.

E. Developments which handle, store, dispose, or transport or generate hazardous substances/wastes defined as "dangerous" or "extremely dangerous" wastes under WAC 173- 303 (regardless of quantity) shall not allow direct precipitation or stormwater runoff to contact such substances where stored on-site.

F. The Washington State Department of Ecology's Stormwater Manual shall be the standard reference when implementing a stormwater management plan unless the Director authorizes an alternative approach.

## 5.9 Wetland Mitigation.

A. Mitigation Options. As a condition of any shoreline permit allowing for the alteration of wetlands, the applicant will engage in the restoration, creation or enhancement of wetlands in order to offset the impacts resulting from the alteration. An appropriate mitigation plan shall be developed by a qualified professional with experience in wetland mitigation, and shall be approved by the Director. The following mitigation measures shall be considered for any mitigation plan:

1. Avoid the impact completely by not taking certain action or parts of the action;

2. Minimize impacts by reducing the magnitude of the action or by avoiding or reducing impacts;

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

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

5. Compensate for the impact by replacing or enhancing the affected area;

6. Monitoring the impacted area.

B. Mitigation Ratios. Any wetland that is degraded as a result of a permitted or non-permitted activity shall be restored, created or enhanced at an area equal to or greater than the wetland area that was altered in order to compensate for losses to wetland acreage or functions according to the following ratios:

| Category and Type of Wetland | Creation or Re-establishment | Rehabilitation | Enhancement |
|---|---|---|---|
| Category I: Bog, Natural Heritage site | Not considered possible | Case by case | Case by case |
| Category I: Mature Forested | 6:1 | 12:1 | 24:1 |
| Category I: Based on functions | 4:1 | 8:1 | 16:1 |
| Category II | 3:1 | 6:1 | 12:1 |
| Category III | 2:1 | 4:1 | 8:1 |
| Category IV | 1.5:1 | 3:1 | 6:1 |

C. Wetland Enhancement. Any applicant proposing to degrade wetlands may propose to enhance existing wetlands in order to compensate for wetland losses. Applicants proposing to enhance wetlands shall present an enhancement program designed by a qualified professional with experience in wetland enhancement. Acreage replacement ratios may be increased up to one hundred percent at the recommendation of a qualified professional performing the enhancement program, with the approval of the Director, if the following conditions exist:

1. High degree of uncertainty as to the probable success of the proposed restoration or creation;

2. Significant (greater than twelve months) period of time between destruction and replacement of wetland functions;

3. Projected losses in functional value and other uses, such as recreation, scientific research and education, are relatively high;

4. Not possible to create or restore the same type of wetland.

D. Decreased Replacement Ratio. The replacement ratio may be decreased only under the following circumstances:

1. Scientifically supported evidence, which demonstrates that no net loss of wetland function or value is attained under the decreased ratio;

2. In all cases a minimum ratio of 1:1 shall be required.

E. In-Kind/Out-of-Kind Mitigation. In-kind mitigation shall be provided except where the applicant can demonstrate that either:

1. The wetland system was already degraded prior to any activity and out-of-kind replacement will result in a wetland with greater functional value; or

2. Technical problems such as exotic vegetation and changes in watershed hydrology make implementation of in-kind mitigation impossible.

F. On-Site/Off-Site Mitigation. On-site mitigation shall be provided except where the applicant can demonstrate that:

1. The hydrology and ecosystem of the original wetland and those who benefit from the hydrology and ecosystem will not be damaged by the loss of the on-site wetland; and

2. On-site mitigation is not scientifically feasible due to problems with hydrology, soils, or factors such as other potentially adverse impacts from surrounding land uses; or

3. Existing functional values at the site of the proposed restoration are significantly greater than the lost wetland functional values; or

4. Goals for flood storage, flood conveyance, habitat or other wetland functions have been established and strongly justify locating mitigation measures at another site.

G. Mitigation Site Selection. Mitigation sites shall be selected in accordance with a prepared wetland report by a certified wetland biologist. Compensatory mitigation for ecological functions shall be either in-kind and on-site, or in-kind and within the same stream reach, or subbasin, except when all of paragraphs 1-4 below apply. In that case, mitigation may be allowed off-site within the subwatershed of the impact site. When considering off-site mitigation, preference should be given to using alternative mitigation, such as a mitigation bank, an in-lieu fee program, or advanced mitigation.

1. There are no reasonable on-site or in-subbasin opportunities or on-site and in-subbasin opportunities do not have a high likelihood of success; and

2. On-site mitigation would require elimination of high-quality upland habitat; and

3. Off-site mitigation has a greater likelihood of providing equal or improved critical area functions than the impacted critical area; and

4. One of the following applies:

   a. Established watershed goals for water quality, flood or conveyance, habitat, or other critical area functions have been established and strongly justify location of mitigation at another site; or

b. Credits from a state-certified habitat and/or wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification under Chapter 173-700 WAC.

H. Timing of Mitigation. Mitigation shall be completed prior to activities that will disturb wetlands where feasible. Bonding or other financial guarantee is required if mitigation projects cannot be completed prior to project completion. Mitigation projects shall be timed to reduce impacts to existing wildlife or vegetation.

I. Components of Mitigation Plans. All wetland restoration, creation and/or enhancement projects required pursuant to this Program either as a permit condition or as the result of an enforcement action shall follow a mitigation plan approved by the City and shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised) and Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Publication #09-06-32, Olympia, WA, December 2009). The applicant or violator must receive written approval by the Director for the mitigation plan prior to the commencement of any wetland restoration, creation, or enhancement activity. The mitigation plan shall contain at least the following components:

1. Baseline Information. A written assessment and accompanying maps of the impacted wetland including, at a minimum, wetland delineation, existing wetland acreage, proposed wetland impacts, vegetative, faunal, and hydrologic characteristics, soil and substrate conditions, and topographic elevations. If the mitigation site is different from the impacted wetland site, baseline information should also include surface hydrology, existing and proposed adjacent land uses, proposed buffers, and a list of all property owners within five hundred feet of the edge of the wetland.

2. Timing and Objectives. The following shall be submitted in writing: proposed timing of the mitigation, a complete description of the functions and values intended to be created or enhanced.

# 6. Critical Aquifer Recharge Areas.

Critical aquifer recharge areas are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). Aquifer recharge areas have geologic conditions associated with infiltration rates that create a high potential for contamination of groundwater resources or contribute significantly to the replenishment of groundwater.

These regulations establish areas determined to be critical in maintaining both groundwater quantity and quality. The purpose of these regulations is to protect aquifer recharge areas from degradation or depletion resulting from new land use activities. Due to the exceptional susceptibility and/or vulnerability of groundwater underlying aquifer recharge areas to contamination and the importance of such groundwater as a source for public water supply, it is the intent of these regulations to safeguard groundwater resources by mitigating or precluding future discharges of contaminants from new land use activities.

A. Permitted Activities. The following activities are permitted within an aquifer recharge areas where no critical area report is required:

    1. Construction of, or improvements to, single-family residences or other structures not greater than two thousand five hundred square feet or five percent impervious surface of the site, whichever is greater, that do not use or increase the use of hazardous materials;

    2. Parks, recreation facilities, where no more than five percent of the site is impervious surface and, that do not use or increase the use of hazardous materials;

    3. On-site septic systems and drain fields for residential uses;

    4. Additional report requirements.

## 6.2 Critical Area Report—Additional Requirements for Aquifer Recharge Areas.

In addition to the general critical report requirements of Section 3.3 of this Appendix B, proposed developments within critical aquifer recharge areas must also meet the following:

A. Prepared by Qualified Professional. A critical area report for an aquifer recharge area shall be prepared by a qualified professional who is licensed by the state as a hydrologist, geologist, or engineer and who has experience in preparing hydrologic assessments.

B. Assessment Required—Hydrologic. All proposed activities, except those permitted activities above, shall have a level one hydrological assessment prepared. A level two hydrologic assessment shall be required for the following activities:

1. Activities that result in five percent or more impervious surface area;

2. Any activity that diverts, alters, or reduces the flow of surface or groundwater or reduces aquifer recharge;

3. The use of hazardous substances other than household chemicals used in accordance with the package directions for domestic applications;

4. Injection wells, except domestic septic systems;

5. Any activity determined by the Director that may likely have an adverse effect on aquifer recharge or groundwater quality.

C. Level One Hydrologic Assessment. A level one hydrologic assessment shall include all of the following:

1. Geologic and hydrologic characteristics for the site and immediately surrounding areas, if applicable, and any surface aquifer recharge areas;

2. Groundwater depth and flow direction and quantity;

3. Data on springs or wells within one thousand feet of the site;

4. Location of other critical areas within one thousand feet of the site;

5. Water quality data;

6. Proposed best management practices for the project.

D. Level Two Hydrologic Assessment. In addition to the requirements of a level one hydrologic assessment, a level two hydrologic assessment shall also include all of the following:

1. Historic water quality data for the affected area for the past five years;

2. Provisions for a groundwater monitoring plan;

3. Effects the proposed project may have on groundwater quantity and quality, including:

   a. Evaluation of groundwater withdrawal effects on nearby wells or surface water;

b. Evaluation of groundwater contamination from potential releases;

4. A spill plan identifying structures or equipment that may fail and result in an impact. A spill plan shall include provisions for regular inspections, repair, and replacement of structures or equipment.

## 6.3 Performance Standards—General.

A. Activities shall only be allowed in an aquifer recharge area if the applicant can demonstrate that the proposed activity will not cause contaminants to enter the groundwater or adversely affect aquifer recharge.

B. Proposed activities must comply with requirements of the EPA, Washington Department of Health, Department of Ecology, and Cowlitz County Health and Human Services.

## 6.4 Performance Standards for Specific Uses.

A. Storage Tanks. All storage tanks proposed to be located in an aquifer recharge area shall comply with the adopted building code requirements, applicable zoning, fire life safety requirements, and the following:

1. Underground Tanks. All new underground storage tanks that will contain hazardous substances shall be designed and constructed to:

   a. Prevent releases due to corrosion or structural fail for the life of the tank;

   b. Protect against corrosion or constructed of corrosion-resistant materials, or designed to prevent the release of any stored substance.

2. Aboveground Tanks. All new aboveground storage tanks that will contain hazardous substances shall be designed and constructed to:

   a. Not allow the release of hazardous substances to the ground or ground or surface waters;

   b. Contain spills using a primary containment area enclosing or underlying the tank;

   c. Contain spills using a secondary containment system either built into the tank structure or by a dike system constructed outside the tank.

B. Vehicle Repair and Servicing.

1. Vehicle service and repair shall be conducted over an impervious surface and within a covered structure capable of withstanding normal weather conditions.

Chemicals used in vehicle repair and servicing shall be stored in a manner that is protected from the weather and provides containment from leaks or spills.

2. No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on a site proposed for vehicle repair shall be abandoned using methods approved by the Department of Ecology.

C. Reclaimed Water—Spreading or Injection. Reclaimed water projects must be in accordance with Department of Ecology requirements and approval.

## 6.5 Prohibited Uses.

A. The following activities are prohibited in an aquifer recharge area:

1. Landfills;

2. Underground injection wells;

3. Mining;

4. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces;

5. Storage or processing of radioactive materials;

6. Any activity that significantly reduces aquifer recharge, aquifer flow, or aquifer quantity or quality.

# 7. Frequently Flooded Areas.

FOR DISCUSSION: These regulations will be incorporated by reference subsequent to the first draft review by the Planning Commission.

A. Frequently Flooded Area Classifications and Designations. All lands identified in the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM), as amended, and approved by the City, as within the one-hundred-year floodplain are designated as frequently flooded areas. These maps are based on the following:

   1. Flood Insurance Study—Cowlitz County Unincorporated Areas;

   2. Flood Insurance Study—City of Woodland.

B. Development Limitations. All development within designated frequently flooded areas shall be in compliance with the City of Woodland floodplain management ordinance, Chapter 14.40 of Woodland Municipal Code, as now or hereafter amended.

# 8. Geologically Hazardous Areas.

A. Designation of Geologically Hazardous Areas. Geologically hazardous areas pose a threat to the health and safety of the general public when incompatible development is sited in areas of significant hazard. Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake or other geological events. Development within a geologically hazardous area may not only pose a threat to that particular development, but to areas surrounding the development.

## 8.2 Erosion and Landslide Hazard Areas.

A. General.

1. Erosion hazard areas are those areas that, because of their natural characteristics, including vegetative cover, soil texture, slope, gradient, and rainfall patterns, or human-induced changes to such characteristics, are vulnerable to erosion.

2. Landslide hazard areas are areas potentially subject to the risk of mass movement due to geologic, topographic, and/or hydrologic factors.

