City of Aberdeen
Shoreline Master Program Update

Shoreline Master Program

Environment Designations, Policies, & Regulations

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LIST OF ABBREVIATIONS

AMC – Aberdeen Municipal Code

BAS – Best Available Science

BMPs – Best Management Practices

CAC – Citizen Advisory Committee for the Shoreline Master Plan Update Process

CAO – Critical Areas Ordinance

Cities – Cities of Aberdeen, Cosmopolis, and Hoquiam

City – City of Aberdeen

CMZ – Channel Migration Zone

DAHP – Washington State Department of Archaeology and Historic Preservation

Ecology – Washington State Department of Ecology

ESA – Federal Endangered Species Act

FEMA – Federal Emergency Management Agency

FIRM – Flood Insurance Rate Map

FPA – Washington State Forest Practices Act (Chapter 76.09 RCW)

~~GHEMP – Grays Harbor Estuary Management Plan~~

GMA – Washington State Growth Management Act (Chapter 36.70A RCW)

HPA – Hydraulic Project Approval

LUPA – Land Use Petition Act

NMFS – National Marine Fisheries Service

OHWM – Ordinary High Water Mark

RCW – Revised Code of Washington

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SEPA – State Environmental Policy Act (Chapter 43.21C RCW)

SHB – Washington State Shorelines Hearings Board

SMA – Shoreline Management Act (Chapter 90.58 RCW)

SMP – Shoreline Master Program

State – State of Washington

TAC – Technical Advisory Committee for the Shoreline Master Plan Update Process

USACE – United States Army Corps of Engineers

WAC – Washington Administrative Code

WDFW – Washington State Department of Fish and Wildlife

WDNR – Washington State Department of Natural Resources

WSDOT – Washington State Department of Transportation

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1 INTRODUCTION

1.01 REQUIREMENTS OF THE SHORELINE MANAGEMENT ACT

The State Legislature passed Washington's Shoreline Management Act (SMA) (Chapter 90.58 Revised Code of Washington [RCW]) in 1971 and citizens of the state approved the SMA through referendum in 1972 "…to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." The SMA requires that the city of Aberdeen plan for the use of shorelines of the state within its municipal boundaries. The SMA and Chapter 173-26 Washington Administrative Code (WAC) established broad policies that give preference to shoreline uses that:

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

The SMA recognizes that "…shorelines are among the most valuable and fragile…" of the state's resources. The city recognizes and protects private property rights in shoreline jurisdiction, while aiming to preserve the quality of these unique resources for all state residents.

The primary purpose of the SMA is to manage and protect the state's shoreline resources by planning for reasonable and appropriate uses. In order to protect the public interest in preserving these shorelines, the SMA establishes a coordinated planning program between the city and the state to address development and uses occurring in the state's shorelines.

Under the SMA, Shoreline Master Program (SMP) was created and implemented based on a cooperative program of shoreline management between the city and the state. With citizen contributions collected through the city's shoreline planning process, the city developed this SMP, and it will implement and administer it through shoreline permits and reviews. The Washington State Department of Ecology (Ecology) provided funding for the update, and reviews and approves the city's SMP and certain local shoreline permit decisions.

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1.02 AUTHORITY

The Shoreline Management Act of 1971, Chapter 90.58 RCW, is the authority for the enactment and administration of the SMP. The Shoreline Administrator is appointed by the Mayor and is charged with the responsibility of administering the SMP.

1.03 PURPOSE AND INTENT

The four purposes of the SMP are to:

A. Carry out the responsibilities imposed on the city by the SMA;

B. Promote the public health, safety, and general welfare, by providing a guide and regulation for the future development of the shoreline resources of the city;

C. Further, by adoption, the policies of the SMA and the goals of the SMP; and

D. Comply with the state SMP guidelines (Chapter 173-26 WAC); including a particular focus on regulations and mitigation standards to ensure that development under the SMP will not cause a net loss of ecological functions.

1.04 SHORELINE MASTER PROGRAM DEVELOPMENT

The cities of Aberdeen, Cosmopolis, and Hoquiam obtained grant number G1400451 from Ecology in 2013 to conduct a comprehensive SMP update. The cities worked collaboratively through the SMP update process. The first step in the update process involved an inventory of the cities' shoreline jurisdiction. Numerous rivers, streams, and lake and their associated wetlands, floodways, and floodplains comprise the cities' shoreline jurisdiction. Combined, there are 7,467 acres and 85 miles of shoreline associated with stream, lake, and marine waterbodies meeting the definition of shorelines of the state within the cities. There are 1,868 acres and 39 miles of shoreline in ~~the city~~Aberdeen.

The Public Participation Plan guided public interaction throughout the development of the SMP. A Citizen Advisory Committee (CAC) reviewed SMP documents, particularly proposed shoreline environment designations, policies, and regulations, and provided feedback in a series of public meetings.

The Shoreline Inventory and Characterization described existing biological and physical conditions for the 16 shoreline reaches covering the cities. These reaches were analyzed and

characterized to create a baseline from which future development actions in shoreline jurisdiction will be measured. A Technical Advisory Committee (TAC) reviewed and commented on the Shoreline Inventory and Characterization.

The public discussed the findings of the Shoreline Inventory and Characterization and proposed shoreline environment designations at a community meeting. Shoreline environment designations were assigned for shoreline jurisdiction in the cities. Then goals, policies, and regulations for each shoreline environment designation and for all activities subject to the SMA were developed to maintain the baseline condition. The CAC and the public reviewed these documents.

In the Cumulative Impacts Analysis and the No Net Loss Report, the cities analyzed whether the updated SMP, implemented over time, yields no net loss of ecological functions when considering reasonably foreseeable development in shoreline jurisdiction relative to the baseline established by the Shoreline Inventory and Characterization.

The cities developed the Restoration Plan to address voluntary, non-regulatory actions the cities would take to improve the shoreline jurisdiction above the baseline condition. Ideally, the SMP, in combination with other city and regional efforts, will ultimately produce a net improvement in ecological functions of the shoreline.

1.05 APPLICABILITY

A. The SMP shall not apply retroactively to existing, legally established structures, uses, and developments in place at the time of Ecology adoption of the SMP.

B. All proposed uses, activities, and development occurring within shoreline jurisdiction must conform to the SMA and the SMP whether or not a permit or other form of authorization is required, except when specifically exempted by statute.

C. In addition to the requirements of the SMA, permit review, implementation, and enforcement procedures affecting private property must be conducted in a manner consistent with all relevant constitutional and other legal limitations on the regulation of ~~the~~ private property.

D. Federal agencies are subject to this SMP and Chapter 90.58 RCW, as provided by the Coastal Zone Management Act (Title 16 United States Code §1451 et seq.) and WAC 173-27-060(1).

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E. As recognized by RCW 90.58.350, the provisions of the SMP do not affect treaty rights of affected tribes.

1.06 SHORELINE JURISDICTION

1.06.01 EXTENT OF SHORELINE JURISDICTION

The SMA defines the extent of the geographic area in the city subject to the SMP, referred to in the SMP as the city's shoreline jurisdiction. According to RCW 90.58.030, the SMP applies to the following shorelines of the state within the city:

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

B. Segments of streams or rivers where the mean annual flow is more than 20 cubic feet per second.

C. Lakes and reservoirs 20 acres and greater in area.

D. Shorelands adjacent to these waterbodies. These include:

   1. Lands extending landward for 200 feet in all directions as measured on a horizontal plane from the OHWM;

   2. Adopted Federal Emergency Management Agency (FEMA) floodways, and contiguous floodplain areas landward 200 feet from such adopted FEMA floodways; and

   3. All wetlands and river deltas associated with the streams, lakes, and tidal waters subject to the SMA.

The following waterbodies are subject to the city's SMP: Grays Harbor, the Chehalis River, Lake Aberdeen, the Wishkah River, Wedekind Creek, the Wynoochee River, Charley Creek, Fry Creek, and Newskah Creek.

The city, as recommended by the CAC and approved by the City Council, did not choose to include additional areas in shoreline jurisdiction during the SMP planning process. These additional areas included the following:

Comment [A1]: AHBL Note for the City: Ecology has asked that the City Council discuss and approve this direction.

- The area beyond the minimum shorelands along stream corridors as defined in the SMA.

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- The "…land necessary for buffers for critical areas as defined in Chapter 36.70A RCW that occur within shorelines of the state."

The extent of shoreline jurisdiction in the city is depicted on the official shoreline maps included in SMP Appendix 1: Shoreline Environment Designation Maps. The maps only approximately represent the lateral extent of shoreline jurisdiction. The actual lateral extent of shoreline jurisdiction shall be determined on a case-by-case basis established by the location of the OHWM, the floodway, which is defined as the adopted FEMA floodways, adopted floodplains, and the presence of associated wetlands. In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel and any use, activity or development on that portion of the parcel within shoreline jurisdiction is subject to the SMP.

The actual location of the OHWM, floodway, floodplain, and wetland boundaries shall be determined at the time a development is proposed.

1.06.02 SHORELINES OF STATEWIDE SIGNIFICANCE

A. Adoption of Policy

In implementing the objectives for shorelines of statewide significance, the city based its decisions in preparing the SMP on the following policies in order of priority, with one being the highest and seven being the lowest.

1. Recognize and protect the statewide interest over local interest.
2. Preserve the natural character of shoreline jurisdiction.
3. Support actions that result in long-term benefits over short-term benefits.
4. Protect the resources and ecology of the shoreline.
5. Increase public access to publicly owned areas of the shoreline.
6. Increase recreational opportunities for the public in shoreline jurisdiction.
7. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

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

B. Designation of Shorelines of Statewide Significance

Specific ~~larger~~ waterbodies ~~west of the Cascades crest~~ are classified as shorelines of statewide significance in RCW 90.58.030(2)(f):

1. Lakes, whether natural, artificial, or a combination thereof, with a surface acreage of 1,000 acres or more measured at the OHWM; ~~and~~

2. Natural rivers or segments thereof downstream of a point where the mean annual flow is measured at 1,000 cubic feet per second or more; and

~~2.~~3. The area between the OHWM and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets.

In the city, the Grays Harbor Estuary, the Chehalis River, the Wynoochee River, and their associated shorelands are defined as shorelines of statewide significance. These shorelines are considered resources for all people of the state, thus preference is given to uses that favor long-range goals and support the overall public interest.

Comment [VZK(2]: Consider adding the designation of marine waters from the statute. As written, this section only addresses the designation of rivers and lakes. Alternatively, you could cite the SMA and just list those shorelines that are SSWS.

Comment [NS3]: **AHBL Response:** Change made.

C. *Policies for Shorelines of Statewide Significance*

The statewide interest should be recognized and protected over the local interest in shorelines of statewide significance. To ensure that statewide interests are protected over local interests, the city shall review all development proposals within shorelines of statewide significance for consistency with RCW 90.58.030 and the following policies:

1. Encourage redevelopment of shorelines where it restores or enhances shoreline ecological functions and processes impaired by prior development activities.
2. The city should consult with Ecology, the Washington State Department of Fish and Wildlife (WDFW), the Confederated Tribes of the Chehalis Reservation, the Shoalwater Bay Tribe, and the Quinault Indian Tribe, and other resources agencies for development proposals that could affect anadromous fisheries.
3. Where commercial timber cutting takes place pursuant to SMP Section 5.09 and RCW 90.58.150, reforestation should take place as soon as feasible.
4. Activities that use shoreline resources on a sustained yield or non-consuming basis and that are compatible with other appropriate uses should be given priority over uses not meeting these criteria.
5. The range of options for shoreline use should be preserved to the maximum possible extent for succeeding generations. Development that consumes valuable, scarce, or irreplaceable natural resources should not be permitted if alternative sites are available.

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6. Potential short-term economic gains or convenience should be measured against potential long term and/or costly impairment of natural features.
7. Protection or enhancement of aesthetic values should be actively promoted in design review of new or expanding development.
8. Resources and ecological systems of shorelines of statewide significance and those limited shorelines containing unique, scarce, and/or sensitive resources should be protected to the maximum extent feasible.
9. Erosion and sedimentation from development sites should be controlled to minimize adverse impacts on ecosystem processes. If site conditions preclude effective erosion and sediment control, excavations, land clearing, or other activities likely to result in significant erosion should be severely limited.
10. Public access development in extremely sensitive areas should be restricted or prohibited. All forms of recreation or access development should be designed to protect the resource base upon which such uses in general depend.
11. Public and private developments should be encouraged to provide trails, viewpoints, water access points, and shoreline related recreation opportunities whenever feasible. Such development is recognized as a high priority use.
12. Development not requiring a waterside or shoreline location should be located inland so that lawful public enjoyment of shorelines is enhanced.

1.06.03 OFFICIAL SHORELINE MAPS

The Community Development Department shall keep the official shoreline maps for the city. Unofficial copies of the official maps may be included or distributed with copies of the SMP.

1.07 RELATIONSHIP TO OTHER CODES, ORDINANCES, AND PLANS

All applicable local, state, and federal laws shall apply to properties in shoreline jurisdiction. Should a conflict occur between the provisions of the SMP or between the SMP and the laws, regulations, codes or rules promulgated by any other authority having jurisdiction within the city, the most restrictive requirement shall be applied, except when constrained by state or federal law, or where specifically provided otherwise in the SMP.

~~The Grays Harbor Estuary Management Plan (GHEMP) provides estuary-wide guidelines for protection and development of the area's economic and natural resources. The GHEMP applies~~

Comment [VZK(4]: See deletions. You could also delete the whole reference to GHEMP.

See comments provided to Westport:

After further discussion here, we don't believe the inclusion of this paragraph is necessary and suggest deletion in its entirety. Absent that, I have made recommended edits. GHEMP is largely implemented through shoreline permitting under the existing SMP. The updated SMP will not be adopting GHEMP but we believe the updated SMP will be as protective, if not more, of the natural resources while recognizing and encouraging water-oriented development. We would be happy to discuss this with you in more detail if desired.

Comment [NS5]: AHBL Response: We have now removed the paragraph about the GHEMP and all related references.

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~~to Grays Harbor County and the cities of Aberdeen, Cosmopolis, Hoquiam, Ocean Shores, and Westport. The SMP shall be applied in concert with, and implement, the GHEMP. Therefore, the policies and regulations contained in SMP and the GHEMP are intended to be complimentary. While the GHEMP provides broad estuary-wide policies, the SMP provides detailed policies and regulations to be applied at the city level. Should a conflict occur between the provisions of the SMP and the GHEMP, the most restrictive requirement shall be applied, except when constrained by state or federal law, or where specifically provided otherwise in the SMP.~~

While the city is not subject to all of the requirements of the Washington State Growth Management Act (GMA), the city will strive to ensure that there is consistency between the SMP's shoreline environment designation provisions and the city's Comprehensive Plan elements and development regulations.

The Critical Areas Regulations in effect on the ____ day of ____, 20__, which are codified in the city's Critical Areas Ordinance (CAO), AMC Section 14.100 – Critical Area Protection, are integral and applicable to the SMP, and are hereby adopted by reference. All uses and development occurring within critical areas or their buffers within shoreline jurisdiction shall comply with these regulations except as modified by SMP Appendix 2: Table A2-1 in SMP Appendix 2: Section 1.01(C).

Ocean uses and activities conducted within the city's and the state of Washington's jurisdiction shall comply with RCW 43.143 (Ocean Resources Management Act) and WAC 173-26-360 (Ocean Management). Nothing in this paragraph is intended to expand or modify the applicability of RCW 43.143, WAC 173- 26-360, or any subsections thereof, to ocean uses and activities not otherwise governed by those laws, administrative rules, or their subsections.

1.08 LIBERAL CONSTRUCTION

As provided for in RCW 90.58.900, the SMP is exempted from the rule of strict construction and it shall be liberally construed to give full effect to the objectives and purposes for which it was enacted.

1.09 SEVERABILITY

As provided for in RCW 90.58.910, should any section or provision of the SMP be declared invalid, such decision shall not affect the validity of the SMP as a whole.

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1.10 TITLE

This document shall be known and may be cited as the *City of Aberdeen Shoreline Master Program* or SMP.

1.11 EFFECTIVE DATE

The SMP is hereby adopted on the ____ date of ____, 20__. The SMP and all amendments thereto shall become effective fourteen days from the date of Ecology's written notice of final action to the city.

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2 SHORELINE MANAGEMENT GOALS

2.01 SHORELINE MASTER PROGRAM GOALS

The state SMP Guidelines, found in WAC 173-26-186(3), require that all relevant policy goals must be addressed in the planning policies of the SMP. This section contains goals that express the long-term vision of the city for its shoreline. Goals provide the basis for the more detailed SMP shoreline use environments, policies, regulations, and administrative procedures in subsequent chapters.

Nine goals relating to shorelines management have been identified: Economic Development, Public Access, Recreation, Circulation, Shoreline Use, Conservation, Historic, Cultural, Scientific, and Educational, Flood Hazard Preservation, and Restoration. ~~In addition, an overall goal for the Grays Harbor Estuary has been adopted through the GHEMP.~~ Each of these is described below.

2.02 ECONOMIC DEVELOPMENT GOAL

Goal ED-1. Provide an area for the location and design of industries, projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce, and other developments that are particularly dependent on their location on or use of shorelines of the state.

Maintain and enhance our shoreline related industry by securing an adequate amount of shorelands of an appropriate nature for these industries while creating and maintaining an industrial and economic environment, which can coexist harmoniously with the natural and human environments.

2.03 PUBLIC ACCESS GOAL

Goal PA-1. Increase and enhance public access to publicly owned shoreline areas consistent with private rights, public safety, and the natural shoreline character.

Maintain and improve our existing public access facilities, seek more facilities and devices to increase opportunities for public access to our region's waters. Further, public access should be

as safe as feasible, cause no ill effect on other shorelines uses or features, or ill effect on the water themselves, or infringement upon private property rights. Yet fragile areas should not be destroyed through over use, rather that the volume of access be only that which the waters and shorelines can withstand.

2.04 RECREATION GOAL

Goal REC-1. Provide for the preservation and enlargement of recreational opportunities, including, but not limited to: parks, tidelands, beaches, and recreational areas.

Seek and provide proper recreational opportunities for the local citizenry, to see that the at-home recreational needs are met. Further, maintain and enhance our tourism resources, to stabilize these resources and to guide resource development such that the very development is not fatal to the original resource.

2.05 CIRCULATION GOAL

Goal CIR-1. Provide for multi-modal circulation opportunities by planning for the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element.

Create and maintain a multi-modal circulatory network capable of delivering people, goods, services, and emergency services at the highest level of convenience, safety, reliability, and economy. The secondary effects of multi-modal circulatory system development must be accounted for in the planning of such systems to avoid undesirable side effects. Circulation planning must be compatible with land use planning.

2.06 SHORELINE USE GOAL

Goal SU-1. Identify areas associated with the general distribution, location, and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings, and grounds, and other categories of public and private uses of the land.

Promote the best feasible pattern of land and water uses, assure a minimum of conflict between uses, assure that individual uses are placed on sites appropriate to such uses, assure

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that lands and waters of specific ~~natures~~ characteristics are available to uses which need such special types of lands and waters, see that all of the uses needed by the region have a place, and generally devise a pattern beneficial to the natural and human environments.

2.07 CONSERVATION GOAL

Goal CONS-1. Preserve natural resources, including but not limited to: scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection.

Identify the resources of the region including fish, wildlife, timber, estuaries, shorelines, beaches, scenic areas, fragile ecological areas, land, water, and air. Further, identify standards, which will guarantee a continuing supply of these resources in sufficient quality and quantity to meet all of the region's foreseeable needs with an excess to absorb accidental losses, or economic slumps, which might occur.

2.08 HISTORIC, CULTURAL, SCIENTIFIC, AND EDUCATIONAL GOAL

Goal HCSE-1. Provide for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values.

Within the limitations of feasibility and private property rights, areas and structures of historic, cultural, scientific, and educational value should be preserved and maintained. Minority and special interest viewpoints regarding such preservation may be entertained by means of the Substantial Development Application permit system.

2.09 FLOOD HAZARD PREVENTION GOAL

Goal FHP-1. Recognize statewide interests over individual interests in the prevention and minimization of flood damages.

2.10 RESTORATION GOAL

Goal REST-1. Encourage restoration of previously degraded areas so that they may be renewed or restored to a natural or useful condition.

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Encourage development in areas, which have been previously impacted with development so that such areas may be renewed, restored, and refurbished, by compatible new development. Utilize governmental activity as a catalyst and stimulant to trigger the desired redevelopment of deteriorated public facilities within target areas.

~~2.11 ESTUARY MANAGEMENT GOAL~~

~~The Grays Harbor estuary will be managed for multiple uses.~~

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3 SHORELINE ENVIRONMENT DESIGNATIONS

3.01 SHORELINE ENVIRONMENT DESIGNATION SYSTEM

The SMA's requirements for shoreline environment designations are found in WAC 173-26-211. The city classified and mapped its shoreline jurisdiction into shoreline environment designations based on the following four criteria found in the state SMP Guidelines (WAC 173-26-211(2)(a)):

A. **Existing land use patterns**. What land uses have developed in each of the shoreline areas to date, as documented in the *Shoreline Inventory and Characterization Report* and the SMP map folio.

B. **Biological and physical character of the shoreline**. The range of ecological characteristics and functions identified for each of the shoreline reaches documented in the *Shoreline Inventory and Characterization Report*.

C. **The goals and aspirations of the city as expressed through its Comprehensive Plan**. A city's Comprehensive Plan provides guidance through its goals and policies, land use designations, various elements such as land use, housing, transportation, capital facilities, and economic development, as well as implementing development codes, parks and recreation plans, sub-area plans, and other plans.

D. **Specific criteria for each shoreline environment designation.** The specific criteria for the aquatic, high-intensity, shoreline residential, and urban conservancy shoreline environment designations are found in WAC 173-26-211(5). The city may establish different shoreline environment designations, provided they are consistent with the purposes and policies of the state SMP Guidelines.

Based on these four criteria, this chapter establishes the shoreline environment designations used in the city for shoreline jurisdiction defined in SMP Section 1.06. The locations of the shoreline environment designations are illustrated in SMP Appendix 1: Shoreline Environment Designation Maps and each shoreline environment designation is described in this chapter by a statement of purpose, followed by designation criteria, and management policies specific to that shoreline environment designation.

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3.01.01 AQUATIC

A. Purpose

The purpose of the Aquatic shoreline environment designation is to protect, restore, and manage the unique characteristics and resources of shoreline jurisdiction waterward of the OHWM.

B. Designation Criteria

Assign the Aquatic shoreline environment designation to lands waterward of the OHWM.

C. Management Policies

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

1. Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.
2. Limit the size of new over-water structures to the minimum necessary to support the structure's intended use.
3. Encourage multiple uses of over-water facilities to reduce the impacts of development and increase effective use of water resources in shoreline jurisdiction.
4. Minimize interference with surface navigation, consider impacts to public views, and allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration in the location and design of all developments and uses.
5. Design and manage shoreline uses and modifications to prevent degradation of water quality and alteration of natural hydrographic conditions.
6. Prohibit uses that adversely affect the ecological functions of critical freshwater habitats except where necessary to achieve the objectives of RCW 90.58.020, and then only when the impacts are mitigated.
7. Reserve space in shoreline jurisdiction for shoreline preferred uses, including existing shellfish protection districts if applicable, while considering upland and in-water uses, water quality, navigation, presence of aquatic vegetation, existing critical habitats, aesthetics, public access, and views.

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3.01.02 HIGH INTENSITY

A. Purpose

The purpose of the High Intensity shoreline environment designation is to provide for high intensity water-oriented commercial, industrial and port, mixed-use, transportation, and navigation uses while protecting existing ecological functions and restoring ecological functions in shoreline jurisdiction that have been degraded.

B. Designation Criteria

1. Assign the High Intensity shoreline environment designation to the areas of shoreline jurisdiction that currently support high intensity uses related to commerce, industry, public facilities, transportation, or navigation, or are suitable for high intensity water-oriented uses. The areas of shoreline jurisdiction assigned this designation should have the following characteristics:
    a. Can support high-intensity uses without degradation to existing shoreline function;
    b. Designated by the city's Comprehensive Plan and zoning for high intensity, commercial, industrial, public, transportation, navigation, or mixed-use development; and
    c. Have few biophysical limitations to development such as floodways, floodplains, steep slopes, or landslide hazard areas.
2. Allow for non-water-related uses within this designation where water-dependent uses are not possible, such as where there is a developed roadway between the OHWM and the proposed use.

C. Management Policies

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

1. Prioritize uses on sites with physical access to the water in the following order of preference:
    a. Water-dependent
    b. Water-related
    c. Water-enjoyment

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2. Allow for non-water-related uses within this designation where:
   a. Water-dependent uses are not feasible, because a lake, river, or stream is unnavigable;
   b. There is a developed roadway between the OHWM and the proposed use; or
   ~~b.~~c. The site is physically separated from the shoreline by another property.
   ~~c. This designation is used as a parallel designation that is not adjacent to the OHWM.~~
3. Allow the development of new non-water-oriented uses as either part of mixed-use development or when the applicant can demonstrate that the use will not conflict with or limit future opportunities for water-oriented uses.
4. Design new development located in shoreline jurisdiction to result in no net loss of ecological function.
5. Restore and remediate shoreline areas within new development sites consistent with state and federal laws.
6. Require visual and physical access where feasible with physical access prioritized over visual access.
7. Seek to achieve the full use of existing urban lands in shoreline jurisdiction before expanding intensive development, subject to long-range projections of regional economic need and allowances to support future expansion of water-dependent and water-related uses.

Comment [VZK(6]: Add: the site is physically separated from the shoreline by another property.

Comment [NS7]: AHBL Response: We have made the addition

Comment [VZK(8]: I don't understand this policy and I'm not sure it's relevant.

Comment [NS9]: AHBL Response: Agree with deletion.

3.01.03 SHORELINE RESIDENTIAL

A. Purpose

The purpose of the Shoreline Residential shoreline environment designation is to accommodate residential development and accessory structures and uses that are consistent with the SMP. An additional purpose is to provide appropriate public access and recreational development.

B. Designation Criteria

The Shoreline Residential shoreline environment designation is assigned to the shoreline areas that are predominantly residential or are planned and platted for residential development. These areas contain the following characteristics:

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1. They contain existing residential development or are proposed primarily for residential development in the Comprehensive Plan and zoning code; and
2. They do not contain significant environmental hazards or sensitive areas.

C. Management Policies

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

1. Preserve ecological functions by establishing development standards for height, shoreline buffers, shoreline building setbacks, shoreline stabilization, critical area protection, and water quality protection to assure no net loss of ecological functions in shoreline jurisdiction.
2. Provide public access and joint use for community recreational facilities, where feasible and applicable for multifamily developments, residential developments containing more than four lots, and recreational developments.
3. Ensure access, utilities, and public services are available and adequate to serve existing needs or planned future development.
4. Limit commercial development to water-oriented uses or home occupations that are not water-oriented, consistent with local regulations.

3.01.04 URBAN CONSERVANCY

A. Purpose

The Urban Conservancy shoreline environment designation is intended to provide for ecological protection and rehabilitation in relatively undeveloped areas in shoreline jurisdiction, while allowing agricultural use, water-oriented and non-water-oriented recreational development, low intensity residential development, and limited development suitable to lands characterized by ecological and flood hazard constraints.

B. Designation Criteria

The Urban Conservancy shoreline environment designation is assigned to shoreline jurisdiction that:

1. Are appropriate and planned for low-intensity agricultural, recreational, and residential development that is compatible with maintaining or restoring the ecological functions of the area in shoreline jurisdiction and that are not generally suitable for water-dependent uses;

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2. Are suitable for water-related or water-enjoyment uses;
3. Possess development limitations, due to the presence of critical environmental features including:
    a. Erosion hazard areas;
    b. Wetlands;
    c. Flood hazard areas; or
    d. Habitat areas;
4. Have the potential for development that is compatible with ecological restoration;
5. Retain important ecological functions, even though partially developed; or
6. Are undesignated areas.

C. Management Policies

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

1. Allow uses that preserve the natural character of the shoreline environment, promote preservation of open space, floodway, floodplain, or critical areas directly, or over the long-term as the primary allowed uses. Allow uses that result in restoration of ecological functions if the use is otherwise compatible with the purpose of the environment and setting.
2. Implement public access and public recreation objectives whenever feasible and significant ecological impacts can be mitigated.
3. Give preferred water-oriented uses priority instead of non-water-oriented uses. Water-dependent and recreational development should be given highest priority.
4. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating and water access facilities, angling, and wildlife viewing trails are preferred uses, provided significant adverse impacts to the shoreline are mitigated.
5. Agriculture, forest practices, and low-intensity residential development when consistent with provisions of the SMP are preferred uses.
6. Ensure that standards for new development for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications do not result in a net loss of ecological functions or degrade other shoreline values.

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3.02 INTERPRETATION OF SHORELINE ENVIRONMENT DESIGNATION BOUNDARIES

3.02.01 SHORELINE ENVIRONMENT DESIGNATION MAPS

Shoreline environment designation maps are found in SMP Appendix 1: Shoreline Environment Designation Maps and is~~are~~ based upon the best data available at the time of the update. As shoreline areas change over time, these maps may no longer clearly identify the location and boundaries of the shoreline environment designations. If the need arises to determine the exact boundaries of a shoreline environment designation, the process outlined in SMP Section 3.02.02 below should be used.

3.02.02 DETERMINING SHORELINE ENVIRONMENT DESIGNATION BOUNDARIES

A. If the exact location of a shoreline environment designation boundary line is unclear, the following rules shall apply:

   1. Boundaries that are shown as approximately following lot, tract, or section lines shall be so construed.

   2. Boundaries that are shown as approximately following roads or railways shall be respectively construed to follow the nearest right-of-way edge.

   3. Boundaries that are shown as approximately parallel to or extensions of features described in SMP Section 3.02.02(A)(1) or (2), shall be construed to be parallel to or extensions of features in SMP Section 3.02.02(A)(1) or (2) when determining boundaries.

B. Where boundary line adjustments or other modifications not indicated on the official shoreline maps are proposed, the shoreline environment designations shall be re-designated through the SMP amendment process found in SMP Section 7.09.

C. In the event of a shoreline environment designation mapping error, the Shoreline Administrator shall utilize the criteria contained in RCW 90.58.030(2), Chapter 173-22 WAC, and the common boundary criteria contained in SMP Section 3.02.02(A) to establish the appropriate shoreline environment designation through the SMP amendment process found in SMP Section 7.09.

D. All shoreline areas waterward of the OHWM shall be designated Aquatic. All shoreline areas landward of the OHWM shall be designated a shoreline environment designation other than Aquatic.

E. Only one shoreline environment designation shall apply to a given shoreland area. In the case of parallel designations, designations shall be divided along an identified linear feature or clearly described boundary.

F. Unmapped portions of shoreline jurisdiction shall be assigned automatically an Urban Conservancy shoreline environment designation until that portion of shoreline jurisdiction can be re-designated through the SMP amendment process found in SMP Section 7.09.

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4 GENERAL POLICIES & REGULATIONS

4.01 INTRODUCTION

The following general policies and regulations apply to all developments, uses, or activities in any shoreline environment designation in shoreline jurisdiction. The intent of the general policies and regulations is to protect environmental resources, reduce the likelihood of harm to life or property from hazardous conditions, and promote access to shorelines.

Each section below contains a description of its purpose, followed by policies and regulations. Policies are statements of principles that guide and determine present and future decisions. Regulations are rules that govern developments, uses, or activities.

The policies and regulations contained in this chapter are derived from the SMA and the state SMP Guidelines. The policies and regulations supplement other adopted ordinances and rules and they are intended to ensure that no net loss occurs. Where there is discrepancy between regulations, those regulations that provide greater protection to shoreline jurisdiction shall apply in accordance with SMP Section 1.07.