B. Classification.

1. Criteria.

a. Erosion hazard areas are identified by the presence of vegetative cover, soil texture, slope, and rainfall patterns, or human-induced changes to such characteristics, which create site conditions, which are vulnerable to erosion. Erosion hazard areas are those areas that are classified as having moderate to severe, or very severe erosion potential by the Natural Resources Conservation Service, United States Department of Agriculture (USDA).

b. Landslide hazard areas are those areas meeting any of the following characteristics:

i. Areas of historic failures, such as:

(A) Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having "severe" limitation for building site development;

(B) Those areas mapped by the Department of Ecology or the Washington Department of Natural Resources as unstable, unstable old slides, or unstable recent slides;

(C) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Washington Department of Natural Resources.

ii. Areas with all three of the following characteristics:

(D) Slopes steeper than fifteen percent;
(E) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
(F) Springs or groundwater seepage.

iii. Slopes that are parallel or sub-parallel to planes of weakness, such as bedding planes, joint systems, and fault planes, in subsurface materials;

iv. Slopes having gradients steeper than eighty percent subject to rock fall during seismic shaking;

v. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action;

vi. Any area with a slope of thirty percent or steeper and with a vertical relief of ten or more feet. A slope is delineated by estimating the toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

## 8.3 Mapping of Hazards.

The following sources may be used to identify landslide and erosion hazard areas:

A. Soil Survey of Cowlitz Area, Washington, United States Department of Agriculture, February 1974;

B. Areas designated as slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Washington Department of Natural Resources;

C. Washington Department of Natural Resources seismic hazard maps for Western Washington;

D. Federal Emergency Management Administration flood insurance maps;

E. Other maps or records of local geological hazard events.

## 8.4 Allowed Activities.

The Director may allow the following activities within other geologically hazardous areas if the activity will not increase the risk of the hazard:

A. Construction of new buildings with less than two thousand five hundred (2,500) square feet of floor area or roof area, whichever is greater;

B. Additions to existing residences that are two hundred fifty (250) square feet or less; and

C. Installation of fences.

## 8.5 Regulation.

For all regulated activities proposed within landslide and erosion hazard areas, a geotechnical report prepared by a professional engineer licensed by the state of Washington with expertise in geotechnical engineering shall be submitted. Where the applicant can clearly demonstrate to the department through submittal of a geotechnical assessment that the regulated activity or any related site alterations will not occur within the landslide or erosion hazard area or any associated buffers, the requirements for a geotechnical report may be waived. A geotechnical assessment may be prepared by a professional engineer licensed by the state of Washington with expertise in geotechnical engineering. A geotechnical assessment may also be prepared by a professional geologist/hydrologist or soils scientist who has earned a bachelor's degree in geology, hydrology, soils science, or closely related field from an accredited college or university or equivalent educational training, and having five years' experience assessing erosion and landslide hazards.

A. Geotechnical Assessments.

1. If an applicant questions the presence of landslide or erosion hazard areas on a site, the applicant may submit a geotechnical assessment.

2. A geotechnical assessment shall include all of the following:

a. A description of the topography, surface and subsurface hydrology, soils, geology, and vegetation of the site;

b. An evaluation of the analysis area's inherent landslide and erosion hazards and any other critical areas and buffers, and any critical areas that may be likely to impact the site;

c. A site plan of the area delineating all areas of the site subject to landslide and erosion hazards, based on sources and criteria above;

d. The submittal must include a contour map of the proposed site, at a scale of one inch equals twenty feet or as deemed appropriate by the department. Slopes shall be clearly delineated for the ranges between fifteen percent and twenty-nine percent, and thirty percent or greater, including figures for area coverage of each slope category on the site. When site-specific conditions indicate the necessity, the department may require the topographic data to be field surveyed. When possible, the footprint of the proposed project shall be shown.

B. Geotechnical Reports. A geotechnical report shall be prepared by a professional engineer licensed by the state of Washington with experience in geotechnical engineering and shall address the existing geology, topographic and hydrologic conditions of the site, including an evaluation of the ability of the site to accommodate the proposed activity. The geotechnical report shall include at a minimum the following:

1. Site geology information required:

a. Topographic Data. The submittal must include a contour map of the proposed site, at a scale of one inch equals twenty feet or as deemed appropriate by the department. Slopes shall be clearly delineated for the ranges between fifteen percent and twenty- nine percent, and thirty percent or greater, including figures for area coverage of each slope category on the site. When site-specific conditions indicate the necessity, the department may require the topographic data to be field surveyed. When possible, the footprint of the proposed project shall be shown;

b. Subsurface Data. The submittal must include boring logs and exploration methods; soil and rock stratigraphy, groundwater levels, and seasonal changes of groundwater levels;

c. Site History. The submittal must include a description of any prior grading, soil instability, or slope failure; and

d. Seismic Hazard. The submittal shall include data concerning the vulnerability of the site to seismic events.

2. Geotechnical engineering information required:

a. Slope stability studies and opinion(s) of slope stability;

b. Proposed angles of cut and fill slopes and site grading requirements;

c. Structural foundation requirements and estimated foundation settlements;

d. Soil compaction criteria;

e. Proposed surface and subsurface drainage;

f. Lateral earth pressures;

g. Vulnerability of the site to erosion;

h. Suitability of on-site soil for use as fill;

i. Laboratory data and soil index properties for soil samples; and

j. Building limitations.

3. Where a valid geotechnical report has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be utilized and a new report may not be required. If any changed environmental conditions are associated with the site or surrounding the site, or the proposed activity has changed, the applicant shall submit an amendment to the geotechnical report.

4. The development proposal may be approved, approved with conditions, or denied based on the department's evaluation of the ability of the proposed mitigation measures to reduce risks associated with the erosion and landslide hazard area.

5. Other critical areas or buffers on or adjacent to the site that may impact the proposal.

C. Performance Standards. The department shall evaluate all geotechnical reports for landslide and erosion hazard areas to insure that the following standards are met:

1. Location and extent of development:

a. The development shall be located to minimize disturbance and removal of vegetation;

b. Structures shall be clustered where possible to reduce disturbance and maintain natural topographic character; and

c. Structures shall conform to the natural contours of the slope, and foundations should be tiered where possible to conform to the existing topography of the site.

2. Design of development:

a. All development proposals shall be designed to minimize the building footprint and other disturbed areas;

b. All development shall be designed to minimize impervious surfaces;

c. Roads, walkways, and parking areas shall be designed to parallel the natural contours; and

d. Access shall be in the least sensitive area of the site.

3. The Department may approve, approve with conditions, or deny development proposals based on these performance standards.

D. Buffer Requirements.

1. A buffer consisting of undisturbed natural vegetation and measured in a perpendicular direction from all landslide and erosion hazard areas shall be required. The buffer shall be from the top of the slope and toe of the slope of all landslide or erosion hazard areas that measure ten feet or more in vertical elevation change from top to toe of slope, as identified in the geotechnical report, maps, and field checking. The minimum buffer distance requirements from the top of slope and toe of slope of the landslide or erosion hazard areas shall be the same as for setbacks from slopes as identified in the Uniform Building Code.

2. To increase the functional attributes of the buffer, the Director may require that the buffer be enhanced through the planting of indigenous species.

3. The edge of the buffer area shall be clearly staked, flagged, and fenced prior to any clearing, grading or construction. The buffer markers shall be clearly visible, durable, and permanently affixed to the ground. Site clearing shall not commence until the engineer has submitted written notice to the Director that the buffer requirements of this Program have been met. The buffer shall be permanently protected through a protective easement or other appropriate permanent protective measure.

E. Modification to Buffer Width. When a geotechnical report demonstrates that a lesser buffer distance may be achieved through design and engineering solutions, such reduced buffer and design and engineering solutions may be permitted. If a geotechnical report demonstrates that a greater buffer distance is needed, the greater buffer shall be required.

F. Building Setback and Construction Near Buffer. The setback for any proposed building or impervious surface from a buffer area shall be the same setback as required for that zoning district or ten feet, whichever is greater. No building or impervious surface shall be constructed closer than ten feet to any buffer area.

Clearing, grading, and filling within the required setback shall only be allowed if the applicant can demonstrate that vegetation within the buffer will not be damaged.

G. Erosion Control Plan. Erosion control plans shall be required for all regulated activities in erosion hazard areas.

# 9. Designation of Fish and Wildlife Habitat Conservation Areas.

A. Fish and wildlife habitat conservation areas include:

1. Areas with species designated by the state or federal government as endangered, threatened or sensitive:

   a. Federally designated endangered and threatened species are identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are threatened to become endangered or are in danger of extinction. U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listings.

   b. State-designated endangered, threatened, and sensitive species are those species native to the state of Washington that are in danger of extinction, threatened to become endangered, vulnerable, or are declining and are likely to become endangered or threatened without cooperative management. The Washington Department of Fish and Wildlife maintains the most current listing and should be consulted for current listing status.

2. State priority habitats and areas associated with state priority species. Priority species require protection due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitat may consist of a specific structural element, successional state, unique vegetation, or dominant plant species. Priority habitats are identified by the Washington Department of Fish and Wildlife.

3. Habitats and Species of Local Importance. Habitats and species of local importance shall include Washington Department of Fish and Wildlife priority habitats and species, candidate species, and any species identified by the City of Woodland or Clark or Cowlitz County.

4. Naturally Occurring Ponds Under Twenty Acres. Naturally occurring ponds do not include ponds intentionally created from dry sites such as retention ponds, dikes, or wastewater treatment facilities, or landscape amenities, unless such ponds were intentionally created as mitigation or as restoration.

5. Waters of the State. All watercourses under the jurisdiction of the state of Washington.

6. Lakes, ponds, streams and rivers stocked or planted with game fish by a governmental or tribal entity.

7. State natural areas and natural resource conservation areas as defined, established, and managed by the Washington Department of Natural Resources.

8. Essential land for preserving open spaces and connections between habitat blocks.

B. All areas within the City of Woodland meeting one or more of these criteria, are hereby considered critical areas and are subject to this Program.

C. Mapping. The following critical area maps are hereby adopted:

1. Washington Department of Fish and Wildlife, priority habitat and species maps;

2. Washington Department of Natural Resources, official water type reference maps; and

3. Washington Department of Natural Resources, state natural area preserves and natural resource conservation area maps.

These maps are to be considered as references only and do not provide final critical area designation.

## 9.2 Critical Area Report—Additional Requirements for Habitat Conservation Areas.

In addition to the general critical area report requirements of Section 3.3 of this Appendix B, critical area reports for habitat conservation areas shall meet the requirements of this section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

A. Prepared by Qualified Professional. A critical report for a habitat conservation area shall be prepared by a qualified professional biologist with experience preparing reports for the appropriate type of habitat.

B. Area Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for habitat conservation areas:

1. The total area of the proposed activity;

2. All habitat conservation areas and recommended buffers within two hundred feet of the project area; and

3. All shoreline areas, floodplains and other critical areas with related buffers within two hundred feet of the project area.

C. Habitat Assessment. A habitat assessment or investigation of the proposed project area that evaluates the presence of a potential fish or wildlife species or

habitat shall be prepared. A habitat conservation area report shall contain an assessment of following site and proposal related information:

1. Detailed description of vegetation and other habitat features on and adjacent to the proposed project area;

2. Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association habitat on or adjacent to the proposed project area;

3. An assessment of potential impacts to the species by the proposed project;

4. A discussion of any federal, state, or local special management recommendation that have been developed for species or habitats on or adjacent to the proposed project;

5. A detailed discussion of the potential impacts to the habitat by the proposed project, including impacts to water quality or quantity;

6. A discussion of measures, including avoidance, minimization and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded in accordance with Section 3.6 (Mitigation sequencing) of this Appendix B;

7. A discussion of continuing management practices that will protect habitat after the project site has been developed, including monitoring and maintenance programs.

D. Additional Information Required. The Director may require additional information when the type of habitat or species dictates the need. The habitat management additional requirement shall include:

1. An evaluation by an independent qualified professional regarding the analysis and effectiveness of proposed mitigation or programs, including any recommendations as appropriate;

2. A request for consultation with the Washington Department of Fish and Wildlife; and

3. A detailed surface and subsurface hydrologic features both on and adjacent to the proposed project site.

## 9.3 Performance Standards—General Requirements.

A. Alterations Shall Not Degrade the Functions and Values of Habitat. A habitat conservation area may only be altered if the proposed alteration of the habitat

does not degrade the quality or quantity of functions or values of the habitat. All new structures are prohibited from habitat conservation areas except in accordance with this Program.

B. Nonindigenous Species Shall Not Be Introduced. Unless authorized by a state or federal permit of approval, no species not indigenous to the region shall be introduced into a habitat conservation area.

C. Mitigation, Contiguous Corridors. Mitigation sites shall be located so as to achieve continuous habitat corridors in accordance with an approved mitigation plan.

D. Approvals May Be Conditioned. The Director may condition approvals of allowed activities within or adjacent to habitat conservation areas or buffers. Conditions may include, but are not limited to, the following:

    1. Establishment of buffer zones;

    2. Preservation of critically important vegetation;

    3. Limiting access, including fencing;

    4. Seasonal restriction of construction activities.

E. Mitigation Shall Achieve Equivalent or Greater Functions. Mitigation activities shall achieve equivalent or greater biologic functions and shall include mitigation for adverse impacts upstream or downstream of the development site. Mitigation shall address each function.

F. Approval shall be supported by the most current, accurate, and complete scientific and technical information available.

G. Buffers.

    1. The Director shall require buffer areas to be established for all activities in or adjacent to habitat conservation areas when needed for habitat protection. Buffers shall be undisturbed areas of native vegetation, or shall be areas identified for restoration, to protect the integrity, functions, and values of the affected habitat. Buffers shall reflect the sensitivity of the habitat and intensity of the proposed project, and shall be consistent with recommendations by the Washington Department of Fish and Wildlife. Buffers shall be preserved in perpetuity.

    2. Seasonal Restrictions. If a species is more prone to disturbance during specific times of the year, seasonal restrictions may apply. Larger buffers may be required, and activities may be restricted during that specific season.

3. Habitat Buffer Averaging. The Director may allow the recommended buffer width to be reduced in accordance with an approved critical area report; the most current, accurate, and complete scientific and technical information available; and management recommendations by the Washington Department of Fish and Wildlife. Averaging may only occur if:

    a. Averaging will not reduce habitat or stream functions;

    b. It will not adversely affect salmonid habitat;

    c. Additional natural resource protection such as buffer enhancement will be provided;

    d. The total of the averaged buffer area is not less than what would be contained in the standard buffer;

    e. The buffer area width is not reduced by more than twenty-five percent.

H. Signs and Fencing.

1. Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of the area to be disturbed shall be marked in such a way as to prevent unauthorized intrusion. The marking shall be verified by the Director prior to any activities taking place. Temporary marking shall be maintained throughout the project timeline until permanent signs, if required, are in place.

2. Permanent Signs. The Director may require permanent signs along the boundary of a habitat conservation area or buffer. The signs, if required, must be made of a durable material, mounted on a metal post. Signs shall be posted approximately fifty feet apart. The property owner shall maintain the signs.

3. Fencing.

    a. The Director may require permanent fencing of a habitat conservation area or buffer when fencing will prevent future impacts to the area.

    b. Permanent fencing shall be required if domestic grazing animals are present or may be introduced in the future.

    c. If permanent fencing is required, it shall be the sole responsibility of the applicant to install and maintain.

    d. Fencing shall not interfere with species migration and shall be installed in a manner that minimizes habitat impacts.

I. Subdivisions/Short Subdivisions.

a. Land that is located entirely within a habitat conservation area or its buffer shall not be subdivided. Buffer areas shall be identified on the face of subdivision maps and shall be protected in perpetuity with conservation covenants, deed restrictions, or other legally binding mechanisms.

b. Land that is located partially within a habitat conservation area or buffer may be divided provided an accessible portion of each new lot is located outside the conservation area or buffer. A lot may be subdivided into lots outside the conservation area or buffer and a lot entirely within the buffer area, so long as the lot within the conservation area or buffer area is designated as not developable on the final plat.

c. Roads and utilities serving the proposed subdivision may only be permitted in the conservation area or buffer if the City determines that no other feasible alternative exists and adverse impacts to critical areas and buffers are fully mitigated in accordance with all mitigation and critical area report requirements of this Program.

## 9.4 Performance Standards—Specific Habitats.

A. Endangered, Threatened and Sensitive Species.

1. No development shall be allowed within a habitat conservation area or buffer where state or federally endangered, threatened, or sensitive species have a primary association.

2. Proposed activities adjacent to a conservation area where state or federally endangered, threatened, or sensitive species have a primary association shall be protected in accordance with an approved critical area report. No activity shall be permitted prior to consultation with the Washington Department of Fish and Wildlife and/or appropriate federal agency.

3. Bald eagle habitat shall be protected pursuant to Washington State Bald Eagle Protection Rules (WAC 232-12-292). For activities proposed adjacent to a verified nest or communal roost a habitat management plan shall be developed by a qualified professional. Activities are adjacent to a bald eagle site when they are within eight hundred feet or within two thousand six hundred forty feet and in a shoreline foraging area. The City shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the Washington Department of Fish and Wildlife.

B. Anadromous Fish.

1. All activities, uses, and alterations proposed to be located within waterbodies used by anadromous fish or in areas that affect such waterbodies shall give

special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to the following:

a. Activities shall be timed in accordance with the allowable work window as specified by the Washington Department of Fish and Wildlife for the applicable species;

b. The activity is designed so it will not degrade the functions or values of the fish habitat or other critical areas;

c. Any impacts to the functions or values are mitigated in accordance with an approved critical area report;

d. Hydraulic project approval may be required from the Washington Department of Fish and Wildlife.

C. Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall conform to the wetland portion of this Appendix B. If wetland and non-wetland critical areas are present at the same location, the provisions that afford the greatest protection shall apply.

D. Riparian Habitat Areas. Unless otherwise allowed in this Program, all structures and activities shall be located outside of the RHA.

1. Establishment of Riparian Habitat Areas. Riparian areas shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other, and are located adjacent to rivers, perennial or intermittent streams, and springs.

2. Riparian Habitat Area Widths. A riparian habitat shall have the width specified unless a greater width is required, or a lesser width is allowed. Widths shall be measured from the ordinary high water mark or from the top of the bank if the ordinary high water mark cannot be identified. Riparian habitat area widths shall be as shown in the following tables:

**Table** B-3 **Riparian Habitat Areas (RHA) for Non-Shoreline Waters**

| Stream Type | RHA Width |
|---|---|
| Type S - shorelines of the state | See Table B-4 |
| Type F - other perennial or fish bearing streams<br>• 5-20 feet wide<br>• <5 feet wide | <br>200 feet<br>150 feet |
| Type Np - perennial nonfish habitat streams | 100 feet |
| Type Ns - seasonal, nonfish habitat streams | 75 feet |

**Table B-4 Reach-Based Riparian Habitat Areas (RHA) for Shoreline Waters**

| Reach Number | Waterbody | Shoreline Environment Designation | RHA Width |
|---|---|---|---|
| W-01 | Horseshoe Lake | Residential | Where shoreline is adjacent to the road, the RHA extends from the OHWM to the boundary of the existing roadside operational area.<br>Existing single-family lots are subject to the alternative buffers for single-family lots in WMC 15.08.720.<br>Undeveloped parcel – 125 feet |
| W-02 | Horseshoe Lake | Residential | 50 feet |
| W-03 | Horseshoe Lake | High Intensity | 25 feet |
| W-04 | Horseshoe Lake | Recreation | See Table B-5 |
| W-05 | Horseshoe Lake | High Intensity | RHA extends from the OHWM to the boundary of the existing roadside operational area. |
| W-06 | Horseshoe Lake | Residential | Single-family lots are subject to the alternative buffers for single family lots in WMC 15.08.720. |
| W-07 | Lewis River | High Intensity | Maintain and enhance the existing riparian vegetation consistent with balancing guidelines for airport safety zones. |
| W-08 | Lewis River | High Intensity | 75 feet except where existing parcels are less than 200 feet deep. For parcels less than 200 feet deep, buffer is 30 percent of the parcel depth. |
| W-09 | Lewis River | *Parallel:*<br>Urban Conservancy between road and OHWM / High Intensity / Residential | RHA extends from the OHWM to the boundary of the waterward existing roadside operational area. |
| W-10 | Lewis River | *Parallel:*<br>Urban Conservancy between road and OHWM / High Intensity / Residential | Entire floodway or 75 feet from OHWM, whichever is greater. |
| W-11 | Lewis River | Residential | 150 feet except where existing platted lots or where approved lots are within a preliminary plat that has not expired, the alternative buffers for single family lots in WMC 15.08.720 may be applied. |
| W-12 | Lewis River | Residential | 150 feet except where existing platted lots or where approved lots are within a preliminary plat that has not expired, the alternative buffers for single family lots in WMC 15.08.720 may be applied. |

3. Riparian Habitat Required. A RHA shall apply only to projects permitted after the adoption date of this Program.

4. Increased Riparian Widths. Riparian habitat widths shall be increased when:

a. The Director determines that the recommended width is insufficient to prevent habitat degradation and to protect the functions of the habitat area;

b. A channel migration zone exceeds the recommended riparian width. The width shall be extended to the outer edge of the channel migration zone;

c. The riparian area is in an area of high blowdown potential. The RHA shall be expanded an additional fifty feet (50) on the windward side;

d. The riparian area is within an erosion or landslide area. The buffer width will be that of the critical area affording the greatest protection.

5. Reduction of Habitat Buffer Widths. The Director may allow the standard or reach-based habitat buffer width to be reduced in accordance with an approved critical area report and the most current, accurate, and complete scientific and technical information available on a case-by-case basis when it is determined that a smaller area is adequate to protect the habitat functions and values based on site-specific characteristics and when all of the following criteria are met:

   a. The critical area report provides a sound rationale for a reduced buffer based on the most current, accurate, and complete scientific and technical information available;

   b. The existing buffer area is well-vegetated or will be significantly enhanced with native species and has less than a ten percent slope;

   c. No direct or indirect, short-term or long-term, adverse impacts to habitats will result from the proposed activity;

   d. As required by the Director, a five-year monitoring program of the buffer and habitat shall be included. Subsequent corrective actions may be required if adverse impacts to the habitats are discovered during the monitoring period;

   e. In no case shall the standard buffer width be reduced by more than twenty-five (25) percent using this provision.

6. Riparian Habitat Area Width Averaging. The Director may allow the standard or reach-based riparian habitat area width to be averaged in accordance with a critical area report only if:

   a. The reduction will not degrade the habitat;

   b. The reduction will not reduce the stream or habitat functions;

   c. The reduction will not reduce non-fish habitat functions;

d. Additional habitat protection will be provided;

e. The total area of the riparian area is not reduced by more than twenty-five (25) percent in any one location;

f. The total area of the riparian area is not decreased;

g. The reduction in width will not be within another critical area or buffer; and

h. The reduction in habitat area is supported by the most current, accurate, and complete scientific and technical information available.

7. Allowed Uses. The following uses are allowed in RHAs and building setbacks in all environment designations consistent with Table 7-1 of the SMP, provided that mitigation sequencing is demonstrated and any adverse impacts to ecological functions are mitigated.

   a. Water-dependent uses. Water-dependent uses, modifications and activities may be located in shoreline buffers at the water's edge without obtaining a Shoreline Variance Permit, provided the project submittal includes a critical area report, and the project otherwise complies with this Program.

   b. Accessories to water-dependent uses. Uses, developments and activities accessory to water-dependent uses should be located outside any applicable standard, reach-based or reduced shoreline buffer unless at least one of the following is met:

      i. Proximity to the water-dependent project elements is critical to the successful implementation of the facility's purpose and the elements are supportive of the water-dependent use and have no other utility (e.g., a road to a boat launch facility);

      ii. In parks or on other public lands where high-intensity recreational development is already legally established and whose use is primarily related to access to, enjoyment and use of the water, they do not conflict with or limit opportunities for other water-oriented uses; or

      iii. The applicant's lot/site has topographical constraints where no other location of the development is feasible (e.g., the water-dependent use or activity is located on a parcel entirely or substantially encumbered by the required buffer).

      In these circumstances, uses and modifications accessory to water-dependent uses must be designed and located to minimize intrusion into the buffer. All other accessory uses, developments and activities proposed to be

located in a shoreline buffer must obtain a Shoreline Variance unless otherwise allowed by other regulations in this section or in this Program.

c. Shoreline residential access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide, through the shoreline buffer to the OHWM. Impervious materials may be used only as needed to comply with ADA requirements to construct a safe, tiered pathway down a slope. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible consistent with any applicable ADA standards.

d. Water-oriented public access and recreation facilities standards.

   i. In recognition of the existing condition of current and planned public and private shoreline parks and recreation facilities, the following standards shall guide new development and redevelopment of water-oriented public access and recreation facilities in lieu of shoreline buffers. Proposals under this provision must fully comply with other requirements of this Appendix B, including any limitations placed by the presence of other critical areas. Applicants shall submit a management plan that addresses compliance with each of the following applicable standards and principles, and contains additional information listed in Subsection d.ii below. The City may review and condition the project to more fully implement the principles below.

The performance standards in the following table were developed to provide maximum flexibility in installation and modification of public access/recreation facilities in areas that may be widely variable in level of alteration/function, and thus not easily assigned an appropriate buffer dimension. These provisions can be further modified to increase applicability to Woodland and ease of implementation.