4.02 ARCHAEOLOGICAL AND HISTORIC RESOURCES

The purpose of this section is to prevent destruction or damage to sites containing irreplaceable archaeological or historic resources within shoreline jurisdiction. The policies and regulations apply to areas of known or ~~supposed~~ potential archaeological and historic resources as recorded by the Washington State Department of Archaeology and Historic Preservation (DAHP), the city, affected tribes, as well as sites that are uncovered during site development.

4.02.01 POLICIES

A. Encourage consultation with professional archaeologists and historians to identify areas containing potentially valuable archaeological or historic resources, and establish procedures for protecting, and if necessary, salvaging the resource. Appropriate agencies to consult include, but are not limited to, the DAHP, the Confederated Tribes of the Chehalis Reservation, the Shoalwater Bay Tribe, and the Quinault Indian Tribe.

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B. Condition shoreline permits to allow for site inspection and evaluation, and ensure proper salvage of archaeological and historic resources in areas known to contain such resources.

C. Preserve archeological or historic sites permanently for scientific study and public observation whenever feasible.

D. Prevent the destruction of or damage to a site that has been inadvertently uncovered and has historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected tribes and the DAHP.

E. Design and operate the proposed development to be compatible with the continued protection of the site, where development or demolition activity is proposed adjacent to an identified archaeological or historic site.

4.02.02 REGULATIONS

A. Permits issued in areas documented to contain archaeological resources shall require a site inspection or evaluation by a professional archaeologist in coordination with affected tribes and DAHP prior to ~~any disruption to the ground~~ground disturbance as part of the permitted activity. Failure to complete a site survey shall be considered a violation of the shoreline permit.

Comment [VZK(10]: Ground disturbance?

Comment [NS11]: **AHBL Response:** Changed "any disruption to the ground" to "ground disturbance"

B. Where a professional archaeologist has identified an area or site as having significant value, or where an area or site is listed in local, state, or federal historical registers, the Shoreline Administrator may condition the development approval to preserve the features. Potential conditions may include measures to preserve or retrieve the resources, modify the site development plan to reduce impacts, or mitigate the impacts as authorized through the State Environmental Policy Act (SEPA), or other local, state, or federal laws.

C. The applicant shall stop work immediately and contact the city, the DAHP, and affected tribes if any archaeological resources are uncovered during work within shoreline jurisdiction.

4.03 ENVIRONMENTAL IMPACTS AND MITIGATION

This section addresses the requirements for no net loss of ecological functions in shoreline jurisdiction by requiring mitigation for shoreline impacts. These provisions apply throughout shoreline jurisdiction.

4.03.01 POLICY

Avoid or mitigate impacts to shoreline jurisdiction to ensure the standards of no net loss to function are met.

4.03.02 REGULATIONS

A. The environmental impacts of development proposals shall be analyzed and include measures to mitigate environmental impacts not otherwise avoided or minimized by compliance with the SMP and other applicable regulations.

B. Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority:

   1. Avoiding the impact altogether by not taking a certain action or parts of an action;
   2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
   3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
   4. Reducing or eliminating the impact over time by preservation and maintenance operations;
   5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
   6. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

C. In determining appropriate mitigation measures applicable to development in shoreline jurisdiction, lower priority measures should be applied only where higher priority measures are determined to be infeasible or inapplicable.

D. Mitigation shall not be required that exceeds what is necessary to assure the development will result in no net loss of ecological functions in shoreline jurisdiction.

E. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation measures that have been identified within a watershed plan, and address limiting factors or other critical resource conservation

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needs in shoreline jurisdiction, may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms, or conditions as necessary to ensure no net loss of ecological functions.

4.04 CRITICAL AREAS AND SHORELINE VEGETATION CONSERVATION

This section is intended to protect ~~and restore~~ the ecological functions and ecosystem-wide processes performed by critical areas, buffers, and vegetation in shoreline jurisdiction. Within the SMP, buffers for estuaries, rivers, lakes, and streams that are shorelines of the state are considered "shoreline buffers" while the buffers for all other critical areas regulated under SMP Appendix 2: Critical Areas Regulations are called "critical areas buffers." Native vegetation conservation is emphasized within both of the areas. Native vegetation supports many ecological functions or processes in shoreline and critical area buffers, and retaining the vegetation will help the city to meet the SMA goal of no net loss of shoreline ecological functions.

Provisions for shoreline vegetation conservation within this section include regulations regarding ~~natural~~ plant clearing, vegetation restoration, and the control of invasive weeds and non-native species. These provisions apply to any activity, development, or use in shoreline jurisdiction unless otherwise stated, whether or not that activity requires a shoreline permit. Such activities include clearing, grading, grubbing, and trimming of vegetation. Provisions also apply to vegetation protection and enhancement activities, but exclude agricultural activities and activities covered under the Washington State Forest Practices Act (FPA), unless otherwise stated.

SMP Appendix 2: Critical Areas Regulations applies to the management of critical areas in shoreline jurisdiction in the city, including wetlands, critical aquifer recharge areas, ~~critical saltwater habitats,~~ frequently flooded areas, landslide hazard areas, erosion hazard areas, seismic hazard areas, and fish and wildlife habitat conservation areas. Exceptions to the applicability of the provisions in SMP Appendix 2: Critical Areas Regulations within shoreline jurisdiction are outlined in SMP Section 4.04.02(A) below.

Comment [VZK(12]: My intent under the original comment was not to add a critical area, which should already be addressed within fish and wildlife habitat area regulations, but to note that the earlier draft had provisions, consistent with the guidelines and I could not find where those provisions had been addressed in the revised document.

Comment [NS13]: AHBL Response: We moved the listing of Critical Saltwater Habitats under Fish and wildlife habitat conservation areas, so the "critical saltwater habitats" has been deleted here.

4.04.01 POLICIES

A. Ensure no net loss of shoreline ecological functions through the effective integration of the SMP with existing municipal critical areas regulations.

B. Include critical areas objectives in the protection and restoration of degraded ecological functions and ecosystem-wide processes.

C. Balance the various facets of the SMP in critical area regulations, including public access, water-dependent uses, aesthetic considerations, and the maintenance of shoreline ecological functions.

D. Protect and restore ecological functions and ecosystem-wide processes provided by native vegetation along shorelines.

E. Explore opportunities to eliminate non-native vegetation and invasive species and encourage the planting and enhancement of native vegetation within shoreline jurisdiction.

F. Prohibit speculative vegetation removal within shoreline jurisdiction.

G. Replant cleared and disturbed sites promptly after completion of any clearance or construction with native vegetation in those locations where there was previously native vegetation or with other species in those areas previously vegetated with non-native or ornamental species.

H. Allow the selective pruning of trees for safety and view protection.

I. Conduct removal of invasive aquatic vegetation in a manner that minimizes adverse impacts to native plant communities and wildlife habitats, and appropriately handles and disposes of weed materials and attached sediments.

J. Permit clearing of vegetation associated with dike or levee maintenance as necessary to provide protection from flood hazards.

4.04.02 REGULATIONS

A. General Regulations

1. Whether or not a shoreline permit or written statement of exemption is required, the provisions of this section shall apply to all uses, alterations, or developments within shoreline jurisdiction or shoreline buffers. All shoreline uses and activities shall be located, designed, constructed, and managed to protect the ecological functions and ecosystem wide processes provided by critical areas and shoreline vegetation.

2. The critical areas regulations found in SMP Appendix 2: Critical Areas Regulations are integral and applicable to the SMP. All uses and development occurring within critical areas or their buffers within shoreline jurisdiction shall comply with these regulations.

3. If there are any conflicts or unclear distinctions between the provisions of SMP Appendix 2: Critical Areas Regulations and this section, the requirements most consistent with the SMA and most protective of the resource shall apply, as determined by the Shoreline Administrator.
4. Within shoreline jurisdiction, critical area review, approval, notice, and appeal periods/processes shall be integrated with the associated shoreline permit or exemption found in SMP Chapter 7: Shoreline Administration.
5. Within shoreline jurisdiction, applicants seeking relief from the provisions of SMP Appendix 2: Critical Areas Regulations shall apply for a shoreline variance under SMP Section 7.04.03.
6. The provisions of SMP Appendix 2: Critical Areas Regulations do not extend shoreline jurisdiction beyond the limits specified in SMP Section 1.06: Shoreline Jurisdiction.

B. Shoreline Buffer Table

1. The required critical area buffers for WDFW Type S waters shall be considered shoreline buffers, as established by SMP Table 4-1 : Shoreline Buffers~~, shall be considered shoreline buffers~~.
2. The buffers for all other critical areas shall be established in accordance with the standards found in SMP Appendix 2: Critical Areas Regulations.
3. New uses and development that are not water-dependent, water-related, or water-enjoyment, accessory to water-dependent, water-related, or water-enjoyment uses or development, or that do not facilitate public access to waters of the state generally will not be authorized in shoreline buffers, except those uses and activities allowed in Section 4.04.02(D)(1).
4. SMP Table 4-1 : Shoreline Buffers establishes shoreline buffers by shoreline environment designation.
5. Shoreline buffers are measured landward from the OHWM in a horizontal direction perpendicular to the OHWM.
6. "N/A" in SMP Table 4-1: Shoreline Buffers means the requirement is not applicable.
7. Subcategories for types of uses or activities include the following terms:

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a. Water-dependent means a use that cannot exist in any other location and is dependent on the water due to the intrinsic nature of its operations, such as a port or sewer outfall.

b. Water-related means a use that is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location, such as a fish processing plant or a sewer treatment plant.

c. Water-enjoyment means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use. Examples include public trails, golf courses, parks, etc.

d. Non-water-oriented means everything else: a grocery store, etc.

8. The minimum shoreline buffer from the OHWM for a particular use is determined by finding the use and the most appropriate subcategory row and then finding the intersection with the appropriate shoreline environment designation column.

9. Building setbacks of 15 feet are required from the landward edge of the shoreline buffer. Building setbacks are used to protect the shoreline buffer from disturbance during construction and from the impacts related to use of a structure.

Table 4-1: Shoreline Buffers

Shoreline Buffer from the OHWM (1)	High Intensity	Shoreline Residential	Urban Conservancy	Aquatic
Agriculture (New Agricultural Activities Only)				
Water-dependent structures and uses	N/A	0 feet	0 feet	N/A
Water-related and water-enjoyment mixed-use structures and uses	N/A	75 feet	75 feet	N/A
Non-water-oriented structures and uses	N/A	150 feet	150 feet	N/A
Aquaculture				
Water-dependent structures and uses	0 feet	0 feet	0 feet	N/A
Water-related and water-enjoyment mixed-use structures and uses	75 feet	75 feet	75 feet	N/A
Non-water-oriented structures and uses	150 feet	150 feet	150 feet	N/A
Boating and Water Access Facilities				

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Shoreline Buffer from the OHWM (1)	High Intensity	Shoreline Residential	Urban Conservancy	Aquatic
Water-dependent structures and uses	0 feet	0 feet	0 feet	N/A
Water-related and water-enjoyment mixed-use structures and uses	75 feet	75 feet	75 feet	N/A
Non-water-oriented structures and uses	150 feet	150 feet	150 feet	N/A
Commercial Development				
Water-dependent structures and uses	0 feet	N/A	N/A	N/A
Water-related and water-enjoyment mixed-use structures and uses	75 feet	N/A	N/A	N/A
Non-water-oriented structures and uses	150 feet	N/A	N/A	N/A
Forest Practices (2)	N/A	N/A	150 feet	N/A
Industrial and Port Development				
Water-dependent structures and uses	0 feet	N/A	N/A	N/A
Water-related and water-enjoyment mixed-use structures and uses	75 feet	N/A	N/A	N/A
Non-water-oriented structures and uses	150 feet	N/A	N/A	N/A
Mining	150 feet	N/A	N/A	N/A
Parking (accessory to a permitted use only)	150 feet	150 feet	150 feet	N/A
Recreational Development (3)				
Water-dependent structures and uses	0 feet	0 feet	0 feet	N/A
Water-related and water-enjoyment structures and uses	75 feet	75 feet	75 feet	N/A
Non-water-oriented structures and uses	150 feet	150 feet	150 feet	N/A
Residential Development	150 feet	150 feet	150 feet	N/A
Signs (Freestanding Structures)	150 feet	150 feet	150 feet	N/A
Transportation Facilities				
Bridges and trestles	0 feet	0 feet	0 feet	N/A
New transportation facilities related to permitted shoreline uses	150 feet	150 feet	150 feet	N/A
Expansion or relocation of existing transportation facilities	150 feet	150 feet	150 feet	N/A
Utilities (Primary)				
Water-dependent structures	0 feet	0 feet	0 feet	N/A
Water-related structures	75 feet	75 feet	75 feet	N/A
Non-water-oriented structures	150 feet	150 feet	150 feet	N/A

Notes:

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(1) Reductions in the shoreline buffer from the OHWM may be authorized according to the standards in SMP Section 4.04.02(C) below.

(2) Where the FPA applies, the stricter of the SMP or FPA buffer shall be used.

(3) Passive, water-oriented recreational uses are allowed within shoreline buffers; provided, the use does not include the construction of structures. Wildlife viewing structures, permeable trails, or raised boardwalks may be allowed on a limited basis within riparian and wetland buffers in accordance with the mitigation sequence found in SMP 4.03 and the mitigation requirements found in AMC 14.100.

C. Standard Shoreline Buffer Width Reduction Options

Standard shoreline buffers may be reduced consistent with the mitigation sequence in SMP Section 4.03 and the mitigation requirements found in AMC 14.100, using the following procedures. Only one buffer width reduction option may be utilized for a development proposal:

1. Shoreline Buffer Averaging

   a. The width of a standard shoreline buffer may be averaged, thereby reducing the width of a portion of the shoreline buffer and increasing the width of another portion of the shoreline buffer.

   b. A mitigation plan shall be prepared by the applicant as outlined in AMC Section 14.100.072 with shoreline functions substituted for wetland functions. The applicant will need to demonstrate to the satisfaction of the Shoreline Administrator that the following criteria are addressed:

      1) The waterbody and associated shoreline buffer have significant differences in characteristics depending on location that affect its habitat functions;

      2) The shoreline buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the waterbody and decreased adjacent to the lower-functioning or less sensitive portion;

      3) The shoreline buffer averaging does not reduce the ecological functions or values of the waterbody and associated shoreline buffer, or the shoreline buffer averaging, in conjunction with vegetation enhancement, increases ecological functions or values;

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4) The total area of the shoreline buffer after averaging is equal to the area of the required shoreline buffer without averaging and all increases in shoreline buffer dimension for averaging are generally parallel to the OHWM;

5) The shoreline buffer at its narrowest point is never less than 75 percent of the required width;

6) The slopes adjacent to the waterbody within the shoreline buffer area are stable and the gradient does not exceed 30 percent; and

7) The applicant implements all feasible measures to reduce the adverse effects of adjacent land uses and ensure no net loss of ecological functions.

2. <u>Common Line Provisions</u>

a. To accommodate adequate shoreline views comparable to adjacent existing residences, the Shoreline Administrator may reduce the standard shoreline buffer for a new single-family residence consistent with the following criteria:

1) The proposed residence must be located in the Shoreline Residential shoreline environment designation and within 150 feet of an adjacent legally established single-family residential primary structure that encroaches on the shoreline buffer. Accessory structures such as sheds or garages shall not be used to determine a common line shoreline buffer.

2) For the purpose of this reduction, the nearest corners of the foundations of the adjacent residences are those closest to the side-yard property line of the proposed residence.

3) Existing Residences on Both Sides: Where there are existing residences adjacent on both sides of the proposed residence, the common line shoreline buffer shall be determined as the greater of either:

a) A common line drawn between the nearest corners of the foundations of each adjacent residence, or

b) A common line calculated by the average of both adjacent residences' existing setbacks from the OHWM.

4) Existing Residence on One Side: Where there is only one existing residence adjacent to the proposed residence, the common line shoreline buffer shall be determined as the greater of either:

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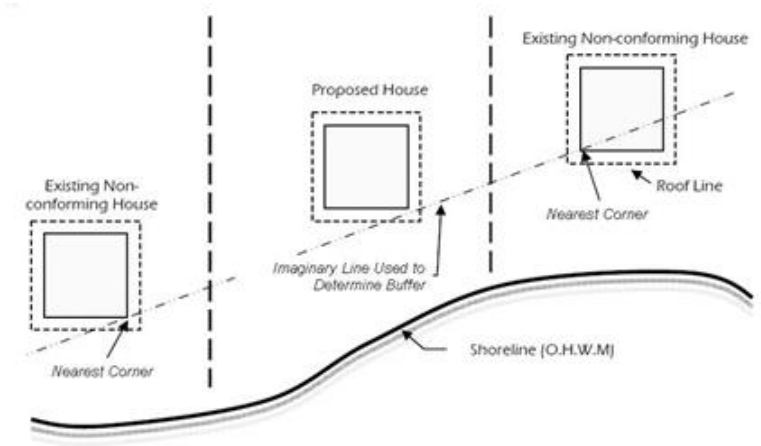
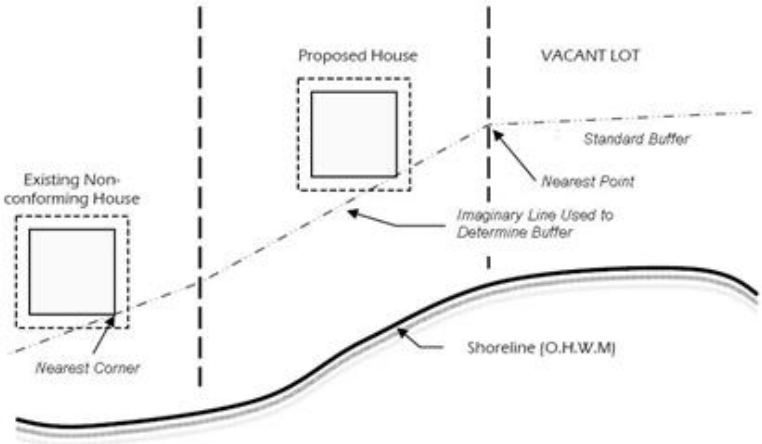
a) A common line drawn between nearest corner of the foundation for the adjacent residence and the nearest point of the standard shoreline buffer on the adjacent vacant lot; or

b) A common line calculated by the average of the adjacent residence's setback from the OHWM and the standard shoreline buffer for the adjacent vacant lot.





b. If the conditions in SMP Section 4.04.02(C)(2)(a) are met, the applicant may prepare a mitigation plan as outlined in AMC 14.100.072 with shoreline

functions substituted for wetland functions and demonstrate to the satisfaction of the Shoreline Administrator that:

1) A mitigation plan in accordance with AMC 14.100.072 demonstrates that enhancing the shoreline buffer by removing invasive plants, planting native vegetation, installing habitat features, or other means will result in a shoreline buffer of a reduced width that functions at a higher level than the existing standard shoreline buffer; or

2) Conditions unique to the site, including legally existing uses, developments established prior to the effective date of the SMP, or naturally existing topographic barriers, exist between the proposed development and the OHWM, which substantially prevent or impair delivery of most natural functions from the subject upland property to the waterbody.

3. <u>Reduction for Road or Railroads in Buffer (Applicable to Shoreline Buffers Only)</u>

   a. Where one of the following crosses a standard shoreline buffer:

      1) A legally established road or railroad, excluding a private driveway;

      2) The expansion of existing roads and railroads; or

      3) Construction of new roads or railroads related to cargo handling and freight mobility (whether included as a portion of a large development or submitted as an individual project).

   b. The Shoreline Administrator may reduce the standard shoreline buffer width to the waterward edge of the improved road or railroad. This reduction may only be granted, if a qualified professional documents that the part of the standard shoreline buffer on the upland side of the road or railroad:

      1) Does not provide additional protection for the waterbody; and

      2) Does not provide significant biological, geological, or hydrological functions for the waterward portion of the shoreline buffer adjacent to the OHWM of the waterbody.

4. <u>Shoreline Buffer Width Reduction</u>

   a. The width of a standard shoreline buffer may be reduced up to 25 percent administratively if shoreline buffer averaging (SMP Section 4.04.02(C)(1)), common line provisions (SMP Section 4.04.02(C)(2)), or reduction for road or railroads in buffer (SMP Section 4.04.02(C)(3)) are infeasible.

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b. If the conditions in SMP Section 4.04.02(C)(4)(a) are met, the applicant may prepare a mitigation plan as outlined in AMC Section 14.100.072 with shoreline functions substituted for wetland functions and demonstrate to the satisfaction of the Shoreline Administrator that:

1) A mitigation plan in accordance with AMC Section 14.100.072 demonstrates that enhancing the shoreline buffer by removing invasive plants, planting native vegetation, installing habitat features, or other means will result in a shoreline buffer of a reduced width that functions at a higher level than the existing standard shoreline buffer; or

2) Conditions unique to the site, including legally existing uses, developments established prior to the effective date of the SMP, or naturally existing topographic barriers, exist between the proposed development and the OHWM, which substantially prevent or impair delivery of most natural functions from the subject upland property to the waterbody.

D. General Buffer Regulations

1. Shoreline Buffers

The following new uses and activities are allowed within shoreline buffers without a shoreline variance, when located, constructed, and maintained in a manner that minimizes adverse impacts on shoreline ecological functions, and when otherwise in compliance with this SMP:

~~a. Uses and activities outlined in SMP Appendix 2: Critical Areas Regulations Section 2.07, when consistent with all other applicable provisions of the SMP.~~

~~b.~~a. Accessory Uses. Uses and development accessory to water-dependent uses shall be located outside the shoreline buffer unless at least one of the following criteria is met:

1) A location in the shoreline buffer is necessary for operation of the primary water-dependent use or development, such as a road to a boat launch facility; or

2) The accessory use is on legally established public lands and is primarily related to access, enjoyment, and use of the water; and the use does not conflict with or limit opportunities for other water-oriented uses.

~~c.~~b. Essential Public Facilities. Essential public facilities, as defined by RCW 36.70A.200, may be located and expanded in the shoreline buffer if the use

cannot be reasonably accommodated or accomplished outside of the standard or reduced shoreline buffer.

1) Proposals for ~~E~~essential public facilities must demonstrate that alternative sites that meet facility requirements are not available.

2) These uses must be designed and located to minimize intrusion into the shoreline buffer and shall be consistent with the mitigation sequence in SMP Section 4.03 and AMC 14.100.

3) Impacts to the shoreline buffer shall be fully mitigated.

~~d.~~c. Water-oriented education, scientific research, and passive recreational uses. These uses may include, but are not limited to, fishing, bird watching, hiking, hunting, boating, horseback riding, skiing, swimming, canoeing, and bicycling. Such uses are allowed within shoreline buffers provided the use does not include construction except as follows:~~.~~ ~~W~~wildlife viewing structures and permeable trails or raised boardwalks may be allowed on a limited basis within riparian and wetland buffers in accordance with the mitigation sequence in SMP Section 4.03 and AMC 14.100.

~~e.~~d. Site investigative work necessary for land use application submittals such as surveys, soil logs, drainage tests, and other related work, including monitoring of restoration or mitigation sites. In every case, shoreline buffer impacts should be avoided or minimized and disturbed areas shall be immediately restored.

~~f.~~e. Shoreline modifications in conformance with the applicable provisions found in SMP Chapter 6: Shoreline Modification Policies & Regulations.

2. Critical Areas Buffers

The uses and activities allowed within critical areas buffers in SMP Appendix 2: Critical Areas Regulations, may be allowed without a shoreline variance, when located, constructed, and maintained in a manner that minimizes adverse impacts on shoreline ecological functions, and in compliance with the SMP.

E. Vegetation Conservation Standards

1. Shoreline buffers protect the ecological functions of the shoreline, help to reduce the impacts of land uses on the waterbody or aquatic resource, and provide a transition between aquatic and upland areas.

2. Authorized uses shall be designed to avoid removing existing native vegetation to the maximum extent feasible within shoreline and critical areas buffers consistent

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with safe construction practices, and other provisions of this section. Any impacts to existing native vegetation must follow the mitigation sequence in SMP Section 4.03 above and comply with SMP Appendix 2: Critical Areas Regulations, as modified in SMP Section 4.04.02(A) above.

3. Removal of vegetation within shoreline and critical areas buffers shall require a critical area report and/or a mitigation plan in coordination with the requirements of SMP Appendix 2: Critical Areas Regulations. The Shoreline Administrator may require a critical area report for critical areas regulations exempt activities if necessary to document compliance with the provisions in the SMP.
4. Removal of native vegetation from shoreline buffers must be compensated at a minimum 1:1 ratio, which the Shoreline Administrator may increase if necessary to assure no net loss of shoreline ecological functions. Increases may be necessary to compensate for temporal losses, uncertainty of performance, and differences in ecological functions and values.
5. Mitigation ratios shall be based on a scientifically valid measure of habitat function, value, and area. Critical area reports shall include a description of how the proposal complies with the mitigation sequence in SMP Section 4.03 and how mitigation areas will be monitored and maintained to ensure no net loss of shoreline ecological functions.
6. Vegetation conservation standards shall not apply retroactively to existing, legally established uses and developments. Existing, lawfully established landscaping and gardens within shoreline jurisdiction may be maintained in their existing condition. In the context of this regulation, maintenance includes, but is not limited to, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning, and replacement planting of ornamental vegetation or indigenous native species to maintain the condition and appearance of such areas.
7. Clearing of invasive, noxious non-native vegetation in shoreline buffers is allowed by hand labor or with light equipment. Removal of noxious weeds as listed by the state in Chapter 16-750 WAC is allowed in a manner consistent with Washington State Noxious Weed Control Board regulations. Native vegetation shall be promptly reestablished in the disturbed area.
8. In shoreline buffers, ~~no more than 20 percent of the limbs on any single tree may be removed and no more than 20 percent of the canopy cover in any single stand of trees may be removed in any five-year period. p~~Pruning shall comply with the

National Arborist Association pruning standards. Trees that are felled in shoreline buffers should be left in place. The exception to this regulation is that hazard trees, which are dead, diseased, leaning, or structurally unsound trees that are deemed an emergency, may be removed at any time. Hazard tree removal is addressed in AMC Section 14.100.050(B)(5)(c).

9. In those instances where the management of vegetation required by this section conflicts with provisions in state, federal, or other flood hazard agency documents that govern licensed or certified flood hazard reduction measures, the requirements of the SMP will not apply. The applicant shall submit documentation of conflicting provisions with a shoreline permit application and shall comply with all other provisions of the SMP that are not strictly prohibited by certifying or licensing agencies.

F. Revegetation

1. Surfaces that are cleared of vegetation in shoreline or critical area buffers, aside from normal maintenance described in SMP Section 4.04.02(E)(6), and are not developed must be replanted within one year. Replanted areas shall be planned and maintained such that within three years the vegetation cover is at least 90 percent reestablished. Areas that fail to reestablish vegetation adequately shall be replanted with approved plant materials until the plantings are viable. Revegetation areas will be maintained in good growing condition, and kept free of noxious weeds, and with removal of dead or dying plants for a five-year monitoring period.
2. Vegetation shall be planted in similar quantities and species to what existed previously on the site to achieve no net loss of ecological function. Disturbed ornamental landscapes, including grass, may be replaced with similar species, unless mitigation is necessary to address project impacts.
3. Native plants are preferred for all revegetation. Non-native species on the Grays Harbor County's list of invasive species shall not be allowed.

G. Aquatic Vegetation Control

1. Aquatic vegetation control shall only occur when native plant communities and associated habitats are threatened or where an existing water-dependent use is restricted by the presence of weeds. Aquatic vegetation control shall occur in compliance with all other applicable laws and standards, including the WDFW requirements such as the Aquatic Plants and Fish Pamphlet, which serves as the

Hydraulic Project Approval (HPA) for some types of aquatic weed or plant control and removal.

2. The application of herbicides or pesticides in waterbodies including Grays Harbor, lakes, wetlands, or ditches requires a permit from Ecology and may require preparation of a SEPA checklist for review by other agencies. The applicator must have a pesticide applicator license from the Washington State Department of Agriculture.

4.05 FLOOD HAZARD MANAGEMENT

Comment [VZK(14]: Permit types for flood control structures are not mentioned in any table. This needs to be addressed in one of the tables (more appropriately the shoreline modification table).

Comment [NS15]: **AHBL Response:** Flood control structures are now listed in the modifications table.

This section applies to actions taken to reduce flood damage or hazards in shoreline jurisdiction as well as uses, development, and shoreline modifications proposed in flood hazard areas. As used by the SMP, "flood hazard management measures" include shoreline modifications that directly control of the location of floodwaters, while "shoreline stabilization measures" act to prevent the erosion of land from currents and waves – a more indirect control of the location of flood and non-flood water. Shoreline stabilization measures are addressed in SMP Chapter 6: Shoreline Modification Policies & Regulations.

Measures to reduce flood hazards may consist of nonstructural measures, such as shoreline buffers, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and stormwater management programs; and structural measures, such as dikes, levees, revetments, floodwalls, dams, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

The city currently implements flood hazard management through the following:

- The Aberdeen Comprehensive Plan;
- The Aberdeen Critical Areas Ordinance (CAO);
- The current edition of the Stormwater Management Manual as prepared by Ecology;
- The Grays Harbor County Comprehensive Flood Hazard Management Plan;
- The Grays Harbor County All Hazard Mitigation Plan;
- The Chehalis River Basin Comprehensive Flood Hazard Management Plan; and
- Watershed Management Plans.

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4.05.01 POLICIES

A. Assure flood hazard protection measures do not result in a net loss of shoreline ecological functions.

B. Plan for and facilitate returning river and stream conditions to more natural hydrological conditions where feasible and appropriate.

C. Achieve flood hazard management through a coordinated and integrated approach of plans, regulations, and programs.

D. Prefer nonstructural flood hazard management measures to structural measures where feasible. New structural flood hazard reduction measures should only be allowed when demonstrated to be necessary, nonstructural methods are insufficient, and mitigation is accomplished.

E. Limit development and shoreline modifications that interfere with the natural process of channel migration within the channel migration zone (CMZ).

F. Require new publicly funded dike or levee projects to dedicate and improve public access, subject to the exceptions in SMP Section 4.06.

4.05.02 REGULATIONS

A. All proposed flood hazard management measures shall comply with the Aberdeen Hazard Mitigation Plan and AMC Chapter 15.52 – Flood Damage Prevention, where applicable.

B. Development in floodplains shall not increase flood hazards.

C. New development or new uses in shoreline jurisdiction, including subdivision of land, shall not be established when it would be reasonably foreseeable that the use or development would require structural flood hazard reduction measures within the CMZ or floodway.

D. New structural flood hazard management measures may be permitted if:

   1. No net loss of ecological functions and values will occur;
   2. A scientific and engineering analysis confirms they are necessary to protect existing development;
   3. Nonstructural flood hazard management measures are not feasible; and
   4. Appropriate vegetation conservation actions are undertaken as outlined in SMP Section 4.04.

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E. If new structural flood hazard management measures are required and no alternative exists, as documented in a geotechnical analysis, the structural measures shall be placed landward of any associated wetlands and shoreline buffer areas.

F. New publicly-funded structural flood hazard management measures, including dikes and levees, shall dedicate and improve public access except when those improvements would:

   1. Cause health or safety hazards or security problems;
   2. Result in significant immitigable ecological impacts;
   3. Create a conflict of uses; or
   4. Cost a disproportionate or unreasonable amount relative to the total long-term cost of the development.

G. Removal of gravel for flood management purposes shall be consistent with SMP Section 6.04, and permitted only after a biological and geomorphological study demonstrates that the extraction:

   1. Provides a long-term benefit to flood hazard management;
   2. Does not result in a net loss of ecological functions; and
   3. It is part of a comprehensive flood management solution.

H. New development within floodways and the CMZ shall not interfere with the process of channel migration or cause a net loss of ecological functions.