**Table B-5. Water-Oriented Public Access and Recreation Facilities: Design and Management Standards in Lieu of Shoreline Buffers**

| Design Element | Design and Management Standards |
|---|---|
| Category of Use | The following use preferences apply in priority order:<br>• Water-dependent uses located waterward, at or immediately upland of the OHWM<br>• Water-related and/or water-enjoyment uses located upland of water-dependent uses. Water-related and water-enjoyment uses shall not displace existing or planned water-dependent uses. If water-dependent uses are not feasible, then water-related or water-enjoyment uses are allowed consistent with applicable performance standards.<br>• Nonwater-oriented recreation uses located upland of water-oriented recreation uses. The preference is that nonwater-oriented uses occupy existing structures upland of water-oriented recreation uses rather than be established in new structures. Where new nonwater-oriented uses are proposed upland of water-oriented uses, but will not occupy existing |

| Design Element | Design and Management Standards |
|---|---|
| | structures, they shall avoid native and riparian vegetation consistent with the Vegetation Management guidelines below.<br>• Accessory, nonwater-oriented uses located upland of water-oriented uses. However, parking for those with disabilities, when no other location is feasible, may be located per the Parking guidelines below.<br>• Existing primary nonwater-oriented uses may only expand if they are located upland of water-oriented uses and if the expansion does not displace water-oriented uses.<br>• Water-enjoyment recreational uses may be expanded.<br>• Existing water-oriented uses may not be converted to a nonwater-oriented use except when the existing water-oriented use is separated from the OHWM by another property. |
| Impervious Surface and Stormwater Management | • New and expanded pollution-generating impervious surfaces (e.g., surfaces used predominantly by vehicles, such as parking areas, roads) must provide water quality treatment before discharging stormwater through use of oil-water separators, bioswales, or other approved technique. This provision does not apply to boat launches.<br>• Treated runoff from pollution-generating impervious surfaces and runoff from non-pollution-generating impervious surfaces shall be infiltrated if feasible.<br>• New or expanded pollution-generating impervious surfaces within 50 feet of the OHWM or within already disturbed areas shall be limited to those necessary to provide vehicle access to boat launches, to improve existing informal parking areas, to expand existing parking, or to provide ADA parking as outlined below under the Parking element below.<br>• New or expanded trail systems shall avoid existing riparian areas and comply with vegetation management requirements below. Existing trail systems may only be expanded in response to increased demand, and shall be expanded landward of existing trail where feasible. Parallel trails shall be placed at least 50 feet upland of the OHWM when feasible. Parallel portions of trails may be constructed closer to the aquatic area if the trail is located on or upland of previously disturbed rights-of-way, access and/or utility easements, and legally altered sites. Viewing platforms and crossings are allowed in buffers, provided they are also located to avoid significant vegetation removal. |
| Parking | • New parking accessory to shoreline parks shall be at least 100 feet upland of the OHWM, except where a minimum number of parking spaces are provided closer than 100 feet to accommodate those with disabilities or where parking is provided on existing impervious surfaces.<br>• Existing parking closer than 100 feet upland of the OHWM may only be expanded in response to increased demand. Expanded parking shall be expanded in the following order of preference, with 1) being the most preferred: 1) landward of existing parking and 2) laterally of the existing parking, if it is serving a previously existing authorized use and is located on existing impervious surface. Parking shall not be located closer than 50 feet upland of the OHWM unless the proposed expansion area is already an impervious surface or is necessary to accommodate those with disabilities. |

| Design Element | Design and Management Standards |
|---|---|
| Vegetation Management | • New and expanded uses in shoreline jurisdiction shall be located to avoid and minimize intrusion into riparian areas, as well as avoid tree and shrub removal.<br>• New and expanded uses in shoreline jurisdiction shall comply with Section 6.6, Vegetation Conservation, of this Program.<br>• Landscape designs for new and modified recreation facilities in shoreline jurisdiction shall incorporate the following:<br>▪ Select species that are suitable to the local climate and have minimal vulnerability to pests and minimal demands for fertilizers. Native species shall comprise 50 percent of the landscaped area, not counting lawn area. Redevelopment of lawn areas shall be no closer than 20 feet from the OHWM. Native grasses may be used within the first 20 feet landward of the OHWM. If lawn areas are not currently established within 50 feet of the OHWM, the existing riparian vegetation within 50 feet of the OHWM shall be maintained, unless a mitigation plan demonstrates improved ecological function.<br>▪ Preserve existing soil and vegetation (especially trees) where possible. Amend disturbed soils with compost. Mulch existing and proposed landscapes regularly with wood chips, coarse bark, leaves or compost.<br>▪ Place vegetation to maximize the following benefits:<br>– development or supplementation of a native vegetated wildlife corridor,<br>– development or supplementation of riparian vegetation adjacent to the water's edge,<br>– screening parking areas from views from the water or the park, and/or<br>– discouragement of wildlife that may directly or indirectly interfere with park use or human health (e.g., geese),<br>• While a specified buffer is not required for certain water-oriented recreational uses and developments in public access and recreation areas, recreational improvement projects shall place an emphasis on shoreline restoration/enhancement within 50 feet of the OHWM. This emphasis shall not require the removal of existing lawn areas, but should place an emphasis on incorporation of riparian plantings if the access/recreation area is underutilized or access would not be impaired by the plantings. |
| Chemical Applications | A lawn and landscape management strategy for any allowed uses in shoreline jurisdiction shall be developed that incorporates the following:<br>• A site-specific plan for use of integrated pest management technique, if applicable.<br>• A detailed plan identifying anticipated use of fertilizers, herbicides and pesticides, to include method of application that ensures these materials will not enter the water. Phosphorus-containing fertilizer treatments shall not be applied to turf or landscaping within 50 feet of the OHWM. Natural applications and hand removal are preferred over synthetic applications. |

| Design Element | Design and Management Standards |
|---|---|
| Lighting | • Outdoor lighting fixtures and accent lighting must be shielded and aimed downward, and shall be installed at the minimum height necessary. The shield must mask the direct horizontal surface of the light source. The light must be aimed to ensure that the illumination is only pointing downward onto the ground surface, with no escaping direct light permitted to contribute to light pollution by shining upward into the sky.<br>• Outdoor lighting fixtures and accent lighting shall not directly illuminate the shoreline waterbody, unless it is a navigational light subject to state or federal regulations. |
| Campgrounds | Proposed new campgrounds and their associated parking areas shall be a minimum of 50 feet from the OHWM, except that ADA-accessible campsites may be closer to the OHWM if they comply with all other provisions of this section. |

ii. Application requirements:

(G) Drawings of existing park facilities, including a narrative that identifies area (sq. feet) and description of trails, parking, riparian vegetation, campsites, recreational facilities (ball parks, picnic table, grilling areas), upland vegetation and lawn areas.

(H) Drawings of proposed park facilities, including a narrative that identifies area (sq. feet) and description of trails, parking, riparian vegetation, campsites, recreational facilities (ball parks, picnic table, grilling areas), upland vegetation and lawn areas.

(I) Any increases in impervious surfaces (trail size, parking facilities, recreational facilities, etc.) shall be accompanied by a needs analysis that addresses the requirement for increased public/park facilities, what size facilities are needed by existing and projected park users, and the nearest locations of similar facilities.

(J) New or expanded public/park facilities proposals shall be accompanied by a mitigation plan that addresses the design elements and the design and management standards above, addresses any critical area impacts, addresses mitigation sequencing, and demonstrates no net loss of shoreline ecological functions.

8. Riparian Habitat Mitigation. Mitigation of adverse impacts shall result in equivalent functions and values on a per function basis. The mitigation shall be located as near the alteration as possible, and be located in the same sub-drainage basin as the impacted habitat.

9. Alternative Mitigation for Riparian Areas. If the applicant demonstrates that greater habitat functions can be obtained as a result of alternate mitigation measures, the Director may modify the requirements of the performance standards of this section, including the RHA buffers.

10. Functionally Isolated Riparian Habitat Area. Areas which are functionally separated from a riparian habitat area due to preexisting roads, structures, or similar circumstances, shall be excluded from buffers otherwise required by this Program on a case-by-case basis subject to a critical area report and review as determined by the Director.

E. Aquatic Habitat/Shoreline Jurisdiction. The following activities may be permitted within a RHA when the activity is done in accordance with this Program.

1. Clearing and grading as part of a permitted activity.

    a. Grading is allowed only in the dry season as determined by the Director.

2. Shoreline Erosion Control. Shoreline erosion control measures may be permitted in accordance with an approved shoreline permit and critical areas report that demonstrates the following:

    a. Natural shoreline process will be maintained;

    b. There will be no increased beach or other erosion;

    c. Fish and wildlife habitat will not be degraded;

    d. There is no net loss of functions or values.

3. Streambank Stabilization. Only in accordance with an approved critical area report and shoreline permit. See Section 7.3.1 of this Program.

4. Boat Ramps. Boat ramps may be permitted in accordance with a shoreline permit and approved critical area report that demonstrates compliance with Section 7.2.3 of this Program and the following:

    a. Natural shoreline process will be maintained;

    b. There will be no increased shoreline, bank or other erosion;

    c. Fish and wildlife habitat will not be degraded;

    d. There is no net loss of functions or values.

5. Roads, Trails, Bridges, Rights-of-Way. Roads, trails, bridges, and rights-of-way may be permitted up to thirty (30) feet wide in accordance with a shoreline permit and approved critical area report that demonstrates compliance with Section 7.2.12 of this Program and the following:

    a. There is no feasible alternative route with less environmental impact;

b. Roads do not run parallel to the waterbody;

c. Trails are located on the outer edge of the riparian area;

d. Crossings shall be as near perpendicular to the waterbody as possible;

e. Mitigation for impacts is provided;

f. Trail shall not be made of continuous impervious materials.

6. Utility Facilities. New utility lines and facilities may be permitted in accordance with a shoreline permit and an approved critical area report that demonstrates compliance with Section 7.2.13 of this Program and the following:

   a. Fish and wildlife area shall be avoided to the maximum extent possible;

   b. Utilities shall cross at an angle greater than sixty degrees;

   c. Crossings shall be contained within an existing road or utility crossing where feasible;

   d. The utility shall avoid paralleling a stream;

   e. The utility shall not increase or decrease the natural rate of shore or channel migration.

7. Public Flood Protection Measures. Public flood protection measures may be permitted subject to the City's review and approval of a shoreline permit and critical area report that demonstrates compliance with Chapter 6.4 of this Program.

8. Instream Structures. May be permitted in accordance with an approved shoreline permit and critical area report that demonstrates compliance with Section 7.2.8 of this Program. The structure shall be designed to avoid modifying flows and adversely affecting water quality.

9. Stormwater Conveyance Facilities. Conveyance facilities may be permitted in accordance with an approved critical area report and shoreline permit subject to the following:

   a. No other feasible alternatives with less impact exist;

   b. Mitigation for impacts is provided;

   c. Conveyance facilities shall incorporate habitat features; and

d. Vegetation shall be maintained.

10. On-Site Sewage Systems and Wells.

a. New on-site sewage systems and individual wells may be permitted in accordance with an approved critical area report only for residences where it is not feasible to connect to the public sanitary sewer system.

b. Repairs to failing on-site sewage systems associated with an existing structure shall be by utilizing one of the following methods that results in the least impact:

i. Connection to the public sanitary sewer system;

ii. Replacement with a new on-site system located in a portion of the site that has already been disturbed; or

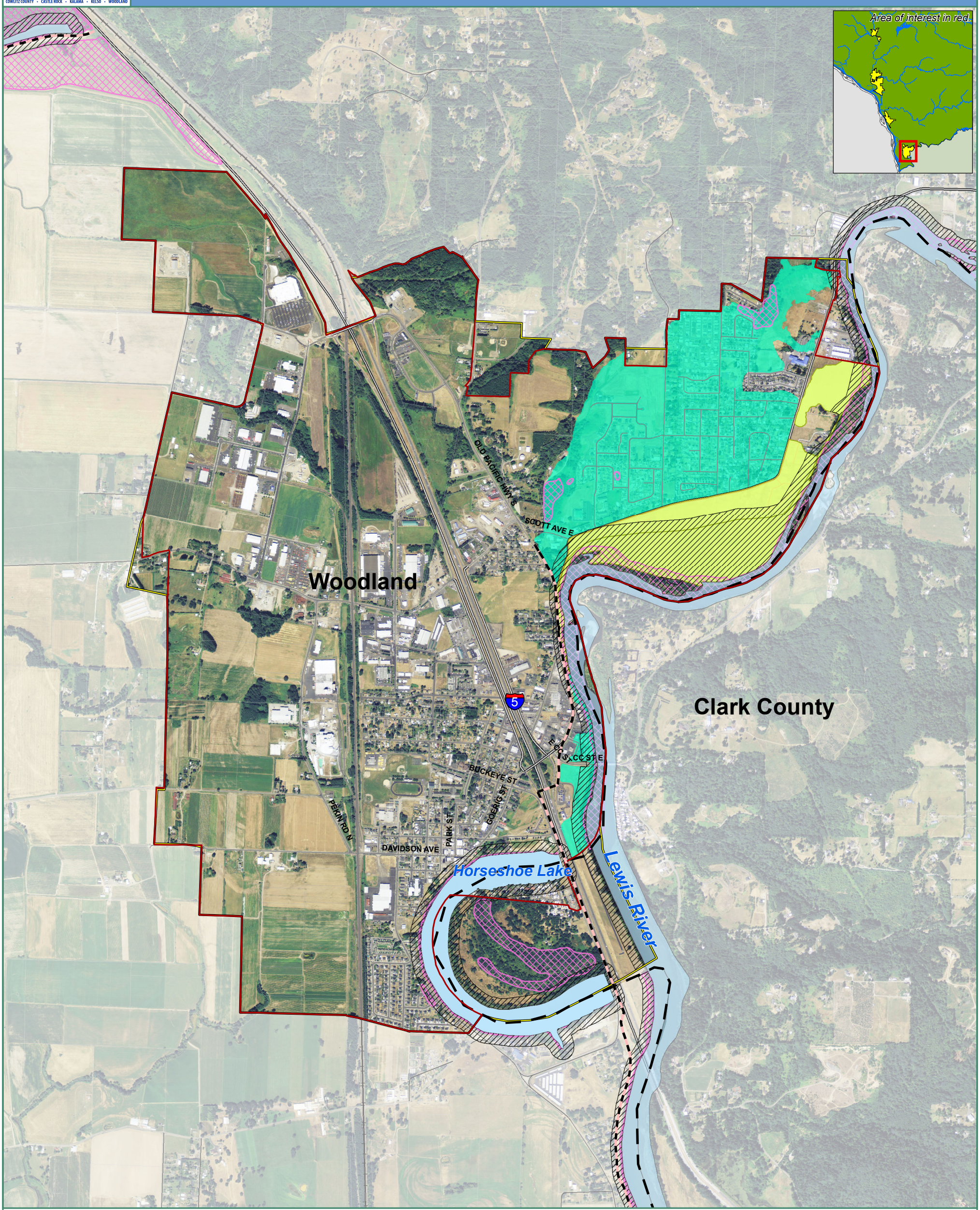
iii. Repair to the existing system.

Cowlitz County Partnership
Shoreline Master Program Update
COWLITZ COUNTY • CASTLE ROCK • KALAMA • KELSO • WOODLAND

# CITY OF WOODLAND

## CHANNEL MIGRATION ZONE

**DRAFT**




- Levee
- Channel Migration Zone
- DFIRM Floodplain[1]
- Proposed Shoreline Jurisdiction
- Potentially Associated Wetland
- SMP Stream
- SMP Waterbody
- City Boundary
- UGA/UGB/PAB
- County Boundary

Note:
[1] Preliminary Digital Flood Insurance Rate Maps (DFIRM) data drafted by FEMA was used to determine shoreline jurisdiction boundary in City of Castle Rock, Kelso, Kalama, and Woodland. Boundaries of both floodway and floodplain have not been formally adopted.

0 900 1,800 2,700 Feet

*Original Scale=1:20,400 @ 11x17 layout. Please scale accordingly.*

*Data source:*
*Cowlitz County, CWCOG, Department of Ecology, The Watershed Company.*

The Watershed Company | Parametrix

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

*Date: 4/10/2014*
*Name: Fig11_CMZ_cities*

**Staff Report: Non-Conformities**

**Date:** August 21, 2014
**To:** Planning Commission
**From:** Amanda Smeller, Community Development Planner
**Re:** Non-Conformities Draft

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The non-conformities draft was brought back before the Commission during the July 24, 2014 meeting with changes and additions from Mr. Eling (City Attorney). The Commission had some confusion in relation to the various colors indicating where the language originated and requested an easier to read copy comparing what is currently adopted and what is being proposed.

Among the changes Mr. Eling are the addition of some definitions and an expanded purpose section. He also included a new section that will deal with the recognition of a legal non-conforming use, structure, or lot. This may change the language we currently have (but weren't necessarily sure about yet) regarding the Hearing Examiner recognizing or reinstating non-conformities.

Both drafts are included, the highlighted copy with the colors denoting language orientation and the strike through/underline copy.

Green text is what was previously proposed – the draft Carolyn had worked on and that passed Planning Commission.

Yellow text is language from the City of Minnetonka (Minnesota) and requested by City Attorney, Bill Eling.

Blue text is what is currently adopted.

Purple text is taken from Skamania County's Non-Conforming ordinance.

Grey text is new, not necessarily taken from any code language, but clarifies a proposed statement.

# Staff Report: Recreational Marijuana

**Date:** September 8, 2014
**To:** Planning Commission
**From:** Amanda Smeller, Community Development Planner
**Re:** Recreational Marijuana Draft Code

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The Planning Commission reviewed a first draft of the recreational marijuana code at the August 28, 2014 meeting. The Commission requested the removal of the 250' residential zone buffer, but also discussed a possible permit process for allowing the use within this buffer.

Several other jurisdictions have made recreational marijuana a conditional use, requiring a permit from that jurisdiction through the standard conditional use process. City of Cheney puts a limit on the total number of CUPs allowed (2 max) regardless of number applied.

City of Gig Harbor requires regular permit review (Site Plan Review, etc.) for marijuana uses. Depending on the operation size, etc., a Site Plan Review may be required in Woodland as well.

The City of Ferndale requires a separate licensing process, with fee, for marijuana uses, and issues their own license in addition to the license received from the state.

Other jurisdictions allow for marijuana use under existing zoning and other regulations.

The original map is included which shows the 1,000 buffer from specific sites (schools, playgrounds, etc.) and a map that shows the sites in question. Also included is the map which also shows the 250' buffer from residential zones.

-AS

RECREATIONAL MARIJUANA – VERSION 2 (POST 1st Planning Commission Meeting)

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Section 1: A new chapter 17.XX is hereby added to the Woodland Municipal Code reading as follows:

### 17.XX.010 Findings and Purpose

A. The purpose of this chapter is to establish where marijuana producers, processors, and retail outlets may locate in the City, and to define the restrictions upon such uses.
B. No part of this chapter is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 U.S.C. Section 800 et seq., the Uniform Controlled Substances Act (chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state, or federal law, statute, rule or regulation. Nothing in this chapter shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of marijuana in any manner not authorized by chapter 69.51A RCW or chapter 69.50 RCW. Nothing in this chapter shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance, as defined herein. It is the intention of the city council that this chapter be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

### 17.XX.020 Definitions

A. "Child Care Center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington State Department of Early Learning, under chapter 170-295 WAC.
B. "Cultivation" means the planting, growing, harvesting, drying or processing of marijuana plants of any part thereof.
C. "Deliver or Delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.
D. "Elementary school" means a school for early education that provided the first four to eight years of basic education and recognized by the Washington State Superintendent of Public Instruction.
E. "Game Arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.
F. "Indoors" means within a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by the City, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessibly only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" by 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.
G. "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

H. “Marijuana” means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. For the purposes of this chapter, “cannabis” or “marijuana” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
I. “Marijuana-infused products” means products that contain marijuana or marijuana extracts and are intended for human use. The term “marijuana-infused products” does not include useable marijuana.
J. “Marijuana, useable” means dried marijuana flowers. The term “usable marijuana” does not include marijuana-infused products.
K. “Outdoors” means any location that is not “indoors” within a fully enclosed and secure structure as defined herein.
L. “Person” means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision of agency or any other legal or commercial entity.
M. “Playground” means a public outdoor recreation area for children, usually equipped with swings, slides and other playground equipment, owned and/or managed by a city, county, state or federal government.
N. “Process” means to handle or process cannabis in preparation for use.
O. “Processor, marijuana” means a person licensed by the State Liquor Control Board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products as wholesale to marijuana retailers.
P. “Producer, Marijuana” means a person licensed by the State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.
Q. “Produce or Production” means to manufacture, plant, grow or harvest cannabis or marijuana.
R. “Public Park” means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, state, federal government or metropolitan park district. Public park does not include trails.
S. “Public place” includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theaters, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, buses, ferries, and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places

of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

T. "Public Transit Center" means a facility located outside of the public right-of-way that is owned and managed by a transit agency or city, county, state or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

U. "Recreation center or facility" means a supervised center that provided a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state or federal government.

V. "Retailer, Marijuana" means a person licensed by the State Liquor Control Board to sell useable marijuana and marijuana-infused products in a retail outlet.

W. "Retail outlet" means a location licensed by the State Liquor Control Board for the retail sale of useable marijuana and marijuana-infused products.

X. "Secondary School" means a high and/or middle school. A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington State Superintendent of Public Instruction.

Y. "Useable cannabis or useable marijuana" means dried flowers of the Cannabis plant. The term "useable cannabis or useable marijuana" does not include marijuana-infused products or cannabis products.

### 17.XX.030 Location Criteria for Recreational Marijuana Uses

A. No recreational marijuana producer, processor, or retail outlet may be located within one thousand feed of the perimeter of the grounds of any of the following:
   a. Elementary or secondary school;
   b. Playground;
   c. Recreation center or facility;
   d. Child care center;
   e. Public park;
   f. Public transit center;
   g. Library
   h. Any game arcade (where admission is not restricted to persons age twenty-one or older).

B. No marijuana producer, processor or retail outlet may locate within any residentially zoned district or within any residential unit in the city.

~~C. No marijuana producer or processer may locate within two hundred fifty feet of any residentially zoned district.~~

~~D.~~C. The distances described in subsections A, ~~B and C~~ and B above shall be computed by direct measurement as follows: the distance shall be measured as the shortest straight line distance from the property line or the licensed premises to the property line of the above listed facility or facilities.

**Commented [AS1]:** Do we want to discuss another process for allowing within 250'? Would we want to issue some sort of license or permit with this? See staff report.

### 17.XX.040 Marijuana Uses allowed in identified zones

A. Recreational marijuana production and processing is a permitted use for those properties in the Light Industrial (I-1) and the Heavy Industrial (I-2) zoning districts, subject to compliance with this chapter and all other applicable Woodland Municipal Code requirements.
B. Recreational marijuana retail outlets and retail uses are a permitted use in the Highway Commercial (C-2) zoning district, subject to compliance with this chapter, and all other applicable Woodland Municipal Code requirements.

### 17.XX.050 Signs and advertising

All signage and advertising for a recreational marijuana processor, producer or retail outlet shall comply with the applicable provisions of this code, the sign code, zoning code and WAC 314-55-155 (and all applicable rules for city, state, and federal regulations).

### 17.XX.060 Security Requirements

Security measures at all licensed premises shall comply with the requirements of WAC 314-55-083 (and all applicable rules for city, state and federal regulations).

### 17.XX.070 Report of Disturbances and Unlawful Activity

A. All licensees and any agent, manager or employee thereof shall immediately report to the City of Woodland Police Department any disorderly act, conduct or disturbance and any unlawful activity committed in or on the licensed and permitted premises, including, but not limited to, any unlawful resale of marijuana, and shall also immediately report any such activity in the immediate vicinity of the business.
B. Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign with a minimum height of fourteen (14) inches and a minimum width of eleven (11) inches with each letter to be a minimum of one-half (1/2) inch in height, which shall read as follows:

WARNING:
The City of Woodland Police Department must be notified of all
disorderly acts, conduct or disturbances and
all unlawful activities which occur on or within the premises
of this licensed establishment.

C. It shall not be a defense to prosecution of a code enforcement action under this Section that the licensee was not personally present on the premises at the time such unlawful activity, disorderly act, conduct or disturbance was committed; however, no agent or employee of the licensee shall be personally responsible for failing to report any disorderly act, conduct, or disturbance and any unlawful activity hereunder if such agent, servant or employee was absent from the premises at the time such activity was committed.

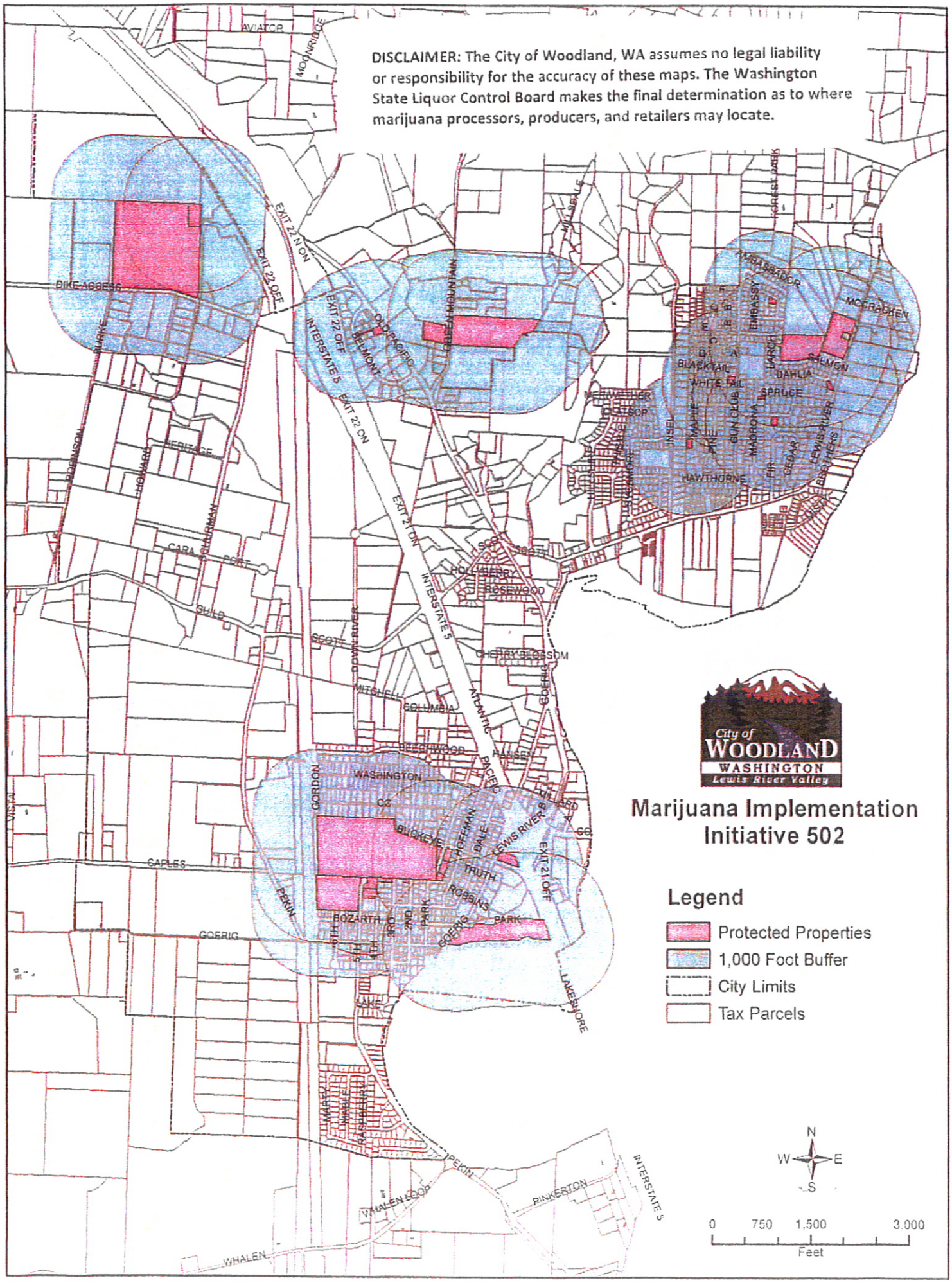
### 17.XX.080 – Visibility of Activities; Control of Emissions