I. Development in the CMZ and floodways, is limited to:

   1. Actions that protect or restore ecosystem-wide processes or ecological functions;
   2. Forest practices in compliance with the FPA;
   3. Existing and ongoing agricultural practices, provided no new restrictions to channel movement occur;
   4. Mining uses conducted consistent with the shoreline environment designation and the provisions of WAC 173-26-241(3)(h);
   5. Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in an unreasonable and disproportionate cost;

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6. Repair and maintenance of an existing legal use, provided that the repair and maintenance does not cause significant ecological impacts or increase flood hazards to other uses;
7. 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; or
8. Measures to reduce shoreline erosion, if it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.

4.06 PUBLIC ACCESS

This section applies to shoreline public access, including the protection of scenic vistas. As provided in WAC 173-26-221(4), public access to the shorelines of the state is the ability of the 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." Allowing for appropriate public access to shorelines of the state is a key component of the SMA. Consideration must be given to protection of the visual quality of the shoreline resource and to maintenance of view corridors to and from the water and adjacent shoreland features.

4.06.01 POLICIES

A. Protect and enhance the public's visual and physical access to shorelines of the state to the greatest extent feasible.
B. Increase the amount and diversity of public access opportunities to shorelines where consistent with the natural shoreline character, property rights, and public safety.
C. Maintain, enhance, and increase public access in accordance with the following priorities unless found infeasible:
    1. Maintain existing public access sites and facilities, rights-of-way, and easements.
    2. Enhance public access opportunities on existing public lands and easements.
    3. Acquire property or easements to add opportunities for public access to shorelines.
    4. Encourage public access to shorelines as part of shoreline development.

D. Ensure shoreline development plans by public entities include public access measures unless it is unsafe, unsecure, or negatively affects the shoreline environment.

E. Ensure that development does not impair or detract from public access to the water through standards for design, construction, and operation.

F. Provide public access as close as feasible to the OHWM without adversely ~~effecting~~ affecting a sensitive environment and design with provisions for access for all persons.

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

H. Balance enhancement of views with the protection of shoreline vegetation that may partially impairs views.

I. Maintain, enhance, and preserve visual access of the shoreline from street-ends, public utilities, and rights-of-way.

4.06.02 REGULATIONS

A. Public access shall be designed to achieve no net loss of ecological functions. Where impacts are identified, mitigation shall be required.

B. Public access shall be required for the following shoreline developments and uses:

1. Shoreline recreation in accordance with SMP Section 5.13;
2. New structural public flood hazard reduction measures, such as dikes and levees;
3. Shoreline development by public entities, including the city, state agencies, and public utility districts; and
4. All other development not subject to the restrictions in SMP Section 4.06.02(C).

C. Public access is not required when any of the following conditions are present:

1. The subdivision of land into four or fewer parcels;
2. A development consisting of a building containing four or fewer dwelling units;
3. Unavoidable health or safety hazards to the public exist that cannot be prevented by any feasible means;
4. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
5. Public access results in significant environmental impacts that cannot be mitigated;

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6. Significant undue and unavoidable conflict between any access provisions and the proposed or adjacent uses would occur and cannot be mitigated;
7. The cost of providing the access, easement, or amenity is unreasonably disproportionate to the total long-term cost of the proposed development;
8. Legal limitations preclude public access;
9. The subject site is separated from the shoreline waterbody by intervening public or private improvements such as transportation facilities such as roads or railroads, existing structures, and/or other similar improvements, and public access is not desirable or feasible; or
10. Adequate public access already exists along the subject shoreline and no gaps or enhancements need to be addressed.

D. In addressing SMP Section 4.06.02(C) above, the applicant must demonstrate that all feasible alternatives to allow public access have been exhausted, including:
   1. Regulating access by such means as limiting hours of use to daylight hours;
   2. Separating uses by such means as fences, terracing, landscaping, signage, etc.;
   3. Providing access that is physically separated from the proposal, such as a nearby street end, an offsite viewpoint, or a trail system; or
   4. Where physical access is not feasible, visual access is provided instead.

E. The Shoreline Administrator must support a determination that no public access is feasible in the findings in the underlying permit.

F. Physical public access shall be designed to connect to existing public rights-of-way or existing or future public access points on adjacent or abutting properties. Appropriate design and safety standards should be utilized in the design of the access.

G. Public access facilities shall be compatible with adjacent private properties using vegetative buffering or other techniques to define the separation between public and private space.

H. Where there is an irreconcilable conflict between water-dependent shoreline uses, physical public access, and maintenance of views from adjacent properties, water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.

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I. Public access easements or tracts and relevant permit conditions shall be recorded as a separate document or on the face of a plat or short plat with the Grays Harbor County Auditor at the time of permit or plat approval.

J. The applicant shall construct, install, and maintain approved signs that indicate the public's right to access the shoreline and the hours of operation for the shoreline access. These signs shall be placed in conspicuous locations at public access sites. Where public access is prohibited, property owners may install signs subject to size and location restrictions found in SMP Section 5.15 that indicate that no public access is permitted.

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

L. The city may not vacate any road, street, or alley abutting a body of water except as provided under RCW 35.79.035.

M. In addressing the protection of scenic vistas of the shoreline, the following must be taken into consideration:

   1. Public lands such as street ends, rights-of-way, and utilities shall provide visual access to the water and shoreline.

   2. Development on or over the water shall be constructed as far landward as feasible to avoid interference with views from surrounding properties to the shoreline and adjoining waters.

4.07 WATER QUALITY

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

4.07.01 POLICIES

A. Protect shoreline jurisdiction by ensuring that surface water quality and quantity regulations are administered by the city.

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

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4.07.02 REGULATIONS

A. All development in shoreline jurisdiction shall comply with the appropriate requirements of the SMP and the latest version of the Ecology Stormwater Management Manual for Western Washington as prepared by Ecology, as amended.

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5 SPECIFIC SHORELINE USE POLICIES & REGULATIONS

5.01 INTRODUCTION

Building on the general SMP goals found in SMP Chapter 2: Shoreline Management Goals, this chapter contains specific shoreline use policies and regulations that apply to specific uses or development in any shoreline environment designation. Each section includes policies and regulations. Policies are statements of principles that guide and determine present and future decisions. Regulations are rules that govern developments, uses, or activities.

5.02 GENERAL SHORELINE USE

These policies and regulations apply to all developments and uses within shoreline jurisdiction whether shoreline permits or written letter of exemptions are required or not.

5.02.01 POLICIES

A. Shorelines are a limited ecological and economic resource. Apply the following priorities in the order presented below when determining allowable uses or resolving use conflicts in shoreline jurisdiction:

1. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health;
2. Reserve shoreline areas for water-dependent and associated water-related uses. Mixed-use developments that include water-dependent uses may be allowed when specific conditions are met;
3. Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives;
4. Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses; and

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5. Limit non-water-oriented uses to those locations where the uses described above are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the SMA.
6. Allow parking only as an accessory to a primary use.

B. Locate accessory structures or uses within shoreline jurisdiction, such as parking, service buildings or areas, access roads, utilities, signs, and storage, landward of required shoreline buffers and water-oriented developments or other approved uses.

C. Locate, design, and manage uses and development to minimize impacts through bulk and dimensional regulations, shoreline buffers, and other measures to ensure that the development will not result in a net loss of shoreline ecological functions and in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological functions and processes.

D. Develop and enforce regulations for shoreline buffers ~~consistent with~~ for the purposes of protecting existing ecological functions, accommodating water-oriented and preferred uses, recognizing existing development patterns, and minimizing the creation of nonconforming uses and developments.

E. Do not permit uses where they would result in a net loss of shoreline ecological functions, adversely affect the quality or extent of habitat for native species, adversely affect other habitat conservation areas, or interfere with navigation or other water-dependent uses.

F. Avoid adverse impacts to the shoreline or, if that is not feasible, minimize to the extent feasible and mitigate unavoidable impacts.

5.02.02 REGULATIONS

These regulations apply to all developments and uses within shoreline jurisdiction, whether a shoreline permit or written letter of exemption is required or not.

A. Use and development standards shall not apply retroactively to existing, legally established structures, or uses and developments in place at the time of the adoption of the SMP update. Existing structures, uses and developments, including residential appurtenances, may be maintained, repaired, and operated within shoreline jurisdiction and the shoreline buffers established in the SMP.

B. Development shall comply with all bulk and dimensional requirements found in the zoning and subdivision codes.

C. Shoreline developments shall locate water-oriented portions along the shoreline and place other facilities landward or outside shoreline jurisdiction, where feasible.

D. Parking is allowed only as an accessory to a primary use.

E. Accessory uses, such as parking, stormwater management facilities, and utilities shall be located outside of shoreline jurisdiction where feasible. If they are to be located in shoreline jurisdiction, accessory uses shall be limited to water-oriented uses, uses that support physical or visual shoreline access for substantial numbers of the public, or preferred uses in the shoreline.

F. Shoreline uses and developments shall be designed to complement the setting of the property and minimize glare. Shoreline applicants shall demonstrate efforts to minimize potential impacts to the extent feasible.

5.03 ALLOWED SHORELINE USES

A. SMP Table 5-1: Permitted, Conditional, and Prohibited Uses below establishes the uses and development allowed within the shoreline environment designations. Where there is a conflict between the table and the written provisions in the SMP, the written provisions shall apply.

B. Authorized uses and development are subject to the policies and regulations of the SMP and are only allowed in shoreline jurisdiction where allowed by the underlying zoning.

C. Uses and development identified as "Permitted" require either a shoreline substantial development permit in accordance with SMP Section 7.04.01 or an exemption from the requirement to obtain such a permit in accordance with SMP Section 7.04.04. If any part of a proposed development is not eligible for an exemption, then a shoreline substantial development permit is required for the entire proposed development.

D. Uses identified as "Conditional" require a shoreline conditional permit pursuant SMP Section 7.04.02. Any use not listed in SMP Table 5-1 : Permitted, Conditional, and Prohibited Uses shall require a shoreline conditional use permit.

E. Uses identified as "Prohibited" are not allowed in shoreline jurisdiction.

F. Accessory uses and structures shall be subject to the same shoreline permit process and SMP provisions as their primary use. An accessory use shall not be established prior to the establishment of its primary use.

Table 5-1: Permitted, Conditional, and Prohibited Uses

Shoreline Uses (1)	High Intensity	Shoreline Residential	Urban Conservancy	Aquatic (2)
Key: P = Permitted Use, C = Conditional Use, X = Prohibited				
Agriculture (3)(4)	X	P	P	X
Aquaculture	C	C	C	C
Boating and Water Access Facilities				
Boat Ramps and Launches	P	P	C	P
Boat Launching Rails	P	P	X	P
Boat Lifts and Canopies	P	P	X	P
Moorage Covers (Open Sides, Structural Roof)	C	C	X	C
Mooring Buoys	X	X	X	P
Private Single / Joint-Use Docks and Piers	P	P	X	P
Public Piers / Docks / Marinas	P	P	C	P
Recreational Floats	X	X	X	P
Commercial Development				
Water-oriented	P	X	X	X
Non-water-oriented	C	X	X	X
Forest Practices	X	X	P	X
Industrial and Port Development				
Industry				
Water-oriented	P	X	X	X
Non-water-oriented	C	X	X	X
Marine Terminals and Mooring Structures				
New Marine Terminals and Mooring Structures (Primary Use)	C	X	X	C
New Marine Terminals and Mooring Structures (Accessory to a Permitted Use)	P	X	X	C
Expansion or Movement of Marine Terminals and Mooring Structures (Primary Use)	C	X	X	C
Expansion or Movement of Marine Terminals and Mooring Structures (Accessory to a Permitted Use)	P	X	X	C
Mining	C	X	X	C (5)
Parking (6)	P	P	P	X
Recreational Development (7)				
Water-oriented	P	P	P	P (8)

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Shoreline Uses (1)	High Intensity	Shoreline Residential	Urban Conservancy	Aquatic (2)
Non-water-oriented	P	P	C	X
Paved trails	P	P	C	X
Unpaved trails	P	P	P	X
Residential Development (9)	P	P	P	X
Signs (Separate Structures)	P	P	P	X
Transportation Facilities				
Bridges and trestles	C	C	C	C
New transportation facilities related to permitted shoreline uses	P	P	P	X
Expansion or relocation of existing transportation facilities	C	C	C	X
Utilities (Primary)				
Solid waste disposal or transfer sites	X	X	X	X
Other	C	C	C	C

Notes:

(1) Any use that would substantially degrade the ecological functions in shoreline jurisdiction should not be allowed. In addition, development shall be subject to the allowed uses established by the AMC.

(2) Where a use would be located both upland and over-water, the more restrictive standards apply.

(3) Includes agricultural commercial uses such as roadside stands, on-farm markets, pumpkin patches, and Christmas tree farms.

(4) Upland finfish facilities in shoreline jurisdiction require a shoreline conditional use permit.

(5) New mining waterward of the OHWM or in the CMZ shall not be permitted unless the requirements of SMP Section 5.11.02(D) are addressed.

(6) Parking is allowed as an accessory use to an approved use in SMP Section 5.13. Off-street parking lots or parking structures as a primary use are prohibited in all shoreline environment designations.

(7) Concession stands, gift shops, and interpretive centers are permitted as accessory uses when limited to the minimum size necessary for the use and serving a related, permitted

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recreational use in the Shoreline Residential and Urban Conservancy shoreline environment designations.

(8) Only water-dependent uses are permitted in the Aquatic shoreline environment designation.

(9) Home occupations, as established by AMC 17.56.030: Home Occupations, are incidental and accessory to a residential use. Use the 'Residential' use category to determine whether they are allowed in a particular shoreline environment designation.

5.04 DEVELOPMENT STANDARDS

The following development standards apply in addition to the shoreline buffer and structural setback requirements included in SMP Section 4.04. New development shall be located and designed to avoid the need for future shoreline stabilization measures to the extent feasible as defined in SMP Section 6.07.02(A).

5.04.01 DENSITY AND LOT COVERAGE

A. Density and maximum lot coverage of residential uses allowed in shoreline jurisdiction should be in accordance with the underlying zoning requirements of the city.

5.04.02 SHORELINE HEIGHT STANDARDS

A. To limit the obstruction of views from public property or residences, SMP Table 5-2: Shoreline Height Regulations establishes the maximum shoreline height for new or expanded buildings or structures above average grade level.

B. The following structures are exempt from the shoreline height standard requirements: dams, shipping cranes or other freight moving equipment, power or light poles, chimneys, tanks, towers, cupolas, steeples, flagpoles, smokestacks, silos, elevators, fire or parapet walls, open railings, and/or similar necessary building appurtenances may exceed the shoreline height limit provided all other requirements of the city are met and no usable floor space above the shoreline height limit is added.

C. Aside from Industrial and Port Development uses, development in the High Intensity and the Shoreline Residential shoreline environment designations may be increased through a shoreline variance that meets the criteria in SMP Section 7.04.03 provided:

   1. The increase does not substantially block views from adjacent residential properties;

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2. The increase will serve overriding considerations of the public interest pursuant to RCW 90.58.320;
3. Greater height is demonstrated to be needed for an essential element of an allowed use;
4. The project includes compensating elements that substantially enhance the visual and physical public access to the shoreline; and
5. It is demonstrated that no net loss of shoreline ecological function will be achieved.

D. As defined in SMP Section 5.10, Industrial and Port Development in the High Intensity shoreline environment designations may be increased without a shoreline variance provided:

1. Public notice is given following the procedures in SMP Section 7.03;
2. The increase does not substantially block views from adjacent residential properties;
3. The increase will serve overriding considerations of the public interest pursuant to RCW 90.58.320;
4. Greater height is demonstrated to be needed for an essential element of an allowed use;
5. The project includes compensating elements that substantially enhance the visual and physical public access to the shoreline; and
6. It is demonstrated that no net loss of shoreline ecological function will be achieved.

Table 5-2: Shoreline Height Regulations

Standard	High Intensity	Shoreline Residential	Urban Conservancy	Aquatic
Maximum Shoreline Height	35 feet (1)	35 feet(2)	35 feet	35 feet

Notes:

(1) Maximum shoreline height may be increased over 35 feet in the Light Industrial (L-I) zoning district and Industrial (I) zoning district with approval of a shoreline variance.

(2) Maximum shoreline height may be increased to 45 feet in the Multiple Family Residential (R-M) zoning district with approval of a shoreline variance.

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E. View Corridor Review Process

1. Applicants for new or expanded buildings or structures exceeding 35 feet in height above average grade level in the High Intensity and the Shoreline Residential shoreline environment designations shall address impacts to views from substantial numbers of residences and public areas as follows:

    a. Site design shall provide for view corridors between buildings using building separation, building setbacks, upper story setbacks, pitched roofs, and other mitigation.

    b. To determine appropriate view corridor location, the Shoreline Administrator shall review shoreline public access plans, location of state or federally designated scenic highways, government-prepared view studies, SEPA documents, or applicant-prepared studies.

    c. The maximum width of a view corridor shall not exceed 25 percent of the lot width.

2. For heights proposed above 35 feet, the following view analysis standards and procedures apply:

    a. The applicant shall prepare a view analysis conducted consistent with the application requirements in SMP Section 7.02.03. The view analysis shall address:

        1) The cumulative view obstruction created by the proposed development combined with other developments that exceed 35 feet in height within a 1,000-foot radius of the proposed development;

        2) Available view corridors; and

        3) Surface water views lost, compromised, or retained.

    b. For phased developments, the view analysis shall be prepared in the first phase and include all proposed buildings.

    c. Applicants proposing building or structure heights above 35 feet that are consistent with the SMP and underlying zoning allowances may be approved as part of a shoreline variance if the following criteria are met:

        1) The building or structure will not affect a substantial number of residences. The applicant shall review residences in the area adjoining the project area.

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2) The increase will serve overriding considerations of the public interest pursuant to RCW 90.58.320;

3) The development will not cause an obstruction of view from public properties or substantial number of residences. The applicant shall demonstrate through photographs, videos, photo-based simulations, or computer-generated simulations that the proposed development will obstruct less than 30 percent of the view of the shoreline enjoyed by a substantial number of residences on areas adjoining such shorelines.

5.05 AGRICULTURE

Agriculture includes, but is not limited to, the commercial production of horticultural, viticultural, and floricultural products, vegetables, fruit, berries, grains, feed or forage for livestock, Christmas trees, and livestock that has long term commercial significance as well as other definitions of agricultural use found in WAC 173-26-020(3).

5.05.01 POLICIES

A. Permit all agricultural activities existing as of the effective date of the updated SMP to continue.

B. Locate and design new agricultural activities on land not currently used for agricultural activity to assure no net loss of ecological functions and not to have a significant adverse impact on other resources and values in shoreline jurisdiction.

C. Implement best management practices (BMPs) to protect the shoreline and aquatic environments from bank failure, erosion, siltation, and surface runoff, consistent with critical area regulations.

D. Maintain vegetative cover in areas subject to frequent flooding.

E. Prohibit the storage of toxic or hazardous chemicals used for agricultural practices in shoreline areas subject to flooding.

F. Permit upland finfish facilities in shoreline jurisdiction as a shoreline conditional use to allow the city and Ecology to review proposals on a case-by-case basis using the most current and best information.

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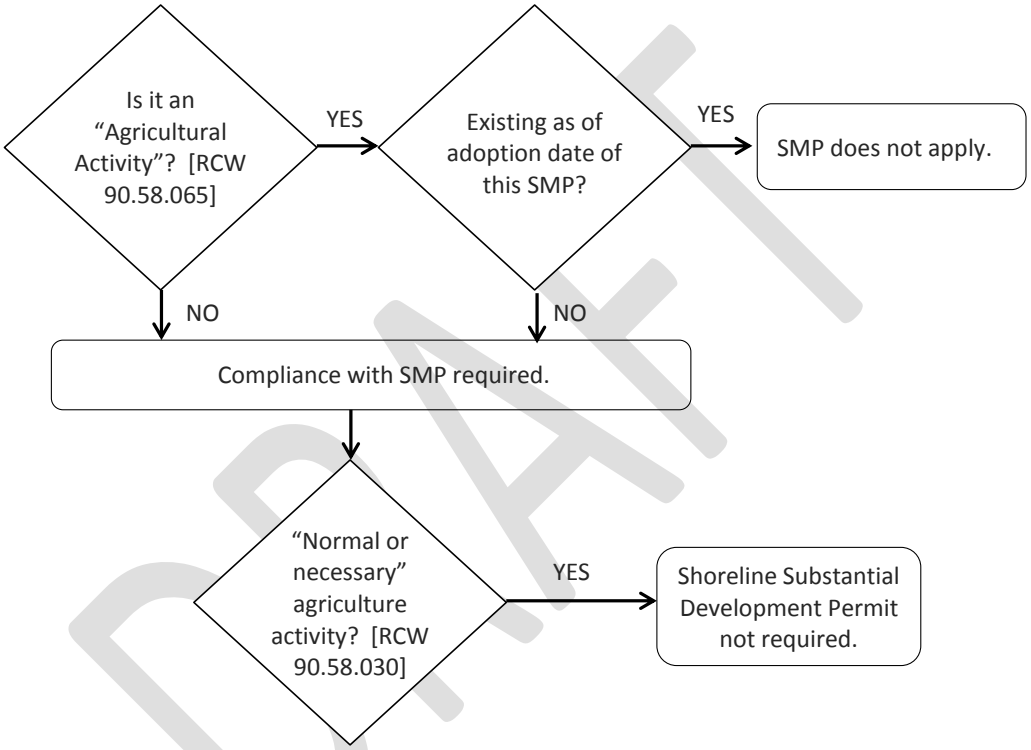
5.05.02 REGULATIONS

A. Applicability

The SMA permits specific agricultural activities to be excepted from regulation under the SMP. Other agricultural practices qualify for a more limited exemption from the requirement to obtain a shoreline substantial development permit.



1. Excepted Activities. If an activity qualifies as agricultural activity on agricultural land, as defined in RCW 90.58.065, and the activity existed as of the date of adoption of the SMP, then the provisions of this SMP do not apply and a shoreline permit is not required for that activity.
   a. Maintaining, repairing, and replacing agricultural facilities, including modernization and replacement of existing facilities.
   b. In all other cases not specifically excepted under the SMA, all substantive SMP provisions apply.

2. Permit-Exempt Activities. If an activity does not qualify as excepted as described in SMP Section 5.05.02(A)(1) above, it may still qualify for an exemption from the requirement to obtain a shoreline Substantial Development Permit under RCW 90.58.030(3)(e) and WAC 173-27-040(2).

   Pursuant to WAC 173-27-040(1), such exemptions are to be construed narrowly, and an exemption from the substantial development permit process is not an exemption from compliance with the SMP. A shoreline substantial development permit is required for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(e)(iv).

B. Development Standards for New Agricultural Activities

1. Agricultural uses and development shall be consistent with the shoreline environment designation in which it is proposed, ensure no net loss of ecological function, and not have a significant adverse impact on other shoreline resources and values.
2. Agricultural practices must prevent and control erosion of soils and bank materials within shoreline areas.
3. Pesticides and herbicides must be handled, applied, and disposed of in accordance with provisions of the Washington Pesticide Application Act (Chapter 17.21 RCW) and the Washington Pesticide Control Act (Chapter 15.58 RCW).
4. Feedlot operations and animal waste retention and storage areas must not be located within shoreline jurisdiction unless direct manure runoff is prevented.
5. The bulk disposal of inorganic farm wastes, chemicals, fertilizers, and associated containers and equipment within shoreline jurisdiction is prohibited.
6. The storage of toxic or hazardous chemicals used for agricultural practices is prohibited in shoreline areas subject to flooding.
7. Agricultural-commercial uses (such as roadside stands, pumpkin patches, etc.) are allowed where indicated in SMP Table 5-1: Permitted, Conditional, and Prohibited Uses and shall be consistent with commercial use standards in SMP Section 5.08.
8. Conversion of agricultural land to non-agricultural uses shall be consistent with the shoreline environment designation in which it is proposed. Conversions shall be subject to the general regulations and those use-specific regulations applicable to the proposed use, and shall not result in a net loss of shoreline ecological functions.

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9. Upland finfish facilities in the shoreline jurisdiction require a shoreline conditional use permit. Review of the application by the Shoreline Administrator will include consideration of the following:
    a. Specific site conditions;
    b. Current and locally applicable science;
    c. Potential use conflicts;
    d. Cumulative impacts; and
    e. Potential mitigation and monitoring requirements

5.06 AQUACULTURE

Aquaculture is the culture or farming of fish, shellfish, or other aquatic plants and animals, excluding upland finfish facilities, which are regulated in SMP Section 5.05. Aquaculture is a preferred use ~~in the shoreline jurisdiction~~of the water area when consistent with control of pollution and prevention of damage to the environment. Locations for aquaculture are relatively restricted due to requirements for water quality, temperature, flows, oxygen content, and adjacent land uses.

Comment [VZK(16]: WAC 173-26-241(2)(i)(A)

5.06.01 POLICIES

A. Design, locate, and operate aquaculture uses in a manner that supports the long-term beneficial use of the shoreline and protects and maintains shoreline ecological functions and processes.

B. Do not allow aquaculture in locations that would result in a net loss of shoreline ecological functions, adversely affect the quality or extent of habitat for native species, or interfere with navigation or other water-dependent uses.

C. Minimize the potential of cumulative adverse impacts from aquaculture on water quality, sediment quality, benthic and pelagic organisms, wild fish populations, or other federal Endangered Species Act (ESA) listed species because of antibiotic resistant bacteria, escapement of non-native species, and/or other factors.

D. Give latitude when implementing regulations for this use, because the technology associated with some forms of aquaculture is in formative stages.

E. Minimize potential aesthetic impacts associated with aquaculture uses through the consideration of view impacts on surrounding properties and public access points.

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F. Protect legally established aquaculture enterprises from incompatible uses that may seek to locate nearby and uses or developments that have a high probability of damaging or destroying the aquaculture operations.

G. Recognize limited availability of suitable locations for aquaculture uses because of specific requirements related to water quality, temperature, oxygen content, currents, adjacent land use, wind protection and navigation.

5.06.02 REGULATIONS

A. Applicability

1. Review ~~as part of this SMP~~ is required for all new aquaculture facilities or farms, as well as projects that seek to expand an aquaculture use beyond the area for which a previous permit was issued.
2. Ongoing maintenance, harvest, replanting, or changing of culture techniques or species do not require review under the SMP, unless the cultivation of the new species or the use of a new culture technique has the potential for significant adverse environmental impacts.
3. A written statement of exemption in accordance with Section 7.04.04 is required for all aquaculture activities that are reviewed as part of this SMP, but that do not require a shoreline substantial development permit, conditional use permit, or variance.

B. Location

1. Water-dependent portions of aquaculture facilities and their necessary accessories may be located waterward of the OHWM in the Aquatic shoreline environment or in the shoreline buffer. Water intakes and discharge structures, water and power conveyances, and fish collection and discharge structures are considered water-dependent or accessory to water-dependent facilities.
2. All other elements of aquaculture facilities shall be located outside the shoreline buffer, unless those facilities are deemed water-related and proximity to the water-dependent project elements is critical to implementation of the facility's purpose.
3. Sites shall be selected to avoid or minimize alteration of the shoreline. Applicants for aquaculture operations shall be required to demonstrate that the location of the proposed facilities avoids and minimizes impacts to on-site critical areas and

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habitats to the maximum extent feasible, and limits impacts on existing public access points, navigable waters, and other water-dependent uses.

4. Aquaculture facilities shall be designed and located so as not to spread disease to native aquatic life, establish new non-native species that cause significant ecological impacts, or significantly affect the aesthetic qualities of the shoreline.

C. General Requirements

1. Aquaculture that involves substantial aquatic substrate modification or sedimentation through dredging, trenching, digging, or other mechanisms, shall not be permitted in areas where the proposal would have long-term adverse impacts on the strength or viability of native stocks. The degree of proposed substrate modification shall be the minimum necessary for feasible aquaculture operations at the site.
2. New aquaculture proposals shall comply with mitigation sequence in SMP Section 4.03. Aquaculture uses that would have a significant adverse impact on natural shoreline processes or result in a net loss of shoreline ecological functions are prohibited.
3. New aquatic species that were not previously found or cultivated in the shoreline jurisdiction shall not be introduced into fresh waters without prior written approval of the WDFW and the Washington State Department of Health.
4. Permanent water-dependent instream facilities must be properly anchored to prevent channel migration, erosion or a safety hazard, and must evaluate and mitigate potential adverse effects on adjacent properties upstream and downstream.
5. No processing of aquaculture products, except for the sorting or culling of the cultured organism and the washing or removal of surface materials or organisms after harvest, shall occur in or over the water unless specifically approved by permit. All other processing facilities shall be located on land. If within shoreline jurisdiction, such facilities shall be subject to the applicable policies and regulations of SMP Section 5.06 and SMP Section 5.10.
6. Aquaculture structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures or equipment shall be removed or repaired promptly by the owner.

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7. Aquacultural uses shall comply with all applicable noise, air, and water quality standards. All projects shall be designed, operated, and maintained to minimize odor and noise.

~~8. Aquacultural uses shall be restricted to reasonable hours or days of operation consistent with tide action when necessary to minimize substantial, adverse impacts from noise, light, or glare on nearby residents, other sensitive uses, or critical habitat.~~

~~9.~~8. Aquaculture facilities shall not substantially degrade the aesthetic qualities of the shoreline. Aquaculture structures and equipment, except navigation aids, shall be designed, operated, and maintained to blend into their surroundings.

Comment [VZK(17]: You are right, I was alluding to that case. I'm not sure the revisions adequately address the results of the court case which said that activities may be limited but only to the minimum necessary to effectively pursue aquaculture.

WAC 173-26-241(2)(B)(iv)(H), while focused on geoduck aquaculture, provides some guidance: work often needs to occur during low tides, sometimes at night or on weekends. Local governments must allow work during low tides but may require limits and conditions to reduce impacts, such as noise and lighting, to adjacent uses.

D. Commercial Geoduck Aquaculture

1. Commercial geoduck aquaculture shall only be allowed where sediments, topography, and land and water access support geoduck aquaculture operations without significant clearing or grading.
2. Planting, growing, and harvesting of farm-raised geoduck clams requires a substantial development permit if a specific product or practice does not cause substantial interference with normal public use of the surface waters.
3. A conditional use permit is required for new commercial geoduck aquaculture. Where an applicant proposes to convert existing non-geoduck aquaculture to geoduck aquaculture, ~~the city may decide if~~ a conditional use permit is required. No subsequent cycles of planting and harvest shall require a new conditional use permit.

Comment [VZK(18]: I'm not even sure this is a realistic activity in Aberdeen as it may not be saline enough.

Comment [VZK(19]: The discretion to require a CUP is a direction in the Guidelines for the jurisdiction to make a decision in the SMP, and not that it is a case by case decision. So the SMP should state whether a CUP will be required or not for conversions. [I do recognize that geoduck cultivation is unlikely to occur in Grays Harbor.]

Comment [NS20]: **AHBL Comment:** This now says that a CUP is required for conversions.

E. Application Requirements

1. Commercial aquaculture shall conform to all applicable state and federal regulations. The city may accept application documentation required by other permitting agencies for new and expanded aquaculture uses and development to minimize redundancy in permit application requirements.
2. Additional studies or information may be required by the city, which may include but is not limited to monitoring and adaptive management plans and information on the presence of and potential impacts to, including ecological and visual impacts, existing shoreline or water conditions and/or uses, vegetation and overwater structures.

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3. The city shall provide public notice to affected tribes and all property owners within 300 feet of the proposed project boundary.

5.07 BOATING AND WATER ACCESS FACILITIES

This section applies to all in-water and overwater structures and uses that facilitate water access or the launching or mooring of vessels, including all public and private docks, piers, marinas, mooring buoys, launch ramps, and recreational floats. It does not apply to marine terminals and moorage structures, which are regulated in SMP Section 5.10.

Construction of dock structures for the private noncommercial use of the owner, lessee, or contract purchaser of single- and multifamily residences are exempt from the requirement for a shoreline substantial development permit pursuant to RCW 90.58.030(3)(e)(vii) and WAC 173-27-040(h). An HPA from the WDFW may still be required, as well as approvals from other agencies such as the United States Army Corps of Engineers' (USACE).

5.07.01 POLICIES

A. Encourage the construction and operation of boating and water access facilities to allow public access for enjoyment of shorelines.

B. Site, design, construct, and operate boating and water access facilities to incorporate BMPs and ensure no net loss of shoreline ecological functions.

C. Balance the encouragement of public access and the protection of ecological functions in the expansion of existing or construction of new boating and water access facilities.

D. Minimize the amount of shoreline modification, ~~in-water structures,~~ over-water cover, changes to water circulation and quality, and effects to fish and wildlife habitat from boating and water access facilities. The length, width, and height of over-water structures should be no greater than that required for safety and feasibility for the primary use.

E. Ensure that boating and water access facilities do not impact the navigability of the waterbody or adversely affect other water-dependent uses.

F. Plan and coordinate public boating and water access facilities needs regionally. Shorelines particularly suitable for public boat launch facilities are limited and should be identified and reserved on a regional basis.

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G. Only allow the construction of new docks and piers for public access or water-dependent uses.

H. Allow recreational floats only where they support public or private recreational uses or in lieu of fixed piers adjacent to a residential land use.

I. Minimize impacts to adjacent uses and users, such as aesthetic or noise-related impacts, impacts to public visual access to the shoreline, or offsite impacts caused by public access to the shoreline. If impact avoidance is not feasible, require mitigation.

J. Limit the lighting of boating and water access facilities to the minimum extent necessary.

K. Prohibit new moorage covers, except in limited instances through the shoreline conditional use process.

5.07.02 REGULATIONS

A. Location Standards

1. New boating and water access facilities shall maintain the rights of navigation on the waters of the state.
2. Boating and other water access facilities shall be sited and designed to ensure no net loss of shoreline ecological functions
3. Boating and other water access shall meet the Washington State Department of Natural Resources (WDNR) requirements and other state guidance if located in or over state-owned aquatic lands.
4. Boating and water access facilities shall be located where:
   a. There is adequate water mixing and flushing;
   b. Such facilities will not adversely affect flood channel capacity or otherwise create a flood hazard;
   c. Water depths are adequate to minimize spoil disposal, filling, beach enhancement, and other channel maintenance activities; and
   d. Water depths are adequate to prevent the facility from grounding out at the lowest low water or the facility includes stoppers to prevent grounding.
5. Boating and water access facilities shall not be located :

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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 new dredging or new ongoing maintenance dredging will be required solely for creating a new facility. This requirement does not prohibit the siting of new boating facilities in locations where maintenance dredging activities occurs to support another existing use;

d. In areas with important habitat for aquatic species or where wave action caused by boating use would increase bank erosion rates; or

e. In areas where it would be incompatible with the need to protect the public health, safety, and welfare.

6. Boating and water access facilities shall be designed to ensure that lawfully existing or planned public shoreline access is not blocked, obstructed, or made dangerous.

7. Major boating and water access facilities, such as marinas, shall be located only where adequate utility services are available, or can be provided concurrently.

B. General Design Standards for Boating and Water Access Facilities

1. Boating and water access facilities shall be designed and operated to avoid or minimize impacts. Unavoidable impacts must be mitigated consistent with the mitigation sequence in SMP Section 4.03 and critical areas in SMP Section 4.04.

2. All boating and water access facilities and shoreline modifications to support these uses shall be the minimum size necessary to accommodate the anticipated demand for the facility.

3. Boating and water access facilities shall be designed to provide physical or visual public access to the shoreline for as many water-oriented recreational uses as feasible, commensurate with the scale of the proposal, including, but not limited to, physical and visual access to waterbodies, public piers, or fishing platforms.

4. Project applicants shall comply with all local and state policies and regulations, including all applicable health, safety, and welfare requirements associated with the primary or accessory use. These standards include but are not limited to the WDNR and the WDFW standards and regulations including Hydraulic Code Rules (Chapter 220-660 WAC).

5. All boating or water access facilities shall be constructed and maintained in a safe condition. Abandoned or unsafe boating or water access facilities shall be removed or repaired promptly by the owner.
6. Wooden components of boating or water access facilities that will be in contact with water or installed over water shall not be treated or coated with herbicides, fungicides, paint, pentachlorophenol, arsenate, creosote, or similar toxic substances. Boating or water access facilities shall be made out of materials that have been approved by applicable state and federal agencies.
7. Lighting associated with boating or water access facilities shall be shielded to avoid causing glare on adjacent properties or waterbodies. Illumination levels shall be the minimum necessary for safety.
8. Boating or water access facilities must be limited to day moorage only. No live-aboard vessels or floating homes are allowed.
9. Non-water-dependent elements and uses, such as decks and gazebos built on docks or piers, are not allowed.
10. Upland boat storage may be allowed within the shoreline jurisdiction provided impermeable surface limitations and other standards are met, mitigation sequencing is followed, and impacts can be mitigated to achieve no net loss.

C. Supplementary Standards for Boat Ramps and Launches

1. New boat ramps and launches shall follow BMPs and the standards in WAC 220-660-150 to avoid impacts to shoreline ecological functions, such as effects to nearshore habitat.
2. Only joint-use new boat ramps and launches are allowed for new residential development or subdivisions of two or more waterfront dwellings occurring after the effective date of this SMP.
3. Boat ramps and launches may be permitted for boating and water access facilities, recreational uses, and developments with more than four residential units subject to SMP Table 5-1: Permitted, Conditional, and Prohibited Uses.
4. Boat ramps and launches shall be sited to minimize impacts to aquatic and upland wildlife habitats, native emergent vegetation, fluvial processes, water quality, and navigation. All facilities shall be sited and designed per required mitigation sequencing.

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5. Boat ramps and launches shall be located where water depths are adequate to eliminate or minimize the need for dredging, filling, beach enhancement, or other maintenance activities.
6. The design of boat ramps and launches shall comply with all regulations as stipulated by state and federal agencies, affected tribes, or other agencies with jurisdiction.
7. The applicant shall demonstrate that the proposed length of a boat ramp or launch is the minimum necessary to launch the intended craft safely.
8. Boat ramps and launches shall be designed and be constructed using methods and technology recognized and approved by state and federal resource agencies as BMPs.

D. Supplementary Standards for Boat Launching Rails

1. Boat launching rails may be permitted subject to the requirements of SMP Table 5-1: Permitted, Conditional, and Prohibited Uses.
2. The applicant shall demonstrate that the proposed length of the boat launching rail is the minimum necessary to launch the intended craft safely and to comply with all requirements established by state and federal agencies, affected tribes, and other agencies with jurisdiction. In no case shall the rail extend beyond the point where the water depth is eight feet below the OHWM.
3. Boat launching rails shall be anchored to the ground with the use of tie-type construction.
4. No more than one boat launching rail per single-family residence or duplex is permitted.

E. Supplementary Standards for Boat Lifts and Canopies

1. New boat lifts and canopies shall follow BMPs and the standards in WAC 220-660-140 to avoid impacts to shoreline ecological functions, such as effects to nearshore habitat.
2. New boat lifts and an accessory boat lift canopies may be permitted as part of an approved dock or pier as specified in SMP Table 5-1: Permitted, Conditional, and Prohibited Uses, so long as the following requirements are met:
    a. The boatlift is placed as far waterward of the OHWM as is feasible and safe, to avoid impacts to nearshore habitat.

b. The bottom of a boatlift canopy is elevated above the boatlift to the maximum extent feasible. The lowest edge of the canopy must be at least four feet above the water surface, and the top of the canopy must not extend more than seven feet above an associated pier.

c. No hydraulic fluid other than water shall be used in the boatlift system. A backflow protection may be required.

3. A maximum of two cubic yards of clean rock fill or pre-cast concrete blocks are permitted to anchor the boat lift if the substrate prevents the use of anchoring devices.

4. One boat lift or up to two Jet Ski lifts is allowed per dock or pier.

F. Supplementary Standards for Docks and Piers

1. New docks and piers shall follow BMPs and the standards in WAC 220-660-140 to avoid impacts to shoreline ecological functions, such as effects to nearshore habitat.

2. New docks and piers shall be allowed only for public access and water-dependent uses, including single-family residences, so long as the dock or pier complies with the regulations contained in this section. Docks and piers shall meet the following standards:

   a. Docks and piers serving a single-family residence are defined as water-dependent accessory uses when designed and intended as a facility for access to watercraft. To be authorized, the residential use and the accessory dock or pier must be allowed in the underlying upland shoreline environment designation.

   Comment [VZK(21]: Consistent with WAC 173-26-231(3)(b)

   b. New docks and piers that are not accessory to single-family residences shall be permitted only when they are intended for public use or when the applicant demonstrates that the new dock or pier supports a water-dependent use.

   c. No more than one dock or pier is permitted for each single-family residence existing as of the effective date of this SMP.

   d. No more than one pier, dock, or other moorage structure is allowed for a water-dependent commercial use or a multifamily development.

3. When individual lots have less than 50 feet of water frontage, a joint-use dock or pier that is shared with neighboring properties shall be required, provided that an individual dock may be allowed subject to the requirements of SMP Table 5-1: Permitted, Conditional, and Prohibited Uses when lots on either side of the subject

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lot have legal pre-existing docks or piers and the applicant demonstrates to the satisfaction of the Shoreline Administrator that a shared use agreement is not feasible. In this case only, a lot with less than 50 feet of minimum shoreline frontage may be permitted an individual dock or pier.

4. The maximum dimensions of a dock or pier ~~shall be no greater than necessary and~~ shall ~~generally~~ meet the following development standards. An explanation of why the dock or pier length was chosen ~~must~~ shall be submitted with the application.

   a. Residential docks and piers shall be no greater than the widths allowed for HPA permits in WAC 220-660-140(3)~~no more than six feet in width~~ and shall not exceed ~~1~~50 feet beyond the OHWM.

   b. Docks and piers for commercial, recreational, or public access use may be up to ~~eight~~ ten feet in width and shall not exceed 200 feet beyond the OHWM.

   c. Docks and piers shall be set back a minimum of ten feet from side property lines. Provided 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. A copy of such agreement shall be recorded with the Grays Harbor County Auditor and filed with the shoreline permit application.

   d. Proposed docks and piers that do not comply with the dimensional standards above may only be approved if they obtain a shoreline variance. Pursuant to WAC 173-27-040(2)(b), any existing legal nonconforming dock or pier may be repaired or restored to its original size, dimension, and location without the need for a variance, if it is below the replacement thresholds found in SMP Section 5.07.02(K)(1). Projects undertaken pursuant to this section must be permitted within two years of removal of the pre-existing, nonconforming structure.

Comment [BM22]: AHBL Comment: We reduced residential dock lengths from 150 feet to 50 feet since they are on the rivers.

Comment [VZK(23]: As per comments on the Hoquiam draft, these dock standards (particularly the length, may not be appropriate anywhere but along Grays Harbor estuary shorelines.

Comment [BM24]: AHBL Comment: No maximum size is provided for recreational piers in WAC 220-660-140(3). We suggest being as flexible as possible since the state will have ultimate say.

G. Supplementary Standards for Marinas

1. New marinas shall follow BMPs and the standards in WAC 220-660-140 to avoid impacts to shoreline ecological functions, such as effects to nearshore habitat.

2. Marinas shall be designed to:

   a. Provide thorough flushing of all enclosed water areas;

   b. Allow the free movement of aquatic life in shallow water areas; and

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c. Avoid and minimize any interference with geohydraulic processes and disruption of existing shore forms.

3. New marinas shall provide public access amenities such as viewpoints, interpretive displays, and public access to access water-enjoyment uses such as restaurants.
4. Marinas shall have adequate facilities and procedures for fuel handling and storage, and the containment, recovery, and mitigation of spilled petroleum, sewage, and other potentially harmful or hazardous materials, and toxic products.
5. Sufficient utility services must be provided concurrent with the marina development or be situated where they are already available. New marinas must include adequate restroom and sewage disposal facilities, such as pump out, holding, or treatment facilities.
6. The marina operator shall be responsible for the collection and dumping of sewage, solid waste, and petroleum waste.

H. Supplementary Standards for Moorage Covers

1. New moorage covers may be permitted as a shoreline conditional use in the locations specified in SMP Table 5-1: Permitted, Conditional, and Prohibited Uses, if the proposal addresses the following:
   a. The applicant demonstrates that the moorage cover is the minimum size necessary to provide for the water-dependent use;
   b. The moorage cover does not create any potential adverse impacts to public safety;
   c. The moorage cover is placed as far waterward of the OHWM as feasible and safe, within the limits of the dimensional standards for docks and piers (except for dock and pier width) established in this section;
   d. There is only one moorage cover per dock or pier, including joint use docks or piers; and
   e. The moorage cover complies with all other conditional use criteria in WAC 173-27-160 and SMP section 7.04.02.

I. Supplementary Standards for Mooring Buoys

1. New mooring buoys shall follow BMPs and the standards in WAC 220-660-140 to avoid impacts to shoreline ecological functions, such as effects to nearshore habitat.

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2. Up to one mooring buoy is allowed per dwelling unit in lieu of a dock or pier.
3. Mooring buoys shall be anchored in accordance with all state and federal requirements.

J. Supplementary Standards for Recreational Floats

1. New recreational floats shall follow BMPs and the standards in WAC 220-660-140 to avoid impacts to shoreline ecological functions, such as effects to nearshore habitat.
2. New recreational floats may be permitted as specified in SMP Table 5-1: Permitted, Conditional, and Prohibited Uses, so long as the following requirements are met:
   a. The recreational float complies with all requirements established by state and federal agencies, affected tribes, and other agencies that have jurisdiction.
   b. The recreational float is located as close to the shore as feasible and no farther waterward than the existing floats and established swimming areas.
3. Recreational floats shall be designed and intended for swimming or other non-motorized uses.
4. Recreational floats must be built so that the deck surface is one foot above the water's surface.
5. Retrieval lines for recreational floats shall not float at or near the surface of the water.

K. Existing Uses and Structures

1. <u>Replacement</u>
   a. If any of the following are proposed, the project is considered a new boating and water access facility and must be designed consistent with any applicable standards for new boating and water access facilities.
      1) Replacement of the entire overwater boating and water access facility;
      2) Replacement of 75 percent or more of support piles on a cumulative basis over the life of the piles; or
      3) Replacement of 75 percent or more of a boat launch on a cumulative basis over the life of the boat launch.
2. <u>Modification or Enlargement</u>

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a. Applicants must demonstrate that there is a need for modification or enlargement due to increased or changed use or demand, safety concerns, or inadequate depth of water.

b. Enlarged portions of boating and water access facilities must comply with any applicable design and mitigation standards for new facilities.

3. Repair

a. Repairs to existing legally established boating and water access facilities that fall below the standards identified in SMP Section 5.07.02(K)(1) are permitted consistent with all other applicable codes and regulations.

b. All repairs must utilize any material standards specified for new facilities.

L. Mitigation

1. New or expanded boating and water access facilities should follow the mitigation sequence in SMP Section 4.03.
2. Compensatory mitigation proposals must provide mitigation at a minimum 1:1 ratio, by area, of new overwater cover to mitigation action using one or more of the potential mitigation measures listed below. The ratio should be increased if the measure will take more than one year to provide equivalent function or if the measure does not have a high success rate, as determined by a qualified professional.
3. For new development and expansion of existing boating and water access facilities, appropriate compensatory mitigation may include items including but not limited to, one or more of the following measures:

a. Removal of any legal existing overwater or in-water structures that are not the subject of the application or otherwise required to be removed;

b. Removal or ecological improvement of hardened shoreline, including existing launch ramps or structural shoreline stabilization;

c. Removal of man-made debris waterward of the OHWM, such as car bodies, oil drums, concrete or asphalt debris, remnant docks, or other material detrimental to ecological functions and ecosystem-wide processes; or

d. Planting of native vegetation along the shoreline immediately landward of the OHWM consisting of a density and composition of trees and shrubs typically found in undisturbed areas adjacent to the subject waterbody.

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4. In-kind measures are preferred over out-of-kind measures when consistent with the objective of compensating for adverse impacts to ecological function.

M. Application Requirements

In addition to the general application requirements, the following submittals, as applicable, are necessary for all new or expanded boating and water access facilities:

1. A description of the proposed boating and water access facility, including its size, location, design, and any shoreline stabilization or other modification measures;
2. The ownership of the property and aquatic lands;
3. Habitat surveys and critical area studies consistent with SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.
4. Assessment of potential impacts to existing ecological processes, including but not limited to sediment transport, hydrologic patterns, and vegetation disturbance.
5. A mitigation plan for unavoidable adverse impacts to ecological functions or processes pursuant to SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.
6. A slope bathymetry map when deemed beneficial by the Shoreline Administrator.
7. An assessment of existing water-dependent uses in the vicinity and documentation of potential impacts to those uses and mitigating measures.
8. In addition, applicants must provide an assessment of need and demand for all new or expanded marina facilities, including, but not limited to:
    a. Existing approved facilities, or pending applications, within the service range of the proposed new facility.
    b. The expected service population served by the facility; and
    c. Boat ownership characteristics of the population, if that information supports justification for specific design elements related to facility length or width, or necessary water depth, or other design factors.

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5.08 COMMERCIAL DEVELOPMENT

Commercial uses and developments are those uses that are involved in wholesale and retail trade or business activities. Many commercial developments are intensive users of space because of extensive floor areas and facilities, such as parking, necessary to service them.

5.08.01 POLICIES

A. Encourage the development of water-oriented commercial developments, which utilize their location to offer opportunities for substantial numbers of people to enjoy the shoreline.

B. Encourage new commercial development along shorelines to locate in areas where current commercial uses exist, if the locations are suitable for such use.

C. Encourage non-water-oriented commercial development to locate outside of the shoreline jurisdiction.

D. Design new commercial development to protect the public's health, safety, and welfare; provide public access where feasible; and ensure no net loss of shoreline ecological functions.

E. Minimize the adverse impacts that may result from commercial buildings, such as blocked views, aesthetic impacts, or noise.

5.08.02 REGULATIONS

A. Commercial development shall not result in a net loss of shoreline ecological functions or have significant negative impacts to shoreline uses, resources, and values such as navigation, recreation, and public access.

B. New non-water-oriented commercial development is prohibited in shoreline jurisdiction unless it meets one of the following criteria:

1. The commercial use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit such as providing public access or ecological restoration;
2. Navigability is severely limited at that location and the commercial use provides a significant public benefit such as public access or ecological restoration; or
3. The commercial use is physically separated from the shoreline by another property, railroad, or public right of way.

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C. Non-water-dependent commercial uses over water are prohibited in shoreline jurisdiction except in existing structures or where necessary in support of water-dependent uses.

5.09 FOREST PRACTICES

Forest management practices are those methods used for the protection, production, and harvesting of timber. The FPA (Chapter 76.09 RCW) is the basis of management of commercial forest uses within shoreline jurisdiction. The WDNR is responsible for all forest practices including those within shoreline jurisdiction.

5.09.01 POLICIES

A. Effectively balance timber harvesting with the preservation of shoreline ecological functions, public access to shorelines, and other shoreline goals.

B. Ensure state and federal water quality standards are maintained while conducting timber-harvesting practices in shoreline jurisdiction.

C. Prevent the accumulation of slash and other debris in waterways during logging and thinning operations.

D. Ensure that timber harvesting on shorelines of statewide significance does not exceed the limitations established in RCW 90.58.150 except in cases where selective logging is found to be ecologically detrimental or inadequate for the preparation of land for other uses authorized in the SMP.

E. Ensure the maintenance of shoreline buffers while conducting logging within shoreline jurisdiction.

F. Promote proper road, trail, and bridge design, location and construction, and maintenance practices to prevent development of roads and structures that would adversely affect shoreline resources.

G. Ensure that forest practice conversions to nonforest uses do not result in net loss of ecological functions or significant adverse impacts to other shoreline uses, resources, and values such as navigation, recreation, and public access.

5.09.02 REGULATIONS

A. Aside from timber cutting, all forest practices, including forest conversions, building roads, trails, and bridges, and placing culverts in the shoreline jurisdiction, shall comply

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with the applicable policies and provisions of the FPA, the SMP, Chapter 76.09 RCW as amended, and Chapter 222 WAC as administered by the city.

B. Preparatory work associated with the conversion of land to non-forestry uses or developments shall:

   1. Limit the conversion to the minimum necessary to accomplish the purpose and intent of the SMP on the subject property.
   2. Ensure no net loss of shoreline ecological functions or significant adverse impacts to shoreline uses, resources, and values provided for in RCW 90.58.020 such as navigation, recreation, and public access.
   3. Demonstrate that conversion practices are conducted in a manner consistent with the shoreline environment designation in which they are located.

C. Within shoreline jurisdiction along shorelines of statewide significance, only selective commercial timber cutting may be permitted so that no more than 30 percent of the merchantable timber may be harvested in any ten-year period.

   1. Other timber harvesting methods may be permitted with a shoreline conditional use permit in those limited instances where the topography, soil conditions, or silviculture practices necessary for regeneration render selective logging ecologically detrimental.
   2. Clear cutting of timber solely incidental to the conversion and preparation of land for uses authorized in the SMP may be permitted.

5.10 INDUSTRIAL AND PORT DEVELOPMENT

In applying the policies and regulations of this section, the following definitions are used:

- "Industrial" means the production, processing, manufacturing, or fabrication of goods or materials. Warehousing and storage of goods and materials is considered industrial development.
- "Port" means a center for water-borne commerce and traffic and includes marine terminals and moorage facilities.

Industrial and port developments are often associated with other uses and modifications that are identified separately in the SMP, such as parking or dredging. Every use and type of

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shoreline modification should be identified and reviewed for compliance with all applicable sections.

For the purposes of determining to which uses and activities this classification applies, the use of marine terminals and moorage facilities shall be permitted only where port and industrial uses are allowed. This use category shall likewise apply to facilities that handle the loading and unloading of cargo, freight mobility, and materials associated with industrial or port uses.

Industrial and port development is intensive and has the potential to impact the shoreline environment. When impacts cannot be avoided, they must be mitigated to assure no net loss of the ecological function necessary to sustain shoreline resources.

5.10.01 POLICIES

A. Ensure the designation of sufficient land to accommodate water-dependent or water-related industrial and port development.

B. Locate, design, and construct industrial and port development to assure no net loss of shoreline ecological functions and to limit adverse impacts to other shoreline resources and values.

C. Encourage new industrial and port development to locate where environmental cleanup and restoration can be incorporated.

D. Consider public access and ecological restoration as potential mitigation of impacts to shoreline resources for all water-related and -dependent industrial and port uses consistent with the regulation of private property.

E. Expansion or redevelopment of water-dependent industrial and port facilities and areas should be encouraged, provided it results in no net loss of shoreline functions.

F. Locate future non-water-dependent industry in areas away from the shoreline.

G. Encourage the cooperative use of docking, parking, cargo handling, freight mobility, and storage facilities in shoreline industrial areas.

H. Encourage viewing of port and industrial uses from viewpoints, and similar public facilities that do not interfere with operations, violate federal security regulations, or endanger public health and safety.

I. Ensure that ports and industrial uses that are located in the Aquatic shoreline environment designation are the minimum size necessary to support the proposed use and that multiple uses of overwater facilities are encouraged.

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5.10.02 REGULATIONS

A. Water-dependent industrial and port uses shall have shoreline location priority over all other uses in the High Intensity shoreline environment designation.

B. The location, design, and construction of industrial and port development shall result in no net loss of ecological functions or have significant negative impacts to shoreline use, resources, and navigation, recreation, and public access.

C. New ports and industrial uses that are located in the Aquatic shoreline environment designation shall be the minimum size necessary to support the proposed use and that multiple uses of overwater facilities are encouraged.

D. New non-water-oriented uses are prohibited in shoreline jurisdiction unless they meet one of the following criteria:

   1. It is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit such as providing public access or ecological restoration;
   2. Navigability is severely limited on the site and the industrial use provides a significant public benefit of providing public access or ecological restoration; or
   3. The site is physically separated from the shoreline by another property or public right of way.
   4. The site is adjacent to a tributary such as Fry Creek or an associated wetland and not the Chehalis, Hoquiam, or Wishkah Rivers or the Grays Harbor Estuary.

E. Public access should be incorporated where feasible. Public access shall be required where feasible for new industrial and port development on publicly owned land and does not interfere with operations, violate federal security regulations, or endanger public health and safety.

F. Industrial and port development shall comply with all local, state, and federal requirements regarding air and water quality.

G. BMPs shall be strictly adhered to for facilities, vessels, and products used in association with these facilities and vessels.

H. All developments shall include the capability to contain and clean up spills, discharges, or pollutants, and shall be responsible for any pollution, which they cause.

I. Procedures for handling toxic materials in shoreline areas shall prevent their entering the air or water.

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J. Accessory development, which does not require a shoreline location, shall be located upland of the water-dependent portions of the development and set back from the OHWM as set forth in the shoreline environment designation.

K. All new or expanded upland industrial or port development shall be set back and buffered from adjacent shoreline properties, which are used for non-industrial purposes. Buffers shall be of adequate width, height, and plant and soil composition to protect shorelines and such other properties from visual or noise intrusion, minimize erosion, and protect water quality. New or expanded industrial and port development shall be set back and buffered from the shoreline except those water-dependent portions of the development, which require direct access to the water, or shoreline and any adverse impacts are minimized.

L. Buffers shall not be used for storage of industrial or port equipment or materials, or for waste disposal, but may be used for outdoor recreation if consistent with public access and other provisions of the SMP.

5.11 MINING

Mining is the removal of sand, gravel, minerals, and other materials for commercial and other uses. Mining in the shoreline can alter the natural character, resources, and ecology of shorelines.

5.11.01 POLICIES

A. Design and conduct new mining and associated uses to result in no net loss of shoreline ecological functions and processes.

B. Do not locate new mining on shorelines where unavoidable adverse impacts on other users or resources taken together, equal or outweigh the benefits from mining.

C. Minimize the impacts of mining, such as aesthetics, dust, noise, etc., on existing public access points and water-dependent or enjoyment uses.

D. Begin land reclamation immediately after the termination of mining operations. Use of reclaimed mine property must be consistent with the SMP and provide appropriate ecological functions consistent with the location and Washington State Surface Mining Reclamation Act requirements.

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5.11.02 REGULATIONS

A. Application for mining permits within shoreline jurisdiction shall be accompanied by operation plans, reclamation plans, and an analysis of environmental impacts sufficient to make a determination as to whether the project will result in net loss of shoreline ecological functions and processes during the course of mining and after reclamation.

B. Mining operations and subsequent uses shall not cause permanent impairment or loss of floodwater storage, wetlands, or other stream corridor features and habitats. Mitigation shall provide for the replacement of impacted functions necessary to achieve no net loss of shoreline ecological function.

C. The evaluation of impacts of mining shall be integrated with relevant environment review requirements of SEPA (Chapter 43.21 RCW) and SEPA rules (Chapter 197-11 WAC).

D. New mining waterward of the OHWM or in the CMZ shall not be permitted unless:

   1. Removal of specified quantities of sand and gravel or other materials is proposed at precise locations, which will not adversely affect the natural processes of gravel transportation in the waterbody as a whole;

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

   3. Such uses will not divert flood flows, increase the flooding of downstream or upstream flood hazard areas, or threaten public or private properties; and

   4. A shoreline conditional use permit is obtained.

E. In considering renewal, extension, or reauthorization of mining waterward of the OHWM in locations where mining was previously conducted, compliance with SMP Section 5.11.02(D) shall be required where no such review has previously been conducted. Where there has been a prior review of the mining activities, the Shoreline Administrator shall review the previous determinations to assure compliance under current site conditions.

F. For mining proposals that meet the definition of surface mine in RCW 78.44.031, the proposal shall be consistent with WDNR Surface Mine Reclamation standards found in Chapter 332-18 WAC and Chapter 78.44 RCW. A reclamation plan that complies with the format and standards of Chapter 78.44 RCW shall be included with a shoreline permit application.

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G. In reviewing the permit application and reclamation plan, the Shoreline Administrator shall determine whether the plan is consistent with the SMP and other applicable local regulations. After the applicant has been given reasonable opportunity to revise the plan, an inconsistent reclamation plan shall constitute sufficient grounds for denial of a shoreline permit. Subsequent use of reclaimed sites shall be consistent with the shoreline environment designation and the use criteria provisions of the SMP.

5.12 PARKING

Parking is the temporary storage of automobiles or other motorized vehicles. The following provisions apply to parking that is allowed as an accessory to a permitted shoreline use. Stand-alone parking facilities are prohibited in shoreline jurisdiction.

5.12.01 POLICIES

A. Minimize the amount of parking in the shoreline jurisdiction.

B. Locate and design parking facilities to have the least impact on shoreline features, including shoreline ecological functions and existing or planned water-dependent uses.

C. Locate and design parking to minimize adverse impacts including those related to stormwater run-off, water quality, visual qualities, public access, vegetation, and habitat.

5.12.02 REGULATIONS

A. Parking facilities are allowed only as accessories to authorized shoreline uses. Stand-alone parking facilities not supporting an authorized primary use are prohibited in shoreline jurisdiction.

B. Parking facilities serving individual buildings in shoreline jurisdiction shall be located upland from the principal structure being served, except in the following cases:

   1. When parking facilities are within or beneath the structure and adequately screened.

   2. Where the existing configuration of a commercial or industrial building has parking situated between the structure and the shoreline. No expansion of the parking area towards the water shall be allowed.

   3. When parking to address specific Americans with Disabilities Act of 1990 requirements is required and cannot be placed in another location.

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C. Exterior parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent and abutting properties shoreline jurisdiction.

D. Existing parking areas that are of a non-paved surface, such as gravel, may be paved provided such facilities comply with all applicable water quality, stormwater, landscaping, and other applicable requirements and regulations. Paved parking areas shall be designed to incorporate LID practices, such as permeable surfaces and bioswales, to the extent feasible.

5.13 RECREATIONAL DEVELOPMENT

Recreational development includes commercial and public facilities that provide recreational opportunities to the public. This section applies to public and private recreational uses and development, accessory recreational uses and development, and excludes private recreational uses associated with residential development.

5.13.01 POLICIES

A. Prevent recreational development from causing a net loss of shoreline ecological functions.

B. Encourage the development of recreational facilities that allow the public to access and enjoy shorelines.

C. Create new public access points to shorelines on public lands.

D. Promote the ongoing maintenance of shoreline public access.

E. Work to link shoreline parks and public access points.

F. Protect the rights of private property owners, and help to minimize adverse ~~the~~ impacts on private land associated with neighboring public access points.

G. Ensure sufficient water and wastewater facilities are available to accommodate the demands of recreational development proposals.

H. Encourage preservation of scenic views and vistas.

5.13.02 REGULATIONS

A. Recreational uses and facilities proposed within the shoreline jurisdiction shall be primarily designed to promote access, enjoyment, and use of the water and shorelines

of the state. Non-water-related recreational uses shall predominantly be located outside of the shoreline jurisdiction.

B. Where recreation facilities include overwater structures designed for public access to shorelines, such as public viewing or fishing platforms, the structures shall comply with the relevant requirements of SMP Section 5.07.

C. Applicant shall submit plans that demonstrate the BMPs and methods to be used to prevent chemical applications and resultant leachate from entering adjacent waterbodies.

D. Recreational facilities shall make adequate provisions, such as screening, buffer strips, fences, and signs, to minimize impacts to neighbors and prevent the overflow of pedestrians onto adjacent private properties.