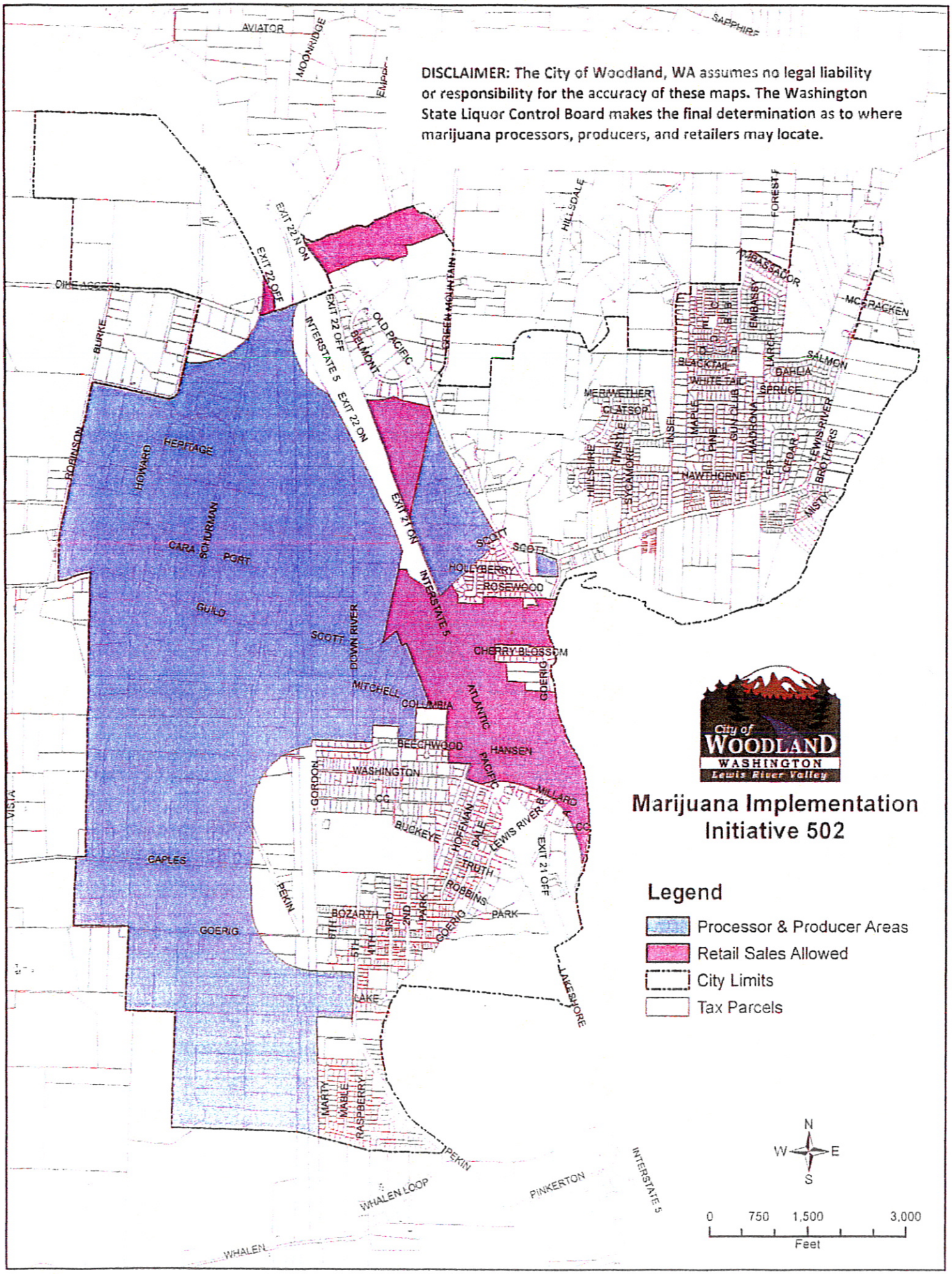
A. All activities of the recreational marijuana business, including, but not limited to, cultivating, growing, processing, displaying, manufacturing, selling and storage, shall be conducted out of the public view.
B. No recreational marijuana or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.
C. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from ~~existing~~ exiting the recreational marijuana business must be in effect at all times. In the event that any odors, dust, fluids or other substances exit a recreational marijuana business, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for the immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

**Commented [AS2]:** LCB rules state that marijuana production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in nonrigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscuring wall or fence at least eight feet high. Outdoor producers must meet security requirements of WAC 314-55-083. The statement here isn't very specific to indoor or outdoor.

### 17.XX.090 – Enforcement

A. Violation of this chapter including the sign code or zoning code shall result in a Class 1 civil infraction as defined by RCW 7.80.120, with each day of violation being a separate infraction. The city may enforce this section pursuant to Chapter 7.80 RCW. For violations of WAC 314-55-155 and 314-55-525, the City may report the violation to the State Liquor Control Board.
B. In addition to any other applicable remedy and/or penalty, any violation of this chapter is declared to be a public nuisance per se, and may be abated by the City under the applicable provisions of the Woodland Municipal Code or state law.
C. Nothing in this chapter shall be construed as a limitation on the City's authority to abate any violation which may exist from the cultivation of marijuana from any location.


DISCLAIMER: The City of Woodland, WA assumes no legal liability or responsibility for the accuracy of these maps. The Washington State Liquor Control Board makes the final determination as to where marijuana processors, producers, and retailers may locate.
City of WOODLAND WASHINGTON Lewis River Valley
Marijuana Implementation Initiative 502
Legend
Protected Properties
1,000 Foot Buffer
City Limits
Tax Parcels
N
W
E
S
0
750
1,500
3,000
Feet
AVIATOR
MOONRIDGE
DIKE ACCESS
BURKE
EXIT 22 ON
EXIT 22 OFF
INTERSTATE 5
OLD PACIFIC
BELMONT
MOUNTAIN VIEW
HILLSDALE
AMBASSADOR
MCFARLANE
EMBASSY
HORSE LAKE
BLACKTAIL
WHITE TAIL
MARCH
DAHLIA
SALMON
SPRUCE
MEADOWBROOK
MAPLE
GUN CLUB
MADRONA
FIR
CEDAR
LEWIS RIVER
BIG FOOTERS
HAWTHORNE
HERITAGE
HIGHLAND
ROBINSON
CARA
CHURMAN
PORT
GUILD
SCOTT
HOLLYBERRY
ROSEWOOD
DOWN RIVER
CHERRY BLOSSOM
MITCHELL
COLUMBIA
ATLANTIC
PACIFIC
BEECHWOOD
HANSEN
WASHINGTON
GORDON
CS
BUCKEYE
HOFFMAN
DALE
LEWIS RIVER
MILLARD
EXIT 21 OFF
CAPLES
TRUTH
ROBBINS
PARK
PEKIN
BOZARTH
3RD
2ND
GOERIG
LAKESHORE
LAKE
MARTY
MAPLE
RASPBERRY
WHALEN LOOP
WHALEN
PINKERTON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City of WOODLAND WASHINGTON Lewis River Valley
Marijuana Implementation Initiative 502
Legend
Processor & Producer Areas
Retail Sales Allowed
City Limits
Tax Parcels
N
W
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S
0
750
1,500
3,000
Feet
AVIATOR
MOONRIDGE
SAPPHIRE
EXIT 22 N ON
EXIT 22 OFF
INTERSTATE 5
EXIT 22 ON
EXIT 21 ON
EXIT 21 OFF
OLD PACIFIC
BELMONT
GREEN MOUNTAIN
HILLSDALE
FOREST
AMBASSADOR
MCBRACKEN
SALMON
DAHLIA
SPRUCE
LEWIS RIVER
BROTHERS
MISTY
BLACKTAIL
WHITE TAIL
EMBASSY
LARCH
MERMETHER
CLATSOP
INSEL
MAPLE
PINE
GUN CLUB
MADISONA
HILLSHIRE
TWISTLE
SYCAMORE
HAWTHORNE
FIR
CEDAR
BURKE
ROBINSON
HOWARD
HERITAGE
CARA SCHURMAN
PORT
GUILD
SCOTT
HOLLYBERRY
ROSEWOOD
DOWN RIVER
CHERRY BLOSSOM
GOERIG
MITCHELL
COLUMBIA
ATLANTIC
BEECHWOOD
HANSEN
PACIFIC
WASHINGTON
GORDON
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MILLARD
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HOFFMAN
DALE
LEWIS RIVER
TRUTH
ROBBINS
PARK
VISTA
CAPLES
PEKIN
BOZARTH
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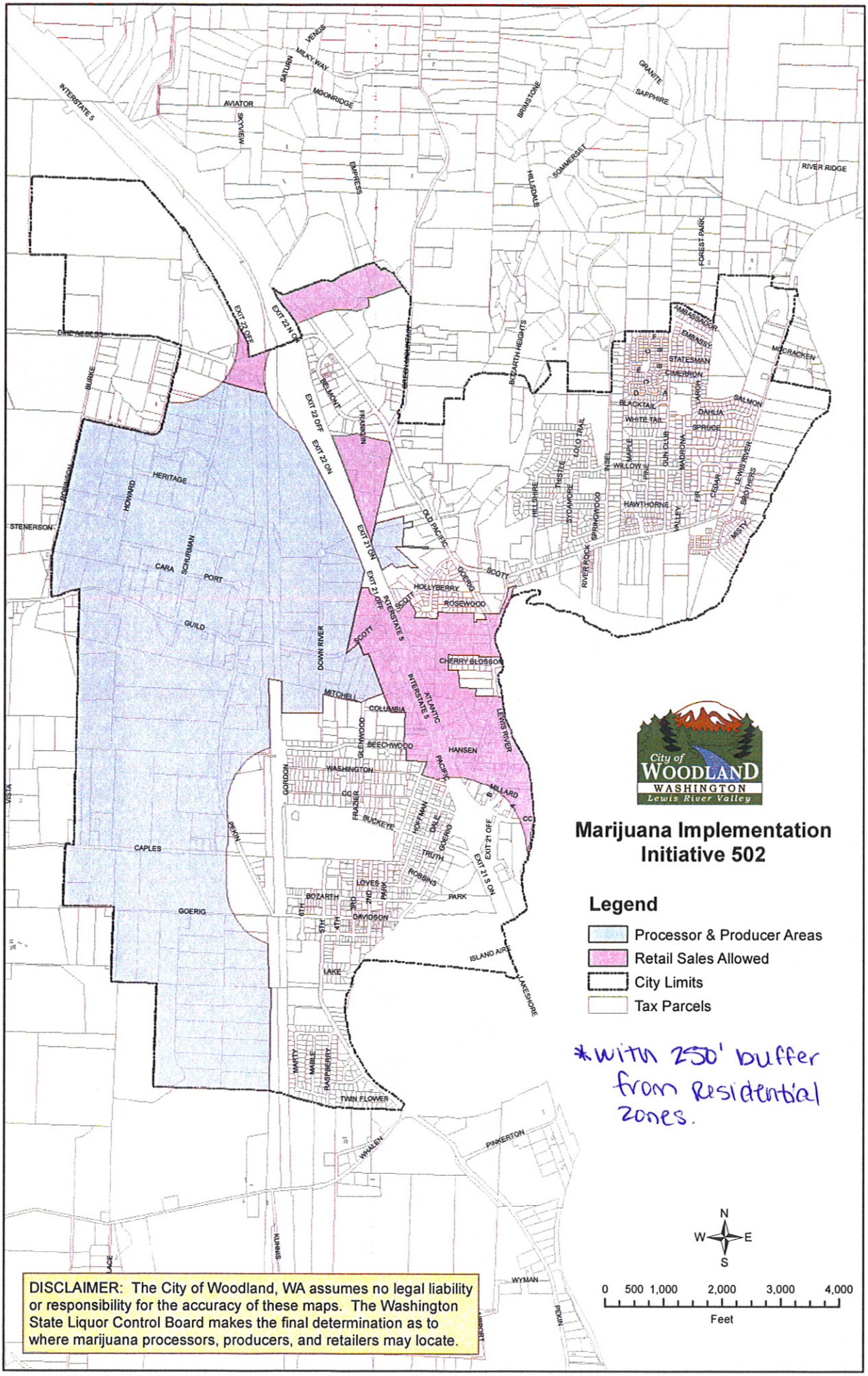
RASPBERRY
WHALEN LOOP
PINKERTON
INTERSTATE 5
WHALEN