E. Wildlife viewing structures and permeable trails or raised boardwalks are allowed within riparian and wetland buffers in accordance with the mitigation sequence in SMP Section 4.03, the critical area regulations in SMP Section 4.04, and SMP Appendix 2: Critical Areas Regulations.

F. Trails.

   1. See public access standards in SMP Section 4.06.

   2. Trails shall be planted or landscaped to provide a visual buffer for adjoining dissimilar uses or scenic areas. The Shoreline Administrator may condition proposals to:

      a. Select species that are suitable for the local climate and have minimal demands for water, minimal vulnerability to pests, and minimal demands for fertilizers; and

      b. Incorporate native species.

G. Recreational development proposals shall include facilities for water supply, wastewater, and garbage disposal in conformance with local standards.

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

I. In addition to these standards, commercial recreational development shall be consistent with the provisions for commercial development in SMP Section 5.08.

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5.14 RESIDENTIAL DEVELOPMENT

Residential development includes single-family residences and appurtenances, multifamily development, and appurtenant structures and uses, including garages, sheds, fences, necessary utilities, and driveways as well as the creation of new residential lots through land division. Single-family residences are a priority use when developed in a manner consistent with no net loss of environmental functions.

Comment [VZK(25]: These are defined in the definitions section so you don't really need to add them here. However, if you do, I recommend you relocate the list beginning with "and appurtenant structures…and driveways" directly after "single-family residences":

Residential development includes single-family residences and appurtenant structures and uses, including garages….and driveways, multifamily development, as well as the creation of new residential lots…

Comment [NS26]: **AHBL Comment:** We agree that these are in the definitions section and will leave this intact.

The construction of a single-family residence by an owner, lessee, or contract purchaser for their own use or for the use of their family that does not exceed a height of 35 feet above average grade level may be exempt from the requirement for a shoreline substantial development permit but must be consistent with all applicable policies and regulations in the SMP. Refer to the application and interpretation of exemptions in WAC 173-27-040(2)(g).

5.14.01 POLICIES

A. Develop residential uses in a manner that ensures no net loss of shoreline ecological functions and is consistent with provisions relating to shoreline buffer areas, shoreline armoring, vegetation conservation requirements, on-site sewage system standards, and aesthetic enhancement.

B. Control residential uses and development in areas subject to environmental limitations, such as wetlands, stream buffers, and areas of frequent flooding.

C. Set back residential development and uses from steep slopes and shorelines vulnerable to erosion so that structural shoreline stabilization or flood hazard reduction measures are not required to protect such structures.

D. Prohibit new overwater residential development.

E. Encourage public access to the shoreline as part of new residential development, and require public access in accordance with SMP Section 4.06 for new multifamily residential development and subdivisions that include more than four parcels.

F. Consider single-family residences a priority use in planning for uses in the shoreline jurisdiction when developed with no net loss of environmental functions.

G. Consider accessory uses such as driveways, utilities, and other appurtenances as part of the primary residential use and review under the standards of this section.

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5.14.02 REGULATIONS

A. Residential uses and development may be allowed in conformance with local development requirements and SMP provisions.

B. Residential subdivisions shall:

   1. Comply with all applicable subdivision, critical areas, and zoning regulations.
   2. Include facilities for water supply, wastewater, stormwater, solid waste, access, utilities, and other support facilities in conformance with local standards.
   3. Be designed, configured and developed to:
      a. Assure that no net loss of ecological functions will result from the initial division of the land, at full build-out of all the lots, and throughout all phases of development.
      b. Avoid critical areas and their buffers in accordance with SMP Section 4.03.
      c. Prevent the need for new hard or soft shoreline stabilization or flood hazard reduction measures in accordance with SMP Section 6.07 and SMP Section 4.05.
      d. Minimize physical impacts to vegetation and other natural features within the shoreline.
      e. Assure that lots in proposed subdivisions are sufficiently sized and oriented to allow future residential development, without these residential uses requiring a shoreline variance. Lot configurations shall plan for building sites outside of required shoreline and critical area buffers.
   4. Clustering may be permitted, as allowed by local code, to achieve these provisions.

C. Each residential structure, including accessory and appurtenant structures and uses, shall:

   1. Comply with all applicable zoning regulations.
   2. Meet all applicable critical areas, vegetation conservation, and water quality standards of SMP Chapter 4: General Policies & Regulations.
   3. Be designed, sited, and constructed to:
      a. Assure no net loss of shoreline ecological functions.
      b. Prevent the need for new structural flood hazard management measures to the greatest extent feasible.

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c. Be sufficiently set back from steep slopes and shorelines vulnerable to erosion, in accordance with the required critical area and shoreline buffers, to ensure that structural improvements and stabilization structures are not necessary to protect such structures and uses.

D. New multifamily developments and subdivisions over four lots in size shall provide public access under SMP Section 4.06.

E. The primary residential use on any lot shall be established prior to any accessory residential uses. Accessory and appurtenant uses and structures not specifically addressed in the SMP shall be subject to the same regulations as the primary residence.

F. Primary residential uses are prohibited over the water.

G. Residential accessory and appurtenant structures and uses shall be prohibited ~~over the water~~waterward of the OHWM, unless clearly water-dependent.

H. Residential appurtenant and accessory structures or uses are prohibited within shoreline buffers unless specifically authorized in SMP Section 4.04.

5.15 SIGNS

The following provisions apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment.

5.15.01 POLICIES

A. Limit off-premise outdoor advertising signs within the shoreline environment.

B. Ensure that signs are sized and placed to protect vistas and viewpoints of shorelines, waterbodies, and surrounding landscapes from public properties and rights of way.

5.15.02 REGULATIONS

A. Signs shall comply with the applicable city regulations.

B. All signs shall be located and designed to minimize interference with visual access to shoreline jurisdiction.

C. Signs may be allowed if they:

1. Do not obstruct sight distance of drivers and non-motorized roadway users;

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2. Conform with Washington State Department of Transportation (WSDOT) standards for signs on public highways; and
3. Are official in nature, such as traffic control, wayfinding, monument, historic, or cultural site markers, or water navigational, railway, and security signs necessary for operation and safety, etc., and are located within the public right-of-way or are located on the public or private property that contains the use advertised.

5.16 TRANSPORTATION FACILITIES

Transportation facilities include structures that provide for the movement of people, goods, and services by land, air, and water. Transportation facilities include highways, bridges, bikeways, airports, and other related facilities. This section applies to new and expanded transportation facilities within shoreline jurisdiction.

5.16.01 POLICIES

A. Plan, locate, and design new transportation facilities or the expansion of existing facilities where ~~routes~~ they will have the least adverse effect on shoreline features, shoreline ecological functions, and existing or planned water-dependent uses, and impacts can be adequately mitigated.

B. Maintain and reconstruct roads in accordance with the BMPs adopted by the city and WSDOT.

C. Require that public and private developments provide circulation facilities including roads, streets, alleys, pedestrian, bicycle, and public transportation facilities in a manner consistent with local, state, and federal standards and adopted levels of service.

D. Preserve the aesthetic values of the shoreline environment along roadways.

E. Promote the creation and upkeep of viewpoints, rest areas, and picnic areas that are located along transportation facilities in the shoreline jurisdiction.

F. Seek to provide for safe pedestrian and non-motorized travel along scenic corridors, public roadways, and multi-use trails in the shoreline jurisdiction.

G. Design road and railroad structures so that flood debris will not be trapped by the structure.

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5.16.02 APPLICABILITY

A. This section applies to public and private transportation facilities serving motorized and nonmotorized uses.

B. A driveway for an individual single-family residence is considered part of the primary use and it should be reviewed as part of the residence subject to SMP Section 5.14.

5.16.03 REGULATIONS

A. Transportation facilities shall only be placed within shoreline jurisdiction, when no other reasonable option for the location of the facility exists. If no reasonable alternative exists to placing a new transportation facility or expanding an existing facility in shoreline jurisdiction, a mitigation plan prepared by a qualified professional must be prepared consistent with the provisions of SMP Section 4.04.

B. When located within the shoreline jurisdiction, new and expanded transportation facilities shall:

1. Be set back from the OHWM as far as feasible and locate any new water crossings as near to perpendicular with the waterbody as feasible, unless an alternate path would minimize the disturbance of native vegetation or result in the avoidance of critical areas;

2. Be designed with the minimum pavement area required;

3. Minimize adverse effects to unique or fragile shoreline features;

4. Implement the mitigation sequence in SMP Section 4.03 and ensure no net loss of shoreline ecological functions;

5. Avoid adverse impacts on existing or planned water-dependent uses;

6. Allow joint use of the right-of-way with nonmotorized uses and existing or planned primary utility facilities to consolidate the crossings of waterbodies and minimize adverse impacts to shoreline jurisdiction, where feasible; and

7. Provide and maintain visual access to scenic vistas on public roads, where feasible. Visual access may include, but is not limited to turnouts, rest areas, and picnic areas.

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C. Existing roads that are of a non-paved surface, such as gravel, may be paved, if the facilities comply with all applicable mitigation, water quality, stormwater, and landscaping standards, as well as other requirements of the SMP and local regulations.

D. Seasonal work windows may be required for construction projects to minimize impacts to shoreline functions.

E. Where public access to shorelines across transportation facilities is intended, facility designs must provide safe pedestrian and non-motorized vehicular crossings.

F. Crossings of waterbodies, such as bridges, shall be designed to minimize impact to aquatic habitat, allow for fish passage, and the passage of flood debris.

5.17 UTILITIES

The provisions of this section apply only to facilities that produce, convey, store, or process power, gas, sewage, communications, oil, or waste. On-site utility features serving a primary use, such as an electrical line or water, sewer or gas lines to an individual use, are considered accessory utilities and shall be considered under the standards of the primary use of the property.

5.17.01 POLICIES

A. Ensure that the installation of new utilities results in no net loss of shoreline ecological functions.

B. Locate utility lines and facilities outside of the shoreline environment where feasible.

C. Locate water-oriented utilities, such as sewage treatment, water reclamation, and some power facilities, where they do not interfere with other public uses of the water and shoreline.

D. Locate and design utilities to accommodate future growth and development.

E. Locate utilities so as not to obstruct or destroy scenic views wherever facilities must be placed in a shoreline area. Place utility lines underground when feasible to minimize damage to the shoreline aesthetic quality.

F. Locate utilities in existing rights of way or corridors whenever feasible.

G. Restore shoreline areas damaged by the installation or maintenance of utilities.

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H. Provide public access to the shoreline whenever a major utility line or facility utilizes a shoreline location or crossing, unless the utility presents a serious hazard to the public.

5.17.02 APPLICABILITY

A. This section applies to public and private utility facilities and lines serving more than an individual use.

B. Utilities serving an individual use are considered part of the primary use and should be reviewed under the regulations for that use.

C. Water intake and water or fish conveyances between a waterbody and an aquaculture facility are not considered utilities under this section of the SMP. Consult SMP Section 5.06.

5.17.03 REGULATIONS

A. All utility system projects and maintenance shall be designed, located, and installed in a manner, which results in no net loss of ecological function.

B. Water-oriented utilities are allowed in the shoreline jurisdiction.

C. If a utility is required to be sited in shoreline jurisdiction, a mitigation plan must be prepared by a qualified professional consistent with the provisions of SMP Section 4.04.

D. Where utilities must be located in shoreline jurisdiction, the utilities must:

1. Be designed and constructed to meet all adopted engineering standards.
2. Provide for compatible, multiple use sites, and rights-of-way whenever feasible. Compatible uses include shoreline access points, trails, and other forms of recreation and transportation, provided these uses do not interfere with utility operation, endanger public health and safety, or cause a significant and disproportionate liability for the owner.
3. Minimize processes affecting the rate of channel migration or shoreline erosion. Where this may occur, the Shoreline Administrator may require a monitoring plan and adaptive management measures prepared by a qualified professional as appropriate.
4. Limit clearing to the minimum necessary for installation or maintenance. Impacts associated with removal of vegetation or clearing shall be mitigated on site.

E. In addition to the standards above, utility lines within the shoreline jurisdiction shall:

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1. Be undergrounded, except where technical, environmental, or geological conditions make undergrounding infeasible.
2. Be sited within the footprint of an existing right-of-way or utility easement, wherever feasible in locations where right-of-ways and easements exist.
3. Avoid paralleling the shoreline or following a down-valley course near the channel, except where located in an existing road or easement footprint.

F. If an underwater location is necessary for the siting of utilities, the following performance standards apply:

1. The design, installation, and operation shall minimize impacts to the waterway and the resident aquatic ecosystems.
2. Seasonal work windows may be made a condition of approval.
3. All state and federal permits must be obtained.
4. A maintenance schedule and emergency repair protocol shall be prepared and recorded.

G. After the installation of a utility system or the completion of a maintenance project, the disturbed area shall be regraded to match the natural terrain and replanted to prevent erosion and provide appropriate vegetative cover, including meeting standards of SMP Section 4.04.

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6 SHORELINE MODIFICATION POLICIES & REGULATIONS

6.01 INTRODUCTION

~~Building on the general SMP goals found in SMP Chapter 2: Shoreline Management Goals, t~~This chapter contains specific shoreline modifications policies and regulations that apply to those activities that modify the physical form of the shoreline in any shoreline environment designation. By definition, shoreline modifications activities are undertaken in support of or in preparation for a permitted shoreline use. A single permitted use may require several different shoreline modifications.

Shoreline modification activities include the construction of in-water structures, overwater structures and launching facilities, and shoreline stabilization measures, as well as actions such as clearing, grading, and fill, and dredging and dredge material disposal. At a minimum, shoreline modification policies and regulations are intended to assure no net loss of the ecological functions necessary to sustain shoreline natural resources.

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

6.01.01 SHORELINE MODIFICATION TABLE

SMP Table 6-1: Shoreline Modifications establishes what specific shoreline modification activities are allowed within each of the shoreline environment designations. Shoreline modification activities may be permitted, allowed with a conditional use permit, or not applicable to a shoreline environment designation. Refer to individual standards in this chapter for a full explanation of modifications and required conditions for permitted uses.

Table 6-1: Shoreline Modifications

Comment [VZK(27]: You should add a line that addresses flood control structures-they don't appear to be addressed anywhere in the use/development or modification tables.

Shoreline Modifications (1)(2)	High Intensity	Shoreline Residential	Urban Conservancy	Aquatic

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Shoreline Modifications (1)(2)	High Intensity	Shoreline Residential	Urban Conservancy	Aquatic
Key: P = Permitted Use, C = Conditional Use, N/A = Not Applicable				
Clearing and Grading	P	P	P	N/A
Fill				
Fill Landward of the OHWM	P	P	P	N/A
Fill Waterward of the OHWM	N/A	N/A	N/A	C
Dredging and Dredge Material Disposal	C	C	C	C
In-Water Structures (3)	N/A	N/A	N/A	C
Restoration (4)	P	P	P	P
Flood Control Structures (5)	P	P	P	N/A
Shoreline Stabilization				
Hard Shoreline Stabilization Measures	P	P	C	C
Soft Shoreline Stabilization Measures	P	P	P	C

Comment [NS28]: AHBL Comment: We have provisionally added in Flood Control Structures as permitted in High Intensity, Shoreline Residential, Urban Conservancy and N/A for Aquatic. We have also added the related footnote.

Notes:

(1) In the event of a conflict between SMP Table 6-1: Shoreline Modifications and the regulatory text, the text shall hold.

(2) In the shoreline environment designations where these activities are allowed, fill waterward of the OHWM and dredging are only permitted in limited situations. See SMP Section 6.03 and SMP Section 6.04 for requirements.

(3) All in-water structures require a shoreline conditional use permit, except when such structures are installed to protect or restore ecological functions, such as woody debris installed in streams. In such cases, it would be considered a permitted shoreline modification.

(4) Exemptions from shoreline permitting are available for certain restoration activities as outlined in WAC 173-27-040(2)(o) and WAC 173-27-040(2)(p). Projects are still required to comply with the SMP.

~~(4)~~(5) Nonstructural flood hazard management measures are preferred over structural measures where feasible. New structural flood hazard reduction measures should only be allowed when demonstrated to be necessary, nonstructural methods are insufficient, and mitigation is accomplished.

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6.02 GENERAL SHORELINE MODIFICATION PROVISIONS

The following provisions apply to all shoreline modification activities, whether shoreline modifications address a single or multiple properties. Where other requirements may conflict with the provisions contained in this chapter, the more restrictive standard shall apply.

6.02.01 POLICIES

A. Ensure shoreline modifications individually and cumulatively do not result in a net loss of ecological functions.

B. Limit the number and extent of shoreline modification activities to reduce the negative effects of shoreline modifications to the greatest extent feasible.

C. Plan for enhancement of impaired ecological functions where it is feasible, appropriate, and accommodates permitted uses.

D. Allow only shoreline modifications that are appropriate to the specific shoreline environmental designation in which they are located.

E. Prefer those types of shoreline modifications that have a lesser impact on ecological functions. Promote soft over hard shoreline modification measures.

6.02.02 REGULATIONS

A. Structural shoreline modifications may be allowed if they are demonstrated to be necessary to support or protect a legally permitted shoreline structure or use that is in danger of loss or substantial damage or are necessary for mitigation or enhancement.

B. Shoreline modifications shall be limited in number and extent.

C. The Shoreline Administrator shall base all decisions regarding shoreline modification on available scientific and technical information and a comprehensive analysis of site-specific conditions provided by the applicant.

D. Shoreline modifications must be designed and located to ensure that they will not result in a net loss of shoreline ecological functions and will not have significant adverse impacts to shoreline uses, resources, and values provided for in RCW 90.58.020.

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

F. Shoreline modification standards shall not apply retroactively to existing, legally established shoreline modifications. Existing structures may be maintained, repaired, and operated within shoreline jurisdiction and within the shoreline buffers established

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in the SMP. Repair and replacement provisions in later sections of this chapter may apply to specific modifications.

G. All disturbed upland areas shall be restored and protected from erosion by using native vegetation or other approved means.

H. All shoreline modifications are subject to the mitigation sequence in SMP Section 4.03, with appropriate mitigation required for unavoidable impacts to ecological functions. If critical areas in shoreline jurisdiction are impacted, the project is also subject to relevant requirements of SMP Section 4.04.

6.03 CLEARING, GRADING, AND FILL

Clearing, grading, and fill are the activities associated with preparing a site for development, as well as physically altering topography. The clearing and grading regulations in this section apply to activities landward of the OHWM and fill activity applies both waterward and landward of the OHWM.

See SMP Section 6.04 for dredging for purposes of flood control, navigation, primary utility installation, the construction of water-dependent portions of essential public facilities, or restoration.

6.03.01 POLICIES

A. Protect shoreline ecological functions, including channel migration, by regulating clearing, grading, and fill.

B. Permit clearing, grading, and fill only to the minimum extent necessary to accommodate an approved shoreline use or development and with no net loss of shoreline ecological functions and processes.

C. Require that BMPs be utilized during clearing, grading, and fill activity.

D. Allow clearing, grading, and fill only as part of a permitted development in shoreline jurisdiction.

E. Permit clearing, grading, and fill associated with dike or levee maintenance as necessary to provide protection from flood hazards when consistent with the flood hazard management provisions in SMP Section 4.05.

F. Ensure that the placement of fill does not result in a loss of flood storage.

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G. Encourage the enhancement and voluntary restoration of landforms for habitat along shorelines.

6.03.02 REGULATIONS

A. All clearing, grading, and fill shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.

B. Clearing, grading, and fill shall be minimized to the extent feasible and only allowed when necessary to accommodate an approved shoreline use or development.

C. Speculative clearing, grading, and fill are prohibited.

D. When clearing, grading, or fill causes adverse impacts to ecological functions, a mitigation plan prepared by a qualified professional must be prepared consistent with the provisions of SMP Section 4.04.

E. Clearing, grading, and fill within wetlands, floodways, or CMZs, and fill waterward of the OHWM, is only allowed when:

1. Due consideration has been given to the site specific conditions;
2. All impacts have been mitigated;
3. All required state and federal permits have been obtained; and
4. The shoreline use or development is one of the following:
    a. A water-dependent use or public access to the shoreline;
    b. The cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
    c. The disposal of dredged material considered suitable under, and conducted in accordance with, the WDNR's Dredged Material Management Program and the USACE Dredged Material Management Office-- See also SMP Section 6.04;
    d. The expansion or alteration of transportation facilities of statewide significance that are currently located in the shoreline, where alternatives to fill are infeasible;
    e. Ecological enhancement, restoration or mitigation, when consistent with an approved plan; or
    f. The protection of historic or cultural resources when fill is the most feasible method to avoid continued degradation, disturbance, or erosion of a site. Such

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fill must be coordinated with any affected tribes and comply with applicable provisions of SMP Section 4.02.

F. All fill waterward of the OHWM that is not associated with an ecological restoration project shall require a shoreline conditional use permit.

G. Upland clearing, grading and fill outside of wetlands, floodways, and CMZs is permitted provided it:

   1. Is the minimum necessary to implement the approved use or modification;
   2. Does not significantly change the topography of the landscape in a manner that affects hydrology or increases the risk of slope failure, consistent with the applicable provisions of SMP Section 4.04; and
   3. Is conducted outside required shoreline buffers, unless specifically authorized by the SMP, or is necessary to provide protection to historic or cultural resources.

H. Grading and fill shall be designed to blend physically and visually with the existing topography whenever feasible, so as not to interfere with lawful access and enjoyment of scenery.

I. Clearing, grading, and fill shall not be located where shoreline stabilization will be necessary to protect the materials placed or removed, except when part of an approved plan for protection of historic or cultural resources.

J. Cut and fill slopes shall generally be sloped no steeper than one foot vertical for every two feet horizontal (1:2) unless a specific engineering analysis has been provided that demonstrates the stability of a steeper slope.

K. A temporary erosion and sediment control plan, including BMPs, consistent with the city's stormwater manual, shall be submitted to and approved by the Shoreline Administrator prior to commencement of all clearing, grading, and fill activities.

L. To prevent a loss of flood storage, compensatory storage shall be provided commensurate with the amount of fill placed in the floodway per SMP Section 4.05.

M. Fill on state-owned aquatic lands must comply with the WDNR and the WDFW standards and regulations.

6.04 DREDGING AND DREDGE MATERIAL DISPOSAL

This section is intended to cover dredging and dredge material disposal. It is not intended to cover mining or other excavations waterward of the OHWM that are incidental to construction of an authorized use or modification such as bulkhead replacements, large woody debris

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installations, boat launch ramp installation, or pile placement. These in-water substrate modifications should be conducted in accordance with all applicable regulations for the proposed use found in the SMP.

6.04.01 POLICIES

A. Conduct dredging in a manner that utilizes mitigation sequencing and ensures no net loss of shoreline ecological functions.

B. Allow dredging for navigation channels, marine terminal berths, and mooring structures to assure safe and efficient accommodation of existing navigational uses, only when significant ecological impacts are minimized and mitigated.

C. Maintenance dredging of established navigation channels, basins, and marine terminal berths should be restricted to maintaining previously dredged or existing locations, to their authorized depths and widths.

D. Permit dredging as part of restoration or enhancement, public access, flood storage, or navigation if deemed consistent with the SMP.

E. Prohibit dredging waterward of the OHWM to obtain fill except when the dredge material is necessary for the restoration of shoreline ecological functions or as part of a flood hazard management program.

F. Site new development to avoid the need for new and maintenance dredging. Where avoidance is not feasible, ensure the site is designed to minimize the need for dredging.

G. Prefer the disposal of dredged material on land outside of the shoreline jurisdiction to open water disposal.

H. Coordinate local, state, and federal permit requirements for dredging.

6.04.02 REGULATIONS

A. Dredging

1. Dredging and dredge disposal proposals shall utilize the mitigation sequence in SMP Section 4.03. Where adverse impacts are unavoidable, a mitigation plan shall be prepared by a qualified professional consistent with the provisions of SMP Section 4.04.

2. Dredging shall only be permitted for the following activities:

    a. Development of new or expanded moorages or water-dependent industrial or port uses where there are no other feasible alternatives, significant ecological impacts are minimized, and mitigation is provided.

b. Development of essential public facilities where no feasible alternative location exists.

c. Maintenance of irrigation reservoirs, drains, canals, and ditches for agricultural purposes, when the facility is not already exempt from the SMP.

d. Restoration or enhancement of shoreline ecological functions and processes that benefit water quality or fish and wildlife habitat.

e. Trenching to allow the installation of underground utilities, if no feasible alternative location for the utilities exists, and:

   1) Impacts to fish and wildlife habitat are minimized to the maximum extent feasible;

   2) The utility installation does not increase or decrease the natural rate, extent, or chance of channel migration; and

   3) Appropriate BMPs are employed to prevent water quality impacts or other environmental degradation.

f. Establishment, expansion, relocation, or reconfiguration of navigation channels where necessary to assure the safe and efficient accommodation of existing navigational uses.

g. Maintenance dredging of established navigation channels and basins, so long as the dredging is restricted to the previously dredged or authorized location, depth, and width. Such dredging shall be considered an exempt activity so long as it meets the requirements of SMP Section 7.04.04.

h. Flood hazard reduction.

3. Applicants must receive all applicable state and federal permits prior to the commencement of any dredging.

4. Dredging shall be prohibited for the primary purpose of obtaining fill material, except when permitted under SMP Section 4.05 or when necessary for the restoration of shoreline ecological functions. In the latter case:

   a. Dredge material must be placed waterward of the OHWM.

   b. The project must be associated with either a MTCA or CERCLA habitat restoration project or, if the project is approved through a shoreline conditional use permit, the project may be another significant habitat enhancement project.

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5. New development shall be sited and designed to avoid or minimize the need for new or maintenance dredging.

B. Dredge Material Disposal

1. Dredge material disposal within shoreline jurisdiction may be permitted so long as:
   a. Shoreline ecological functions and processes are preserved, restored, or enhanced. Factors to consider include surface and groundwater protection, erosion, sedimentation, and the impacts of floodwaters or runoff; and
   b. The disposal will not negatively affect public or private property.
2. Disposal of dredge material within CMZs is discouraged. In the limited instances where it is allowed, such disposal shall require a shoreline conditional use permit, if this provision is not intended to address the discharge of dredge material into the flowing current of a river or in deep water within the channel where it does not substantially affect the geohydrologic character of the CMZ.
3. Dredge material disposal in open waters may be approved when authorized by the Dredge Material Management Office or other applicable state and federal agencies, which may include the USACE in accordance with Section 10 (Rivers and Harbors Act) and Section 404 (Clean Water Act) permits and the WDFW HPA; and when one of the following conditions apply:
   a. Open water disposal at an approved USACE disposal site is the common method for disposal of maintenance dredge materials from navigation channels and basins; or
   b. If applicable, the use of dredge material to benefit shoreline resources shall be addressed through the implementation of a regional interagency dredge material management plan or watershed plan.
4. All dredge material disposal on state-owned aquatic lands must comply with the WDNR and the WDFW standards and regulations.

C. Submittal Requirements

1. A detailed description of the purpose of the proposed dredging and an analysis of compliance with the policies and regulations of the SMP shall be required for all dredging applications. Materials prepared for state or federal permits such as an HPA may be used to support the analysis.

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6.05 IN-WATER STRUCTURES

This section applies to in-water structures, such as dams, groins, and weirs that are built by humans and located waterward of the OHWM.

6.05.01 POLICIES

A. Design in-water structures to be compatible with the long-term use of resources, such as public access, recreation, and fish migration.

B. Locate, design, construct, and maintain in-water structures to give due consideration to:

   1. The full range of public interests;
   2. Watershed processes, including prevention of damage to other properties and other shoreline resources from alterations to geologic and hydrologic processes;
   3. Scenic vistas;
   4. Historic and cultural resources; and
   5. Ecological functions, with special emphasis on protecting and restoring priority habitats and species.

C. Site and design in-water structures to be consistent with appropriate engineering principles, including guidelines of the WDFW, Natural Resources Conservation Service, and the USACE.

D. Incorporate applicable watershed, surface water management, and restoration plans in the planning and design of in-water structures.

E. Encourage nonstructural and non-regulatory methods to protect, enhance, and restore shoreline ecological functions as an alternative to in-water structures.

F. Consider alternatives to hard in-water structures, such as soft in-water structures or several smaller discontinuous structures, as part of an application where physical conditions make such alternatives with less impact feasible.

G. Incorporate native vegetation as part of the design of in-water structures to enhance ecological functions, create a more natural appearance, improve ecological processes, and provide more flexibility for long-term shoreline management.

H. Require a shoreline conditional use permit for dams, weirs, and similar structures, except for those structures installed to protect or restore ecological functions, such as woody debris, engineered logjams, or habitat-forming rock weirs installed in streams.

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I. Only allow groins and weirs to be placed waterward of the OHWM in limited instances.

6.05.02 REGULATIONS

A. In-water structures shall require a shoreline conditional use permit, except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams.

B. In-water structures shall be designed, constructed, and maintained to ensure no net loss of shoreline ecological functions.

C. A professional engineer licensed in the state shall certify the designs of all in-water structures and include a monitoring and maintenance schedule.

D. Appropriate engineering principles and BMPs, including guidelines of the WDFW, NRCS, and the USACE, shall be used in the design of in-water structures. The WDFW's Integrated Streambank Protection Guidelines may be used for BMPs for in-water structures.

E. The mitigation sequence in SMP Section 4.03 shall be required, with mitigation required for all unavoidable impacts to ecological functions. If critical areas in the shoreline jurisdiction are impacted, the project is subject to SMP Section 4.04.

F. Projects involving in-water work may not commence without having obtained all applicable local, state, and federal permits and approvals.

G. If at any time, because of in-water work, fish are observed to be in distress or water quality problems develop, immediate notification shall be made to the appropriate state or federal agencies, including Ecology, the WDFW, the National Marine Fisheries Service (NMFS), or the United States Fish and Wildlife Service.

H. Alteration or disturbance of the bank and bank vegetation shall be limited to the minimum necessary to perform the in-water work. All disturbed areas shall be protected from erosion and be restored using vegetation or other means.

I. Waste material resulting from in-water structure installation and removal shall be deposited in an approved upland disposal site outside of the shoreline jurisdiction unless the applicant can demonstrate in-water disposal is the preferred method for the shoreline location and in-water disposal has been approved in accordance with SMP Section 6.04.02.

J. Natural in-water features such as snags, uprooted trees, or stumps should be left in place unless removal is approved by the WDFW.

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K. Motor vehicles, appliances, or other solid waste shall not be used as in-water structures. Demolition debris that is non-toxic, non-chemically contaminating, reclaimed materials may be used.

L. In-water structures designed by public entities shall include public access under SMP Section 4.06 whenever feasible. At a minimum, in-water structures should not decrease public access or the use potential of shorelines.

M. In-water structures and uses shall be sited and designed to avoid the need for future shoreline stabilization and dredging.

N. New, expanded, or replacement in-water structures shall only be permitted if it can be demonstrated that:

   1. The proposed structure utilizes BMPs and will not result in a net loss of shoreline ecological functions;
   2. The proposed in-water structure supports water-dependent uses, public access, shoreline stabilization, shoreline restoration, or some other specific public purpose; and
   3. The benefits to the region outweigh the short and long-term resource losses from such work.

6.06 RESTORATION

Shoreline habitat and natural systems enhancement and restoration projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines.

Examples of shoreline habitat and natural systems enhancement projects include floodplain restoration projects, fish passage barrier removal or improvement, and projects to increase shoreline habitat complexity, among others. Projects that qualify as streamlined fish enhancement projects per RCW 77.55.181 shall be considered under this section.

6.06.01 POLICIES

A. Use principles of landscape and conservation ecology to design restoration and enhancement actions and improve shoreline ecological functions and processes. Consider the restoration of ecosystem-wide physical and biological processes that affect shoreline habitat structure and functions as the primary goal of these actions.

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B. Encourage cooperative shoreline restoration and enhancement programs between local, state, and federal agencies, tribes, nonprofit organizations, and landowners to improve impaired ecological functions.