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## Chapter 17.60: Non-Conforming Uses, Structures, and Lots

17.60.010 Purpose
17.60.020 Definitions
17.60.030 Abatement
17.60.040 Completion of Structure
17.60.050 Non-Conforming Uses
17.60.060 Non-Conforming Structures
17.60.070 Non-Conforming Lots
17.60.080 Single-family dwellings
17.60.090 Inquiries Concerning Non-Conforming Status

### 17.60.010 – Purpose

~~The purpose of this chapter is to provide for those circumstances, uses, and lots that are inconsistent with the regulations of this title, but which enjoy rights based on their previous legal existence. The intent of this chapter is to permit legal non-conforming developments, lots, structures, and uses to continue until they are removed but not to encourage their perpetuation.~~

The purpose of this Chapter is to establish regulations applicable to non-conforming lots, uses and structures. These regulations distinguish legally established non-conforming lots, uses and structures from illegal non-conforming lots, uses and structures. The intent of this Chapter is to discourage the expansion, enlargement or intensification of legal non-conforming uses and to establish a procedure to recognize legal non-conforming lots, uses and structures (provided they are not expanded, enlarged, intensified, removed or abandoned). The intent is not to discourage owners from performing routine maintenance or making improvements to a structure or a lot. Furthermore, with respect to illegal non-conforming lots, uses and structures, the intent of this Chapter is to prohibit and abate illegal non-conforming lots, uses and structures.

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### 17.60.020 – Definitions

(1) "Non-conforming lot" means a lot that, at the time of its establishment, met the minimum lot size requirements for the zone in which it is located but which, because of subsequent changes to the minimum lot size applicable to that zone, no longer complies with requirements.
(2) "Non-conforming structure" means structure that complied with zoning and development regulations at the time it was built but which, because of subsequent changes to the zoning and/or development regulations, no longer fully complies with those regulations in regards to height, setbacks, lot coverage, size, or area.
(3) "Non-conforming use" means a use of property that was allowed at the time the use was established but which, because of changes in zoning regulation, is no longer permitted.

- ~~Expansion/Enlargement – Any increase in dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure or part thereof where none existed before, any addition of a site feature such as a deck, patio, fence, driveway, parking, or swimming pool or any move of operations to a new location on the property.~~
- ~~Intensification – Any improvement that would allow the land to be more intensely developed, or any increase in intensity of use based on a review of the original nature, function or purpose of the non-conforming use, the hours of operations, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or~~

~~services offered, odors, area of operation, number of employees, and other factors deemed relevant by the City.~~

- ~~Improvement – Making the non-conforming use better, more efficient, or more aesthetically pleasing, including any change that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.~~
- ~~Pre-Existing – That which existed prior to the adoption of the ordinance codified in this title.~~

(4) "Lot of record" means (a) an undeveloped lot, tract or parcel of land shown on an officially recorded short plat or subdivision or (b) a parcel of land officially recorded or registered as a unit of property with the County Auditor, Assessor or Treasurer and described by platted lot number or by metes and bounds and lawfully established for conveyancing purposes on the date of recording of the instrument that first references the lot. Use of the term "lot of record" does not mean that the lot was created in conformity with the legal regulatory requirements for subdivision of property in accordance with Chapter 58.17 RCW.

(5) "Expansion," "enlargement," or "intensification" means any increase in a dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure or part thereof where none existed before, any addition of a site feature such a deck, patio, fence, driveway or parking area, any improvement that would allow the land to be more intensely developed, any move of operations to a new location on the property, or any increase in intensity of use based on a review of the original and historical nature, function or purpose of the non-conforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, noise, area of operation, number of employees, and other factors deemed relevant by the City.

(6) "Intensification of use, non-residential" includes, in addition to the description in WMC 17.60.020(5), any change or expansion of a non-residential use that results in both a greater than 10% increase in parking need or the Director of Public Works determines there is a material likelihood the use will have a negative impact regarding traffic generation, noise, smoke, glare, odors, hazardous materials, water use, and/or sewage generation, shall be an "intensification of use" for the purposes of this Chapter.

(7) "Intensification of use, residential" includes, in addition to the description in WMC 17.60.020(5), any change to a residence use which will result in an increase in the number of bedrooms is an "intensification of use" for the purposes of this Chapter.

(8) "Pre-Existing" means that which existed prior to the adoption of the ordinance codified in this title.

(9) "Alteration of nonconforming structures" means any change or rearrangement in the supporting members of existing buildings, such as bearing walls, columns, beams, girders, or interior partitions, as well as any changes in doors, windows, means of egress or ingress or any enlargement to or diminution of a building or structure, horizontially or vertically, or the moving of a building from one location to another. This definition excludes normal repair and maintenance, such as painting or roof replacement, but includes more substantial changes.

**17.60.030 – ~~Abatement of illegal use, structure or development~~ Abatement of Illegal Non-Conforming Use, Structure or Lot.**

~~Any use, structure, lot or other site improvement not established in compliance with use, lot size, and development standards in effect at the time of establishment shall be deemed illegal and shall be discontinued or terminated and subject to removal.~~

The City may take such action as it deems necessary to abate or to enjoin any illegal non-conforming use, structure, lot or other site improvement when the owner or the owner's agent, successor, tenant, occupant or assignee, fails to discontinue such use or fails to remove such non-conforming structure after written notice from the City. Such notice shall be sent to the owner at the address shown in the current online records of the County Treasurer and Assessor.

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**17.60.040 – Completion of Structure**

Nothing contained in this title shall require any change in the plans, construction, alteration, or designated use of a structure for which a building permit has been legally issued and construction commenced prior to the adoption of the ordinance codified in this title and subsequent amendments thereto.

**17.60.050 – Non-Conforming Uses**

A. A non-conforming use may not increase in intensity or be made more non-conforming without special permission byfrom the Hearing Examiner throughset forth in a Conditional Use Permit obtained as per_____ Chapter 17.72.

B. A structure containing a non-conforming use may be enlarged or extended only by special permission of the Hearing Examiner through a Conditional Use Permit as per _____Chapter 17.72. The extension of a non-conforming use to a portion ofwithin a structure existing on the date this ordinance was amended whichthat was built for the non-conforming use at the time of the passage of the ordinance codified in this title is not considered an extension of a non-conforming use. For example, if a building was constructed for the non-conforming use, but the use did not fill the entire building, expanding the use into the empty portion of the building does not constitute the extension of the non-conforming use.

C. No non-conforming use shall be moved in whole or in part to any other portion of the lot or zoning district in which it is located. If moved, it must be to a district in which the use is permitted.

D. If any non-conforming use ceases for any reason for a period of six months, any subsequent use shall conform to the regulations specified by this title for the district in which such use is located.

E. The Hearing Examiner may recognize a legal non-conforming use and/or may authorize reinstatement of a non-conforming use. The procedure for recognizing and/or reinstatement shall be the same as for Conditional Use Permits as outlined in Chapter 17.72 and conditions may be imposed as part offif reinstatement is allowed.

F. A non-conforming use cannot be changed to another kind of non-conforming use, but The non-conforming use must remain is limited to either retaining the prior specific non-conforming use legally established or changed to a use permitted in the zoning district. If a non-conforming use is changed to a conforming use, itthe use cannot be changed back to the prior non-conforming use, unless as permitted by the Hearing Examiner.

G. If a structure containing a non-conforming use is destroyed by any cause to an extent exceeding fifty percent of the cost of replacement of the structure, using new materials, a future use of the property shall conform to the provisions of this title. See Section 17.60.080 for single-family dwelling exemptions.

**17.60.060 – Non-Conforming Structures**

A. A non-conforming structure may be continued and maintained in reasonable repair and safe condition, provided that the structure is not enlarged, extended, or increased without special permission ~~by~~from the Hearing Examiner through a Conditional Use Permit as per Chapter 17.72. A non-conforming structure may not be made more non-conforming.

B. A non-conforming structure may not be moved in whole or part to any other portion of the lot of zoning district in which it is located, unless ~~to~~ the move brings the structure into conformance.

C. A non-conforming structure may be ~~utilized~~used for ~~by~~ a use ~~which is~~ permitted in the zoning district ~~in which~~where the structure is located. In order to accommodate a permitted use, the structure may be repaired, modified, or altered, internally and externally; provided such repairs and modifications (1) do not increase the non-conformance of the structure and (2) that such repairs and modifications satisfy ~~they meet~~ the International Building Code standards.

D. In addition, a non-conforming structure as described in Section C ~~above~~ may be modified or altered in such a manner that it conforms to the standards of the district, this title, and the International Building Code.

E. If a non-conforming structure is destroyed by any cause to an extent exceeding fifty percent of the cost of replacement of the structure, using new materials, a future structure of the property shall conform to the provisions of this title. See _____ Section 17.60.080 for single-family exemptions.

A non-conforming structure that is made conforming will not be allowed to become non-conforming again, without following the Variance process outlined in_____ Chapter 17.81.

**17.60.070 – Non-conforming Lots**

Any permitted use may be established on an undersized lot that cannot satisfy lot size or width requirements of this Title, provided that:

A. All other applicable zoning development standards, such as building setback requirements and lot coverage requirements, are met or a variance has been granted;

B. The lot was legally created and satisfied the lot size and width requirements applicable at the time of creation;

C. No unsafe condition is created by permitting development on the non-conforming lot; and

D. The lot was not created as a "special tract" to protect critical areas, provide open space, or as a public or private access tract.

**17.60.080 – Single-Family Dwellings**

Single-family dwellings, including manufactured homes, existing in the C-1, C-2, C-3, I-1, or I-2 districts at the time of passage of the ordinance codified in this title shall be allowed to remain, and any addition or improvements thereto shall meet the standards of the LDR-6 zoning district.

B. In any zone, a single-family dwelling destroyed by any cause to any extent, shall be allowed to be improved or reconstructed, provided the setback standards of the LDR-6 district are maintained or provided that the original footprint of the destroyed dwelling is maintained.

**17.06.090 - Inquiries Concerning Non-Conforming Status**

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An owner or agent claiming a legal non-conforming use, structure or lot may petition the City to formally recognize the legal non-conforming use, structure or lot. Initial City reveiiew will be a Type _____ review and is the sole method to obtain recognition. This review shall be subject to the requirements of WMC _____. The owner/agent has the burden of showing legal non-conforming status. Non-Conforming status is established by documentary evidence and by narrative statements.

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An owner/agent shall provide documentary evidence to establish the following:

1. Date the use was established or lot was created; date structure was completed;
2. Initial use at time of establishment, creation or completion;
3. Chronological list of subsequent uses;
4. Any advertisement for sale of the property; any advertisement for lease of the property;
5. Proof of business operation if a business use is claimed. Proof of business operation includes but is not limited to state and local business licenses, state business and occupation tax returns, state sales tax returns;
6. If multi-family use is claimed, proof of use as a multi-family unit during the prior 24 months and proof of compliance with RCW _____ and WAC _____;
7. Certificate of occupancy;
8. If the property has been leased, a copy of the leases.

The owner/agent may provide narrative statements to establish facts for which there is insufficient documentary evidence. Narrative statements shall be provided in affidavit or certificate form.

Official written recognition by City officials or the planning staff of legal non-conforming shall be given greater weight than informal oral statements by City officials or the planning staff. Oral statements which identify the date and time of the oral statement, the persons present, the question asked will be given greater weight than general statements lacking such details. There is a rebuttable presumption that a business was not operated on the property and the business use was abandoned unless the documentary proof described in Subsection 5 is provided. "Leasing" property is not a separate independent business use for purposes of this Chapter but is considered a form of title.

After Type ____ review, the City shall issue a written decision either recognizing the legal non-conforming use or finding that a legal non-conforming use has not been established. The owner/agent shall have 20 days to appeal the decision to the Hearing Examiner. The Hearing Examiner shall review the decision based on the materials submitted by the owner/agent at the Type ____ review and on any supplementary material provided by the City. The petitioner shall pay a filing fee in an amount set by City Council Resolution. The Petitioner shall reimburse the City for 50% of the Hearing Examiner expense for this or any other review, application or petition under this Chapter.