C. Target restoration and enhancement projects that support the life cycles of priority species, such as Chinook salmon and other anadromous fish; locally important plants, fish and wildlife; and other populations or habitats for which a prioritized restoration or recovery plan is available.

D. Encourage restoration and enhancement projects by developing project permitting and processing guidelines that streamline permit review.

E. Seek and support funding opportunities to implement restoration and enhancement projects.

F. Encourage restoration and enhancement projects by developing project permitting and processing guidelines that will streamline their review.

G. Avoid adverse impacts to critical areas, fish and wildlife habitat conservation areas, water quality, and water storage capacity in all shoreline restoration and enhancement projects.

6.06.02 REGULATIONS

A. The Shoreline Restoration Plan identifies potential restoration priorities and projects in shoreline areas throughout the city. The plan may be used as a guide for shoreline restoration and enhancement projects.

B. Where the Shoreline Restoration Plan is not used in the creation of a proposed restoration or enhancement project, the Shoreline Administrator shall review the proposal to assure that the project addresses legitimate restoration needs and priorities.

C. All shoreline restoration and enhancement projects shall be designed and implemented by qualified professionals using best available science (BAS) and BMPs.

D. Shoreline restoration and enhancement projects shall protect the integrity of onsite and adjacent natural resources, including aquatic and terrestrial habitats, processes, and properties.

E. Shoreline restoration and enhancement projects shall demonstrate that no significant change to river current, sediment transport, or water quality will result from the project.

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F. Restoration and enhancement projects shall be designed, maintained, and monitored to ensure long-term success. Measures to ensure the success of the project shall be identified by a qualified professional in any plan or details submitted for the project. Monitoring periods should generally not be less than three years.

G. Shoreline restoration and enhancement efforts shall not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation. For projects on state-owned aquatic lands, project proponents must coordinate with the WDNR to ensure the project will be appropriately located, prior to the solicitation of permits from regulatory agencies.

H. Shoreline restoration and ecological enhancement projects are permitted in all shoreline environment designations provided the project's purpose is the restoration of the natural character and ecological functions of the shoreline.

I. In accordance with RCW 90.58.580, the city may waive the need for a shoreline substantial development permit for development on land that is brought under shoreline jurisdiction due to a shoreline restoration project that causes or would cause a landward shift in the OHWM. Any relief granted shall be strictly in accordance with the limited provisions of RCW 90.58.580, including the specific approval of Ecology.

6.07 SHORELINE STABILIZATION

Shoreline stabilization includes structural and nonstructural measures taken to address erosion impacts caused by natural processes, such as currents, floods, and waves. "Hard" structural shoreline stabilization measures include solid, hard surfaces, such as concrete or boulder bulkheads. "Soft" structural shoreline stabilization measures rely on less rigid materials, such as anchored logs, limited rock placement in conjunction with other components, and beach enhancement.

Generally, the harder the structural shoreline stabilization measure, the greater the impact on shoreline processes. Nonstructural shoreline stabilization measures include shoreline buffers, relocation of structures, groundwater management, and planning and regulatory measures to avoid the need for stabilization structures.

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6.07.01 POLICIES

A. Use structural shoreline stabilization measures only when nonstructural shoreline stabilization measures have been determined to be infeasible. The use of shoreline stabilization measures should be based on the following hierarchy of preference:

   1. Take no action. Allow the shoreline to retreat naturally, increase shoreline buffers, and relocate structures.
   2. Use flexible, bioengineered structures constructed of natural materials such as protective berms, protective matting made of natural materials, large woody debris, or vegetative stabilization.
   3. Employ rigid structures constructed of artificial materials such as riprap or concrete.

B. Locate and design shoreline stabilization measures to fit the physical character of the specific shoreline reach, which may differ substantially from adjacent reaches.

C. Coordinate the development of shoreline stabilization measures between affected property owners and public agencies.

D. Consider the probable effects of proposed shoreline stabilization measures on neighboring properties.

E. Restrict the size of new shoreline stabilization structures to the minimum necessary.

F. Only permit new or expanded shoreline stabilization structures in limited instances.

G. Locate, design, and maintain shoreline stabilization structures to protect and maintain shoreline ecological functions, ongoing shoreline processes, and the integrity of shoreline features.

H. Locate and design shoreline stabilization structures to avoid the need for future structures where feasible.

I. Prohibit the installation of shoreline stabilization structures to create additional property.

J. Design land subdivisions to assure that future development on created lots will not require shoreline stabilization structures for reasonable development to occur.

K. Require new development on steep slopes or bluffs to be set back so that the need for shoreline stabilization structures is unlikely during the life of the development.

L. Prohibit new development requiring shoreline stabilization structures that are likely to cause adverse impacts to adjacent or down-current properties and shoreline areas.

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M. Incorporate multiple use, restoration, and public shoreline access in the location, design, and maintenance of shoreline stabilization structures for public developments, whenever compatible with the primary purpose of the shoreline stabilization.

N. Utilize BMPs in the design of shoreline stabilization structures.

O. Allow new or expanded shoreline stabilization structures for ecological enhancement and restoration projects, or hazardous substance remediation projects only when nonstructural measures are infeasible or would be insufficient to achieve enhancement, restoration, or remediation objectives.

6.07.02 REGULATIONS

A. Design and Location of New Development

1. New development that requires shoreline stabilization measures that causes significant impacts to adjacent or down-current properties and shorelines shall not be allowed.
2. Land subdivisions shall be designed to assure that future development of the created lots will not require shoreline stabilization structures for reasonable development to occur.
3. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization structures are unlikely to be necessary during the life of the development. The Shoreline Administrator may require a geotechnical analysis to demonstrate this.

B. Repair and Maintenance of Existing Shoreline Stabilization Structures

1. The following items distinguish between maintenance and repair of a shoreline stabilization structure and a new structure:
   a. Maintenance and repair includes modifications to an existing shoreline stabilization structure that is designed to ensure the continued function of the existing structure.
   b. A modification that increases the size of the existing shoreline stabilization structure shall be considered a new structure, not maintenance or repair.
   c. Replacement of greater than 50 percent or 35 feet of linear length of an existing shoreline stabilization structure, whichever is smaller, as measured on a

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cumulative basis since the structure was established, is not considered repair or maintenance, and is considered a new structure.

d. Removal of an existing shoreline stabilization structure, including its footing or bottom course of rock, prior to the placement of a new structure, is considered a new structure for the purposes of this section. Removal of only material above the footings or bottom course of rock is not considered a new structure and it qualifies as maintenance and repair.

e. The placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure shall be considered a new structure subject to all the requirements of SMP Section 6.07, not maintenance or repair.

2. When an application proposes repair and maintenance of an existing legally established shoreline stabilization structure, it is subject to the following standards:

   a. Repair and maintenance of existing shoreline stabilization structures must be consistent with the requirements of SMP Section 4.04.

   b. Areas of temporary disturbance within the shoreline buffer associated with maintenance and repair shall be restored to their pre-project condition within 30 days.

3. Repair of shoreline stabilization structures meeting all the criteria for exemption from a shoreline substantial development permit must still comply with SMP Section 6.07.02(E) and the SMP.

C. Replacement or Enlargement of Existing Shoreline Stabilization Structures

1. Replacement or enlargement of an existing shoreline stabilization structure shall be considered a new structure.

2. For purposes of this section, replacement means the construction of a new structure to perform the shoreline stabilization function of an existing structure that can no longer adequately serve its purpose.

D. Standards to Demonstrate Need for Shoreline Stabilization Structures

1. New shoreline stabilization structures shall only be allowed, when demonstrated to be necessary as follows:

   a. To protect an existing primary structure, including a residence, if there is conclusive evidence documented by a geotechnical analysis that the primary structure is in danger from shoreline erosion caused by natural processes.

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Normal sloughing, erosion of steep bluffs, or shoreline erosion in itself, without a geotechnical analysis, is not demonstration of need. The geotechnical analysis shall evaluate on-site drainage issues and address problems away from the OHWM before considering new shoreline stabilization structures.

b. In support of water-dependent development when all of the conditions below apply:

   1) Site erosion is not being caused by upland conditions, such as drainage and the loss of vegetation;

   2) Nonstructural measures, such as planting vegetation or installing on-site drainage improvements, are not feasible or sufficient to address erosion causes or impacts adequately; and

   3) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical analysis.

c. In support of new non-water-dependent development, including residences, when all of the conditions from water-dependent development from SMP Section 6.07.02(D)(1)(b) apply and nonstructural measures, such as placing the proposed development farther from the shoreline are not feasible or sufficient to address the erosion impacts adequately.

d. To protect historic or cultural resources, or as part of restoration or hazardous substance remediation projects pursuant to Chapter 70.105D RCW, when nonstructural measures, such as planting vegetation or installing on-site drainage improvements, are not feasible or sufficient to adequately address the causes of erosion or avoid continued degradation, disturbance, or erosion of a site.

2. A geotechnical analysis is not required when an applicant proposes to replace an existing shoreline stabilization structure with a softer measure, so long as the applicant demonstrates through site photographs and a written narrative the need to protect the primary uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM.

3. Replacement of hard shoreline stabilization structures shall not encroach waterward of the OHWM or the existing shoreline stabilization measure unless the primary residence was constructed prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement for the shoreline stabilization structure shall be attached to and waterward of the existing structure.

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All other replacement of hard stabilization structures shall be located at or landward of the existing shoreline stabilization measure.

E. General Design Standards

1. Shoreline stabilization measures shall not result in a net loss of shoreline ecological function.
2. When a hard or soft shoreline stabilization structure is demonstrated to be necessary, the following design standards shall be incorporated as part of the design:
   a. Impacts to sediment transport shall be avoided or minimized.
   b. Shoreline stabilization structures shall be the minimum size necessary by height, depth, and mass, and not extend waterward more than the minimum amount needed to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.
   c. Soft structural shoreline stabilization measures shall be used to the maximum extent feasible for new, enlarged, or replacement shoreline stabilization structures, unless demonstrated insufficient to protect primary structures in a geotechnical analysis.
   d. When feasible, hard structural shoreline stabilization measures shall be limited to the portion of the site necessary to protect primary structures or connect to existing shoreline stabilization measures on adjacent properties.
   e. All clearing, grading, and fill associated with shoreline stabilization structures shall be conducted landward of the OHWM to the maximum extent feasible unless it is infeasible due to safety or environmental concerns.
   f. Fill behind shoreline stabilization structures is limited to one cubic yard per running foot of stabilization. Filling in excess of this amount shall be considered a regulated activity subject to the regulations in SMP Section 6.03 and require a shoreline substantial development permit or shoreline conditional use permit.
   g. All approved new, enlarged, or replacement shoreline stabilization structures shall be designed using BMPs, including the WDFW's Integrated Streambank Protection Guidelines, and minimize and mitigate unavoidable adverse impacts to ecological functions, consistent with SMP Section 4.04.

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h. All new, enlarged, or replacement shoreline stabilization structures shall mitigate adverse impacts to ecological functions. Mitigation measures shall be identified by the project proponent as part of the project application, and may be supplemented by local, state, or federal agencies, depending on the level of impact.

i. When a new shoreline stabilization structure is proposed on a site where adjacent properties do not have shoreline stabilization structures, the new structure shall tie in with the existing contours of the adjoining properties, as feasible, to prevent erosion of the neighboring land.

j. When a new shoreline stabilization structure is proposed on a site where adjacent properties have shoreline stabilization structures, the new structure may tie in with the existing structures on the adjoining properties. The new structure shall minimize, to the maximum extent feasible, the portion of the new structure that is waterward of the OHWM to connect to the existing structures.

k. Shoreline stabilization structures shall be designed to ensure the project remains stable during storm and flood events on rivers and wave conditions on lakes.

l. Shoreline stabilization shall be designed not to significantly interfere with normal surface or subsurface drainage into the adjacent waterbody.

m. All shoreline stabilization shall be designed to avoid hazards to navigation.

n. Shoreline stabilization shall be designed to ensure that it does not restrict appropriate public access to the shoreline. Where a shoreline stabilization structure is required at a public access site, provisions for safe access to the water shall be incorporated into the design.

o. Stairs or other water access measures may be incorporated into shoreline stabilization design, but they shall not extend waterward of the OHWM.

F. Submittal Requirements

In addition to submitting an application for the appropriate shoreline permit, the applicant shall submit a geotechnical analysis prepared by an engineer licensed by the state as part of a request to construct a new, enlarged, or replacement shoreline stabilization structure. This analysis must include:

1. An assessment of the need for the shoreline stabilization structure based on site-specific conditions such as water depth, orientation of the shoreline, wave fetch or flow velocity, and the location of the nearest shoreline stabilization structure.

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2. The estimated time frames and rates of erosion, to convey the urgency associated with the specific situation.
3. An explanation of why SMP Sections 6.07.02(D)(1)(b) and (c) are not sufficient to address erosion issues.
4. Detailed construction plans for all shoreline stabilization structures, including, but not limited to, the following:
    a. Plan and cross-section views of the existing and proposed shoreline configuration, showing the OHWM and accurate existing and proposed topography;
    b. A detailed construction sequence and specifications for all materials; and
    c. A mitigation and monitoring plan to ensure no net loss of shoreline functions.

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7 SHORELINE ADMINISTRATION

7.01 INTRODUCTION

SMP Chapter 7: Shoreline Administration describes the administrative procedures and enforcement of a permit system that implements the SMP, together with amendments or additions thereto. Issuance of a shoreline permit or letter of exemption from the Shoreline Administrator does not exclude the requirements for other local, state, and federal permits, procedures, and regulations.

7.02 PERMIT PROCESSING - GENERAL

7.02.01 SHORELINE ADMINISTRATOR

A. The Shoreline Administrator shall be responsible for the administration of the permit system in accordance with the requirements of the SMA and regulations adopted as part of the SMP as it pertains to the city. This shall include, but not be limited to, determinations of whether a development is exempt or requires a shoreline substantial development permit, conditional use permit, or variance.

B. The Shoreline Administrator shall ensure that administrative provisions are in place so that SMP permit procedures and enforcement are conducted in a manner consistent with relevant constitutional limitations on regulation of private property.

C. Administrative Interpretations

1. The Shoreline Administrator shall have authority to interpret this SMP when such interpretation is clearly consistent with the goals and policies of this SMP and the SMA.
2. As part of this process, the Shoreline Administrator shall consult with Ecology to insure that formal written interpretations are consistent with the purpose and intent of the SMA and Chapter 173-26 WAC.
3. Formal interpretations shall be kept on file by the city and shall be available for public review, and shall periodically be incorporated into the SMP during required update processes.

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D. The Shoreline Administrator shall review every application that is submitted and determine if the application is complete based upon the information required by this section.

E. The Shoreline Administrator may recommend conditions to the city's Shoreline Hearings Board for the approval of permits as necessary to ensure consistency of the project with the SMA and the SMP.

7.02.02 PROVISIONS APPLICABLE TO ALL SHORELINE PERMITS

A. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to local development codes and standards, Chapter 90.58 RCW, the SMA, and this SMP whether or not a permit is required.

B. No authorization to undertake a use or development on shorelines of the state shall be granted by the city, unless, upon review, the use or development is determined to be consistent with the policy and provisions of the SMP.

C. RCW 36.70A.480 governs the relationship between the SMP and the local development regulations to protect critical areas that are adopted under Chapter 36.70A RCW.

D. Applications for shoreline substantial development permits, conditional use permits, and variances shall be processed in accordance with the appropriate provisions of the applicable local code; if, where the provisions of a local code and the administration and permitting provisions of the SMP conflict, the provisions of the SMP shall apply. The applicable local codes are located in AMC Chapter 17.96 – Administration and Enforcement.

E. The applicant shall meet all of the review criteria for all development found in WAC 173-27-140.

F. A shoreline substantial development shall not be undertaken within the city unless a shoreline substantial development permit has been obtained, the appeal period has been completed, and any appeals have been resolved.

G. No building permit or other development permit shall be issued for any parcel of land developed or divided in violation of the SMP.

H. All purchasers or transferees of property shall comply with the provisions of the SMA, the SMP, and any shoreline substantial development permit, conditional use permit, variance, permit revision, or letter of exemption.

7.02.03 APPLICATION REQUIREMENTS

Applications for shoreline permits or letters of exemptions shall be made on forms provided by the Shoreline Administrator. An applicant for a shoreline substantial development permit, who wishes to request a shoreline conditional use permit or variance, shall submit the shoreline conditional use permit or variance application(s) and the shoreline substantial development permit application simultaneously.

Applications shall be substantially consistent with the information required by WAC 173-27-180 and include any additional submittals deemed necessary by the Shoreline Administrator for proper review of the proposal.

7.03 APPLICATION - NOTICES

The following is applicable for the notice requirements all notices related to actions under the SMP:

A. Within 14 days from making a determination of complete application, the Shoreline Administrator shall provide public notice of the application. Notice of environmental review under SEPA (Chapter 43.21C RCW) may be combined with the application notice.

B. The public notice shall include:

   1. The date the application was made and the date the application was determined to be complete;
   2. A description of the proposed project action and a list of the project permits included in the subject application;
   3. The identification of other permits not included in the subject application, if known;
   4. The identification of existing environmental documents that evaluate the proposed project and where such documents may be reviewed;
   5. A statement of the public comment period, which shall be at least 30 days;
   6. The date, time, and place of the public hearing, if any, and a statement that a person desiring to present his/her views may do so orally or in writing at the public hearing, or may submit written comments prior to the public hearing which will be provided to the Shorelines Hearings Board at the public hearing;
   7. A statement of preliminary determination, if one has been made; and
   8. Any other information determined appropriate by the city.

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C. The Shoreline Administrator shall provide notice by at least one of the following noticing methods:

1. Mailing of the notice to the latest recorded real property owners as shown by the records of the Grays Harbor County Assessor within 300 feet of the property boundary of the subject proposal;
2. Posting the notice in a conspicuous manner on the property upon which the project is to be undertaken; or
3. Publishing the notice in the legal newspaper for the city.

D. The notification system shall also provide notice to all agencies with jurisdiction in the proposal per Chapter 43.21C RCW and to all other agencies that request in writing any such notice.

E. The Shoreline Administrator shall give notice of the application no less than 30 days prior to permit issuance.

F. When a public hearing is required, public notice shall be given at least 15 days before the public hearing. The notices shall include a statement that a person desiring to present his/her views may do so orally or in writing at the public hearing, or may submit written comments prior to the public hearing which will be provided to the Shorelines Hearings Board.

G. The public notice shall also state that a person interested in the Shorelines Hearings Board action on an application for a permit may notify the Shoreline Administrator of his/her interest in writing within 30 days of the last date of publication of the notice. Such notification to the Shoreline Administrator or the submission of views to the Shorelines Hearings Board shall entitle said persons to a copy of the action taken on the application.

7.04 SHORELINE PERMITS AND APPROVALS

7.04.01 SHORELINE SUBSTANTIAL DEVELOPMENT PERMITS

A. The following is applicable for shoreline substantial development permits:

1. The applicant shall meet all of the review criteria for a shoreline substantial development permit as listed in WAC 173-27-150.

2. A shoreline substantial development permit shall be granted by the Shoreline Administrator without a public hearing unless one or more of the following conditions apply:
    a. One or more interested persons has submitted to the Shoreline Administrator, within 15 days of the final publication of notice of the application, a written request for a public hearing together with a statement of the reasons for the request;
    b. The estimated total cost of the proposed development exceeds $500,000; or
    c. The Shoreline Administrator determines that the proposed development is one of broad public significance.

B. If a public hearing is required, the Shorelines Hearings Board shall grant a shoreline substantial development permit with conditions after the Shoreline Administrator completes a recommendation to the examiner that may contain conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria and when the development proposed is consistent with the standards in WAC 173-27-140 and WAC 173-27-150.

7.04.02 SHORELINE CONDITIONAL USE PERMITS

A. The criteria in WAC 173-27-140 and WAC 173-27-160 shall constitute the minimum criteria for review and approval of a shoreline conditional use permit.

B. Uses that are not classified or set forth in the SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the SMP.

C. Uses that are specifically prohibited may not be authorized.

D. The Shorelines Hearings Board may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria.

E. The decision of the Shorelines Hearings Board shall be the final decision of the city. Ecology shall be the final authority authorizing a shoreline conditional use permit consistent with WAC 173-27-200.

7.04.03 SHORELINE VARIANCES

A. The purpose of a shoreline variance is strictly limited to granting relieve from specific bulk, dimensional, or performance standards set forth in the SMP where the strict

implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

~~A.~~B. The criteria in WAC 173-27-140 and WAC 173-027-170 shall constitute the minimum criteria for review and approval of a shoreline variance.

~~B.~~C. The Shorelines Hearings Board may attach conditions to the approval of the shoreline variance as necessary to assure consistency of the proposal with the above criteria.

~~C.~~D. The decision of the Shorelines Hearings Board shall be the final decision of the city. Ecology shall be the final authority authorizing a shoreline variance consistent with WAC 173-27-200.

7.04.04 SHORELINE LETTERS OF EXEMPTION

The following is applicable for all shoreline letters of exemption:

A. A letter of exemption shall be required for a development that is exempt from the requirements for a shoreline substantial development permit.

B. To qualify for a letter of exemption, the proposed use, activity, or development must meet all of the requirements for an exemption. Exemptions and the standards for interpreting exemptions are found in WAC 173-27-040.

C. The Shoreline Administrator may issue a letter of exemption for emergency construction necessary to protect property from damage by the elements in accordance with WAC 173-27-040. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and the SMP. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent, are not an emergency.

D. Before determining that a proposal is exempt, the Shoreline Administrator may conduct a site inspection and/or request additional information to ensure that the proposal meets the exemption criteria.

E. For exempt development proposals subject to review, approval, and permitting by a state or federal agency in shoreline jurisdiction or identified in this SMP as requiring a shoreline letter of exemption, the Shoreline Administrator shall prepare a letter of exemption in accordance with WAC 173-27-050(1). The letter of exemption shall indicate the specific exemption provisions from WAC 173-27-040(2) that are being applied to the development and it shall provide a summary of the analysis demonstrating consistency of the project with the SMA and the SMP. The letter of

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exemption granted may be conditioned to ensure that the activity is consistent with the SMA and the SMP.

F. Ecology is designated as the coordinating agency for the state with regard to permits issued by the USACE. The following is intended to facilitate Ecology's coordination of actions, with regard to exempt development, with federal permit review.

1. The Shoreline Administrator shall prepare a letter of exemption, and transmit a copy to the applicant and Ecology whenever a development is determined by the Shoreline Administrator to be exempt from the shoreline substantial development permit requirements and the development is subject to one or more of the following federal permit requirements:

   a. A USACE Section 10 permit under the Rivers and Harbors Act of 1899. The provisions of Section 10 of the Rivers and Harbors Act generally apply to a project occurring on or over navigable waters. Specific applicability information should be obtained from the USACE; or

   b. A Section 404 permit under the Federal Water Pollution Control Act of 1972. The provisions of Section 404 of the Federal Water Pollution Control Act generally apply to a project that may involve discharge of dredge or fill material to any water or wetland area. Specific applicability information should be obtained from the USACE.

2. Ecology will be notified prior to issuance of the letter of exemption.

7.05 PUBLIC HEARING AND DECISION

7.05.01 BURDEN OF PROOF FOR DEVELOPMENT CONFORMANCE

A. The burden of proving that the proposed development is consistent with the criteria set forth in the SMP, as well as the requirements of the SMA shall be on the applicant.

7.05.02 PUBLIC HEARING PROCESS

A. The Shorelines Hearings Board shall hold at least one open record public hearing on each application for a shoreline conditional use permit or variance, and on each substantial development permit where the conditions of SMP Section 7.04.01(A)(2) are met. The Shorelines Hearings Board will make the final decision at a closed record hearing.

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B. If, for any reason, testimony on a matter set for public hearing, or being heard, cannot be completed on the date set for such hearing, the Shorelines Hearings Board may, before adjournment or recess of such matters under consideration, publicly announce the time and place of the continued hearing and no further notice is required.

C. When the Shorelines Hearings Board renders the final decision, the Shorelines Hearings Board shall make and enter written findings from the record and conclusions thereof, which support the decision. The findings and conclusions shall set forth the manner in which the decision is consistent with the criteria set forth in the SMA and local regulations.

7.05.03 NOTICE OF DECISION

The Shoreline Administrator shall notify the following persons in writing of the Shorelines Hearings Board's final approval, conditional approval, or disapproval of a shoreline substantial development permit, conditional use permit, or variance within 14 days of the Shorelines Hearings Board's final decision:

A. The applicant;

B. Ecology;

C. The Washington State Attorney General;

D. Any person who has provided written or oral comments on the application or the public hearing; and

E. Any person who has written the Shoreline Administrator requesting notification.

7.05.04 DEVELOPMENT START

A. Development in accordance with a shoreline substantial development permit, conditional use permit, or variance shall not be authorized until 21 days from the date of filing of the approved shoreline substantial development permit, conditional use permit, or variance with Ecology and Attorney General, or until all review proceedings initiated within 21 days of the date of such filing have been terminated.

B. The date of filing of a substantial development permit is the date of receipt by Ecology of the city's decision.

C. Shoreline conditional use permits and variances are subject to Ecology review and approval before the 21-day period starts. The date of filing of a shoreline conditional use permit or variance is the date Ecology's decision is transmitted to the city.

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D. The date of filing of a shoreline substantial development permit transmitted simultaneously with a shoreline conditional use permit or variance, or both, is the date Ecology's decision is transmitted to the city.

7.05.05 APPEALS OF DECISIONS

A. Any person aggrieved by the granting or denying of a shoreline substantial development permit, conditional use permit, or variance, or by the rescinding of a permit in accordance with the provisions of the SMP, may seek review from the Washington State Shorelines Hearings Board (SHB). A request for review may be done by filing a petition for review with the board within 21 days of the date of filing of the final decision, as defined by RCW 90.58.140(6) and by concurrently filing copies of such request with the City Clerk, Ecology and the Attorney General's office. SHB regulations are provided in RCW 90.58.180 and Chapter 461-08 WAC.

B. An appeal of a letter of exemption follows the Land Use Petition Act (LUPA) judicial review of land use decisions process LUPA found in Chapter 36.70C RCW.

7.06 TIME REQUIREMENTS AND REVISIONS

7.06.01 TIME REQUIREMENTS FOR SHORELINE PERMITS

A. The time requirements of WAC 173-27-090 shall apply to all shoreline substantial development permits, conditional use permits or variances authorized in accordance with this SMP.

7.06.02 REVISIONS OF SHORELINE PERMITS

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

B. Permit revisions shall be processed in accordance with WAC 173-27-100.

C. If the revision involves a shoreline variance or conditional use, which was conditioned by Ecology, the revision must be reviewed and approved by Ecology under the SMA.

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D. Revisions to permits under WAC 173-27-100 shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

7.07 NON-CONFORMING DEVELOPMENT

A. Non-conforming use or development means a shoreline use, development, or structure that was lawfully constructed or established prior to the effective date of the SMA or the SMP, or amendments thereto, but does not conform to present regulations or standards of the SMP.

B. Nonconforming use and development standards not addressed in RCW 90.58.620 and not addressed by the SMP are found in WAC 173-27-080. In the event of a conflict between WAC 173-27-080 and the standards contained in the city code, the requirement that most supports the provisions of the SMA as stated in RCW 90.58.020 shall apply, as determined by the Shoreline Administrator.

C. For non-conforming shoreline uses, development or structures, the following standards shall apply:

1. A nonconforming use, development, or structure may continue provided that it is not enlarged or expanded;
2. Legally established uses and developments may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline buffers established in the SMP.
3. A nonconforming use, development or structure which is moved any distance must be brought into conformance with the SMA and the SMP;
4. If a nonconforming structure is damaged to an extent not exceeding 75 percent of the replacement cost of the nonconforming structure, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, so long as restoration is completed within two years of the date of damage. Single-family nonconforming development may be replaced if damaged to 100 percent, if the restoration is completed within three years of the date of damage;
5. If a nonconforming use is discontinued for 12 consecutive months or for 12 months during any two-year period, any subsequent use shall be conforming. It shall not be

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necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire;

6. A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming or nonconforming status of the building or structure in which it is housed;
7. An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM, which was established in accordance with local and state subdivision requirements prior to the effective date of the SMA and the SMP, may be developed if permitted by other local land use regulations so long as such development conforms to all other requirements of the SMA and the SMP;
8. A use which is listed as a shoreline conditional use but which existed prior to adoption of the SMP and for which a shoreline conditional use permit has not been obtained shall be considered a nonconforming use; and
9. A structure for which a shoreline 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.

7.08 ENFORCEMENT AND PENALTIES

7.08.01 ENFORCEMENT

A. The Shoreline Administrator or a designated representative shall enforce all provisions of the SMP. For such purposes, the Shoreline Administrator or a designated representative shall have the power of a police officer.

B. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action; the benefits that accrue to the violator; and the cost of obtaining compliance may also be considered.

C. The enforcement procedures and penalties contained in Part II of Chapter 173-27 WAC are hereby incorporated by reference.

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7.08.02 PENALTY

A. A person found to have willfully engaged in activities in shoreline jurisdiction in violation of the SMA or in violation of the SMP or rules or regulations adopted pursuant thereto shall be subject to the penalty provisions of the local code, RCW 90.58.210 and RCW 90.58.220, and WAC 173-27-270 and WAC 173-27-280.

7.08.03 PUBLIC AND PRIVATE REDRESS

A. A person subject to the regulatory program of the SMP who violates any provision of the SMP 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 may sue for damages under SMP Section 7.08 on behalf of the city.

B. Private persons shall have the right to sue for damages under this section 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 provisions 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 attorneys' fees and costs of the suit to the prevailing party.

7.08.04 DELINQUENT PERMIT PENALTY

A. A person applying for a permit after commencement of the use or activity may be required to pay a delinquent permit penalty at the discretion of the city.

7.09 SHORELINE MASTER PROGRAM – ADMINISTRATION

7.09.01 GENERAL ADMINISTRATION

A. The city shall record all project review actions within shoreline jurisdiction, including shoreline permits and letters of exemption.

B. As part of shoreline permit review process, the city shall evaluate shoreline conditions on an ongoing basis to ensure no net loss of ecological functions, to protect and enhance visual quality, and to identify and protect significant historic or cultural resources in the shoreline. Specific issues to address in evaluations include, but are not limited to the following:

   1. Water quality;

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2. Conservation of aquatic vegetation and control of noxious weeds;
3. Changing visual character as a result of new development or redevelopment and individual vegetation conservation practices along shoreline and upland areas;
4. Shoreline stabilization and modifications; and
5. Significant historic or cultural resources within shoreline jurisdiction resulting from research, inventories, discoveries, or new information.

7.09.02 SHORELINE MASTER PROGRAM REVIEW

The following guidelines are to be used for review of the SMP:

A. The SMP shall be reviewed periodically at least once every eight years as required by RCW 90.58.080(4)(b) beginning on or before June 30, 2022 and every eight years thereafter. Amendments shall be made as necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and regulations.

B. The city should use a process designed to assure that proposed regulatory or administrative actions do not infringe upon constitutionally established private property rights. Related to the constitutional takings limitation, a process established for this purpose is set forth in a publication entitled, State of Washington, *Attorney General's Recommended Process for Evaluation of Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property*, first published in February 1992.

C. Provisions of the SMP may be amended as provided for in RCW 90.58.120, RCW 90.58.200, and Chapter 173-26 WAC. Standards in WAC 173-26-201 in particular articulate many of the factors to consider as part of the revisions.

D. Amendments or revisions to the SMP, as provided by law, do not become effective until approved by Ecology.

7.09.03 ANNEXATION OF A SHORELINE OF THE STATE

A. Except as provided in WAC 173-26-150, in the event of annexation of a shoreline of the state, the city shall notify Ecology of such annexation and develop or amend the city's SMP to include the annexed area. Such SMP development or amendment shall be consistent with the policy of RCW 90.58.020 and the applicable guidelines and shall be submitted to Ecology for approval no later than one year from the effective date of annexation.