## Chapter 17.60: Non-Conforming Uses, Structures, and Lots

17.60.010 ~~Continuation~~ Purpose
17.60.020 ~~Modification~~ Definitions
17.60.030 ~~Discontinuance~~ Abatement
17.60.040 ~~Change of Use~~ Completion of Structure
17.60.050 ~~Destruction~~ Non-Conforming Uses
17.60.060 ~~Completion of Structure~~ Non-Conforming Structures
17.60.070 ~~Single-family dwellings~~ Non-Conforming Lots
17.60.080 ~~Manufactured Home on an individual lot~~ Single-family dwellings
17.60.090 Inquiries concerning non-conformities

~~**17.60.010 – Continuation**~~
~~A pre-existing use or structure which is non-conforming may be continued and maintained in reasonable repair and safe condition; provided that the use or structure is not enlarged, increased, made more nonconforming, or extended to occupy a greater area than was occupied on the date of adoption of the ordinance codified in this title or applicable amendments thereto. The extension of said pre-existing uses to a portion of the structure which was built for the pre-existing use at the time of the passage of the ordinance codified in this title is not considered an extension of a nonconforming pre-existing use. A nonconforming, pre-existing use or structure may not be moved in whole or in part to any other portion of the lot or zoning district in which it is located. If moved, it must be to a district in which the use is permitted. For single-family dwelling exception, see Section 17.60.070.~~

### 17.60.010 – Purpose
The purpose of this chapter is to provide for those circumstances, uses, and lots that are inconsistent with the regulations of this title, but which enjoy rights based on their previous legal existence. The intent of this chapter is to permit legal non-conforming developments, lots, structures, and uses to continue until they are removed, but not to encourage their perpetuation.

~~**17.60.020 – Modification**~~
~~A. A pre-existing structure nonconforming with respect to height, yard requirements, lot coverage, or density may be utilized by a use which is permitted in the district in which the structure is located. In order to accommodate a permitted use, the structure may be repaired, modified, or altered, internally and externally; provided such repairs and modifications do not increase the nonconformance of the structure and that they meet the Uniform Building Code standards.~~
~~B. In addition, a pre-existing structure which is nonconforming according to the description contained in subsection (A) of this section may be modified or altered in such a manner that it conforms to the standards of the district, this title, and the Uniform Building Code.~~

### 17.60.020 – Definitions
(1) "Non-conforming lot" means a lot that, at the time of its establishment, met the minimum lot size requirements for the zone in which it is located but which, because of subsequent changes to the minimum lot size applicable to that zone, no longer complies with requirements.
(2) "Non-conforming structure" means structure that complied with zoning and development regulations at the time it was built but which, because of subsequent changes to the zoning

and/or development regulations, no longer fully complies with those regulations in regards to height, setbacks, lot coverage, size, or area.
(3) "Non-conforming use" means a use of property that was allowed at the time the use was established but which, because of changes in zoning regulation, is no longer permitted.

- Expansion/Enlargement – Any increase in dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure or part thereof where none existed before, any addition of a site feature such as a deck, patio, fence, driveway, parking, or swimming pool or any move of operations to a new location on the property.
- Intensification – Any improvement that would allow the land to be more intensely developed, or any increase in intensity of use based on a review of the original nature, function or purpose of the non-conforming use, the hours of operations, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the City.
- Improvement – Making the non-conforming use better, more efficient, or more aesthetically pleasing, including any change that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.
- Pre-Existing – That which existed prior to the adoption of the ordinance codified in this title.

**~~17.60.030 – Discontinuance~~**
~~If a pre-existing use is nonconforming and not actively used for a period of six months, it shall be deemed discontinued. A discontinued pre-existing use which is nonconforming cannot be revived and any further uses of the property must conform to the provisions of this title as provided for above.~~

**17.60.030 – Abatement of illegal use, structure or development**
Any use, structure, lot or other site improvement not established in compliance with use, lot size, and development standards in effect at the time of establishment shall be deemed illegal and shall be discontinued or terminated and subject to removal.

**~~17.60.040 – Change of use~~**
~~If a pre-existing use which is nonconforming is changed, it shall be changed to a use conforming to the regulations of the district in which it is located, and after change, it cannot be changed back.~~

**17.60.040 – Completion of Structure**
Nothing contained in this title shall require any change in the plans, construction, alteration, or designated use of a structure for which a building permit has been legally issued and construction commenced prior to the adoption of the ordinance codified in this title and subsequent amendments thereto.

**~~17.60.050 – Destruction~~**
~~If a pre-existing use or structure which is nonconforming is destroyed by any cause to an extend exceeding fifty percent of the cost of replacement of the structure, using new materials, a future structure or use of the property shall conform to the provisions of this title. For single-family dwelling exemption, see Section 17.60.070.~~

**17.60.050 – Non-Conforming Uses**

A. A non-conforming use may not increase in intensity or be made more non-conforming without special permission by the Hearing Examiner through a Conditional Use Permit as per Chapter 17.72.
B. A structure containing a non-conforming use may be enlarged or extended only be special permission of the Hearing Examiner through a Conditional Use permit as per WMC 17.72. The extension of a non-conforming use to a portion of a structure which was built for the non-conforming use at the time of the passage of the ordinance codified in this title is not considered an extension of a non-conforming use. For example, if a building was constructed for the non-conforming use, but the use did not fill the entire building, expanding the use into the empty portion of the building does not constitute the extension of the non-conforming use.
C. No non-conforming use shall be moved in whole or in part to any other portion of the lot or zoning district in which it is located. If moved, it must be to a district in which the use is permitted.
D. If any non-conforming use ceases for any reason for a period of six months, any subsequent use shall conform to the regulations specified by this title for the district in which such use is located.
E. The Hearing Examiner may recognize a legal non-conforming use and/or may authorize reinstatement of a non-conforming use. The procedure for recognizing and/or reinstatement shall be the same as for Conditional Use Permits as outlined in Chapter 17.72 and conditions may be imposed if reinstatement is allowed.
F. A non-conforming use cannot be changed to another kind of non-conforming use, but is limited to either retaining the specific non-conforming use legally established or changed to a use permitted in the zoning district. If a non-conforming use is changed to a conforming use, it cannot be changed back, unless as permitted by the Hearing Examiner.
G. If a structure containing a non-conforming use is destroyed by any cause to an extent exceeding fifty percent of the cost of replacement of the structure, using new materials, a future use of the property shall conform to the provisions of this title. See Section 17.60.080 for single-family dwelling exemptions.

~~**17.60.060 – Completion of structure**~~

~~Nothing contained in this title shall require any change in the plans, construction, alternation, or designated use of a structure for which a building permit has been legally issued and construction commenced prior to the adoption of the ordinance codified in this title and subsequent amendments thereto.~~

**17.60.060 – Non-Conforming Structures**

A. A non-conforming structure may be continued and maintained in reasonable repair and safe condition, provided that the structure is not enlarged, extended, or increased without special permission by the Hearing Examiner through a Conditional Use Permit as per Chapter 17.72. A non-conforming structure may not be made more non-conforming.
B. A non-conforming structure may not be moved in whole or part to any other portion of the lot of zoning district in which it is located, unless to bring the structure into conformance.
C. A non-conforming structure may be utilized by a use which is permitted in the zoning district in which the structure is located. In order to accommodate a permitted use, the

structure may be repaired, modified, or altered, internally and externally; provided such repairs and modifications do not increase the non-conformance of the structure and that they meet the International Building Code standards.

D. In addition, a non-conforming structure as described in C above may be modified or altered in such a manner that it conforms to the standards of the district, this title, and the International Building Code.
E. If a non-conforming structure is destroyed by any cause to an extent exceeding fifty percent of the cost of replacement of the structure, using new materials, a future structure of the property shall conform to the provisions of this title. See Section 17.60.080 for single-family exemptions.
F. A non-conforming structure that is made conforming will not be allowed to become non-conforming again, without following the Variance process outlined in Chapter 17.81.

**~~17.60.070 – Single-family dwellings~~**

~~A. Single-family dwellings existing in the C-1, C-2, and I-1 districts at the time of passage of the ordinance codified in this title shall be allowed to remain, and any addition or improvements thereto shall meet the standards of the LDR-6 district.~~

~~B. If said single-family dwellings existing at the time of passage of the ordinance codified in this title are destroyed by any cause to an extent exceeding fifty percent of the cost of the structure, such dwellings are permitted to be improved or reconstructed; provided the standards of the LDR-6 district are maintained.~~

**17.60.070 – Non-conforming Lots**

Any permitted use may be established on an undersized lot that cannot satisfy lot size or width requirements of this Title, provided that:

A. All other applicable zoning development standards, such as building setback requirements and lot coverage requirements, are met or a variance has been granted;
B. The lot was legally created and satisfied the lot size and width requirements applicable at the time of creation;
C. No unsafe condition is created by permitting development on the non-conforming lot; and
D. The lot was not created as a "special tract" to protect critical areas, provide open space, or as a public or private access tract.

**~~17.60.080 – Manufactured home on an individual lot~~**

~~A manufactured home legally sited on an individual lot outside of a manufacturing home park or subdivision, may be replaced by another manufactured home, provided the replacing manufactured home meets the standards set forth in Section 17.16.080(L) of this code.~~

**17.60.080 – Single-Family Dwellings**

A. Single-family dwellings, including manufactured homes, existing in the C-1, C-2, C-3, I-1, or I-2 districts at the time of passage of the ordinance codified in this title shall be allowed to remain, and any addition or improvements thereto shall meet the standards of the LDR-6 zoning district.
B. In any zone, a single-family dwelling destroyed by any cause to any extent, shall be allowed to be improved or reconstructed, provided the setback standards of the LDR-6

district are maintained or provided that the original footprint of the destroyed dwelling is maintained.

**17.06.090 - Inquiries Concerning Non-Conforming Status**

An owner or agent claiming a legal non-conforming use, structure or lot may petition the City to formally recognize the legal non-conforming use, structure or lot. Initial City review will be a Type _____ review and is the sole method to obtain recognition. This review shall be subject to the requirements of WMC _____. The owner/agent has the burden of showing legal non-conforming status. Non-Conforming status is established by documentary evidence and by narrative statements.

An owner/agent shall provide documentary evidence to establish the following:

1. Date the use was established or lot was created; date structure was completed;
2. Initial use at time of establishment, creation or completion;
3. Chronological list of subsequent uses;
4. Any advertisement for sale of the property; any advertisement for lease of the property;
5. Proof of business operation if a business use is claimed. Proof of business operation includes but is not limited to state and local business licenses, state business and occupation tax returns, state sales tax returns;
6. If multi-family use is claimed, proof of use as a multi-family unit during the prior 24 months and proof of compliance with RCW _____ and WAC _____;
7. Certificate of occupancy;
8. If the property has been leased, a copy of the leases.

The owner/agent may provide narrative statements to establish facts for which there is insufficient documentary evidence. Narrative statements shall be provided in affidavit or certificate form.

Official written recognition by City officials or the planning staff of legal non-conforming shall be given greater weight than informal oral statements by City officials or the planning staff. Oral statements which identify the date and time of the oral statement, the persons present, the question asked will be given greater weight than general statements lacking such details. There is a rebuttable presumption that a business was not operated on the property and the business use was abandoned unless the documentary proof described in Subsection 5 is provided. "Leasing" property is not a separate independent business use for purposes of this Chapter but is considered a form of title.

After Type ____ review, the City shall issue a written decision either recognizing the legal non-conforming use or finding that a legal non-conforming use has not been established. The owner/agent shall have 20 days to appeal the decision to the Hearing Examiner. The Hearing Examiner shall review the decision based on the materials submitted by the owner/agent at the Type _____ review and on any supplementary material provided by the City. The petitioner shall pay a filing fee in an amount set by City Council Resolution. The Petitioner shall reimburse the City for 50% of the Hearing Examiner expense for this or any other review, application or petition under this Chapter.

# Building & Planning Project Update
# (As of September 9, 2014)

- Staff held a pre-application conference for a proposed Carl's Jr on Monday, September 8, 2014.

- The building permit for Woodland Veterinary Clinic was issued on August 27, 2014 and picked up on September 2, 2014.

- Both the Taco Bell/Chumbley Short Plat (located at 1478 Dike Access Road) and the Fish First Short Plat (located at 2000 Lewis River Road) received final approval. Both plats need to be signed by the City and recorded, by each applicant, with the County.

- Dunlap Slope Grading: Mr. Dunlap submitted an application to grade the bank slope of Horseshoe Lake on his property for safety reasons. The packet includes a Shoreline Substantial Development Permit, a Shoreline Conditional Use Permit, Site Plan Review, SEPA, and a Critical Areas Permit for this work. Mr. Dunlap received an approval from the Hearing Examiner for the Substantial Development Permit, and an affirmative recommendation for the Conditional Use Permit. The Department of Ecology makes the final decision regarding the Conditional Use Permit.

- Comprehensive Plan Update: The City Council selected a population projection during their regular meeting on September 2. The Council did not want to expand the Urban Growth Boundary, and selected a number slightly above projection #3 and below projection #2. The number selected, 9,274, is the carrying capacity of the current UGB.

- The City is currently reviewing a proposed four lot short plat on Lewis River Road. The proposal has a shorelines element to it, so will be going before the Hearing Examiner on September 30, 2014.

- After interviewing five candidates for the part time Clerk II position, we have selected Kasey Smith for the job. Kasey lives in Woodland and has administrative experience, including work with the City of Vancouver's Attorney's Office. Her start date is Monday, September 15, 2014.