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B. Until a new or amended master program is ~~adopted~~ approved by Ecology, any decision on an application for a shoreline permit in the annexed shoreline area shall be based upon compliance with the SMP in effect for the area prior to annexation.

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8 DEFINITIONS

8.01 UNLISTED WORDS OR PHRASES

Any word or phrase not defined in SMP Chapter 8: Definitions that is called into question when administering the SMP shall be defined utilizing the SMA and its implementing rules.

The Shoreline Administrator may obtain secondary definition sources from one of the following sources:

1. The city's code.
2. Any city resolution, ordinance, policy, or regulation.
3. The most applicable statute or regulation from the state.
4. Legal definitions generated from case law or provided within a law dictionary.
5. The common dictionary.

8.02 DEFINITIONS

A

Accessory Structure or Use – A structure or use incidental, related, and clearly subordinate to the principal structure or use of a lot or main building. An accessory structure or use is only located on the same lot as a permitted principal structure or use.

Act – The Washington State Shoreline Management Act (SMA) (Chapter 90.58 RCW and addressed in Chapter 173-27 WAC).

Agriculture – The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any such accessory use shall be incidental to that of normal agricultural activities. In all cases, the use of agriculture related terms should be consistent with the specific meanings provided in ~~WAC 173-26-020~~RCW 90.58.065.

Agricultural activities – Agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left

unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

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 Equipment and Facilities – Includes, but is not limited to the following:

A. 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;

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

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

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

Agricultural Land – 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.

Applicant – Any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a shoreline development proposal, permit, or approval.

Appurtenance – A building, structure, or development necessarily connected to the use and enjoyment of a single-family residence that is located landward of the OHWM and of the perimeter of any wetland. On a statewide basis, normal appurtenances include a garage, deck,

driveway, utilities, fences, installation of a septic tank and drain field, and grading which does not exceed 250 cubic yards (except to construct a conventional drain field) and which does not involve placement of fill in any wetland or waterward of the OHWM. Refer to WAC 173-27-040(2)(g).

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.

Associated Wetlands – Those wetlands that are in proximity to, and either influence or are influenced by, tidal waters or a lake or stream in shoreline jurisdiction. Refer to WAC 173-22-030(1).

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

B

Best Available Science (BAS) – Information from research, inventory, monitoring, surveys, modeling, synthesis, expert opinion, and assessment that is used to designate, protect, or restore critical areas that is derived from a valid scientific process as defined by WAC 365-195-900 through WAC 365-195-925, BAS is derived from a process that includes peer-reviewed literature, standard methods, logical conclusions and reasonable inferences, quantitative analysis, and documented references to produce reliable information.

Berm – A linear mound or series of mounds of sand or gravel generally that parallels the water at or landward of the line of ordinary high tide or the OHWM. In addition, a linear mound used to screen an adjacent use, such as a parking lot, from transmitting excess noise and glare.

Best Management Practices (BMPs) – BMPs are the utilization of methods, techniques or products which have been demonstrated to be the most effective and reliable in minimizing environmental impacts. BMPs encompass a variety of behavioral, procedural, and structural measures that reduce the amount of contaminants in stormwater run-off and in receiving waters.

Breakwater – An offshore structure that is generally built parallel to shore that may or may not be connected to land, and may be floating or stationary. Their primary purpose is to protect

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harbors, moorages, and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave caused erosion.

Bulkhead – A vertical or nearly vertical erosion protection structure placed parallel to the shoreline consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

C

Channel Migration Zone (CMZ) – The area along a river or stream within which the channel can reasonably be expected to migrate over time because of normally occurring processes. It encompasses that area of lateral stream channel movement that can be identified by credible scientific information that is subject to erosion, bank destabilization, rapid stream incision, and/or channel shifting, as well as adjacent areas that are susceptible to channel erosion. The area within which a river channel that is likely to move over an interval of time is referred to as the CMZ or the meander belt.

Chapter 90.58 RCW – The Shoreline Management Act of 1971, as amended.

City – The city of Aberdeen.

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

Clearing – The removal of vegetation or plant cover by manual, chemical, or mechanical means. Clearing includes, but is not limited to, actions such as cutting, felling, thinning, flooding, killing, poisoning, girdling, uprooting, or burning.

Comprehensive Plan – The document, including maps adopted by the city in accordance with applicable state law, that guides land use development within the city.

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

County – Grays Harbor County.

Critical Areas – Defined under Chapter 36.70A RCW includes the following areas and ecosystems:

A. Wetlands;

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

C. Fish and wildlife habitat conservation areas;

D. Frequently flooded areas; and

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E. Geologically hazardous areas

Critical Saltwater Habitats- includes all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association.

Cumulative Impact – The impact on the environment, which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over an interval of time.

D

Date of Filing – ~~The date of receipt by Ecology.~~ For a substantial development permit, the date of filing is the date of receipt by Ecology. For shoreline conditional use and variance permits, and substantial development permits simultaneously transmitted with a shoreline conditional use or variance permit, the date of filing is the date Ecology's decision is transmitted to the city.

Development – The construction or exterior alteration of buildings or structures; dredging; drilling; dumping; filling; removal of sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or a project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to Chapter 90.58 RCW at any state of water level (RCW 90.58.030(3)(a)).

Dredging – Excavating or displacing of the bottom or shoreline of a waterbody. Dredging can be accomplished with mechanical or hydraulic machines. Most dredging is done to maintain channel depths or berths for navigational purposes; other dredging is for cleanup of polluted sediments.

E

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

Ecology – The Washington State Department of Ecology.

Ecosystem-Wide Processes – The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within

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a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

Emergency – An unanticipated and imminent threat to public health, safety, or the environment, requiring immediate action within a time too short to allow full compliance with the SMP. Emergency construction is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3)(e)(iii) and WAC 173-27-040(2)(d)). Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and this SMP. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

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

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

Environments, (Shoreline Environment) – Designations given to specific shoreline areas based on the existing development pattern, the biophysical character and limitations, and the goals and aspirations of local citizenry, as part of an SMP.

Exemption – Certain specific developments are exempt from the definition of substantial developments and are therefore exempt from the shoreline substantial development permit process of the SMA. A use or activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the SMA and the SMP. Shoreline conditional use permits and variances may also still be required even though the use or activity does not need a shoreline substantial development permit (WAC 173-27-040).

F

Fair Market Value – The open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility

usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of donated, contributed or found labor, equipment or materials (WAC 173-27-030(8)).

Feasible – An action, such as a development project, mitigation, or preservation requirement, that meets all of the following conditions:

A. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

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

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

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

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

Feasible Alternatives – Alternatives to the proposed project that will accomplish essentially the same objective as the original project while avoiding or having less adverse impacts.

Fill – Raising the elevation or creating dry land by adding soil, sand, rock, gravel, sediment, earth-retaining structure, or other material to an area waterward of the OHWM, in wetland, or on shorelands.

Floodplain – Term is synonymous with 100-year floodplain. The land area that is susceptible to being inundated with a one percent chance of being equaled or exceeded in a given year. The limits of this area are based on flood regulation ordinance maps or a reasonable method that meets the objectives of the SMA (WAC 173-22-030(2)).

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

include those lands that can reasonably be expected to be protected from floodwaters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

G

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 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, and usually perpendicular to, the backshore into a waterbody. Its purpose is to protect a shoreline and adjacent upland by influencing the movement of water or deposition of materials. This is accomplished by building or preserving an accretion beach on its updrift side by trapping littoral drift. A groin is relatively narrow in width but varies greatly in length. A groin is sometimes built in a series as a system and may be permeable or impermeable, high or low, and fixed or adjustable.

Growth Management Act (GMA) – Chapter 36.70A RCW and Chapter 36.70B RCW, as amended.

Guidelines – See Shoreline Master Program (SMP) Guidelines (Chapter 173-26 WAC).

H

Hazard Tree – Any tree that is susceptible to immediate fall due to its condition (damaged, diseased, or dead) or other factors, and which, because of its location, is at risk of damaging permanent physical improvements to property or causing personal injury.

Height – Measured from average grade level to the highest point of a structure: provided that television antennas, chimneys, and similar appurtenances shall not be used in calculating

height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable SMP specifically requires that such appurtenances be included: provided further that temporary construction equipment is excluded in this calculation.

Historic Resources – Those historic or cultural properties or items that fall under the jurisdiction of the DAHP.

I – J – K

Impermeable Surface – The area of a lot that is covered by impermeable surfaces, measured by percentage. A non-vertical surface artificially covered or hardened to prevent or impede the percolation of water into the soil mantle including, but not limited to rooftops, swimming pools, paved or graveled roads and walkways or parking areas, but excluding landscaping and surface water retention/detention facilities.

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

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

Jetty – A structure generally perpendicular to the shore, extending through or past the intertidal zone. Jetties are built singly or in pairs at a harbor entrance or river mouth mainly to prevent accretion from littoral drift in an entrance channel. Jetties also serve to protect channels from storm waves or cross currents and to stabilize inlets through barrier beaches. Most jetties are of riprapped mound construction.

L

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

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Low Impact Development (LID) – A stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

M

Marine – Pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith.

Marine Terminal – Includes industrial and commercial wharfs, piers, berths, docks, roads, rail lines, and similar structures used for shipping, marine cargo handling, freight mobility, transportation, navigation services, and vessel berthing, moorage, construction, repair, and resupply. See Mooring Structure.

May – An action that is acceptable, provided it conforms to the provisions of the SMP.

Mitigation or Mitigation Sequencing – Avoiding, reducing, or compensating for a proposal's environmental impact(s). See WAC 197-11-768 and WAC 173-26-020(30). Mitigation or mitigation sequencing means the following sequence of steps listed in order of priority, with (a) of this subsection being top priority:

A. Avoiding the impact all together by not taking a certain action or parts of an action;

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

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

D. Reducing or eliminating the impact over time by preservation and maintenance operations;

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

F. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Mooring Structure – Used in conjunction with a marine terminal including all manner of overwater and in-water fixed structures which include single pilings or multiple pilings connected together to form or support an anchoring structure for the mooring of vessels and

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protection of terminals from moored vessels. Examples include, but are not limited to, mooring piles and various forms of dolphins and fender piles.

Must – A mandate; the action is required.

N

Native Vegetation – Vegetation comprised of plant species that are indigenous to an area.

Natural or Existing Topography – The topography of the lot, parcel, or tract of real property immediately prior to site preparation or grading, including exaction or filling.

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

Non-Water-Oriented Uses – Those uses that are not water-dependent, water-related, or water-enjoyment, which have little or no relationship to the shoreline and are not considered priority uses under the SMA. Examples include professional offices, automobile sales or repair shops, mini-storage facilities, residential development, department stores and gas stations.

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

Normal Repair – To restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment (WAC 173-27-040(2)(b)). See also Normal Maintenance.

O

Ordinary High Water Mark (OHWM) – That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the city or Ecology: provided, that in an area where the OHWM cannot be found, the OHWM adjoining fresh water shall be the line of mean high water. See RCW 90.58.030(2)(b) and WAC 173-22-030(5).

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Over-Water Structure – A device or structure projecting over the OHWM, including, but not limited to: bridges for motorized or non-motorized uses, piers, docks, floats, and moorage.

P – Q

Permit (or Shoreline Permit) – A shoreline substantial development permit, conditional use permit, or variance, or any combination thereof, authorized by the SMA. Refer to WAC 173-27-030(13).

Primary Structure – The structure associated with the principal use of the property. It may also include single-family residential appurtenant structures, such as garages, attached decks, driveways, utilities, and septic tanks and drain fields, which cannot feasibly be relocated. It does not include structures such as tool sheds, gazebos, greenhouses, or other ancillary residential improvements that can feasibly be moved landward to prevent the erosion threat.

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:

A. Comparatively high fish or wildlife density;
    1. Comparatively high fish or wildlife species diversity;
    2. Fish spawning habitat;
    3. Important wildlife habitat;
    4. Important fish or wildlife seasonal range;
    5. Important fish or wildlife movement corridor;
    6. Rearing and foraging habitat;
    7. Important marine mammal haul-out;
    8. Refugia habitat;
    9. Limited availability;
    10. High vulnerability to habitat alteration;
    11. Unique or dependent species; or
    12. 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

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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 non-priority fish and wildlife.

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

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

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

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

D. Criterion 4. Species listed under the ESA as either proposed, threatened, or endangered.

Proposed, Threatened, and Endangered Species – Those native species that are proposed to be listed or are listed in rule by the WDFW as threatened or endangered, or that are proposed to be listed as threatened or endangered or that are listed as threatened or endangered under the ESA.

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

Public Access – Public access is the ability of the public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Refer to WAC 173-26-221(4).

Public Interest – The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as

an effect on public property or on health, safety, or general welfare resulting from a use or development (WAC 173-27-030(14)).

Public Use – To be made available daily to the public on a first-come, first-served basis, and may not be leased to private parties on more than a day use basis. Refer to WAC 332-30-106.

R

RCW – Revised Code of Washington.

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

A. Water-dependent (i.e. – moorage facilities, fishing piers, docks); and

B. Non-water-dependent (i.e. – sports fields, golf courses, and RV camping).

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

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.

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

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

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

S

Shall – A mandate; the action must be done.

Shorelands or Shoreland Areas – Those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the OHWM; adopted FEMA floodways and contiguous floodplain areas landward 200 feet from such adopted FEMA floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters, which are subject to the provisions of the SMA.

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Shoreline Administrator – As appointed by the city's Mayor, the city's Shoreline Administrator is charged with the responsibility of administering the SMP.

Shoreline Buffer – A required vegetated open space measured horizontally upland from and perpendicular to the OHWM. Shoreline Buffers are naturally vegetated areas that protect the ecological functions of the shoreline and help to reduce the impacts of land uses on the waterbody.

Shoreline Building Setback – A required building setback, specified in the SMP, measured horizontally upland from a shoreline buffer and perpendicular to the OHWM, if used with a shoreline buffer, as specified in SMP Chapter 4: General Policies & Regulations. It establishes a definite point beyond which the foundation for a building shall not extend. A shoreline building setback protects the shoreline buffer from the impacts related to use of a structure.

Shoreline Environment Designations – The categories of shorelines established by the SMP in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. See WAC 173-26-211.

Shoreline Jurisdiction – The term describing all of the geographic areas covered by the SMA, related rules, the applicable SMP, and such areas within the city that are under the SMA. See definitions of shorelines, shorelines of the state, shorelines of statewide significance, shorelands, and wetlands.

Shoreline Management Act (SMA) – Chapter 90.58 RCW, as amended. Washington's SMA was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The goal of the SMA is to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

Shoreline Master Program (SMP) – The comprehensive use plan and related use regulations, together with maps, diagrams, charts, or other descriptive material and text, which is used by the city to administer and enforce the permit system for shoreline management. The SMP must be developed in accordance with the policies of the SMA, be approved and adopted by the state, and be consistent with the rules (WACs) adopted by Ecology.

Shoreline Master Program (SMP) Guidelines – The state standards that the city must follow in drafting its SMP. The Guidelines translate the broad policies of the SMA into standards for regulation of shoreline uses.

Shoreline Modification – 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

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include other actions, such as clearing, grading, application of chemicals, or significant vegetation removal.

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

Shoreline Stabilization – Actions taken to address erosion impacts to property and dwellings, businesses, buildings, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural measures such as bulkheads and nonstructural methods such as building setbacks. New stabilization measures include enlargement of existing structures.

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

Shorelines Hearings Board – A state-level quasi-judicial body, created by the SMA, which hears appeals on the granting, denying, or rescinding of a shoreline permit, enforcement penalty and approval of SMPs in jurisdictions not fully planning under GMA. See RCW 90.58.170 and RCW 90.58.180.

Shorelines of Statewide Significance – A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where use preferences apply and where greater planning authority is granted by the SMA. Permit review must acknowledge the use priorities for these areas established by the SMA. See RCW 90.58.020.

Shorelines of the State – The total of shorelines and shorelines of statewide significance.

Should – A particular action is required unless there is a demonstrated, compelling reason, based on policy of the SMA and the SMP, against taking the action.

Sign – A device, structure, fixture, or placard that uses words, letters, numbers, symbols, graphic designs, logos, or trademarks for the purpose of: a) providing information or directions or b) identifying or advertising a place, establishment, product, good, or service.

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.

Significantly Degrade – To cause significant ecological impact.

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Single-Family Residence – A detached dwelling designed for and occupied by one family including those buildings, structures and developments within a contiguous ownership which are a normal appurtenance (WAC 173-27-040(2)(g)).

Solid Waste – All garbage, rubbish trash, refuse, debris, scrap, waste materials and discarded materials of all types whatsoever, whether the sources be residential or commercial, exclusive of hazardous wastes, and including all source-separated recyclable materials and yard waste.

Stream – A naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than 20 cubic feet per second and b) the water is contained within a channel. A channel is an open conduit either naturally or artificially created. This definition does not include artificially created irrigation, return flow, or stock watering channels (WAC 173-22-030(8)).

Strict Construction – The close or narrow reading and interpretation of a statute or written document.

Structure – A permanent or temporary edifice or building, or a piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above or below the surface of the ground or water, except for vessels (WAC 173-27-030(15)).

Structural Shoreline Stabilization –Hard structural stabilization measures refer to those with solid, hard surfaces, such as concrete groins, retaining walls, and bulkheads, while soft structural stabilization measures rely on less rigid materials, such as biotechnical vegetation measures or beach enhancement. There is a range of measures varying from soft to hard that include vegetation enhancement, upland drainage control, biotechnical measures, beach enhancement, anchor trees, gravel placement, rock revetments, gabions, concrete groins, retaining walls, and bluff walls, and bulkheads. Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

Substantial Development – A development of which the total cost or fair market value exceeds $6,416.00, 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 definition must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. Consumer price index means, for a calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The Office of Financial Management must calculate the new dollar threshold and transmit it to the office of the code

reviser for publication in the *Washington State Register* at least one month before the new dollar threshold is to take effect (RCW 90.58.030(3)(e)). A list of developments, uses, and activities that shall not be considered substantial development is provided in SMP Chapter 7: Shoreline Administration (WAC 173-27-040(2)(a)).

T – U

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

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

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

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

V – W – Y – Z

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

Water-Dependent Use – A use or a portion of a use, which cannot exist in any other location and is dependent on the water due to the intrinsic nature of its operations. Examples of water-dependent uses may include moorage structures (including those associated with residential properties), ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.

Water-Enjoyment Use – A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the public and the shoreline-oriented space

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within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

Water-Oriented Use – Any combination of water-dependent, water-related, or water enjoyment uses that serves as an all-encompassing definition for priority uses under the SMA.

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

A. Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water or,

B. The use provides a necessary service supportive of the water-dependent commercial activities and the proximity of the use to its customers makes its services less expensive or more convenient. Examples include manufacturers of ship parts large enough that transportation becomes a significant factor in the products cost, professional services serving primarily water-dependent uses and storage of water-transported foods. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker and log storage.

Water Quality – The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in the SMP, the term water quantity refers only to development and uses regulated under the SMP and affecting water quantity, such as impermeable surfaces and stormwater handling practices. Water quantity, for purposes of the SMP, does not mean the withdrawal of ground water or diversion of surface water in accordance with RCW 90.03.250 through RCW 90.03.340.

Watershed Restoration Plan – A plan developed or sponsored by the WDFW, Ecology, or WSDOT acting within or in accordance with its authority, a city, a county or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted in accordance with SEPA.

Weir – A low dam built across a stream to raise its level, divert its flow, or measure its flow. Weirs have been used to address erosion and scouring of stream channels, but can also have negative impacts depending on how they are constructed, such as detrimental effects on fish habitat conditions.

Wetland or Wetland Areas – Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from 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.

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APPENDIX 1: SHORELINE ENVIRONMENT DESIGNATION MAPS

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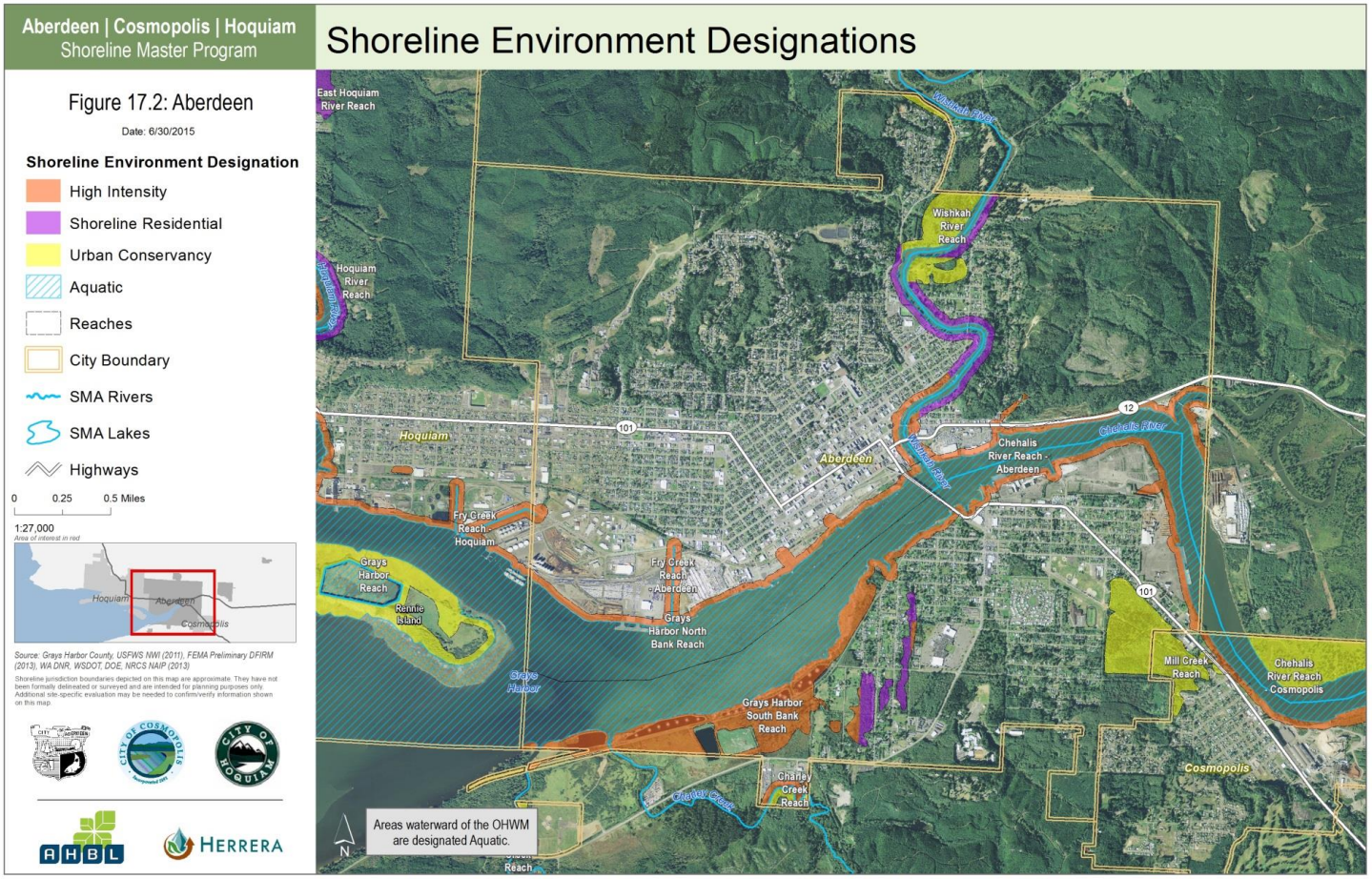
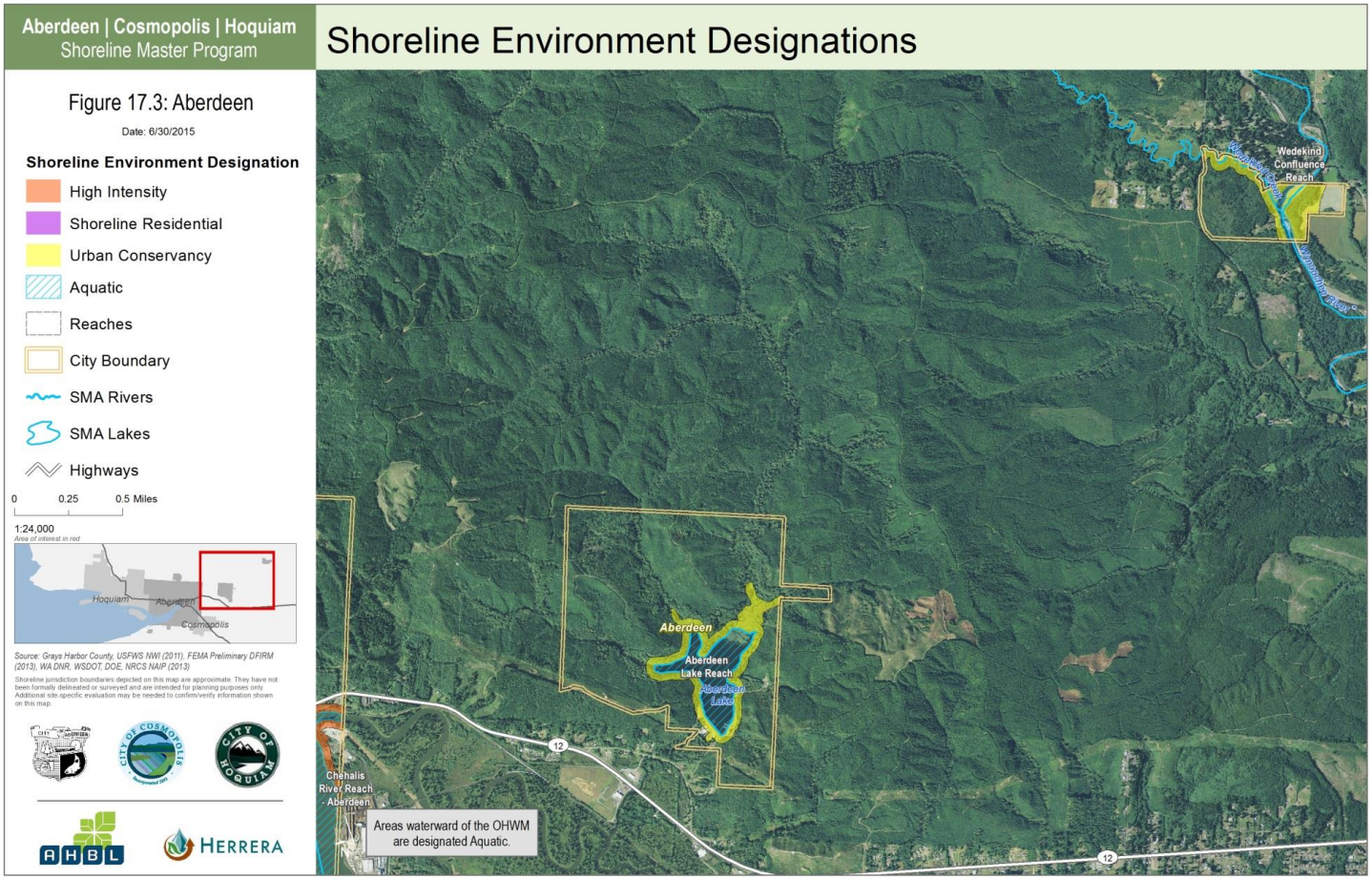

Aberdeen | Cosmopolis | Hoquiam
Shoreline Master Program
Shoreline Environment Designations
Figure 17.2: Aberdeen
Date: 6/30/2015
Shoreline Environment Designation
High Intensity
Shoreline Residential
Urban Conservancy
Aquatic
Reaches
City Boundary
SMA Rivers
SMA Lakes
Highways
0 0.25 0.5 Miles
1:27,000
Area of interest in red
Source: Grays Harbor County, USFWS NWI (2011), FEMA Preliminary DFIRM (2013), WA DNR, WSDOT, DOE, NRCS NAIP (2013)
Shoreline jurisdiction boundaries 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.
East Hoquiam River Reach
Hoquiam River Reach
Wishkah River Reach
Wishkah River
Hoquiam
Aberdeen
Chehalis River Reach - Aberdeen
Chehalis River
Fry Creek Reach - Hoquiam
Fry Creek Reach - Aberdeen
Grays Harbor Reach
Rennie Island
Grays Harbor North Bank Reach
Grays Harbor
Grays Harbor South Bank Reach
Mill Creek Reach
Chehalis River Reach - Cosmopolis
Cosmopolis
Chaney Creek Reach
Chaney Creek
Areas waterward of the OHWM are designated Aquatic.
101
12
N
AHBL
HERRERA


Aberdeen | Cosmopolis | Hoquiam
Shoreline Master Program
Shoreline Environment Designations
Figure 17.3: Aberdeen
Date: 6/30/2015
Shoreline Environment Designation
High Intensity
Shoreline Residential
Urban Conservancy
Aquatic
Reaches
City Boundary
SMA Rivers
SMA Lakes
Highways
0
0.25
0.5 Miles
1:24,000
Area of interest in red
Hoquiam
Aberdeen
Cosmopolis
Source: Grays Harbor County, USFWS NWI (2011), FEMA Preliminary DFIRM (2013), WA DNR, WSDOT, DOE, NRCS NAIP (2013)
Shoreline jurisdiction boundaries 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.
HERRERA
Wedekind Confluence Reach
Aberdeen
Aberdeen Lake Reach
Aberdeen Lake
Chehalis River Reach - Aberdeen
Areas waterward of the OHWM are designated Aquatic.
12
12

APPENDIX 2: CRITICAL AREAS REGULATIONS

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2.01 INTRODUCTION

A. The Critical Areas Regulations in effect on the ____ day of ____, 20__, which are codified in the city's Critical Areas Ordinance (CAO), AMC Chapter 14.100 – Critical Area Protection, are integral and applicable to the SMP, and are hereby adopted by reference. All uses and development occurring within critical areas or their buffers within shoreline jurisdiction shall comply with the regulations established in the CAO, except as substituted, as listed in SMP Appendix 2: Table A2-1 in SMP Appendix 2: Section 2.01(C).

B. If there are any conflicts or unclear distinctions between the provisions AMC Chapter 14.100, the SMP, and this Appendix, the requirements most consistent with the SMA shall apply, as determined by the Shoreline Administrator.

C. To ensure consistency with the SMA, exceptions to the applicability of the regulations in AMC Chapter 14.100 for development, activities and projects in shoreline jurisdiction are listed below:

1. Where there is a difference in a definition between the CAO and the SMP, the SMP definition shall apply.
2. Within shoreline jurisdiction, critical area review, approval, notice, and appeal periods shall be integrated with the associated shoreline permit or exemption found in SMP Chapter 7: Shoreline Administration. Where there is a difference in a review, approval, notice, and appeal process between the CAO and the SMP, the SMP process shall apply.
3. Exempt and allowed activities listed in AMC Section 14.100.050 and AMC Section 14.100.230 must be consistent with the applicable provisions of the SMP and any required shoreline permit(s) shall be obtained.
4. The following listed sections of AMC Chapter 14.100: Critical Area Protection do not apply within the shoreline jurisdiction and they are replaced by the particular regulations listed in SMP Appendix 2: Table A2-1:

SMP Appendix 2: Table A2-1: AMC Critical Area Protection Regulations Replaced by the SMP in the Shoreline Jurisdiction

AMC Section	AMC Section Description	Replacement Section in the SMP
AMC 14.100.035	Appeals	Replaced by SMP Section 7.05.05

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AMC Section	AMC Section Description	Replacement Section in the SMP
AMC 14.100.051	Reasonable Use	Replaced by SMP Section 7.04.03
AMC 14.100.052	Nonconforming Development	Replaced by SMP Section 7.07
AMC 14.100.053	Variances	Replaced by SMP Section 7.04.03
AMC 14.100.200	Wetlands Critical Areas – Designation	Replaced by SMP Appendix 2: Section 2.02
AMC 14.100.210(C)	Mapping of Wetlands Areas	Replaced by SMP Appendix 2: Section 2.03
AMC 14.100.250	Wetland Buffers – Dimensions	Replaced by SMP Appendix 2: Section 2.04
AMC 14.100.530	Fish and Wildlife Habitat Conservation Areas – Water bodies – Performance Standards – Specific Activities	Replaced by SMP Appendix 2: Section 2.07
AMC 14.100.550	Fish and Wildlife Habitat Conservation Areas – Water Bodies - Buffers	Replaced by SMP Appendix 2: Section 2.08
AMC 14.100.551	Fish and Wildlife Habitat Conversation Areas – Water Bodies – Buffer Averaging	Replaced by SMP Section 4.04.02(C)
AMC 14.100.553	Fish and Wildlife Habitat Conservation Areas – Water Bodies – Buffer Decrease	Replaced by SMP Section 4.04.02(C)

2.02 WETLANDS CRITICAL AREAS - DESIGNATION

A. Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation 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.

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Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

B. Wetlands shall be identified in accordance with the requirements of RCW 36.70A.175 and 90.58.380. Unless otherwise provided for in this chapter, all areas within the city meeting the criteria in the approved Federal Wetland Delineation Manual and Applicable Regional Supplements, as amended, regardless of any formal identification, are hereby-designated critical areas and are subject to the provisions of this chapter.

C. Wetlands shall be rated based on categories that reflect the functions and values of each wetland. Wetland categories shall be based on the criteria provided in the Washington State Wetland Rating System for Western Washington 2014 Update October 2014 – Effective January 2015 (Ecology Publication No. 14-06-029, as amended). These categories are generally defined as follows:

1. Category I Wetlands. Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and stormwater, and/or providing habitat for wildlife as indicated by a rating system score of 23 or more. These wetland communities of infrequent occurrence often provide documented habitat for critical, threatened or endangered species, and/or have other attributes that are very difficult or impossible to replace if altered.

2. Category II Wetlands. Category II wetlands have significant value based on their function as indicated by a rating system score of 20 to 22 points. They do not meet the criteria for Category I rating but occur infrequently and have qualities that are difficult to replace if altered.

3. Category III Wetlands. Category III wetlands have important resource value as indicated by a rating system score of 16 to 19 points.

4. Category IV Wetlands. Category IV wetlands are wetlands of limited resource value as indicated by a rating system score of less than 16 points. They typically have vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high quality upland habitats.

2.03 WETLAND IDENTIFICATION AND DELINEATION

A. Identification of wetlands and delineation of their boundaries pursuant to this Appendix shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the shoreline jurisdiction of the city

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meeting the wetland designation criteria in that procedure are designated critical areas and are subject to the provisions of this Appendix. Wetland delineations are valid for five years; after such date, the city shall determine whether a revision or additional assessment is necessary.

2.04 WETLAND BUFFERS - DIMENSIONS

A. Wetland buffers shall be required for all regulated activities adjacent to regulated wetlands. Any wetland created, restored, or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored, or enhanced wetland. Buffers shall not include areas that are disconnected functionally and effectively from the wetland by a road or other substantially developed surface of sufficient width and with use characteristics such that buffer functions are not provided.

B. The buffer standards required by this chapter presume the existence of a dense vegetation community in the buffer adequate to protect the wetland functions and values. When a buffer lacks adequate vegetation, the Shoreline Administrator may increase the standard buffer, require buffer planting or enhancement, and/or deny a proposal for buffer reduction or buffer averaging.

C. Buffer Dimensions.

1. The wetland buffer widths are based on wetland category, intensity of impacts, and wetland functions or special characteristics. Wetland buffer widths shall be determined according to the land-use intensities and wetland characteristics of SMP Appendix 2: Table A2-2 and SMP Appendix 2: Table A2-3.

2. The buffer is to be vegetated with native plant communities that are appropriate for the site conditions. If vegetation in the buffer is disturbed (grazed or mowed), proponents planning changes to land that will increase impacts to wetlands need to rehabilitate the buffer with native plant communities that are appropriate for the site conditions. The width of the buffer is measured in horizontal distance. All buffers shall be measured from the wetland boundary as surveyed in the field.

3. The buffer for a wetland created, restored, or enhanced as compensation for wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland.

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SMP Appendix 2: Table A2-2: Types of Proposed Land Use that Can Result in High, Moderate, and Low Levels of Impacts to Adjacent Wetlands

Level of Impact from Proposed Change in Land Use	Types of Land Uses
Low	• Forestry • Low-intensity open space (hiking, bird watching, preservation of natural resources, etc.) • Unpaved trails • Utility corridor without maintenance road and little to no vegetation management
Moderate	• Residential (one unit/acre or less) • Moderate-intensity open space (parks with biking, jogging, etc.) • Paved driveways and gravel driveways serving 3 or more residences • Paved trails
High	• Commercial • Urban • Industrial • Institutional • Retail sales • Residential (more than one unit/acre) • High-intensity recreation (golf courses, ball fields, etc.)

SMP Appendix 2: Table A2-3: Width of Buffers Needed to Protect Wetlands

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
Category IV Wetlands (For wetlands scoring less than 16 points or more for all functions)		
Score for all 3 basic functions is less than 16 points	Low – 25 ft. Moderate – 40 ft. High – 50 ft.	None
Category III Wetlands (For wetlands scoring 16-19 points or more for all functions)		

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Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
High level of function for habitat (score for habitat 8 – 9 points)	Low – 150 ft. Moderate – 225 ft. High – 300 ft.	Maintain connections to other habitat areas
Moderate level of function for habitat (score for habitat 5 – 7 points)	Low – 75 ft. Moderate – 110 ft. High – 150 ft.	None
Not meeting above characteristic	Low – 40 ft. Moderate – 60 ft. High – 80 ft.	None
Category II Wetlands (For wetlands that score 20 – 22 points or more for all functions, or having the "Special Characteristics" identified in the rating system)		
High level of function for habitat (score for habitat 8 – 9 points)	Low – 150 ft. Moderate – 225 ft. High – 300 ft.	Maintain connections to other habitat areas
Moderate level of function for habitat (score for habitat 5 – 7 points)	Low – 75 ft. Moderate – 110 ft. High – 150 ft.	None
High level of function for water quality improvement and low for habitat (score for water quality 8 – 9 points; habitat less than 5 points)	Low – 50 ft. Moderate – 75 ft. High – 100 ft.	No additional surface discharges of untreated runoff
Estuarine	Low – 75 ft. Moderate – 110 ft. High – 150 ft.	None
Not meeting above characteristic	Low – 50 ft. Moderate – 75 ft. High – 100 ft.	None
Category I Wetlands (For wetlands that score 23 points or more for all functions, or having the "Special Characteristics" identified in the rating system)		

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Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
Natural Heritage Wetlands	Low – 125 ft. Moderate – 190 ft. High – 250 ft.	No additional surface discharges to wetland or its tributaries; No septic systems within 300ft of wetland; Restore degraded parts of buffer
Bogs	Low – 125 ft. Moderate – 190 ft. High – 250 ft.	No additional surface discharges to wetland or its tributaries; Restore degraded parts of buffer
Forested	Buffer width based on score for habitat functions or water quality functions	If forested wetland scores high for habitat, need to maintain connections to other habitat areas
Estuarine	Low – 100 ft. Moderate – 150 ft. High – 200 ft.	None
High level of function for habitat (score for habitat 8 – 9 points)	Low – 150 ft. Moderate – 225 ft. High – 300 ft.	Restore degraded parts of buffer; Maintain connections to other habitat areas
Moderate level of function for habitat (score for habitat 5 – 7 points)	Low – 75 ft. Moderate – 110 ft. High – 150 ft.	None
High level of function for water quality improvement (8 – 9 points) and low for habitat (less than 5 points)	Low – 50 ft. Moderate – 75 ft. High – 100 ft.	No additional surface discharges of untreated runoff
Not meeting above characteristics	Low – 50 ft. Moderate – 75 ft. High – 100 ft.	None

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D. Where lands within the wetland buffer have an average continuous slope of 20 percent to 35 percent, and the required buffer width is less than 100 feet, the buffer shall increase to a greater dimension by 30 percent. In all cases, where slopes within the buffers exceed 35 percent, the buffer shall extend 25 feet beyond the top of the bank of the sloping area or, if a buffer associated with a geological hazard is present, to whichever extent is greater.

E. Where other critical areas defined in this chapter fall within the wetland buffer, the buffer dimension shall be the most expansive of the buffers applicable to any applicable critical area.

2.05 PERFORMANCE STANDARDS – MITIGATION REQUIREMENTS

A. Activities that adversely affect wetlands and / or wetland buffers shall include mitigation sufficient to achieve no net loss of wetland function and values in accordance with AMC Section 14.100.070 and this section.

B. Wetland Alterations. Compensatory mitigation shall be provided for all wetland alteration and shall re-establish, create, rehabilitate, enhance, and / or preserve equivalent wetland functions and values. Compensation for wetland alterations shall occur in the following order of preference:

1. Re-establishing wetlands on upland sites that were formerly wetlands.
2. Rehabilitating wetlands for the purposes of repairing or restoring natural and/or historic functions.
3. Creating wetlands on disturbed upland sites such as those consisting primarily of nonnative, invasive plant species.
4. Enhancing significantly degraded wetlands.
5. Preserving Category I or II wetlands that are under imminent threat; provided, that preservation shall only be allowed in combination with other forms of mitigation and when the Shoreline Administrator determines the overall mitigation package fully replaces the functions and values lost due to development.

C. Mitigation Ratios. Compensatory mitigation for wetland alterations shall be based on the wetland category and the type of mitigation activity proposed. The replacement ratio shall be determined according to the ratios provided in SMP Appendix 2: Table A2-

4; provided, that replacement ratio for preservation shall be determined by the Shoreline Administrator on a case-by-case basis. The created, re-established, rehabilitated, or enhanced wetland area shall at a minimum provide a level of function equivalent to the wetland being altered and shall be located in an appropriate landscape setting.

SMP Appendix 2: Table A2-4: Mitigation Ratios for Western Washington

Wetland Category	Creation	Rehabilitation Only (1)	Re-establishment or Creation (R/C) and Rehabilitation (RH) (1)	Re-establishment or Creation (R/C) and Enhancement (E) (1)	Enhancement Only (1)
IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
II (Estuarine)	On a case-by-case basis	4:1 Rehabilitation of an estuarine wetland	On a case-by-case basis	On a case-by-case basis	On a case-by-case basis
II (Interdunal)	2:1 compensation has to be interdunal wetland	4:1 Compensation has to be interdunal wetland	1:1 R/C and 2:1 RH compensation has to be interdunal wetland	Not recommended (2)	Not recommended (2)
II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
I (Forested)	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
I (based on score for functions)	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
I (Natural Heritage)	Not recommended (3)	6:1 restoration of a Natural Heritage site	R/C not recommended (3)	R/C not recommended (3)	On a case-by-case basis
I (Coastal Lagoon)	Not recommended	6:1 rehabilitation	R/C not recommended	R/C not recommended	On a case-by-case basis

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Wetland Category	Creation	Rehabilitation Only (1)	Re-establishment or Creation (R/C) and Rehabilitation (RH) (1)	Re-establishment or Creation (R/C) and Enhancement (E) (1)	Enhancement Only (1)
	(3)	of a coastal lagoon	(3)	(3)	
I (Bog)	Not recommended 3	6:1 rehabilitation of a bog	R/C not recommended (3)	R/C not recommended (3)	On a case-by-case basis
I (Estuarine)	On a case-by-case basis	6:1 rehabilitation of an estuarine wetland	On a case-by-case basis	On a case-by-case basis	On a case-by-case basis

Notes:

(1) These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement (see AMC 14.100 Appendix H for further discussion).

(2) Due to the dynamic nature of interdunal systems, enhancement is not considered an ecologically appropriate action.

(3) Natural Heritage sites, coastal lagoons, and bogs are considered irreplaceable wetlands because they perform some functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.

D. Compensation for wetland buffer impacts shall occur at a minimum one-to-one ratio. Compensatory mitigation for buffer impacts shall include enhancement of degraded buffers by planting native species, removing structures and impervious surfaces within buffers, and other measures.

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E. Mitigation banks shall not be subject to the replacement ratios outlined in the replacement ratio table above, but shall be determined as part of the mitigation banking agreement and certification process.

F. Buffers. Replacement wetlands established pursuant to these mitigation provisions shall have adequate buffers to ensure their protection and sustainability. The buffer shall be based on the category and land-use intensity in AMC 14.100.250C.1; provided, that the Shoreline Administrator shall have the authority to approve a smaller buffer when existing site constraints (such as a road) prohibit attainment of the standard buffer.

G. Adjustment of Ratios. The Shoreline Administrator shall have the authority to adjust these ratios when a combination of mitigation approaches is proposed. In such cases, the area of altered wetland shall be replaced at a one-to-one ratio through re-establishment or creation, and the remainder of the area needed to meet the ratio can be replaced by enhancement at a two- to-one ratio. For example, impacts to one acre of a Category II wetland requiring a three-to- one ratio for creation can be compensated by creating one acre and enhancing four acres (instead of the additional two acres of creation that would otherwise be required).

H. Location. Compensatory mitigation shall be provided on-site or off-site in the location that will provide the greatest ecological benefit and have the greatest likelihood of success; provided, that mitigation occurs as close as possible to the impact area and within the same watershed sub-basin as the permitted alteration. Compensatory mitigation shall use a landscape-based approach sufficient to maintain the functions and values of critical areas. An applicantmay be required to provide compensatory mitigation through an aquatic resource restoration, establishment, enhancement and/or preservation activity.

I. Protection. All mitigation areas whether on- or off-site shall be permanently protected and managed to prevent degradation and ensure protection of critical area functions and values into perpetuity. Permanent protection shall be achieved through deed restriction or other protective covenant in accordance with AMC Section 14.100.080 and AMC 14.100.081.

J. Timing. Mitigation activities shall be timed to occur in the appropriate season based on weather and moisture conditions and shall occur as soon as possible after the permitted alteration.

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2.06 WETLAND CRITICAL AREAS AND WETLAND BUFFERS – REGULATED ACTIVITIES

A. The following activities are regulated if they occur in a regulated wetland or its buffer:

1. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
2. The dumping of, discharging of, or filling with any material;
3. The draining, flooding, or disturbing of the water level or water table;
4. Pile driving;
5. The placing of obstructions;
6. The construction, reconstruction, demolition, or expansion of any structure;
7. The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland;
8. Class IV - General Forest Practices under the authority of the "1992 Washington State Forest Practices Act Rules and Regulations," WAC 222-12-030, or as thereafter amended; and
9. Activities that result in:
    a. A significant change of water temperature;
    b. A significant change of physical or chemical characteristics of the sources of water to the wetland;
    c. A significant change in the quantity, timing, or duration of the water entering the wetland; or
    d. The introduction of pollutants.

2.07 FISH AND WILDLIFE HABITAT CONSERVATION AREAS – WATER BODIES – PERFORMANCE STANDARDS – SPECIFIC ACTIVITIES

A. The following activities may be permitted by the Shoreline Administrator in water bodies or their buffers provided that:

1. The specified requirements for the activities have been included in the design and implementation of the proposal;

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2. The applicant has taken all reasonable measures to avoid adverse effects on water body and water body buffer functions and values;
3. The applicant has provided compensatory mitigation for all adverse impacts to water bodies and their buffers that cannot be avoided;
4. The applicant has demonstrated that the amount and degree of alteration is limited to the minimum needed to accomplish the project purpose; and
5. The activities and uses are not prohibited by any other applicable law.

B. Restoration of streams previously piped or channeled into a new or relocated stream bed when part of a restoration plan that will result in equal or better habitat and water quality and quantity, and that will not diminish the flow capacity of the stream or other natural stream processes; provided, that the relocation has a state hydraulic project approval and all other applicable permits.

C. Road, trail, bridge, and right-of-way crossings, provided they meet the following criteria:

1. Development is completed in accordance with design guidelines found in SMP Section 5.16 – Transportation Facilities.
2. There is no other feasible alternative route with less impact on critical areas.
3. The crossing minimizes interruption of natural processes such as the downstream movement of wood and gravel and the movement of all fish and wildlife.
    a. Bridges are preferred for all stream crossings and should be designed to maintain the existing stream gradient and substrate, provide adequate horizontal clearance on each side of the OHWM, and adequate vertical clearance above the OHWM for animal passage.
    b. If a bridge crossing is not feasible, culverts shall be designed according to applicable state and federal guidance criteria for fish passage as identified in Fish Passage Design at Road Culverts, WDFW March 1999, and/or the NMFS Service Guidelines for Salmonid Passage at Stream Crossings, 2000 (and subsequent revisions), and in accordance with a state hydraulic project approval.
    c. The applicant or property owner shall maintain fish passage through the bridge or culvert.
4. The city may require that existing culverts be removed, repaired, or modified as a condition of approval if the culvert is detrimental to fish habitat or water quality, and a feasible alternative exists.

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5. Crossings shall be limited to the minimum width necessary. Common crossings are the preferred approach where multiple properties can be accessed by one crossing.
6. Access to private development sites may be permitted to cross streams, if there are no feasible alternative alignments. Alternative access shall be pursued to the maximum extent feasible, including through the provisions of Chapter 8.24 RCW. Exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts may be specified, including placement on elevated structures as an alternative to fill, if feasible.

D. Passive outdoor recreational or educational activities which do not significantly affect the function of the water body or regulated buffer (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.) and meet the following criteria:

1. Trails shall not exceed four feet in width and shall be surfaced with gravel or pervious material, including boardwalk.
2. The trail or facility shall be located in the outer 25 percent of the buffer area, unless a location closer to the water body edge is required for interpretive purposes.
3. The trail or facility shall be constructed and maintained in a manner that minimizes disturbance of the water body or buffer.

E. Utility lines and facilities providing local delivery service, not including facilities such as electrical substations, water and sewage pumping stations, water storage tanks, petroleum products pipelines and transformers or other facilities containing hazardous substances, may cross water bodies or be located in buffers, if the following criteria are met:

1. Utility construction is in accordance with design guidelines found in SMP Section 5.17 – Utilities.
2. There is no reasonable location or route that does not cross the water body or can be located outside the buffer based on analysis of system needs, available technology, and alternative routes. Location within a buffer shall be preferred over a location within a water body. Crossings shall be contained within the footprint of an existing road or utility crossing, where possible.
3. Impacts to fish and wildlife habitat shall be avoided to the maximum extent possible and mitigated when avoidance is not feasible.
4. Utilities that cross water bodies shall be as close to perpendicular to the channel as possible, to minimize disturbance. Boring under the water body may be required.

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5. If not a crossing, the utility line shall be located as far from the water body as possible.
6. The utility installation shall maintain the existing stream gradient and substrate.
7. Clearing, grading, and excavation activities shall be limited to the minimum necessary to install the utility line, and the area must be restored following utility installation.

F. Stormwater conveyance or discharge facilities such as infiltration systems, dispersion trenches, level spreaders, and outfalls, may be permitted in a fish and wildlife habitat conservation area buffer on a case-by-case basis when all of the following are met:

1. Facilities are constructed in accordance with design guidelines found in SMP Section 5.17 – Utilities;
2. Due to topographic or other physical constraints, there are no feasible locations for these facilities outside the buffer;
3. The discharge is located as far from the OHWM as possible and in a manner that minimizes disturbance of soils and vegetation;
4. The discharge outlet is in an appropriate location and is designed to prevent erosion and promote infiltration; and
5. The discharge meets stormwater flow and water quality standard as provided in AMC Chapter 13.70, Storm and Surface Water Management.

G. Stream bank stabilization, shoreline protection, and public or private launching ramps may be permitted subject to all of the following standards:

1. Stream bank stabilization, shoreline protection, and public or private launching ramps are constructed in accordance with design guidelines found in SMP Section 6.02: General Shoreline Modification Provisions, SMP Section 6.07: Shoreline Stabilization, and SMP Section 5.07: Boating and Water Access Facilities;
2. Natural shoreline processes will be maintained to the maximum extent feasible. The activity will not result in increased erosion and will not alter the size or distribution of shoreline or stream substrate, or eliminate or reduce sediment supply from feeder bluffs;
3. Adverse impacts to fish or wildlife habitat conservation areas, specifically juvenile and adult fish migration corridors, and / or associated wetlands will be mitigated;

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4. Nonstructural measures, such as placing or relocating the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient;
5. Stabilization is achieved through bioengineering or soft armoring techniques in accordance with applicable hydraulic project approval issued by the WDFW; and
6. Hard bank armoring may occur only when the property contains an existing permanent structure(s) that is in danger from shoreline erosion caused by riverine processes and not erosion caused by upland conditions, such as the alteration of natural vegetation or drainage, and the armoring shall not increase erosion on adjacent properties and shall not eliminate or reduce sediment supply.

H. New public flood protection measures and expansion of existing measures may be permitted, provided, that bioengineering or soft armoring techniques shall be used where feasible. Hard bank armoring may occur only in situations where soft approaches do not provide adequate protection, and shall be subject to requirements in SMP Section 6.07: Shoreline Stabilization, where applicable, in addition to hydraulic project approval and other permits.

I. New docks shall be permitted only for public access, as an accessory to water-dependent uses or associated with a single-family residence; provided, that it is consistent with design guidelines found in SMP Section 5.07: Boating and Water Access Facilities and designed and used only as a facility for access to watercraft.

1. To limit the effects on ecological functions, the number of docks should be limited and new subdivisions should employ shared moorage, whenever feasible. Docks on shorelines of the state must comply with policies and regulations of the city's SMP.
2. Docks shall be located and designed to minimize adverse effects on ecological processes where the location could interfere with fluvial and limnal processes including gradient and substrate; recruitment of woody debris; and fish habitat, including that related to anadromous fish.
3. Docks shall be designed to minimize reduction in ambient light level by limiting width to the minimum necessary and shall not exceed four feet in width, except where specific information on use patterns justifies a greater width. Materials that will allow light to pass through the deck may be required including grating on walkways or gangplanks in nearshore areas.

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4. Approaches shall utilize piers or other structures to span the entire upper foreshore to the point of intersection with stable upland soils and they shall be designed to avoid interfering with stream processes.
5. Pile spacing shall be the maximum feasible to minimize shading and avoid a wall effect that would block or baffle currents, sediment movement, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.
6. Docks should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.

J. Launch ramps may be permitted for access to the water for the public or for residents of a development or for water-dependent use subject to the following criteria:

1. Launch ramps shall be located and designed in accordance with SMP Section 5.07: Boating and Water Access Facilities.
2. Launch ramps shall be located and designed to minimize adverse effects on fluvial and limnal processes including stream gradient and substrate; recruitment of woody debris; and fish habitat, including that related to anadromous fish.
3. Ramps shall be placed and maintained near flush with the bank slope. Preferred ramp designs, in order of priority, are:
   a. Open grid designs with minimum coverage of beach substrate;
   b. Seasonal ramps that can be removed and stored upland;
   c. Structures with segmented pads and flexible connections that leave space for natural shoreline substrate and can adapt to changes in shoreline profile.

K. In-stream structures such as, but not limited to, high flow bypasses, dams, and weirs, other than those regulated exclusively by the Federal Energy Regulatory Commission (FERC), shall be permitted only when the multiple public benefits are provided and ecological impacts are fully mitigated. Dams on shorelines of the state shall be regulated in accordance with the SMP. Dams on other streams that are within the shoreline jurisdiction, but are not shorelines of the state shall require a variance as provided by SMP Section 7.04.03: Shoreline Variances.

1. In-stream facility locations shall avoid areas of high habitat value for aquatic organisms, specifically anadromous fish.
2. In-stream facilities shall be designed to produce the least feasible effect on fluvial processes and shall minimize change in gradient.

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3. In-stream facilities shall provide mitigation of all impacts on aquatic species and habitat.
4. In-stream facilities shall provide fish passage, in accordance with Chapter 77.57 RCW.
5. A construction bond for 150 percent of the cost of the structure and all mitigation measures shall be filed prior to construction and a maintenance agreement shall specify responsibility for maintenance, shall incorporate the maintenance schedule specified by the design engineer, shall require annual inspections by a civil engineer licensed in the State of Washington and shall stipulate abandonment procedures which shall include, where appropriate, provisions for site restoration.

L. Facilities that are water-dependent or water-oriented and facilities for necessary access may be located in water bodies and buffers; and provided, that the facility is located, designed, constructed, and operated to minimize and, where possible, avoid critical area disturbance to the maximum extent feasible. The Shoreline Administrator may require the submittal of a critical area report for facilities that are not associated with residential uses.

M. Clearing and grading, when allowed as part of an authorized use or activity or as otherwise allowed in these standards, may be permitted; provided, that the following shall apply:

1. Clearing and grading is conducted in accordance with SMP Section 6.03: Clearing, Grading, and Fill;
2. Grading is allowed only during the designated dry season, which is typically regarded as May 1st to October 1st of each year; provided, that the city may extend or shorten the designated dry season on a case-by-case basis, based on actual weather conditions;
3. Appropriate erosion and sediment control measures shall be used at all times; the soil duff layer shall remain undisturbed to the maximum extent possible; where feasible, disturbed topsoil shall be redistributed to other areas of the site; and
4. The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.

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N. Repairs to Existing On-Site Sewage Systems. Repairs to failing on-site sewage systems associated with an existing structure shall be accomplished by utilizing one of the following methods that result in the least impact:

1. Connection to an available public sanitary sewer system;
2. Replacement with a new on-site sewage system located in a portion of the site that has already been disturbed by development and is located landward as far as possible, provided the proposed sewage system is in compliance with Grays Harbor County Environmental Health Department; or
3. Repair to the existing on-site septic system.

O. Activities in water bodies or water body buffers not expressly allowed by AMC Section 14.100.050, Exempt and Allowed Activities shall require review by the Shoreline Administrator and shall require submittal of a critical area report. The Shoreline Administrator may modify critical area report requirements according to AMC Section 14.100.061, Critical Area Reports - Modifications to Requirements.

2.08 FISH AND WILDLIFE HABITAT CONSERVATION AREAS – WATER BODIES – BUFFERS

The Shoreline Administrator shall have the authority to require buffers from the edges of all streams in accordance with the following:

A. Buffers shall be established for activities as necessary to protect the integrity, functions, and values of the resource. Buffer widths shall reflect the sensitivity of the species or habitat and the type and intensity of the adjacent human use or activity.

B. The buffer widths required by this section are based on scientific studies of the conditions necessary to sustain ecological functions and values to support anadromous and resident fish and presume the existence of a dense native vegetation community in the buffer zone adequate to protect the stream functions and values at the time of the proposed activity. Buffers shall be measured as follows:

1. Type S Water. Buffers for all waters, as inventoried as “shorelines of the state” under the jurisdiction of the SMA, except associated wetlands, shall be regulated in accordance with SMP Section 4.04.02.
2. Type F-A Water. Segments of natural waters other than Type S waters, which are greater than ten feet in width: Buffer width of 150 feet.

3. Type F-B Water. Segments of natural waters other than Type S waters, which are less than ten feet in width: Buffer width of 100 feet.
4. Type Np Water. Segments of natural waters that are perennial nonfish habitat streams: Buffer width of 75 feet.
5. Type Ns Water. Segments of natural waters within defined channels that are seasonal, nonfish habitat streams: Buffer width of 50 feet.
6. Nonfish-bearing streams in existing subdivisions:
    a. Where streams have been placed in separate tracts, buffers will be provided by the tract, provided a minimum dimension of 25 feet from the edge of the stream is provided;
    b. Where streams have not been placed in separate tracts, or if a minimum dimension of 25 feet from the edge of the stream is not provided, buffers will meet the dimensional requirements in subsection B.4 of this section, unless existing structures are located within the buffer. In that case, the following provisions shall apply:
        1) An inner riparian buffer shall be provided with a dense community of native trees, shrubs, and groundcover. The dimension of this buffer shall be a minimum of 15 feet, and may be expanded if sufficient clearance is available between the stream and existing primary structures;
        2) An outer riparian buffer may be provided to extend within ten feet of an existing primary structure. Within the outer buffer, a maximum of 25 percent of the zone may be used as grass turf, with the balance a dense community of native trees, shrubs, and groundcover.

C. Buffer Measurement.

1. The buffer shall be measured landward horizontally on both sides of the water body from the OHWM as identified in the field perpendicular to the alignment of the stream or lake / pond bank.
2. The required buffer shall be extended to include any adjacent regulated wetland(s), landslide hazard areas, and/or erosion hazard areas and required buffers, but shall not be extended across roads or other lawfully established structures or hardened surfaces that are disconnected functionally and effectively from the stream.

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3. Where lands adjacent to a stream display an average continuous slope of 20 percent to 35 percent and the required buffer is less than 100 feet, the buffer shall extend to a 30 percent greater dimension.
4. In all cases, where slopes within the required buffer exceed 35 percent, the buffer shall extend to a minimum dimension of 25 feet from the top of said slopes, or if a buffer associated with a geological hazard is present, to whichever extent is greater.

D. Buffers in conjunction with other critical areas. Where other critical areas defined in this chapter fall within the water body buffer, the buffer area shall be the most expansive of the buffers applicable to any applicable critical area.

2.09 FISH AND WILDLIFE HABITAT CONSERVATION AREAS – ADDITIONAL REQUIREMENTS FOR CRITICAL SALTWATER HABITATS

Comment [VZK(29]: The intent behind my original comment was not meant to result in this additional section since these are part of FWHCAs, but rather to ensure standards, that aren't included in the SMP or the CAR be added.

Comment [NS30]: **AHBL Response**: We have retained this section but renamed it to indicate that it is additional provisions relating to Critical Saltwater Habitats.

A. Critical saltwater habitats require a higher level of protection due to the important ecological functions they provide.

B. Where inventory of critical saltwater habitat has not been completed, over water and near-shore developments in marine and estuarine waters shall be required to complete a habitat assessment of site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. The methods and extent of the inventory shall be consistent with WAC 173-26-221(2)(c)(iii)(C). The City will work with WDFW to define this area.

C. Policies for critical saltwater habitats include:

1. Critical saltwater habitats shall be protected and restored.
2. The management of shorelands as well as submerged areas shall be integrated by the city, as ecological functions of marine shorelands can affect the viability of critical saltwater habitats.
3. The city should include state resource agencies, the Port of Grays Harbor, Grays Harbor County, and affected tribes in critical saltwater habitat planning efforts and determine which habitats and species are of local importance.
4. The city shall protect kelp and eelgrass beds, forage fish spawning and holding areas, and priority species habitat identified by WDNR's aquatic resources division, the WDFW, Ecology, and affected tribes as critical saltwater habitats.

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5. Comprehensive saltwater habitat management planning should identify methods for monitoring conditions and adapting management practices to new information.
6. The inclusion of commercial aquaculture in the critical saltwater habitat definition does not limit its regulation as a use.

D. Docks, piers, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:

1. Public need is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;
2. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable or disproportionate cost to accomplish the same general purpose;
3. The project, and any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat; and
4. The project is consistent with the state's interest in resource protection and species recovery.

E. Private, noncommercial docks for individual residential or joint use (community use) may be permitted if it is infeasible to avoid impacts by an alternative alignment or location and the project including any required mitigation will result in no net loss of ecological functions associated with the critical saltwater habitat.

F. Until an inventory of critical saltwater habitat has been done, the SMP shall condition all over water and nearshore developments in marine and estuarine waters with the requirement for an inventory of the site and adjacent beach sections to assess the presence of critical saltwater habitats and functions.

1. The methods and extent of the inventory shall be consistent with accepted research methodology.
2. At a minimum, the city should consult with Ecology technical assistance materials for guidance.

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